

PE1676/A

Scottish Government submission of 6 March 2018

Thank you for your letter of 5 February 2018 about the petition by Mr Tony Rosser calling on the Scottish Parliament to urge the Scottish Government to review the Land Registration etc. (Scotland) Act 2012, particularly with regard to i) the cadastral map and ii) the provision of supporting materials such as death certificates.

The Committee agreed to seek the views of the Scottish Government to provide its views on the action called for in the petition, and to indicate whether it considers the legislation is working as intended.

The cadastral map

The Scottish Government has no current plans to review the use of the cadastral map. As noted in the briefing by SPICe, the Scottish Ministers do have the powers, under section 11(6) of the 2012 Act, to make an order to change the system of mapping used by the Keeper of the Registers. However, this would only be considered where sufficient evidence was presented demonstrating that there was a better alternative to the current use of the Ordnance Map. The Scottish Government is not aware of any such alternatives.

Another potential option would be to amend the 2012 Act to require the Keeper to arrange a site survey on each occasion that the Ordnance Survey map differs from the Keeper's cadastral map, and to allow proprietors an opportunity to comment on all such updates.

On this, the Keeper receives 400-450 updated maptiles from Ordnance Survey each week, each of which may contain many changes to the mapbase. While not all such changes affect the boundary of a registered title, Registers of Scotland (RoS) estimate that in excess of 1,000 titles are updated each week to reflect changes to the mapbase. The Keeper estimates that the cost of surveys in all such cases, followed up by correspondence with the affected proprietors and mortgage lenders, would exceed £7 million at a conservative estimate each year and could well be significantly higher than that. That cost would have to be passed on to property owners in Scotland, in the form of increased registration fees, as the costs of land registration are met by those using the service, rather than by the taxpayer.

Provision of supporting materials such as death certificates

Operational matters at Registers of Scotland are a matter for the Keeper.

The Scottish Government's understanding is that applications for registration of title are typically submitted by the applicants' solicitor who is under a professional duty to establish the identity of their client. Section 111 of the 2012 Act requires solicitors to take reasonable care to ensure that the register does not become inaccurate. Section 112 provides that it is an offence for a solicitor to make a materially false or misleading statement in relation to an application for registration.

To ask for a death certificate to verify information being submitted would place an additional financial burden on the applicant. There is a fee charged for obtaining a copy of a death certificate. Details of these fees are at <https://www.nrscotland.gov.uk/registration/how-to-order-an-official-extract-from-the-registers>. In addition, there would be additional paperwork for the applicant, their solicitors and for RoS. Any additional costs incurred by RoS in relation to handling more paperwork would have to be met through the registration fees charged by RoS.

The 2012 Act generally

Finally, the Scottish Government is of the view that the 2012 Act is currently working as intended. We are aware that the Public Audit and Post-legislative Scrutiny Committee has indicated that it intends to carry out post legislative scrutiny work on the 2012 Act:

<http://www.parlamaid.scot/parliamentarybusiness/CurrentCommittees/105094.aspx>