



Law Society  
of Scotland

# Consultation Response

## Registers of Scotland Fee Review (2020)

December 2020



## Introduction

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The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

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

Our Property Law Committee welcomes the opportunity to consider and respond to the Registers of Scotland's Fee Review (2020) consultation. The Committee has the following comments to put forward for consideration.

## Response

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We will respond to the specific questions as set out in Consultation document as follows:

### **Question 1: Do you have any comments on the proposed fees as set out in Annex of the Consultation?**

We have no specific comments on the new proposed statutory fee structure. However, we note that this is based on particular assumptions which we agree are appropriate in the current climate.

### **Question 2: Do you agree that rejection fees should be removed?**

We **strongly** agree that rejection fees should be removed. RoS have introduced measures<sup>1</sup> to avoid rejecting applications as they are aware of the concerns and difficulties that this causes for our members and the public. These measures have included redesigning the application form to remove the signing requirement, producing guidance to help our members avoid rejections, as well as revising their rejection policy from October 2018, meaning that RoS will no longer reject applications that are older than three months unless it is legally unavoidable. While these measures have been welcomed, we note with interest that the current cost of administering a rejection accounts for most of the £30 rejection fee charged. Albeit

<sup>1</sup> RoS Annual Report 2019 to 2020 - [https://www.ros.gov.uk/\\_data/assets/pdf\\_file/0005/168431/Registers-of-Scotland-annual-report-2019-to-2020.pdf](https://www.ros.gov.uk/_data/assets/pdf_file/0005/168431/Registers-of-Scotland-annual-report-2019-to-2020.pdf)

we note that these costs have fallen substantially since the opening of the digital submission service it does not seem sustainable to continue to charge a rejection fee when to do so creates a significant administrative and financial burden to RoS and our members. Our view is that the simplest and most appropriate response is to remove the rejection fee entirely.

### **Question 3a: Do you agree that voluntary registration fees should continue to be lower than standard registrations?**

We are aware that RoS are planning to “unlock” the Sasines register to assist with Land Register Completion and we support that approach, however we note that voluntary registration continues to be a key tool in progressing towards a complete Land Register. While there are other benefits to landowners who complete voluntary registration, it is important that voluntary registration fees are lower than standard registrations to continue to act as an incentive.

### **Question 3b: Do you agree that Registers of Scotland should retain the ability to vary statutory fees by an amount not exceeding £10 in such circumstances as described in the paper?**

We agree that RoS should retain the ability to vary statutory fees by an amount not exceeding £10 for the reasons set out in the consultation document, i.e. to prevent material damage to RoS’ financial position, and when that damage arises from conditions which cannot be otherwise mitigated by the Keeper taking other action. We are aware, and as it is set out in the consultation document, that in October 2020, RoS introduced a £10 increase. We agree that this was an appropriate and proportionate response to the impact of the pandemic on the housing market and consequent income from registration. The intention is clear that this measure be used when no other measures are available and therefore it is important that this is retained to allow the Keeper to have the ability to respond in an emergency situation.

### **Question 3c: Do you agree that registration fees for the Crofting Register and the Register of Community Interests in Land should remain unchanged?**

We have no comments.

#### **Question 4: Do you agree that registration through Registers of Scotland digital registration systems should continue to cost less than standard registrations?**

We agree that registration through digital registration systems, such as the digital discharge service (DDS), should continue to cost less than standard registrations. DDS is likely to have a lower administrative cost with very little manual input which is cost effective and creates efficiency. This may also act as an incentive to encourage increased use of the DDS and any other digital registration systems which RoS may offer in the future.

#### **Question 5: Do you agree that the fees Registers of Scotland charge for these services should at a minimum recover their costs?**

We note that the fees that RoS currently charge for copy deeds and searches do not fully cover their costs. This position is not sustainable and if unchanged has the potential to impact the quality of their services and therefore we agree that the fees RoS charge for service should at a minimum recover their costs.

We agree that online fees such as fees to obtain a copy title sheet via ScotLIS remain unchanged to encourage public access and to allow professionals to access data easily and inexpensively.

#### **Question 6a: Do you agree that Registers of Scotland should review its statutory fees on an annual basis?**

We note that RoS have not reviewed their fees since 2011 and therefore under normal circumstances it would be important, and expected, that they would seek to carry out a review within a 10-year period. Any organisation that requires to cover its own costs must have the ability to review their fees regularly and therefore we agree that RoS should review their statutory fees on an annual basis. As a generality the full impact of the pandemic on the housing market, and as a consequence RoS' income, is far from clear and therefore it is even more important than ever that matters are reviewed regularly to ensure an appropriate response and informed decision making.

#### **Question 6b: Do you have any other thoughts or comments on anything else mentioned in this consultation?**

We have no comments.



**For further information, please contact:**

Gillian Alexander

Professional Practice

Law Society of Scotland

[gillianalexander@lawscot.org.uk](mailto:gillianalexander@lawscot.org.uk)