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STATUTORY INSTRUMENTS

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**2003 No. 1417**

**The Land Registration Rules 2003**

**PART 4**

**FIRST REGISTRATION**

**First registration—application by mortgagee**

**21.** A mortgagee under a mortgage falling within section 4(1)(g) of the Act may make an application in the name of the mortgagor for the estate charged by the mortgage to be registered whether or not the mortgagor consents.

**Registration of a proprietor of a charge falling within section 4(1)(g) of the Act**

**22.—**(1) This rule applies to an application for first registration made—

- (a) under rule 21, or
- (b) by the owner of an estate that is subject to a legal charge falling within section 4(1)(g) of the Act.

(2) The registrar must enter the mortgagee of the legal charge falling within section 4(1)(g) of the Act as the proprietor of that charge if he is satisfied of that person's entitlement.

**First registration—application form**

**23.—**(1) Subject to paragraph (2), an application for first registration must be made in Form FR1.

(2) Where Her Majesty applies for the first registration of an estate under section 79 of the Act, Form FR1 must be used with such modifications to it as are appropriate and have been approved by the registrar.

**Documents to be delivered with a first registration application**

**24.—**(1) Unless the registrar otherwise directs, every application for first registration must be accompanied by—

- (a) sufficient details, by plan or otherwise (subject to rules 25 and 26), so that the land can be identified clearly on the Ordnance Survey map,
- (b) in the case of a leasehold estate, the lease, if in the control of the applicant, and a certified copy,
- (c) all deeds and documents relating to the title that are in the control of the applicant,
- (d) a list in duplicate in Form DL of all the documents delivered.

(2) On an application to register a rentcharge, franchise or profit a prendre in gross, the land to be identified under paragraph (1)(a) is the land affected by that estate or to which it relates.

### **First registration of mines and minerals**

**25.** When applying for first registration of an estate in mines and minerals held apart from the surface, the applicant must provide—

- (a) a plan of the surface under which the mines and minerals lie,
- (b) any other sufficient details by plan or otherwise so that the mines and minerals can be identified clearly, and
- (c) full details of rights incidental to the working of the mines and minerals.

### **First registration of cellars, flats, tunnels etc**

**26.**—(1) Subject to paragraph (2), unless all of the land above and below the surface is included in an application for first registration the applicant must provide a plan of the surface on under or over which the land to be registered lies, and sufficient information to define the vertical and horizontal extents of the land.

(2) This rule does not apply where only mines and minerals are excluded from the application.

### **First registration application where title documents are unavailable**

**27.** An application for first registration by a person who is unable to produce a full documentary title must be supported by evidence—

- (a) to satisfy the registrar that the applicant is entitled to apply under section 3(2) of the Act or required to apply under section 6(1) of the Act, and
- (b) where appropriate, to account for the absence of documentary evidence of title.

### **Duty to disclose unregistered interests that override first registration**

**28.**—(1) Subject to paragraph (2), a person applying for first registration must provide information to the registrar about any of the interests that fall within Schedule 1 to the Act that—

- (a) are within the actual knowledge of the applicant, and
- (b) affect the estate to which the application relates,

in Form DI.

(2) The applicant is not required to provide information about—

- (a) an interest that under section 33 or 90(4) of the Act cannot be protected by notice,
- (b) an interest that is apparent from the deeds and documents of title accompanying the application under rule 24,
- (c) a public right,
- (d) a local land charge,
- (e) a leasehold estate in land if—
  - (i) it is within paragraph 1 of Schedule 1 to the Act, and
  - (ii) at the time of the application, the term granted by the lease has one year or less to run.

(3) In this rule and in Form FR1, a “disclosable overriding interest” is an interest that the applicant must provide information about under paragraph (1).

(4) Where the applicant provides information about a disclosable overriding interest under this rule, the registrar may enter a notice in the register in respect of that interest.

### **First registration—examination of title**

**29.** In examining the title shown by the documents accompanying an application for first registration the registrar may have regard to any examination of title by a conveyancer prior to the application and to the nature of the property.

### **Searches and enquiries by the registrar**

**30.** In examining title on an application for first registration the registrar may—

- (a) make searches and enquiries and give notices to other persons,
- (b) direct that searches and enquiries be made by the applicant,
- (c) advertise the application.

### **First registration—foreshore**

**31.—**(1) Where it appears to the registrar that any land included in an application for first registration comprises foreshore, he must serve a notice of that application on—

- (a) the Crown Estate Commissioners in every case,
- (b) the Chancellor of the Duchy of Lancaster in the case of land in the county palatine of Lancaster,
- (c) the appropriate person in the case of land in the counties of Devon and Cornwall and in the Isles of Scilly and in the case of land within the jurisdiction of the Port of London Authority, and
- (d) the Port of London Authority in the case of land within its jurisdiction.

(2) A notice under paragraph (1) must provide a period ending at 12 noon on the twentieth business day after the date of issue of the notice in which to object to the application.

(3) A notice need not be served under paragraph (1) where, if it was served, it would result in it being served on the applicant for first registration.

(4) In this rule—

“the appropriate person” means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints,

“foreshore” has the meaning given by paragraph 13(3) of Schedule 6 to the Act.

### **Mines and minerals—note as to inclusion or exclusion**

**32.** Where, on first registration of an estate in land which comprises or includes the land beneath the surface, the registrar is satisfied that the mines and minerals are included in or excluded from the applicant’s title he must make an appropriate note in the register.

### **First registration—entry of beneficial rights**

**33.—**(1) The benefit of an appurtenant right may be entered in the register at the time of first registration if—

- (a) on examination of the title, or
- (b) on receipt of a written application providing details of the right and evidence of its existence,

the registrar is satisfied that the right subsists as a legal estate and benefits the registered estate.

(2) If the registrar is not satisfied that the right subsists as a legal interest benefiting the registered estate, he may enter details of the right claimed in the property register with such qualification as he considers appropriate.

**First registration—registration of a proprietor of a legal mortgage not within rule 22 or rule 38**

**34.**—(1) The registrar must enter the mortgagee of a legal mortgage to which this rule applies as the proprietor of that charge if on first registration of the legal estate charged by that charge he is satisfied of that person's entitlement.

- (2) This rule applies to a legal mortgage—
- (a) which is either—
    - (i) a charge on the legal estate that is being registered, or
    - (ii) is a charge on such charge, and
  - (b) which is not a charge falling within rule 22 or rule 38.

**First registration—entry of burdens**

**35.**—(1) On first registration the registrar must enter a notice in the register of the burden of any interest which appears from his examination of the title to affect the registered estate.

- (2) This rule does not apply to—
- (a) an interest that under section 33 or 90(4) of the Act cannot be protected by notice,
  - (b) a public right,
  - (c) a local land charge,
  - (d) an interest which appears to the registrar to be of a trivial or obvious character, or the entry of a notice in respect of which would be likely to cause confusion or inconvenience.

**First registration—note as to rights of light and air**

**36.** On first registration, if it appears to the registrar that an agreement prevents the acquisition of rights of light or air for the benefit of the registered estate, he may make an entry in the property register of that estate.

**First registration—notice of lease**

**37.**—(1) Subject to paragraph (2), before completing an application for registration of a leasehold estate with absolute title, the registrar must give notice of the application to the proprietor of the registered reversion.

- (2) This rule only applies where—
- (a) at the time of the grant of the lease—
    - (i) the reversion was not registered, or
    - (ii) the reversion was registered but the grant of the lease was not required to be completed by registration,
  - (b) the lease is not noted in the register of the registered reversion, and
  - (c) it is not apparent from the application that the proprietor of the registered reversion consents to the registration.
- (3) On completing registration of the leasehold estate, the registrar must enter notice of the lease in the register of the registered reversion.

(4) In this rule, “the reversion” refers to the estate that is the immediate reversion to the lease that is the subject of the application referred to in paragraph (1) and “registered reversion” refers to such estate when it is a registered estate.

**Application of the Act to dealings prior to first registration**

**38.**—(1) If, while a person is subject to a duty under section 6 of the Act to make an application to be registered as proprietor of a legal estate, there is a dealing with that estate, then the Act applies to that dealing as if the dealing had taken place after the date of first registration of that estate.

(2) The registration of any dealing falling within paragraph (1) that is delivered for registration with the application made pursuant to section 6 has effect from the time of the making of that application.