EXPLANATORY MEMORANDUM TO

THE LAND REGISTRATION (PROPER OFFICE) (No. 2) ORDER 2009

2009 No. 2727

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. Purpose of the instrument

2.1 Her Majesty's Land Registry (Land Registry) has offices throughout England and Wales. The Land Registration (Proper Office) (No. 2) Order 2009 (the Order) designates particular offices of Land Registry as the proper office for the receipt of specified descriptions of application under the Land Registration Act 2002 (the Act).

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

3.1 None.

4. Legislative Context

4.1 Under the Act, the Chief Land Registrar (the registrar) is under a duty to continue to keep a register of the ownership of land in England and Wales. More precisely, the registrar keeps a register of title to legal estates in land (in particular, freeholds and leases having more than seven years to run) and several other types of estate, including charges (in other words, mortgages).

4.2 A registered owner of land or of a charge has certain powers of disposition under the Act. Some dispositions, such as a transfer, many leases and the grant of a legal charge, must be completed by registration and do not take effect in law until this has been done.

4.3 Many different types of applications are made to Land Registry, including applications to register title to a legal estate in land for the first time, to complete dispositions by registration, to protect the priority of certain interests in land and for information. Section 100(3) of the Act provides that the Lord Chancellor may by order designate a particular office of Land Registry as the proper office for the receipt of applications or a specified description of application.

4.4 The Order is made under section 100(3). Particular offices of Land Registry are designated as the proper office for the receipt of applications on the basis of the administrative area in which the land concerned is wholly or partly situated.

4.5 The Order applies to all paper applications, except those where the application is delivered in accordance with a written agreement as to delivery made between the registrar and the applicant (or the applicant's conveyancer – "conveyancer" is defined in

article 2(2)). The Order does not apply to applications made under the provisions of a relevant notice under Schedule 2 to the Land Registration Rules 2003. Applications in electronic form, or by telephone or fax are made under the provisions of Schedule 2 notices and so are not covered by the Order.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the Order is not subject to the affirmative procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 Under the Land Registration Act 1925, Land Registry operated through a series of district registries, each of which dealt with most applications relating to a particular area of England and Wales. The Act replaced the Land Registration Act 1925 in October 2003, but there is still a need for paper applications to be delivered to a pre-determined Land Registry office. Such delivery assists Land Registry in the efficient processing of applications and enables customers to know which office will deal with their application and the office to contact to discuss any procedural aspect of a proposed or pending application.

7.2 Following a full review of all its offices, Land Registry announced in May 2006 a planned reduction in the number of local offices it operates. The Order reflects the completion of this reduction.

7.3 On 1 April 2008, the Harrow and York Offices ceased to be proper offices and became sub-offices of the Stevenage and Hull Offices respectively. They will remain as sub-offices until the sites are closed in 2010. Also on 1 April 2008, the two offices in Durham became a single proper office. On 1 April 2009, the Lancashire and Lytham Offices became a single proper office: the Fylde Office. On 1 October 2009, the two offices in Birkenhead became a single proper office and the two offices in Nottingham also became a single proper office. All these changes to the proper offices were effected by successive Proper Office Orders.

7.4 Under the Order, the Swansea Office will cease to be a proper office and the administrative areas previously dealt with by that office will be dealt with by the Wales Office. The number of proper offices will thereby be reduced to 17. The Order will come into force on Monday 11 January 2010 and the site of the Swansea Office will close at the same time.

8. Consultation outcome

8.1 The Order will not affect the costs incurred by business. It will simply mean having to deliver certain applications to one Land Registry office rather than to another. In these circumstances it has not been thought necessary to undertake consultation.

9. Guidance

9.1 Land Registry will provide the following publicity about the Order:

- Once the Order has been laid before Parliament, there will be a press release and the Order will be publicised on Land Registry's website.

- From 19 October 2009 until 8 January 2010, correspondence issued in respect of applications administered by the Wales and Swansea Offices will publicise the new arrangements; and from 11 January 2010 until 31 March 2010, correspondence issued in respect of applications administered by the Wales Office will do the same.

- From 30 November 2009, for a period of about six weeks, leaflets explaining the changes brought about by the Order will be issued by Land Registry with completed applications.

10. Impact

10.1 The impact on business, charities and voluntary bodies is insignificant.

10.2 The impact on the public sector is insignificant.

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

11. Regulating small business

11.1 The legislation applies to small business and to everyone else who needs to make paper applications to Land Registry.

11.2 To minimise the impact of the requirement for applications to be made to particular offices on small firms employing up to 20 people, and to minimise the impact on others, Land Registry publishes on its website and in paper form details of which office is the proper office for receipt of paper applications. This information is available free of charge, and will be updated to take account of the Order. Also, as explained, the closure of the Swansea Office as a proper office will be well-publicised.

12. Monitoring and review

12.1 The effectiveness of the publicity detailed in paragraph 9.1 will be continually monitored, and appropriate steps will be taken to deal with any general lack of understanding on the part of customers.

13. Contact

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can answer any queries regarding the instrument.