

POLICY NOTE

THE LAND REGISTER OF SCOTLAND (AUTOMATED REGISTRATION) ETC. REGULATIONS 2014

SSI 2014/347

1. These Regulations are made in exercise of the powers conferred by sections 99(3), 100 and 115(1)(c) of the Land Registration etc. (Scotland) Act 2012 (“the Land Registration Act”), sections 9E(1)(b) and 9G(3) and (5)(a) of the Requirements of Writing (Scotland) Act 1995 (“the Requirements of Writing Act”) and all other powers enabling them to do so. They are subject to the affirmative procedure.

Policy Objectives

2. Registers of Scotland (RoS) has been operating a computer system to register electronic deeds in the Land Register of Scotland; namely, Automated Registration of Title to Land (ARTL) since 2008. This system allows solicitors, institutional lenders and local authorities to register electronically certain deeds that affect land register titles. The legislation that currently underpins ARTL (amendments to the Requirements of Writing Act and the Land Registration (Scotland) Act 1979 by the Automated Registration of Title to Land (Electronic Communications) (Scotland) Order 2006) is repealed by the Land Registration Act on the designated day for the coming into force of the Land Registration Act (8 December 2014).

3. RoS intend to continue to operate ARTL from the designated day but do not at this stage intend any changes to the policies that underpin the system. To provide a continuing legislative basis for ARTL, these Regulations are made under sections 99, 100 and 115(1)(c) of the 2012 Act and under section 9G(3) of the 1995 Act to provide for the ARTL system. Regulation 4 sets out the duties on authorised persons including the requirement for an identity verification meeting which is a face-to-face meeting (where photographic identification is inspected) between a member of staff of RoS and the person appointed as a local registration authority.

4. Regulation 9 amends the Electronic Documents (Scotland) Regulations 2014 by inserting new regulations 5, 6 and 7. New regulation 5 makes provision about electronic documents under the 1995 Act as amended—it provides for the authentication of an electronic signature applied to a document granted by a partnership, limited liability partnership, company, local authority, other corporate body, Minister or office holder. This provision is equivalent to the provision for traditional documents in Schedule 2 to the 1995 Act.

5. New regulation 6 makes provision to make it competent to register electronic documents in the Land Register of Scotland, provided that such a document meets certain technical requirements, principally that it is a PDF as specified in ISO 32000-1 created in the ARTL system under the management and control of the Keeper of the Registers of Scotland (“the Keeper”). The electronic signature applied to such a document must be supplied by the Keeper and certified by the Keeper’s public key infrastructure (“PKI”).

6. The Keeper's PKI is a set of policies and practices which specify the management, creation, distribution and revocation of digital certificates which attach unique public keys to individual users of the ARTL system. The private key that is paired with the public key is used in combination with a digital deed generated by the ARTL system to produce a digital signature. Once embedded in a digital deed the digital signature provides proof that the document has not been altered since it was signed, who it was signed by and when it was signed. This ensures the security of the system.

7. New regulation 7 provides that an extract of an electronic standard security that has been created as an ARTL document may be registered for preservation and execution in the Books of Council and Session. This is to ensure continuation with current practice, and replaces section 6A of the 1995 Act pending the enabling of the registration of electronic standard securities under section 9G of the 1995 Act.

Consultation

8. A full public consultation was carried out on a draft Land Registration (Scotland) Bill in 2010 prior to the Land Registration (Scotland) Bill's Parliamentary passage: <http://www.scotland.gov.uk/Publications/2010/09/landregistrationbill>. There has also been a consultation in 2013 on aspects of implementing the 2012 Act: http://www.ros.gov.uk/consultation/consultation_lr_act.html

9. In accordance with section 99(4) of the Land Registration Act, the Keeper of the Registers of Scotland ("the Keeper") has been consulted and is content.

10. In accordance with section 100(4) of the Land Registration Act and section 9G(4) of the Requirements of Writing Act, the Keeper, the Keeper of the Records of Scotland and the Lord President of the Court of Session have been consulted and are content.

Impact Assessments

11. A Business and Regulatory Impact Assessment, an Equalities Impact Assessment and a pre-screening report for Strategic Environmental Assessment were carried out before the introduction of the Bill-

<http://www.ros.gov.uk/lrbillconsultation/consultation.html>.

A pre-screening exercise was carried out and established that the Regulations will have no impact on equality or environmental issues.

12. The Bill had Accompanying Documents in the usual way-

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/44469.aspx>.

Financial Effects

13. No Business and Regulatory Impact Assessment (BRIA) has been prepared for this Order as no significant financial effect or impact on the private, voluntary or

public sector is foreseen. A [BRIA](#) accompanied the Land Registration etc. (Scotland) Bill on introduction to the Scottish Parliament.

Registers of Scotland on behalf of the Scottish Government