

EXPLANATORY MEMORANDUM TO
THE LAND REGISTRATION (PROPER OFFICE) ORDER 2013

2013 No. 1627

1. This explanatory memorandum has been prepared by Her Majesty's Land Registry and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 Her Majesty's Land Registry (Land Registry) has offices throughout England and Wales. The Land Registration (Proper Office) Order 2013 (the Order) will designate all fourteen Land Registry offices listed in the Schedule to the Order as proper offices for the receipt of applications.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 Under the Land Registration Act 2002 (the Act), the Chief Land Registrar (the registrar) is under a duty to continue to keep a register of title to legal estates in land in England and Wales (in particular, freeholds and leases having more than seven years to run) and several other types of estate, including charges (also known as mortgages).

4.2 A registered owner of land or of a charge has certain powers of disposition under the Act. Some dispositions, such as a transfer, many leases and the grant of a legal charge, must be completed by registration and do not take effect in law until this has been done.

4.3 Many different types of applications are made to Land Registry, including applications to register title to a legal estate in land for the first time, to complete dispositions by registration, to protect the priority of certain interests in land and for information.

4.4 The Act provides that the Secretary of State may by order designate a particular office of Land Registry as the proper office for the receipt of applications or a specified description of application. The Order is such an order.

5. **Territorial Extent and Application**

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is not subject to the affirmative procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The Land Registration (Proper Office) Order 2010, which was amended by the Land Registration (Proper Office) (Amendment) Order 2011, designates particular offices of Land Registry as the proper office for the receipt of specified descriptions of application. The designation is according to the administrative area in which the land is situated. This 2010 Order applies to all paper applications, except those where the application is delivered in accordance with a written arrangement as to delivery made between the registrar and the applicant or the applicant's conveyancer. The 2010 Order does not apply to applications made under the provisions of a notice under Schedule 2 to the Land Registration Rules 2003 (the Rules): applications in electronic form are made under the provisions of Schedule 2 notices.

7.2 If a paper application is not lodged at the proper office and not in accordance with a written arrangement, the application – although physically delivered – is not treated as having been made under the Act or Rules. Land Registry forwards wrongly-lodged applications to the proper office rather than returning them to the customer. However, this still means that there is a delay in such applications being made. Among other things, this can mean that interests do not have the priority over other interests that they would otherwise have had. Also, forwarding these applications to the proper office places an administrative burden on Land Registry staff.

7.3 Designating all Land Registry's local offices as proper offices, as the Order does, will permit applicants or the applicants' conveyancers to deliver applications to any of those offices. Like the current and earlier proper office orders, the Order will apply to all paper applications with the exception of those where the application is delivered in accordance with a written arrangement as to delivery made between the registrar and the applicant or the applicant's conveyancer. The Order also allows for members of the public acting without a conveyancer to be advised to lodge their applications at one particular local office, regardless of where the property is located, the local office concerned being dedicated to dealing with all applications from "DIY customers".

7.4 Up until a few years ago, the majority of paper applications were not covered by a written arrangement as to delivery and so had to be delivered in accordance with the proper office order. This requirement assisted Land Registry in the efficient processing of applications, because it generally meant that no office received either too much work or too little work. However, in 2009, Land Registry began to introduce "customer team" working, which means, broadly, that a particular team in a local office will handle all the paper applications lodged by several conveyancing firms, regardless of which administrative area the land falls in. There is a written

arrangement with these conveyancers which provides for their applications to be delivered to the local office where the customer team is located. The growth of these customer teams and the numbers of firms using them (over 5,000), mean that it is now only a minority of paper applications that are not covered by a written arrangement and so have to be delivered in accordance with Land Registration (Proper Office) Order 2010. This is the change in circumstances that now allows for the Order to be made.

8. Consultation outcome

8.1 The Order will not affect the costs incurred by business or other customers. It will simply allow applications to be delivered to any of the fourteen offices identified in the Order, rather than having to deliver to a particular office. In these circumstances it has not been thought necessary to undertake consultation.

9. Guidance

9.1 From 8 July 2013, Land Registry will provide the following publicity about the Order:

- A Latest News article will appear on the Land Registry website explaining what is happening
- A link will appear on the “Contact Us – Offices” page to the Latest News article mentioned above
- A note will appear on the existing Practice Guide explaining what is happening
- A message will be given to the Land Registry Advisory Council about the Order. This Council is comprised of representatives from the Building Societies Association, Conveyancing Association, Council for Licensed Conveyancers, Council of Mortgage Lenders, Institute of Legal Executives, Law Society, National Association of Estate Agents, Royal Institution of Chartered Surveyors, Society for Licensed Conveyancers.

Land Registry publishes an extensive set of Practice Guides for legal practitioners. These are freely available on the Land Registry website. The practice guides will reflect the Order.

9.2 From 1 October 2013, Land Registry will:

- Inform customers about the legislative changes through its website, through Landnet – Land Registry’s magazine for practitioners – and through Land Registry social media channels
- Send an email to customers whose names are held on a Land Registry database of customers to explain the Order. The email will also make clear that there is no change to existing written arrangements as to delivery.

10. Impact

10.1 The impact on business, charities and voluntary bodies is insignificant.

10.2 The impact on the public sector is insignificant.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to small business and to everyone else who needs to make paper applications to Land Registry. It does not impose any additional burden, but actually reduces a burden, by removing the obligation to deliver particular paper applications to a specific office.

12. Monitoring and review

12.1 The effectiveness of the publicity detailed in paragraph 9 will be continually monitored, and appropriate steps will be taken to deal with any general lack of understanding on the part of customers.

13. Contact

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can answer any queries regarding the instrument.