

Economy, Energy and Fair Work Committee

13th Meeting, 2022 (Session 6), Wednesday, 11 May
2022

Referred Petition: PE1676

Background

1. At the meeting on 15 December 2021 the Committee considered petition [PE1676 on The Land Registration etc. \(Scotland\) Act 2012](#), referred to the Committee under Rule 15.6 of standing orders. The Committee agreed to seek an update from the Scottish Government on the issues raised in the petition.

Petition

2. The petition was lodged in 2017 and seeks a review of the Land Registration etc. (Scotland) Act 2012, focusing on two issues:
 - the relationship between the statutory ‘cadastral map’, i.e., the map of Scotland showing the legal boundaries to registered land and property, maintained by Registers of Scotland (‘RoS’), and the ‘base map’, i.e., the Ordnance Survey map on which the cadastral map is based
 - what supporting materials should be required when submitting an individual application for registration of land and property. The petitioner’s key issue is whether RoS should require a copy of a death certificate to confirm the death of a registered owner of land and property.
3. [A SPICe briefing on the petition was published last session](#). Since then, mapping technology within RoS, and the way Ordnance Survey updates are transmitted to RoS, has changed. **Annexe A** describes the current position in more detail. Otherwise, the Session 5 briefing reflects the current law and practice relating to the petition.

Previous consideration of petition

4. After the petition was lodged in 2017, the Public Petitions Committee wrote to the Scottish Government and RoS for their views. In response, the [Scottish Government stated](#) it “has no current plans to review the use of the cadastral map” and also that it “is of the view that the 2012 Act is currently working as intended”.

5. [RoS said](#) “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 ... 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.”
6. RoS said it was entitled to rely on information certified by a solicitor to be correct and did not consider it necessary to ask solicitors to provide copies of death certificates.
7. In 2018, the petition was referred to Public Audit and Post-Legislative Scrutiny Committee (PAPLSC). It agreed to include the issues raised when considering its approach to post-legislative scrutiny of the 2012 Act. Due to time constraints, it did not complete that work. In February 2021, the PAPLSC Committee wrote to the Public Petitions Committee stating—

“The Committee believes that the issues raised in the Petition are important and that the Petition should remain open and revert to the next session of Parliament. The Committee’s view is that due to the complexity of the legislation, the Petition would benefit from being considered by the relevant subject committee.”
8. As members are aware, post-legislative scrutiny no longer sits with one Committee. The current Public Audit Committee has no plans for work in this area. Any post-legislative review work of the 2012 Act would be on the back of a decision of this Committee, as scrutiny of RoS falls within the remit of this Committee.

Scottish Government update

9. The update provided by the Scottish Government in its letter of 18 January 2022 (Annex A) re-affirms the Scottish Government’s view—

“the position stated in the submissions made to the Public Petitions Committee by both RoS and the Scottish Government remains the same, namely that that there are no plans to amend the 2012 Act in respect of the relationship between the cadastral map and base map, and that the Keeper does not intend to request sight of death certificates when informed of the death of a registered proprietor as part of an application for registration.”
10. The Minister also noted—

“no errors relating to parties being incorrectly classed as deceased have been encountered, and that, to the best of their [the Keeper’s] knowledge, the error made by Mr Rosser’s solicitor remains the only example of such an error to date.”

11. The Minister sets out how RoS works with Ordnance Survey to update the cadastral map.

Decision

12. It is for the Committee to take such action as it considers appropriate on any petition referred to it. The Committee is asked to consider the petition and the Scottish Government update, and agree either—

- **to close the petition on the basis that the mapping technology has been updated since the petition was lodged in 2017; but in doing so, agree to maintain a watching brief on Registers of Scotland's approach to handling complaints from members of the public, and how it monitors the success of that approach as part of its regular update sessions with the Keeper of the Registers, or**
- **to conduct post-legislative scrutiny of the Land Registration etc. (Scotland) Act 2012.**

**Letter from Tom Arthur MSP, Minister for Public Finance, Planning and
Community Wealth, 18 January 2022**

Dear Ms Baker,

PE1676: The Land Registration etc. (Scotland) Act 2012

Thank you for your letter of 17th December, the contents of which I have discussed with the Keeper of the Registers of Scotland ahead of this response.

I can confirm that the position stated in the submissions made to the Public Petitions Committee by both RoS and the Scottish Government remains the same, namely that there are no plans to amend the 2012 Act in respect of the relationship between the cadastral map and base map, and that the Keeper does not intend to request sight of death certificates when informed of the death of a registered proprietor as part of an application for registration.

Although the position itself has not changed, the EFW committee may be interested in the following updates:

- I. In the period since the petition was considered in early 2018, RoS have confirmed that no errors relating to parties being incorrectly classed as deceased have been encountered, and that, to the best of their knowledge, the error made by Mr Rosser's solicitor remains the only example of such an error to date.
- II. Mapping technology with RoS, and the way in which Ordnance Survey updates are transmitted to RoS, have changed since the petition was first considered. The Ordnance Survey base map is no longer updated on a 'maptile' basis, and instead, the map is updated on a feature basis.

Currently, Ordnance Survey make around 2,000 daily changes to the basemap, affecting in the region of 400 titles (not all of which will require amendment). Developments in mapping technology within RoS have meant that these feature changes can be identified automatically (previously, a manual comparison of the old and new maps would have been required), and work is ongoing in automating changes to the cadastral map required as a consequence of updates to the base map in the most straightforward cases. These developments will ensure that updates to the cadastral map are made quickly, ensuring that the register provides up-to-date information.

I hope that the Committee find this update helpful, and I look forward to hearing what action will be taken in respect of this petition in due course.

Kind regards

TOM ARTHUR