EXPLANATORY MEMORANDUM TO

THE LAND CHARGES FEES RULES 2024

2024 No. 925

AND

THE LAND REGISTRATION FEE ORDER 2024

2024 No. 931

AND

THE AGRICULTURAL CREDITS FEES ORDER 2024

2024 No. 935

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Land Registry and is laid before Parliament by Command of His Majesty.

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

2. Declaration

2.1 Matthew Pennycook, Minister for Housing and Planning at the Ministry of Housing, Communities & Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Gemma McNally, Deputy Director for Strategic Finance, at HM Land Registry can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Amy Douglas at HM Land Registry can be contacted with any queries regarding the instruments (email FeesAndChargingStrategyTeam@landregistry.gov.uk).

Part One: Explanation, and context, of the Instruments

4. Overview of the Instruments

What does the legislation do?

Land Registration Fee Order 2024

4.1 Under the Land Registration Act 2002 ("LRA 2002"), the Chief Land Registrar ("the registrar") is under a duty to continue to keep a register of title to land in England and Wales. Applications can be made to the registrar, including to register title to a property, register a lease, transfer, charge or other disposition of titles, or make or cancel entries in the register to protect interests.

4.2 The LRA 2002 and the Land Registration Rules 2003 ("LRR 2003") enable a person to apply to inspect or obtain copies of the register of title or a document held by the registrar or to obtain information about the history of a registered title. The LRA 2002 and the LRR 2003 also provide for the making of applications to search the register of title, the index map (to ascertain whether land is registered), the index of relating franchises and manors (to see whether land is affected by such registrations) and the index of proprietors' names (to ascertain which estates and charges are registered in the name of a specific person). These services are known as information services and are used in most property transactions or enquiries. Most of the information services can be applied for electronically or otherwise by post.

4.3 The LRA 2002 and the LRR 2003 provide that the making of the applications referred to in paragraphs 4.1. and 4.2 above are subject to the payment of fees. Section 102 of the LRA 2002 requires that the fees are prescribed by an order made by the Secretary of State.

4.4 The Land Registration Fee Order 2024 prescribes the fees for land registration applications to His Majesty's Land Registry ("HMLR"); prescribes the applications that are exempt from fees; and contains administrative provisions relating to the payment of fees. It replaces the Land Registration Fee Order 2021 ("the 2021 Fee Order") and increases fees for HMLR information services.

Land Charges Fees Rules 2024

4.5 Land Charges relate to unregistered land. A person can register a land charge against the named owner of the land to protect an interest, for example, the benefit of a restrictive covenant or a contract to purchase the land. Under the Land Charges Act 1972 ("LCA 1972"), the registrar is required to keep a register of land charges, and also a register of pending actions affecting land and pending actions in bankruptcy, and a register of writs and orders affecting land and writs and orders in bankruptcy.

4.6 Under the LCA 1972 and the Land Charges Rules 1974 ("LCR 1974"), applications can be made to the registrar to register, cancel, renew or rectify Land Charges, to inspect or obtain copies of register entries and to search the registers. Although the amount of unregistered land is diminishing, searches of these registers remain an important part of property transactions, particularly where a lender wishes to check that that there are no pending actions or orders in bankruptcy against a prospective borrower (and this applies in both registered and unregistered land transactions).

4.7 The LCA 1972 and the LCR 1974 enable fees to be charged for the making of applications referred to in paragraph 4.6 above. Section 16 LCA 1972 requires that the fees are prescribed by rules made by the Secretary of State.

4.8 The Land Charges Fees Rules 2024 prescribe the fees payable for applications to the Land Charges Department of HMLR and the methods of payment of such fees. They replace the Land Charges Fees Rules 1990 and increase fees for Land Charges applications.

Agricultural Credits Fees Order 2024

4.9 Agricultural charges are registered against the names of farmers who have borrowed money on the security of their stock and assets. Under the Agricultural Credits Act 1928 ("ACA 1928"), the registrar is required to keep a register of agricultural charges and a lender must register an agricultural charge within 7 working days of execution of the charge. Under the ACA 1928 and the Agricultural Credits Regulations 1928 ("ACR 1928"), applications can be made to the registrar to register a charge, cancel or rectify an entry, inspect or obtain a copy of the memorandum of the charge or search

the register. Usually, searches will be made in the register where there are sales or mortgages of farming stock or assets.

4.10 The ACA 1928 and ACR 1928 enable fees to be charged for the making of applications referred to in paragraph 4.9 above. Section 9(2) ACA 1928 requires that the fees are prescribed by regulations made by the Secretary of State

4.11 The Agricultural Credits Fees Order 2024 prescribes the fees payable for applications relating to the registration of agricultural charges under the ACA 1928. It replaces the Agricultural Credits Fees Order 1985 and increases fees for Agricultural Credits applications and services.

Where does the legislation extend to, and apply?

4.12 The extent of these instruments (that is, the jurisdiction(s) which the instruments form part of the law of) is England and Wales.

4.13 The territorial application of these instruments (that is, where the instruments produce a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 HMLR is funded through the Parliamentary Estimates process. HM Treasury (HMT) currently requires HMLR to ensure that its fee income covers its operational and investment costs over a number of years.

5.2 The last Spending Review settlement was agreed in 2021 covering the three years to 2024/25. A number of the assumptions on which the budget was based have changed over this time and current expenditure projections for 2024/25 exceed the settlement and HMLR's recognised income. The assumptions that have changed significantly relate to inflation and staff salary annual increases. HMT has agreed to increase HMLR's 2024/25 Resource Delegated Expenditure Limit (RDEL) budget dependent on it generating a corresponding increase in revenue. This will be achieved by the increase in fees.

5.3 As explained in paragraph 5.8, land registration fees fall within two categories: scale fees and fixed fees. The last fee increase (in 2021) related only to land registration scale fees. Fixed fees (including fees for information services) were not increased at that time because it was felt that this would have resulted in customers having to implement quite small fee changes (of £1 or £2) in their systems and be disproportionate in impact and cost.

5.4 This time, because the funding requirement is higher than in 2021, the impact of the increase in information services fees on customers is considered proportionate and so HMLR are proposing to increase fees for information services rather than the scale fees that were increased in 2021. Information services fees have not increased since 2009.

5.5 The cost of delivering Land Charges and Agricultural Credits services is included in the Spending Review settlement. The fees for such services are small in amount (50p-£2) and generate only a small proportion of HMLR income. The majority of fees for Land Charges have not increased since 1990 and for Agricultural Credits not since 1985. Regular review of these would be disproportionate in impact and cost. However, as a review of these fees has not been carried out for over 30 years, these are being increased to bring them more in line with current levels and costs.

5.6 These instruments are a specific measure to increase HMLR revenue as a result of the agreement with HMT. HMLR is carrying out a more detailed review of its fees and charging structure. The first step was a recent Call for Evidence, the results of which will be published soon. HMLR will use the information gathered from this exercise and develop a fees and charging structure that aligns with HMLR's strategic aims. Any significant changes to fees and charges would be subject to a full public consultation.

The Land Registration Fee Order 2024

5.7 This instrument applies a flat rate increase of £4 to information services fees. This is expected to generate additional income of around £119m per year.

5.8 In general terms, fees for land registration applications are in two categories. **Scale fees**, which are based on the value of the property. These are presented in value bands; the higher the value of the property, the higher the fee. These fees apply to applications for first registration and for the registration of transfers, leases and charges of property. These fees were increased in the 2021 Fee Order and are unchanged. **Fixed fees**, which apply to other types of application, for example, registration of notices or restrictions, and information services which the new Order addresses.

The Land Charges Fees Rules 2024

5.9 This instrument applies a flat rate increase of £4 to Land Charges fees, with the exception of (1) applications for official searches, official copies and inspection of entries which are not submitted electronically and (2) applications for certificates of cancellation. Fees for searches will increase by £6 and fees for official copies will increase by £5, whereas the fee for a certificate of cancellation is reduced to nil. The increase in fees for searches and official copies reflects HMLR's general policy that applications which are not submitted electronically should incur higher fees. The increase to Land Charges fees is expected to generate additional income of around £8m per year.

The Agricultural Credits Fees Order 1985

5.10 This instrument applies a flat rate increase of £4 to agricultural credits fees, save for (a) official searches of the register and (b) certified copies of memoranda, which have been rounded down to the nearest pound, resulting in an increase of £3.50. It is expected to generate additional income of around £20k per year.

What was the previous policy, how is this different?

5.11 The Land Registration Fee Order 2021 increased scale fees for registration services. Consideration was given to a further increase in registration services fees but, for reasons stated in paragraphs 5.3 to 5.4 above, it was felt that there was a stronger case for increasing information services fees, which had not been changed for over 10 years. HMLR chose to increase these fees uniformly to simplify the implementation and minimise errors and complications. The new fees allow HMLR to be overall cost neutral over a 10-year policy period, with some fees matching inflation, while others exceed it.

5.12 The Land Charges Fee Rules 1990 were amended in 2012, but fees were not increased from their 1990 levels. Indeed, some fees have remained as prescribed by the Land Charges Fees Order 1985.

5.13 In the past, there has not been in place a systematic approach to reviewing the fees for Land Charges and Agricultural Credits. As HMLR start to consider its future fees and charging structure it is appropriate to consider the fees for all information service requests against all registers. The cost of delivering the service has increased over time. The majority of Land Charges requests are made electronically to search the register and the flat £4 fee increase will raise the fees for them by more than the rate of inflation, since the last increase in 1990. However, keeping the increase consistent across all services will avoid confusion and limit errors which have a cost implication for customers and HMLR.

5.14 The Agricultural Credits Fees Order 1985 has remained unamended since it was made, meaning that fees have been unchanged since 1985 and, in some cases, remain at levels set in 1975.

5.15 The processing of Agricultural Credits applications remains a predominantly manual process and staff salary costs have increased over time. HMLR has taken the opportunity to review the fees for these services as this has not been done for a number of years. The search fee has remained unchanged since 1975 and the proposed increase is generally in line with inflation since that time. However, the fee for registration of charges is increasing above the rate of inflation for that period, but HMLR want to maintain the price difference between the services. HMLR still consider this to be proportionate given that the registration provides the protection for a lender when lending money on the security of farming stock and assets, which may be a substantial amount of money.

6. Legislative and Legal Context

How has the law changed?

Land Registration

6.1 The Land Registration Fee Order 2024 replaces the Land Registration Fee Order 2021. The main change is an increase to the fees payable for HMLR's information services, which are set out in parts 2 and 3 of Schedule 3 of the instrument, by a flat rate of £4, as explained in section 5 above.

6.2 There are also some minor drafting changes to clarify and update existing provisions as explained in paragraphs 2 to 4 of the Explanatory Note to the instrument.

Land Charges Fees

6.3 The Land Charges Fees Rules 2024 replace the Land Charges Fees Rules 1990. The main change is an increase to the fees payable for applications and services as set out in the Schedule to the instrument.

6.4 There are also some drafting changes to clarify and update existing provisions, as explained in paragraphs 2 to 4 of the Explanatory Note to the instrument.

Agricultural Credits Fees

6.5 The Agricultural Credits Fees Order 2024 replaces the Agricultural Credits Fees Order 1985. The main change is an increase to the fees payable for applications and services as set out in the Schedule to the instrument.

There are also some drafting changes to clarify and update existing provisions, as explained in paragraphs 2 to 4 of the Explanatory Note to the instrument.

Why was this approach taken to change the law?

6.6 The governing legislation for land registration, Land Charges and Agricultural Credits requires that fees be prescribed by statutory instrument.

6.7 Section 102 of the Land Registration Act 2002 provides that the Secretary of State may with the advice and assistance of the Rule Committee and the consent of the Treasury may by order make provision about the payment of prescribed fees.

6.8 Section 16 of the Land Charges Act 1972 provides that the Secretary of State may, with the concurrence of the Treasury as to fees, make such general rules as may be required for carrying the Act into effect.

6.9 Section 9 of the Agricultural Credits Act 1928 provides that the Secretary of State may make regulations prescribing anything under which that section is to be prescribed, subject as respects fees to the approval of the Treasury.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation has been undertaken, for the reasons set out in the following paragraphs.

7.2 The structure of the instruments is largely the same as the current fees rules and orders and the changes are relatively small.

7.3 The fees are small in proportion to the overall cost of a typical property transaction. The Impact Assessment (section 9.2) concludes that HMLR fees make up only £163 of the total cost for someone moving in England between average priced properties (1.2% of the total cost in England, and 1.86% of the total cost in Wales). The change would, together with changes being made to Land Charges fees result in the proportion of the total cost of moving attributable to HMLR fees rising a fraction to 1.38% in England and 2.08% in Wales.

7.4 For land registration applications, in 1996 HMLR introduced a reduced fee for inspection of the register lodged electronically. This was extended to official searches in 1997, the inspection of documents in 1999 and some registration applications in 2013. This was to encourage the take up of these services and to reflect the higher handling costs for applications lodged by post. HMLR has continued to set higher fees for postal applications. However, since 1994, Land Charges electronic search fees were set at a higher rate than postal applications. It is unclear what the rationale was for this. This is being corrected in the Land Charges Fees Rules 2024 by increasing postal fees by more than £4 (see paragraph 5.13) The majority of applications for searches are lodged online and this increase will affect less than 5% of these applications. This is not considered a structural change as it is a correction to ensure consistent fee pricing across all registers.

7.5 Even though no formal consultation has been undertaken, HMLR have sought the view of the Land Registration Rule Committee. The Rule Committee is made up of members of the conveyancing and property sector together with a person appointed for their experience in consumer affairs. Under section 102 of the Land Registration Act 2002, the Secretary of State requires the advice and assistance of the Rule Committee in the making of the Land Registration Fee Order and so this has been considered by the Committee. The Committee was also informed about the proposed increases in the fees for Land Charges and Agricultural Credits applications and services.

7.6 The Committee supported the comments of one member that HMLR should be ensuring that any additional funds result in faster registration timescales for customer benefit, and noting that not all service requests for HMLR information are linked directly to a transaction but where they are, then there would be a larger transaction cost for any customer seeking information on multiple titles as part of any one transaction (for example, in the purchase of a property on some housing estates). The Chair of the Committee was satisfied with HMLR's consideration of and response to this feedback.

7.7 The Impact Assessment shows that the cost of the changes that businesses need to make to implement changes in fees are not significant nor disproportionate.

8. Applicable Guidance

8.1 HMLR will provide the following publicity about the instrument and increase in fees:

a) HMLR's fee pages on the gov.uk website will be updated along with fee calculators available to business and citizen customers.

b) News of the update will be published on the gov.uk website directing customers and stakeholders (including representative bodies) to the updated fee pages, for example updates to Practice Guides. This will be boosted through social media posts and in HMLR's two monthly newsletters.

c) An email will be circulated to customers about the changes and will offer links that will signpost them to updated guidance on gov.uk. The guidance will also be shared directly with high volume customers, who have regular meetings with HMLR.

d) A message will be appended to the results of applications for information services.

e) Notices and publications will be issued to appropriate legal and conveyancing publications (for example, Law Society Gazette).

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is not significant because, as explained in paragraph 7.3, the fees are small in proportion to the overall cost of purchasing a property and the changes that businesses need to make to implement changes in fees does not appear to be significant or disproportionate. The total net present social value over 10 years is -£1.9m which is largely the transition costs to customers and HMLR, other costs and benefits to customers are transfer costs.

9.3 The legislation does impact small or micro businesses, but not disproportionately.

9.4 No specific action is proposed to minimise regulatory burdens on small businesses.

9.5 The basis for the final decision on what action to take to assist small businesses is that publicity and information will enable all businesses (including small businesses) to take the necessary steps to implement the changes.

9.6 The impact on the public sector is not significant for the reasons given in paragraph 9.2.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 As the instrument makes provision for fees, the duty to review regulatory provisions in secondary legislation under section 28 of the Small Business, Enterprise and Employment Act 2015 does not apply. However, as explained in paragraph 5.6, the instrument is to increase HMLR revenue and HMLR is carrying out a more detailed review of its fees and charging structure.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

11.1 The instruments will increase land registration information services fees, Land Charges fees and Agricultural Credits fees. Although the increases appear large in proportion to the existing fees and, in some cases, will be above the rate of inflation (for the period from when they were last increased), they are small in monetary terms. HMLR is funded through the Parliamentary Estimates process and the increase in fees reflects HM Treasury's requirement that HMLR ensures that its income covers its full Resource Delegated Expenditure Limit (RDEL) funding. HMT has agreed to increase HMLR's 2024/25 RDEL budget, provided HMLR generates a corresponding increase in revenue through an increase in fees. Further information on this and the increases is given in section 5.

11.2 As also explained in section 5, these fees have not been increased for some time; land registration information service fees have not increased since 2009 (and, in some cases, are at the same levels as they were in 1996), and fees for Land Charges and Agricultural Credits services have not increased since 1990 and 1985 respectively. HMLR chose to increase these fees uniformly to simplify the implementation and minimise errors and complications. The new fees allow HMLR to be overall cost neutral over a 10-year policy period, with some fees matching inflation, while others exceed it.

11.3 The instruments revoke and replace the Land Registration Fee Order 2021, Land Charges Fees Rules 1990 and Agricultural Credits Fees Order 1985 rather than amending them to assist in clarity.

12. European Convention on Human Rights

12.1 As the instruments are not subject to parliamentary procedure, no statement is required.

13. The Relevant European Union Acts

13.1 These instruments are not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").