1991 No. 7

LAND REGISTRATION

Land Registration (Amendment) Rules (Northern Ireland) 1991

Made . . . . . *10th January 1991*

Coming into operation . . *28th March 1991*

ARRANGEMENT OF RULES

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The Department of the Environment, in exercise of the powers conferred by sections 10, 12, 14(6), 19(7), 27(1), 28, 48(2), 49(1), 55(2), 79 and 85(3) of, and paragraphs 1, 3 and 5 of Schedule 3, paragraphs 4 and 6 of Schedule 4 and paragraph 1 of Part II of Schedule 6 to the Land Registration Act (Northern Ireland) 1970(**a**), and paragraph 2(1) of Schedule 1 to the Northern Ireland Act 1974(**b**) and now vested in it(**c**), and every other power enabling it in that behalf, with the advice and assistance of the Land Registry Rules Committee(**d**), hereby makes the following rules—

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Land Registration (Amendment) Rules (Northern Ireland) 1991 and shall come into operation on 28th March 1991.

(2) In these Rules—

"Department" means the Department of the Environment;

"the principal Rules" means the Land Registration Rules (Northern Ireland) 1977(**e**).

Form and contents of registers

2. For rule 5 of the principal Rules, there shall be substituted the following rule—

"*Form and content of registers*

5.—(1) Each register shall be divided into folios and each folio shall bear a distinguishing number.

(2) Every new folio opened after the commencement of these Rules shall be divided into three parts as follows—

(*a*) Part I, containing a description of the land (including a reference to the relevant registry map and, where appropriate, a reference to the lease creating the registered estate), any authorised entries

(**a**) 1970 c. 18 (N.I.)
(**b**) 1974 c. 28
(**c**) S.I. 1982/338 (N.I. 6) Art. 5 and Sch. 1 Part II
(**d**) Established by 1970 c. 18 (N.I.) s. 85(1)
(**e**) S.R. 1977 No. 154

relating to mineral rights and such appurtenances and other relevant particulars or matters as the Registrar considers necessary or desirable;

(*b*) Part II, containing particulars of the owner of the land, the class of title, the class of ownership and such other particulars or matters as the Registrar considers necessary or desirable; and

(*c*) Part III, containing particulars of the incumbrances on the land, including the ownership of registered charges, notices as to the existence or otherwise of Schedule 5 burdens, and such other particulars or matters as the Registrar considers necessary or desirable.

(3) Subject to rule 6, all folios existing at the commencement of these Rules shall be revised in accordance with paragraph (2) as soon as the revision can, in the opinion of the Registrar, be conveniently effected.

(4) Every entry in a folio of a person as a registered owner or as a cautioner or in any other capacity, or as entitled to receive any notice, shall include his address in the United Kingdom for service of notices.''.

Index of names

3.—(1) For rule 12 of the principal Rules there shall be substituted the following rule—

''*Index of names*

12. There shall be maintained in the Registry an index of names containing the name of every registered owner (except registered owners of charges) in every folio, and the folio reference.''.

(2) In rule 167 of the principal Rules the words ''or the index of lands'' shall be deleted.

Days and hours of business

4. Rule 13 of the principal Rules is hereby revoked.

Applications for first registration

5.—(1) For rule 14 of the principal Rules, there shall be substituted the following rule—

''*Presentation of applications for first registration*

14.—(1) Subject to paragraph (2), every application for first registration of ownership shall, except in the case of a charge to which section 41(2) of the Act applies or in a case to which rule 84(1), 85(1) or 87 applies, be made in Form 1, 2, 3 or 4 with such modifications as the case may require, and where the application is to register the ownership of a registered burden a map shall not be necessary.

(2) Where an application for first registration is lodged by a solicitor, the Registrar may accept, as an alternative to an application in Form 1, 2, 3 or 4, a certificate by a solicitor to the effect that—

(*a*) he acts for the applicant and has examined the title to, and made or caused to be made all necessary searches and enquiries in respect of, the land described in the certificate as thoroughly as would be

required for the purchase of such land for full value under a contract limiting only the length of title to be shown to that set out in rule 31(1);

(*b*) he believes the applicant is, and has been since the date of acquisition as specified in the certificate, in undisputed possession of the land or in receipt of the rents and profits thereof;

(*c*) he is not aware of any question or doubt affecting the applicant's title or of any claim to the land adverse to the interest of the applicant;

(*d*) he is satisfied that the applicant has not entered into any arrangement, created any incumbrance, or incurred any liability giving rise to any incumbrance requiring entry on the register except as may be stated in the certificate;

(*e*) where the applicant is a corporate body—

(i) it has power to hold and dispose of the land;

(ii) any charge or mortgage by it requiring to be registered with the registrar of companies has been so registered;

(iii) no floating charge has been created by it (or, if a floating charge has been created, giving details and confirming that it has not crystallised), or as the case may be; and

(iv) the certifying solicitor is not aware of any petition or resolution for the applicant to be wound up; and

(*f*) the applicant is entitled to be registered as owner of the land for the estate and with the classes of ownership and title shown in the certificate subject to registration of only such burdens (not being matters which affect the land without registration by virtue of section 38 of and Schedule 5 to the Act) as are set out in the certificate.''.

(2) The following item shall be added as ''(*e*)'' to the list of documents set out in rule 15 of the principal Rules:—

''(*e*) where the application is made by a solicitor's certificate under rule 14(2), a duplicate, counterpart, or copy certified by a solicitor as a true copy, of—

(i) the assurance to the applicant;

(ii) the fee farm grant (if any) under which the land is held;

(iii) any mortgage or charge to be registered; and

(iv) any other document which is referred to in the solicitor's certificate and contains full details of a matter which requires to be registered on first registration.''.

(3) For paragraph (1) of rule 16 of the principal Rules, there shall be substituted the following paragraph—

''16.—(1) An application for first registration of the ownership of a leasehold estate shall, except in a case to which rule 85(1) or rule 87 applies unless the Registrar otherwise directs, be accompanied by the documents listed in rule 15 save that the reference in item (*e*)(ii) to 'the fee farm grant (if any) under which the land is held' shall be read as a reference to 'the lease under which the land is held'.''.

Reclassification of title

6.—(1) For rules 25, 26 and 27 of the principal Rules there shall be substituted the following rules—

"*Reclassification of possessory titles formerly subject to notes as to equities*

25. An application under paragraph 1 of Schedule 3 to the Act by a registered owner to reclassify as absolute a title deemed to be possessory, shall be made, where no other alteration is required to be made on the register, by lodgment of an application in Form 9 or in the form of a certificate by a solicitor containing a statement that he has made all necessary enquiries and also containing statements to the same effect as those in Form 9.

Reclassification on efflux of time

26. An application, under paragraph 2 of Schedule 3 to the Act by a registered owner or by a transferee for valuable consideration of the estate of a registered owner, to reclassify a title on registration of the transfer, shall be made by lodgment of an application in Form 10 or an application in the form of a certificate by a solicitor to the same effect.

Reclassification of certain qualified titles

27. An application under paragraph 3 of Schedule 3 to the Act may be made in Form 12 where such application is made by the registered owner to reclassify as a good fee farm grant, or a good leasehold, title, a title registered at the commencement of the Act as a qualified title and the Registrar at the time of first registration would have been justified in registering the title as a good fee farm grant, or a good leasehold, title if the provisions of section 13 of the Act had applied at that time.

Reclassification of titles in other cases

27A.—(1) An application to reclassify a title in any other case shall be made in Form 11.

(2) An application in Form 11 may be accompanied by a certificate by a solicitor confirming the contents of the applicant's affidavit to be true, that all necessary searches and enquiries have been made, and that the reclassification sought is justified.".

(2) At paragraph (2) of rule 28 of the principal Rules, "27A" shall be substituted for "27".

Examination of title

7. The following paragraph shall be added to rule 30 of the principal Rules—

"(3) In the course of any examination of title, the Registrar may take such indemnity (if any) as he considers necessary or expedient.".

Modification of examination of title

8. For rule 31 of the principal Rules, there shall be substituted the following rule—