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Registers of Scotland

Fee Review 2014

Consultation Paper



**REGISTERS OF SCOTLAND
FEE REVIEW 2014 CONSULTATION PAPER**

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1. Background

1. Registers of Scotland (RoS) is the non-Ministerial Government Department responsible for registering a variety of legal documents in Scotland mainly in relation to interests in land. RoS is self-funding, having been established as a Trading Fund in 1996. Following Devolution, RoS became part of the Scottish Administration and is now associated with the Finance, Employment and Sustainable Growth Portfolio of the Scottish Government.

2. RoS is headed by a statutory officeholder, the Keeper of the Registers of Scotland, who is currently responsible for compiling and maintaining 17 public registers. RoS' work is primarily associated with the Land Register and the General Register of Sasines. RoS handles around 350,000 registration transactions each year and also make information from the registers publicly available.

3. In the 2010-13 Corporate Plan, the Keeper announced that she intended biennially to conduct a review of both information and registration fees to ensure that the fees charged were within the requirements outlined in paragraph 5 below. This will be the third scheduled review following that announcement.

4. The existing regime for all information, registration and recording fees is set out in the Fees in the Registers of Scotland Order 1995¹ as amended by the Registers of Scotland (Consequential Provisions) Amendment Order 2013.²

5. The setting of fees charged in relation to the registers is within the statutory responsibility of Scottish Ministers and this consultation is being undertaken on their behalf and with their authority. The fees must be in line with the requirements of the Scottish Public Finance Manual and enable The Keeper to recommend recording, registration and provision of information fees across the registers at a level that will appropriately recover the costs of registration, provide access and information taking into account the costs of extension of the land register and, for the first time, encourage registration in accordance with the powers of section 110 of the Land Registration etc. (Scotland) Act 2012 (LR Act 2012).

6. In proposing the fees set out in this consultation paper, account has been taken of the housing market which remains fragile while showing signs of slow recovery, and the Keeper's commitment to Ministers not to seek an increase in core registration fees as a result of the LR Act 2012. This means that fees will not have increased since 2010. Informal consultation conducted via face-to-face visits with stakeholders did not raise any major concerns about these proposals.

¹ S.I. 1995/1945

² S.S.S. 2013/59

2. The Land Registration etc. (Scotland) Act 2012 (LR Act 2012)

Please note that consultation on the LR Act 2012 is being undertaken separately from the Fee Review consultation.

7. The Fees Order that will be introduced as a result of this consultation will be the first Fees Order made under the powers provided in the LR Act 2012. These powers have already been brought into force by means of Commencement Order No. 1, dated 1 November 2012. Of these powers, the commencement of the new fee making powers (section 110) and the new commercial services power (section 108) impact on this Fee Review and the content of the proposed Fees Order.

8. The LR Act 2012 offers Scottish Ministers and RoS greater flexibility in how fees are set and charges levied. For example, fees previously had to be "fixed" on the basis of cost recovery. This restriction has been lifted along with the limitation of setting fees at a level of cost recovery. The LR Act 2012 also provides RoS with the opportunity to consolidate, within one Fees Order, all of RoS' fees including those for the Crofting Register and Register of Community Interests in Land (RCIL).

9. It is anticipated that any new fees that result from the proposals contained in this consultation paper will not come into effect until the Designated Day for the LR Act 2012, which is currently expected to fall in late autumn 2014. The Designated Day will be the day that all the remaining sections of the LR Act 2012, which provide for the new scheme of land registration, come into force.

3. Registration and Recording Fees (See Annex A Tables 1, 2, and 3)

10. The principles that underlie the making of this Fees Order are transparency, value for money and equality for citizens. Scottish Ministers therefore propose maintaining the main registration and recording fees at current levels. Statutory Registration fees represent 90% of RoS' income.

11. As per previous fee structures, no differential has been made between the fees for a First Registration (FR) of a property on the Land Register, a Dealing with Whole (DW) of a property already on the Land Register, a Transfer of Part (TP) of part of a property on the Land Register or a General Register of Sasines application. The proposed fees for these applications have been set at a level where the combined fees recover costs and enable reserves to be maintained at an appropriate level as agreed with Scottish Government. This is to protect customers from the higher costs involved in registering on the Land Register for the first time.

12. The proposed fees for electronic services, such as Automated Registration of Title to Land (ARTL), remain unchanged. These are set at a level that is below the standard paper alternative to reflect the reduced costs to RoS of such services and also to encourage their uptake.

13. If an application to the Land Register or a deed submitted for recording in the General Register of Sasines creates, transfers or varies an interest in land (other than a heritable security), such as a Disposition, then the fee is based on the amount of the consideration or value of the property transferred or affected, whichever is the greater. Scottish Ministers do not propose to change this policy. Table 1 in Annex A sets out the proposed transfer fees and fee bands in detail. There is no change to the main registration and recording fees that are set out in the current Fees Order.

14. An application for a voluntary first registration of an unregistered interest in land will be charged in the same way as a normal first registration, based on the value of the interest in land being registered in accordance with Annex A Table 1.

15. During the consultation on the Fees in the Registers of Scotland Amendment Order 2006³, customers expressed concern at the high number of fee bands. Scottish Ministers addressed this by reducing the number of transfer bands from 51 to 12. Informal consultation with customers prior to this Public Consultation has shown this to be popular and it is proposed that the current 12-band structure be retained.

16. The latest quarterly figures published show that for the quarter July – Sept 2013, the average residential house price in Scotland was £161,748.

Table 1: Registration Fees for the Average Residential House Price in Scotland

Year	Paper Application	ARTL Application
	£	£
Current (2010)	360	270
Proposed	360	270

17. Along with retaining the current structure, Scottish Ministers propose that the fee for registering or recording any deed that relates to a Standard Security will remain unchanged at £60 for paper applications and £50 for ARTL applications. Such deeds include a Standard Security, Discharge of a Standard Security, Deed of Restriction, Deed of Variation, Ranking Agreement and Deed of Postponement.

18. The £60 minimum fee will also continue to apply to applications for registering or recording any deed not specifically mentioned in the Fees Order. These deeds are referred to as Miscellaneous Deeds and include

³ S.S.I.2006/600

deeds such as a Tree Preservation Order, Notice of Payment of Improvement Grants.

4. Register of Community Interests in Land Charges and the Crofting Register (Annex A Tables 3 and 4)

19. The registration fees for these two registers will not change but Scottish Ministers propose that the fees for extracts/copies from these registers align across all RoS' registers and are charged under the powers in section 110 of the LR Act 2012. Please see paragraphs 40-45 for more information.

5. Chancery and Judicial Register (CAJR) Fees (Annex A Table 3)

20. In addition to the Property Registers, the Keeper has responsibility for 13 Judicial and Crown Registers. Collectively, these are known as the Chancery and Judicial Registers (CAJR). The largest are the Register of Deeds and Probative Writs in the Books of Council and Session, which enables original probative documents to be preserved in perpetuity, and the Register of Inhibitions and Adjudications, which provides details of any bankruptcy or deeds for debt-related court action that prevent a party from transacting with heritable property. The current CAJR registration and recording fees have been reviewed and no changes are proposed.

6. LR Act 2012 New Products/Services

- **Advance Notices**

21. Sections 56 to 64 of the LR Act 2012 set out the new scheme of advance notices that will provide protection for the grantee of a deed during the time between taking delivery of the deed and registration. The entry of an advance notice in the application record (for Dealings with Whole and Transfers of Part) or the Sasine Register (for First Registrations) ensures that during the next 35 days no competing deed can beat the protected deed in any race to the register nor can it be affected by an entry in the Register of Inhibitions and Adjudications.

22. Advance notices represent a more efficient alternative to Letters of Obligation and provide greater security to the Grantee. The majority (submitted on the Land Register) will be submitted electronically. Any advance notices that apply to the Sasines register will be submitted by paper.

23. The Economic Impact Assessment of the draft Land Registration (Scotland) Bill published in October 2009 estimated the annual cost saving of moving from Letters of Obligation to Advance Notices at £9.9 million. This was based on a fee of £20, meaning that actual savings could be significantly higher.

24. The Keeper has conducted investigation into the proposed fee, based on the estimated take-up/volume of advance notices after the Designated Day, and the estimated IT and resource costs. Based on the Keeper's investigations, Scottish Ministers propose an initial fee of £10 be charged. This fee will be reviewed 12 months after the Designated Day. Any resultant increase or decrease will either be considered within the context of RoS' next fee review consultation or, if appropriate, may be made by the Keeper using her new power, under section 110 of the LR Act 2012, to increase or decrease fees within such limits and conditions as Scottish Ministers may impose by order. (See paragraphs 54 and 55 for further details of this new power.)

25. This fee is for the registration or recording of a single advance notice in relation to a single deed. Each separate advance notice will attract a separate fee.

- **Caveats**

26. A caveat is the publication on a title sheet of the existence of a court action for a title dispute to warn of the ongoing dispute and the effect it may have on the title. Warrant to place a caveat will be granted by the Court and the form of the caveat will be subject to the Rules of Court. Unless renewed, recalled or discharged, the caveat will be effective for 12 months.

27. A caveat does not prevent parties transacting with land subject to litigation, but if the Keeper later adversely rectifies a title as a result of the court action, a party would be unable to claim they were unaware of the litigation and compensation may be less than it would have been if there was no caveat. Caveats can be recalled, renewed and discharged. RoS has conducted investigation into the proposed fee based on process and resource costs. Based on these investigations, Scottish Ministers propose a fee of £60 for a caveat.

- **Section 66 Shifting Water Boundaries**

28. Section 66 permits registered proprietors of adjacent plots of land separated by a natural water feature to agree that their common boundary (or part of it) may be excluded from the effect of subsequent alluvial changes. The effect of a shifting boundary agreement is to fix the line of the title boundary. Joint registration of such an agreement will have real effect and be binding on current and future proprietors. Such agreements are only registrable in the Land Register.

29. In terms of registration, a consequence of a shifting boundary or a section 66 agreement is that the cadastral map and title sheet do not become inaccurate as a result of alluvion⁴ affecting the fixed boundary. Scottish

⁴ Alluvion: the gradual accretion of new land by the deposit of sand and earth through the action of the sea or river to the benefit of the owner of the land to which it becomes attached.

Ministers therefore propose that this new deed would allow proprietors to fix a boundary that would normally be affected by alluvion and that the fee is set at £60 (as per the miscellaneous deed fee) per title sheet over which the deed is being registered.

- **Section 76 Application for Increase in the Level of Warranty**

30. The LR Act 2012 changes the scheme of the state guarantee of title from the Keeper's indemnity to the Keeper's warranty. There are two strands to the Keeper's warranty: that at time of registration, the title sheet to which the application relates (a) is accurate in that it shows the acquisition, variation or discharge in favour of the applicant, and (b) is not inaccurate in that there is no encumbrance omitted from it that should be reflected in the title sheet. Warranty is given to the applicant as at the date of registration.

31. A fresh warranty decision will be made with each application relating to the title, but it will also be possible for the Keeper to vary warranty between registration events if, for example, evidence that was not available at the time of registration subsequently emerges. Any variation of warranty can only be to raise the level of warranty as it will not be possible, in these circumstances, for the Keeper to grant less extensive warranty than that given at the date of the last registration.

32. Scottish Ministers propose that the fee for applications to increase the level of warranty for registrations where the Keeper has previously excluded or limited warranty be set at £60.



7. Proposed Changes to Registration and Recording fees

Completion of Title by Certain Public Bodies (Annex A Table 2)

33. There is a provision in the 1995 Order that entitles certain public bodies, such as Health Boards, to a reduced fee to complete title. It is proposed to remove this concession. This will ensure that all parties are charged on the same basis and the terms of the Scottish Public Finance Manual are complied with.

34. When the Keeper receives requests for information from a member of the Scottish Government in order to perform his/her ministerial function, no fee is currently charged. It is proposed that these requests will continue to be handled for no fee.

8. Proposed Changes to Registration and Recording fees resulting from LR Act 2012 policy

Rejections (Annex A Table 2)

35. The LR Act 2012 sets out clear criteria for the acceptance of an application for registration. If any of the conditions contained in sections 21 to 28 (as applicable) are not satisfied then the Keeper must reject the application under section 21(3). In terms of section 21(2), the conditions must be met as at the date of application, therefore it will no longer be possible for the Keeper to return defective deeds for amendment. In those circumstances, the only recourse would be to reject the application. A significant percentage of current requisitions relate to the deed presented for registration; under the Act the application(s) to which those deeds relate will be rejected.

36. Scottish Ministers propose maintaining the rejection fee of £30. This fee was introduced for all applications rejected prior to acceptance by RoS, following the 2010 fee review, and has resulted in a 70% drop in rejections, that now account for 3% of applications received.

37. Under the LR Act 2012, there will no longer be cancellations or requisitions as outlined in the one-shot rule (sections 21-28). Under the new legislation, if RoS is unable to continue/complete the registration process then the application must be rejected. These rejections, that take place after the application has been taken on at intake, would also be charged at £30. This represents a reduction from the current cancellation fee that is equivalent to the registration fee up to a maximum of £400.

Rectifications (Annex A Table 2)

38. Under the LR Act 2012, the Keeper has a duty to rectify when she becomes aware of a manifest inaccuracy. Section 65(1) provides a definition of "inaccuracy" for the purposes of the Act, which states that a title sheet is

inaccurate if it misstates the position in law or in fact, if it omits anything required by an enactment, or if it includes anything not permitted by enactment. Scottish Ministers propose removing the £60 fee for rectification.

9. Proposed Changes to Information Fees (See Annex A Tables 5 and 6)

39. Section 108 of the LR Act 2012 gives the Keeper the power to provide consultancy, advisory or other commercial services and provides a power to agree the fees charged for those services with the customer. The fees for these services will not be included in the new statutory Fees Order. Access to information that is charged for by way of a statutory fee will be available through the RoS Customer Service Centres. Customer Service Centres can be accessed in writing, by phone or email, or in person.

Extracts, Certified Copies and Plain Copies (Annex A Table 5)

40. As a result of the LR Act 2012, Land and Charge Certificates will no longer be issued upon completion of registration. The 2006 Rules provide for a Form 15 to request an office copy of a title sheet. Under the LR Act 2012, office copies are replaced by extracts of the title sheet. Section 104 makes provision for the issuing of extracts of the title sheet or the cadastral map.

41. Scottish Ministers propose that the following products will be available as extracts and each product will have a fee of £30:

- Title sheet & part of cadastral map
- Title sheet
- Part of title sheet
- Part of cadastral map
- Document from archive record
- Part of document from archive record.

42. The cadastral map is a map showing the totality of registered geospatial data and it is made up of cadastral units, each of which represents a registered plot of land. Initially, it will only be possible to request an extract under section 104(1)(b) of one cadastral unit at a time.

43. It will also be possible to request a certified copy of an application or advance notice on the application record or any other document in that record. Scottish Ministers propose that the following products will be available as certified copies and each product will have a fee of £30 :

- Document in the application record
- Any other part of document in that record
- Advance notice.

Extracts and certified copies will have the evidential status required for court purposes.

44. Although the LR Act 2012 does not specify the statutory requirement to provide plain copies, the Keeper recognises the importance of this product for our customers as a quicker and less expensive alternative to extracts/certified copies. The Keeper therefore proposes to provide “plain copies” for the products listed below and Scottish Ministers propose a fee of £16 for these. (The lower fee reflects the nature of these copies - that is they do not have evidential status required for court purposes.) Plain copies are available for:

- Title sheet & part of cadastral map
- Title sheet
- Part of title sheet
- Part of cadastral map
- Document from archive record
- Part of document from archive record
- Document in the application record
- Any other part of document in that record
- Advance notice.

Customer Service Centre Inspection Fees (Annex A Table 6)

45. As well as using solicitors and private searchers, the public can access information on the Registers through RoS’ Customer Service Centres in Edinburgh and Glasgow. The last fee review in 2010 introduced a handling charge for requests for information via RoS staff with a premium being paid for requests made in person. RoS believes that the fees could be simplified for customers by introducing set fees for the majority of requests. Scottish Ministers therefore propose to introduce a new register inspection fee that will be easier for customers to understand. The inspection fee will cover the administrative time involved in searching the registers and a plain copy of either the title sheet, part of the title sheet, the search sheet, the application record or the cadastral map. Each property searched would attract a separate register inspection fee as follows:

- request in writing for Inspection of the Registers (including making a plain copy) - £20;
- request in person for Inspection of the register (including making a plain copy) - £30.

Note: Fax requests will no longer be accepted when the new Fees Order is introduced.

10. Products and Services provided under section 108 of the LR Act 2012

46. The LR Act 2012 gives the Keeper the power to separate products/services under sections 107 (statutory) and 108 (consultancy, advisory and commercial). It is proposed that the products outlined in this section now sit under section 108 and should therefore be removed from the Statutory Fees Order.

47. RoS already provides some of its services on a commercial basis within the context of a competitive market. Such services are now covered by section 108 of the LR Act 2012. When providing services under section 108, RoS' pricing policy will be consistent with the principles of the Information Fair Trading Scheme (for which RoS is accredited) and in accordance with UK and EU competition law. The pricing policy for all new products will be published on the RoS website in advance of implementation.

- **Registers Direct**

48. RoS give access to much of the information that it holds via Registers Direct, our online business to business service. The public can access this information through their appointed agents, such as solicitors and private searchers. Registers Direct will continue to play an important part of RoS' information provision and RoS aims to further improve its functionality. Given that Registers Direct is a business to business service, its provision can best be attributed to the Keeper's powers under section 108. This means that the fees for Registers Direct will no longer form part of the Statutory Fees Order. The Keeper has no plans to increase Registers Direct fees in respect of the current product offering. Any proposed changes to charges will be communicated to customers at least three months in advance.

- **Pre-registration Enquiries**

49. The Keeper has no statutory duty to provide a pre-registration service and this will be removed from the Fees Order and categorised as a specialist service under section 108. The existing service will remain but is being reviewed to better understand what information customers will need prior to submitting applications for registration post Designated Day.

- **Reports**

50. RoS provides a Land Register Reports service. The nature of this service will be different under the LR Act 2012 and the service will no longer form part of the Statutory Fees Order. Further work is being undertaken by RoS to better understand the type of reports and information required by customers.

- **Personal Presentments**

51. Being able to submit applications in person at RoS customer service centres will continue post-Designated Day. These applications are deemed equivalent to postal delivery and consequently there would be no supplementary charge for this service.

52. The service currently provided, whereby applications are presented for a pre-submission application check involving consideration by RoS staff, is being reviewed and any new service will form part of the services offered under s108. Discussion with stakeholders is ongoing about the nature of this service.

- **Land and Property Data**

53. RoS provides a range of Land and Property Data reports for customers, including reports of Sales for Consideration, Land Values and the provision of Register of Inhibitions bulk data. Again, these services fall within services provided under section 108 of the LR Act 2012 and, in future, the charges for such reports will be agreed with customers separately.

11. Power to Vary Registration Fees In-Between Fees Orders

54. The powers within the LR Act 2012 enable the Keeper (within limits) to vary registration and recording fees in between consultations as long as the method with such limitations and conditions as Scottish Ministers may impose is stated in the Fees Order. This power is expressed in section 110(1)(c) of the LR Act 2012.

55. It is proposed that this power be expressed as plus or minus a maximum of £10 in the Fees Order. This would be applicable to all fees set out in the Order. This would enable the Keeper to respond quickly to dramatic changes to the market or unexpected consequences from the LR Act 2012. This power would only be used after consulting Scottish Ministers and with the provision of three months' notice to customers.

56. Please note that the LR Act 2012 implementation is being consulted on separately from fees. The consultation paper can be found at http://www.ros.gov.uk/consultation/consultation_lr_act.html. The views and suggestions detailed in consultation responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. The responses received may indicate the need for policy development or review and will inform the final content of the suite of Scottish Ministers' subordinate legislation that will be put in place to implement the LR Act 2012 in full from the Designated Day. Responses to the LR Act 2012 implementation consultation, as well as responses to this consultation, could therefore impact on the final decisions reached regarding the new Fees Order.

12. Summary

57. The Keeper invites responses on the changes that Scottish Ministers propose to fees charged by RoS as highlighted in this consultation paper. The proposed changes have been determined in relation to the Keeper's responsibility to recommend recording, registration and provision of information fees across the registers at a level that will appropriately recover costs of registration, provide access and information, and, for the first time, encourage registration in accordance with the powers of section 110 of the Land Registration etc. (Scotland) Act 2012 (LR Act 2012).

The main proposals of the review are as follows:

- **no changes to the main registration and recording fees**, such as transfer fees, the fees for the Chancery and Judicial Registers, the Register of Community Interests in Land Charges and the Crofting Register. The fees for recording any deed that relates to a Standard Security will also remain unchanged;
- **fees introduced for the new products required as a result of the LR Act 2012**. The new products and their proposed fees are outlined fully in the consultation paper. The fees have been identified based on process mapping and volume estimates;
- **charges for consultancy, advisory or other commercial services provided by the Keeper under section 108 of the LR Act 2012 will be set by the Keeper and/or agreed with the customer**. We propose that charges for these products be removed from the statutory Fees Order. The pricing policy adopted will be consistent with the principles of the Information Fair Trading Scheme, in which RoS are accredited, and in accordance with UK and EU competition law;
- **access to information charged for by way of a statutory fee will continue to be available via the RoS Customer Service Centres**. Set fees will be charged for inspections either in writing or in person and will incorporate the provision of a plain copy of the title sheet and/or cadastral map. This should provide greater transparency for customers and generate the equivalent fee income;
- **a standard rejection fee of £30 will be retained and also apply to applications that were previously subject to a cancellation fee**. This represents a reduction from the current cancellation fee, which is equivalent to the registration fee up to a maximum of £400, and aligns with the one-shot principle outlined in sections 21-28 of the LR Act 2012;
- **the Keeper is proposing that she will have the power to vary fees in between Fees Orders to a maximum of plus or minus £10 on the fees set in the Fees Order**.

- **concessions for certain public bodies completing title will be removed** to ensure that all customers are charged on the same basis in accordance with the Scottish Public Finance Manual.
- **requests for information from a member of the Scottish Government in the performance of Ministerial functions** will continue to attract no fee.

58. RoS is committed to consulting its customers on any changes affecting the provisions of its services. All responses received by the end of the consultation period will be considered by Scottish Ministers prior to their completing a new Fees Order and laying it before the Scottish Parliament. It is anticipated that any change in the fees that RoS charge would take effect from the Designated Day for the LR Act 2012 in late autumn of 2014.

59. Attached for information at Annex D is a primary distribution list of firms and organisations that are being sent this consultation paper. We would be grateful if you could advise us of any other organisations that you consider should be consulted. This paper will also be available in alternative formats and in translation to community languages on request to the contact highlighted in the covering letter.

**Registers of Scotland
October 2013**



Annex A: Proposed Fees and comparison with current fees

Table 1: Creation, Transfer or Variation of an Interest in Land (Transfer Fees)

Consideration Paid	Current Fees		Proposed Fee
	Paper	ARTL	
£	£	£	£
0 - 50,000	60	50	No change
50,001 - 100,000	120	90	"
100,001 - 150,000	240	180	"
150,001 - 200,000	360	270	"
200,001 - 300,000	480	360	"
300,001 - 500,000	600	450	"
500,001 - 700,000	720	540	"
700,001 - 1,000,000	840	660	"
1,000,001 - 2,000,000	1,000	800	"
2,000,001 - 3,000,000	3,000	2,500	"
3,000,001 - 5,000,000	5,000	4,500	"
5,000,001+	7,500	7,000	"

Note: The current average house price (as at September 2013) is £161, 748.

Annex A

Table 2 Land Register and General Register of Sasines Fees	Current Fee	Proposed Fee	Notes
	£	£	
Standard Security/Discharge	60.00 (50.00 ARTL)	No Change	
Miscellaneous Deeds	60.00 (50.00 ARTL)	No Change	
Form 5 (noting overriding interest)	60.00	N/A	Overriding interests will no longer be noted under the LR Act 2012
Rectification	60.00	NIL	There will no longer be a charge for rectifications. Please see paragraph 38
Recording any memorandum	60.00	No Change	
Grant of Long Lease - on consideration plus 10x Rent	Formula	No Change	
Assignment of Lease - on consideration plus 10x Rent	Formula	No Change	
Excambion	On Value	No Change	
Operation of a Survivorship Destination	60.00	No Change	
Single Applications - Multiple Titles - Fee on Total value + a minimum fee for each other Title	+ 60.00 per Title	No Change	
Receipt under Industrial & Provident Societies Act 1965	0.25	NIL	There will no longer be a charge applied
Cancellation (to be renamed rejections)	App Fee to max of £400.00	£30.00 (as per rejection fee)	These will now be classified as rejections under the LR ACT 2012 sections 21-28. Please see paragraphs 35-37 for more information
Rejections	30.00	No Change	
Completion of Title by certain public bodies	60.00	As per transfer fees	This ensures all customers are charged the same. Please see paragraph 33

Annex A

Table 3 CAJR Registration Fees (including RCIL)		Current Charge	Proposed Charge	Notes
		£	£	
	Register of Inhibitions & Adjudications	15.00	No Change	
	Register of Deeds ⁵ (including first extract)	10.00	No Change	
	Register of Protests	10.00	No Change	
	Register of Judgments (including first extract)	10.00	No Change	
	Register of the Great Seal for:			
	• a Charter of Incorporation	250.00	No Change	
	• a Crown Grant of land, unsealed deed	60.00	No Change	
	• a Crown Grant of land, sealed deed	250.00	No Change	
	• a Commission	630.00	No Change	
	Register of the Cachet Seal	30.00	No Change	
	Register of the Quarter Seal	130.00	No Change	
	Certificate issued under the Civil Jurisdiction and Judgements Act 1982(a)	30.00	No Change	
	Register of Community Interests in Land (Agricultural Tenants) - new registration of tenant's interest	40.00	No Change	
	Register of Community Interests in Land (Agricultural Tenants) - renewal of registration existing/previously registered interest	25.00	No Change	

⁵ The Books of Council and Session, also known as Register of Deeds, is a court register and comprise 3 registers (a) the Register of Deeds (b) the Register of English and Irish Judgments and (c) the Register of Protests. However, the registers used on a daily basis are the Register of Deeds and the Register of Judgments.

Annex A

Table 4 The Crofting Register	Current Fee	Proposed Fee	Notes
	£	£	
For an initial registration of a croft	90.00	No Change	
For updating the registration schedule of a registered croft	90.00	No Change	
For registration of a common grazing	90.00	No Change	
For updating the registration schedule for a registered common grazing	90.00	No Change	
For registration of land held runrig	90.00	No Change	
For updating the registration schedule for a registered land held runrig	90.00	No Change	

Annex A

Table 5 Miscellaneous Services	Current Charge £	Proposed Charge £	Notes
Provision of a plain or duplicate copy – to be referred to as Plain copies in the Fee Review 2014	16.00	No Change	Plain copies will be included in the inspection fee charged by CSC. See paragraphs 40-45 for more information.
Provision of a certified copy or official extract	30.00	No Change	The meaning of each is altered by the LR ACT 2013 - see paragraphs 40-44 for more information
Provision of an official extract from NAS	30.00	No Change	The meaning is altered by the LR ACT 2013 - see paragraphs 40 - 44 for more information
Provision of Office Copy	30.00	N/A	This product does not exist under the LR ACT 2012
Provision of Sasine Copy Deed	16.00	No Change	Plain copies will be included in the inspection fee charged by CSC. See paragraphs 40-45 for more information
Handling second extracts/copies requested same time as the first (CAJR or Sasines)	10.00	No change	
Provision of Land Register Archive Information	16.00	No change	The meaning is altered by the LR ACT 2013 - see paragraphs 40 - 45 for more information. Plain copies of this information will be available at the same fee
Provision of ROI in bulk (per day)	21.00	N/A	S. 108 Removed from Fees Order. Fee to be agreed
Sales for consideration (for all of Scotland). Note: Also available on a registration county basis for a reduced fee.	675.00 per month	N/A	S. 108 Removed from Fees Order. Fee to be agreed

Table 5 Miscellaneous Services	Current Charge	Proposed Charge	Notes
Land values report (for all of Scotland). Note: Product available on a registration county basis for a reduced fee.	933.00 per month	N/A	S.108 Removed from Fees Order. Fee to be agreed
Creditor/legal agent report	150.00 per month (or quarter)	N/A	S.108 Removed from Fees Order. Fee to be agreed
Data set of registration county boundaries	150.00	N/A	S.108 Removed from Fees Order. Fee to be agreed
Provision of minutes of General Register of Sasines	378.00 per month	N/A	S.108 Removed from Fees Order. Fee to be agreed
Report on post code sectors	150.00 per month (or quarter)	N/A	S.108 Removed from Fees Order. Fee to be agreed
Personal Presentments	15.00	N/A	Please see paragraphs 51 and 52 for more information

Annex A

Table 6 Inspection of the Registers		Current Fee	Proposed Fee	Notes
		£	£	
Request in writing for Inspection of the Registers (including making a plain copy)	N/A	20.00	This proposed fee incorporates the admin. charge and a plain copy	
Request in person for Inspection of the register (including making a plain copy)	N/A	30.00	This proposed fee incorporates the admin. charge and a plain copy	

Annex A

Table 7 Reports	Current Fee £	Proposed Fee £	Notes
Form 10 Report prior to registration	32.00	N/A	Nature and form of Reports to be determined
Form 11 Continuation of report prior to registration	19.00	N/A	Nature and form of Reports to be determined
Form 12 Report over registered subjects	32.00	N/A	Nature and form of Reports to be determined
Form 13 Continuation of report over registered subjects	19.00	N/A	Nature and form of Reports to be determined
Form 14 Report to ascertain whether subjects registered	32.00	N/A	Nature and form of Reports to be determined
P16 Comparison of bounding description with Ordnance Map	29.50	N/A	Nature and form of Reports to be determined
P17 Comparison of Certificate Plan with Ordnance Map	32.00	N/A	Nature and form of Reports to be determined
Form 10/P16 Combination	45.00	N/A	Nature and form of Reports to be determined
Form 12/P17 Combination	45.00	N/A	Nature and form of Reports to be determined
Personal Presentments	15.00	N/A	Please see paragraphs 51 and 52

Note: VAT will be applied in line with HMRC guidance

THE SCOTTISH GOVERNMENT CONSULTATION PROCESS

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways that will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the relevant website enabling a wider audience to access the paper and submit their responses. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

RESPONDENT INFORMATION FORM (please click here to access the electronic form)**Registers of Scotland Fee Review 2014 Consultation**

Please note that this form must be returned with your response to ensure that we handle your response appropriately:

Name:

Organisation Name:

Postal Address:

Phone/Email:

1. Are you responding as: (please tick one box)
- | | |
|--------------------------------------|---------------------------------------|
| an individual | <input type="checkbox"/> (go to 2a/b) |
| on behalf of a group or organisation | <input type="checkbox"/> (go to 2c) |

2a. **INDIVIDUALS**

Do you agree to your response being made available to the public (in the Scottish Government library and on the RoS website)?

- | | |
|----------------------|--------------------------|
| Yes (go to 2b below) | <input type="checkbox"/> |
| No | <input type="checkbox"/> |

- 2b. **Where confidentiality is not requested**, we will make your response available to the public on the following basis (**Please tick one** of the following boxes)

- | | |
|--|--------------------------|
| Yes, make my response, name and address all available | <input type="checkbox"/> |
| Yes, make my response available, but not my name and address | <input type="checkbox"/> |
| Yes, make my response and name available, but not my address | <input type="checkbox"/> |

2c. **ON BEHALF OF GROUPS OR ORGANISATIONS:**

The name and address of your organisation **will be** made available to the public (in the Scottish Government library and on the RoS website). Are you content for your response to be made available?

- | | |
|-----|--------------------------|
| Yes | <input type="checkbox"/> |
| No | <input type="checkbox"/> |

3. We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Government to contact you again in relation to this consultation exercise?

- | | |
|-----|--------------------------|
| Yes | <input type="checkbox"/> |
| No | <input type="checkbox"/> |

List of Consultees

Primary Distribution List

1. Accountant in Bankruptcy
2. Association of British Credit Unions
3. British Banking Association
4. Building Societies Association
5. Capability Scotland
6. Church of Scotland
7. Citizens Advice Scotland
8. Commission for Racial Equality
9. Committee of Scottish Clearing Banks
10. COSLA
11. Council of Mortgage Lenders
12. Disability Rights Commission
13. Equal Opportunities Commission
14. Free Church of Scotland
15. Faculty of Advocates
16. HM Land Registry (England and Wales)
17. HM Revenue & Customs
18. Homes for Scotland
19. In-house Lawyers Group
20. Land Registry Northern Ireland
21. Land Registry Republic of Ireland
22. Law Society of Scotland
23. Legal Software Suppliers' Association
24. National Records of Scotland
25. Ordnance Survey
26. Office of the Public Guardian (Scotland)
27. Queen's and Lord Treasurer's Remembrancer
28. Registrar of Companies for Scotland
29. Roman Catholic Church
30. Royal Institution of Chartered Surveyors
31. Royal National Institute for the Blind
32. Scottish Consumer Council
33. Scottish Courts Service
34. Scottish Law Commission
35. All Scottish local authorities
36. Scottish Episcopal Church
37. Scottish Information Commissioner
38. Scottish Law Agents' Society
39. All Scottish local law faculties (39)
40. All Scottish MEPs
41. Scottish Paralegal Association
42. Scottish Parliament Economy, Enterprise and Tourism Committee
43. Scottish Property Federation

44. All Scottish University Law Schools
45. Society of Advocates in Aberdeen
46. Society for Computers and the Law
47. Society for Local Authority Chief Executives
48. Society of Local Authority Lawyers and Administrators
49. Society of Scottish Searchers
50. Society of Solicitors in the Supreme Courts
51. Society of Writers to Her Majesty's Signet
52. Solitaire (an association of sole practitioner solicitors)
53. Transport Scotland
54. Scottish Arbitration Centre
55. Better Regulation Team, Scottish Government

Individuals

56. Professor George Gretton
57. Professor Kenneth Reid
58. Professor Kenneth Ross
59. Professor Robert Rennie
60. Professor Roderick Paisley
61. Professor Stuart Brymer



Partial Business and Regulatory Impact Assessment

1. Title of proposal

1. Registers of Scotland Fee Review 2014 Consultation.

2. Purpose and intended effect

• Background

Registers of Scotland (RoS) is a non-Ministerial Government Department within the Scottish Administration and is headed by the Keeper of the Registers of Scotland, who is currently responsible for compiling and maintaining 17 public registers relating to property and other legal documents including the General Register of Sasines (established in 1617) and the Land Register of Scotland (established by the Land Registration (Scotland) Act 1979).

RoS' work is demand led, fluctuating in response to activity in the property market. We handle around 350,000 registration transactions each year and make information from the registers publicly available.

Our work is self-financing, being funded by the fees that we charge for recording, registration and for providing information from the registers.

The Land Registration etc. (Scotland) Bill was passed by the Scottish Parliament on 31 May 2012 and received Royal Assent on 10 July 2012. The primary purpose of the Land Registration etc. (Scotland) Act 2012 (LR Act 2012) was to reform and restate the law of the registration of rights to land in the Land Register. The Land Register is under the management and control of the Keeper of the Registers of Scotland (the Keeper) and the Keeper is responsible for the implementation of the LR Act 2012.

The law of land registration in Scotland is currently governed by the Land Registration (Scotland) Act 1979. The LR Act 2012 repeals much of the 1979 Act and the Land Registration (Scotland) Rules 2006 (the 2006 Rules) made under the powers contained under that act. Essentially, there are five main policy areas in the LR Act 2012:

- provide a modernised and comprehensive scheme of land registration,
- realign registration law with property law;
- provide a scheme for the completion of the Land Register and the closure of the Register of Sasines;
- introduce a system of Advance Notices to protect conveyancing transactions from certain entries in the Register of Inhibitions and from competing deeds; and
- amend the Requirements of Writing (Scotland) Act 1995 to allow for legally valid electronic documents.

The commencement of the provisions in the LR Act 2012 that will bring in the new scheme of land registration will come into force on what is defined as the “designated day”. This day will be set by an order made by the Scottish Ministers. The LR Act 2012 prescribes that the order must be made at least six months before the specified date. Although no date has yet been set, the Keeper is working towards a date sometime in late autumn 2014. If the revised Fees Order is accepted, it will also come into force on the designated day.

The implementation of the LR Act 2012 will have a fundamental impact on our core business and in turn our customers. The implementation involves the development of new policy, changes to current processes and the introduction of new products, processes and IT systems.

The last Fees Order was implemented in 2010. This fee review requires RoS to introduce fees for the new products resulting from the LR Act 2012, such as the new system of advance notices to replace letters of obligation. The LR Act 2012 Implementation will be consulted on separately from this Fee Review.



- **Objective**

This is a partial Business and Regulatory Impact Assessment of the changes set out in the above consultation, that seeks views on proposed changes to the fees that RoS may charge, which are set by Scottish Ministers.

The Land Registration etc. (Scotland) Act 2012 (LR Act 2012) offers Scottish Ministers greater flexibility in how fees are set. Previously, these had to be set on the basis of cost recovery. The restriction to 'fix' fees and the limitation of setting fees at a level of cost recovery will now be lifted. This means that issues such as value for money can be taken into account. Section 110 gives the Keeper the power to charge fees for registration, recording and the provision of information. Section 108 gives the Keeper the power to provide commercial services and provides a power to agree the fees charged for those services with the customer. The fees for these services will not be included in the statutory Fees Order.

The policy objective of the fees proposed is to enable the Keeper to charge recording, registration and provision of information fees across the registers at a level that will appropriately recover costs of registration, provide access to information, take into account the costs of extension of the Land Register and encourage registration in accordance with the powers of section 110 of the LR Act 2012.

This paper considers the impact on business and other interests of the proposed changes. The proposals and this assessment may be revised following this consultation.

- **Rationale for Government Intervention**

Statutory responsibility for the setting of fees charged in relation to our registers is within the statutory responsibility of Scottish Ministers and this consultation is being undertaken on their behalf and with their authority.

The fees must be in line with the requirements of the Scottish Public Finance Manual and in accordance with the powers set out in section 110 of the LR Act 2012.

The Keeper announced in the 2010-13 Corporate Plan that she intended biennially to conduct a review of fees to ensure that the fees charged were within the above requirements. This will be the third scheduled review following that announcement.

The existing regime for all of our information, registration and recording fees is set out in the Fees in the Registers of Scotland Order 1995 as amended by the Fees in the Registers of Scotland (Consequential Provisions) Amendment Order 2013 No. 59.

The Fees Order that will be introduced as a result of this consultation will be the first Fee Order made under the powers in section 110 of the LR Act 2012.

It will incorporate the fees for new products/services resulting from this legislation. It will also consolidate within one order all of RoS' fees, including those for the Crofting Register and the Register of Community Interest in Land.

RoS contribute to the Scottish Government's purpose "*to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth.*" In particular, the work of RoS aligns with the Scottish Government's strategic objective - Wealthier and fairer - through helping Scotland become "*the most attractive place for doing business in Europe.*" The introduction of the new products under the LR Act 2012 should ensure that we offer the public a service that is "*high quality, continually improving, efficient and responsive to people's needs.*"



3. Consultation

- **Within government**

Ministerial approval has been given to RoS by the Minister for Energy, Enterprise and Tourism to conduct this consultation.

- **Public Consultation**

RoS is committed to consulting its customers on any changes affecting the provisions of its services. The consultation on fees will take place for 12 weeks between 29 Oct 2013 and 24 Jan 2014. All responses received by the end of the consultation period will be considered by Scottish Ministers prior to their completing a new Fees Order and laying it before the Scottish Parliament (planned for May 2014). It is anticipated that any change in the fees that RoS charge would not be implemented until the third quarter of 2014. This is to align with the LR Act 2012 implementation designated day. (Please note a separate consultation is being held on the LR Act 2012 implementation.)

- **Business**

RoS conducted a pre-consultation exercise to seek the views of the solicitors, private searchers, lenders, consumer groups and other users of our services. RoS Account Managers visited nine diverse organisations (in terms of size and location) to gather views on the current fees that RoS charge and on the impact that the LR Act 2012 and any potential changes to existing products/services would have on fees. RoS also gathered views on the proposed split of statutory and commercial services.

4. Options

Prior to this consultation, RoS considered alternative options for its fee structure. In addition to doing nothing, we looked at introducing a new Fees Order that maintains our main registration fees at the same level and incorporates the fees for the new products resulting from the LR Act 2012. We also looked at the option of reducing the number of bands from 12 to 7 or 5 and the introduction of an entirely new fee structure based on a % of the consideration/value.

The options to change the number of bands and the option to base fees as a % of the consideration were discounted on this occasion, based on stakeholder engagement throughout the BRIA visits and our intention to minimise disruption to customers through introducing further changes at this time. We therefore propose the following two options and outline the costs and benefits accordingly.

Option 1 Do nothing

With the implementation of the LR Act 2012, this option would result in our being unable to charge for new products resulting from this legislation.

Option 2: Introduce New Fees Order

This option maintains our main registration fees at their current level and in turn maintains our reserves at the level agreed with Scottish Ministers in December 2012. It also introduces fees for the new products being brought in by the LR Act 2012. This includes the removal of commercial products/services from the statutory fees order (as per section 108 of the LR Act 2012). Our statutory Registration Fees would remain unchanged. Any changes or impacts from this option will be outlined in the costs and benefits sections below.

• Sectors and groups affected by Options 1 and 2

The information, registration and recording services provided by RoS are offered to the public at large and to corporate bodies, partnerships, associations and other organisations on the same basis. The same fee structure is applied to all persons, bodies, sectors and groups irrespective of their size or legal status. This ensures that the fees charged are fair to all who use our services.

RoS give access to much of the information that we hold directly to business customers electronically via our Registers Direct online service. The public can access this information through their appointed agents, for example solicitors and private searchers. Under the powers of the LR Act 2012, this will now be treated as a commercial service and will no longer form part of the statutory Fees Order. The fees that we charge for this product will be agreed separately.

The public can also contact RoS in person at our Customer Service Centres in Glasgow or Edinburgh, or by letter or email to request that RoS staff conduct a search. This service will remain part of the statutory Fees Order. It is proposed to improve this service with the introduction of fixed fees rather than the current system of administrative fee (£8 or £12) plus £3 per search required.

RoS is a key part of the infrastructure that supports the Scottish economy, underpinning the property market by registering and providing State-backed indemnity protection for property transactions. The legal effects and presumptions that arise from registering deeds in our registers, combined with public access to the up-to-date information contained in those registers, provides clarity and certainty for proprietors transacting with their properties and for those, such as lenders, who do business with them.

Option 1 Under this option, the Keeper would not ask the Scottish Ministers to make a new Statutory Fees Order.

Option 1 Costs

The costs of conducting a fee review and making the order fall wholly on the Keeper. The costs are set out under option 2. If the order were not introduced, these costs would not be incurred by the Keeper.

This is not a viable option as citizens would not benefit from the introduction of the new products. The LR Act 2012 was enacted to ensure that the policy drivers came into force benefiting all concerned. Advance notices represent one of the key policy drivers behind the legislation. They provide an efficient alternative to letters of obligation and provide greater security to the Grantee. RoS would be unable to introduce a fee for this new product if option 1 were adopted. RoS would also be unable to introduce fees for the other new products outlined under Option 2 or implement section 108 to allow for commercial rates to be charged for consultancy and provision of information.

Option 1 Benefits

There are no identifiable benefits from not implementing a revised Fees Order, only dis-benefits, as this would result in RoS being unable to charge fees for the new products resulting from the 2012 Act legislation. The Keeper would be unable to recommend fees across the registers in accordance with the powers of section 110 of the LR Act 2012. (Please note that the Land Registration etc. (Scotland) Act 2012 is being consulted on separately.)

Option 2 Under this option the Keeper would ask Scottish Ministers to make a new Statutory Fees Order incorporating the fees for new products and consolidating within one order all of RoS' fees including those for the Crofting Register and RCIL.

Option 2 Benefits

The proposed fees will enable the Keeper to recommend fees across the registers at a level that will appropriately recover the costs of registration, provide access to information, take into account the costs of extension of the Land Register and encourage registration in accordance with the powers of section 110 of the LR Act 2012.

In proposing fees for the new products resulting from the LR Act 2012, RoS will be able to implement and enact the legislation as per the will of Parliament.

All fees relating to the 17 Registers under the Keeper's control will be captured in one Order meaning that the information can all be found in one place.

The proposal to introduce a new Fees Order, while maintaining our current feeing structure and levels, gives our customers the opportunity to embed the changes stemming from the LR Act 2012 and Land and Buildings Transactions Tax (due to be implemented April 2015) before introducing

further changes to them through our feeing structure. The feedback in general has shown that customers wish to retain the current 12 band fee structure that provides for transparency and certainty of costs associated with their transaction.

The majority of our Registration and Recording fees will remain unchanged, resulting in consistency for our customers. The Scottish Ministers and the Keeper stated that RoS would not increase fees as a result of the LR Act 2012. This option maintains this promise.

S.108 of the LR Act 2012 gives the Keeper the power to provide consultancy, advisory or other commercial services and provides a power to agree the fees charged for those services with the customer. The fees for these services would not be included in the statutory Fees Order.

Section 107 of the LR Act 2012 outlines the requirement to provide access to and information from any of the Keeper's registers. Statutory access to information shall continue by way of the RoS Customer Service Centres either by letter, email or in person.

Customer Service Centre information fees will remain in the statutory Fees Order. These fees are currently charged dependent on the number of searches and an additional administration charge. We propose introducing single flat fees dependent on whether they are approached in person or in writing. This will provide greater transparency for our customers.

LR Act 2012 New Product - Advance Notices

Advance notices provide an efficient alternative to Letters of Obligation, provide greater security to the Grantee and the majority will be submitted electronically. The Economic Impact Assessment of the draft Land Registration (Scotland) Bill published in October 2009 estimated the annual cost saving of moving from Letters of Obligation to Advance Notices at £9.9 million. This was based on a fee of £20 meaning that actual savings could be significantly higher.

RoS has conducted investigation into the proposed fee based on our estimated IT and resource costs. The proposed fee is dependent on the estimated take-up/volume of advance notices after the Designated Day.

We propose an initial fee of £10 be charged with the potential for the Keeper to use her new power under section 110 of the LR Act 2012 to increase or decrease (by a maximum of £10) based on actual volumes post designated day.

Rejections

We propose maintaining the rejections fee of £30. This fee was introduced following the 2010 fee review and has resulted in a 70% drop in rejections that now account for 3% of applications received.

There will no longer be cancellations under the LR Act 2012 as outlined in the one-shot rule (sections 21-28). Under the new legislation, all issues that result in RoS being unable to continue/complete the registration process will be rejected. These rejections, that take place after the application has been taken on at intake, would also be charged at £30.

The Economic Impact Assessment of the draft Land Registration (Scotland) Bill published in October 2009 referred to the inefficiencies and increasing costs of registration attributed to placing applications in “stand over”. It is envisaged that the one-shot rule will act as an incentive for solicitors to get applications right first time. This, in turn, should deliver cost savings to both solicitors and RoS since it will generally be less expensive to deal with a case once than on multiple occasions.

Power to Vary Registration Fees In-Between Fees Orders

The 2012 Act enables the Keeper (within limits) to vary registration and recording fees in between consultations so long as the method is stated in the Fees Order. This power is expressed in section 110(1)(c) of the 2012 Act. It is proposed that this power be expressed as plus or minus £10 in the Fees Order. This would enable the Keeper to respond quickly to dramatic changes in intakes or unexpected consequences from the LR Act 2012. This power would only be used after consulting Scottish Ministers and with the provision of three months’ notice to customers.

Option 2 Costs

The costs of making and implementing the new Fees Order will fall wholly on the Keeper.

The fees proposed for the new products resulting from the LR Act 2012 legislation are outlined below

LR Act 2012 New Product – Caveats

A caveat is the publication on a title sheet of the existence of a court action for a title dispute to warn of the ongoing dispute and the effect it may have on the title. A caveat does not prevent parties transacting with land subject to litigation, but if the Keeper later adversely rectifies a title as a result of the court action, a party would be unable to claim they were unaware of the litigation and compensation may be less than it would have been if there was no caveat. Caveats can be recalled, renewed and discharged. RoS has conducted investigation into the proposed fee based on process and resource costs.

We propose a fee of £60.

LR Act 2012 New Product - Section 66 Shifting Water Boundaries

This deed would allow proprietors to fix a boundary that would normally be affected by alluvion.⁶ We propose the fee be set at £60 (as per the miscellaneous deed fee).

LR Act 2012 New Product – Section 76 Application for Increase in the Level of Warranty

In applications for registrations where the Keeper has previously excluded or limited warranty, this new product allows the proprietor to apply to increase the level of warranty. We propose the fee to vary warranty between registration events be set at £60.

5. Scottish Firms Impact Test

There will be no differential impact on small business as a result of the proposed fees. The fees apply equally to all customers irrespective of size.

RoS conducted a pre-consultation exercise to seek the views of the solicitors, private searchers, lenders, consumer groups and other users of our services. RoS Account Managers visited nine diverse organisations (in terms of size and location) to gather views on the current fees that RoS charge and on the impact that the LR Act 2012 and any potential changes to existing products/services would have on fees.

RoS also gathered views on the proposed split of statutory and commercial services. At our visits, we clarified the impact of our proposals in line with the different stakeholders, discussing the more relevant areas in detail as appropriate. We sought both to explain and better understand the costs and benefits that any proposals would have on the business/stakeholder involved.

The following organisations were visited:

First Scottish	Large private searcher
Arlow Brown	Sole practitioner
Blackadders	Large solicitor
Aberdein Considine	Large solicitor
Citizens Advice Bureau	Citizen/public
Taylor Wimpey	Property Developer
Millar & Bryce	Large Private Searcher
Glasgow City Council	Council
Royal Bank of Scotland	Lender

Responses received from the visits overwhelmingly supported the introduction of the new products as a result of the LR Act 2012. Proposed fees for the new products were considered fair.

⁶ Alluvion: the gradual accretion of new land by the deposit of sand and earth through the action of the sea or river to the benefit of the owner of the land to which it becomes attached.

The majority of the organisations supported the proposal to maintain the current feeing structure at 12 bands.

It was generally accepted that the rejection fee, introduced in 2010, had contributed to fewer mistakes and in turn met its policy objective.

Customers will be advised well in advance of any fee changes being implemented for commercial products and the pricing structure and policy for commercial products will be published.

Competition assessment

The proposed fees have been set on a basis that is consistent with UK and EU competition law. The fee review was conducted in accordance with generally accepted accounting principles. The proposals do not directly or indirectly limit the range or number of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

In respect of the provision of registration or recording services, RoS is not in competition. The fees for such services are in respect of the provision of a public service.

RoS competes commercially to supply data and reports to numerous business sectors. As well as providing free data through ros.gov.uk, RoS gives access to much of the information held directly to business customers digitally via Registers Direct. Given the new powers provided by section 108 of the LR Act 2012, RoS will compete in commercial markets. The pricing policy adopted will be consistent with the principles of the Information Fair Trading Scheme, in which we are accredited, and in accordance with UK and EU competition law.

Test Run of business forms

Any new forms introduced as a result of the LR Act 2012 legislation and new products will be fully tested with customers prior to being implemented. It is essential that the forms request the necessary information to comply with the legal requirements for registration as prescribed in the LR Act 2012 and the business needs of the Keeper and solicitor firms.

6. Legal Aid Impact Test

The new fees have been discussed with the Legal Aid Team and they will not give rise to increased use of legal processes or create new rights or responsibilities that will have an impact on the legal aid fund. Any organisation or individual that use RoS services will have to pay the new fees.

7. Enforcement, sanctions and monitoring

The Keeper will consistently apply the fees that will be introduced as a result of the consultation and subsequent Fees Order. In respect of the provision of fees for registration in the Land Register and other Registers, there is a statutory requirement for most types of application to be accompanied by the appropriate fee failing which registration will be refused.

In the minority of applications for registration or recording in one of the registers under the Keeper's control and in relation to the supply of information, where prepayment of the fee is not a legal requirement, the Keeper will invoke debt recovery procedures to recover monies due.

8. Implementation and delivery plan

It is anticipated that any new fees that result from these proposals will not come into effect until the third quarter of 2014. The fees will come into force on the Designated Day that is currently expected to fall late autumn 2014. The designated day will be the day that all the sections of the LR Act 2012 that provide for the new scheme of land registration, come into force.

The intended reference material will be updated prior to this date and customers will be kept informed via the RoS website, articles in The Journal and direct communications. RoS will also undertake internal communications and training to ensure that RoS staff is aware of the new fees and that they can deal with any potential enquiries.

• Post-implementation review

The revenue generated from our fees will be continually monitored by RoS. The Keeper announced, in the RoS 2010 -13 Corporate Plan, that she intended biennially to conduct a review of fees. Post-implementation review will monitor whether impacts have been as expected and in turn the costs and benefits resulting from the policy objective. The LR Act 2012 also incorporates the power for the Keeper to vary fees between orders. This power would allow RoS to react more quickly to unexpected changes in income.

9. Summary and recommendation

• Summary costs and benefits table

This section will be completed at the final BRIA stage.

10. Declaration and publication

I have read the impact assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Sheenagh Adams

Date: 18 October 2013

Sheenagh Adams, Keeper of the Registers of Scotland



Equalities Impact Assessment

Registers of Scotland Fee Review 2014 Consultation

What is the purpose of the proposed policy (or changes to be made to the policy)?

The consultation paper sets out proposals for changes to the fees that Registers of Scotland (RoS) charge.

Who is affected by the policy or who is intended to benefit from the proposed policy and how?

The proposed fees will impact on all customers who use the registration, recording and information services that RoS provide. Anyone who is transacting with property or who is looking for information about property in Scotland is likely to be impacted. All of our services are offered to the public at large and to organisations on the same basis. The same fee structure is applied to all persons, bodies, sectors and groups irrespective of their size or legal status.

How have you, or will you, put the policy into practice, and who is or will be delivering it?

Scottish Ministers, by statutory order, set fees for RoS and RoS is committed to consulting its customers on any changes affecting the provisions of its services. All comments received by the end of the consultation period will be considered by Scottish Ministers prior to their finalising a new Fees Order and laying it before the Scottish Parliament.

How does the policy fit into our wider or related policy initiatives?

RoS operates within the National Performance Framework set by Scottish Ministers. The Framework underpins delivery of the Scottish Government's purpose, which is "to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth".

The proposed fees will ensure that RoS will be charging at a level that will appropriately recover costs of registration, provide access and information, take into account the costs of extension of the land register and encourage registration in accordance with the powers of Section 110 of the Land Registration etc. (Scotland) Act 2012.

RoS are a key part of the infrastructure that supports the Scottish economy, underpinning the property market by registering and providing State-backed indemnity protection for property transactions. The legal effects and presumptions that arise from registering deeds in our registers, combined with public access to the up-to-date information contained in those registers,

provides clarity and certainty for proprietors transacting with their properties and for those, such as lenders, who do business with them.

Have the resources for your policy been allocated?

Yes

What do you already know about the diverse needs and/or experiences of your target audience?

RoS is not aware of any evidence that any of the 9 protected characteristics under The Equality Act 2010 of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex or sexual orientation are factors in this proposal.

What else do you need to know to help you understand the diverse needs and/or experiences of your target audience?

RoS considers that the proposals will affect all businesses and individuals equally.

What does the information you have tell you about how this policy might impact positively or negatively on the different groups within the target audience?

RoS is not aware of any evidence that the proposal affects different groups in different ways.

Will you be making any changes to your policy?

Changes may be made to the policy by Scottish Ministers in the light of consultation responses.

Does your policy provide the opportunity to promote equality of opportunity or good relations?

Given the nature of the policy, we do not believe it gives an opportunity to promote equality of opportunity or good relations.

Based on the work you have done - rate the level of relevance of your policy

We do not believe that the policy impacts on equality considerations.

Do you need to carry out a further impact assessment?

No

Please explain how you will monitor and evaluate this policy to measure progress

The Keeper of the Registers of Scotland announced in the 2010-13 Corporate Plan that she intended biennially to conduct a review of both information and registration fees. This is the third scheduled review and the impact of the proposed fees will be regularly monitored over this period.

Sign off and publish impact assessment

Policy Title	Registers of Scotland Fee Review 2014 Consultation
Strategic Outcome	Wealthier & Fairer
Branch	Registers of Scotland
Name	Kenny Crawford
Position	Commercial Services Director
Sign off date	

Authorisation

Authorised by	Catriona Hardman Deputy Keeper of the Registers of Scotland
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18 October 2013



Strategic Environmental Assessment

Registers of Scotland Fee Review 2014 - Consultation

Purpose: Responsibility for the setting of fees charged in relation to Registers of Scotland's (RoS) registers is within the statutory responsibility of Scottish Ministers. The fees must be in line with the requirements of the Scottish Public Finance Manual and in accordance with the powers set out in section 110 of the Land Registration etc. (Scotland) Act 2012 (LR Act 2012).

The purpose of this consultation is to make stakeholders aware of the changes to feeing powers resulting from section 110 of the LR Act 2012 and seek views on the proposals for the fees for new products introduced as a result of the aforementioned legislation. This will result in the making of the Fees Order 2014. (please note that a separate consultation is being held on the LR Act 2012)

What prompted the consultation: The Keeper announced, in the 2010 -13 Corporate Plan, that she intended biennially to conduct a review of fees to ensure that the fees charged were within the above requirements. This will be the third scheduled review following that announcement.

The LR Act 2012 introduces new products for which RoS must charge a fee. As a result, the Keeper has conducted a review of existing fees to ensure that they are compliant with the new law and has identified that some changes are required. The proposed Fees Order would also consolidate within one order all of RoS' fees including those for the Crofting Register and RCIL.

This consultation sets out any changes to current feeing policy resulting from the LR Act 2012 legislation, primarily sections 110 and 108. The responses received from the consultation will be used to evaluate the proposed feeing policies and inform further policy development if required. The responses will also assist in developing appropriate subordinate legislation.

Subject: Registers of Scotland Fee Review 2014.

Period covered: All comments received by the end of the consultation period will be considered by Scottish Ministers prior to the subordinate legislation being laid in Parliament, and prior to the new policies and practices being finalised.

The commencement of the main provisions of the LR Act 2012 that implement the new scheme of land registration is linked to the designated day as prescribed under section 122 of the Act. The date of the designated day will be set by an order made by the Scottish Ministers at least six months in advance of the designated day itself. This day is likely to be in late autumn 2014. If the revised Fees Order is accepted, it will also come into force on the designated day.

Frequency of updates: The proposed subordinate legislation would mean permanent changes to the law.

Area covered: Scotland.

Summary: The Keeper invites consultees' views on the questions highlighted in the consultation document on the proposals for new fees and changes to current fees. Subject to the comments from consultees, the Scottish Government will then consider the introduction of the subordinate legislation. Consultees' comments will also inform any further policy development that is required in making the Fees Order.

LIKELY SIGNIFICANCE OF EFFECTS ON THE ENVIRONMENT

1(a) the degree to which Implementation sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources

The making of the Fees Order would not set up a framework for projects and other activities, and would have no environmental impact in this regard.

1(b) the degree to which Implementation influences other plans, programmes or strategies including those in a hierarchy

Nil. The Fees Order is free-standing and implementation will have no implications for other plans, programmes or strategies.

1(c) the relevance of Implementation for the integration of environmental considerations in particular with a view to promoting sustainable development

Certain aspects of the proposed new products and subsequent proposed fee will lead to increased usage of electronic processes, namely for advance notices. These are expected to have minor positive environmental impacts including savings in physical resources (paper, ink, etc) and removal of the need for physical transportation of certain documentation and correspondence.

1(d) environmental problems relevant to Implementation

There are no specific environmental problems relevant to the making of the Fees Order. Minor positive effects are expected as outlined in the foregoing paragraph.

1(e) the relevance of Implementation for the implementation of Community legislation on the environment

The making of the Fees Order has no relevance for the implementation of Community legislation on the environment.

2(a) the probability, duration, frequency and reversibility of the effects

There will be no adverse environmental effect of making the Fees Order. The minor positive benefits already mentioned are likely to arise and would represent a permanent change in conveyancing practice.

2(b) the cumulative nature of the effects

The making of the Fees Order does not have multiple environmental effects.

2(c) transboundary nature of the effects (i.e. environmental effects on other EU Member States)

There will be no transboundary environmental effect of the making of the Fees Order. The provisions are territorially limited to Scotland and would not impact on other EU Member States.

2(d) the risks to human health or the environment (for example, due to accidents)

The making of the Fees Order would not give rise to any such risks.

2(e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)

The making of the Fees Order would apply to the whole of Scotland, and the minor positive benefits identified would be applicable wherever in Scotland conveyancing is carried out.

2(f) the value and vulnerability of the area likely to be affected due to- **(i) special natural characteristics or cultural heritage;** **(ii) exceeded environmental quality standards or limit values; or** **(iii) intensive land-use**

Given the nature of the Act (changes to property law and registration law) implementation would mean no environmental impact on specific areas.

2(g) the effects on areas or landscapes which have a recognised national, Community or international protection status

The making of the Fees Order would have no effect on such areas or landscapes.

SUMMARY OF ENVIRONMENTAL EFFECTS

Implementation of the Fees Order 2014 will have no adverse environmental impact.



Catriona Hardman
Deputy Keeper of the Registers of Scotland
18 October

