

Response ID ANON-QCBD-Y9K5-C

Submitted to **Digital submission services**

Submitted on **2021-02-01 17:13:04**

Questions

1a. Do you agree that the ability to submit applications to the property registers via the digital submission service should be put on a permanent footing?

Yes

Comments:

The SPF fully supports the Digital Submission Service (DSS) being put onto a permanent footing. Its introduction has been (and will continue to be) vital for carrying out land registration during the lockdowns and restrictions caused by the COVID-19 pandemic. It has revolutionised the registration process and users have adapted well to using it and are now familiar with it.

The DSS provides improved flexibility and efficiency, as it ensures that deeds can be submitted for registration outside of normal office hours if required, and it is a more economic and environmentally friendly solution than the submission of paper deeds. Another advantage over paper deeds is that the DSS provides certainty that the submitted deeds have been received by Registers of Scotland, and a digital audit trail to evidence that.

The DSS also has the advantage of creating efficiencies for Registers of Scotland and ensuring that their services remain accessible during any future lockdowns. In our opinion, losing the DSS would be a retrograde step.

1b. Do you agree there should be a presumption in favour of use of the DSS?

Yes

Comments:

Our members agree that there should be such a presumption. Please see our response to question 1.a. above.

1c. Do you agree with the following exception criteria (where applications would be accepted by post/courier)?

No

Comments:

While our members agree with the criteria listed above, they have suggested that an additional criterion is required as follows: Where the DSS is unavailable for use and registration cannot wait for a period of 48 hours or longer.

Or, alternatively, our members have suggested that the exceptional circumstances for criterion 3 above explicitly include the reason of: the DSS being unavailable for use and registration cannot wait for a period of 48 hours or longer.

1d. Do you agree that extracts and certified copies produced from copy deeds submitted digitally to RoS should be treated as any other and, for Land Register cases, covered by the s106 of the 2012 Act?

Yes

Comments:

The SPF agrees with this proposal that our members consider is essential for promoting confidence in using the DSS and for underpinning its use.

1e. Do you agree that digital extracts and certified copies should be the default format, with paper only available on request?

Yes

Comments:

For the reasons set out above, our members agree that digital extracts and certified copies should be the default format, with paper only available on request.

1f. Do you have any other comments or suggestions in relation to the DSS as it currently exists?

Comments:

Our members are of the view that there should continue to be solutions for those parts of applications that cannot currently be submitted digitally. For example, large plans.

2a. Do you agree that the ability to submit applications to the ROI and ROJ in electronic form should be placed on a permanent footing?

Yes

Comments:

Our members agree that the ability to submit these applications in electronic form should be placed on a permanent footing and consider that losing the ability to do so would be a retrograde step. Being able to submit such applications in electronic form has been vital during the lockdowns and restrictions caused by the

COVID-19 pandemic. It is a more efficient, economic, and environmentally friendly solution than the submission of paper deeds.

2b. Do you agree there should be a presumption in favour of this method of submission?

Yes

Comments:

The SPF agrees that there should be a presumption in favour of this method of submission. Please see our response to question 2.a. above.

2c. Do you agree with the exception criteria set out (where applications would be accepted by post/courier)?

Yes

Comments:

While our members agree with the criteria listed above, they have suggested that an additional criterion is required as follows: Where the service is unavailable for use and registration cannot wait for a period of 48 hours or longer.

Or, alternatively, our members have suggested that that the exceptional circumstances for criterion 3 above explicitly include the reason of: the service being unavailable for use and registration cannot wait for a period of 48 hours or longer.

2d. Do you agree that extracts from the ROJ should presumptively be in electronic form, with paper available on request?

Yes

Comments:

For the reasons set out above, our members agree that digital extracts from the RoJ should be the default format, with paper only available on request. This would be an environmentally sound approach and is sensible given that people may have to work from home from time to time due to future lockdowns/restrictions.

2e. Do you have any other comments on submissions to the ROI or ROJ?

Comments:

No comment.

3a. Do you agree that registering electronic documents in the ROD should be enabled?

Yes

Comments:

The SPF agrees that electronic documents should be capable of being registered in the ROD. This is a logical and necessary step to support digitalisation of land registration. In the same way that prior to registration in the RoD the Registers of Scotland currently check that paper deeds submitted to RoD have been validly signed, we would expect them to interrogate the qualified electronic signature(s) on submitted electronic documents to check that they are validly authenticated. That would ensure that any extracts issued by them could be relied on without the need to interrogate the electronic signatures in those electronic documents in the future.

Any legislative changes which may be required to permit registration of electronic documents in the ROD should be future proofed and have inbuilt flexibility to cater for a variety of providers of qualified electronic signatures.

3b. Do you agree that the Keeper should be able to declare, in consultation with Ministers, when certain deed types can be registered?

Yes

Comments:

The SPF agrees with this proposal because our members appreciate that the Keeper may wish to control the volume and timing of electronic deeds submitted for registration, and to ensure that any required systems and processes are in place for the registration of those deed types.

3c. Do you agree, for deeds which go into both Land Register and Register of Deeds, the Keeper should consider 'authorising' them together?

Yes

Comments:

Deeds are often registered in both the Land Register and the RoD and so our members agree that the Keeper should consider authorising them together for registration in both the Land Register and RoD.

3d. Do you have any other comments on the Register of Deeds?

Comments:

No comments.

4. Do you agree that RoS should continue, along with stakeholders and customers, to pursue a transition from the Digital Submission Service towards fully digital land registration?

Yes

Comments:

The SPF welcomes Registers of Scotland's continued transition towards a fully digital system of land registration. Digital land registration would simplify the conveyancing process and provide for more efficient and faster transactions. This would have the advantage of making real estate a more liquid asset. It is important to ensure that any digital solutions adopted by Registers of Scotland work not only for Registers of Scotland, and the legal profession, but that they maintain client/customer engagement and improve the client/customer experience.

Our members would encourage Registers of Scotland to allow electronic documents, signed using qualified electronic signatures, to be registered in the Land Register as soon as possible (without delaying that in order to allow for those documents to be created within Registers of Scotland's systems). Several legal firms already use e-platforms which can provide qualified electronic signatures to their clients, making digital registration a possibility if legislation permitted those documents to be registered. Any solution enabling registration of electronic documents should be future proofed and should cater for a variety of e-signature platforms which can be used to sign those documents with qualified electronic signatures.

About you

What is your name?

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What is your email address?

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Name::

Scottish Property Federation

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

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 Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent