1977 No. 155

LAND REGISTRATION

Land Registry (Fees) No. 2 Order (Northern Ireland) 1977

Made . . . . . , 1*st June* 1977

Coming into operation . . . 1*st October* 1977

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

The Department(b) of Finance in exercise of the powers conferred on it by section 84 of the Land Registration Act (Northern Ireland) 1970(c) and of every other power enabling it in that behalf 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) No. 2 Order (Northern Ireland) 1977 and shall come into operation on 1st October 1977.

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

"the Act" means the Land Registration Act (Northern Ireland) 1970;

"annual rent" means the largest ascertainable amount of annual rent reserved;

"charge" includes "sub-charge";

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

"the Rules", and a reference by number to a rule, are references to, respectively, the Land Registration Rules (Northern Ireland) 1977(d) and the rule bearing that number in those rules;

"scale" means scale set out in 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 operate to require payment of a fee in respect of any matter which by any enactment, or by the Rules or this Order, is expressly made exempt from payment, or to exempt from payment of a fee any matter in respect of which a fee is expressly made payable by any enactment.

Payment of fees

2.—(1) Subject to the provisions of this Order, the fees shall be those specified in the Schedule and, except where otherwise provided in this Order, the fees payable in respect of any transaction shall be payable at the time when the transaction is presented in the Registry.

(a) 1974 c. 28
(b) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8(1)
(c) 1970 c. 18 (N.I.)
(d) S.R. 1977 No. 154

(2) Where a calculation is involved in the ascertainment of the fees payable in respect of any transaction the amount payable shall be calculated to the nearest 5 pence (£0.05).

(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 fees are paid by cheque, the transaction shall not be completed except at the discretion of the Registrar, until due time has been allowed for the cheque to be cleared; and if the cheque is not honoured, the transaction shall be cancelled.

(5) Where the amount of any fee payable in respect of any transaction cannot immediately be ascertained, the transaction may proceed—

(*a*) on payment on account of the fees payable, of a fee of £1.50, or such other fee as the Registrar directs, and

(*b*) on lodgment of an undertaking in writing to pay on demand the balance of the fee due.

Refund of fees

3.—(1) Where in respect of any application or dealing, registration is refused or the application or dealing is withdrawn, the Registrar may retain all of any fee paid or such part of it as is reasonable having regard to the time and labour expended by the Registry.

(2) If an amount exceeding the prescribed fee by £1 or more has been paid, the excess shall be refunded but any excess of less than £1 shall not be refunded.

Exemption from fees

4. 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 under rule 84(2);

(*d*) Registration of the ownership of a perpetual rent-charge, or fishing or sporting right where such registration is made under rule 85(2);

(*e*) Registration of the ownership of a leasehold estate where such registration is made under 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 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;

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

(*i*) Entry of a note in respect of payment of death duties when such entry is made at the time of registration of an ownership of the land;

(*j*) 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;

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

(*l*) Reclassification of a qualified title in a case to which paragraph (*b*) of rule 27 applies;

(*m*) Entry of an inhibition by the Registrar, under section 68 of the Act, or on cancellation or modification of any such inhibition;

(*n*) Alteration of the description of land registered in a folio;

(*o*) Alteration of the address or description of a person appearing in a folio;

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

(*q*) Any transaction by or on behalf of a government department where it is certified to the satisfaction of the Registrar that the transaction is made in the public service;

(*r*) Registration under rule 36(5) of a charge or other burden on a superior estate consequent on the extinguishment of an inferior estate.

Abatements

5.—(1) Without prejudice to the provisions of paragraph (2), the following abatements in the fees shall be made—

(*a*) On any application for first registration made under Part II of the Rules where first registration is compulsory, the fee shall be calculated as if the value of the land the subject of the application were an amount equivalent to one half of the value which would otherwise be applicable;

(*b*) 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, half fees only shall be payable in respect of the registration of the charge as a burden;

(*c*) Where a document of transfer contains a charge or charges on the land transferred the fees payable in respect of the registration of the charge or charges shall be ascertained on the basis of half fees for such charge or, as the case may be, each of such charges;

(*d*) In cases of a transfer, not made for valuable consideration, by a registered owner and where it is shown to the satisfaction of the Registrar that such registered owner held only as trustee and that the land is being transferred to new trustees, the fee shall be the minimum fee payable on a transfer.

(2) No abatement permitted by paragraph (1) shall operate to the extent that it would reduce any fee to less than the minimum fee prescribed in respect of any scale.

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

Co-owners

6.—(1) In any case relating only to the estate of a tenant in common, joint tenant, or co-parcener, the fee chargeable shall be calculated on the value of that estate.

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

Value

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

(2) On first registration, under Part II of the Rules, in the register of freeholders or the register of leaseholders, the value shall be determined as follows:—

(*a*) Where the application for registration is made within one year of a purchase (other than on an exchange) of the fee simple or, in the case of leasehold, the leasehold term, in the land the subject of the application, the value shall be taken as 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 interest 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 taken as 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 leasehold, the leasehold term in the land, would fetch if 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 as evidence of such value a statement of the value in writing signed by the applicant or his solicitor or by any other person who in the opinion of the Registrar is competent to make such a statement.

(3) On first registration, under Part II of the Rules, in the register of subsidiary interests the value shall be determined as follows:—

(*a*) In the case of the ownership of a perpetual rent-charge or fee 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 fee farm rent, the value shall be—

(i) an amount of £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 annual 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 as follows:—

30

(*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 any cancellation on a register of an easement or profit-a-prendre involving the investigation of the unregistered title to the dominant land which had the benefit of such right, the value shall be the money consideration expressed in the instrument effecting the cancellation of the easement or profit-a-prendre or the sum of £1,000 whichever is the greater.

(6) On making any entry or cancellation on a register involving investigation of an unregistered title and not otherwise provided for, the value shall be the same as in the case of an application for a first registration of such unregistered title.

(7) On—

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

(*b*) registration, under section 53, 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 a 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 taken to 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 taken to be ten times the amount of the annual rent;

(*b*) a transfer not made for a 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 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, as £500;

(*c*) a transfer which comprises registered 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*).