

*Draft rules laid before Parliament under section 128(5) of the Land Registration Act 2002, for
approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2008 No.

LAND REGISTRATION, ENGLAND AND WALES

The Land Registration (Network Access) Rules 2008

Made - - - -

Date

Coming into force in accordance with rule 1

These rules are made in exercise of the powers conferred by sections 92(2) and 128(1) of, and paragraphs 1(4), 2, 3 and 11 of Schedule 5 to, the Land Registration Act 2002(1).

The Lord Chancellor has consulted such persons as he considered appropriate, in accordance with paragraph 11(2) of Schedule 5 to that Act.

The Lord Chancellor in making rules under paragraphs 1(4) and 3(2)(a) of Schedule 5 to that Act has had regard, in particular, to the matters set out in paragraph 11(3) of Schedule 5 to that Act.

In accordance with section 128(5) of that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Accordingly, the Lord Chancellor makes the following rules:

PART 1

GENERAL

Citation and commencement

1. These rules may be cited as the Land Registration (Network Access) Rules 2008 and shall come into force on the day after the day on which they are made.

Interpretation

2.—(1) In these rules unless the context otherwise requires—

“the Act” means the Land Registration Act 2002,

“address for service” means an address for service for the purposes of a network access agreement, pursuant to paragraph 1 of Schedule 2,

“business day” is a day when the land registry is open to the public under rule 216 of the principal rules,

“full network access agreement” has the meaning given in rule 3(1),

“intervention” means an intervention—

(a) by the Law Society under section 35 of, and Schedule 1 to, the Solicitors Act 1974⁽²⁾, section 9 of, and Schedule 2 to, the Administration of Justice Act 1985⁽³⁾, or section 89 of, and Schedule 14 to, the Courts and Legal Services Act 1990⁽⁴⁾, or

(b) by the Council for Licensed Conveyancers under section 31 of, and Schedule 5 to, or section 32 of, and Schedule 6 to, the Administration of Justice Act 1985,

“notice of termination” means a notice of the kind described in rule 8(2),

“the principal rules” means the Land Registration Rules 2003⁽⁵⁾,

“read-only network access agreement” has the meaning given in rule 3(2),

“signature network access agreement” has the meaning given in rule 3(3),

“Subscriber” means the person who is a party to a network access agreement with the registrar, and

“subsequent appeal” does not include an appeal out of time with permission.

(2) References to an electronic signature are to be read in accordance with section 7(2) of the Electronic Communications Act 2000⁽⁶⁾.

(3) In rules 7, 8, 9 and 10 and Schedules 1 and 3, a reference to an agreement is to a full network access agreement.

PART 2

TYPES OF NETWORK ACCESS AGREEMENT

Types of network access agreement

3.—(1) A “full network access agreement” is a network access agreement which permits the Subscriber to carry out network transactions.

(2) A “read-only network access agreement” is a network access agreement which only permits the Subscriber to retrieve information on the land registry network.

(3) A “signature network access agreement” is a network access agreement, other than a full network access agreement, which permits the Subscriber to apply an electronic signature to a document and to retrieve information on the land registry network.

(2) 1974 c.47.

(3) 1985 c.61.

(4) 1990 c.41.

(5) S.I. 2003/1417; no relevant amending instruments.

(6) 2000 c.7.

PART 3

CRITERIA TO BE MET BY AN APPLICANT FOR ENTRY INTO A NETWORK ACCESS AGREEMENT

The criteria referred to in paragraph 1(4) of Schedule 5 to the Act

4. The criteria referred to in paragraph 1(4) of Schedule 5 to the Act (which provides that the registrar must on application enter into a network access agreement with the applicant if the applicant meets such criteria as rules may provide) are—

- (a) in relation to a full network access agreement, those set out in Schedule 1,
- (b) in relation to a read-only network access agreement or a signature network access agreement, that the applicant has—
 - (i) informed the registrar that he will accept the terms of the agreement, and
 - (ii) if an individual, attained the age of eighteen years.

PART 4

TERMS OF ACCESS

Terms which must be included in network access agreements

5.—(1) The same terms must, at any given time, apply to all network access agreements of the same type, being a type described in rule 3.

- (2) A full network access agreement must include the terms referred to in Schedule 2.
- (3) A signature network access agreement must include—
 - (a) provision limiting the duration of the agreement,
 - (b) the provisions referred to in paragraphs 4, 5, 8, 9 and 11 to 16 (except paragraphs 4(d) and 12(1)(b)) of Schedule 2, and
 - (c) provision as to the extent to which the Subscriber will be liable to the registrar for loss and damage arising out of or in connection with the agreement and the use of the land registry network, which must include, in particular, provision that the Subscriber shall be liable for loss and damage suffered by the registrar, and liable to indemnify the registrar in respect of any liability to a third party incurred by the registrar, arising directly from—
 - (i) the intentional, reckless or negligent misuse of the land registry network by the Subscriber,
 - (ii) breach of the agreement by the Subscriber,
 - (iii) negligent acts, errors or omissions by the Subscriber, or
 - (iv) any misrepresentation by the Subscriber as to the Subscriber's identity,except to the extent that the registrar has contributed to his own or the third party's loss.
- (4) A read-only network access agreement must include—
 - (a) provision limiting the duration of the agreement, and
 - (b) the provisions referred to in paragraphs 5, 8, 11 to 16 and 19 of Schedule 2.

PART 5

TERMINATION OF ACCESS BY THE REGISTRAR

Termination of a full network access agreement by the registrar

6.—(1) Where a ground set out in Schedule 3 exists in relation to a full network access agreement, the registrar may—

- (a) terminate the full network access agreement with immediate effect, in which case rule 7 applies, or
 - (b) give the Subscriber a notice of termination, in which case rule 8 applies.
- (2) An agreement may be terminated under paragraph (1)(a) even if—
- (a) a notice of termination based on different facts has been given and has not expired, or
 - (b) termination of the agreement has been suspended under rule 10 in respect of a notice of termination based on different facts.

Immediate termination

7.—(1) This rule applies when the registrar has terminated an agreement with immediate effect under rule 6(1)(a).

(2) The registrar must as soon as practicable give notice to the Subscriber that the agreement has terminated.

- (3) A notice under this rule must—
- (a) be in writing,
 - (b) specify each ground of termination on which the registrar relies,
 - (c) specify the facts which, in the opinion of the registrar, justify each ground of termination on which the registrar relies,
 - (d) state why the registrar considers that termination with immediate effect was justified, and
 - (e) state the effect of paragraph 4 of Schedule 5 to the Act.

Termination after notice

8.—(1) This rule applies when the registrar has decided under rule 6(1)(b) to give the Subscriber a notice of termination.

- (2) A notice of termination must—
- (a) be in writing,
 - (b) state the date and time when the notice will expire in accordance with paragraph (3),
 - (c) specify each ground of termination on which the registrar relies,
 - (d) specify the facts which, in the opinion of the registrar, justify each ground of termination on which the registrar relies,
 - (e) state the effect of paragraphs (4), (5), (6), (7) and (8) of this rule,
 - (f) state the effect of paragraph 4 of Schedule 5 to the Act, and
 - (g) state the effect of rule 10.
- (3) A notice of termination expires at 12 noon on the expiry date.

(4) If the registrar is satisfied that it is no longer appropriate to terminate the agreement, he may withdraw a notice of termination (even if it has expired) at any time before the agreement has terminated.

(5) The registrar withdraws a notice of termination by sending the Subscriber notification to that effect.

(6) If the registrar withdraws a notice of termination where the termination has been suspended and an appeal in relation to the notice of termination is pending before the adjudicator, he must also inform the adjudicator of the withdrawal.

(7) Subject to paragraph (8), the agreement will terminate—

- (a) where termination has not been suspended, on the expiry of the notice of termination, or
- (b) where termination has been suspended, on the expiry of the notice of termination or on the determination of the appeal and of any subsequent appeal, whichever occurs later.

(8) Paragraph (7) does not apply where—

- (a) the notice of termination has been withdrawn under paragraph (4),
- (b) the agreement has been terminated by the Subscriber under paragraph 3(1) of Schedule 5 to the Act,
- (c) the agreement has terminated automatically in accordance with its terms,
- (d) the agreement has been terminated under rule 6(1)(a) or rule 11, or
- (e) the adjudicator or the High Court orders otherwise.

(9) An agreement may be terminated in accordance with this rule even if termination under this rule has been suspended in respect of a notice of termination based on different facts.

(10) In this rule—

- (a) “expiry date” means—
 - (i) where the notice of termination is issued before the date specified in any notice given pursuant to rule 216(2) of the principal rules, the thirty-fifth business day after the date of issue of the notice of termination, and
 - (ii) where the notice of termination is issued on or after the date specified in any notice given pursuant to rule 216(2) of the principal rules, the forty-second business day after the date of issue of the notice of termination, and
- (b) references to the suspension of termination are to suspension under rule 10.

Giving of notice

9.—(1) A notice under rule 7 or 8 may be given—

- (a) by post, to any postal address specified in accordance with the agreement as the Subscriber’s address for service,
- (b) by directing the notice to the relevant box number at any document exchange specified in accordance with the agreement as the Subscriber’s address for service, or
- (c) by electronic transmission to any electronic address specified in accordance with the agreement as the Subscriber’s address for service.

(2) Notice given in accordance with this rule shall be treated as given at the time shown in the table below—

<i>Manner of giving notice</i>	<i>Time given</i>
Post to an address in the United Kingdom	The second working day after posting

<i>Manner of giving notice</i>	<i>Time given</i>
Post to an address outside the United Kingdom	The seventh working day after posting
Document exchange	On the second working day after it was left at the registrar's document exchange
Electronic transmission to an electronic address	The second working day after transmission

(3) In this rule—

“post” means pre-paid delivery by a postal service which seeks to deliver documents within the United Kingdom no later than the next working day in all or the majority of cases, and to deliver documents outside the United Kingdom within such a period as is reasonable in all the circumstances, and

“working day” means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or any other day either specified or declared by proclamation under section 1 of the Banking and Financial Dealings Act 1971(7) or appointed by the Lord Chancellor.

Suspension of termination pending appeal

10.—(1) A Subscriber who has appealed to the adjudicator under paragraph 4(1) of Schedule 5 to the Act against the registrar's decision to give a notice of termination may request that the termination be suspended.

(2) A suspension request must—

- (a) be in writing,
- (b) state that the Subscriber has appealed to the adjudicator against the registrar's decision,
- (c) request that the termination be suspended, and
- (d) be received by the registrar at his address for service before the expiry of the notice of termination.

(3) Where the registrar receives a suspension request either after 12 noon on a business day or on a day which is not a business day, the request shall be treated as having been received on the next business day.

(4) On receipt by the registrar of a suspension request which complies with paragraph (2)—

- (a) subject to paragraph (5), termination of the agreement is suspended, and
- (b) the registrar must as soon as practicable acknowledge receipt of the suspension request and inform the Subscriber of the effect of sub-paragraph (a) and of rule 8(7)(b) and (8).

(5) Paragraph (4) does not apply if at the time the registrar receives the suspension request the appeal has already been determined and no subsequent appeal is pending.

(6) Subject to paragraph (7), the suspension expires on the expiry of the notice of termination or on the determination of the appeal and of any subsequent appeal, whichever occurs later.

(7) Notwithstanding paragraph (6), the suspension expires when any of the following events occurs—

- (a) the notice of termination is withdrawn under rule 8(4),
- (b) the agreement is terminated by the Subscriber under paragraph 3(1) of Schedule 5 to the Act,
- (c) the agreement terminates automatically in accordance with its terms,

- (d) the agreement terminates under rule 6(1)(a) or rule 11, or
- (e) the adjudicator or the High Court so orders.
- (8) In this rule, “suspension request” means a request under paragraph (1).
- (9) In paragraph (2)(d), the reference to the registrar’s address for service is, where the registrar has more than one such address, to any one of them.

Termination of all network access agreements

11.—(1) If the registrar is of the opinion that it is no longer practicable to operate the land registry network he may give notice in the London Gazette terminating all subsisting network access agreements with effect from a date specified in the notice.

- (2) A notice under this rule must be published not less than fourteen days before it takes effect.

Signed by authority of the Lord Chancellor

Date

Minister of State,
Ministry of Justice

SCHEDULE 1

rule 4

THE CRITERIA FOR ENTRY INTO A FULL NETWORK ACCESS AGREEMENT

Qualified persons

- 1.—(1) That the applicant is—
- (a) a qualified person,
 - (b) a partnership or limited liability partnership at least one of whose members is a qualified person,
 - (c) a person who employs or has among his staff, or being a body corporate (other than a limited liability partnership) has among its officers, at least one qualified person who will make or supervise the making of applications to the land registry in the course of his employment or as such member of staff or officer, or
 - (d) a government department.
- (2) For the purposes of this paragraph, “qualified person” means—
- (a) a solicitor,
 - (b) a licensed conveyancer within the meaning of section 11(2) of the Administration of Justice Act 1985⁽⁸⁾,
 - (c) a barrister,
 - (d) a duly certificated notary public, or
 - (e) a registered European lawyer within the meaning of the European Communities (Lawyer’s Practice) Regulations 2000⁽⁹⁾ who by virtue of regulations 6 and 12 of those Regulations is entitled to prepare for remuneration an instrument creating or transferring an interest in land in England and Wales.

Insurance

- 2.—(1) Where the applicant is under an obligation to comply with indemnity rules, that he holds a policy of indemnity insurance which complies with the indemnity rules applicable to him.
- (2) Subject to paragraph 3, where the applicant is not under an obligation to comply with indemnity rules, that a policy of indemnity insurance providing cover which in the opinion of the registrar is reasonably equivalent to the minimum cover for the time being required under the indemnity rules applicable to a solicitor is held by—
- (a) the applicant,
 - (b) the applicant’s employer, or
 - (c) where the applicant meets the criterion in paragraph 1 by reason only of being within paragraph 1(1)(b) or (c), a qualified person as specified in paragraph 1(1)(b) or (c), as appropriate.
- (3) In this paragraph, “indemnity rules” means any rules for the time being in force—
- (a) made under section 37 of the Solicitors Act 1974⁽¹⁰⁾, and any modification of such rules made under section 9(2)(f) of the Administration of Justice Act 1985 or section 89(3) of the Courts and Legal Services Act 1990⁽¹¹⁾,

⁽⁸⁾ 1985 c.61; section 21 was amended by S.I. 2001/3649, article 298.

⁽⁹⁾ S.I. 2000/1119, amended by S.I. 2004/1628; there are other amending instruments but none is relevant.

⁽¹⁰⁾ 1974 c.47.

⁽¹¹⁾ 1990 c.41.

- (b) made under section 21 of the Administration of Justice Act 1985, and any modification of such rules made under section 32(3)(f) of that Act, or
- (c) made under any other statutory provision enabling any person to make provisions governing the maintenance of professional indemnity insurance by persons providing legal services to the public.

3.—(1) An applicant who is a government department is not required to meet the criterion in paragraph 2.

(2) Any other applicant who is not under an obligation to comply with indemnity rules is not required to meet the criterion in paragraph 2(2) if he demonstrates to the reasonable satisfaction of the registrar that it would not be practicable for him to meet the criterion and that such indemnity insurance is unnecessary in view of his likely use of the network and his likely ability to meet any liability arising from such use.

System and security requirements

4. That the applicant demonstrates to the reasonable satisfaction of the registrar that he is able to comply with the system and security requirements set out or referred to in the agreement in respect of which the application is made.

Financial position

5. That the applicant demonstrates to the reasonable satisfaction of the registrar that he will be able to meet his likely obligations to the registrar in respect of the payment of fees prescribed under section 102 of the Act and charges payable under the terms of the agreement for applications made to and services to be provided by the registrar through the land registry network.

Applicant or connected person affected by termination, a notice of termination, intervention or disciplinary proceedings

6. An applicant who meets the criteria in paragraphs 1 to 5 but to whom paragraph 7 applies must satisfy the registrar that he is likely to comply with the terms of the agreement.

7. Subject to paragraph 8, this paragraph applies if—

- (a) the applicant or a connected person was a party to an agreement which was terminated by the registrar during the period of three years ending on the date of the application,
- (b) the applicant or a connected person is a party to an agreement which is at the date of the application subject to a notice of termination which has not expired or to suspension of termination under rule 10,
- (c) the applicant or a connected person was a principal in a practice which was subject to an intervention during the period of three years ending on the date of the application, or
- (d) the applicant is the subject of pending disciplinary proceedings or has had a charge proved against him in disciplinary proceedings during the period of three years ending on the date of the application.

8. Paragraph 7(a) does not apply where the termination of the agreement was the subject of a successful appeal commenced under paragraph 4 of Schedule 5 to the Act.

9.—(1) For the purposes of paragraph 7—

(a) “connected person” means—

- (i) a partnership or limited liability partnership of which the applicant was a member at the relevant date,

- (ii) a body corporate (other than a limited liability partnership) of which the applicant was an officer at the relevant date,
- (iii) where the applicant is a partnership or limited liability partnership, a member of the applicant, and
- (iv) where the applicant is a body corporate (other than a limited liability partnership), an officer of the applicant,
- (b) “disciplinary proceedings” means proceedings brought against the applicant or a connected person before—
 - (i) the Solicitors Disciplinary Tribunal constituted under section 46 of the Solicitors Act 1974,
 - (ii) the Discipline and Appeals Committee established under section 25 of the Administration of Justice Act 1985,
 - (iii) a disciplinary tribunal appointed by the Council of the Inns of Court, or
 - (iv) the Court of Faculties,
- (c) a person is a principal in a practice if—
 - (i) he is its sole principal,
 - (ii) where the practice is that of a partnership or limited liability partnership, he is a member of that partnership, or
 - (iii) where the practice is that of a body corporate (other than a limited liability partnership), he is a director of that body corporate.
- (2) For the purposes of sub-paragraph (1)(a), the relevant date is—
 - (a) where the agreement was terminated under rule 6(1)(a), the date of termination,
 - (b) where the agreement was terminated as a result of a notice of termination, the date of issue of the notice of termination,
 - (c) where at the date of the application the agreement is subject to a notice of termination which has not expired or to suspension of termination under rule 10, the date of issue of the notice of termination, or
 - (d) in relation to paragraph 7(c), the date of the intervention.

SCHEDULE 2

rule 5

TERMS WHICH MUST BE INCLUDED IN A FULL NETWORK ACCESS AGREEMENT

Address for service

1.—(1) An address for service, being a postal address, box number at a document exchange, or electronic address, for the registrar and for the Subscriber and provision for the number of addresses, changes of the address and the adding of addresses.

(2) Provision as to the document exchange box numbers and electronic addresses that may be used as an address for service.

Serious breach

2. Provision that a serious breach of the agreement includes but is not limited to—

- (a) an act or failure to act which, in the opinion of the registrar, damages or threatens the security or integrity of the land registry network, information on that network, the register, or other information kept by the registrar in electronic form, or
- (b) the Subscriber giving a materially incorrect certificate to the registrar in connection with a contract, disposition or application which has been or is being made using the land registry network.

Default notice

3.—(1) Provision that, in respect of any breach (including a serious breach) by the Subscriber, the registrar may give to the Subscriber a default notice specifying a minimum period of ten business days in which the Subscriber is to—

- (a) in the case of a breach that can be remedied, remedy the breach, or take specified steps to avoid a further breach, or do both, and
 - (b) in the case of a breach that is incapable of being remedied, take specified steps to avoid a further breach.
- (2) Either—
- (a) provision that an extension by the registrar of the period specified in the default notice may be granted before that period has expired, or
 - (b) provision that an extension by the registrar of the period specified in the default notice may be granted provided that the registrar has not terminated the agreement under rule 6(1)(a) or given notice of termination under rule 6(1)(b), even if the period specified in the default notice has expired.

Automatic termination

4. Provision for automatic termination of the agreement—

- (a) where the Subscriber is an individual, on his death or on his being adjudged bankrupt under the provisions of the Insolvency Act 1986⁽¹²⁾,
- (b) where the Subscriber is a partnership other than a limited liability partnership, on dissolution of the partnership, except where the dissolution is caused by a person ceasing to be a member of the partnership and the other partners continue, or the sole remaining partner continues, to carry on the business, whether or not with a new partner,
- (c) where the Subscriber is neither an individual nor a partnership within sub-paragraph (b), on dissolution of the Subscriber, and
- (d) in every case where there has been no use of the land registry network pursuant to the agreement for a period specified in the agreement (being not less than one year) ending on the date of the termination.

Suspension of the land registry network

5. Provision allowing the registrar to suspend the provision of the land registry network where he is satisfied that this may be necessary.

(12) 1986 c.45.

Suspension of access

6.—(1) Provision, subject to sub-paragraphs (2) and (3), allowing the registrar to suspend access to the land registry network by a Subscriber if any fees or charges incurred by the Subscriber under the agreement remain unpaid.

(2) Provision that, if access is so suspended, then, subject to sub-paragraph (3), the registrar must end the suspension, terminate the agreement under rule 6(1)(a) or give the Subscriber notice of termination under rule 6(1)(b)—

- (a) on or before the expiry of ten business days after the day on which access is suspended, or
- (b) if earlier, before the expiry of five business days after the day he receives a written request from the Subscriber so to do.

(3) Provision that, if the registrar and the Subscriber so agree, the suspension of access may be extended to a specified date, on or before which the registrar must end the suspension, terminate the agreement under rule 6(1)(a) or give the Subscriber notice of termination under rule 6(1)(b).

(4) Provision that where, in accordance with sub-paragraph (2) or (3), the registrar gives the Subscriber notice of termination under rule 6(1)(b), the suspension of access will continue, if any fees or charges incurred by the Subscriber under the agreement remain unpaid, until the expiry or withdrawal of the notice of termination, and for any period during which termination of the agreement is suspended under rule 10.

(5) In this paragraph, any reference to fees and charges includes any value added tax payable.

7.—(1) Subject to sub-paragraph (2), provision allowing the registrar to suspend access to the land registry network by a User where—

- (a) the registrar is satisfied that this may be necessary to protect the land registry network, persons using the land registry network, applicants to the land registry or the land registry, or
- (b) the User has not used the land registry network for a period specified in the agreement (being not less than one year) ending on the date of the suspension of access.

(2) Provision that, where access to the land registry network by a User has been suspended in either of the circumstances set out in sub-paragraph (1), and the Subscriber requests the registrar in writing to end the suspension, terminate the agreement under rule 6(1)(a) or give the Subscriber notice of termination under rule 6(1)(b), the registrar must do one of those things before the expiry of five business days after the day the request is received by the registrar.

Updating the agreement

8. Provision allowing for the terms of the agreement, except to the extent that they are prescribed by these rules, to be changed by the registrar after he has publicised the changes in such manner as the agreement, from time to time, provides.

Electronic signatures

9. An obligation on the Subscriber requiring the use of a specified type or form of electronic signature with any document effecting a disposition or being a contract which is made using the land registry network.

Retention of documents

10.—(1) An obligation on the Subscriber, subject to sub-paragraph (2), to retain original documents or sufficient copies of such documents for a period specified in the agreement (being not more than six years), where the documents were relied on in giving the registrar a certificate.

(2) The agreement may exclude the obligation in sub-paragraph (1) in the case of documents of a kind specified in it.

System and security requirements

11. Provision for the system and security requirements for access to and use of the land registry network.

Liability of persons other than the registrar and the Subscriber

12.—(1) Provision that, subject to sub-paragraph (2), excludes—

- (a) all agents of the registrar and all members of the land registry other than the registrar from liability to the Subscriber and third parties, and
- (b) any User from liability to the registrar, except a User who is—
 - (i) the Subscriber, or
 - (ii) where the Subscriber is a partnership other than a limited liability partnership, a member of that partnership,

for loss or damage arising out of or in connection with the agreement and the use of the land registry network.

(2) The provision referred to in sub-paragraph (1) must not exclude or limit liability for—

- (a) death or personal injury resulting from negligence, or
- (b) acts or omissions done in bad faith.

Liability of the registrar

13. Statements to the effect that—

- (a) the registrar has not, by entering into the agreement and making the land registry network available, assumed any duty of care or contractual obligation to any third party,
- (b) the registrar's liability to pay indemnity under Schedule 8 to the Act is unaffected,
- (c) no liability is created which is excluded by paragraph 4 of Schedule 7 to the Act, and
- (d) the registrar is not liable for inaccurate information supplied through the land registry network, except to the extent provided by Schedule 8 to the Act.

14.—(1) Provision that, subject to paragraph 16, excludes the registrar from liability for any loss resulting from—

- (a) the exercise of any right, remedy or discretion which the registrar is entitled to exercise under statutory authority, the general law or the terms of the agreement,
- (b) any failure by the Subscriber to comply with the agreement or with any legal or professional obligation except to the extent that the failure is itself caused by a breach of the agreement or breach of duty by the registrar,
- (c) loss or corruption of data or records held on the Subscriber's System,
- (d) any damage caused to the Subscriber's System by any failure on the part of the Subscriber to provide and maintain effective up-to-date measures against computer viruses, or to use the most up-to-date software and components of the land registry network issued by the registrar, and
- (e) the unauthorised alteration or modification of the whole or any part of the land registry network or the unauthorised combination of the land registry network with any other material or software by the Subscriber or any third party, including in particular but

without limitation, any loss or damage of whatsoever nature caused by the introduction of a computer virus, worm or software to similar effect into the land registry network.

(2) In this paragraph, “the Subscriber’s System” means the Subscriber’s computing resources, computer hardware, software, and other information technology infrastructure.

15. Provision that, subject to paragraph 16, limits any liability which is not excluded so that the registrar is liable only—

- (a) for any costs or expenses arising directly from any tortious act or breach of the agreement by the registrar,
- (b) provided the total of these costs or expenses arising directly from a particular act or breach exceeds a minimum sum specified in, or calculated in accordance with, the agreement, and
- (c) in so far as that total does not exceed a maximum sum specified in, or calculated in accordance with, the agreement.

16. The provisions referred to in paragraphs 14 and 15 must not exclude or limit liability for—

- (a) death or personal injury resulting from negligence, or
- (b) acts or omissions done in bad faith

Liability of the Subscriber

17. Provision as to the extent to which the Subscriber will be liable to the registrar for loss and damage arising out of or in connection with the agreement and the use of the land registry network, which must include, in particular, the following—

- (a) provision that, subject to the exemptions from liability set out in sub-paragraphs (b) and (c), the Subscriber shall be liable for loss and damage suffered by the registrar, and liable to indemnify the registrar in respect of any liability to a third party incurred by the registrar, arising directly from—
 - (i) the intentional, reckless or negligent misuse of the land registry network by the Subscriber,
 - (ii) breach of the agreement by the Subscriber,
 - (iii) negligent acts, errors or omissions by the Subscriber, or
 - (iv) failure by the Subscriber to establish his client’s true identity,
 except to the extent that the registrar has contributed to his own or the third party’s loss,
- (b) provision that, if the Subscriber has taken the steps specified in the agreement to satisfy himself as to the identity of his client, the Subscriber will not be liable to the registrar for any loss or damage arising in consequence of any failure by the Subscriber to establish the client’s true identity, and
- (c) a statement to the effect that, where the Subscriber has enabled a third party to access a network transaction under a read-only network access agreement or a signature network access agreement, the Subscriber will not be liable for any loss or damage suffered by the registrar or any third party resulting from such access, save to the extent that such loss or damage is attributable to negligence or breach of the agreement by the Subscriber.

Change of the Subscriber’s circumstances

18. Provision that the Subscriber must as soon as practicable inform the registrar in writing of any circumstances which have caused the Subscriber to cease to be a person with whom the registrar would be obliged to enter into a full network access agreement.

Interpretation

19. In this Schedule, “User” means a person nominated by a Subscriber, in accordance with the terms of a network access agreement, to use the land registry network on that Subscriber’s behalf.

SCHEDULE 3

rule 6

THE GROUNDS ON WHICH THE REGISTRAR MAY TERMINATE A FULL NETWORK ACCESS AGREEMENT

1. That the Subscriber has ceased to be a person with whom the registrar would be obliged to enter into an agreement.
2. That the Subscriber—
 - (a) has become insolvent, or
 - (b) is an individual who, in relation to any aspect of the use of the land registry network, lacks capacity within the meaning of the Mental Capacity Act 2005⁽¹³⁾.
3. That the practice of the Subscriber has been the subject of an intervention.
4. That there has been a serious breach of the agreement.
5. That the Subscriber has failed to comply with a default notice given to him by the registrar.
6. In this Schedule—
 - (a) “default notice” has the meaning given in paragraph 3 of Schedule 2,
 - (b) “insolvent” means—
 - (i) where the Subscriber is an individual, a bankruptcy petition has been presented to the court against the Subscriber or an individual voluntary arrangement has effect in relation to the Subscriber,
 - (ii) where the Subscriber is not an individual, a winding-up petition has been presented to the court against the Subscriber, the Subscriber is in administration, the Subscriber is being wound up, there is an administrative receiver of the Subscriber, or a voluntary arrangement has effect in relation to the Subscriber, or
 - (iii) whether or not the Subscriber is an individual, an event affecting the Subscriber occurs in another jurisdiction which in the opinion of the registrar is similar to any of those mentioned in paragraphs (i) and (ii),and the events of insolvency mentioned in paragraphs (i) and (ii) shall be interpreted in accordance with the Insolvency Act 1986 and the Insolvent Partnerships Order 1994⁽¹⁴⁾, and
 - (c) “serious breach” is to be interpreted in accordance with paragraph 2 of Schedule 2.

⁽¹³⁾ 2005 c.9.

⁽¹⁴⁾ S.I. 1994/2421, amended by S.I. 1996/1308, S.I. 2002/1308, S.I. 2002/2708, S.I. 2005/1516 and S.I. 2006/622; there are other amending instruments but none is relevant.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules are made under the Land Registration Act 2002 (the Act), and support the establishment of a land registry network for carrying out electronic conveyancing, as provided by section 92 of, and Schedule 5 to, the Act.

Under paragraph 1(1) of Schedule 5 to the Act, a person who is not a member of the land registry may only have access to a land registry network under the authority of a network access agreement entered into with the Chief Land Registrar (the registrar).

Rule 3 provides for three types of network access agreement. A full network access agreement allows its Subscriber (defined in rule 2) to carry out transactions on the land registry network. Read-only and signature network access agreements allow access to the network to retrieve information and, in the latter case, to apply an electronic signature to a document.

Rule 4, together with Schedule 1 in the case of a full network access agreement, sets out the criteria which, if met, oblige the registrar to enter into a network access agreement of a particular type with an applicant.

Rule 5 requires network access agreements to be in a standard form. Together with Schedule 2, it provides for certain terms that must be included in network access agreements of each type. It requires read-only and signature network access agreements to be of limited duration.

Rules 6 to 10 set out the procedures under which the registrar may terminate a full network access agreement. Under rule 6, if one of the grounds of termination contained in Schedule 3 exists, the registrar may terminate the agreement immediately, and then give notice to the Subscriber under rule 7, or may give a notice of termination. Rule 8 sets out the procedure for giving a notice of termination, and explains the circumstances in which it results in termination of the agreement. Rule 9 contains supplemental provisions relating to the service of notice. Rule 10 provides for suspension of termination, on request, where a Subscriber has appealed to the Adjudicator to HM Land Registry against the registrar's decision to give a notice of termination.

Rule 11 allows the registrar to terminate all subsisting network access agreements by notice in the Gazette if he is of the opinion that it is no longer practicable to operate the land registry network.

A full regulatory impact assessment has not been produced for this instrument as no significant impact on the private or voluntary sectors is foreseen.