EXPLANATORY MEMORANDUM TO

THE LAND REGISTRATION (AMENDMENT) RULES 2008

2008 No. 1919

THE COMMONHOLD (LAND REGISTRATION) (AMENDMENT) RULES 2008

2008 No. 1920

THE LAND REGISTRATION (PROPER OFFICE) (AMENDMENT) ORDER 2008

2008 No. 1921

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. Description

2.1 The Land Registration (Amendment) Rules 2008 (the amendment rules) further amend the Land Registration Rules 2003 (S.I. 2003/1417) (the principal rules), which make detailed provision for land registration in England and Wales. The amendments are miscellaneous and follow a general review of the principal rules carried out by Land Registry.

2.2 The Land Registration (Proper Office) (Amendment) Order 2008 (the amendment order) amends the Land Registration (Proper Office) Order 2007 (S.I. 2007/3517) (the principal order) so that "conveyancer" in the amendment order has the same meaning as it has in the principal rules as amended by the amendment rules.

2.3 The Commonhold (Land Registration) (Amendment) Rules 2008 (the commonhold amendment rules) amend the Commonhold (Land Registration) Rules 2004 (S.I. 2004/1830) (the principal commonhold rules) to provide for the use of "statements of truth" in place of statutory declarations (there being similar provisions in the amendment rules), to take account of the change to a particular form prescribed by the principal rules and altered by the amendment rules, and to update the references to Land Registry's website in some of the forms prescribed by the principal commonhold rules.

2.4 These instruments are all to come into force on 10 November 2008 with the exception of one provision in the amendment rules, which is to come into force on the same day as a provision in the Companies Act 2006.

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

3.1 None.

4. Legislative Background

4.1 The Land Registration Act 2002 (the Act) provides for the continuance of a register kept by the Chief Land Registrar (the registrar). Broadly speaking, this is a register of the ownership of land in England and Wales. The Act makes other provision about land registration. So, a registered owner of land or of a charge (in other words, a mortgage) has certain powers of disposition under the Act. For example, in the case of an owner of land, those powers include the power to transfer the land, to charge it, to grant a lease out of it or to grant a right of way over it. And, again under the Act, certain dispositions, such as a transfer or charge, must be completed by registration: they do not take effect in law until this has been done. The Act contains specific and general powers (the latter in section 126 and Schedule 10) to make rules for the purposes of carrying the Act into effect. The principal rules were made under these specific and general powers.

4.2 The principal order is made under section 100(3) of the Act. It designates particular offices of Land Registry as the proper office for the receipt of specified applications under the Act. One of the types of application to which the principal order does not apply is an application delivered in accordance with an agreement as to delivery made between the registrar and the applicant's "conveyancer". The amending order amends the definition of the latter to include a barrister and a particular category of European lawyer. These lawyers are similarly included in the definition of "conveyancer" in the principal rules as amended by the amendment rules.

4.3 Part 1 of the Commonhold and Leasehold Reform Act 2002 (the commonhold Act) introduces a scheme for the ownership of land called commonhold. Commonhold combines freehold ownership of units with the potential for positive covenants being enforceable against the owners of other units in the same development. (A positive covenant is a promise to do something, such as to pay a service charge or to keep property in repair.) Section 65 of the commonhold Act allows for rules to be made about the registration of freehold estates in commonhold land: the principal commonhold rules and the commonhold amendment rules are made under this section.

5. Territorial Extent and Application

5.1 The instruments apply to England and Wales.

6. European Convention on Human Rights

6.1 As the instruments are not subject to the affirmative procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 The amendment rules are the outcome of a review of the principal rules carried out by Land Registry. In carrying out this review, Land Registry took account of suggestions made by its customers. The amendments are intended to change the principal rules so as to:

- reduce, where possible, the administrative burden on customers – in particular, to improve the forms prescribed by the principal rules to take account of National Audit Office guidance on forms;
- reduce the risk of fraud;
- improve operational efficiency and reduce the frequency of customer errors; and
- implement the original intention behind a provision in the principal rules where Land Registry experience and customer feedback have shown that this may not have been achieved or that the provision is currently open to an alternative interpretation.

7.2 Many of the amendment rules amend existing rules and practice but there are some that introduce new practice. For example, the amendment rules add confirmation of identity panels to the principal application forms to assist in combating fraud, and they introduce statement of truth forms as an alternative to the formality of a statutory declaration.

7.3 The amendment rules and the commonhold amendment rules were the subject of a public consultation which ran for forteen weeks and ended on 14 January 2008. The consultation document was publicised by way of Land Registry's website, an article in *Landnet* (Land Registry's magazine for practitioners) and a press release issued immediately prior to the start of the consultation period. Sixty-two responses to the consultation document were received. Generally these were favourable, but respondents did raise some concerns and changes have been made to the amendment rules as a result. For example, in the context of the prescribed forms, changes have been made to the way that Land Registry ask for the administrative area within which a property falls, and for information about companies. Probably the most contentious proposal was to amend the two principal application forms to require professional conveyancers to confirm that they had complied with their professional duties in verifying the identity of any disponor and disponee (normally, the seller and buyer of an estate in land). As a result of concerns raised, these proposals were revised and re-submitted to a number of representative bodies, including the Law Society. Land Registry subsequently reached an understanding with the Law Society and others in respect of the revised proposals. A report on the responses to the consultation paper is available on Land Registry's website: http://www1.landregistry.gov.uk/e-conveyancing/resources/.

7.4 During the consultation period, Land Registry wrote to some of its principal stakeholders about an additional proposed amendment of the principal rules. This was to remove the requirement for the registrar to retain in the register of title the name of the first proprietor of a title registered with possessory title. All but one of the replies expressed support for the proposal.

7.5 The amendment rules are the third set of land registration rules amending the principal rules. The amendment rules are, as stated in paragraph 2.1, the result of a general review of all the principal rules. In contrast, the first two sets of amendment rules focused on particular areas. The Land Registration (Amendment) Rules 2005 (S.I. 2005/1766) prescribed four new standard restrictions, allowed additional applicants to apply to inspect, copy or obtain official copies of documents not generally available, and included notaries public in the definition of "conveyancer". The Land Registration (Amendment) (No 2) Rules 2005 (S.I. 2005/1982) prescribed the form and content of "prescribed clauses leases" and made changes to take account of the Civil Partnership Act

2004. (The Land Registration (Electronic Conveyancing) Rules 2008 (S.I. 2008/1750) also make some changes to the principal rules but, with one exception, all the amendments will only affect applications made in electronic form.) Land Registry takes the view that it would not at this stage be appropriate to consolidate all the amendments to the principal rules in a new statutory instrument. Consolidation would mean customers and Land Registry having to deal with a re-numbered set of land registration rules replacing the principal rules, even though many of the principal rules were being carried forward un-amended. This would be an administrative burden on customers and costly for Land Registry in amending its internal and external guides and providing additional training. However, Land Registry intends to publish on its website a consolidated version of the principal rules incorporating all the amendments to date and highlighting those made by the amendment rules. It also plans to put on its website, for viewing and downloading, all the forms prescribed by the principal rules, incorporating the changes made to them by the amendment rules. The consolidated version of the principal rules and the amended forms will be on the website by 18 August 2008, which is twelve weeks before the amendment rules are to come into force.

7.6 Land Registry plans to issue a press notice once the amending legislation has been laid and the report on the consultation is available on its website. It also plans subsequently to issue an "Action Booklet" for customers to inform them of, and to explain, the changes introduced by the amending legislation. This Booklet is to be available on Land Registry's website by 18 August 2008. Land Registry will also be issuing hard copies of the Action Booklet to account holders, and will publish updated versions of those of its Practice Guides affected by the amending legislation. A press notice is to be issued just before the amending legislation takes effect.

8. Impact

8.1 An Impact Assessment in respect of the amendment rules is attached to this memorandum.

8.2 Impact Assessments for the commonhold amendment rules and proper office amendment order have not been produced as no significant impact on the private or voluntary sectors is foreseen.

9. Contact

Patrick Milne at Her Majesty's Land Registry, 32 Lincoln's Inn Fields, London WC2A 3PH (telephone: 020 7166 4294 or e-mail: Patrick.milne@landregistry.gsi.gov.uk) can answer any queries regarding the instruments.

Summary: Intervention & Options

Department /Agency:	Title:	
HM Land Registry	Impact Assessment of Review of Land Registration Rules 2003	
Stage: Final – Post Consultation	**Version: 2.1**	**Date:** 16 July 2008
Related Publications:		

Available to view or download at:

http://www1.landregistry.gov.uk/consultations/

Contact for enquiries: Dave Routledge **Telephone:** 0191 301 2448

What is the problem under consideration? Why is government intervention necessary?

The existing Land Registration Rules 2003 ('the Rules'), made under the Land Registration Act 2002, have been in place since October 2003. In accordance with good practice, we have conducted a structured internal review of the Rules to ensure they continue to meet operational and customer needs. We have looked at suggestions made by customers and our staff for improvement/simplification.

What are the policy objectives and the intended effects?

These proposals seek to:

• Reduce, where possible, the administrative burden on customers. In particular, to improve the statutory forms (as set out in Schedule 1 to the Rules) in line with National Audit Office guidance.

• Reduce the risk of fraud.

• Improve operational efficiency and reduce the possibility of customer errors.

• Implement the original intention behind a provision in the principal rules where Land Registry experience and customer feedback have shown that that this may not have been achieved or that the provision is currently open to an alternative interpretation.

What policy options have been considered? Please justify any preferred option.

• Option 1 – Do nothing

• Option 2 - Proceed with the amendments to the Rules as set out in the report on consultation.

Our aims of simplification and clarification, reducing error and increasing operational efficiency, can only be adequately met by legislating the changes. In the evidence base, we have identified worthwhile savings for both ourselves and our customers. We see our customers and ourselves as partners in the process of land registration and sharing the benefits of the improved processes. The responses to the consultation show that we have stakeholders' backing for the amendments.

For these reasons Option 2 is the recommended option.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Post Implementation Review, six months after completion of project

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a)it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Michael Wills

.....Date: 17th July 2008

Summary: Analysis & Evidence

Policy Option: 2	Description: Go ahead with the changes as stated (RECOMMENDED)

COSTS

ANNUAL COSTS	
One-off (Transition)	**Yrs**
£ 2,491,964	1
Average Annual Cost (excluding one-off)	
£ 1,409,222	5

Description and scale of **key monetised costs** by 'main affected groups'

(see evidence base)

Customers: one off - £1,991,428 annual - £746,922

HM Land Registry: one off - £500,536; annual £662,300

Total Cost (PV)	**£ 9,538,074**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS	
One-off	**Yrs**
£0	1
Average Annual Benefit (excluding one-off)	
£6,747,617	5

Description and scale of **key monetised benefits** by 'main affected groups'

(see evidence base)

Customers £2,880,248 pa

HM Land Registry £3,962,283 pa

Total Benefit (PV)	**£ 33.738,085**

Other **key non-monetised benefits** by 'main affected groups' Most of the proposals have been monetised, but there are some non-monetised benefits in the evidence base.

Key Assumptions/Sensitivities/Risks See footnotes to each proposal in evidence base for the assumptions made on each proposal. A net benefit range would not be meaningful because of the large number of variables involved in take up of new services, and improved completion of applications.

Price Base Year 2007	Time Period Years 5	**Net Benefit Range** (NPV) **£**	**NET BENEFIT** (NPV Best estimate) **£ 17,155,843**

What is the geographic coverage of the policy/option?				England/Wales
On what date will the policy be implemented?				10 November 2008
Which organisation(s) will enforce the policy?				HM Land Registry
What is the total annual cost of enforcement for these organisations?				£ Gen Running cost
Does enforcement comply with Hampton principles?				Yes
Will implementation go beyond minimum EU requirements?				N/A
What is the value of the proposed offsetting measure per year?				£ 0
What is the value of changes in greenhouse gas emissions?				£ 0
Will the proposal have a significant impact on competition?				No
Annual cost (£-£) per organisation (excluding one-off)	Micro **250**	Small **500**	Medium **1250**	Large **7500**

Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of	Decrease of	Net Impact
£ 678,148	£ 2,880,248	**£** -2,202,100

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

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- Option 1
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- Pre-consultation exercises
- Land Registration Rules 2003 – Background

Policy options

There are two options open to Land Registry.

Option 1 – Do nothing

By maintaining the existing Rules (amended solely to reflect the impact of changes made to other legislation), customers would only be affected to the extent that they would have to become familiar with a limited amount of change in the Rules and registration processes. However, we would be unable to reduce the current level of customer errors as identified elsewhere in this impact assessment. Additionally, the ability to bring (a) legislative clarity to those Rules which are seen as ambiguous and (b) substantial benefits and savings to Land Registry and customers in simplifying forms and procedures etc, would not be realised. Those changes would have no attached cost, but would bring real benefits in clarifying the law and procedures.

For these reasons we do not recommend this option.

The costs for Land Registry of Option 2 would, for the most part, be incurred in any event whether or not the proposed changes are introduced, although some of its implementation costs (estimated to be £250,000) would be saved.

For these reasons we do not recommend this option.

Option 2: Proceed with the amendments to the Rules

The changes seek to:
- reduce, where possible, the administrative burden on customers
- reduce the risk of fraud
- improve operational efficiency and reduce the possibility of customer errors
- improve the statutory forms (as set out in Schedule 1 to the Rules) in line with National Audit Office guidance on forms, and
- amend the Rules where experience and customer feedback have shown that alteration or clarification is needed.

A major consideration in proposing Rule changes, including changes to the forms, is to help customers complete applications correctly first time. We receive more than 5 million applications

a year, of which 1.2 million (22.8 per cent) result in written requisitions, and a further 3.3 per cent are rejected for being substantially defective[1]. This is time-consuming and costly both for Land Registry and the customer. A recent internal review found that it takes on average one hour of staff time for each requisition.[2] This is costing Land Registry, and ultimately our customers, many millions of pounds each year.

Our customers include:
- the conveyancing profession
- publishing industry and software houses
- landowners
- mortgagees.

Our aims can only be adequately met by legislating the changes. In the evidence base, we have identified worthwhile savings to both our customers and ourselves. We see our customers and ourselves as partners in the process of land registration and sharing the benefits of the improved processes.

The responses received from the main consultation exercise were mostly very positive in favour of the changes we had proposed. The most contentious proposal was probably the one to insert certificates of identity to forms AP1 and FR1, and we have modified our proposals accordingly (see below).

Therefore we believe we have stakeholder backing to proceed with option 2.

For these reasons, this is the **recommended** option.

Consultation to date

On 8 October 2007 Land Registry published a consultation paper seeking views on proposals to amend the Land Registration Rules 2003 and the Commonhold (Land Registration Rules) 2004. The proposals were the outcome of a review of the Rules carried out within Land Registry.

The consultation period closed on 14 January 2008. A total of 62 responses were received during the 14 week consultation period.

Concurrent with the consultation, we also consulted key stakeholders about our proposals to end the requirement to retain the first proprietor entry in possessory titles, and to allow for existing entries to be removed.

Subsequent to the formal consultation exercise additional consultation was conducted with the Law Society, Council of Mortgage Lenders and the Council of Licensed Conveyancers regarding confirmation of identity. Such consultation was conducted in order to address concerns arising from the formal consultation.

The findings from all our consultation exercises inform the changes outlined in this document. In the light of the comments received, we have also adjusted our net benefit calculations downwards by about 20%.

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[1] 14,809 out of the 445,338 applications received in December 2006 were rejected. The numbers of requisitions are based on the numbers sent by Gloucester and Weymouth offices in December 2006 (11,752 out of 51,644 applications). Of those applications that resulted in requisitions, a further 3,750 (31.9 per cent) required reminders.

[2] This includes the time taken to identify, send and service a requisition (reminders have to be sent in almost a third of cases), and the time taken to deal with the reply. In calculating costs of staff time for both Land Registry and customers, we have based the figures on the total staff cost (including office overhead and pension costs, as well as gross pay) of a Higher Executive Officer outside London - £214.81 per day. All costs and benefits to customers and Land Registry use this baseline figure.

Proposed changes – summary of costs and benefits

This impact assessment replaces the version that accompanied the formal consultation.

1. Costs

(a) Customers

Year 1 costs are at present value, years 2-5 are at discounted net present value (deflator 3½%). All figures are in pounds (£).

	Proposal	Effect	Year				
			1	2	3	4	5
Forms	Company Regn Numbers	Finding company details	87,426	84,470	78,853	71,121	61,978
Forms	Confirmation of Identity	Checking disponor's id	132,461	127,982	119,472	107,757	93,904
Other	Dealing with third parties	Forwarding papers	458,261	442,764	413,325	372,796	324,870
Other	Indemnity	Lower interest payments	94,914	91,704	85,607	77,213	67,286
		Transitional costs	1,991,428				
		Total	2,669,577	746,922	697,260	628,891	548,043

(b) HM Land Registry

	Proposal	Effect	Year				
			1	2	3	4	5
Forms	Confirmation of Identity	Additional casework checks	662,300	639,903	597,357	538,781	469,517
		Transitional costs	500,536				
	Total		1,162,836	639,903	597,357	538,781	469,517

2. Benefits

(a) Customers

	Proposal	Effect	Year				
			1	2	3	4	5
Forms	Administrative Area	Fewer rejected applns	56,000	54,106	50,509	45,556	39,699
Forms	Applicant Panel	Fewer requisitions	730,000	705,314	658,418	593,855	517,511
Forms	Charges - MD ref	Fewer requisitions	71,600	69,179	64,579	58,247	50,759
Forms	Other design features	Shorter training time	59,720	57,700	53,864	48,582	42,337
Forms	Other design features	Fewer requisitions	350,000	338,164	315,680	284,725	248,122
Forms	Routing Instructions	Fewer requisitions	464,105	448,411	418,596	377,550	329,013
Other	Overseas co. cert	Fewer requisitions	195,000	188,406	175,879	158,633	138,239
Other	Statements of Truth	Fewer requisitions	18,823	18,186	16,977	15,313	13,344
Restrictions	Form MM restriction	Lower fees	360,000	347,826	324,699	292,860	255,211
Restrictions	Form PP restriction	Simplified compliance	306,000	295,652	275,994	248,931	216,929
Restrictions	More flexibility	Lower fees	269,000	259,903	242,623	218,832	190,699
		Transitional benefits	0				
			2,880,248	2,782,848	2,597,819	2,343,084	2,041,862

(b) HM Land Registry

	Proposal	Effect	Year				
			1	2	3	4	5
Forms	Administrative Area	Fewer rejected applns	56,000	54,106	50,509	45,556	39,699
Forms	Administrative Area	Easier processing	100,000	96,618	90,194	81,350	70,892
Forms	Applicant Panel	Fewer requisitions	730,000	705,314	658,418	593,855	517,511
Forms	Charges - MD ref	Fewer requisitions	71,600	69,179	64,579	58,247	50,759
Forms	Confirmation of Id	Savings on indemnity	1,000,000	966,184	901,943	813,501	708,919
Forms	Form HR4	Fewer requisitions	6,100	5,894	5,502	4,962	4,324
Forms	Form HR4	Easier processing	13,900	13,430	12,537	11,308	9,854
Forms	Form OC1 e-delivery	Printing/post savings	410,000	396,135	369,797	333,535	290,657
Forms	Form SEV	Fewer referrals	322,215	311,319	290,619	262,122	228,424
Forms	Form SEV	Less correspondence	40,640	39,266	36,655	33,061	28,810
Forms	Other design features	Fewer requisitions	350,000	338,164	315,680	284,725	248,122
Forms	Routing Instructions	Fewer requisitions	464,105	448,411	418,596	377,550	329,013
Other	Overseas co. cert	Fewer requisitions	60,000	57,971	54,117	48,810	42,535
Other	Possessory Titles	IT programming	7,500	7,246	6,765	6,101	5,317
Other	Statements of Truth	Fewer requisitions	3,309	3,197	2,985	2,692	2,346
Other	Indemnity	Lower interest costs	94,914	91,704	85,607	77,213	67,286
Restrictions	Form MM restriction	Easier processing	87,000	84,058	78,469	70,775	61,676
Restrictions	More flexibility	Lower grade work	145,000	140,097	130,782	117,958	102,793
		Transitional benefits	0				
	Total		3,962,283	3,828,293	3,573,752	3,223,320	2,808,937

Full details are given in the Annex.

Other Compliance costs

Inevitably there will be costs to customers in the changes proposed. However we believe they will be more than offset by the overall benefits. The main costs will be associated with forms, and here we will take measures to minimise the impact by publishing the forms for our customers free of charge on CD and on the internet. In the forms survey we found that 50 per cent of forms were supplied by software houses,[3] 41 per cent by Land Registry and only 9 per cent by customers designing the forms on their computer systems.

We estimate compliance costs of **£698,133** for publishers, software houses and customers with in-house case management systems to bring them up to date with the new forms.[4] In addition many firms have 'precedent' deeds, that is forms already partially filled in to meet a particular case. They will need to 'cut and paste' the text of these into the new version of the form; we estimate a cost to customers of **£180,460**.[5]

In addition there will be the costs of training, which we estimate to be **£1,112,835** in time spent by conveyancers and their staff.[6]

[3] The three largest software houses provided 84 per cent of the forms. Less than 1 per cent of the forms were bought paper versions, so stocks of forms becoming out of date is no longer a significant compliance issue.

[4] We are most grateful to Denton Wilde Sapte who kindly agreed to test draft versions of the forms on their case management system. They found that it would take 25 hours of staff time (half an hour per form) to update the precedents on their system. The figure is based on 30 publishers/software houses and 100 firms with in-house casework management systems (as opposed to those firms that will get updates from the casework system provider)

[5] Based on an average of 10 precedent forms per active high street conveyancer, taking 10 minutes to update.

[6] There are 3,730 active high street conveyancers (source – LR Business Segmentation Report). Based on an estimate 10 hours training per firm (37,300). Training materials in the form of practice guides etc will be supplied by Land Registry.

Members of the public who use Land Registry services tend to use conveyancers, and are therefore 'indirect' customers. In the forms survey only 5 per cent of applications were lodged by non-conveyancers (mainly discharge of mortgage, death of joint proprietor and severance of joint tenancy applications), using forms supplied by Land Registry or their lender. We do not envisage any compliance costs not accounted for above.

Land Registry has the project costs, which are an estimated £490,536. There will also be associated costs involved in printing new practice material for our customers. We estimate this will be about **£10,000**.[7]

Impact tests

Competition assessment

The affected markets are:

- conveyancing, banking, lending institutions
- providers of services (administrative, legal, publishing) to the above.

The lending market has two major institutions with more than 10 per cent of the new lending market – HBOS (21 per cent) and Abbey National (10 per cent). In recent years it has become easier for new entrants. The top five lenders had 57 per cent of the market in 2000, but this had fallen to 55 per cent in 2005[8]. The Competition Commission is unlikely to allow further consolidation amongst the market leaders.

The conveyancing market is much more fragmented. It ranges from small high street firms who do conveyancing as part of a range of services, to large volume conveyancing 'factories'. Hammonds Direct claim to be the largest conveyancing firm, with about 10 per cent of the market[9].

Having run the 'competition filter' test, we do not believe that the proposals will raise any significant competition issues.

Small firms

Conveyancing is still overwhelmingly undertaken by small businesses. A High Street Segmentation Report by Land Registry found that of the 3,730 active high street conveyancers, 57 per cent fall within the definition of 'micro-business' (i.e. less than 10 full time equivalent employees) with a 49 per cent share of the conveyancing market. Only 23 per cent of firms had more than 20 full-time equivalent staff, and they had a 33 per cent share of the conveyancing market. While the number of volume conveyancers has increased in recent years, it appears that they have soaked up the increasing volume of conveyancing transactions, rather than having taken work from smaller firms.

The main area of impact will inevitably be the forms. However the IFF Research survey found that small firms do not envisage many compliance problems in this area.[10] Most of the specific compliance issues raised would be equally applicable to firms of any size:

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[7] Our guides cost about 0.5p per impression, the estimate is based on an overall requirement of 2 million impressions. Their design is costed in the main project costs.

[8] Figures from Council of Mortgage Lenders in "The Changing Structure of the UK Mortgage Market" (2002); MM10 "Largest Mortgage Lenders 2005". The percentages are based on the mortgage book, but new lending produces similar results.

[9] See webpage www.legalmove.com/. They deal with about 9,900 conveyancing transactions per month.

[10] 85 per cent of the 150 conveyancers that participated worked for firms with less than 25 staff. 82 per cent of all conveyancers surveyed saw no significant compliance problems, 14 per cent foresaw a little and only 3 per cent thought there would be major compliance issues.

- Staff training/slower while getting used to forms.
- Updating the organisation's software.

The Small Business Service of the DTI was contacted and it was suggested that we should contact a selection of professional bodies and trade associations including conveyancers, surveyors and land agents. This has been done as part of the consultation process. After consultation, the proposed effect has been evaluated and it is not considered that there will be a significant or disproportionate impact on small businesses.

Legal aid

Legal aid is not available for applications to the Land Registry; therefore there is no impact on legal aid.

Sustainable development, carbon, other environment, and health impact assessments

In the interests of clarity, some of our forms use more sheets of paper than the current versions. The main affected forms are AP1, DS2, FR1 and TR1, which are all 1 sheet of paper longer. We estimate this could increase CO2 emissions by about 37.5 tons pa[11]. Set against this there may be some savings were more official copies to be dispatched by e-mail, how much depends on whether our customers print the documents out at the other end. On the assumption that people who request documents this way are less likely to print them out we estimate savings of 17.1 tons pa[12]. Overall this gives a net increase in CO2 emissions of 20.4 tons pa.

Race, disability and gender equality

We do not believe that there are any significant race, gender or age issues involved in these proposals, and none have been raised in consultations. However our proposals to change the font on the statutory forms, was influenced by the advice we received concerning which fonts are most suitable for visually impaired people.

All the new forms will also be available in Welsh.

Human rights

We do not believe that any human rights issues are engaged by the recommended proposals.

Rural Proofing

We have assessed the policy against the 15 points in "Rural Proofing – policy maker's checklist"[13], and we believe that there are no, or only very marginal, adverse effects on rural communities. There may be some issues on access to information. We issue practice guides free of charge and publish all key information on the internet, and with 99% of UK exchanges now broadband enabled[14], it is probably not much of an issue in this age. Land Registration is a national system that is equally applicable to rural and urban areas, so no separate issues should arise.

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[11] The number of forms affected are: TR1 is 1.37 million (see note 19); AP1/DS2 - 4.82 million, FR1 - 0.31 million (annual report 2007/8). Many would not use TR1 or be more than 1 page when completed. The estimate is based on 7 million extra sheets of paper pa (to allow for other affected forms). A ream (500 sheets) weighs 2.5kg making a total weight of 10 tonnes. Estimates on CO2 production per tonne range from 1.41 tonnes CO2 / tonne paper (Australia) to 0.73 tonnes CO2 / tonne paper (Finland). This figure is based on the average of 1.07 tonnes CO2 / tonne paper.

[12] In 2007/8 we issued 10.7 million official copies and searches of the index map. The figure is based on an estimated 20% take up of electronic delivery and half of those customers not printing out the result (and an average of 3 sheets of paper per appliction to include envelopes, cover sheets etc).

[13] Countryside Agency, 2002

[14] Institution of Engineering and Technology Speech, Broadband Britain - Towards the Next Generation, Wednesday 16 April 2008

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexe

Contents:

Details of proposed changes

Pre-consultation exercises

Land Registration Rules 2003 - background

Details of proposed changes - benefit of restrictive covenants

We propose amending rule 5 so as to clarify the position that Land Registry do not record the benefit of restrictive covenants in the register as these are equitable interests. The provisions of the Act relate to the registration of legal estates and interests.
The burden of restrictive covenants will continue to be capable of being the subject of a notice in the register. Whilst the proposal was supported by a majority, many consultees did point out that it would involve practitioners in compliance costs, because they will have to keep and check additional documents which exist 'off the register' following conveyancing or other transactions.

It is the view of Land Registry that the change is a clarification of the present position and therefore there are no additional compliance costs.

Details of proposed changes – charges of part

We propose amending rule 72 to clarify the position where we decide not to create a new title register on a charge of part. This makes the existing rule clearer and brings it into line with existing rule 72A and the proposed new rule 72C (which respectively deal with register entries arising from prescribed clauses leases and other registrable dispositions such as transfers of whole)

Details of proposed changes – companies

We propose changes to rule 183 to allow conveyancers to provide a certificate as to the powers of an overseas company, instead of having to send us a copy of the company's constitution, which may also involve them in commissioning an English or Welsh translation. A translation of a 4,000-word constitution would cost about £270[15]. We send about 4,000 requisitions a year for the constitution of overseas companies. If this process were simplified to require only a conveyancer's certificate instead, we would expect to reduce these requisitions to about half of this number. This would save **£60,000** per annum for Land Registry and **£195,000** for customers[16].

Details of proposed changes – indemnity

Interest paid by Land Registry in indemnity cases is paid at the court rate (currently 8 per cent). However we believe that it is inappropriate to charge Land Registry this 'penal' rate, normally applied to defaulting judgement debtors, and instead a 'compensatory' rate is fairer. This will result in savings for Land Registry of **£94,914** per annum.[17]

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[15] This is an average of the first four translation companies we found on a web search for Spanish to English translation.

[16] A combination of time saved in dealing with requisitions, and an estimate of 500 translations saved.

[17] We paid £253,105 in interest in 2006/7 financial year. The figure represents the difference in the amount we would have paid, had the interest rate been the Bank of England rate of 5 per cent (from 10.4.08)

Details of proposed changes – leaseholds

Proposed amendments to rule 37 allows Land Registry to enter notice, in a registered reversionary title, of a lease which is registered not only with an absolute class of title (as is currently the case), but also with a different class of title. This will mean that customers can now avoid the risk of losing priority for their lease upon a transfer of the registered reversion for valuable consideration, which might otherwise have been the case if their lease was not the subject of a notice in that title.

A new rule 79A will allow Land Registry to make an entry as to the acquisition by an RTM company of the right to manage. This will make the register more comprehensive, and will be more helpful to prospective purchasers of a title which is subject to that right.

Details of proposed changes – restrictions

Clarifying the law

(a) Proposed new rule 91(B) makes clear who should sign a certificate or consent on behalf of a company. This codifies current practice and makes new provision for cases where a private company has no secretary (as permitted by the companies Act 2006, but with little cost implications for Land Registry or its customers.

(b) The wording of standard restrictions J, K, L, M, N, O, P, Q, R, II and JJ has been amended to make it clear they will not 'catch' a disposition by a prior chargee. Again this reflects current practice, and should therefore save customers some time by avoiding needless correspondence and the need to comply with these restrictions.

Allowing more flexibility in standard restrictions

By changing some restrictions from non-standard into standard restrictions we will be halving the application fee for customers. Thus:

(a) Proposed rule 91A(4) and (5), changes to standard restrictions L, N, S and T, and the new standard restrictions NN and OO allow greater flexibility in the wording of standard restrictions. These changes will cover a large proportion of the 14,000 non-standard restrictions we currently receive annually. We therefore estimate savings for customers in reduced fees, etc. of **£269,000** per annum[18]. Land Registry will save some processing costs in work being done by lower-grade staff and fewer requisitions, which we estimate to be approximately **£145,000** per annum.[19]

(b) A new standard form restriction MM is proposed, to protect the interest of local authorities under the Health and Social Services and Social Security Adjudications Act 1983. We receive 9,000 such applications each year and therefore local authorities will save **£360,000** in reduced fees. Savings to Land Registry are an estimated **£87,000** per annum.[20]

(c) A new standard form restriction PP is proposed as an alternative to Forms L and M. This has several uses but its main one will be on confirmation of compliance with the terms of a lease. The Form PP restriction obviates the need to get written consent from the landlord, as we will then accept a certificate by the assignee's conveyancer that the lease has been

[18] The number of non-standard restrictions in 2005/6 was 18,000 and the expected outturn for this financial year is 10,000 giving an average of 14,000 pa. The figure is based on 2,000 cases saving £40 each (the difference in fees between standard and non-standard restrictions in standalone applications) and 2,000 cases saving £80 each (where lodged with another application). Also the change will mean applicants may not need to complete form RX1 if they are completing another form such as TR1. Savings of £29,000 based on half an hour saved in 2,000 applications.

[19] Based on 9,000 cases taking 20 minutes each dealt with at Higher Executive Officer rather than Senior Executive Officer level because of the reduced complexity.

[20] Based on 405 fewer mandays taken to process the applications.

complied with. It also removes the necessity of updating the restriction when the reversion is transferred. Forms L and M restrictions are widely used, amounting to 380,000 new entries pa. We estimate savings to customers in the region of **£306,000** pa.[21]

Other matters

The London Property Support Lawyers Group thought that the generic changes referred to in Question 37 of the consultation document would make some restrictions non-standard in future, and thus involve increased costs. We have researched this point and it appears that complex "no [disposition or specified type of disposition]" style restrictions should already be treated as non-standard, but some customers have been incorrectly charged the lower fee for a standard restriction because of the confusion caused by the current rule. New rule 91A(8) is intended to make it clear how these restrictions should be completed, and so ensure consistency in the treatment of them.

Details of proposed changes – declaration of trust panel post Stack v Dowden [2007] UKHL 17

The two policy options, outlined in the consultation document, were in response to comments made by Baroness Hale in the House of Lords decision in the case of Stack v. Dowden. Those comments related to the 'declaration of trust' panel within transfers and other relevant dispositions in favour of joint disponees.

Option (a) was to maintain the current position, which will involve neither customers nor Land Registry in any costs or benefits.

Option (b) would make mandatory both the completion of the declaration of trust panel (which may include a new tick box for those who did not wish to commit themselves to a formal declaration at that stage) and also the execution of the transfer or other relevant form. This would involve conveyancers in additional costs, because they would always need to get joint disponees to complete the panel and execute the transfer or other relevant form, However, ultimately there would be savings to be made from there being fewer requisitions or post registration enquiries, as conveyancers became used to having to resolve matters before sending the application to Land Registry. We estimate costs to customers of option (b) of **£2.13 million** per annum, and benefits to the Land Registry of **£653,000** per annum.[22]

Overall 70-79% respondents supported option (b). However it was not supported by The Law Society, which suggested that it would involve conveyancers in more work, and was concerned as to the practicalities of getting the forms signed and resubmitting applications where this has been overlooked. Of course, it is to the property owner's benefit that they fully understand the implications of joint ownership, but there is a monetary cost involved.

As a result of further consideration, Land Registry has decided not to pursue this proposal as part of the current review of the Rules, but to carry out further consultation and discussion before any decision is made as to whether the proposal should be implemented in whole or in

[21] This figure is based on an estimated take up of 19,000 pa, saving 20 minutes time to complete a consent every 6 years. Figures for the number of Forms L and M restrictions are based on the number received in April 2008.

[22] The number of transfers in one year is about 1,368,968 (see note 19 above) of which 37.8 per cent are to sole proprietors, 55.5 per cent to joint proprietors and 6.6 per cent to corporations (source: random sample of titles DY380500-DY380599, BK245400-BK245499 and WA74100-WA74199, results were similar for all three series). Compliance costs depend on how many of the 759,777 affected transfers will need to be signed by the transferees which are not at present. If it involves half - an extra 379,888 transfers taking conveyancers an extra 15 minutes to process, the cost will be in the region of £2.76 million. There would be savings in fewer requisitions for evidence of ownership, currently we send about 45,000 per annum, and register a form A restriction by default in another 83,000 cases which involves sending another letter. If half of the requisitions are avoided, because conveyancers are likelier to get things right first time when this becomes routine, the savings to Land Registry and customers alike are £653,139 pa. (based on 1 hour spent by each dealing with the requisition)

part in the future. This reflects the importance of the proposal, including its potentially significant operational impact upon both Land Registry and its customers.

Details of proposed changes – statements of truth

We propose to introduce a new rule 215A to provide for an alternative method of providing evidence in support of an application, in the form of a 'statement of truth' rather than a statutory declaration. Existing rules and forms will be amended, where necessary, to reflect this.

The format of a statement of truth will provide a quicker, easier and cheaper means of providing evidence. It may also be easier for persons making a statement of truth to understand the prescribed wording, as opposed to the more archaic wording of a statutory declaration, which has to be sworn before a solicitor or commissioner for oaths (for which a fee is payable). This change will also bring Land Registry's evidential requirements into line with that of the courts service. The option of providing evidence in the form of a statutory declaration will in many cases, however, remain for those who prefer.

In order to facilitate the relevant evidence being provided in support of relatively common types of application, it is also proposed to introduce four new forms, being forms ST1 and ST2 (relating to adverse possession of land and of a rentcharge, respectively), ST3 (relating to applications for registration based upon lost or destroyed title deeds) and ST4 (relating to prescriptive easements).

The introduction of the new rule and forms is intended to make the provision of required evidence quicker, easier and cheaper, with a corresponding reduction in the number of rejected applications and time spent dealing with requisitions. We estimate annual savings of **£3,309** for Land Registry and **£18,823** for customers as a result of these proposals.

Details of proposed changes – possessory registers

We proposed to amend rule 8, so that the first proprietor is no longer recorded on the register on a change of ownership. This has few effects on customers, but does save the Registry time in programming systems, with the added benefit that finite IT resource can be diverted to more essential projects. We estimate savings in programming time of about **£7,500** pa.

Details of proposed changes - forms

In this review we have followed the guidance of the National Audit Office who recommend a thorough review of forms every three to five years. This advice is reiterated as one of the Hampton Principles[23].

Additionally at the beginning of the review, we conducted an internal 'forms survey'. This involved looking at how customers completed forms in 200 randomly selected applications. This provided a lot of useful data, particularly in highlighting those parts of the forms that customers have difficulty completing.[24]

[23] Implementing Hampton: from Enforcement to Compliance (Treasury/Cabinet Office, 2006)

[24] Statistical confidence level for this size of sample is 10 per cent ± 4 per cent, 20 per cent and above ±6 per cent, this means that a 10 per cent survey score is 95 per cent certain to be between 6 and 14 per cent. See calculator at **http://www.surveysystem.com/sscalc.htm** .

It would be impractical to discuss the regulatory impact of every form change, but we have summarised the main changes below. The majority of the proposed changes are aimed at making form completion simpler thereby reducing the number of requisitions sent by Land Registry as a result of incorrect completion, and consequently reducing the costs and burdens to both Land Registry and our customers.

Administrative area panel

This panel is included on all application forms. It is used, among other reasons, to route the application to the appropriate team within a Land Registry office and in the allocation of new title numbers. The current wording causes customers considerable confusion, resulting in many enquires being made at our Head Office telephone enquiry centre. The forms survey found this panel was completed incorrectly on 35.7 per cent of forms AP1 considered. The most common errors were the omission of the borough, or the insertion of the Land Registry office name instead. The result is that on approximately 1.8 million applications our staff are having to investigate, to find the correct team to process the application. The confusion over the current wording also increases the risk of customers having their application rejected, if as a result of incorrect completion the application was lodged at the wrong office.

The existing guidance on the form is clearly inadequate. We have therefore revised the panel wording and explanatory note to make it clearer what the requirements are.

If the number of applicants incorrectly completing this panel could be halved, it would save Land Registry about **£100,000**. In addition fewer rejections for lodgement at the wrong office will save Land Registry and customers an estimated **£56,000** each.[25]

Applicant panel

This panel is included on all application forms. This helps us to differentiate the applicant from the person who lodged the application, as required in the Act and Rules. If it is completed incorrectly a telephone or written requisition is required, which increases costs for both Land Registry and customers. In the forms survey this panel was completed incorrectly in 12.2 per cent of cases which equates to 650,000 cases received in a year.

In 2005 the applicant and application panels were split on form AP1 resulting in a reduction of the number of incorrectly completed AP1 forms.

We therefore propose spreading the practice to all the relevant forms. We estimate annual cost savings in the region of **£730,000**.[26]

Company details

We propose to ask applicants to provide details of company registration numbers when applying for entry of a company as beneficiary of a unilateral notice, proprietor of a caution against first registration, or as a person who must give consent or a certificate under a restriction as well as in other circumstances. We believe that the company registration number provides a useful check on the identity of a company, particularly where two or more companies have similar names or where a company name has changed. It is estimated that the compliance cost will be approximately **£87,426**[27]

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[25] This is based on the assumption that it takes an additional 15 seconds per case to identify the correct borough, equating to 500 mandays annually. About two-thirds of rejections are for lodgement at the wrong office (about 75,000 cases), figures above based on 20 per cent fewer rejections saving Registry and customers 15 minutes each.

[26] In the Forms Survey, this was incorrectly completed in 12.2 per cent of cases, equating to 650,000 annually. The cost savings quoted are based on an assumption of 150,000 requisitions saved (staff time of 10 minutes per application and telephone costs).

[27] Consultation Paper, proposal 64. The cost is based on the time we estimate it will take to establish and enter a company registration number multiplied by the number of applications we anticipate will be affected. We estimate that 6.6% of our transactions involve corporations, although not all will be companies (see note 29 below).

Dealing with third parties panel

We propose[28] to discontinue the practice of sending requisitions and completed applications to third parties. Although 58 per cent of respondents have used this facility, 73 per cent did not think it would cause a problem if the facility were to be withdrawn. A number of respondents did highlight compliance costs involved in their having to forward correspondence to the third party.

In the forms survey 50 per cent of DS2 applications requested that documents be sent elsewhere. But on other dealing applications, the proportion was only 1.7 per cent. We estimate annual compliance costs to customers of **£458,261**[29]**.**

"Information in respect of any new charge" panel

This panel is included in forms AP1 and FR1. The existing instructions say '*Do not give this information if a Land Registry MD reference is printed on the charge, unless the charge has been transferred*'.

The guidance is incorrect as a number of the larger lenders have more than one address for service associated with particular MD references. This results in the caseworker having to raise a requisition to obtain the correct address for entry in the register.

We have received complaints and are therefore proposing to amend the wording in the panel to provide for the required address for service to be given where there is no specific approved address. This will reduce the number of requisitions. We estimate savings for customers and Registry of about **£71,600** each.[30]

Avoiding complex routing instructions

Complex routing instructions occur when a customer is directed by one panel to different panels or other parts of a form. The National Audit Office recommends that this should be avoided. Our own experience, borne out by our forms survey, is that there is much higher incidence of incorrect completion by customers when using complex forms.[31] To a certain extent this is unavoidable, because of the wide range of persons permitted by the Act to apply for restrictions and notices, for example. Therefore, we have merged panels in various forms including forms AN1, RX1, and UN1. The result is that instead of being routed to another panel, the customer now only has to tick one box within the merged panel. We estimate possible savings in processing costs to Land Registry and customers of **£464,105** each.[32] This thinking has also been applied to the proposal to merge panels 2 and 7 of the existing form OC1; and panels 11 and 12 of the existing form CN1.

Outside legislation

Various changes have arisen as a result of other legislation, including:

- Removal of the stamp duty panel in the TP and TR series of forms (Finance Act 2003).
- Note to panel 7 on form PN1 to allow Index of proprietors' names searches against corporation aggregates (Freedom of Information Act 2000).

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[28] Consultation Paper, proposal 65

[29] 1.7 per cent of dealings equates to 85,700 cases. Figure based on 10 minutes for conveyancer to forward papers and 52p postage for a first class large letter.

[30] Land Registry sends about 25,000 requisitions annually where the address for service is missing or unclear. In addition many others, including this case, would be resolved by telephone. The figure is based on an estimate of 2,000 cases saving customers and Land Registry 10 minutes each.

[31] Compare the error rate for TR1 (1 per cent) and DS1 (0 per cent) with AN1 (63 per cent) and RX1 (48 per cent) *(percentage relates to forms containing some error within any panel)*.

[32] 9 per cent of forms in the forms survey were AN1, RX1, RX4 or UN1, and 33 per cent of those forms had errors that appear to be the result of confusion over the routing instructions. This would equate to 159,883 errors annually. The figure is based on an assumption of 10 per cent of such requisitions saved.

- Changes due to Companies Act 2006, Regulatory Reform (Execution of Deeds and Documents) Order 2005, the Mental Capacity Act 2005 and the Church of England (Miscellaneous Provisions) Measure 2005.

Outline applications

Currently, applicants lodging an application which has already been the subject of an outline application must quote the reference number of that outline application on the application form, in order to gain protection for their application. We propose removing this requirement, which reduces the administrative burden. In doing so, we are aware of the National Audit Office recommendation not to include panels which most people do not need to answer, and the fact that we do not make the same requirements of those whose applications are protected by official searches.[33]

Form SEV

A new form SEV has been proposed - in response to suggestions from an MP, customers and our staff - to help lay people (or those with limited conveyancing experience), by simplifying the process for applying for a form A restriction following severance of the joint tenancy. Currently, customers must use form RX1, but this form is designed to allow for all types of restrictions to be entered in the register. As a result, some of the panels on this form are confusing to lay applicants. We received approximately 25,000 applications for entry of a restriction following severance of joint tenancy in 2006, the vast majority of which lead to correspondence. We estimate the introduction of form SEV should reduce the number of referrals by at least 50 per cent, saving approximately 1500 mandays per year which equates to cost savings of **£322,215**. There are other less quantifiable benefits to customers in easier completion of the form, including fewer phone calls to Customer Enquiries and less correspondence to deal with, which we have estimated at **£40,640**.

Form HR4

Currently there is no prescribed form to make an application to cancel home rights notices (use of the current form HR4 being optional) which can lead to confusion, with the result that we had to send 420 requisitions in 2006/7 for the required evidence. New form HR4 will make clear the evidence we require and therefore reduce requisitions. We estimate annual savings of **£6,100** in fewer requisitions. Having a standard form will reduce staff processing time, saving Land Registry an estimated **£13,900** per annum.[34]

Electronic delivery of official copies and searches of the index map

This facility is currently only available to Land Registry Direct customers. We proposed expanding this to all applicants by adding a panel to Forms OC1 and OC2 where customers would get e-delivery if they supplied us with an e-mail address (with provisions for an opt out). The proposed additional panel was supported by 92% of respondents in the consultation. Although not consulted on, we propose to extend this to delivery of the results of a search of the Index Map using Form SIM. This service will not be available until a direction is made by the registrar under section 100(4) of the Land Registration Act 2002.

It has the benefit of speeding up conveyancing by ensuring quicker receipt of vital information. We estimate savings for Land Registry of £0.41 million[35]. The net cost effect on customers is likely to be neutral, there will be additional costs should they choose to print out the copies, but savings in storage if they do not. Customers will also save in post handling.

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[33] There are only 5,136 OLAs annually and only 3,492 are converted into dealings (0.07 per cent of all applications)

[34] (a) Based on half of the current requisitions saved, and average 1 hour processing time; (b) second figure based on 5 mins processing time saved on 5,750 applications.

[35] Footnote: In 2007/8 we issued 10.7 million official copies and searches of the index map. Based on a projected 20% take up and an average of 3 sheets of paper per application we estimate savings of 6.4 million sheets of paper, equating to £25,624 in paper (at £2 per ream) and £384,370 in postage (20% of the 10.7 million halved to allow for dispatch of more than one item in the same envelope, multiplied by 36p postage).

Design of forms

We have made a number of changes to the appearance of the forms, to accord with National Audit Office best practice.[36] They include:

- larger, 'non-serif' based font which is easier to read
- links to advice on the internet
- explanation of how to exempt prejudicial information from public inspection
- removing the requirement to supply the same information in more than one place on a form
- making the guidance on the form easier to follow by using a two-column format
- making the marginal guidance notes non-statutory. This will enable them to be amended to meet future customer needs without the formality of a rule change.

We believe the proposed changes will make it easier for customers to complete our forms, and in the consultation 89% of respondents said the arial font was an improvement, 85% said the two column format was easier to read, 80% thought the new forms would be easier to complete, and 75% said it would not cause any problems in compliance.

Some respondents thought the simpler nature of the forms would reduce training time for staff. This we estimate will save customers about **£59,720** [37].

Reducing the administrative burden in this way should save customers time in completing the form, and reduce the number of errors in their completion. If these changes eliminate only 1 per cent of requisitions, this will save Land Registry and customers **£350,000** every year.[38]

Reducing the administrative burden

Several other proposals are aimed at reducing the administrative burden for customers:

- Form AP1 no longer has to accompany an application to remove a home rights notice (rules 13 and 87A).
- Form AP1 – addition of a new tick box in panel 9 for use when the registered address for service for each proprietor to be entered is to be the same as the address of the property and this is a single postal address.
- Form CCT – removal of duplication of request for applicant's name (currently contained in both panel 9 of the existing form, even though it is already asked for in panel 4).
- Revocation of forms TR3 and TP3 – theseare similar to other existing forms, and their revocation will remove 'surplus' forms and help customers avoid rejection of application as a result of choosing the wrong form.

Confirmation of identity panel on forms AP1, FR1 and DS2

Land Registry and others involved in property related transactions are vulnerable to identity fraud. We all have procedures in place to safeguard against fraud but despite these, fraudsters are occasionally successful. Where Land Registry has registered a fraudulent transaction, indemnity may be payable. This is financed out the fees paid by all customers. Fraud is on the increase nationally and this affects Land Registry and its customers.

Given that the number of cases of identity fraud is increasing, we think that doing nothing is not an option. In addition to other changes we were proposing to make to combat fraud, we proposed incorporating confirmation by a conveyancer (where acting) within forms AP1 and FR1 that:

- they had complied with their professional duties in verifying the disponee's identify and,

[36] Improving and Reviewing Government Forms (NAO, 2003)

[37] A market segmentation report commissioned by the Land Registry found there are 3,730 active conveyancing firms employing about 50,000 staff. Figure is based on 2,000 staff saving 1 hour of training annually.

[38] Based on 1 per cent of the 1,210,739 restrictions annually, and one hour taken per requisition.

- they had written confirmation from the disponor's conveyancer that they had complied with their professional duties in verifying the disponor's identity or, where the disponor was unrepresented, they had complied with their professional duties in themselves verifying the disponor's identity.

Land Registry is providing a state guarantee of title insurance, and therefore should have the right to require that our customers fulfil certain basic requirements. We believe the inclusion of a confirmation of identity panel will help to reduce the possibility of a fraudulent transaction being completed by registration.

However, we received many replies from consultees indicating that there would be significant compliance costs. In particular, these related to the necessity of their obtaining written confirmation from the disponor's conveyancer that they have verified their client's identity. Consultees have also identified additional compliance costs in dealing with an unrepresented disponor: the regulatory cost of checking the identity of an unrepresented disponor is estimated to be £132,461[39].

The proposal would also have involved additional costs to Land Registry in having another element to check, and to process requisitions, or rejection of applications, where it has not been completed. We estimate this to be an additional cost of £662,300 [40]

Following further discussions, we have made changes to the proposed panels. Broadly, a conveyancer sending in an application in Form AP1, FR1 or DS2 (for cancellation of entries relating to a registered charge) will normally be obliged to give details of the conveyancers who acted for the other parties and, if a conveyancer did not act, then either confirm that they are satisfied that sufficient steps have been taken to verify the identity of the non-represented party (for example, a transferor) or provide evidence of identity. A key difference is that we no longer propose that conveyancers obtain any written confirmation from the other parties' conveyancers.

This approach targets compliance on the highest risk applications; that is those where the disponor is not represented. This is in line with one of the key Hampton principles that:

"Regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources in the areas that need them most."

The cost to customers would then be the **£132,461** mentioned above for checking the identity of an unrepresented disponor (assuming, for present purposes, that conveyancers are always going to provide evidence of identity rather than provide the alternative confirmation). Land Registry costs will be **£662,300**, as explained above. Set against this we might reasonably expect to save around half the cost of fraud to Land Registry. Almost invariably, the fraud resulting in indemnity payments involves forgery and the fraudster impersonating a registered proprietor at some point in the transaction. The amount of indemnity paid by Land Registry resulting from fraud was approximately £10 million in the year 2005/06, £2 million in 2006/7 and £4 million in 2007/08. These figures suggest that it is reasonable to work on the basis of a saving of **£1 million** in the first year that the confirmation of identity panels are used.

Details of proposed changes - other

Many of the other proposed changes have only a marginal effect on customers and Land Registry, either because they are minor in nature, or because the situation is uncommon. These include:

[39] The Law Society estimate that 2 per cent of homebuyers do not use a conveyancing professional. Taking the figures above, this means an estimated 27,379 cases where they might have to deal with an unrepresented seller. The figure is based on 10 minutes to check their identity.

[40] Based on an average additional 1 minute per affected application.

- Cautions Against First Registration (rule 49 – alteration of the cautions register)
- Outline Applications (rule 54 – delivery of applications)
- Unilateral Notices (rule 86 – cancellation of a unilateral notice)
- Restrictions (rule 96 – application for disapplication or modification of a restriction).

Pre-consultation exercises

The formal consultation was preceded by a number exercises with specific groups in relation to specific proposals, these included:-

- Adverse possession – apportionment of charges.
  Rules for the apportionment and discharge of charges against registered land where title to a registered estate has been acquired by adverse possession were discussed with The Council of Mortgage Lenders on 7 February 2007 .

- Confirmation of identity
  A pre-consultation meeting regarding proposals relating to changes to forms AP1 and FR1 was held with the Law Society, the Council of Licensed Conveyancers, the Notaries Society, Property Support Lawyers and the Council of Mortgage Lenders on 22 May 2007.

- Forms
  We commissioned independent research firm IFF Research to conduct an initial consultation on the usability and layout of example forms AP1, DL, FR1, OC1 and TP1. The responses we received were overwhelmingly positive or neutral.
  We also met with Denton Wilde Sapte, solicitors, who had earlier raised issues relating to compliance costs for introducing the proposed new forms. The discussions with that firm have informed the section on compliance costs below.

- Escheat
  Escheat occurs when the freehold estate in land comes to an end, usually by disclaimer on bankruptcy or the winding up of a company. It then reverts to the Crown.
  Following consultation with representatives of the following bodies, we have decided not to proceed with any changes in this area.

  Duchy of Cornwall
  Duchy of Lancaster
  Crown Estate Commissioners
  Treasury Solicitors' Department
  Insolvency Service

Land Registration Rules 2003 – background

The Land Registration Act 2002 ('the Act') sets out the main principles of land registration. The operational details were left to the Land Registration Rules 2003, which is standard practice to save parliamentary time. For example, the Act gives customers the right to order information from Land Registry; the Rules set out the procedures for doing so.

Departments and Agencies are expected to review major policy changes, and our review of the operation of the Rules has resulted in many of the proposals contained in the consultation document.