
STATUTORY INSTRUMENTS

1997 No. 178

The Land Registration Fees Order 1997

PART I

General

Citation, commencement and interpretation

1.—(1) This Order, which supersedes the Land Registration Fees Order 1996⁽¹⁾, may be cited as the Land Registration Fees Order 1997 and shall come into force on 1st April 1997.

(2) In this Order unless the context otherwise requires:

“account holder” means a person or firm holding a credit account;

“the Act” means the Land Registration Act 1925;

“charge” includes a sub-charge;

“credit account” means an account authorised by the Registrar under article 18(2);

“Index Map section” has the same meaning as in the Land Registration (Open Register) Rules 1991⁽²⁾;

“licensed conveyancer” has the same meaning as in section 11(2) of the Administration of Justice Act 1985⁽³⁾ and includes a recognised body within the meaning of section 32(2) of that Act;

“monetary consideration” means a consideration in money or money’s worth (other than a nominal consideration or a consideration consisting solely of a covenant to pay money owing under a mortgage);

“the principal rules” means the Land Registration Rules 1925⁽⁴⁾;

“scale fee” means a fee payable in accordance with a scale set out in Schedule 1 or 2;

“scale fee application” means an application which attracts a scale fee, or which would attract such a fee but for the operation of article 6;

“Schedule” means a Schedule to this Order;

“share in registered land” means a share in the proceeds of sale of registered land held on trust for sale.

(1) S.I. 1996/187.

(2) S.I. 1992/122, relevant amending instrument is S.I. 1993/3275.

(3) 1985 c. 61.

(4) S.R. & O. 1925/1093 to which there are amendments not relevant to this Order.

PART II

Scale fees

Applications for first registration

2.—(1) Subject to article 6 (large scale applications, etc.), the fee for an application for first registration (other than an application for first registration of title to a lease by an original lessee or his personal representative or an application for first registration of a rentcharge) shall be paid in accordance with Scale 1 in Schedule 1 on the value of the land comprised in the application determined in accordance with article 7.

(2) Subject to paragraph (3), and to article 6 (large scale applications, etc.), the fee for an application for the first registration of title to a lease (whether or not deriving from a registered freehold or leasehold title) by the original lessee or his personal representative shall be paid in accordance with Scale 1 in Schedule 1 on an amount calculated in accordance with the following formula:

$$A = P + (10 \times R)$$

where

A is the amount on which the fee is to be paid, P is the amount or value of any monetary consideration given by the lessee as part of the same transaction by way of fine, premium or otherwise, and R is the largest ascertainable amount of annual rent reserved by the lease.

(3) Where no monetary consideration is given by the lessee as part of the same transaction by way of fine, premium or otherwise and:

- (a) no annual rent is reserved; or
- (b) the annual rent reserved cannot be ascertained at the time the application is made,

a fee shall be paid in accordance with Scale 1 in Schedule 1 on the value of the lease determined in accordance with article 7, subject to the minimum fee being £40.

Transfers of registered land for monetary consideration, etc.

3.—(1) Subject to paragraphs (2) to (5), and to article 4(1)(i) (transfer of matrimonial home pursuant to an order of the Court) and article 6 (large scale applications, etc.), the fee for an application for the registration of:

- (a) a transfer of registered land for monetary consideration;
- (b) a transfer for the purpose of giving effect to a disposition for monetary consideration of a share in registered land;
- (c) a surrender of a registered lease for monetary consideration (whether effected by deed or otherwise), except where the surrender is consideration or part consideration for the grant of a new lease to the registered proprietor for the registration of which a scale fee is paid;

shall be paid in accordance with Scale 1 in Schedule 1 on the amount or value of the consideration.

(2) Where a sale and sub-sale of land are effected by separate instruments of transfer, a separate fee shall be payable in respect of each transfer.

(3) Where a single instrument of transfer gives effect to a sale and a sub-sale of the same land a single fee shall be assessed upon the greater of the monetary consideration given by that purchaser or the monetary consideration given by the sub-purchaser in respect of that land.

(4) Where a single instrument of transfer gives effect to a sale, and a sub-sale of part only of the land comprised in the sale, the fee payable shall be the aggregate of:

- (a) a fee assessed upon the monetary consideration given by the sub-purchaser in respect of the land comprised in the sub-sale; and
- (b) a fee assessed upon the amount (if any) by which the monetary consideration given by the purchaser in respect of the land comprised in the sale exceeds the monetary consideration given by the sub-purchaser in respect of the land comprised in the sub-sale.

(5) Where an instrument gives effect to an exchange of registered land (“the first land”) for other registered land (“the second land”), whether or not money is paid by way of equality, it shall be treated for the purpose of assessing the fee payable for its registration as two separate transfers, being a transfer of the first land for monetary consideration equal to the value of the first land and a transfer of the second land for monetary consideration equal to the value of the second land.

(6) The fee for an application to cancel an entry in the register of notice of an unregistered lease which has determined on merger, surrender or otherwise shall be paid in accordance with Scale 1 in Schedule 1 on the value thereof immediately prior to its determination.

Transfers otherwise than for monetary consideration, etc.

4.—(1) Subject to paragraphs (2) and (3), to article 6 (large scale applications, etc.) and to paragraph (8) of Schedule 4 (applications to which section 145(2) of the Act applies), the fee for an application for the registration of:

- (a) a transfer of registered land otherwise than for monetary consideration;
- (b) a surrender of a registered lease (whether effected by deed or otherwise) where the surrender is consideration or part consideration for the grant of a new lease to the registered proprietor for the registration of which a scale fee is paid;
- (c) a surrender of a registered lease otherwise than for monetary consideration (whether effected by deed or otherwise);
- (d) a transmission of registered land on death or bankruptcy;
- (e) an assent of registered land (including a vesting assent);
- (f) an appropriation of registered land;
- (g) a vesting order or declaration made under section 47 of the Act;
- (h) a rectification of the register;
- (i) a transfer of a matrimonial home (being registered land) made pursuant to an order of the Court;

shall be paid in accordance with Scale 2 in Schedule 2 on the value of the land which is the subject of the dealing, determined in accordance with article 8, but after deducting therefrom the amount secured upon the land by any charge subject to which the registration takes effect.

(2) Where a transfer falling within paragraph (1)(a) is one for the purpose of giving effect to the disposition of a share in registered land the fee for an application for its registration shall be paid in accordance with Scale 2 in Schedule 2 on the value of that share.

(3) Where, in the case of rectification of the register, the fee appears to the Registrar to be unreasonable or excessive he may reduce or waive it.

Charges of registered land

5.—(1) Subject to paragraphs (5) and (6), and to article 6 (large scale applications, etc.), the fee for an application for the registration of a charge shall be paid in accordance with Scale 2 in Schedule 2 on the amount of the charge determined in accordance with article 9.

(2) Subject to article 6 (large scale applications, etc.), the fee for an application for the registration of:

- (a) the transfer of a charge for monetary consideration; or
- (b) a transfer for the purpose of giving effect to the disposition for monetary consideration of a share in a registered charge;

shall be paid in accordance with Scale 2 in Schedule 2 on the amount or value of the consideration.

(3) Subject to article 6 (large scale applications, etc.), and to paragraph (8) of Schedule 4 (applications to which section 145(2) of the Act applies), the fee for an application for the registration of the transfer of a registered charge otherwise than for monetary consideration shall be paid in accordance with Scale 2 in Schedule 2 on the amount secured by the registered charge at the time of the transfer or, where the transfer relates to more than one charge, the aggregate of the amounts secured by the registered charges at the time of the transfer.

(4) Subject to article 6 (large scale applications, etc.), and to paragraph (8) of Schedule 4 (applications to which section 145(2) of the Act applies), the fee for an application for the registration of a transfer for the purpose of giving effect to the disposition otherwise than for monetary consideration of a share in a registered charge shall be paid in accordance with Scale 2 in Schedule 2 on a proportionate part of the amount secured by the registered charge at the time of the transfer or, where the transfer relates to more than one charge, a proportionate part of the aggregate of the amounts secured by the registered charges at the time of the transfer.

(5) Subject to paragraph (6), where a scale fee application (“the primary application”) is made that will, when completed, result in a person (“the applicant”) becoming registered as the proprietor of particular registered land or of one or more registered charges, no fee shall be payable for the registration of a charge by the applicant (or, where the primary application is for the first registration of title to land, by a predecessor in title of the applicant) which charges the registered land or the registered charge or charges which are the subject of the primary application, provided the charge by the applicant either accompanies the primary application or is lodged for registration before the primary application is completed.

(6) Where a charge by an applicant referred to in paragraph (5) also charges property (“the additional property”) which comprises registered land or, as the case may be, one or more registered charges, not being property which is the subject of the primary application referred to in paragraph (5), that paragraph shall not extend to the additional property so that a fee shall be paid in accordance with Scale 2 in Schedule 2 for the registration of the charge by the applicant in respect of the additional property on an amount calculated in accordance with the following formula:

$$A = \frac{V_A \times C}{V_C}$$

where

A is the amount on which the fee is payable, V_A is the value or amount of the additional property, V_C is the value of all the property comprised in the charge and C is the amount of the charge determined in accordance with article 9.

Large scale applications, etc.

6.—(1) In this article:

- (a) “large area application” means an application falling within article 2 (first registration of land; first registration of title to a lease) which comprises land having an area or aggregate area exceeding 100 hectares;
- (b) “large scale application” means a scale fee application which relates to not fewer than 20 land units, other than—
 - (i) a large area application;
 - (ii) a low value application; or

- (iii) an application to register a charge to which article 5(5) applies, except to the extent that it relates to additional land within the meaning of article 5(6);
- (c) “low value application” means a scale fee application, other than an application falling within article 2 (applications for first registration), where the value of the land, or the amount of the charge, to which it relates (as the case may be) does not exceed £30,000.
- (d) “land unit” means:
 - (i) where the land is unregistered, a separate area of land not adjoining any other unregistered land comprised in the same application;
 - (ii) where the land is registered, the land registered under a single title number.
- (2) The fee for a large scale application shall be whichever is the greater of:
 - (a) the amount payable in respect of the application under article 2, 3, 4 or 5, as the case may be; or
 - (b) a fee calculated on the following basis—
 - (i) where the application relates to not more than 500 land units, £10 for each land unit to which it relates;
 - (ii) where the application relates to more than 500 land units, £5,000 plus £5 for each land unit to which it relates in excess of 500 land units,provided that the fee shall in no case exceed £40,000.
- (3) If, having regard to the extent of the land comprised in a large area application, the Registrar considers that the cost of the work involved in dealing with that application would substantially exceed the scale fee otherwise payable, such additional fee shall be payable as the Registrar shall direct as appropriate not exceeding the excess cost of the work involved.

PART III

Valuation

Valuation (first registration)

7.—(1) In the case of an application to which article 2(1) applies (first registration of title to land otherwise than by the original grantee under a lease or his personal representatives) made within one year of a sale (other than an exchange, whether or not money is paid for equality, or the sale of a share only in the proceeds of sale of such land) the value of the land shall be taken to be the amount of the monetary consideration given together with the amount outstanding at the time of the purchase under any charge or mortgage subject to which the land was purchased.

- (2) In the case of an application:
 - (a) to which article 2(1) applies, other than one falling within paragraph (1); or
 - (b) to which article 2(3) applies,

the value of the land or lease (as the case may be) shall be ascertained by the Registrar at such sum as in his opinion it would fetch if sold in the open market at the date of the application free from any charge or mortgage.

(3) As evidence of such value the Registrar may require a statement in writing, signed by the applicant or his solicitor or licensed conveyancer or by any other person who, in the Registrar’s opinion, is competent to make such a statement.

(4) Where an application for first registration is made on the purchase of a leasehold estate by the reversioner or of a reversion by the leaseholder or on any other like occasion and determination

of an unregistered interest, by way of merger, surrender or otherwise, takes place, the value of the land shall be the combined value of the reversionary and determined interests assessed in accordance with paragraphs (1) to (3).

Valuation (registered land)

8.—(1) Where the value of the land in a registered title falls to be determined under this Order it shall be ascertained by the Registrar at such sum as in his opinion the land would fetch if sold in the open market free from any charge or mortgage:

- (a) in the case of a surrender at a date immediately prior to the surrender;
- (b) in any other case at the date of the application.

(2) As evidence of such value the Registrar may require a statement in writing, signed by the applicant or his solicitor or licensed conveyancer or by any other person who, in the Registrar's opinion, is competent to make such a statement.

Valuation (charges)

9.—(1) Subject to paragraph (5), where the amount of a charge falls to be determined under this Order it shall be taken to be:

- (a) in the case of a charge to secure a fixed amount, the amount secured by the charge;
- (b) in the case of a charge to secure further advances, where the total amount of the advances or of the money to be owing at any one time is in any way limited, the amount so limited;
- (c) in the case of a charge to secure further advances, where the total amount of the advances or of the money to be owing at any one time is in no way limited, an amount equal to the value of the registered land comprised in the charge after deducting therefrom the amount secured on it by any prior registered charge.

(2) Where a charge of a kind referred to in paragraph (1)(a) or (1)(b) is secured on unregistered land or other property as well as on registered land, the fee in accordance with article 5 shall be payable on an amount calculated in accordance with the following formula:

$$A = \frac{V_R \times C}{V_C}$$

where

A is the amount on which the fee is payable, V_R is the value of the registered land, V_C is the value of all the property comprised in the charge, and C is the amount of the charge determined in accordance with paragraph (1).

(3) The fee for the registration of a charge by way of additional or substituted security or by way of guarantee shall be payable on the lesser of:

- (a) the amount secured or guaranteed; or
- (b) the value of the land after deducting the amount secured on the land by any prior registered charge.

(4) Subject to paragraph (5), the fee for the registration of a charge to secure an obligation or liability which is contingent upon the happening of a future event (not being a charge falling within paragraph (3)) shall be payable on the value of the land after deducting the amount secured on the land by any prior registered charge.

(5) If in relation to a charge to which paragraph (4) applies, the maximum amount or value of the obligation or liability which may arise is in any way limited under the charge and is capable of being ascertained at the time of the application to register the charge then the fee shall be payable

on that amount or value, if less than the value of the land after deducting the amount secured on the land by any prior registered charge.

(6) For the purpose of this Order, where two or more charges are contained in the same instrument and secure the same debt, the instrument shall be treated as creating a single charge by the chargor (or where there is more than one chargor, a single separate charge by each of the chargors) the amount of the charge (or the charge by each chargor) being equal to the lesser of:

- (a) the whole debt; or
- (b) the value of the registered land charged by that chargor after deducting therefrom the amount secured on it by any prior registered charge.

PART IV

Fixed Fees and Exemptions

Fixed fees

10.—(1) Subject to paragraphs (3) and (4), the fees for the applications and services specified in Schedule 3 shall be those set out in that schedule.

(2) The fee for an application in Form 112A, Form 112B or Form 112C in Schedule 1 to the Land Registration (Open Register) Rules 1991 shall be the aggregate of the fees payable for the services provided, save that the maximum fee for any one application shall be £200.

(3) The Registrar may, if he thinks fit, waive any fee or part of a fee or any category of fee payable under this article.

(4) If, having regard to the extent of the land to which an application for a search of the Index Map relates, the Registrar considers that the cost of the work involved in dealing with that application would substantially exceed any fee otherwise payable under this Order, such additional fee shall be payable as the Registrar shall direct as appropriate to cover the excess cost of the work involved.

(5) Notification of the additional fee shall be given to the applicant and, if he then elects to withdraw his application, no fee shall be payable.

Exemptions

11. No fee shall be payable in respect of any of the applications and services specified in Schedule 4.

PART V

General and Administrative Provisions

Refund of fees

12.—(1) Where an amount exceeding the prescribed fee has been paid, there shall be refunded any excess remaining after the deduction, if the Registrar so directs, of an amount not exceeding £10 in respect of the cost of repayment.

(2) Where the person or firm lodging the application is an account holder, any amount to be refunded under paragraph (1) may at the discretion of the Registrar be repaid to the account holder by crediting the amount to the account holder's credit account.

(3) Subject to article 10(5), if any application is cancelled or withdrawn no part of the fee thereof shall be refunded unless the Registrar so directs.

Cost of advertisements and special enquiries

13. If in the course of dealing with any application the Registrar directs publication of an advertisement or any other special enquiry, the costs so incurred shall be defrayed by the applicant unless the Registrar directs to the contrary.

Fixed boundaries

14. Where application is made for the boundaries of land to be noted on the register as fixed under rule 277 of the principal rules such fee shall be charged as the Registrar may consider necessary to cover the cost of any examination of title, enquiries, mapping, surveying, notices or other work involved.

Special expedition

15. Where application for special expedition in connection with an application is granted, such further fee, being not less than £40, shall be payable as the Registrar shall direct having regard to the special work involved.

Applications not otherwise referred to

16. Upon an application for which no other fee is payable under this Order and which is not exempt from payment, there shall be paid such fee (if any) not exceeding a fee in accordance with Scale 1 in Schedule 1 on the value of the land or on the amount of the charge as the Registrar shall direct having regard to the work involved.

Method of payment

17. Fees payable under this Order shall be collected in money and, subject to article 18:
- (a) every fee shall, except where the Registrar otherwise permits, be paid by means of a cheque or postal order crossed and made payable to H.M. Land Registry;
 - (b) where the amount of the fee payable on an application is immediately ascertainable, the fee shall be payable on delivery of the application;
 - (c) where the amount of the fee payable on an application is not immediately ascertainable, on delivery of the application there shall be paid on account of the fee such sum, being not less than the minimum fee payable in accordance with Scale 1 in Schedule 1, as the applicant may reasonably estimate to be the fee payable and there shall be lodged therewith an undertaking to pay on demand the balance of the fee due, if any.

Credit accounts

18.—(1) In this article “credit limit” in relation to a credit account authorised for use under paragraph (2) means the maximum amount (if any) which is to be due on the account at any time, as notified by the Registrar to the account holder from time to time, by such means of communication as the Registrar considers appropriate.

(2) Any person or firm may, if authorised by the Registrar, use a credit account in accordance with this article for the purpose of the payment of fees for applications and services of such kind as the Registrar shall from time to time direct.

(3) For the purpose of enabling the Registrar to consider whether or not a person or firm seeking to use a credit account may be authorised to use such an account, that person or firm shall furnish to the Registrar such information and evidence as the Registrar may require to satisfy him of the person or firm's fitness to hold a credit account and the ability of the person or firm to pay any amounts which may become due from time to time under a credit account, if authorised.

(4) For the purpose of enabling the Registrar to consider from time to time whether or not an account holder may continue to be authorised to use a credit account, the account holder shall furnish to the Registrar from time to time, when requested to do so by the Registrar, such information and evidence as the Registrar may require to satisfy him of the account holder's continuing fitness to hold a credit account and the continuing ability of the account holder to pay any amounts which may become due from time to time under the account holder's credit account.

(5) Where an account holder makes an application in respect of which credit facilities are available, he may make a request, in such manner as the Registrar shall direct, for the appropriate fee to be debited to the account holder's credit account, but the Registrar shall not be required to accept such a request where the amount due on the account exceeds the credit limit applicable to the credit account, or would exceed it if the request were to be accepted.

(6) Where a person or firm having a credit account makes an application in respect of which credit facilities are available but which is not accompanied by any fee and does not contain a request for the fee to be debited to such account, the Registrar may debit the fee to that person's or that firm's credit account.

(7) A statement of account shall be sent by the Registrar to each account holder at the end of each calendar month or such other period as the Registrar shall direct either in any particular case or generally.

(8) On receipt of the statement the account holder shall pay by cheque any sum due on his credit account forthwith.

(9) Cheques shall be crossed and made payable to H.M. Land Registry and sent to the Accounts Section, H.M. Land Registry, Burrington Way, Plymouth PL5 3LP or at such other address as the Registrar shall direct.

(10) The Registrar may at any time and without giving reasons terminate or suspend any or all authorisations given under paragraph (2).

Dated 16th January 1997

Mackay of Clashfern, C.

Dated 27th January 1997

Patrick McLoughlin
Richard Ottaway
Two of the Lord Commissioners of Her
Majesty's Treasury