POLICY NOTE

THE REGISTERS OF SCOTLAND (FEES AND PLAIN COPIES) MISCELLANEOUS AMENDMENTS ORDER 2025

SSI 2025/Draft

The above instrument will, if approved, be made by the Scottish Ministers in exercise of the powers conferred by sections 107(1) and 110(1) and (2) of the Land Registration etc. (Scotland) Act 2012 ("the 2012 Act"). The instrument is subject to affirmative procedure.

Summary Box

The purpose of this instrument is to set the fees Registers of Scotland may charge for use of the Register of Assignations and the Register of Statutory Pledges, and for the provision of extracts and plain copies from those registers under the Moveable Transactions (Scotland) Act 2023 ("the 2023 Act").

Policy Objectives

The 2023 Act provides for the creation of two new registers – the Register of Assignations ("RoA") and Register of Statutory Pledges ("RSP") – the operation of which will simplify and facilitate moveable transactions in Scotland. The 2023 Act provides for both new registers to be under the management and control of the Keeper of the Registers of Scotland ("the Keeper").

The 2023 Act contains a number of provisions requiring a fee to be paid to the Keeper on the occasion of certain events, namely, when registering a document, when making certain corrections (RSP only), when searching the register and when requesting an extract of a record entry.

As with the other registers under the Keeper's management and control, the setting of fees for these new registers is a matter for the Scottish Ministers, who will set those fees in this instrument under the powers in section 110 of the 2012 Act.

This instrument accordingly amends the Registers of Scotland (Fees) Order 2014 (as amended) ("the 2014 Fees Order") so as to make provision for the statutory registration, correction and extract fee regime which will underpin the operation of both the RoA and RSP. It also, at article 2(5)(a) and (b), further amends the 2014 Fees Order to correct historic typographical errors.

The setting of and reviewing of fees complies with the requirements of the Scottish Public Finance Manual to meet full cost recovery.

This instrument does not require to make provision regarding the fee which will apply to the searching of either the RoA or RSP as the 2014 Fees Order already contains a blanket search fee provision which applies to all of those registers under the Keeper's management and control and which will therefore automatically apply to both the RoA and RSP.

Certain other information/access services will additionally be required to be offered by the Keeper to facilitate the effective operation of the RoA and RSP, namely the facility to obtain plain copies of register information (a plain copy is a simple copy which provides a cheaper alternative to customers who wish a copy which does not have the evidential status of an extract) and the facility to request the Keeper to search for, and provide, register information on a customer's behalf (a "register inspection" facility).

The 2014 Fees Order provides for a fee regime for both plain copies and register inspection for those registers under the Keeper's management and control, where specified. The Keeper intends to offer both of these services, at a fee, for users of the RoA and RSP.

This instrument is therefore also needed to accordingly amend the 2014 Fees Order so as to make provision for the fee to be charged for plain copies of information contained in the RoA and RSP.

This instrument does not require to make provision regarding a register inspection fee in respect of the RoA and RSP as the 2014 Fee Order already contains a blanket, under defined exceptions, fee provision for this service which applies to all remaining registers under the Keeper's management and control, and which will therefore automatically apply to both the RoA and RSP.

Further, the Registers of Scotland (Information and Access) Order 2014 makes provision in relation to information to be made available by the Keeper and access to any register under the management and control of the Keeper. Article 2 of that Order details those registers from which a plain copy can be obtained and makes provision as to how such plain copies can be applied for and are issued by the Keeper.

This instrument is therefore also needed to accordingly amend the Registers of Scotland (Information and Access) Order 2014 so as to apply its terms to both the RoA and RSP.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Minister have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Registers of Scotland (Fees and Plain Copies) Miscellaneous Amendments Order 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

On behalf of the Scottish Ministers, Registers of Scotland ("RoS") publicly consulted on proposals for those fees which would apply to the operation of the RoA and RSP between 8 July 2024 and 16 September 2024. The consultation document was published on the websites

of both the Scottish Government and RoS. In total, 14 responses were received and came from two stakeholder groups, seven firms of solicitors, one property search firm, one business finance firm; and three individuals.

The responses of those consulted and who consented to the publishing of their response are included along with the consultation report published on the websites of both Scottish Government and RoS. These include The Law Society of Scotland and UK Finance.

An overwhelming majority of respondents were either dissatisfied or strongly dissatisfied by the consultation's key proposals regarding RoA and RSP registration fees, with respondents' viewing these as prohibitively high and excessive to the extent that the legal reforms intended by the Act could be negatively impacted.

The consultation's registration fee proposals were based on cost-recovery, with registration volumes being estimated from detailed user research undertaken with a wide range of stakeholders, industry experts and academics over several years. Despite this level of engagement, it proved extremely difficult for RoS to obtain accurate estimates of volumes for the new registers. Accordingly, the RoS estimates of volumes which informed the proposed registration fees were necessarily cautious.

The consultation responses indicated that the consultation had the effect of focussing the minds of stakeholders, particularly around the requirement for a "reduced fee for multiples" fee model for the RSP. This prompted further engagement with stakeholders, including with a majority of consultation respondents, and that allowed more informed assumptions on likely usage for the new registers to be developed.

This further engagement has increased the confidence of RoS as to effect of multiple registrations on RSP volumes and also increased confidence on lender uptake and early adoption rates, confirming that RoS' previous estimates of these were overly cautious and enabling the upwards revision of volume estimates for both registers.

Also following the consultation, RoS had more updated data on ongoing running costs that were refreshed.

These revised assumptions on volumes and costs both impacted on RoS' cost-recovery model for fee-setting, allowing RoS to propose a significantly reduced registration fee of £30 across both registers, in tandem with a "reduced fee for multiples" fee model for the RSP which uses a registration fee of £30 for an initial (or single) statutory pledge within a constitutive document, with a £5 fee for each additional statutory pledge for which a separate registration application is made.

The Keeper has been consulted on the proposals in compliance with section 110(3) of the 2012 Act. Following approval by the Minister for Public Finance, the reduced registration fees and the new RSP fee model were included in this instrument.

Impact Assessments

A Children's Rights and Wellbeing Impact Assessment ("CRWIA") has been completed on this instrument and has been published alongside the laying of this instrument. There were no issues concerning children's rights and wellbeing identified.

An Equality Impact Assessment ("EQIA"), Fairer Scotland Duty and Islands Impact were undertaken for the introduction of the Moveable Transactions (Scotland) Bill ("the Bill") to Parliament. No equality, Fairer Scotland Duty or Islands impact issues were identified at that time.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has not been carried out for this instrument. The BRIA completed when the Bill was introduced to the Scottish Parliament covered the financial aspects including the registration fees that the Keeper may charge. RoS recent consultation on the registration fees for this instrument did not require a further BRIA as the level of fees proposed fell within the range in the existing BRIA. No changes to the Bill through its parliamentary passage altered the overall impact on businesses which was found at that time to be positive.

Scottish Government
Justice
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