



Law Society
of Scotland

Consultation Response

Registers of Scotland Digital Transformation: Next Steps

February 2017



Introduction

The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

The Society's Property Law Committee welcomes the opportunity to consider and respond to the Registers of Scotland Digital Transformation: Next Steps. The Committee has the following comments to put forward for consideration.

General Comments

By way of background, Registers of Scotland is developing a variety of new digital services. The Consultation is in two parts. Part one of the consultation sets out proposals for the introduction of these new digital services. Part two sets out proposals to change the land registration application form and also proposes that the content of the form should no longer be prescribed by the Rules but published administratively by the Keeper of the Registers of Scotland.

Specific Comments on the Proposals

We should like to provide the following specific comments to the proposals as set out in the consultation paper.

Question 1: Do you agree that transition to a digital first service should be the next step?

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.

Question 2: Do you agree with the proposed timescale of 1 April 2018 for prescribing that advance notices over part be fully digital?

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. This would mean that the advance notice would be accepted on the Land Register more quickly than the present system.

Question 3: Do you agree with a notice period of six months?

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. However at this stage we cannot suggest a specific timescale until we are fully aware of the proposed digital process.

Question 4: 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?

We appreciate the reason for this proposal as the three most common deeds to be registered are discharges, standard securities and dispositions. Consideration should be given to an initial focus on the digital registration of simpler deeds, such as other discharge types, statutory notices and assignments, prior to the introduction of digital standard securities and dispositions.

If standard securities and dispositions were to be registered digitally there should be flexibility in regards to the preparation of these deeds and the Registers of Scotland should not be restrictive in their approach. It should also be considered as to how these deeds will be digitally executed. The authority for execution should be investigated by the Law Society of Scotland and any Rules and Guidance issued as appropriate.

Question 5: What deed types do you consider we should prioritise for new services subsequent to securities and dispositions?

The Committee has no view on this at this stage however we would be happy to discuss this with Registers of Scotland in due course as matters develop.

Question 6: 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 be permissible to record a paper copy of the digital deed?

Our view is that there should be flexibility and Registers of Scotland should not be too prescriptive in their approach.

Question 7: 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?

We agree that ten working days is an appropriate period to ensure that registration is not delayed beyond the advance notice protected period.

Question 8: Do you have a view on alternative ways you would like to present supporting documents accompanying a digital application?

Our view is that there should be flexibility when presenting supporting documentation. There will be practical issues that will require to be addressed which would merit further discussion with Registers of Scotland once we are clear on their proposals for the digital application process.

Question 9: Do you agree with the main changes that we propose to make to the application form?

The Committee's view is that the process should be simple and efficient. The application form should be amended to ensure ease of completion and submission. We would be happy to discuss the terms of the application form with Registers of Scotland at a later date.

Question 10: Are there any other changes you suggest we should make with a view to simplifying it and making it easier to follow?

Our view is that the focus should be on simplicity, efficiency and easiness of completion. We are happy to discuss the application form on a question by question basis with Registers of Scotland outwith the present consultation.

Question 11: 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?

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.

Question 12: 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?

There should be a consistent approach for digital applications and for those submitted on paper. This would reduce the risk of errors and the scope for rejection of an application.



For further information, please contact:

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