POLICY NOTE

THE REGISTERS OF SCOTLAND (FEES) ORDER 2014

SSI 2014/xxx

Introduction

The Registers of Scotland (Fees) Order 2014 is made in exercise of the powers conferred on Scottish Ministers by sections 110(1) and (2) and 117(1) of the Land Registration etc. (Scotland) Act 2012 ("the 2012 Act") and all other powers enabling them to do so. The instrument is subject to affirmative procedure.

Purpose of the Instrument

The purpose of this instrument is to prescribe the fees payable in respect of all statutory products and services provided by the Keeper of the Registers of Scotland ("the Keeper").

Policy Objectives

In order to maintain the principles of transparency, value for money and equality for citizens, this instrument retains the main registration and recording fees at the rates set in 2010 and makes the fees for information certain and consistent across all registers. No differential has been made between fees for a first registration of a property in the Land Register, a dealing with whole of a property already on the Land Register, a transfer of part of a property on the Land Register or a Register of Sasines application. This protects customers from the higher costs to the Keeper associated with registration in the Land Register for the first time.

The setting of the fees complies with the requirements of the Scottish Public Finance Manual by ensuring full cost recovery. Before making the Order, the Keeper was consulted about the expenses in relation to administering and improving the systems of registration, providing access to and information from the registers and also the costs associated with extension of the Land Register and desirability of encouraging registration.

If the application is for registration of a deed (other than a heritable security), such as a disposition, or voluntary registration, the fee is based on the amount of the consideration or value of the property transferred or affected, whichever is the greater. The existing flat fee approach for heritable securities has been retained.

This Order is made under the powers in the 2012 Act. The majority of the fees in this consolidated Order remain the same. It introduces fees for new products and services required under that Act and consolidates within a single order all fees charged by the Keeper, including those for the Crofting Register and the Register of Community Interests in Land. The fees for access to, and information from, any register under the management and control of the Keeper are now charged on the same basis offering consistency and clarity for the customer.

Existing fees amended by this Order are as follows:

- the fee for rejections and cancellations of registration applications is amended to a flat fee of £30, regardless of the stage of registration at which the rejection or cancellation takes place, to introduce certainty for the Keeper's customers and a more streamlined process for the Keeper. This replaces a fee mechanism which results in a charge of up to £400. The rejection fee under this Order will not commence until 9 February 2015 so that the Keeper's customers have a two-month period from designated day to adjust to the new requirements of the 2012 Act;

- an application for registration or recording of receipts under the Industrial and Provident Societies Act 1965 is charged at £0.25 as set in that Act. Such receipts are very rarely presented for registration and, as it is now uneconomic for the Keeper to collect the fee, this Order provides that the fee will no longer be charged;

- the Register of Community Interests in Land charges separate fees for each page of an extract, plans of different sizes, authentication and handling additional extracts and copies. It is difficult for parties enquiring of the register to know the number of pages or sizes of plans to a particular deed until they receive it. To provide clarity of pricing this Order therefore introduces a set fee for an extract or plain copy; this is set in line with fees for these products charged in other registers maintained by the Keeper;

- search requests using the Keeper's Customer Services Centre are charged separately for a request in writing or in person with a fee for each constituent part of a search on a title and for each copy deed or title sheet printed; as enquirers invariably wish to have a paper copy of the title or deed in which they are interested, a single fee per deed or title searched including an entitlement to one plain copy is introduced; this should make the costs of the request more certain to the Keeper's customers in advance of using the service.

The 2012 Act, section 110(1)(c), enables the Scottish Ministers to authorise the Keeper to determine fees in such circumstances and subject to such limitations and conditions as are specified in the Order. The authorisation in the Order has been limited to a maximum increase or decrease of £10. The Keeper is wholly funded by the fees charged for (a) applications for registration and recording in the registers kept and maintained by her and (b) information relating to these registers, including copies of deeds and entries from these registers. The circumstances in which the Keeper would make a determination include unexpected major fluctuations in the level or conduct of business or revenues which would materially damage the Keeper's financial position. The conditions which must be met for such increase or decrease in the level of a fee are consultation with Scottish Ministers, a time limit of 2 years for an increase or 1 year for a decrease and the provision of three months' notice to customers.

Consultation

On behalf of Scottish Ministers, Registers of Scotland consulted on the proposed Fees Order and an initial Business and Regulatory Impact Assessment ("BRIA") from 29 October 2013 to 24 January 2014. The consultation document was published on the websites of both the Scottish Government[1] and Registers of Scotland[2]. The main policy consulted on was:

[1] http://www.scotland.gov.uk/Publications/2013/10/9982
[2] http://www.ros.gov.uk/consultation/fee_review_2014/fee_review_2014.html

- no increase to the majority of fees;
- fees proposed for the new products; and
- rationalisation of fees for inspections and copies.

A combined Analysis and Report of the consultation can also be found on the Registers of

Scotland website at the following address:

http://www.ros.gov.uk/consultation/fee_review_2014/Post_Consultation_Report_and_Analysis.pdf

Ten responses to the consultation were received and they have been taken into account when finalising this instrument. Where respondents gave permission for their responses to be made public, these were published on the Registers of Scotland website at:

http://www.ros.gov.uk/consultation/fee_review_2014/fee_review_2014.html

Impact Assessment

An equality impact assessment has not been completed for this Order as there are no equality impact issues to address. Any charges will apply equally to all individuals or organisations.

Financial Effects

A final Business and Regulatory Impact Assessment has been completed and is attached. In our view, the Order will not lead to any additional costs to businesses as it maintains the existing payment structure for the majority of registration and recording fees.

Contact

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