



Registers  
of Scotland  
ros.gov.uk

# Digital transformation

## Next steps

Analysis of the responses  
to the Public Consultation

May **2017**

# **Background**

## **The purpose of Registers of Scotland**

Registers of Scotland (RoS) is the non-ministerial government department responsible for registering a variety of legal documents in Scotland. We are self-funding, having been established as a trading fund in 1996. RoS is headed by a statutory office holder, the Keeper of the Registers of Scotland, who is responsible for compiling and maintaining 18 public registers.

The largest registers maintained by the keeper are the registers of rights in land. The General Register of Sasines (the Sasine Register), established in 1617, is a register of deeds. This is gradually being replaced by the map-based Land Register of Scotland, established by the Land Registration (Scotland) Act 1979 (the 1979 Act). The 1979 Act was largely superseded on 8 December 2014, with the commencement of the main provisions of the Land Registration etc. (Scotland) Act 2012 (the 2012 Act).

## **The consultation on Digital Transformation**

The introduction of the 2012 Act laid the foundations for conveyancing and land registration in Scotland to move out of the paper world and into the digital world, by opening up the land register to digital deeds duly authenticated by way of a digital signature.

In order to progress this digital journey, changes will require to be made to the land register rules to facilitate both the introduction of new digital registration services and the improvement and streamlining of the land registration application process.

In November 2016, RoS published a consultation paper setting out our proposed direction of digital travel and detailing a number of proposals relating to that direction of travel, the introduction of digital registration services and to proposed changes to the land register rules in order to assist with the next steps in RoS' digital transformation journey.

This consultation closed on 22 February 2017. In total, 44 responses were received. These included responses from:

- Stakeholder groups, including the Law Society of Scotland and the Council of Mortgage Lenders;
- Three local authorities;
- A variety of public and private bodies including the Church of Scotland, Scottish Water and Historic Environment Scotland;
- 14 firms of solicitors; and
- 4 individual solicitors or legal professionals

A number of respondents declined permission for the publication of their responses, or requested anonymity. As a result, 36 responses will be published in the Scottish Government library and placed on the RoS website at <https://www.ros.gov.uk/consultations/digital-transformation>.

As part of the consultation, we held public meetings in Aberdeen, Dumfries, Edinburgh, Glasgow, Inverness and Perth, which were attended by 180 people. We would like to express our thanks to all of those who took the time to respond to our consultation paper or to attend the consultation meetings.

The majority of questions invited the respondent to reply either Yes or No to a proposition with an option to comment further. In a number of cases, respondents elected not to respond Yes/No but simply provided comments expressing their views. The response rate for the questions ranged from a high of 42 responses (for question 1) to a low of 36 responses (for question 10).

# **Consultation Responses**

## **Q1: Do you agree that transition to a digital first service should be the next step?**

**Yes: 33**

**No: 9**

A significant majority of respondents agreed with the central premise that there should be a presumption in favour of digital channels i.e. that RoS should proceed to develop digital services on the presumption that the use of those digital services launched by RoS, both current and future, will become compulsory, except in certain exceptional defined circumstances.

Several respondents agreed that the proposal merely reflected the general digitalisation of Scotland's economy, including Professor Stewart Brymer: "This is a necessary development if Scotland is to build on the work done to date so that it may be a leading digitally-enabled economy."

The link between the increasing digitalisation of business in general and of conveyancing specifically was directly referenced by one anonymous organisation: "With so much business now conducted digitally, it makes sense to move towards a digital first service provided it is secure." The Law Society of Scotland echoed this, commenting "In recent years, there has been a general shift towards digital interactions in the conveyancing marketplace. If the digital services offered by the Registers of Scotland will speed up the conveyancing process while providing a secure environment for solicitors and their clients then we would agree that a digital first service should be the next step."

Similarly, Altis Legal commented that "we firmly believe that the progression to a digital first service will be beneficial for all parties involved."

Some respondents generally agreed with the proposition but expressed a view that the approach that RoS should adopt when introducing digital services should be slow, cautious and phased, with a view to insuring that all types of transactions, of all levels of complexity, in all parts of Scotland, were capable of being completed using digital services before the use of these services could be rendered compulsory.

Lindsays commented: "We are concerned that the proposals outlined in the consultation seem to be geared towards simpler transactions. We wonder whether more complex situations – which rural conveyancers are perhaps more used to dealing with than most – have been fully thought out."

Wilson McKendrick commented that "There is no question that this transition is inevitable. That said, one must be wary of change for change's sake. This can, through poorly thought through and rushed implementation, lead to error, confusion and a lack of trust in a new system." They also reflected the views of several respondents by pointing out the need for the RoS approach to digital services to be "as straightforward as possible" and that the profession "should have the appropriate support in terms of training to ensure that the changes are implemented efficiently."

In commenting on the practicalities of introducing digital services, an anonymous respondent stressed that "RoS must take time to test it properly and not just with solicitors in private practice".

Conversely, a number of respondents, for a number of differing reasons, were against the proposition:

Several anonymous respondents were against the development of digital services on the basis RoS should be deploying its resources elsewhere, commenting that, rather than developing digital services, the focus of RoS should be on “repairing the faulty Land Register” and “fixing the existing services, especially in rural areas”.

Another anonymous respondent was against the proposal due to being against the general principle of government digitalisation: “The transition wholly depends on a Government-led drive to computerise all civil service departments/quangos.....There is too much emphasis on digital services that is fraught with its own dangers from crime and system/network failure.”

Another anonymous respondent had concerns that the proposed move away from traditional, paper-based conveyancing to a more digital world would disengage clients: “the one thing which all parties seem to have lost sight of – a client’s love to sign a piece of paper. They are desperate to sign – moving into digital only will reduce that and make the client feel more disengaged from the process”.

Consideration that some aspects of a digital conveyancing process still requiring to be paper-based prompted one respondent to be against the proposal: Cameron Pinkerton: “The only problem here is that the paper-based documents should always be signed and then registered to avoid solicitors having to become responsible for ensuring that not only did the clients understand the document but also knew about the document. Solicitors are going to require mandates from their clients. Why not just sign the document?”

National geography and the impact of same on the availability of internet access was also identified as a barrier to the “digital first” presumption by several respondents, with one anonymous respondent commenting “Rural and many people in the countryside, still do not have access to the internet!!” and David Tolquhon commenting “Digital Scotland has failed to provide an effective, efficient level of service for the majority of areas in rural Scotland. Once this is in place then transition to a digital first service would be appropriate.”

***Q2: Do you agree with the proposed timescale of 1 April 2018 for prescribing that advance notices over part be fully digital?***

**Yes: 31**

**No: 8**

There was very strong support for the proposal for prescribing that advance notices over part of a registered title be fully digital by 1 April 2018. Currently, advance notices over part are part digital, part paper, the plan which is required to identify the property affected by the advance notice comprising the paper part. At the time of launch of the advance notice system, RoS did not have the technology to accept digital plans. This proposal is made possible by RoS now being able to receive plans in digital format.

The Law Society commented “We believe that solicitors are now used to submitting advance notices digitally for the most part and we believe that they would welcome the introduction of advance notices over part to be fully digital in due course.”

Lindsays agreed with the proposal, commenting that, if plans for advance notices over part required to be digitally executed then “the timescale should be not sooner than 1 April 2018, since while many solicitors now have smartcards and readers for digital signatures, they are not widely used.”

A significant number of respondents demonstrated a pronounced preference for an earlier date of introduction for advance notices over part than 1 April 2018, with one anonymous respondent commenting that “there seems no reason that this cannot be achieved in a shorter timescale”; another commenting that “If it can be introduced earlier then it should” and an anonymous organisation commenting “the sooner the better”.

Conversely, one anonymous respondent stood diametrically apart from the large majority of respondents, commenting that they “totally disagree that Land Register of Scotland should be embarking on digitalising the whole methodology for registering deeds. It might be cost effective for the department, but it still costs the same in fees, ultimately bourn by the general public or customers.”

Concerns expressed in earlier consultation responses relative to availability of internet access Scotland-wide when considering the proposal for prescribing for the use of digital advance notices over part by 1 April 2012 were also expressed by one anonymous respondent who commented “Simply, until you can guarantee 100% of all eligible citizens access to the internet from their residence this cannot be fair or unprejudiced government. It is ready, aim, fire and we the people are not ready.”

### **Q3: Do you agree with a notice period of six months?**

**Yes: 26**

**No: 14**

The proposal in the consultation paper that there should be notice period of six months given by RoS before the use of a digital service takes on mandatory status, whilst receiving majority support, attracted mixed responses.

A notice period will allow parties using future digital services to both access them on a voluntary basis prior to the go-live date for mandatory use and to prepare for when they become a standard part of the registration system; and also to allow RoS to make feedback-based system enhancements prior to go-live.

Wilson McKendrick commented “Making the system compulsory is essential for it to be effectively implemented...six months would seem an appropriate timescale.”

Similarly, Brodies commented that “A notice period of six months would be acceptable, provided that the publicity for the launch ensures that all those affected are made aware of the switch over and have been provided with the necessary training and guidance.”

Altis Legal agreed, commenting that “We believe that six months should be long enough for firms to make the necessary arrangements for increased digital processes and practices. Certainly, if implementing a cloud-based software such as Altis onto existing computers, it shouldn’t take much longer than a week or two.”

Conversely, a number of respondents felt that a longer notice period should be given, chiefly for IT-related reasons. The Law Society of Scotland, in expressing concerns as to the extent of the IT changes necessitated by the introduction of digital services, commented ““If there are substantial changes to be made to procedures then our view is that a notice period for compulsory digital submission should be extended beyond six months.”

The CML echoed these concerns, commenting ““In our view, six months would be too short a notice period; we know that some of our members, if they require any upgrading or changes to their internal IT systems, often need much longer than this, given the significant calls on their IT resource. We suggest 12 months would be the minimum”. Stuart and Stuart, mirroring this view, commenting “better 12 months.”

The potential for the overall complexity inherent in certain deed types to adversely affect the timescale for notice of compulsion for use of a digital service also raised some respondent concerns, with Lindsays commenting “In our view, this is too short and 9-12 months would be appropriate. We are conscious that queries still arise on the 2012 Act changes, two years on, in complex cases.”

One anonymous respondent advocated a “middle-ground” option to the opposing views expressed above, proposing that “Customers could be made aware that this was coming “within 12 months” and then a firm notice period of say 3 or 4 months prior to implementation could be introduced”. When considering the mechanics of how such digital services could be introduced for deed types across-the-board, Scottish Water declared an assumption that “Registers of Scotland will liaise with bodies such as the Property Standardisation Group to ensure that any planned changes to the system can be reflected in style documentation, including missives.”

Concerns relative to the compulsory use of electronic signatures were expressed by the Church of Scotland, who made a case for the continued limited provision for traditional execution of paper deeds. They commented that, by statute, the execution of deeds by Church of Scotland General Trustees “is effected by signature of named office-bearers and sealing with the seal of the corporation. Any amendment of the method of execution is likely to require a new Act of Parliament, which would be a wholly disproportionate cost when set against any perceived benefit.”

***Q4: Do you agree the initial focus for digital registration, following launch of the digital discharge service, should be provision of channels aimed at standard securities and dispositions?***

**Yes: 29**

**No: 11**

A clear majority of those responding agreed with the proposed approach that, following the launch of the digital discharge service, the focus should then be on the provision of digital standard securities and digital dispositions.

Collectively, discharges, standard securities and dispositions constitute over 88% of all conveyancing-type deeds registered in the land register. Digitally enabling the registration of these three deed types will propel Scotland some considerable way along the road towards a fully-digital conveyancing/land registration environment.

The “maximum-effect, maximum return” approach of focussing on the three most popular deed types was recognised by an anonymous organisation who commented: “It makes sense to focus on the most widely used documents to maximise return on the investment in developing the digital service and to build familiarity for users with the digital service as quickly as possible.”

Similarly, Altis Legal commented “As two of the three most popular deeds submission types, yes we would agree that standard securities and dispositions should receive full attention following the successful launch of the digital discharge service”. The CML echoed this view, commenting: “We welcome progress towards the digital execution and registration of standard securities and the likelihood of consequent efficiency gains.”

The benefits of taking a more cautious, incremental, discovery-led approach were recognised by a number of respondents, including Stuart & Stuart, who commented that the focus on digital standard securities and dispositions should only take place “after digital discharges have been proven successful.” An anonymous respondent shared this caution, commenting that it was “far too soon to do

digital discharges” and that “digital securities should be done with sufficient time to assess how they are progressing and to sort out any difficulties/problems. For customers, there are many problems with RoS services and these should be dealt with before focusing on anything beyond discharges and securities.”

Several other respondents considered that transaction complexity should be the blueprint upon which digital service development should be based, with particular concerns over the suitability of a digital system to deeds that create new real burdens and servitudes being a common theme:

- The Church of Scotland commented that “straightforward standard securities and dispositions over registered subjects would be suitable for digital creation, execution and submission for registration. However, more complex securities over unregistered subjects will not be as suitable for digital registration....We deal with a large volume of dispositions creating new reciprocal real burdens and servitudes which will not fit into the template envisaged by the digital system and have concerns about tailoring deeds in a system that is largely format driven”;
- Lindsays commented that they “would suggest that Dispositions that do not create title conditions should be digitalised first, at the same time as Standard Securities. Dispositions that do create title conditions should be digitalised later, along with Deeds of Conditions/Servitudes/Real Burdens and Long Leases\*” and
- Brodies commented “care must be taken to make sure that the digital options allow for unusual or complex cases.”

An anonymous respondent supported the proposal but recognised that there may be a disparity between all deed types that may collectively comprise an application for which registration is required and those deed types for which digital services are available, commenting “I agree that Standard Securities and Dispositions should be the primary focus but you would need to consider also including Ranking Agreements and Deeds of Restriction for consistency as often these form part of one application e.g. a new-build purchase under the Help to Buy Scheme”\*.

### ***Q5: What deed types do you consider we should prioritise for new services subsequent to securities and dispositions?***

Nineteen of the respondents suggested at least one deed type that should be prioritised for new digital services subsequent to securities and dispositions, with 17 separate deed types, in total, being identified for prioritisation. The four most commonly suggested deed types were:

<b>Deed of Servitude</b> .....	10 votes
<b>Deeds of Restriction/Disburdenment</b> .....	8 votes
<b>Deeds of Conditions</b> .....	6 votes
<b>Deeds of Real Burdens</b> .....	5 votes

The other 13 deed types received 16 votes between them in total.

One anonymous respondent identified that the “maximum-effect, maximum return” approach of focussing on the three most popular deed-types when developing digital services should be followed by prioritisation of the “next most frequently used” deed types.

Conversely, another anonymous respondent identified an alternative, more traditional, prioritisation approach, offering the comment that RoS should “concentrate on what you (RoS) already have within a

reasonable time scale” rather than prioritising digital services.

The link/dependence of/between two separate deed types was identified by several respondents as being relevant to the question as to which deed types should be prioritised for new digital services subsequent to securities and dispositions, including Lindsays: “We would suggest the next deed type should be Deeds of Restriction. In many cases, these follow shortly after a Disposition of the same subjects (e.g. new build sales) and so could perhaps be linked somehow to the Disposition in order to avoid duplication of plans.”

Several respondents also expressed surprise that RoS had no declared plans to digitise Voluntary Registrations, including Scottish Water: “Our view is that the voluntary registration application form lends itself well to being digitised”. Similarly, Lindsays commented that “Although this (a Voluntary Application) is not a “deed type”, it seems illogical for dispositions inducing first registration to be digital only and Voluntary Registrations to be paper only.”

**Q6: Do you consider that for the limited purpose of dual recording, it should be permissible to record an electronic deed in the sasine register or should it be permissible to record a paper copy of the digital deed?**

Occasionally, a transfer of title will result in a disposition being registered in the land register and also being recorded in the sasine register. This will occur where the disposition creates title conditions that benefit or burden a property to which title is still held under title deeds recorded in the sasine register. In such an instance, dual recording is required. This question asked respondents to consider which of two possible identified approaches RoS could use for the limited purpose of dual recording a land register digital deed in the sasine register.

Forty respondents answered this question and the answers received fell into seven separate categories. The three most popular category of responses were evenly spread and collectively accounted for 73% of the votes received. The responses received were as follows:

<b>Electronic Deed in Sasine Register</b> .....	11 votes
<b>Paper Copy of Digital Deed</b> .....	9 votes
<b>Either</b> .....	12 votes
<b>Don't agree</b> .....	3 votes
<b>Both</b> .....	2 votes
<b>No Comment</b> .....	2 votes
<b>No Preference</b> .....	1 vote

Several respondents recognised the consistency of approach to digital services that e-enabling the sasine register, for dual recording purposes only, would deliver. Eversheds commented “If you are trying to establish a digital system then ideally the first option of recording an electronic deed in the Sasine Register would suit purposes better.”

Brodies concurred, commenting “If dispositions are to be presented in digital form, it should be permissible to record an electronic deed in the Sasine Register.”

---

\*It is noted that these comments cross over into the ambit of responses to Q5.



Conversely, the response of Samantha Gilbert reflected the view of several respondents that the preferred approach should closely mirror that already in place for dual recorded deeds in the land register and sasine register: “(it should be) permissible to record a paper copy of the digital deed to more closely resemble the current process and allowing the deed to be registered/recorded simultaneously.”

An anonymous respondent took a more simplistic approach, commenting “I am not sure of the technical issues, but I suspect it may be simpler and more logical to lodge a paper copy of the digital deed in the Sasine Register.”

The merits of both options were recognised by many respondents, including Professor Stewart Brymer who commented “I agree with both options but my preference is the former.”

Several respondents expressed concerns that RoS’ perception of the scale of the problem for which a dual recording solution was required did not accurately reflect reality. The Church of Scotland commented: “We are one of the largest landowners in Scotland in terms of numbers of properties.... this (dual recording) will in fact be the situation, so we would question whether this statement accurately reflects the position across the country, looking at both rural and urban areas.”

Lindsays echoed this response, commenting “we are concerned that Registers consider this a rare situation, as for our sector it is common...for rural conveyancers these are the norm.” Similarly, an anonymous respondent commented that “in the North of Scotland dual recording is not limited, it’s very common.”

However, recognising the temporary nature of any RoS’ dual recording problem resolution (resulting from the closure of the Sasine Register in 2024 following RoS’ attainment of the Scottish Ministers’ land register completion target), an anonymous organisation commented “the circumstances in which this (dual recording) is required will become fewer and fewer as more of the country becomes land registered so a temporary fix is all that is required.”

***Q7: Do you agree that ten working days from the date of digital submission is an appropriate period to allow the prior deeds to be submitted?***

**Yes: 27**

**No: 13**

In around 90% of all land register applications relating to a disposition, no other documents require to be submitted. This is the case for virtually all transfer of part and dealing with whole dispositions. However, for first registration applications, where a property moves from the sasine register and enters the land register for the first time, routinely, both split-off deed and additional deeds referenced for rights and burdens will require to be submitted.

This question relates to the mechanics underpinning RoS’ proposal to relax the “right first time” rule provided for in the land register rules in order to facilitate the digital submission of first registration dispositions by allowing paper deeds to be submitted to accompany a digital application.

A significant majority agreed with the proposal that ten working days should be allowed from the date of digital submission of a first registration deed in order to allow those prior deeds required to be submitted.

Of the 13 respondents disagreeing with the proposed ten days, five respondents suggested longer timescales, none exceeding 35 days – indicating support to the “paper deed” submission part of the proposal, if not the timescale proposed.

The broad agreement to this proposal was reflected in the comments of the CML: “Lenders will rely on solicitors to ensure that the prior deeds were provided to RoS within the ten-day period. We are not aware of any reason why the deadline should not be achievable or why the ten-day period should be longer.”

Wilson McKendrick agreed that the proposal was appropriate: “Ten days seems reasonable for submission of the documents”

The ready availability of deeds required for submission was also identified by an anonymous respondent who commented “Most deeds should be readily accessible to solicitors. They will have had notice ahead of the date of digital submission which should allow any lenders to produce the deeds.”

Recognising the importance of not delaying an application beyond the 35 day advance notice protection period, the Church of Scotland commented that the proposal was “appropriate and ensures that the registration is not delayed beyond the protected period of the Advance Notice.” The Law Society mirrored this view almost entirely.

Conversely, some respondents again identified a requirement for a consistency of approach to digital services, taking issue with both the apparent contradiction involved in submitting paper deeds for digital applications and why RoS would require to have deeds submitted in any case. One anonymous respondent commented ““Why do you need deeds already recorded or registered? Ten days is fine for anything you have absolutely, categorically, never seen before but I think it’s wrong to suggest that you have never before seen the prior deeds. And does it not make a mockery of ‘digitisation’ if we have to obtain a copy of a recorded/registered deed (from you) to submit in support of a ‘digital’ application?”

Lindsays took an almost identical view, commenting “We would question why it would be necessary to submit prior deeds on paper at all. We feel that this is the worst of both worlds: applications would have to be submitted twice, once online and once on paper...rather than straddling both sides of the fence. First registrations should either be entirely digital or entirely paper-based.”

McJarrow &Stevenson, A. M. Simpson & Son, Henderson & MacKay and Stevenson & Johnstone, in a combined response, reflected this view, commenting that “deeds are either already recorded in the Sasine Register or registered in the land register and therefore readily accessible to Registers of Scotland.”

Picking up on the temporary nature of the sasine register’s continued use, Lindsays further proposed that a paper-based approach to first registration stay in place until the land register is complete, commenting that “If a bundle of deeds is being posted to Registers anyway, why not include the new disposition and paper form as is done now. This would be a temporary solution as eventually all properties will be registered”.

The potential for administrative difficulties marrying-up later submitted physical deeds with digital applications caused concerns for several respondents, including Lindsays: “This creates unnecessary work and will create problems of marrying applications up at Registers, with potential for wrongful rejections....In our experience, Registers are not good at dealing with situations where not everything is submitted together and the proposal will dramatically increase the frequency of this.”

## **Q8: Do you have a view on alternative ways you would like to present supporting documents accompanying a digital application?**

Twenty-four respondents offered a range of views on the alternative ways in which supporting documentation accompanying a digital application could be presented to RoS. A significant majority (66% of all views received -16 respondents) identified the use of scanned documents, PDFs and emails to be the preferred method(s) of accompanying documentation presentation, rather than the “paper deed submission” approach detailed in the consultation.

Samantha Gilbert captured the view of many respondents by suggesting that a suitable approach would be to “Upload the deeds when you submit the application form in a standard pdf format for example”.

Scottish Water agreed, commenting “We suggest that the accompanying documentation could be scanned and attached as PDFs to the digital application.”

An anonymous organisation again identified the potential for marrying-up paper deeds with a digital application to be a problem: “Could the supporting deeds be scanned in and attached to the digital application to ensure that the deeds do not get separated from the application?”

A variation on the digital submission theme was proposed by one anonymous respondent, who suggested the use of a file-sharing service for the digital submission of deeds for a digital application, commenting that “firms who have the capability, can set up a file sharing service and the link can be provided to the caseworker (at RoS) who can download the electronic copy of the prior writ.”

Some respondents again echoed earlier expressed concern regarding a consistency of approach for digital services and the inherent inconsistency in the proposal of using paper deeds in a digital system of registration. Lindsays commented that accompanying documentation should “be scanned and uploaded with the application wherever possible. The split-medium approach proposed does not advance digitalisation and in our view is worse than the existing system.”

Notwithstanding the majority preference for digital-based channels for accompanying deed submission, a number of respondents demonstrated a marked predilection for the retention of a paper-based deed requirement. Recognising that a “one size fits all” solution rarely, truly, fits all, one anonymous respondent suggested a situation-appropriate hybrid of emailing accompanying documentation and paper submission, commenting that accompanying documentation “should be submitted by email or via a portal, with paper copies as an alternative since some old deeds may not scan/some plans may be too large for electronic submission.”

The hybrid option was also favoured by both an anonymous respondent who commented that agents could “Post and upload PDF. Some old deeds don’t scan well.” and another who commented “Leave the old system in place for those who wish to use the paper methodology.”

Recognising the benefits to be gained by RoS adopting a non-overly prescriptive approach, the Law Society of Scotland commented that “Our view is that there should be flexibility when presenting supporting documentation. There will be practical issues which will require to be addressed.”

## **Q9: Do you agree with the main changes that we propose to make to the application form?**

**Yes: 34**

**No: 4**

An overwhelming majority of respondents agreed with the main changes detailed in the consultation that RoS propose to make to the application form.

Strong support was received from many respondents, chiefly for reasons of simplification, rejection reduction potential, the furtherance of digital enablement and the benefiting of the conveyancing profession as a whole:

- Professor Stewart Brymer commented that these changes were “long overdue. The rigidity of the current system has led to frustrations and the current form is a barrier to further digital enablement. The devil, of course, will be in the detail.”
- Altis Legal commented that they “absolutely and whole-heartedly support the main changes to be made to the application form” and that “removing need for information that is already held by the Keeper will help reduce the chance of rejections for incorrect information and is beneficial massively from our point of view as it means that less info must be submitted.”
- The Church of Scotland commented: “The use of a digital application form with a digital deed prepared and submitted through a secure digital channel should ensure that the application meets the conditions of registration and therefore lead to fewer rejections. The proposed changes to the paper application form are welcomed, particularly the ability for the application form to be auto filled with information held by the Keeper e.g. from an Advance Notice application, which users could then edit if required”.
- An anonymous organisation commented that “Simplifying the form and making it easier to complete correctly will be a huge boon to the conveyancing process.”

Notwithstanding their support in principle for the proposal, some respondents identified that further detail and clarity on certain issues would be required before an overall view of the proposed form amendments could be arrived at:

- Lindsays commented that they “would welcome clarity on situations where a deed relates to both registered and unregistered subjects.”
- Wilson McKendrick commented that, broadly speaking, they agreed with the proposed changes “but we will need to see the form before commenting further.”
- An anonymous respondent, concerned about the clarity of the application form commented “The questions can be complicated and misrepresented. The interpretation can be misleading....The questions should be clear and concise and not have double meanings.”

## **Q10: Are there any other changes you suggest we should make with a view to simplifying it and making it easier to follow?**

Suggestions were received from 16 respondents as to how the application form could be changed with a view to making it simpler and easier to follow. A wide variation of suggestions were received:

- Lindsays suggested adding the question relating to where the validity of the deed to be registered is dependent on the registration of a related deed to the electronic application form. This question currently appears on the paper application form and they comment that the fact that it does not appear on the electronic form is clearly “illogical”.
- Scottish Water proposed that the dual registration process could be simplified, commenting that “We have found that dual registration is difficult where there is a mixture of registered and unregistered titles”. Similarly, Lindsays felt that the perceived difficulty with registered/unregistered titles applied equally to standard registration applications.
- “It would be useful to have an “account page” of past submitted applications” (anonymous respondent).
- “Start each web page with a flow chart diagram of the stages end to end and highlight where you are now. Allow bookmarking for users to save and return if they have a poor internet connection, have to pause, etc.” (anonymous respondent).
- “Ensure that the system copes with long names and designations – one of the problems with ARTL was that there were not enough characters for some designations” (Church of Scotland).
- “Remove the title examination question- it’s covered in the statutory duty of care” (anonymous organisation).
- “A link to copy over information to or from Revenue Scotland would be ideal” (Samantha Gilbert).
- “Once you have submitted a return, you should be able to start again with the same details, without the type of deed being locked” (anonymous respondent).
- Clarify type of form to be used at First Registration to register (a) a Discharge of a Security recorded in the Sasine Register; (b) a Standard Security. Similarly, a suitable form for registering a Deed of Restriction on Transfer of Part” (anonymous respondent).
- “Scrap the system” (anonymous respondent).

The Law Society of Scotland noted that, in respect to changing the application form, “the focus should be on simplicity, efficiency and easiness of completion”. Conversely, one respondent disagreed that simplification of the application form was a good thing, commenting that “The push to simplify what is essentially a complex process has led to all the present mistakes and the refusal to rectify.”

**Q11: Do you agree that instead of prescribing the content of the application form in the Land Register Rules, the keeper should publish the land registration application form on an administrative basis so that it can be amended from time to time, following consultation and due notice, without the need for changes to be made to the rules?**

**Yes: 35**

**No: 5**

Overwhelmingly, respondents agreed with the proposal of no longer prescribing the application form in the Land Register Rules, with the keeper instead publishing the form on an administrative basis.

A number of respondents observed that the current system does not allow RoS to make necessary reactive changes to the application form. Professor Stewart Brymer commented that: "This is essential. The current system is far too rigid".

Eversheds also recognised the inherent rigidity of the current form: "(We) most definitely agree with this and it will make it easier and quicker to make any required amendments."

The flexibility theme was further supported by the Law Society of Scotland, who commented: "We agree that the Keeper should publish the land registration application form on an administrative basis as this will allow great flexibility to amend the application form to take account of and support users' needs".

One anonymous organisation also noted that future technological advances in conveyancing are likely to require regular amendments to the application form, commenting: "We think this is a good idea given that the conveyancing process will change rapidly over the next few years. The application form may need to be amended on a number of occasions as technology develops and it would be unworkable if subordinate legislation were required for each change".

Some respondents, whilst broadly in favour, expressed the need for any changes to the form to continue to be consulted on and published well in advance of coming into force. One anonymous respondent supported the proposed approach "but only if there is proper consultation and a reasonable amount of notice".

Another respondent, Lindsays, acknowledged the benefits that a flexible approach would bring, but that such open-ended flexibility could also create issues: "We agree that flexibility is required during the transition phase so that Registers can respond quickly to feedback from the profession. However, if this continues there is an issue of democratic accountability and transparency. Ministerial approval of changes to the forms should not be abolished altogether. We feel that the proposal should last for six months after digitalisation becomes compulsory, with any subsequent changes being by Statutory Instrument"

Not all respondents were in favour, however, with some, a small minority, preferring the status quo. Cameron Pinkerton noted that: "The Land Registration Rules provide for a degree of restriction as to what can be done".

On a similar note, an anonymous respondent noted that "the rules should be clear or differences of opinions will arise" and that a "prescriptive approach is clearer and probably easier to administer"

**Q12. Do you agree that this approach should be adopted for both applications submitted on paper and applications prepared through a digital service provided by the keeper?**

**Yes: 33**

**No: 5**

Almost all respondents agreed the need for an identical approach to be taken for all applications, regardless of whether they are submitted on paper or through a digital channel. The Law Society of Scotland noted that: "There should be a consistent approach for digital applications and for this submitted on paper. This would reduce the risk of errors and the scope for rejection of an application".

Professor Stewart Brymer concurred with this view, noting that the suggested approach was "essential".

One respondent, Lindsays, agreed that the proposed approach should apply equally to paper and digital applications, but sounded a note of caution about introducing strict cut-off dates when bringing new forms into operation: "We see no reason for the two to be treated differently. In many cases, they will interrelate so a spit approach would be impractical. However, for paper forms it is crucial that older versions should continue to be accepted for a time after the change, since otherwise they will become obsolete while in transit, and unfair rejections will follow. For electronic forms consideration will need to be given to situations where a form is drafted and saved prior to a change but submitted after. It would be inconvenient if these had to be drafted afresh. The profession's key requirement is certainty."



**Registers  
of Scotland**  
[ros.gov.uk](http://ros.gov.uk)