1981 No. 26

LAND REGISTRATION

Land Registry (Fees) Order (Northern Ireland) 1981

Made . . . . . 30th January 1981

Coming into operation . . . 1st March 1981

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

The Department(**a**) of Finance, in exercise of the powers conferred on it by section 84 of the Land Registration Act (Northern Ireland) 1970(**b**) and of every other power enabling it in that behalf, 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) 1981 and shall come into operation on 1st March 1981.

(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";

"fee" means the fee to be taken in the Land Registry for the purposes of the Act;

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

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

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

(3) A reference in this Order to a Scale by number is a reference to the Scale bearing that number in the Annex to the Schedule.

(4) 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.

Revocation

2. The Land Registry (Fees) Order (Northern Ireland) 1979(**d**) is hereby revoked.

Payment of fees

3.—(1) Subject to the provisions of this Order, the fees shall be those set out in the Schedule and, except as provided by paragraph (4), shall be payable at the time when the transaction is presented to the Registry.

(**a**) Formerly Ministry: *see* 1973 c. 36 s. 40 and Sch. 5 para. 8(1)
(**b**) 1970 c. 18 (N.I.)
(**c**) S.R. 1977 No. 154
(**d**) S.R. 1979 No. 299

(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 five 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.

(4) Where the amount of a fee payable in respect of any transaction cannot be ascertained at the time when the transaction is presented to the Registry, the Registrar may accept—

(*a*) payment of £3 on account of the fee payable, and

(*b*) lodgment of an undertaking in writing to pay forthwith on demand the balance of the fee due when same has been ascertained.

Refund of fees

4. Where a fee calculated in accordance with any of the Scales 1 to 6 has been paid in respect of an application or dealing other than the registration as a burden of a charge imposed under section 46 of the Judgments (Enforcement) Act (Northern Ireland) 1969(**a**) and the registration sought is refused or the application or dealing is withdrawn, the Registrar shall refund threequarters of the fee.

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;

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

(*c*) registration of the ownership of a fee farm rent where such registration is made in accordance with Rule 84(2);

(*d*) registration of the ownership of a perpetual rent-charge or fishing or sporting right where such registration is made in accordance with Rule 85(2);

(*e*) registration of the ownership of a leasehold estate where such registration is made in accordance with Rule 87(2) or 88(2);

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

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

(*h*) registration of a burden created by the will of a registered owner or in a deed of settlement made in respect of registered land after first registration when such burden is registered at the time of the registration of a change in ownership of the land the subject of the burden;

(*i*) registration of a charge created by an order charging land made under section 46 of the Judgments (Enforcement) Act (Northern Ireland) 1969 when notice of that order has been entered on the register under section 48 of that Act;

(*j*) entry of a note in respect of payment of death duties or capital transfer tax when such entry is made at the time of registration of an ownership of the land;

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

(a) 1969 c. 30 (N.I.)

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

(*m*) reclassification of a qualified title in a case to which paragraph (*b*) of Rule 27 applies;

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

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

(*p*) alteration of the address or description of a person appearing in a folio;

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

(*r*) any transaction by or on behalf of a department of the government of the United Kingdom or of the government of Northern Ireland where it is certified to the satisfaction of the Registrar that the transaction is made in the public service;

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

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

(*u*) the devolution of the title of any person entitled to be registered as owner but not so registered, in relation to the registration of ownership on transmission on the death of a registered full owner or on cessation of a limited ownership.

Reduced fees

6.—(1) Subject to paragraph (2)—

(*a*) on any application for first registration made in accordance with Part II of the Rules where first registration is compulsory, one half only of the fee otherwise payable shall be payable, subject to sub-paragraph (*b*);

(*b*) on any application for first registration made in accordance with Part II of the Rules where first registration is compulsory by virtue of Entry 2 of Part I of Schedule 2 to the Act, the fee payable shall not exceed £10;

(*c*) where a document of transfer and a document whereby the transferee charges the land with payment of money are presented for registration at the same time, one half only of the fee otherwise payable shall be payable for registration of the charge as a burden;

(*d*) where a document of transfer contains a charge on the land transferred, the fee payable for the registration of the charge shall be one half only of the fee otherwise payable for the registration of such charge;

(*e*) where, in the case of a transfer not made for valuable consideration by a registered owner, it is shown to the satisfaction of the Registrar that such registered owner held only as trustee and that the transfer is to a person to hold as a new trustee, the fee payable thereon shall be the minimum fee.

(2) Paragraph (1) shall not operate to reduce any fee to less than the minimum fee.

Co-owners

7.—(1) In a transaction relating solely to the estate of a person entitled as a tenant in common, joint tenant or co-parcener, the fee payable thereon shall be assessed only on the value of that person's estate.

(2) Where persons registered as co-owners of land transfer estates therein to themselves, the fee payable on such transfer shall be the minimum fee.

(3) Where a registered owner transfers his estate to himself and another as co-owners, the fee payable on such transfer shall be assessed on the value of the estate passing to the other person.

Value

8.—(1) For the purposes of this Order, value shall be determined in accordance with the following provisions of this Article.

(2) On first registration, in accordance with Part II of the Rules, in the register of freeholders or the register of leaseholders—

(*a*) where the application for registration is made within one year of a purchase (other than on an exchange) of the fee simple estate or, in the case of a leasehold estate, the leasehold term, in the land the subject of the application, the value shall be the amount of the purchase money together with the amount outstanding at the time of the purchase under any mortgage or charge for payment of money subject to which such estate or term was purchased: 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;

(*b*) where the application for registration is not made within one year of such a purchase, the value shall be such sum as the fee simple or, in the case of a leasehold estate, the leasehold term in the land would fetch if it were sold in the open market at the date of such application free from any mortgage or charge for payment of money and there may be accepted by the Registrar as evidence of such value a statement of the value in writing signed by the applicant or his solicitor or any other person who, in the opinion of the Registrar, is competent to make such a statement.

(3) On first registration, in accordance with Part II of the Rules, in the register of subsidiary interests—

(*a*) in the case of the ownership of a perpetual rent-charge or free farm rent, the value shall be an amount equivalent to ten times the amount of the annual rent.

(*b*) in the case of the ownership of any interest other than a perpetual rent-charge or free farm rent, the value shall be—

(i) £500; or

(ii) the amount of the purchase money in respect of such interest expressed in the instrument creating the interest or, if the interest has been subsequently sold, the purchase money in respect of such interest expressed in the latest conveyance or assignment of it, together with, when the interest is granted, conveyed or assigned subject to a rent, the capitalized value of the rent which shall be taken at ten times the amount of the anuual rent;

whichever of such amounts is the greater.

(4) On reclassification of title, except in a case to which paragraph III(2) of the Schedule applies, the value shall be determined—

(*a*) in the case of a title registered in the register of freeholders or register of leaseholders, in accordance with paragraph (2)(*a*) or, as the case may be, paragraph (2)(*b*);

(*b*) in the case of a title to a perpetual rent-charge or a fee farm rent registered in the register of subsidiary interests, in accordance with paragraph (3);

(*c*) in the case of a title, other than a title to a perpetual rent-charge or a fee farm rent, registered in the register of subsidiary interests, as £500.

(5) On making a cancellation on a register of an easement or profit-a-prendre where such cancellation involves the investigation of title to unregistered land which had the benefit of such easement or profit-a-prendre, the value shall be the money

consideration expressed in the instrument effecting the cancellation of the easement or profit-a-prendre or £1,000 whichever is the greater.

(6) 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.

(7) On—

(*a*) registration of ownership, under section 36 of the Act, on defeasance of the estate of a registered owner; or

(*b*) registration under section 53 of the Act, of a title acquired by possession,

the value shall be determined in accordance with paragraph (2)(*a*) or, as the case may be, paragraph (2)(*b*) or, when the registered title affected is so registered in the register of subsidiary interests, in accordance with paragraph (3)(*a*) or, as the case may be, paragraph (3)(*b*).

(8) On registration of—

(*a*) a transfer made for full money consideration, except in the case of a charge for payment of money, the value shall be the amount of the money consideration expressed in the instrument together with the amount of any registered charge for payment of money but excluding 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 transfer is made in consideration wholly or partly of a rent-charge or fee farm rent the capitalized value of that rent shall be ten times the amount of the annual rent;

(*b*) a transfer not made for full money consideration, except on registration of the assignee of a person registered as limited owner or registration of a transfer of a charge for payment of money, the value shall be determined, in the case of an ownership registered in the register of freeholders or register of leaseholders, in accordance with paragraph (2)(*a*) or, as the case may be, paragraph (2)(*b*), and in the case of an ownership registered in the register of subsidiary interests in respect of a perpetual rent-charge or fee farm rent shall be determined in accordance with paragraph (3)(*a*) and in the case of an ownership registered in the register of subsidiary interests in respect of an interest other than a perpetual rent-charge or fee farm rent shall be £500;

(*c*) a transfer which comprises both registered land and unregistered land, the value of the registered land shall be the part attributable to the registered land of the total value of the registered land and the unregistered land, such values to be determined in accordance with sub-paragraphs (*a*) and (*b*).

(9) 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 instrument of charge also contains a provision for further advances, that sum;

(*b*) where the charge is exclusively to secure an unascertained sum of money and the amount thereof is in any way limited, the amount so limited;

(*c*) where the charge is exclusively to secure an unascertained sum of money and the amount thereof is unlimited, £5,000;

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

(10) On registration, pursuant to section 48 of the Judgments (Enforcement) Act (Northern Ireland) 1969, of notice of an order charging land imposed under section 46