**EXPLANATORY MEMORANDUM TO**

**THE LAND REGISTRY TRADING FUND (EXTENSION AND AMENDMENT) ORDER 2018**

**2018 No. [XXXX]**

## 1. Introduction

1.1 This explanatory memorandum has been prepared by HM Land Registry and is laid before the House of Commons by Command of Her Majesty.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

## 2. Purpose of the instrument

2.1 HM Land Registry operates as a Government Trading Fund. The Land Registry Trading Fund Order 1993 (1993 Order) requires amendment to the funded operations described in schedule 1 to include the additional activities provided by the Infrastructure Act 2015 (2015 Act).

## 3. Matters of special interest to Parliament

***Matters of special interest to the Select Committee on Statutory Instruments***

3.1 The 2015 Act contained provisions for

- the transfer of responsibility for the local land charges register to HM Land Registry, and
- HM Land Registry to provide information, register and document services relating to land and other property.

***Other matters of interest to the House of Commons***

3.2 This entire instrument applies only to England and Wales.

3.3 The instrument applies only to England and Wales by virtue of the 1993 Order and section 136 (3) of the Land Registration Act 2002.

The instrument does not give rise to minor or consequential effects outside England and Wales.

3.4 In the view of the Department, for the purposes of House of Commons Standing Order 83P the subject-matter of this instrument would not be within the devolved legislative competence of the National Assembly for Wales if equivalent provision in relation to the relevant territory were included in an Act of the relevant devolved legislature

## 4. Legislative Context

4.1 Schedule 1 of the 1993 Order currently includes the following funded operations:

- The conduct of the whole business of the registration of titles to land under the Land Registration Act 2002 and, so far as is provided for by the transitional provisions of that Act, the Land Registration Acts 1925 to 1986.

- The conduct of the whole business of the registration of land charges and other instruments and matters under the Land Charges Act 1972.
- The conduct of the whole business of the registration of agricultural credits under the Agricultural Credits Act 1928.
- The provision of services in wider markets, including outside the United Kingdom, relating to the registration of titles to land and to the management and marketing of information relating to land and property.
- Without prejudice to the foregoing, the performance by the Chief Land Registrar and any other officers of HM Land Registry of any function imposed on them or any of them by law as at 13th October 2003.
- Operations incidental, conducive or otherwise ancillary to the foregoing.

4.2 This instrument is being made to expressly include the following activities conferred by the 2015 Act, to HM Land Registry's list of funded operations:

- Local Land Charges activity as a public task; and
- Extension of HM Land Registry's wider powers

## 5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is set out in Section 3 under "Other matters of interest to the House of Commons".

## 6. European Convention on Human Rights

6.1 Margot James MP has made the following statement regarding Human Rights:

"In my view the provisions of the Land Registry Trading Fund (Extension and Amendment) Order 2018 are compatible with the Convention rights."

## 7. Policy background

***What is being done and why***

7.1 HM Land Registry is a trading fund operating under the 1993 Order as amended. A trading fund order is merely an accounting device. It enables revenues received for specified functions to be included and treated as part of the trading fund revenues.

Currently, all other HM Land Registry revenues (apart from potential revenue from Local Land Charges and wider activities conferred by the 2015 Act) are part of HM Land Registry's funded activities.

The 2015 Act contained provisions for (1) the transfer of responsibility for the local land charges register to HM Land Registry, and (2) for HM Land Registry to provide information, register and document services relating to land and other property.

An extension is therefore required to the 1993 Order so as to make the position clear and remove any possible doubt as the extent of the funded operations to expressly include:

- Local Land Charges activity as a public task; and
- Extension of HM Land Registry's wider powers.

The purpose of the Land Registry Trading Fund (Extension and Amendment) Order 2018 (2018 Order) is to ensure that revenues from Local Land Charges and wider activities also form part of the funded activities.

The draft 2018 Order has been agreed with HM Treasury.

***Consolidation***

7.2 The 2018 Order does not amend other instruments.

## 8. Consultation outcome

8.1 Trading funds are a means of financing the revenue-generating operations of a government department. The 2018 Order will not affect the costs incurred by business. In these circumstances it has not been thought necessary to undertake consultation.

## 9. Guidance

9.1 No guidance or publicity is required as it is a government accounting device.

## 10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

## 11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

## 12. Monitoring & review

12.1 The Instrument does not make or amend regulatory provisions relating to business activity therefore a review provision is not appropriate.

## 13. Contact

13.1 Ajay Maroo at HM Land Registry, ajay.maroo@landregistry.gov.uk, direct telephone number 0300 006 7452 can answer any queries regarding the instrument.