EXPLANATORY MEMORANDUM TO

THE LAND REGISTRATION (PROPER OFFICE) ORDER 2008

2008 No. 3201

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) Order 2008 (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 titles to legal estates in land (for example, freeholds and leases having more than seven years to run) and several other types of estate. Not all legal estates are registrable, and not all those which are registrable have actually been registered.

4.2 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. 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.

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 reduction is to take place over a period of years and includes the closure of its sites at Harrow and York in 2010. In Birkenhead, Durham, Lytham St Annes, Nottingham and Swansea, Land Registry has two offices: in each case the two offices will in due course be merged.

7.3 On 1 April 2008, the Harrow and York Offices ceased to be proper offices and became sub-offices of the Stevenage and York Offices respectively. They will remain as sub-offices until they are closed. Also on 1 April 2008, the two offices in Durham became a single proper office. These changes were effected by the Land Registration (Proper Office) Order 2007, which is revoked by the Order.

7.4 The Order will result in a reduction in the number of proper offices from 21 to 20. This is because the Lytham Office and the Lancashire Office (both in Lytham St Annes) will become a single proper office, to be known as the Fylde Office. The Order also takes into account the fact that under the Local Government and Public Involvement in Health Act 2007 the counties of Cheshire and Bedfordshire have been replaced for local government purposes with effect from 1 April 2009. The proper offices for the affected areas remain the same.

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 Lytham and Lancashire Offices merging to become the Fylde Office:

- From January 2009 posters will be displayed in the Customer Information Centre at each of the two offices notifying customers that as from 1 April 2009 one of the Centres will be closed. Customers at the two Customer Information Centres will also be able to pick up leaflets explaining what is happening.

- From the middle of February 2009 a paragraph giving notice of the changes will be included in correspondence issued by the Lytham and Lancashire Offices, and leaflets explaining what is happening will be issued to applicants or their conveyancers on the completion of applications received by the two offices.

10. Impact

10.1 The impact on business, charities or 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, as explained, the creation of the new Fylde 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.