

Registers of Scotland

RoS Board

24 April 2020

Application Record Update

Purpose

1. To provide the Board with an update on the operating position of the property registers (Land Register and General Register of Sasines), as well as selected other registers and to give a general view across all statutory and non-statutory services provided by RoS.
2. The board are asked to note this paper, which will provide context for the transition discussion taking place later on the agenda.

Background

3. A typical property transaction has a number of stages. Although RoS products and services will be used throughout the transaction, the core statutory function of registering the relevant deed comes as the final stage. The stage immediately before registration is known as 'settlement' and is the point where the deed is delivered to the purchaser, and the money and keys are exchanged. Most people would consider themselves to be the new owner of the property at that point. They are not. Ownership does not pass until the deed is registered. In some cases fully completing registration of the deed may take a number of months, but the legal effect backdates to the date of entry on the application record. Accordingly, the date of the initial entry on the application record is the date on which ownership will transfer and therefore is of fundamental importance to the system of registration and the property market more generally.
4. The annex shows the general position, at the time of writing, in respect of RoS products and services. More detail on the property registers and selected others is provided below.

The Application Record

5. At the time of writing the application record is fully open to all types of advance notice, as well as to all discharges submitted via the Digital Discharge Service (DDS). The record is also open to applications which settled or have an advance notice on or prior to 19 February. Our intention (agreed with the Law Society of Scotland) is to reopen the application record, via our new submission portal, on a rolling basis, based on the date on which transactions settled or advance notices were lodged. This allows for some control of volume whilst we work to enable more colleagues to work remotely. Our expectation is that it will take 4 to 6 weeks to roll through applications by date, and

at that point the application record will be open to all transactions.¹ Though that estimate is dependent on how quickly solicitors can get applications to us via the new portal.

6. In the interim the application record is also open as necessary for cases which cannot be submitted via the portal (either for reasons of date or functionality) but which must settle urgently. Declaring the application record fully reopen is likely to tie in with the lifting of restrictions at a national level in order for solicitors to be able to retrieve in-flight applications from offices which are closed.

The Register of Inhibitions and the Register of Deeds

7. Various documents can be registered in the Register of Inhibitions. An inhibition is a form of diligence (debt enforcement) which restricts how an owner of land and buildings can deal with their property. The Register of Deeds in the Books of Council and Session is a deed register which performs two main functions. Firstly, it provides for preservation (safe keeping) of original deeds (like leases, wills etc.) and secondly, in some cases, registration in that register can allow creditors to perform diligence without the requirement for a court to authorise it. There are also some limited examples where rights can be created by registration in the Register of Deeds.

8. At the time of writing the Register of Inhibitions is open to digital submissions from the Accountant in Bankruptcy (AiB). Our legal and policy team are considering whether it is also competent to register digital copies of certain court orders in the register, following the Coronavirus (S) Act 2020. Taken together submissions from the AiB and the Courts are about two thirds of the intake for the register. The final third comes from other parties. We think it is likely that legislative change is required to authorise registration of that final third. We are exploring with colleagues across government the best vehicle for that legislative change.

9. The Register of Deeds is currently closed. We think there is a case to be made in the medium term for this register to be opened to electronic deeds, but that should be subject to proper consultation and scoping of the technical requirements. We do not think it is appropriate to make such a change in a rush or in emergency legislation. In particular we think the hybrid approach deployed elsewhere (of allowing digital images of paper deeds to be used) does not work in a register where the main purpose is preservation of the original. We will be able to open the register to paper deeds in truly urgent cases, though we have yet to identify such a scenario. In most cases deeds can be safely stored in solicitors deed stores until such time as restrictions are lifted.

Conclusion

10. The Board are asked to note the position.

Registration and Policy Director

¹ This does not equate to the application record being fully reopen for the purposes of Schedule 7 of the Coronavirus (S) Act 2020.

Annex

System Availability

Product / Service		Notes :-
●	Land Register (intake)	Private Beta digital submission Emergency offline provision available
●	Sasines (PB)	Private Beta submission Emergency offline provision available
●	Advance notices	Fully Open for digital submission
●	ScotLIS	Fully operational
●	Digital Discharge Service	Fully operational
●	Customer Services	Fully operational
●	Compensation / Litigation	Fully operational
●	Housing Management	Fully operational, supporting local authorities to manage remotely
●	RCIL/AT	Fully operational
●	LPD bespoke reports	Low transactions mean limited volumes to report on in coming months
●	LPD standard reports (inc HPI)	Low transactions mean limited volumes to report on in coming months
●	GIS Services	Fully operational
●	Plans Reports	Operational, some reduced capacity. SLA has moved from 24 hours to 48 in some cases.
●	Legal Reports	Operational but reduced capacity. SLAs generally being met
●	Sasine Search	Operational but reduced capacity. SLAs generally being met
●	Copy Deeds	Operational but some degradation of service due to NRS closure, outwith RoS control
●	Post Registration	Operational but reduced capacity
●	Crofting Register	Operational with some reduced capacity. SLAs generally being met.
●	Register of Inhibitions	Digital submission via AiB only. Likely imminent opening to Court deeds subject to reconciling the legal position with SCTS. Investigation ongoing of further legislation for documents which come from parties other than the courts or AiB
●	Great Seal	Running continuity process as required
●	Register of Deeds	Closed and likely to remain so for the reasons set out in the paper. Emergency provision off line available but not heavily needed.
●	Register of Judgements	Closed and likely to remain so for the reasons set out in the paper. Emergency provision off line available but not heavily needed.
●	Register of Protests	Closed and likely to remain so for the reasons set out in the paper. Emergency provision off line available but not heavily needed.

Key

●	Running as normal
●	Running with reduced capacity
●	Service closed