

PE1676/B

Keeper of the Registers of Scotland submission of 15 February 2018

Your letter of 5 February on behalf of the Public Petitions Committee asked me for my views on the following matters that relate to Mr Tony Rosser's petition about the Land Registration etc. (Scotland) Act 2012 (the 2012 Act):

1. Mr Rosser's proposal that Registers of Scotland (RoS) should be required to confirm the accuracy of Ordnance Survey (OS) updates of the OS base map which is used by RoS;
2. Mr Rosser's proposal that it should be a mandatory requirement to submit to RoS a death certificate in support of a request to amend the land register to reflect the death of the owner of a property;
3. RoS capacity to handle the current volume of OS updates; and
4. RoS guidance for members of the public about their rights of appeal to the Lands Tribunal for Scotland.

Background

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[REDACTED]

[REDACTED]

The cadastral map and map updates

The cadastral map, put simply, is a map that shows all information that has been mapped as part of the land register. Section 11(5) of the 2012 Act provides that the cadastral map must be based upon the base map, and section 11(6) provides that the base map is the Ordnance Map. Section 11(7) imposes a statutory duty on me to make any changes to the register which are necessary in consequence of an update to the base map. In other words, when OS makes a change to the base map, I am required by statute to make corresponding changes to the cadastral map and therefore the land register where it is necessary to do so.

In response to the Committee’s question, I can confirm that RoS has no capacity issues in dealing with updates to the base map from OS. Our Mapbase Maintenance team deals with any updated OS map information on a priority basis, with precedence given to any pending applications affected by out-of-date OS mapping, or any registered properties affected by an application for rectification. Where it is suggested to us that the OS map may be out of date or incorrect, we will instruct the Ordnance Survey to carry out a resurvey at our expense.

It would be both impractical and extremely resource intensive for RoS to seek to take our own view on the accuracy of updated information provided by the Ordnance Survey. This would add very significantly both to operating costs and turnaround times. OS has the professional expertise and the technology to carry out surveys, which is no doubt why Parliament expressly provided in the 2012 Act that the cadastral map must be based on the OS base map. In our experience, mapping mistakes by OS are highly unusual but the 2012 Act makes provision for errors in the cadastral map to be rectified when they come to light, [REDACTED].

Death certificates

Section 11 of the 2012 Act imposes a statutory duty on a solicitor who submits an application for registration to take reasonable care not to make the register inaccurate in consequence of that application (in other words, information presented as part of an application must be accurate). It is a criminal offence for a solicitor to make a materially false or misleading statement in relation to an application for registration.

In certifying an application for registration, a solicitor confirms to us that the information contained in the application is complete and correct to the best of his or her knowledge. Solicitors are best placed to 'know their client' and the facts of the particular case; and in addition to the statutory duty of care in the 2012 Act solicitors are also under a professional duty to act in the best interests of their client and to use reasonable skill and care in performing their duties. That being the case, we take the view that we are entitled to rely on information certified by a solicitor to be correct without further investigation.

[REDACTED]
[REDACTED]
[REDACTED] We do not consider that it is necessary to ask solicitors to provide copies of death certificates [REDACTED].

Lands Tribunal for Scotland

Section 103 of the 2012 Act provides that an appeal may be made to the Lands Tribunal on a question of fact or point of law against any decision I take under the Act. Where an application is refused, our normal practice is to advise the applicant of his or her right of appeal against the decision in question.

Section 82 of the 2012 Act further provides that a person with an interest may refer a question relating to the accuracy of the register or what is needed to rectify an inaccuracy in the register to the Lands Tribunal.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Our published guidance on rectification which is available at <https://kb.ros.gov.uk/land-and-property-registration/inaccuracies-and-compensation/inaccuracy-and-rectification%23lands-tribunal-of-scotland> advises that

questions about the accuracy of the land register can be referred to the Lands Tribunal for Scotland under section 82 of the 2012 Act. The Lands Tribunal's website contains full advice about how to apply to the tribunal (<http://www.lands-tribunal-scotland.org.uk/using/making-an-application>).