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**Registers of Scotland**

# **Digital Transformation**

**Next Steps**

**November 2016**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

## **Responding to this consultation**

We are inviting responses to this consultation by 22 February 2017.

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You view and respond to this consultation online at <https://consult.scotland.gov.uk/registers-of-scotland/digital-transformation-next-steps>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 22 February 2017.

If you are unable to respond online, please complete the Respondent Information Form (see "handling your response" below) and send this along with your response to:

Policy Unit  
Registers of Scotland  
Meadowbank House  
153 London Road  
Edinburgh  
EH8 7AU

## **Handling your response**

If you respond using Citizen Space (<http://consult.scotland.gov.uk/>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form attached, which is included in this document. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

## **Next steps in the process**

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

## **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them [Consultations2@ros.gov.uk](mailto:Consultations2@ros.gov.uk).

## **Scottish Government consultation process**

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<https://www.ideas.gov.scot>)

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. 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

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.

## Introduction

The introduction of the *Land Registration etc. (Scotland) Act 2012* (the 2012 Act) laid the foundations for conveyancing and land registration in Scotland to move out of the paper world and into the digital world. Much has already been achieved but the next steps in the journey will require changes to be made to the land register rules, using the regulation-making powers provided for that purpose in the 2012 Act. This consultation focuses on these changes and is in two parts. Part one sets out proposals for the introduction of new digital services in the Land Register; and part two sets out proposals for some consequential changes and other improvements to the land registration application form to support digital submission.

Comments on the proposals set out in this consultation are invited by **22 February 2017**, with a view to new regulations coming into force (subject to the approval of Parliament) later in 2017.

## Part 1 - New digital services in the Keeper's registers

### Moving towards a digital conveyancing world

1.1 Conveyancing and the registration of deeds have, for centuries, been paper-based processes. However, that world is rapidly changing. Increasingly, the interactions between those in the conveyancing marketplace are through digital channels. Engagement with private search companies, accessing the Council of Mortgage Lenders Handbook, the submission of returns to Revenue Scotland and day to day engagement between professionals are routinely carried out digitally. Recognising the shift from paper, the Law Society has recently partnered with the ESPC (Edinburgh Solicitors Property Centre) and BDP Estate Agency Software to deliver a one-stop-shop digital platform, known as Altis, for property solicitors. In the words of the Law Society, the system “*aims to speed up the Scottish conveyancing process as well as provide a secure and transparent environment to store all the information relating to clients and their properties.*” This follows on from the introduction of the new smartcard solicitor practice certificate that contains a secure digital signature. The move to a digital world is also true for the house buyer. The initial view of a property is often now virtual, via an online property schedule; interactions between solicitor and client are frequently by email and text; and borrowers routinely source and apply for mortgages on-line.

1.2 The use of digital channels will grow only if they have the trust of the businesses and citizens who want to use them. Digital channels can provide convenience, speed, security and control and they can lessen risk and reduce cost. In short, digital growth is as inevitable for the conveyancing sector as it is for society as a whole. The challenge is to ensure new digital channels work for all players in the marketplace.

### Digital registration: the journey so far

1.3 We have already made considerable progress towards registration taking place in a digital world:

**ARTL:** our first foray into digital registration came through the launch in 2007-2008 of an online registration system, known as Automated Registration of Title to Land (ARTL)<sup>1</sup>. Notwithstanding that some 115,000 applications had been registered through ARTL by 31 October 2016, ARTL, in both legal and practical terms, only allows for a limited range of transactions to be registered. This limitation was recognised when it was launched and it was never intended to be anything other than a stepping stone in the transition to more general digital registration.

**Digital signatures:** the next step came with the work of the Scottish Law Commission in its review of land registration. The SLC’s proposals were enacted by the 2012 Act and the ‘etc.’ in its title references the fact that the Act goes beyond the mere mechanics of land registration and makes provision for enabling the wider

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<sup>1</sup> As provided for by the Automated Registration of Title to Land (Electronic Communications) (Scotland) Order 2006 and subsequent Directions by the Keeper, ARTL commenced in July 2007 for Standard Securities and March 2008 for Dispositions and other deeds.

development of electronic registration and conveyancing (see Annex A). The 2012 Act amended and restructured the *Requirements of Writing (Scotland) Act 1995*, retaining the principle that certain deeds and documents require to be in writing and signed but reconceptualising what is meant by writing and signing. The position now is that deeds and documents can meet the requirements of the 1995 Act by being 'traditional documents' (paper deeds with wet signatures) or 'digital documents' (digital deeds with digital signatures).

**Notifications and Land Certificates:** some immediate digital changes to the registration process were introduced by the 2012 Act. Paper letters of acknowledgment and the, often bulky, paper Land and Charge Certificates, which had been in use since the inception of land registration in 1981, were abolished. In their place, a system of email notification for both acknowledging receipt and for confirming registration was introduced; the latter with a digital copy of the current entry for the property on the Land Register. As well as being more efficient and sustainable, it allows solicitors and lenders readily to store and share the information.

**Advance Notices:** the 2012 Act also introduced a new form of notice in the land registers relating to land, the advance notice. The advance notice protects a deed that is about to be registered in the land register for a period of 35 days against competing deeds and the risk that the granter may be inhibited. Such notices are normally created digitally through the keeper's advance notice system and those against a property registered in the land register are submitted digitally through that channel. Notices affecting part of a registered property (typically new build properties from a development site) or a property not yet on the land register or where the applicant has no computer facilities with access to the internet or is the granter of the deed are printed and submitted in paper form. As of 31 October 2016, some 233,000 advance notices had been submitted and processed digitally.

### **A case study of digital registration development: our digital discharge service**

1.4 We process over 100,000 discharges each year in the land register. Re-mortgaging, house sales and borrowers coming to the end of their mortgage terms all combine to make this the most common conveyancing deed we deal with, amounting to some 30% of registrations. Over the course of 2016, working in collaboration with the Law Society, the Council of Mortgage Lenders (CML) and individual firms and lenders, we have developed a new digital discharge service.

1.5 The new discharge service is not a like-for-like replacement of our ARTL system whereby discharges can be registered on-line (for ultimately ARTL simply replicates, in a digital fashion, the paper process). Rather, it is a digital solution based on a different set of interactions between the solicitor and lender. In essence, the new system sees the solicitor notify the lender of the need for a discharge, the lender controls the discharge process and submits the discharge to RoS and we in turn notify parties of the removal of the security deed from the land register.

1.6 There are several aspects of the new discharge service worth highlighting as the same approach will be applied, in whole or in part, to further digital solutions:

- the application form has been greatly streamlined. Gone are the standard yes/no questions;

- the application form requires no separate digital signature. The service is designed in such a way that the application of the signature authenticating the deed is sufficient;
- the form of the deed of discharge is standard. The system uses the template approved by the Law Society;
- key parts of the deed (such as the lender) are auto-populated from land register data, ensuring accuracy and speed; and
- the system will not permit an incomplete application containing a deed of discharge to be submitted, so the scope for rejection is very substantially reduced.

1.7 The new digital discharge system will be in live use with some customers by the end of 2016 and rolled out across Scotland during 2017.

### **Next steps towards digital registration: presumption in favour of digital**

1.8 The objective of the 2012 Act is, ultimately, to open up the land register to digital deeds duly authenticated by way of a digital signature. In line with the Scottish Government Digital First agenda, our view is that the presumption should be in favour of a digital channel. For that reason, we propose that digital services, both current and future, should follow the precedent set by the advance notice system and build in a presumption that they will be used.

1.9 We favour this approach for the following reasons:

- Scotland is a digitally-enabled economy; the enablers of digital adoption – such as the availability of broadband, secure internet channels, supporting legal framework – are in place;
- the conveyancing marketplace is increasingly digital: digital channels are a natural extension to this;
- digital channels reduce cost, time and risk and support compliance and best practice within the legal community; and
- without a presumption in favour of digital, the pace of adoption is set by the party least willing to change. For the most common deed types – discharges, securities and dispositions – there will generally be three or four parties involved. For instance with a disposition, there will be the buyer and their solicitor and the seller and their solicitor. If the desire was to register that deed under ARTL then all four would have to agree to that. Generally speaking, the client will follow the advice of their solicitor but that still means that both sets of solicitors have to agree. The challenge with that is that the status quo (paper) prevails should one solicitor refuse without good reason to use a digital channel.

1.10 We recognise that some people have difficulty in accessing and using digital services, for example by reason of disability, lack of access to the internet or other exceptional circumstances. In such instances, we will aim to provide an assisted digital service where appropriate, with the contingency of paper. However the presumption will be that digital should be the first option and that paper be used only in very exceptional circumstances including, as is the case for advance notices, where the system is unavailable for a period of time.

1.11 We also recognise that the introduction of new digital services may require changes to the internal processes and indeed the computer systems of some of our

customers. We propose a minimum notice period of six months before a new system is made compulsory. That is consistent with the notice period around the closure of the sasine register to standard securities and reflects the flexible approach we are proposing. Our intention is that at the date of intimation of the notice period, the new channel would go live on a voluntary basis; this allows parties to prepare for when they become a standard part of the registration process and also allows us to make any enhancements to the system based on feedback. We suggest that we work towards a commencement date of 1 April 2018 for this provision.

### **Next steps: fully digital advance notices**

1.12 As explained previously, a new digital advance notice system was introduced under the 2012 Act. The entry of a notice in the land register application record protects a prospective purchaser or acquirer by making clear which competing deed is taken to be registered first against any prejudicial position of the seller for a period of 35 days. Whilst advance notices in respect of a transfer of the whole of a property already on the land register are wholly digital that is not the case for advance notices over part of a registered property.

1.13 Advance notices in relation to a future transfer of part are currently part digital, part paper; the textual part is completed as part of the advance notice system and is then printed off and joined up with the plan showing the extent of the property subjects protected by the advance notice. This means that the plan, which nowadays is routinely prepared using a GIS system, has itself to be printed off. (In practice, no plan is required for an advance notice following on from development plan approval.) The reason for this partial approach was simply that at the time the system was launched, RoS did not have the technology to accept digital plans. That has changed and we are now in a position to meet customer expectations and receive plans prepared in digital format. Accordingly, we propose a change to the land register Rules to that effect.

- 1. Do you agree that transition to a digital first service should be the next step?**
  
- 2. Do you agree with the proposed timescale of 1 April 2018 for prescribing that advance notices over part be fully digital?**
  
- 3. Do you agree with a notice period of six months?**

### **Next steps: transfer of title and mortgage deeds**

1.14 Our preference is to enable digital deeds in a phased manner, focusing initially on the three most common deed types – discharge, standard security and disposition. Initial discussions with customers have confirmed this and highlighted the efficiencies that digital registration offers for the creation of new securities and sale/transfer of land. Helpfully, the mechanics of digitally enabling these deeds - such as the use of digital signatures and the related use of client mandates to enable

the solicitor to sign such deeds – have largely been explored and proved in conjunction with the ARTL system as with the digital discharge service outlined above (see para 1.6).

1.15 These three deed types (including grants and charges) constitute over 88% of all conveyancing-type deeds registered in the land register. Once these deed types have been enabled digitally, we will consider what deed types to focus on next. We would emphasise that our proposal to digitally enable these deeds would apply to deeds across transactional circumstances. So, in registration terms, it would apply, for instance, where the disposition relates to a property that will be registered in the land register for the first time (a ‘first registration’) or a property already on the land register (a ‘dealing with whole’) or indeed relates to a new property that forms part of an existing larger area that is already on the land register (a ‘transfer of part’).

1.16 Our reasons for this are:

- it provides certainty and clarity for solicitors at the outset of any transaction;
- it means that lenders do not so often have to run parallel processes to accommodate both paper and digital mortgage deeds; and
- it ensures that all transactions involving prescribed digital deeds can benefit from a digital approach.

1.17 Ultimately, digital conveyancing will replicate the current paper process where the keeper simply accepts digital documents in much the same way as she currently accepts paper documents. The drafting and execution of the deed would be left to the parties and the keeper's role would be to accept (or not) the application for registration. However, the current proposal is for the keeper to provide a service for the creation, execution and submission of digital deeds. The nature of the application process, both in terms of the submission channel and the digital application form, is considered in Part 2 of this consultation.

**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?**

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

**Next steps: matters of detail relating to digital dispositions and standard securities**

**Dual recording in the sasine register**

1.18 Currently, over 60% of property titles are on the land register. The remainder will move on to the land register by 2024, in line with the target Scottish Ministers have set for completing that register through a mix of transfers of title, voluntary registration and keeper-induced registration. Very occasionally, a transfer of title will result in the disposition being registered in the land register and also recorded in the sasine register. This is the case where the disposition creates title conditions which

benefit or burden a property to which title is still held under title deeds recorded in the sasine register. In such an instance, dual recording is required. There are two ways in which we could deal with this. The first would be to make provision allowing such deeds (but only such deeds) to be recorded in the sasine register. This would preserve the distinction between paper documents and digital documents. In the second, provision could be made that a paper copy of the digital deed be given effect to in the sasine register. This more closely resembles the current process where a copy of the deed is taken to allow registration to progress in both registers simultaneously.

**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?**

**Dual recording in the Books of Council and Session (BCS)**

1.19 The BCS register a range of legal, testamentary, contractual and other documents. In the main, deeds are registered for preservation; in other words, when it is important that a document must always be available, it is customary to register it in the BCS. A common example is the registration of a will. The other reason for registration is to enable what is termed registration for execution. This is common with standard securities, where they are often registered both in the land register and also in the BCS for purposes of execution, or other documents of debt. This enables the lender or creditor to simplify the process in the event that the debtor defaults on the loan or other debt. As matters stand, such deeds have to be in paper form. Wills still have to be signed as traditional “wet ink” documents in the first place.<sup>2</sup> Generally, for digital documents to be registered in the keeper’s registers, this must be provided for in regulations.<sup>3</sup> That has not yet been done for the BCS. Even securities registered through the ARTL system have to be on paper; provision<sup>4</sup> is made for a paper copy of an ARTL digital deed to be registered in the BCS.

1.20 We consider that with the growth of the digital economy, provision should be made to enable the BCS to accept digital deeds, duly authenticated, for registration. That seems only sensible and practical. There is of course a question of timing; our preference is to focus initially on those new digital channels that support the land register, specifically the registration of discharges, securities and dispositions. We also know that the ‘workaround’ for registration of ARTL deeds in the BCS is adequate. For those reasons, we do not see it as essential that a BCS capable of receiving digital deeds needs to be available to support the launch of new digital land register channels. Rather, we will continue with the current approach that a paper copy of the digital standard security is capable of being recorded for preservation in

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<sup>2</sup> The amendments section 96 and schedule 3 of the 2012 Act make to the Requirements of Writing (Scotland) Act 1995 to provide for electronic documents are not yet in force for those purposes (see SSI 2014/41). This also applies to testamentary trust disposition and settlements and to codicils.

<sup>3</sup> Under section 9G(3) of the Requirements of Writing (Scotland) Act 1995.

<sup>4</sup> Section 6A of the Requirements of Writing (Scotland) Act 1995 inserted by section 222 of the Bankruptcy & Diligence etc. (Scotland) Act 2007, and regulation 7 of the Electronic Documents (Scotland) Regulations 2007 inserted by regulation 9 of the Land Register of Scotland (Automated Registration) etc. Regulations 2014.

the BCS. However, we will begin to consider the digital enablement of the BCS and may bring forward proposals in due course.

### **Supporting paper deeds and documents**

1.21 In around 90% of all applications to the land register relating to a disposition, no other documents require to be submitted. This is the situation for virtually all transfer of part and dealing with whole dispositions. The reason is straightforward. Under the 2012 Act and the ‘tell me don’t show me principle’ that flows from the duty of care owed by applicants and their agent, there is no need for any supporting documents such as mid-couples or links in title. The 2012 Act also provided for a Form of Notice of Title. Very occasionally, such as where the applicant seeks to remove a restriction in warranty at the same time as a disposition, supplementary information is presented.

1.22 The situation is slightly different with applications to register a disposition relating to a property that is about to enter the land register for the first time. Here, the solicitor will routinely submit the split-off deed and any deeds that are additionally referenced for rights and burdens. Where the application relates to a property that falls within what we term a ‘research area’, that is to say where we have already examined much of the title information, the only supplementary information we need is the split-off deed, which typically contains the extent of the subjects and certain property rights and title conditions.

1.23 In developing our new system for submission of a disposition, we want to ensure that the benefits of digital registration are not lost because of a requirement for paper copies of prior deeds to be submitted. We will work closely with stakeholders and customers on the best way to achieve this but we currently envisage two solutions to the problem.

1.24 First, we want to get much better at informing solicitors of applications where we have already seen the prior deeds. That will include research areas but also other mature areas of the land register where we have entries for common historic deeds on our common deeds index. We could develop the digital submission channel for transfers of title in such a way that it will inform the applicant that, for instance, the property is in a research area or that the prior deeds are not required.

1.25 Second, for the minority of applications where we have not previously seen the prior deeds, we propose that the application for the disposition still be made digitally and the date of application (and, accordingly, of registration) will tie to the submission of the digital deed. The paper historic deeds would then be submitted to the keeper within a set period and tallied with the digital application. In order to achieve this, we propose making provision in the land register Rules to require the keeper to consent to relaxation of the right-first-time rule for such cases<sup>5</sup>. In order that registration is not delayed beyond the advance notice protection period, we propose that the applicant be permitted a period of ten days to provide any relevant prior deeds. Failure to meet that time-period would result in the application being rejected.

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<sup>5</sup> Section 34(2) of the 2012 Act contains the enabling power

**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?**

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

## **Part 2 - Digital application form and submission process**

2.1 This section sets out our proposals for simplifying the application process for our new digital services. We also propose broadly to replicate that approach for traditional paper applications.

2.2 The Land Register Rules prescribe the content of the forms that are to be used for applications for registration (and other matters, such as advance notices, caveats, warranty and notification by prescriptive claimants). We will have to make changes to these rules to enable a digital application form to accompany/support the submission of a digital deed. Our intention is to follow the lead set by the digital discharge service and design our new services in such a way as the applicant is only asked for necessary information, more use is made of certification as opposed to yes/no answering and there is a much greater degree of synergy between the application and the associated deed.

2.3 For discharges, we have designed a digital service run and maintained by the keeper. Rather than simply registering a digital discharge, this service involves the keeper providing an end-to-end service for creation, execution and submission of the digital deed. We think this offers a number of benefits to customers that would not otherwise be realised. We have opened up current land register data to automatically populate key parts of the deed, saving time and reducing errors. We have provided a standardised deed template, to help to ensure that errors of form do not invalidate the deed (for example by omitting relevant operative clauses). We have built the system to work with current digital signature solutions on the basis that, currently, citizens don't generally have their own digital signature and there is no significant market for the provision of such signatures. Crucially, the system will also interact through what is termed an API (application programming interface). This will provide time-saving and risk-reduction benefits by giving users the facility to re-use information already held in their case management systems. This service approach also allows the keeper to receive data in a much more structured way and that can be used to automate parts of the registration process - meaning quicker service for customers. We intend to replicate this approach for dispositions and securities.

2.4 The aim is to streamline the experience for the user, whilst minimising the scope for an application to be rejected. The use of a digital form, allied to a digital deed prepared and submitted through a secure digital channel, will enable us to provide the applicant with increased confidence at the point of submission that the application meets the conditions of registration, while ultimately the drafting of dispositions would remain a matter for the solicitor. For instance, we can help to:

- ensure the deed and any related form are consistent where appropriate;
- ensure the right information is sought and provided; and
- remove the need for signing the form because it will be completed by an accredited RoS user through an RoS channel.

2.5 We also propose to take the opportunity to streamline the paper form, mirroring the new digital form, to make it easier both for applicants to use and RoS to process. The proposed changes are also designed to optimise auto-population within both our eForms service, which supports paper applications, and also digital registration services by structuring the form in a way that allows information to be re-used. That will allow aspects of the form to be auto-filled from other information held

by the keeper (for example, the keeper may hold information on the parties to a deed from an advance notice application). An application for the related deed would then, as a starting point, reuse that information but allow users to edit it if required.

2.6 The objective will be to simplify the form and, where possible, ask applicants to validate information already held by the keeper. Some examples of that approach are:

- the requirement for a signed declaration should be removed from the digital form for the reasons explained above;
- a signature will still be needed on the paper application form but will be placed prominently on the front page rather than the last page, highlighting the need for the form to be signed and reducing the significant number of applications rejected because the form has not been signed;
- the question concerning 'certification in relation to links in title' frequently causes confusion and we believe this can be removed;
- the questions relating to servitudes and burdens have given rise to difficulties in a significant proportion of cases. We propose to simplify and clarify these questions in various ways. For example, we will make it clear that the information required relates to pre-existing servitudes and not those being created in the deed submitted for application; and
- we will redesign the form in such a way as to avoid scope for inconsistencies between the information provided in the application form and the position set out in the deeds.

2.7 A more general issue with the application form is that any material changes to it, or simply improving the form in the light of user experience, require subordinate legislation. That is a lengthy process that cannot realistically be undertaken on a regular basis.

2.8 A different approach would be not to prescribe the content of the application form in the Land Register Rules as at present. Instead, the keeper would publish the form on an administrative basis from time to time, following consultation and due notice of the changes, to obtain the information she needs for the purposes of enabling her to discharge her duties under the 2012 Act. That means that in future the application form could be changed administratively without the need for further secondary legislation.

2.9 The flexibility to adjust the application from time to time on an administrative basis would allow RoS to respond quickly to changing customer, business and technological needs and developments.

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

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

**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?**

**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?**

**Registers of Scotland**

**30 November 2016**

## Annex A

### The statutory framework

1. The 2012 Act, brought in on 8 December 2014, provides various regulation-making powers for Scottish Ministers:

- Section 99(1) provides that the keeper may, by means of a computer system under her management and control, enable the creation of electronic documents; the electronic generation and communication of applications for registration in the register; and automated registration in the register. Section 99(3) further provides that the Scottish Ministers may, by regulations, make provision about this computer system;
- Section 100(1) provides that the Scottish Ministers may, by regulations, make provision to enable the recording of electronic documents in any register under the management and control of the keeper; and regulating the procedure to be followed;
- Section 115(1) provides that the Scottish Ministers may, by regulations, make land register rules for a variety of purposes, including regulating the making up and keeping of the register; the procedure in relation to applications for registration; prescribing forms to be used in relation to the register and other matters;
- Section 9B of the requirements of *Writing (Scotland) Act 1995* (“the 1995 Act”) provides that the Scottish Ministers may set requirements by regulations for the validity of electronic documents and their authentication by a particular person;
- Section 9C of the 1995 Act provides that the Scottish Ministers may set requirements by regulations for electronic documents to be presumed to be authenticated or certified as authentic;
- Section 9E of the 1995 Act provides that the Scottish Ministers may make further provision about authentication, alteration or annexations to electronic documents;
- Section 9G of the 1995 Act provides that the Scottish Ministers may make provision about the form and type of electronic documents, electronic signatures and certificates to be registered in the registers under the management and control of the Keeper.

2. Three main sets of relevant regulations were brought in under the 2012 Act:

- The Land Register Rules etc. (Scotland) Regulations 2014 (SSI 2014 No. 150);
- The Electronic Documents (Scotland) Regulations 2014 (SSI 2014 No 83); and
- The Land Register of Scotland (Automated Registration) etc. Regulations 2014 (SSI 2014 No. 347).

## Annex B

### A new digital disposition service

1. A digital disposition service would enable users to view and have access to information they have previously provided to RoS. We will work with stakeholders to identify how best to present this summary to users.

2. For example, the user would be able to populate an application with information supplied in an advance notice and be able to edit this information should they require this. The facility to re-use data has the dual benefits of providing greater efficiency and reducing the risk of error by manual re-keying of data.

3. In submitting a digital disposition, the user would only be asked to provide information that RoS does not already have. Fewer questions would be displayed to users and, instead, we would present the information we know about the plot of land. This may include both spatial and textual information, such as illustrating the extent on a map and displaying existing burdens. Therefore, the application would include both information to be certified and information to be provided. We would clearly identify what you are required to do at each stage of the process in order to successfully submit an application for registration.

4. We would like to use the data provided to you and the data provided by you to populate a digital deed. This will still have the appearance of a deed but where possible we will provide the facility to build its component parts through the process instead of your having to draft the deed and provide the application form separately.

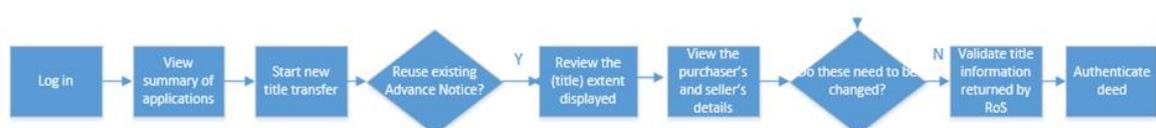
5. In the example of a digital disposition over the whole of a registered plot, a user might want to continue their registration activity from the information supplied in an advance notice. This means that the following is already known at the point of initiating the digital disposition:

- Title Number
- Purchasing parties
- Selling parties
- FAS (this is supplied from the user's access details).

6. The user would then be prompted to provide the following information in relation to the transaction:

- Consideration or value
- Date of entry
- Confirmation of compliance with LBTT
- Notification email addresses.

7. We'll work with users to identify the optimal flow of presenting and requesting information but an illustration of this appears below:



## Consultation on Digital Transformation – Next steps

### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

Registers of Scotland (RoS) would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (anonymous) – Individuals only  
 Do not publish response

We will share your response internally with other RoS 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 RoS to contact you again in relation to this consultation exercise?

- Yes  
 No



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