

Land Registry

Official land registration
service for England and Wales



Consultation

Land Registry
Local Land Charges Rules

9 MAY 2016

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Introduction

Local Land Charges Rules 2017

Local land charges are generally an outstanding financial claim, restriction, prohibition, decision or information affecting a piece of land, which is binding on successive owners and occupiers of the land. There is a legal obligation to register local land charges.

The Infrastructure Act 2015 provides for the transfer of responsibility for local land charges in England and Wales from local authorities to Land Registry. Under these provisions, initially Land Registry will provide a single, digital local land charges register for the 326 English local authorities.

To implement the changes, secondary legislation is required. The purpose of this consultation is to seek views on the draft Local Land Charges Rules 2017, proposals for which are set out in section 7. The draft Local Land Charges Rules 2017 are set out in full in Annex B.

Local land charges fees are not included as part of this consultation.

This consultation is relevant to Land Registry customers, stakeholders and others who have an interest in the property market.

Your comments on the proposed draft Local Land Charges Rules 2017 would be very welcome.

Consultation commencement date: 9 May 2016

Respond to consultation by: 11 July 2016

1. Foreword from Graham Farrant, Chief Executive and Chief Land Registrar

For over 150 years Land Registry has guaranteed and protected people's land and property rights by keeping the Land Register for England and Wales. Today that register covers 87% of the land mass in England and Wales and contains more than 24 million titles, the evidence of ownership, estimated to include £4 trillion of property value and is one of the largest property databases in Europe.

In the 21st century, Land Registry has become an increasingly efficient and digital organisation while maintaining customer satisfaction scores at over 90%. We now employ over 4000 staff and with productivity at an all-time high we are able to process more work more efficiently than ever before. Land Registry's continuous digital transformation journey means that we now receive 99% of information requests and 73% of registration applications electronically, providing a range of e-services to 12,000 organisations and 140,000 individual professional users.

More recently Land Registry has demonstrated its capacity for innovation with our award winning digital services including MapSearch and Property Alert and through our data offerings. We have enabled others to innovate by finding new ways to access and use the information Land Registry holds for the benefit of citizens, businesses, government and wider economic growth.

In today's world it is crucial that public services are available online. Customers expect to be able to access government information online without delay or complication and for a reasonable fee. Government is committed to meeting those expectations, and creating a single, digital register of local land charges would be another step towards achieving those objectives. With our track record for modernising land related systems, and our continually evolving digitisation programme, Land Registry is well placed to deliver the single digital register for local land charges information.

A single digital register held by a single provider will reduce overheads and eliminate regional variations in the speed, format and costs of the local land charges service. It will make the local land charges system fit for purpose in a digital era.

The provisions in the Infrastructure Act 2015 set up the framework for Land Registry to modernise and digitise property searches. We will centralise and digitise local land charge information from the 326 English local authorities that currently hold and supply it. The result will be a far more efficient and cheaper service. We will set a standardised national fee and turnaround time in contrast to the existing local variations in service, where fees range between £3 and £96 for the same outcome. A single source for improved access to property information will support a more streamlined conveyancing process and improve the ease of registration.

This activity will ultimately help people who are buying and selling their homes, and support the Government aim to make dealing with property quicker, cheaper and easier. We are well placed to help achieve that aim because Land Registry is already at the centre of the conveyancing process and is the largest single source of property information. A single provider of local land charge information, rather than the 326 separate providers, and a

modern digital system, are what is required for this part of the conveyancing process to underpin the property market.

I am therefore delighted to introduce this consultation on the proposed secondary legislation for the new Local Land Charges Rules 2017, which aims to make the processes digital by design so that requests can be submitted and answered online. I would ask that you read this document and take the opportunity to make a genuine contribution to the development of policy and practice in this important area.

As part of the work on improving property searches, we are aware that the Government is seeking to improve turnaround times for CON 29 searches (a non-statutory service providing information from a range of sources in local authorities), and we refer to that work in this consultation.

Graham Farrant

Chief Executive and Chief Land Registrar

2. Executive Summary

This consultation seeks your views on the proposed draft Local Land Charges Rules 2017. The rules will provide the framework for how the electronic Local Land Charges Register Service will work.

This document reflects Land Registry's current proposals. However, the policy and practice in this area is being continually developed, including consideration of stakeholder comments. Examples of these include:

- comments received at Land Registry's National Conference held in November 2015 which helped frame the draft Local Land Charges Rules 2017
- an independent Local Land Charges Rules Review Panel (comprising representatives from the Local Government Association, the Law Society and the Ministry of Justice) provided a technical review of the draft Local Land Charges Rules 2017 to ensure that the rules are both clear and simply expressed.

It is currently intended that the Local Land Charges Rules 2017 will come into force on 6 April 2017. However, the rules will only take effect in relation to local authorities in stages, as there will be an incremental roll-out of the Local Land Charges Register Service.

Land Registry is inviting views from the individuals and organisations listed in Annex C, but would welcome responses from anyone who has a view on the proposals.

Details of how to respond are set out in section 3 and a list of consultation questions is set out in section 10.

The closing date for this consultation is 11 July 2016.

3. How to respond

When responding, please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and where applicable the size of the organisation.

Under Cabinet Office guidance, consultations are now digital by default. You can reply to this consultation online at:

<http://landregistry.stakeholderconsultations.com>

However, if required a printed copy of the consultation document can be obtained and the response form submitted by post or email, using the following details:

Ken Glendon
Chief Executive and Chief Land Registrar's Office
c/o Peterborough Office
West Wing
Stuart House
City Road
Peterborough
PE1 1QF

DX No. 313801 Peterborough (29)

Tel: 0300 0065190

Email: llcconsultation@landregistry.gov.uk

A list of those organisations specifically invited to take part in the consultation is given in Annex C. However, the consultation is open to anyone and we would also like views from other professionals and interested members of the public.

Other versions of the consultation documentation can be made available on request.

You may make printed copies of any of the consultation documentation without seeking permission.

The Consultation principles can be found in Annex A.

4. Confidentiality & Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004. If you want information, including personal data, that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidentiality.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your Information Technology system will not, of itself, be regarded as binding on Land Registry.

5. Help with queries

Questions about the policy issues, access to documentation or problems with the online consultation interface should be addressed to:

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Chief Executive and Chief Land Registrar's Office
c/o Peterborough Office
West Wing
Stuart House
City Road
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PE1 1QF

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6. Background

Land Registry is now taking forward the Infrastructure Act 2015 by introducing secondary legislation to implement the transfer of responsibility for the Local Land Charges Register Service from local authorities to Land Registry. There will be a move from a system of a separate register maintained by each local authority to a system of a single, digital local land charges register maintained by the Chief Land Registrar. This consultation on the draft Local Land Charges Rules 2017 is a step towards implementation.

Although the provisions in the Infrastructure Act 2015 relate to England and Wales, the digitisation and migration of data from the Welsh local authorities will be dealt with as a separate piece of work. This is because of the different nature of Government within Wales, the pricing regime currently found within Wales, with fee setting powers being held centrally by the Welsh Government and because of the likely future reorganisation of local government within Wales.

It is intended that the Local Land Charges Register Service will sit alongside Land Registry's existing services. It will form part of Land Registry's core operations under its statutory function of keeping the Register of Title to freehold and leasehold property for England and Wales, the Land Charges and Agricultural Credits Registers.

As a result of the changes, the proposed Local Land Charges Register Service to be provided by Land Registry will improve upon the current services by:

- introducing a single digital local land charges register
- improving access to services
- consolidating the current 12 parts of the register
- standardising turnaround times
- standardising fees
- standardising the format of results

The Department for Business, Innovation and Skills will work with Cabinet Office officials to consider arrangements to give local authorities free access to the register; and outline options for giving all users free access to the register. The Minister for the Cabinet Office will be consulted on the final access arrangements for the register.

This consultation is separate to:

- A consultation considering the future status of Land Registry which was published on 24 March 2016.
- Any form of consultation or questionnaire on CON 29 searches to be published by the Departments for Business, Innovation and Skills, and Communities and Local Government.

7. Proposals for draft Local Land Charges Rules 2017

Introduction

The draft Local Land Charges Rules 2017 are similar to the current rules, the Local Land Charges Rules 1977. The main difference is the move from a separate register maintained by each local authority to a single digital local land charges register maintained by Land Registry.

The Local Land Charges Act 1975, which includes the relevant rule-making powers, has not been revoked and replaced by a new Act, but rather has been amended by the Infrastructure Act 2015.

It is proposed that the digital local land charges register will be introduced incrementally, so conveyancers and others concerned with local land charges will need to work with both the existing legislation and the new legislation until the migration of the registers from the local authorities to Land Registry is completed.

Rule 1

1 Citation and commencement

These Rules may be cited as the Local Land Charges Rules 2017 and shall come into force on 6th April 2017.

Notes on rule 1

Citation and commencement are often covered in the same clause, as here.

Every statutory instrument begins with a citation clause, which enacts the title.

It provides that the rules are to come into force on 6 April 2017 (this date being one of the two common commencement dates). However, they will not automatically come into effect on this date.

- Paragraph 40(1) of Schedule 5 to the Infrastructure Act 2015 provides that Parts 1 and 3 of the Schedule have effect in relation to the area of a local authority if (and only if) the Chief Land Registrar gives written notice to the local authority that on and after a specified date those Parts are to have effect in relation to that area, and before that date the notice is publicised. Part 1 sets out the amendments to the Local Land Charges Act 1975, and Part 3 sets out the amendments to other Acts, including the Rights of Light Act 1959.
- Sub-paragraph (3) provides that if the Chief Land Registrar's notice is not withdrawn, Parts 1 and 3 have effect in relation to the area specified in the notice on and after the date also specified in it.

- Sub-paragraph (4) provides that rules under section 14 of the Local Land Charges Act 1975 as amended by Part 1 “have effect in relation to the area of a local authority if (and only if) that Part has effect in relation to that area”.

A footnote to the draft rule summarises the situation.

So, in broad terms, these rules will only take effect in relation to a local authority area from the date specified in the notice given by the Chief Land Registrar to the local authority that the area is to be covered by the digital local land charges register. It is proposed the notices will be given in stages, which means that there will be an incremental “roll-out” of the Local Land Charges Register Service.

Rule 2

2 Interpretation

(1) In these Rules—

“the Act” means the Local Land Charges Act 1975;

“charge” means a local land charge or a matter which is registrable in the register;

“date of registration” in relation to a charge registered in a local land charges register for a local authority’s area immediately before Part 1 of Schedule 5 to the Infrastructure Act 2015 first had effect in relation to that area means the date of registration in that local land charges register;

“definitive certificate” means a certificate issued by the Upper Tribunal under section 2(3)(a) of the Rights of Light Act 1959;

“description” in relation to a charge means a description which is sufficient to indicate—

- (a) the nature of any agreement, certificate, notice, order, resolution, scheme or other instrument or document (not being a statute or an instrument embodying statutory provisions) which comprises the charge or in connection with which the charge came into existence,
- (b) where apparent from the instrument or document, the date on which the charge came into existence,
- (c) any statutory provision (other than section 1(1)(e) of the Act) under or by virtue of which the charge is a local land charge or registrable, or which comprises the charge;

“dominant building” and “servient land” have the meanings given by section 2(1) of the Rights of Light Act 1959;

“light obstruction notice” means a notice which is registrable under section 2 of the Rights of Light Act 1959;

“particulars of registration” means the particulars specified in Schedule 1;

“register” means the local land charges register kept by the registrar under the Act;

“registrar” means the Chief Land Registrar;

“temporary certificate” means a certificate issued by the Upper Tribunal under section 2(3)(b) of the Rights of Light Act 1959.

(2) In Schedule 1, “originating authority” means the authority or person who by virtue of section 5(4) of the Act or some other statutory provision is the originating authority for the purposes of the Act.

(3) A reference in these Rules to Form A or Form B is to the form so designated in Schedule 2.

Notes on rule 2

This rule sets out the meanings of some of the terms used in the rules. Many of the definitions are carried forward from the Local Land Charges Rules 1977 and will be considered further in the context of the rule or rules in which the relevant term appears.

The definition of “charge” has been carried forward from the Local Land Charges Rules 1977. The intention is that a “charge” should be anything that can be registered in the local land charges register. Some are expressly made local land charges by section 1(1) of the Local Land Charges Act 1975 or another statutory provision; others only become

local land charges once they have been registered – such as light obstruction notices under section 2 of the Rights of Light Act 1959.

Rule 3

3 Application for registration of charges other than light obstruction notices

- (1) This rule applies to all applications for registration of a charge in the register except an application for registration of a light obstruction notice.
- (2) The application must contain a description of the charge and the other information necessary to enable the registrar to register the charge in accordance with rule 5.
- (3) The application must be made using an electronic means of communication and in accordance with any determination by the registrar under rule 13.

Notes on rule 3

In the majority of cases under current procedures, the applicant for registration of a charge - the originating authority, and the local authority keeping the register of local land charges – the registering authority, are one and the same.

However, there are certain types of local land charges for which the originating authority is not the local authority. Under section 5(2) of the Local Land Charges Act 1975 it is the duty of the originating authority to apply for registration, and for the registering authority to register the local land charges, and the Infrastructure Act 2015 does not amend this. So, once Land Registry becomes the registering authority for a particular local authority's area, all applications to register local land charges in respect of land wholly or partly within that area must be made by the originating authority (whether that is the local authority or a different body) to the Chief Land Registrar, who must then register the charge.

The rule effectively requires applicants for the registration of a charge (local authorities or other originating authorities) to supply the particulars of registration, which are set out in Schedule 1 - but not, of course, to supply the date of registration, which the applicant will not know before registration takes place. It also requires, when read with rule 5, that the applicant gives sufficient details to enable the Chief Land Registrar to show the situation and extent of the land: this may mean that the applicant is asked to outline the land on an electronic plan (or confirm that an outline automatically produced by the system is correct).

The most important difference between this rule 3 and rule 4 of the Local Land Charges Rules 1977 is that rule 3 requires the application to be made electronically.

Question 1

Do you agree with the requirements for applications for registration of charges (other than light obstruction notices) being those set out in rule 3?

Please provide comments to support your views.

Rule 4

4 Application for registration of a light obstruction notice

- (1) This rule applies to applications for registration of a light obstruction notice in the register.
- (2) The application may be made using an electronic means of communication.
- (3) An application made using an electronic means of communication must contain such of the particulars required by Form A as are appropriate and be in accordance with any determination by the registrar under rule 13.
- (4) If the application is not made using an electronic means of communication, it must be made in Form A and be delivered to the address specified by the registrar under rule 14.

Notes on rule 4

Where a person makes use of a neighbour's land in a particular way for at least 20 years, without permission and openly and peaceably, the law will sometimes treat that person as having the right to do this. The right is an easement. A common example is where someone drives over his neighbour's land over many years in order to get to his house: the law may find that he has a vehicular right of way. Another type of easement is a right to light. This is a slightly unusual right because the use of the neighbour's land (what is called "the servient land") is passive. The person claiming the right does not need to have done anything; all that is required is that the windows of a building have received light passing over the servient land. Light obstruction notices are concerned with rights of light.

The Law Commission report on Rights to Light (Law Com 356) contains a helpful account of light obstruction notices:

"2.84 Under the Prescription Act 1832 the interruption of the use of the servient land for one year or more will prevent an easement from being acquired. Where light is obstructed for one year or more, and the obstruction is then removed, prescriptive use of the light before the interruption is stopped, and can no longer count towards the acquisition of an easement of light. If the use of the light continues after the obstruction is removed, then the 20-year period for prescription can start again.

2.85 The "obstruction" of light naturally means a physical barrier, such as a wall. However, the Rights of Light Act 1959 (the "1959 Act") was enacted to enable prescription for light to be prevented by paperwork and administrative action, so as to avoid the expense of a physical barrier and, in many cases, the need for planning permission. This is done by registering a light obstruction notice ("LON"). The notice acts as a "notional obstruction"; the light passing to the neighbour's building, over the land of the person who registered the notice, is treated as if it had been obstructed by an opaque structure.

2.86 The notional obstruction works exactly like a real one. Accordingly, if anyone in the building already has an easement of light, the LON can be challenged with a view to its removal. But if the LON goes unchallenged for one year then, for the purposes of the Prescription Act 1832, the passage of light is treated as having been interrupted for that period, with the same effect as a physical obstruction would have."

Law Com 356 adds in a footnote: *“It is also likely that a LON would prevent the acquisition of an easement of light under the principle of lost modern grant by stopping the continuous use under that principle.”*

As Law Com 356 remarks, *“the effect of a light obstruction notice is straightforward, but the procedure for registering one is not”* (para 2.87). It goes on to recommend *“the replacement of the light obstruction regime with a new, simpler way for a landowner to prevent the acquisition of a right to light by prescription”* (para 2.103). If the new process recommended is adopted, then the Local Land Charges Rules 1977 and the draft Local Land Charges Rules 2017, will need to be amended.

The following is a brief summary of the procedure for registering light obstruction notices.

The registration of a light obstruction notice begins with obtaining a certificate from the Upper Tribunal. The Tribunal (Upper Tribunal) (Lands Chamber) Rules 2010 (rules 13 and 40 – 44) set out the procedure for getting such a certificate:

- The applicant will apply to the Tribunal for the certificate. The application has to include prescribed information – the name of the applicant, the nature of their interest in the servient land, a description of the servient land, the contact details of everyone known to the applicant to be occupying the dominant building or to have a proprietary interest in it, and, if the application is for a temporary certificate, the grounds on which it is claimed that the case is of exceptional urgency – and three copies of the application for registration as a local land charge that the applicant proposes to use, together with the fee.
- The Tribunal will give directions as to the persons to whom notice is to be given and how this is to be done.
- The applicant notifies the Tribunal when the notices have been given.
- If the Tribunal is satisfied that the notices have been given, it must issue a definitive certificate of adequate notice.
- Alternatively, if the Tribunal is satisfied that the case is one of exceptional urgency that requires the immediate registration of a temporary notice, the Tribunal must issue a temporary certificate, which can last for no more than four months.
- The certificate from the Upper Tribunal will be in either paper or electronic form (the latter if the applicant indicates they are willing to accept an electronic certificate).

Once the certificate is issued to the applicant, they are able to apply for the registration of the light obstruction notice as a local land charge.

The procedure for having a light obstruction notice registered by the Chief Land Registrar will be partly covered by section 2 of the Rights of Light Act 1959, as amended by the Infrastructure Act 2015. This provides that the application to the Chief Land Registrar will have to be accompanied by a copy of the definitive or temporary certificate.

The procedure will also be governed by the draft Local Land Charges Rules 2017 and, in particular, rule 4. This rule allows for applications for registration of light obstruction notices to be made:

- (i) in paper form, using Form A, or
- (ii) electronically.

The primary legislation does not require that the application be in Form A or in any other prescribed form. The decision was taken that the draft Local Land Charges Rules 2017 should prescribe a modified version of the current Form A for use when the application was made in paper form. Continuing to have a prescribed form would seem to be beneficial to applicants: it ensures that all the information required by the Chief Land Registrar is sent. It also assists the Upper Tribunal and the Chief Land Registrar, as it means that the information is presented in such a manner that facilitates processing.

The proposed Form A is not substantially different from the Form A in the Local Land Charges Rules 1977. One significant difference, however, is that the following line has been added: "I/We have enclosed a copy of the certificate issued by the Upper Tribunal". This should ensure that the need to send a copy of the certificate is not overlooked – and that it is just a copy, not the original (so that if the documentation is scanned and destroyed, the Chief Land Registrar is not destroying the original certificate).

If the application is made in electronic form, the application will need to contain such of the particulars required by Form A as are appropriate.

Question 2

Do you agree that it should not be compulsory to apply electronically to register a light obstruction notice but that a paper application (using Form A) may be made instead?

Please provide comments to support your views.

Question 3

Do you agree to continue having a prescribed Form A?

Please provide comments to support your views.

Question 4

Do you think that the wording of the Form A in these draft Local Land Charges Rules 2017 should be changed in any way?

Please provide comments to support your views.

Rule 5

5 Registration

- (1) The registration of a charge must be effected by entering in the register the particulars of registration for the type of charge concerned.
- (2) The registration of a charge must be by reference to the land affected by the charge in such a manner as to show the situation and extent of that land.

Notes on rule 5

Registration is effected by entering in the local land charges register the particulars specified in Schedule 1. This is so whether the charge is:

- (a) one that has already been registered by the local authority as registering authority and is being migrated to the digital local land charges register, or
- (b) one that is being newly registered by the Chief Land Registrar on the application of the originating authority.

We shall deal with charges other than Land Compensation Act charges and light obstruction notices first.

The first of the particulars is “Description of charge”. The term “description” in relation to a charge is defined in rule 2(1). The definition has been carried forward from the Local Land Charges Rules 1977.

The second of the particulars is “Postal address or verbal description of land affected by charge”. It will be seen that rule 10 (Official searches) requires that a requisition for an official search identifies the land in respect of which the official search is to be made. The service is likely to be such that the applicant for an official search will only identify the “footprint” of the affected land. In the event that the applicant is interested in a house, then typically any local land charges revealed by their search is going to be of interest to them, because it is almost certain to affect the property. But if they are interested in only one of several flats built over the surface of the ground they have identified, then they may well not be concerned about local land charges affecting the other flats. Requiring the land to be described, by postal address, or by some other verbal description, when the application is made for registration, means that it should generally be clear from the official search certificate (that will include the “description of charge”) which of the local land charges the applicant might wish to investigate further. This is intended to minimise the need for further enquiry of a local authority or other originating authority to establish whether a particular property is affected by the authority’s charge.

The third of the particulars is “Originating authority”. The originating authority is currently one of the particulars of registration. “Originating authority” is defined in rule 2 in essentially the same terms as in the Local Land Charges Rules 1977.

The fourth of the particulars is new: “Where further information about charge can be obtained”. Anyone who wants further details of a charge that has been registered will need to go to the originating authority – normally that will be a local authority. The authority may want these queries to be sent to a particular office or email address, if so, they can supply these details when they apply for registration, and the details will be recorded in the register. If the authority also wants to record a reference number in the register for use by anyone raising queries with them, they can also supply this with the application for registration.

The fifth and final heading is “Date of registration”. This is not new, but the definition, in rule 2, is new: it reflects the fact that some charges will have been registered before the Chief Land Registrar took over responsibility for local land charges in the local authority area, and some will have been registered after the Chief Land Registrar took over responsibility. In the former case, the appropriate date to enter in the register must be the date of the original registration.

For Land Compensation Act charges there are, as under the Local Land Charges Rules 1977, some additional particulars of registration that relate to the particulars required to be deposited for charges of this type.

Again for light obstruction notices there are additional particulars of registration, in addition to “Description of charge” and “Date of registration”. Rule 2 defines “light obstruction notices” and terms used in these additional particulars: “definitive certificate”, “temporary certificate”, “dominant building”, “servient land”, and “list of documents kept by the registrar”. All these definitions, except for the last, are brought forward from the Local Land Charges Rules 1977.

In respect of the particulars of registration for specific financial charges, the Local Land Charges Rules 1977 require additional particulars of registration. These are the “Amount originally secured and rate of interest (if any)” and “Date of last payment and balance of charge then outstanding”. The requirement for these additional particulars has not been replicated in the current rules. This is because initial investigation suggests that these additional particulars are not always currently entered in the register and (where they are) they are not always kept up to date. It also appears that when a specific financial charge is revealed by a search as affecting a property, the conveyancer acting in relation to the transaction to which the search relates invariably has to contact the relevant local authority, irrespective of whether the additional particulars have been entered in the register, in order to confirm the amount outstanding and to establish the arrangements to repay the charge.

Registration also requires that the land affected by the charge is referred to “in such a manner as to show the situation and extent of that land” – which is the same wording as is used in the Local Land Charges Rules 1977. It is likely that an applicant to register a charge will be required to identify the footprint of the land that is affected by the charge on an electronic map.

In substance, rule 5 is much the same as rule 6 of the Local Land Charges Rules 1977. However, there is one important difference. Rule 6(2) of the Local Land Charges Rules 1977 provides that the registration of a charge shall be effected by entering in the register the registration particulars – but this is “subject to rule 7”. Rule 7 of the Local Land Charges Rules 1977 allows for local authority registers to refer to another register for

details of planning and other charges which are recorded there. For example, a planning charge might currently be entered in the register with just the following details: the date of registration, a planning reference number and a reference to the planning register kept by the local authority under section 69 of the Town and Country Planning Act 1990.

Rule 7 of the Local Land Charges Rules 1977 is not being carried forward in the draft Local Land Charges Rules 2017, either for existing registrations moved over to the digital local land charges register or for new registrations. The local land register will set out the particulars of registration for all charges, including planning charges, and these will be shown when a search is made. It will not simply cross-refer to other registers. However, a reference to an entry in the planning register may also be included within the particulars of registration: this would assist, for example, in identifying the relevant decision notice if details of planning conditions are required.

Question 5

Do you agree that the digital local land charges register should contain all the particulars referred to in Schedule 1, and nothing more?

Please provide comments to support your views.

Question 6

Do you agree that it is not necessary to include the additional particulars of registration for specific financial charges?

Please provide comments to support your views.

Rule 6

6 Variation and cancellation of registrations other than in respect of a light obstruction notice

- (1) This rule applies to all registrations of charges in the register except the registration of a light obstruction notice.
- (2) Where a registered charge has been varied or any registration is incorrect, the person by whom the charge is enforceable must apply for the variation or cancellation of the registration.
- (3) Where a registered charge has been discharged, ceased to have effect or ceased to be a charge, the person by whom the charge was enforceable must apply for the cancellation of the registration.
- (4) An application for the variation or cancellation of a registration must identify the charge.
- (5) The application must be made using an electronic means of communication and in accordance with any determination by the registrar under rule 13.
- (6) The registrar must vary a registration if an application for its variation is received from the person by whom the charge is enforceable.
- (7) The registrar may of his or her own motion vary a registration if satisfied that the charge has been varied or that the registration is incorrect.
- (8) The registrar must cancel a registration if an application for its cancellation is received from the person by whom the charge is or was enforceable.
- (9) The registrar may of his or her own motion cancel a registration if satisfied that the charge has been discharged, ceased to have effect or ceased to be a charge, or that the registration is incorrect.

Notes on rule 6

The terms of this rule are largely determined by the detailed new rule-making power in section 14(1)(fa) and (g) of the Local Land Charges Act 1975, as amended. The principal differences from rule 8 of the Local Land Charges Rules 1977, dealing with “amendment and cancellation of registrations”, are that there is now express provision for the registering authority – the Chief Land Registrar – to vary or cancel a registration of the Chief Land Registrar’s own motion, and applications for variation or cancellation must be made electronically.

The rule imposes a duty to apply to vary or cancel a registration where the registered charge has been varied or any registration is incorrect. The duty is imposed on the body that is entitled to enforce the charge. This will usually be the local authority or other originating authority that created it, but the rule allows for the possibility that the authority might have assigned the benefit of the charge, or it might otherwise have passed, to some other person after it was created, so that person would have to make the application for variation or cancellation. In this respect, the rule broadly replicates the effect of rule 8(1) and (2) of the Local Land Charges Rules 1977.

The rule also imposes a duty to apply to cancel a registration where the registered charge has been discharged, ceased to have effect or ceased to be a charge. The duty is imposed on the person by whom the charge was enforceable.

The Chief Land Registrar is given the power to vary or cancel a registration of his or her own motion. However, it is anticipated that most variations or cancellations will be as a result of an application by the person who is or was entitled to enforce the charge. It will generally only be this person who will hold the information necessary to establish if a charge has been varied or discharged or whether a registration is incorrect. The Chief Land Registrar is only likely to vary or cancel a registration of his or her own motion where, very exceptionally, for one reason or another (for example, the person entitled to enforce the charge not being identifiable), it would not be practicable to insist on an application for variation or cancellation.

Question 7

Do you agree with the proposals for variation and cancellation of registrations of charges in the register (other than those in respect of light obstruction notices)?

Please provide comments to support your views.

Rule 7

7 Variation and cancellation of registrations in respect of light obstruction notices

- (1) The original applicant for registration of a light obstruction notice in the register, or any successor in title to the original applicant as owner of the servient land or part of it, may within a year beginning with the date of registration apply for—
- (a) variation of the registered particulars of the position or dimensions of the structure to which registration is intended to be equivalent, so as to reduce its height or length or to increase its distance from the dominant building, or
 - (b) cancellation of the registration.
- (2) An application under paragraph (1) may be made using an electronic means of communication.
- (3) An application under paragraph (1) made using an electronic means of communication must contain such of the particulars required by Form B as are appropriate and be in accordance with any determination by the registrar under rule 13.
- (4) If an application under paragraph (1) is not made using an electronic means of communication, it must be made in Form B and be delivered to the address specified by the registrar under rule 14.
- (5) Where an application under paragraph (1) is made, the registrar must vary or cancel the registration accordingly.
- (6) Where—
- (a) an application for registration of a light obstruction notice in the register was accompanied by a copy of a temporary certificate, and
 - (b) a copy of a definitive certificate is lodged with the registrar before the expiry of the period for which the temporary certificate operates,
- the registrar must vary the registration accordingly.
- (7) The registrar must cancel the registration of a light obstruction notice in the register—
- (a) where in relation to the notice a copy of a temporary certificate has been lodged and no copy of a definitive certificate has been lodged, on the expiration of the period of operation specified in the temporary certificate,
 - (b) in any other case, on the expiration of 21 years beginning with the date of registration.
- (8) The registrar must give effect to an order of the court under section 3(5) of the Rights of Light Act 1959 directing the registration of a notice to be varied or cancelled.
- (9) A copy of a certificate is lodged for the purposes of this rule if—
- (a) it is sent to the registrar using an electronic means of communication and in accordance with any determination by the registrar under rule 13, or
 - (b) it is received at the address specified by the registrar under rule 14.
- (10) In this rule, “owner” has the meaning given by section 7(1) of the Rights of Light Act 1959.

Notes on rule 7

The terms of this rule are substantially the same as those parts of rule 10 of the Local Land Charges Rules 1977 dealing with the variation and cancellation of light obstruction notice registrations. This is because they are provisions effectively required by the Rights of Light Act 1959.

The Rights of Light Act 1959 does not require that the application be in Form B or in any other prescribed form, nor will it do so following the coming into effect of the amendments under the Infrastructure Act 2015. The reasons for continuing to have a prescribed Form B are the same as those for continuing with prescribed Form A: see the notes to rule 4.

The proposed Form B is very similar to Form B in the Local Land Charges Rules 1977. The difference is that the separation into two parts – application and statutory declaration – has been abandoned.

If the application is made in electronic form, the application will need to contain such of the particulars required by Form A as are appropriate.

Question 8

Do you agree with the proposals for variation and cancellation of registrations in respect of light obstruction notices?

Please provide comments to support your views.

Question 9

Do you agree to continue having a prescribed Form B?

Please provide comments to support your views.

Question 10

Do you think that the wording of the Form B in these draft Local Land Charges Rules 2017 should be changed in any way?

Please provide comments to support your views.

Rule 8

8 General charges

- (1) A notification under section 6(4) of the Act must be made using an electronic means of communication and in accordance with any determination by the registrar under rule 13.
- (2) The period within which the registration of a general charge in the register must be cancelled pursuant to section 6(5) of the Act is 15 months starting with the day on which the specific charge comes into existence.

Notes on rule 8

The nature of these charges is explained in section 6 of the Local Land Charges Act 1975, as amended. This rule simply requires that the notification under subsection (4) has to be electronic, and prescribes the period within which a general charge has to be cancelled once a specific charge arises. The period is the same as under rule 9 of the Local Land Charges Rules 1977.

Question 11

Do you agree with the proposal for notification and cancellation for general charges?

Please provide comments to support your views.

Rule 9

9 Personal searches

- (1) The right to search in the register under section 8(1) of the Act may be exercised only on an application to the registrar.
- (2) The application must identify the land in respect of which the search is to be made.
- (3) The application must be made using an electronic means of communication and in accordance with any determination by the registrar under rule 13.

Notes on rule 9

The right to search in the register is given by section 8(1) of the Local Land Charges Act 1975. This rule (like rule 11 of the Local Land Charges Rules 1977) requires that the applicant identify the land in respect of which the search is to be made.

The process of carrying out a personal search will be different from that currently operating in some local authority areas (particularly those where the register is not fully digital). It is anticipated that remote electronic access will be allowed to search the register, the applicant having first identified the area of land concerned. It follows that the request (the application) will have to be made electronically. As with other applications, the particular electronic means to be used will be determined by the Chief Land Registrar.

Question 12

Do you agree with the proposal for personal searches?

Please provide comments to support your views.

Rule 10

10 Official searches

- (1) A requisition for an official search of the register under section 9(1) of the Act must identify the land in respect of which the official search is to be made.
- (2) The extent of the land identified must not be such that the registrar considers that the search could prejudice the exercise of any of his or her functions under these rules or the Act.
- (3) The requisition must be made using an electronic means of communication and in accordance with any determination by the registrar under rule 13.
- (4) The official search certificate issued under section 9(4) of the Act must either—
 - (a) certify that there are no subsisting registrations in respect of the land, or
 - (b) where there are any subsisting registrations in respect of the land, show the particulars of registration.
- (5) The official search certificate must be in electronic form.

Notes on rule 10

This rule carries forward, in substance, rule 11(2) and (4) of the Local Land Charges Rules 1977. The term “requisition” is used rather than “application” simply because this is the term adopted in the Local Land Charges Act 1975 (and left unamended by the Infrastructure Act 2015).

There are two main differences between these provisions in the Local Land Charges Rules 1977 and rule 10.

First, the requisition (application) for the search must be electronic.

Secondly, the extent of the land that can be the subject of a single official search application is limited to an extent that is not so large as to interfere with the running of the proposed Local Land Charges Register Service and so make it difficult or impossible for the Chief Land Registrar to carry out his functions – the main ones being, of course, keeping the register and processing applications.

Although paragraph (2) is new, rule 11 of the Local Land Charges Rules 1977 also limits the extent that can be searched in a single application. Rule 11(3) of the Local Land Charges Rules 1977 provides that “A separate personal search or (as the case may be) a separate requisition for an official search shall be made in respect of each parcel of land against which a search is required, except where for the purpose of a single transaction the search is required in respect of two or more parcels of land which have a common boundary or are separated only by a road, railway, river, stream or canal.” “Parcel of land” is then rather elaborately defined in the Local Land Charges Rules 1977 as meaning “land which is separately occupied or rated or if not occupied or rated, in separate ownership; and for this purpose an owner is the person who (in his own right or as trustee for any other person) is entitled to receive the rack rent of land, or, where the land is not let at a rack rent, would be so entitled if it were so let.”

The Local Land Charges Register Service is intended to be less restrictive and will allow in almost all circumstances for just one application for an official search to be made in respect of all the land the subject of a proposed conveyancing transaction. The rule does not therefore replicate the above requirement for a separate requisition for an official search to be made in respect of each parcel of land. It is not expected that the extent limitation for a single official search requisition will be called into operation very often – only where application is made for a single official search of an exceptionally large area of land.

Question 13

Do you agree (a) with the provision made in respect of official searches and (b) in particular with what is required of applicants and what the official search certificate must contain?

Please provide comments to support your views.

Question 14

Do you have comments on the proposed restriction contained in paragraph (2)?

If you think a different form of limitation on extent should be adopted, please specify what the form of limitation should be and provide comments to support your views.

Rule 11

11 Destruction of documents

The registrar may destroy any paper document relating to the registration of a charge if satisfied that—

- (a) he or she has retained a sufficient copy, or
- (b) further retention of the document by the registrar is unnecessary.

Notes on rule 11

This rule is new: there is not an equivalent provision in the Local Land Charges Rules 1977. It reflects the fact that the service is intended to be electronic so far as possible.

The only paper documents that the Chief Land Registrar is likely to be sent will be

- (a) an application in respect of a light obstruction notice in Form A or Form B,
- (b) a temporary certificate or permanent certificate, again in connection with a light obstruction notice,
- (c) an order of the court relating to a registration of a charge, and
- (d) correspondence relating to a particular registration.

It is proposed that these documents will be scanned, so that they can be kept in electronic form. The scanning process is likely to involve the destruction of what is being scanned. It seems very unlikely that an applicant will be concerned about this, but if they are, they should make sure that they retain copies for themselves, or indeed lodge only copies rather than original documents. (Note, in particular, that, as explained in the note to rule 4, only a copy of the certificate from the Upper Tribunal should be sent to the Chief Land Registrar.)

Question 15

Do you agree with the proposal for destruction of documents?

Please provide comments to support your views.

Rule 12

12 Copies of documents

- (1) A person may apply for a copy of—
- (a) any document which is listed as being kept by the registrar in the particulars of registration for a light obstruction notice, or
 - (b) any court order or item of correspondence kept by the registrar which relates to a registration or to an application or requisition under these rules or the Act.
- (2) The application must identify the document.
- (3) The application must be made using an electronic means of communication and in accordance with any determination by the registrar under rule 13.
- (4) Where an application is made under this rule and the prescribed fee (if any) payable in respect of it is paid in the prescribed manner, the registrar must issue a copy.
- (5) Any copy of a document issued under this rule must be in electronic form.

Notes on rule 12

Unlike rule 12 of the Local Land Charges Rules 1977, this rule does not provide for official copies of “any registration”. This is because provision for official copies of entries in the register (which is what must be meant by “office copy of any registration”) is unnecessary. Applicants for official searches will receive official copies of any entries in the register of the property searched against.

What the rule does do is to make provision for applications for copies of documents listed as being kept by the Chief Land Registrar in the particulars of registration for a light obstruction notice, court orders kept by the Chief Land Registrar that relate to a local land charge registration and items of correspondence kept by the Chief Land Registrar that relate to a particular local land charge registration. As with rule 12 of the Local Land Charges Rules 1977 there is an obligation to issue a copy of the document on payment of the prescribed fee.

As explained in the note to rule 11, it is anticipated that the Chief Land Registrar is unlikely to receive and keep many documents relating to registrations other than those submitted in respect of light obstruction notices. Local authorities will continue to hold copies of almost all the documents that comprise or relate to a local land charge and it will be necessary to contact the authority if copies of such documents are required.

Question 16

Do you think that there are any other types of documents that are likely to be kept by the Chief Land Registrar in respect of which it ought to be possible to apply for copies?

If yes, please identify the type of document and provide comments to support your views.

Rule 13

13 Determination by the registrar of particular electronic means of communication, etc.

(1) The registrar may determine—

- (a) the particular electronic means of communication which may or must be used for making applications or requisitions, or sending anything to the registrar,
- (b) the circumstances in which a particular electronic means of communication may or must be used (which may be all circumstances, subject to exceptions),
- (c) the form of any applications or requisitions made using electronic means of communication or anything sent using electronic means of communication, and
- (d) subject to paragraph (2), in addition to the contents required under any other rule for an application or requisition of the type concerned, the contents of any applications or requisitions made using electronic means of communication.

(2) A determination under paragraph (1)(d) may only require information which the registrar considers is necessary or desirable for the purpose of facilitating the processing of the application or requisition as a result of it being made using electronic means of communication.

Notes on rule 13

This rule largely adopts the wording of the rule-making powers in section 14(2)(b) and (bb) of the Local Land Charges Act 1975, as amended. The rule delegates the determination of various matters to the Chief Land Registrar. These matters are the particular electronic means that have to be used for communicating electronically, and the form and contents of what is sent by electronic communication. This allows for the working of the proposed Local Land Charges Register Service to keep up to date with developments in technology.

Paragraph (1)(b) is to allow for the Chief Land Registrar to determine that all applications other than those in respect of light obstruction notices must be made using the particular electronic means of communication generally required for Local Land Charges Register Service, but with the exception of, for example, applications made by non-local authority originating authorities that apply very infrequently, with it being possible for applications by these authorities to be made by other means of electronic communication – possibly, email.

Paragraph (2) is to make clear that the only additional information that can be required by way of a rule 13 determination is information to allow for the processing of the application or requisition as a result of it having been sent electronically.

Question 17

Do you have any comments on the matters which the Chief Land Registrar may determine?

Rule 14

14 Specification by the registrar of address

- (1) This rule applies to applications for the registration of light obstruction notices and for the variation or cancellation of such registrations where the applications are not made using an electronic means of communication.
- (2) The registrar must specify an address to which the applications to which this rule applies must be sent.
- (3) The specification of an address must be publicised in such manner as the registrar considers appropriate for the purpose of bringing it to the attention of persons who are likely to want to make such applications.

Notes on rule 14

This rule applies only in respect of applications in respect of light obstruction notices which are made in paper form. It requires the Chief Land Registrar to specify an address to which such applications are to be sent. The wording in paragraph (3) is modelled on that used in paragraph 40(1)(b) of Schedule 5 to the Infrastructure Act 2015.

Question 18

Do you agree with the proposal for the Chief Land Registrar to be obliged to specify an address to which paper applications in respect of light obstruction notices must be sent?

Please provide comments to support your views.

Rule 15

15 Revocations

The Local Land Charges Rules 1977 are revoked.

Notes on rule 15

This rule does not mean that the Local Land Charges Rules 1977 are revoked on 6 April 2017.

It is important to bear in mind that implementation of the Local Land Charges Rules 2017 will be incremental (as explained in the note to rule 1), so they will only take effect in a particular local authority area once the Chief Land Registrar has given notice to the local authority.

This means that the Local Land Charges Rules 1977 will be revoked and the Local Land Charges Rules 2017 will come into effect, in respect of a local authority area on the date specified in the notice given to the local authority by the Chief Land Registrar.

The Local Land Charges Rules 1977 will only be revoked entirely once the migration of all the registers from the local authorities in England and Wales to Land Registry is completed.

Question 19

Do you have any further comments on the proposed draft Local Land Charges Rules 2017?

8. Regulatory Impact Assessment

The updated Impact Assessment has been considered by the Regulatory Policy Committee. It summarises the rationale for Government intervention; the option to proceed, the expected costs and benefits and the net cost to business.

Question 20

Do you have any comments on the Regulatory Impact Assessment?

9. CON 29 searches

It is common for the local land charges search (statutory service) and the CON 29 search (non-statutory service providing information from a range of sources in local authorities), to be carried out together.

This consultation is on the draft Local Land Charges Rules 2017 affecting local land charges searches and the Government is separately seeking to improve turnaround times for CON 29 searches.

Question 21

Do you have any comments at this stage on CON 29 searches and how they relate to our proposed changes to local land charges, including the practical steps taken to digitise local land charges information?

10. Consultation questions

Question 1

Do you agree with the requirements for applications for registration of charges (other than light obstruction notices) being those set out in rule 3?

Please provide comments to support your views.

Question 2

Do you agree that it should not be compulsory to apply electronically to register a light obstruction notice but that a paper application (using Form A) may be made instead?

Please provide comments to support your views.

Question 3

Do you agree to continue having a prescribed Form A?

Please provide comments to support your views.

Question 4

Do you think that the wording of the Form A in these draft Local Land Charges Rules 2017 should be changed in any way?

Please provide comments to support your views.

Question 5

Do you agree that the digital local land charges register should contain all the particulars referred to in Schedule 1, and nothing more?

Please provide comments to support your views.

Question 6

Do you agree that it is not necessary to include the additional particulars of registration for specific financial charges?

Please provide comments to support your views.

Question 7

Do you agree with the proposals for variation and cancellation of registrations of charges in the register (other than those in respect of light obstruction notices)?

Please provide comments to support your views.

Question 8

Do you agree with the proposals for variation and cancellation of registrations in respect of light obstruction notices?

Please provide comments to support your views.

Question 9

Do you agree to continue having a prescribed Form B?

Please provide comments to support your views.

Question 10

Do you think that the wording of the Form B in these draft Local Land Charges Rules 2017 should be changed in any way?

Please provide comments to support your views.

Question 11

Do you agree with the proposal for notification and cancellation for general charges?

Please provide comments to support your views.

Question 12

Do you agree with the proposal for personal searches?

Please provide comments to support your views.

Question 13

Do you agree (a) with the provision made in respect of official searches and (b) in particular with what is required of applicants and what the official search certificate must contain?

Please provide comments to support your views.

Question 14

Do you have comments on the proposed restriction contained in paragraph (2)?

If you think a different form of limitation on extent should be adopted, please specify what the form of limitation should be and provide comments to support your views.

Question 15

Do you agree with the proposal for destruction of documents?

Please provide comments to support your views.

Question 16

Do you think that there are any other types of documents that are likely to be kept by the Chief Land Registrar in respect of which it ought to be possible to apply for copies?

If yes, please identify the type of document and provide comments to support your views.

Question 17

Do you have any comments on the matters which the Chief Land Registrar may determine?

Question 18

Do you agree with the proposal for the Chief Land Registrar to be obliged to specify an address to which paper applications in respect of light obstruction notices must be sent?

Please provide comments to support your views.

Question 19

Do you have any further comments on the proposed draft Local Land Charges Rules 2017?

Question 20

Do you have any comments on the Regulatory Impact Assessment?

Question 21

Do you have any comments at this stage on CON 29 searches and how they relate to our proposed changes to local land charges, including the practical steps taken to digitise local land charges information?

11. What happens next?

Land Registry will publish the Government response to consultation when the Local Land Charges Rules 2017 are laid in Parliament. It is intended that the Local Land Charges Rules 2017 will come into force on 6 April 2017.

However, a summary of responses will be published within 12 weeks of the consultation closing.

Any comments relating to question 21 on CON 29 searches will be passed to the Departments for Business, Innovation and Skills, and Communities and Local Government to consider.

Annex A: Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Angela Rabess
BIS Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telephone Angela on 020 7215 1661
or e-mail to: angela.rabess@bis.gsi.gov.uk

However, if you wish to comment on the specific policy proposals see section 5.

Annex B: Draft Local Land Charges Rules 2017

STATUTORY INSTRUMENTS

2017 No.

LAND CHARGES, ENGLAND AND WALES

The Local Land Charges Rules 2017

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Lord Chancellor, in exercise of the powers conferred by section 14 of the Local Land Charges Act 1975(a), makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Local Land Charges Rules 2017 and shall come into force on 6th April 2017(b).

Interpretation

2.—(1) In these Rules—

“the Act” means the Local Land Charges Act 1975;

“charge” means a local land charge or a matter which is registrable in the register;

“date of registration” in relation to a charge registered in a local land charges register for a local authority’s area immediately before Part 1 of Schedule 5 to the Infrastructure Act 2015 first had effect in relation to that area means the date of registration in that local land charges register;

“definitive certificate” means a certificate issued by the Upper Tribunal under section 2(3)(a) of the Rights of Light Act 1959(c);

“description” in relation to a charge means a description which is sufficient to indicate—

- the nature of any agreement, certificate, notice, order, resolution, scheme or other instrument or document (not being a statute or an instrument embodying statutory provisions) which comprises the charge or in connection with which the charge came into existence,
- where apparent from the instrument or document, the date on which the charge came into existence,
- any statutory provision (other than section 1(1)(e) of the Act) under or by virtue of which the charge is a local land charge or registrable, or which comprises the charge;

“dominant building” and “servient land” have the meanings given by section 2(1) of the Rights of Light Act 1959;

“light obstruction notice” means a notice which is registrable under section 2 of the Rights of Light Act 1959;

“particulars of registration” means the particulars specified in Schedule 1;

(a) 1975 c.76; section 14 was amended by paragraph 13 of Schedule 5 to the Infrastructure Act 2015 (c.7).

(b) Under paragraph 40(4) of Schedule 5 to the Infrastructure Act 2015, these Rules have effect in relation to the area of a local authority only if a notice has been given to the local authority and publicised in accordance with paragraph 40(1) of that Schedule.

(c) 1959 c.56; section 2 was amended by paragraph 28 of Schedule 5 to the Infrastructure Act 2015 (c.7).

“register” means the local land charges register kept by the registrar under the Act;

“registrar” means the Chief Land Registrar;

“temporary certificate” means a certificate issued by the Upper Tribunal under section 2(3)(b) of the Rights of Light Act 1959.

(2) In Schedule 1, “originating authority” means the authority or person who by virtue of section 5(4) of the Act or some other statutory provision is the originating authority for the purposes of the Act.

(3) A reference in these Rules to Form A or Form B is to the form so designated in Schedule 2.

Application for registration of charges other than light obstruction notices

3.—(1) This rule applies to all applications for registration of a charge in the register except an application for registration of a light obstruction notice.

(2) The application must contain a description of the charge and the other information necessary to enable the registrar to register the charge in accordance with rule 5.

(3) The application must be made using an electronic means of communication and in accordance with any determination by the registrar under rule 13.

Application for registration of a light obstruction notice

4.—(1) This rule applies to applications for registration of a light obstruction notice in the register.

(2) The application may be made using an electronic means of communication.

(3) An application made using an electronic means of communication must contain such of the particulars required by Form A as are appropriate and be in accordance with any determination by the registrar under rule 13.

(4) If the application is not made using an electronic means of communication, it must be made in Form A and be delivered to the address specified by the registrar under rule 14.

Registration

5.—(1) The registration of a charge must be effected by entering in the register the particulars of registration for the type of charge concerned.

(2) The registration of a charge must be by reference to the land affected by the charge in such a manner as to show the situation and extent of that land.

Variation and cancellation of registrations other than in respect of a light obstruction notice

6.—(1) This rule applies to all registrations of charges in the register except the registration of a light obstruction notice.

(2) Where a registered charge has been varied or any registration is incorrect, the person by whom the charge is enforceable must apply for the variation or cancellation of the registration.

(3) Where a registered charge has been discharged, ceased to have effect or ceased to be a charge, the person by whom the charge was enforceable must apply for the cancellation of the registration.

(4) An application for the variation or cancellation of a registration must identify the charge.

(5) The application must be made using an electronic means of communication and in accordance with any determination by the registrar under rule 13.

(6) The registrar must vary a registration if an application for its variation is received from the person by whom the charge is enforceable.

(7) The registrar may of his or her own motion vary a registration if satisfied that the charge has been varied or that the registration is incorrect.

(8) The registrar must cancel a registration if an application for its cancellation is received from the person by whom the charge is or was enforceable.

(9) The registrar may of his or her own motion cancel a registration if satisfied that the charge has been discharged, ceased to have effect or ceased to be a charge, or that the registration is incorrect.

Variation and cancellation of registrations in respect of light obstruction notices

7.—(1) The original applicant for registration of a light obstruction notice in the register, or any successor in title to the original applicant as owner of the servient land or part of it, may within a year beginning with the date of registration apply for—

- (a) variation of the registered particulars of the position or dimensions of the structure to which registration is intended to be equivalent, so as to reduce its height or length or to increase its distance from the dominant building, or
- (b) cancellation of the registration.

(2) An application under paragraph (1) may be made using an electronic means of communication.

(3) An application under paragraph (1) made using an electronic means of communication must contain such of the particulars required by Form B as are appropriate and be in accordance with any determination by the registrar under rule 13.

(4) If an application under paragraph (1) is not made using an electronic means of communication, it must be made in Form B and be delivered to the address specified by the registrar under rule 14.

(5) Where an application under paragraph (1) is made, the registrar must vary or cancel the registration accordingly.

(6) Where—

- (a) an application for registration of a light obstruction notice in the register was accompanied by a copy of a temporary certificate, and
- (b) a copy of a definitive certificate is lodged with the registrar before the expiry of the period for which the temporary certificate operates,

the registrar must vary the registration accordingly.

(7) The registrar must cancel the registration of a light obstruction notice in the register—

- (a) where in relation to the notice a copy of a temporary certificate has been lodged and no copy of a definitive certificate has been lodged, on the expiration of the period of operation specified in the temporary certificate,
- (b) in any other case, on the expiration of 21 years beginning with the date of registration.

(8) The registrar must give effect to an order of the court under section 3(5) of the Rights of Light Act 1959 directing the registration of a notice to be varied or cancelled.

(9) A copy of a certificate is lodged for the purposes of this rule if—

- (a) it is sent to the registrar using an electronic means of communication and in accordance with any determination by the registrar under rule 13, or
- (b) it is received at the address specified by the registrar under rule 14.

(10) In this rule, “owner” has the meaning given by section 7(1) of the Rights of Light Act 1959.

General charges

8.—(1) A notification under section 6(4) of the Act must be made using an electronic means of communication and in accordance with any determination by the registrar under rule 13.

(2) The period within which the registration of a general charge in the register must be cancelled pursuant to section 6(5) of the Act is 15 months starting with the day on which the specific charge comes into existence.

Personal searches

9.—(1) The right to search in the register under section 8(1) of the Act may be exercised only on an application to the registrar.

(2) The application must identify the land in respect of which the search is to be made.

(3) The application must be made using an electronic means of communication and in accordance with any determination by the registrar under rule 13.

Official searches

10.—(1) A requisition for an official search of the register under section 9(1) of the Act must identify the land in respect of which the official search is to be made.

(2) The extent of the land identified must not be such that the registrar considers that the search could prejudice the exercise of any of his or her functions under these rules or the Act.

(3) The requisition must be made using an electronic means of communication and in accordance with any determination by the registrar under rule 13.

(4) The official search certificate issued under section 9(4) of the Act must either—

- (a) certify that there are no subsisting registrations in respect of the land, or
- (b) where there are any subsisting registrations in respect of the land, show the particulars of registration.

(5) The official search certificate must be in electronic form.

Destruction of documents

11. The registrar may destroy any paper document relating to the registration of a charge if satisfied that—

- (a) he or she has retained a sufficient copy, or
- (b) further retention of the document by the registrar is unnecessary.

Copies of documents

12.—(1) A person may apply for a copy of—

- (a) any document which is listed as being kept by the registrar in the particulars of registration for a light obstruction notice, or
- (b) any court order or item of correspondence kept by the registrar which relates to a registration or to an application or requisition under these rules or the Act.

(2) The application must identify the document.

(3) The application must be made using an electronic means of communication and in accordance with any determination by the registrar under rule 13.

(4) Where an application is made under this rule and the prescribed fee (if any) payable in respect of it is paid in the prescribed manner, the registrar must issue a copy.

(5) Any copy of a document issued under this rule must be in electronic form.

Determination by the registrar of particular electronic means of communication, etc

13.—(1) The registrar may determine—

- (a) the particular electronic means of communication which may or must be used for making applications or requisitions, or sending anything to the registrar,
- (b) the circumstances in which a particular electronic means of communication may or must be used (which may be all circumstances, subject to exceptions),
- (c) the form of any applications or requisitions made using electronic means of communication or anything sent using electronic means of communication, and
- (d) subject to paragraph (2), in addition to the contents required under any other rule for an application or requisition of the type concerned, the contents of any applications or requisitions made using electronic means of communication.

(2) A determination under paragraph (1)(d) may only require information which the registrar considers is necessary or desirable for the purpose of facilitating the processing of the application or requisition as a result of it being made using electronic means of communication.

Specification by the registrar of address

14.—(1) This rule applies to applications for the registration of light obstruction notices and for the variation or cancellation of such registrations where the applications are not made using an electronic means of communication.

(2) The registrar must specify an address to which the applications to which this rule applies must be sent.

(3) The specification of an address must be publicised in such manner as the registrar considers appropriate for the purpose of bringing it to the attention of persons who are likely to want to make such applications.

Revocations

15. The Local Land Charges Rules 1977 are revoked.

Signatory text

Address
Date

Signatories
Job Title
Department

SCHEDULE 1

PARTICULARS OF REGISTRATION

Rule 5

Light obstruction notices

- A. Description of charge
- B. Description of dominant building
- C. Name and address of applicant and short description of their interest in servient land
- D. Position and dimension of structure to which registration equivalent
- E. Date of temporary certificate (if any) and of its expiration
- F. Date of definitive certificate
- G. List of any applications or certificates kept by the registrar and relating to the registration
- H. Date of registration

Charge constituted by deposit of particulars under section 8(4) of the Land Compensation Act 1973(a)

- A. Description of charge
- B. Originating authority
- C. Postal address or verbal description of retained land
- D. Particulars of nature and extent of works relating to acquired land
- E. Where further information about charge can be obtained
- F. Date of registration

Charge constituted by deposit of particulars under section 52(8) of the Land Compensation Act 1973(b)

- A. Description of charge
- B. Originating authority
- C. Postal address or verbal description of land affected by charge
- D. Particulars of relevant interest in land
- E. Particulars of advance payment and agreed or estimated compensation
- F. Where further information about charge can be obtained

(a) 1973 (c.26); section 8 was amended by section 17(2) and paragraph 19(2) to (4) of Schedule 1 to the Local Land Charges Act 1975 and section 66(6) and paragraph 40(1) of Schedule 16 to the Local Government (Wales) Act 1994 (c.19).

(b) Section 52 was amended by section 17(2) and paragraph 19(2) to (4) of Schedule 1 to the Local Land Charges Act 1975 and section 66(6) and paragraph 40(1) of Schedule 16 to the Local Government (Wales) Act 1994.

G. Date of registration

Other charges

- A. Description of charge
- B. Postal address or verbal description of land affected by charge
- C. Originating authority
- D. Where further information about charge can be obtained
- E. Date of registration

SCHEDULE 2

Rules 4 and 7

Forms

Form A

Application for registration of a light obstruction notice

I/We (*name of applicant(s)*).....
of (*address*).....being

- the freehold owner(s)
- the tenant(s) for a term of which over 7 years remain unexpired
- the mortgagees(s) in possession

of (*address or description of the servient land*).....

which is shown edged/coloured..... (*state colour*) on the attached plan, apply to the Chief Land Registrar for registration of this notice under section 2 of the Rights of Light Act 1959 against the building known as (*name and address of building*)..... which is shown edged/coloured..... (*state colour*) on the attached plan (*edge or colour the building only and not any additional land on which the building is located*).

Registration of this notice is intended to be equivalent to the obstruction of the access of light to the said building across my/our land which would be caused by the erection of an opaque structure

- on all the boundaries of my/our land
- in the position on my/our land marked by a line drawn in..... (*state colour of line*) between points A and B on the attached plan

of

- unlimited height
- (*state height and other dimensions*).

I/We have enclosed a copy of the certificate issued by the Upper Tribunal

Signed

Date

Delete inapplicable wording in bullet points

Form B

Application to vary or cancel the registration of a light obstruction notice

I/We (*name of applicant(s)*).....
of (*address*) being

- the freehold owner(s)
- the tenant(s) for a term of which over 7 years remain unexpired
- the mortgagee(s) in possession

of (*address or description of the servient land*)
apply for

- the variation of the registered particulars of the position or dimensions of the structure to which registration of the light obstruction notice is intended to be equivalent
- the cancellation of the registration of the light obstruction notice

The light obstruction notice was registered

- on my application
- on the application of (*name(s)*)

of (*address*)

The variation which I require is
..... (*if
variation is required, give particulars; if cancellation, delete sentence*)

Consent to this application by the following persons, being persons who would be entitled to apply for the registration of a light obstruction notice, is attached: (*give names and addresses; if there are no such persons, delete sentence*)

.....
.....
.....

I confirm that there are no other persons who would be entitled to apply for the registration of a light obstruction notice.

Signed
Date

Delete inapplicable wording in bullet points.

EXPLANATORY NOTE

(This note is not part of the Order)

[Text]

Annex C: List of Individuals/Organisations consulted

Local authorities in England and Wales

National Park Authorities

County Councils

Water UK

Historic England

Cadw

Society of Local Authority Chief Executives (SOLACE)

Association of Independent Personal Search Agents (IPSA)

Council of Property Search Organisations (CoPSO)

Legal Software Suppliers Association

Property Codes Compliance Board

Idox

Northgate

Civica

DEF Software

Swift

National Land Information Service

Searchflow

Thames Water

TM Group

ETSOS

The Local Government Association

The Welsh Local Government Association

The District Councils' Network

Land Data

Local Land Charges Institute (LLCI)

The Coal Authority
Building Societies Association
Conveyancing Association
Council for Licensed Conveyancers
Council of Mortgage Lenders
Chartered Institute of Legal Executives
Law Society for England & Wales
National Federation of Property Professionals
Royal Institution of Chartered Surveyors
The Society of Licensed Conveyancers
London Legacy Development Corporation
Civil Aviation Authority
Water and Sewerage Undertakers
Highways England
Ministry of Justice
Natural England
Oyez
Ridley & Hall
Spratt Endicott
Pinsent Masons
Penmans
Coodes
Metcalfes
Hartley & Worstenholme
Beaumont Legal
Conveyancing Data Services
Rural Payments Agency



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