1988 No. 410

LAND REGISTRATION

Land Registry (Fees) Order (Northern Ireland) 1988

Made . . . . . 23rd November 1988

Coming into operation . . 1st February 1989

To be laid before Parliament under paragraph 3(3) of Schedule 1 to the Northern Ireland Act 1974

The Department of the Environment, in exercise of the powers conferred by section 84 of the Land Registration Act (Northern Ireland) 1970(**a**) and now vested in it(**b**) and of every other power enabling it in that behalf, with the approval of the Department of Finance and Personnel(**c**) and after consultation with the Land Registry Rules Committee established by section 85 of that Act, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Land Registry (Fees) Order (Northern Ireland) 1988 and shall come into operation on 1st February 1989.

(2) In this Order words and expressions defined in the Rules have the same meaning as in the Rules and—

"annual rent" means the largest amount of annual rent payable in respect of any year calculable under the instrument reserving or creating the rent;

"charge" includes "sub-charge";

"fees" means the fees referred to in Article 3(1);

"minimum fee" in relation to a transaction, means the minimum fee set out in the Scale;

"the Rules" means the Land Registration Rules (Northern Ireland) 1977(**d**) and a reference by number to a Rule is a reference to the Rule bearing that number in the Rules;

"the Scale" means the scale set out in paragraph 1 of the Schedule;

"transaction" means any application, dealing, request or other matter in relation to which a fee is to be taken.

(3) Nothing contained in this Order shall require payment of a fee in respect of any matter which by any enactment is expressly made exempt from payment of a fee, or to exempt from payment of a fee any matter in respect of which a fee is expressly made payable by any enactment.

(**a**) 1970 c. 18 (N.I.)
(**b**) By the Departments (Northern Ireland) Order 1982 S.I. 1982/338 (N.I. 6) Art. 5 and Part II of Sch. 1
(**c**) Approval function conferred by S.I. 1982/338 (N.I. 6) Art. 9 and Sch. 2
(**d**) S.R. 1977 No. 154

Revocation

2. The Land Registry (Fees) Order (Northern Ireland) 1982(**a**) is hereby revoked.

Payment of fees

3.—(1) Subject to the following provisions of this Order, the fees shall be those set out in the Schedule and shall be payable at the time when the transaction is presented to the Registry.

(2) Where in the ascertainment of the fees payable in respect of any transaction a calculation is involved, the amount payable shall be calculated to the nearest 5 pence.

(3) Every fee shall be paid in cash or by means of a banker's draft, money order, postal order or cheque drawn to the order of the Land Registry of Northern Ireland.

Refund of fees

4.—(1) In the event of an application or dealing (other than the registration as a burden of a charge imposed under Article 46 of the Judgments Enforcement (Northern Ireland) Order 1981(**b**)) being refused, withdrawn or abandoned, there shall be payable the sum of £25 in respect of the application or dealing, or one quarter of the fee payable, whichever is the greater.

(2) Where an amount exceeding the prescribed fee has been paid, there shall be refunded any overpayment which exceeds £5.

Exemption from fees

5. No fee shall be payable for—

(*a*) registration as a burden, at the time of first registration of the title, of a matter which arose before first registration other than a charge for payment of money affecting a leasehold estate where the ownership of the leasehold estate will be registered in accordance with Rule 87(2) or 88(2);

(*b*) registration on a folio of the ownership of a burden where such registration is made at the time of its registration as a burden;

(*c*) registration as a burden of an easement or profit-à-prendre or a right to which section 47 of the Act applies or a right of maintenance or support where such easement, profit-à-prendre or right is created or granted in a document of transfer or lease and such registration is made at the time of registration of the transfer or lease;

(*d*) registration of an appurtenance where the easement is created or granted in a document of transfer or lease and such registration is made at the time of registration of the transfer or lease;

(*e*) registration of a burden created by the will of a registered owner or in a deed of settlement or of a charge under section 7 of the Administration of Estates Act (Northern Ireland) 1955(**c**) when such

(**a**) S.R. 1982 No. 2
(**b**) S.I. 1981/226 (N.I. 6)
(**c**) 1955 c. 24 (N.I.)

burden is registered at the time of registration of a change in ownership of the land the subject of the burden;

(*f*) registration of a charge created by an order charging land made under Article 46 of the Judgments Enforcement (Northern Ireland) Order 1981 when notice of that order has been entered on the register under Article 48 of that Order;

(*g*) entry of notice of the existence of a burden specified in entry 5 of Part I of Schedule 5 to the Act, or cancellation of any burden specified in entry 3, 4 or 5 of Part I of that Schedule;

(*h*) reclassification of a title on the initiative of the Registrar under paragraph 3 of Schedule 3 to the Act;

(*i*) rectification of a register where the rectification is made in consequence of an error made in the Land Registry;

(*j*) entry of an inhibition by the Registrar, under section 68 of the Act;

(*k*) alteration of the description of land registered in a folio;

(*l*) alteration of the address or description of a person appearing in a folio or alteration of such person's surname consequent on marriage;

(*m*) approval of an estate development map intended for use in a series of dealings;

(*n*) registration of a charge or other burden on a superior estate consequent on the extinguishment of an inferior estate;

(*o*) entry or cancellation of entry of any notice or direction furnished by the Master (Bankruptcy) under section 59 of the Act;

(*p*) the devolution of the title of any person entitled to be registered as owner but not so registered, where application has been made for the registration of ownership on transmission on the death of a registered full owner or on cessation of a limited ownership;

(*q*) the cancellation of a caution or inhibition.

Value

6.—(1) For the purposes of this Order, value shall be determined in accordance with paragraphs (2) to (7) and Articles 7, 8 and 9.

(2) The value of any estate in land the subject of a dealing or application for first registration shall be such sum as that estate in the land would fetch if sold on the open market at the date of such dealing or application free from any mortgage or charge for payment of money other than a land purchase annuity and the evidence of such value may consist of—

(*a*) a statement in writing signed by the applicant or his solicitor setting out the market value of that estate free from any mortgage or charge for payment of money other than a land purchase annuity; or

(*b*) a statement of the purchase money set out in a deed transferring the relevant estate for full market value and executed within one year of the request for registration together with the amount due at the time of such transfer on foot of any mortgage or charge for payment of money other than a land purchase annuity and for the purpose of this sub-paragraph the amount of an annuity for life shall be ten times the greatest amount payable in one year and where the sale was made

wholly or partially in consideration of a rent charge or fee farm rent the capitalized value of that rent shall be ten times the amount of the annual rent.

(3) On making any entry or cancellation on a register where such entry or cancellation involves investigation of title to unregistered land and is not otherwise provided for in this Order, the value shall be the same as that in an application for a first registration of title to such unregistered land as determined in accordance with paragraph (2).

(4) On registration of a charge for payment of money or on transfer, transmission or cancellation of such a charge or on first registration in the register of subsidiary interests of the ownership of such a charge previously registered as a burden on any register, the value shall be—

(*a*) where the amount of the charge is a definite sum and whether or not the charge also secures further advances, that sum;

(*b*) where the charge is exclusively to secure an unascertained sum and the total amount to be owing at any one time is in any way limited, the amount so limited;

(*c*) where the charge is exclusively to secure an unascertained sum and the total amount to be owing at any one time is in no way limited, £25,000;

(*d*) where the charge is to secure an annuity, ten times the greatest amount payable in any one year.

(5) On registration, pursuant to Article 48 of the Judgments Enforcement (Northern Ireland) Order 1981, of notice of an order charging land imposed under Article 46 of that Order, the value shall be the same as in the case of registration of a charge pursuant to such an order.

(6) On registration of an exchange, the value shall be the combined value of the land exchanged determined in accordance with paragraph (2) excluding sub-paragraph (*b*).

(7) In a transaction relating solely to the estate of a person entitled as a tenant in common, joint tenant or coparcener, the value shall be the value of that person's estate and where a registered owner transfers his estate to himself and another as co-owners, the value shall be the value of the estate passing to the other person.

Fees on the merger of unregistered estates on first registration

7. Where an application for first registration is made following upon a transaction whereby two or more unregistered estates have merged the fee payable on the application shall be payable on the combined value of the superior and merged unregistered estates.

Charge secured on registered and unregistered land

8.—(1) Where a charge for payment of money is secured on unregistered land or other property as well as on registered land, the fee for registration of the charge or on transfer or transmission of such a charge or on first registration in the register of subsidiary interests of the ownership of such a charge previously registered as a burden on any register shall be payable on an amount calculated in accordance with the following formula:—

$$\frac{\text{Value of registered land}}{\text{Value of whole security}} \times \text{Total sum secured}$$

(2) The evidence of the values mentioned in paragraph (1) may consist of a statement of those values in writing signed by the applicant for registration or his solicitor.

Additional or substituted security or guarantee

9.—(1) Subject to paragraph (2), the fee for the registration of a charge by way of additional or substituted security or by way of guarantee or on transfer or transmission of such a charge or on first registration in the register of subsidiary interests of the ownership of such a charge previously registered as a burden on any register shall be payable on the amount secured or guaranteed.

(2) The amount on which such fee is to be payable shall not exceed the value of the additional or substituted land after deducting therefrom the amount secured on it by any prior registered charge.

Instruments relating to several folios

10.—(1) Where an instrument relating to several folios is presented for registration in some or one only of those folios, the fee shall be the same as that which would have been payable if it were being registered in all the folios to which it related.

(2) If application is made subsequently to register such instrument in any of the other folios to which it relates, a further fee of £20 shall be payable on each such application.

Application to the Crown

11. Subject to the provisions of the Act, this Order shall bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 23rd November 1988.

(L.S.) *R. H. Mackenzie*
Under Secretary

The Department of Finance and Personnel hereby approves the foregoing Order.

Sealed with the Official Seal of the Department of Finance and Personnel on 23rd November 1988.

(L.S.) *Joan O. M. Frame*
Assistant Secretary