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| **Regulatory Triage Assessment** | |
| **Title of regulatory proposal** | Land Registration (Amendment) Rules |
| **Lead Department/Agency** | Land Registry |
| **Expected date of implementation** | June 2017 |
| **Origin** | Domestic |
| **Date** | 2 August 2016 |
| **Lead Departmental Contact** | Joy Bailey |
| **Departmental Triage Assessment** | Deregulation (fast track) |

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| **Rationale for intervention and intended effects**  The Land Registration Rules 2003 (“the Rules”) will be amended in six aspects. One of the proposals has been confirmed as “trivial and mechanical” by the Economic and Domestic Affairs Secretariat, so is not considered in this RTA. The other five proposals are dealt with in turn below. The changes are deregulatory. They are removing unnecessary burdens on business and creating new services that should benefit business in the digital age.   1. **To allow for fully digital conveyancing documents with e-signatures to be used for land transactions and registration.**   This change is to allow the conveyancing industry to undertake transactions entirely digitally, as an alternative to paper. There is no obligation to use the digital services – conveyancers can continue to use paper if they wish.  Under the Law of Property Act 1925 conveyances and legal mortgages of land must be carried out by a paper deed. Electronic documents with electronic signatures will be regarded as deeds only if rules are made to that effect under section 91 of the Land Registration Act 2002.  Currently the Land Registration (Electronic Conveyancing) Rules 2008 allow only for limited types of electronic mortgages. Those rules were prescriptive and inflexible and only a small number of electronic mortgages were created. Those Rules will be revoked, and replaced by the proposed amendments to the Rules, which will allow for more flexibility and speedier introduction of new digital services.  Digital conveyancing and registration will be more secure. Parties using digital signatures will have their identity assured through the GOV.UK Verify system. The additional identity checks carried out using the Verify system are attractive to the Lenders. They will assist the prevention of fraud and give more assurance than current paper transactions. Land Registry is liable by statute to pay indemnity for losses resulting from mistakes in the register and their correction, even where these are caused by fraud. The new services will reduce the indemnity payments Land Registry makes for fraud.   1. **Revoke the Proper Office Order and remove references to ‘the proper office’ in the Land Registration Rules 2003.**   Under a paper system of land registration the Proper Office Order required that applications were lodged at the particular Land Registry office that held the paper records for that geographical area. The register is now held in digital form, and many applications are delivered electronically. Postal applications are scanned at the Land Registry scanning centre, so the requirement that conveyancers lodge applications at particular offices is redundant.  The revocation of the Proper Office Order 2013 and consequential amendments to the Rules will reflect steps we have already taken to make delivery of applications simpler, both by post and electronically, and revocation of the Order will reduce regulation. Conveyancers who make a paper application will not have to check which Land Registry office to send it to. There will be one postal address for all applications. There will be no impact on business from revocation of the Order as the practical changes and familiarisation have already taken place.   1. **Introduce new statutory services identified as beneficial to our users through user research**.   Extensive user research has identified statutory services (that is, services we are obliged to provide under the Land Registration Act 2002) that could be offered in more flexible ways. Customers would like to reap the benefits that digital services can bring.  Currently the Land Registration Rules 2003 only allow for inspection and copying of the whole of an individual register. Customers have asked for services which allow them to view and have copies of parts of the registers of title, or parts of documents held by the registrar. Amendments to the Rules are needed to allow for such services, which will be relatively easy to provide on line.  Some customers have asked for improved services for getting information about the history of a register of title. These services will be easier to provide on line, but the rules need small amendments to allow for the type of services requested.  The changes (which are permitted under the Land Registration Act 2002) will effectively free up the rules to allow for more flexible services. Existing statutory services will not be affected.   1. **Reflect the modernisation and simplification of our services through digital transformation.**   The Land Registry no longer asks for the original paper documents to be sent with every application. Conveyancers are encouraged to retain the original document and send us a scanned copy, which they certify as a true copy. The application can be made either through our electronic document registration service, or by post. Postal applications are scanned centrally then distributed electronically to the Land Registry office that will process them. These advances are advantageous to customers. There are detailed rules about the retention and return of documents by the Land Registry which are now superfluous and can be amended or revoked, as we do not receive or retain original documents. This will simplify the Rules.  Secondly, there is currently a rule allowing for an outline application to be made electronically before the full application is made in paper. That rule is no longer needed and can be revoked, as customers can now make the full application immediately online.    **E. Allow for more flexibility as to when the Land Registry is open for business and open to the public.**  The Rules are currently drafted so as to define a business day as a day on which the Land Registry is open to the public, while a working day is defined as any day from Monday to Friday that is not a bank holiday. The Rules also provide that the Land Registry will be open to the public on working days. There are extensive references to business days throughout the Rules, mainly in relation to time limits for responses to notices that the registrar is obliged to serve in various situations.  Increasing use of digital working, including the automatic processing of some applications, means that the Land Registry can be open for business on days that are not working days – for instance in the evenings and at weekends. Some services are already available 24/7 online. Land Registry has 14 offices in various locations throughout the country, and most contact is made by telephone, email and our electronic services. It is not necessary to prescribe that our doors should be open to visitors all day on every business day or even every working day. We need to be able to make more flexible arrangements that take into account customer needs and the costs to Land Registry (and its fee payers) of offices being open for visits. Increasingly those of our services that can be delivered to citizens will be on line or provided by an assisted digital solution. |
| **Viable policy options (including alternatives to regulation)**  **Option 1 – make amendment rules**  This is the only option that can meet the policy objectives. Dealing with each in turn—   1. **To allow for fully digital conveyancing documents with e-signatures for land transactions and land registration and revoke existing limited rules allowing only for digital mortgages.**   Without the proposed Rules, conveyancing would have to continue to be carried out with paper deeds. Land Registry was given the means to lead the modernisation of conveyancing by provisions in the Land Registration Act 2002, to make rules allowing for electronic conveyancing documents to be regarded as deeds.  The proposed amendments to the Land Registration Rules 2003 will specify that all digital documents that effect conveyancing transactions and that must be registered under the 2002 Act will be regarded as deeds for the purposes of section 91 of the Act, once the registrar has issued a notice that the digital service is ready. This allows for the gradual introduction of new digital conveyancing and registration services, without rule changes for each new service.   1. **Revoke the Proper Office Order and remove references to the proper office in the Land Registration Rules 2003.**   The Proper Office Order is now superfluous, and can only be revoked by another statutory instrument. The amendment rules will clarify that any future changes of delivery address (which will be rare) will be announced by registrar’s direction.  **C. Introduce new statutory services identified as beneficial to our users through user**  **research.**  The Rules are currently drafted so that some statutory services are rigid and limited, although the Land Registration Act 2002 allows for a wider variation in the services. Only changes to the Rules can give the Land Registry the ability to offer variations to our statutory services, and more options, that digital services can easily provide and customers have asked for. Land Registry customers are many and varied, and would have different uses for the new services. We could offer different variations for different customer needs if there are clear benefits.  **D. Reflect the modernisation and simplification of our services through digital**  **transformation.**  Superfluous or outdated rules can only be revoked or amended by statutory instrument. They no longer reflect Land Registry and conveyancing practise. The changes simplify the rules.  **E. Allow for more flexibility as to when the Land Registry is open for business and open**  **to the public.**  Rules amendments are needed to disentangle business days from working days, and allow for flexibility in the times when the Land Registry is open to the public for personal visits. |
| **Initial assessment of business impact**  **A. To allow for fully digital conveyancing documents with e-signatures for land transactions and land registration, and revoke existing limited rules allowing only for digital mortgages.**  **The Rule changes are permissive** in nature. **They allow, but do not force, businesses to use new digital conveyancing and registration services**. Lenders and conveyancers will only adopt the changes resulting from these measures if it is in their interests to do so and if the benefits outweigh the costs.  Customers will adopt the new services in their own time to suit their own business cycles, over an unknown period. They may be encouraged to do so by market forces and by lenders, who are asking us for digital mortgages, to allow for more efficiencies in the lending process.  **There is no compulsion to use the new services**. If customers wish to use the new digital mortgage, there will be initial transition costs for some types of customer as outlined in 1 and 2 below but it is not possible to accurately predict these at present. Most of these customers will carry out the integration work alongside their business as usual upgrades to IT systems. For these customers costs are expected to be negligible. Customers in category 3 below will have no transition costs except for negligible familiarisation costs, if they decide to use the service. They will directly benefit from the upgrading of Land Registry’s systems and services.  **1. Conveyancers with in-house IT and system integration** – Some large conveyancers (114 at the end of July 2015) integrate directly with Land Registry digital services using application programming interfaces (APIs). These firms will have development and integration costs if they wish to use new digital services. Such customers are most likely to want to use digital mortgages and many have already volunteered to be part of the beta development phase of the digital mortgage service. By introducing LR digital system enhancements in conjunction with their usual system upgrades these customers should be able to keep costs down.  Time saving and increased accuracy are the main efficiencies from integration with Land Registry APIs, as well as reduced paper, printing and postal costs. As customers create digital documents, data can be validated against the register, to reduce errors and requisitions by Land Registry after the transaction has been completed and documents have been sent to us for registration. In a 6 month period, Land Registry can raise over 300,000 requisitions involving over 500,000 individual requisition points arising from registration applications – our offices are raising over 4,000 requisition points every working day. Overall, Land Registry is raising a requisition in approximately 1 in 5 cases. For Land Registry we estimate that raising, issuing and administering these requisitions uses up in the region of 77 man-days every working day. Over the course of a year, this represents enough resource to process approximately 300,000 dealings and 60,000 new title applications. That cost does not take into account the time and resources that conveyancers must use to remedy the problems. That will vary in every case, but generally the conveyancer will have already taken their fee from the completion monies provided by the client, and will not be able to recover the extra costs. This post completion work will therefore eat into their profit margin, which we are told is already small.  The services will be easier to use than the current system, where customers have to prepare documents in paper, send them to clients for wet signatures, and after completion, scan them to send electronically to Land Registry. If they choose new digital services, customers’ systems will automatically feed data into their conveyancing documents and Land Registry applications. The documents do not have to be sent to clients for signature. The signatories will access the digital documents on line and sign them electronically, using secure e-signatures provided by Land Registry. Customers tell us that the efficiencies they gain from using digital services also allow them to take on more work.  The rule changes will allow greater flexibility in how our services are used, to suit the business models of different customers. The current rules (which will be revoked) are rigid and do not allow for the business model of one of our biggest customers that deals with 30% of the re-mortgage market. That customer acts as intermediary between many of the biggest lenders and their panel conveyancers. They are keen to use our digital mortgage, but currently the rules do not allow for their way of working.  We believe the use of digital conveyancing documents provided by Land Registry will also reduce fraud. Before being issued with a digital signature, the signatories will confirm their identity through GOV.UK Verify, which provides robust identity assurance. In the financial year 2014/15 Land Registry paid out £5.2 million for indemnity payments arising from fraud and forgery, excluding related costs (£6.4 million in 2013/14, excluding related costs). Land Registry recovered £0.1 million under its rights of recourse. The fraudsters have usually disappeared, so recourse is often against their conveyancers if they acted negligently. The use of Verify should give greater assurance to lenders and should reduce risks for conveyancers as well as Land Registry. Claims against conveyancers may be covered by their indemnity insurance policies but claims are likely to affect the premium payable by the conveyancer. They may also suffer reputational damage, or be removed from a lender’s panel, the costs of which cannot be calculated.  The reduction in paper and postage use will also have environmental benefit, as more and more customers move to digital services.  **2. Conveyancers who use case management systems (CMS) bought from external providers** – these customers will have to wait for the case management system provider to develop the APIs so that their systems can integrate with the new services. The CMS providers will have development costs, but their initial costs can be recovered from their customers. Some CMS providers may make no charge for offering upgraded services. Others may make them optional extras. This is not possible to predict at present.  There are about 15 conveyancing software providers on the market. It is likely that they would wait for evidence of market demand before adapting their case management systems. Lower pricing for digital conveyancing services would play a part in creating demand for new digital conveyancing systems. The number of Case Management providers who have developed APIs to integrate with Land Registry systems is nine and Land Registry is working with four others. The benefits for their customers will be similar to those for conveyancers who have linked directly using APIs.  **3. Conveyancers who use a web front end connection** - The Land Registry will continue to provide a secure website where professionals can access our business e-services. To use it they need an internet connection and a standard internet browser. Land Registry has approximately 3,500 professional conveyancer customers who already have accounts with us to use digital conveyancing services through our portal (including customers with integrated APIs, who can use the portal as an alternative).  There would be no initial set-up costs for the customers wishing to use our front end connection to digital conveyancing documents. They could simply access the services using their current Land Registry security credentials. They would have to key data directly into the system rather than it being fed in by APIs. This may mean a certain amount of double keying of data – into their own systems and Land Registry systems. Conveyancers would decide whether and when it was worth their while to use the services for the benefits they would offer, of speed, efficiency, and security, for electronic services. They might also use the services if it was a requirement of the lender in a mortgage transaction.  Land Registry is currently concentrating on building the APIs for conveyancers who have IT systems integrated with Land Registry systems, as they provide the largest volume of applications. A front end connection will be built for those who prefer it once the new service is established. Each new service can be introduced by means of a registrar’s notice.  The option of using paper documents will continue for all customers.  There are no upfront costs to business or citizens for using the GOV.UK Verify system. There will be on-boarding build costs to Land Registry, and an annual fee. These costs are common to all Government Departments who use Verify, a cross-government platform to assure the identity of people using government online services. They will be covered by Land Registration fees.  **B. Revoke the Proper Office Order and remove references to the proper office in the Land Registration Rules 2003.**  There will be no impact on business resulting from revocation of the Proper Office Order. The land registry has already simplified delivery of applications by specifying only one address for postal applications by conveyancers, using a Registrar’s Direction. This has already reduced costs and the regulatory burden for conveyancers. All postal applications can now be sent together to a single address, and conveyancers no longer have to check which office to send each application to. The practical change has already been made so there is null effect from revoking the Order.  **C. Introduce new statutory services identified as beneficial to our users through user research.**  Conveyancers will only use the new services if they are useful for them. The new services will have no cost impact where they are accessed through the land registry’s front end web-page. That will be the case for private citizens and many small businesses. Where business customers already use land registry APIs, there may be a small cost of adjusting their case management systems to allow for the new services. We believe this will be outweighed by the efficiencies and flexibility of being able to obtain only the information they need.  **D. Reflect the modernisation and simplification of our services through digital transformation.**  There will be no cost to business from the revocation of superfluous Land Registration Rules and the amendment of outdated Rules. Revoking the provision for outline applications will benefit customers who currently make an outline application online followed by a paper application. They can make one single application online, saving time.  **E. Allow for more flexibility as to when the Land Registry is open for business and open**  **to the public.**  The changes will not put any burden on business customers. On the contrary, they will simplify the rules and give customers greater flexibility. They will allow us to increase the time that the Land Registry is open for business and reduce the time that our doors must be open for visits. Business customers, and most citizen customers, interact with us online or by post or telephone, and those services are constantly improved. |
| **One-in, One-out status**  The proposals described above are an OUT for the Business Impact Target, because they are de-regulatory and suitable for Fast Track.  One other proposal that will be implemented with these rule changes has been confirmed by Cabinet Office as being “trivial and mechanical” and therefore not subject to RPC scrutiny. |
| **Rationale for Triage rating**  The measures are de-regulatory and permissive. Proposal A offers conveyancers alternative methods of conducting conveyancing transactions, other than solely by paper deeds. Without the amendment rules contemplated by the Land Registration Act 2002, conveyancers are constrained to using paper deeds with wet signatures.  Without the other proposed amendments Land Registry will be constrained by outdated Rules to offer only limited services designed for paper conveyancing and registration. |

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| **Departmental signoff (*SCS*):Graham Farrant**  Date: 2 August 2016  **Economist signoff (*senior analyst*):** **Hiroko Plant** Date: 2 August 2016  **Better Regulation Unit signoff: N/A** Date: |