

2011 No. 158

LAND REGISTRATION

ELECTRONIC REGISTRATION

**Land Registration (Electronic Communications) Order
(Northern Ireland) 2011**

Made - - - - *22nd March 2011*

Coming into operation in accordance with Article 1

The Department of Finance and Personnel makes the following Order in exercise of the powers conferred on it by sections 1 and 2 of the Electronic Communications Act (Northern Ireland) 2001(a).

In accordance with section 1(3) of that Act it considers that authorisation of the use of electronic communications by this Order for any purpose is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases.

Citation and commencement

1. This Order may be cited as the Land Registration (Electronic Communications) Order (Northern Ireland) 2011 and shall come into operation on 3 October 2011.

Amendment of the Land Registration Act (Northern Ireland) 1970

2.—(1) The Land Registration Act (Northern Ireland) 1970(b) shall be amended in accordance with paragraphs (2) to (6).

(2) At the end of section 32 (dealings with registered land) add—

“(3) An application for—

(a) first registration; or

(b) registration of a dealing with registered land,

may be made by electronic communication if the application is made in respect of an authorised dealing with that land.

(4) For the purposes of this section and section 32A an “authorised dealing” is

a dealing which is directed by the Registrar to be an authorised dealing for the purpose of electronic applications.

(5) A direction given by the Registrar under subsection (4)—

(a) 2001 c.9 (N.I.)

(b) 1970 c. 18 (N.I.)

- (a) shall be made after consultation with the Law Society of Northern Ireland;
 - (b) shall be published in such manner as the Registrar deems appropriate for the purpose of bringing it to the attention of the persons affected by it;
 - (c) may include incidental, supplementary, saving and transitional provisions; and
 - (d) may be varied or revoked by a subsequent direction. ”.
- (3) After section 32 (dealings with registered land) insert—

“Validity of electronic documents

32A. Notwithstanding any statutory provision that may require a transaction relating to an estate or interest in land to be effected by deed or instrument in writing, any authorised dealing with an estate or interest in land may be effected in accordance with the procedure laid down in Schedule 1A.”.

- (4) In section 94 (interpretation) at the appropriate place in alphabetical order insert—
- ““electronic communication” has the meaning given in section 4 of the Electronic Communications Act (Northern Ireland) 2001;”.
- (5) After Schedule 1 (administrative provisions relating to Land Registry) insert Schedule 1A set out in the Schedule to this Order.
- (6) In Part 2 of Schedule 2 (power to extend time for first compulsory registration) for the words “make an order” to the end substitute “order that the period be extended; and, if the Registrar so orders, then, upon the registration of the owner, or, as the case may be, of his successor in title, a note of that fact shall be recorded on the application.”.

Sealed with the Official Seal of the Department of Finance and Personnel on 22nd March 2011

(L.S.)

Arthur Moir
A senior officer of the
Department

SCHEDULE

SCHEDULE 1A TO THE LAND REGISTRATION ACT (Northern Ireland) 1970

“SCHEDULE 1A

ELECTRONIC REGISTRATION

Interpretation of this Schedule

1. In this Schedule—

“digital signature” means data in electronic form which is incorporated into or logically associated with an electronic document which serves as a method of authentication and which is—

- (a) uniquely linked to the signatory;
- (b) capable of identifying the signatory;

- (c) created using a signature creation device that the signatory can maintain under the signatory's sole control; and
- (d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;

"electronic document" means a document created as an electronic communication within the Land Registry computer system;

"the Land Registry computer system" means the computer system operated by the Registry to enable creation of electronic documents and the electronic generation and communication of applications for registration of an estate or interest in land and automated registration of any such estate or interest;

"signatory" means a person who holds a signature creation device and acts either on his own behalf or on behalf of the person he represents;

"signature creation data" means unique data (including, but not limited to, codes or private cryptographic keys) which are used by the signatory to create an electronic signature;

"signature creation device" means configured software or hardware used to implement the signature creation data.

Validity of electronic documents

2. An electronic document which is valid in respect of the formalities of execution detailed in paragraph 3 shall be valid for the creation, transfer, variation or extinction of an estate or interest in land.

Formalities of execution of electronic documents

3.—(1) An electronic document shall be valid in respect of the formalities of execution if that document has been authenticated by the person executing the document, or if there is more than one such person by each person, in accordance with sub-paragraph (2).

(2) An electronic document is authenticated if the digital signature of each person by whom the document purports to be authenticated—

- (a) is incorporated into or logically associated with the electronic document;
- (b) was created by the signatory by whom it purports to have been created;
- (c) was created in accordance with such conditions as may be set out in directions given by the Registrar; and
- (d) is certified in accordance with the provisions in sub-paragraph (4) and such conditions as may be set out in directions given by the Registrar.

(3) A direction given by the Registrar under sub-paragraph (2)—

- (a) shall be made after consultation with the Law Society of Northern Ireland;
- (b) shall be published in such manner as the Registrar deems appropriate for the purpose of bringing it to the attention of the persons affected by it;
- (c) may include incidental, supplementary, saving and transitional provisions; and
- (d) may be varied or revoked by a subsequent direction.

(4) For the purpose of this Schedule a digital signature incorporated into or associated with an electronic document is certified by any person if that person (whether at the time of or after the creation of the electronic document) has made a statement confirming that—

- (a) the signature;
- (b) a means of producing, communicating or verifying the signature; or
- (c) a procedure applied to the signature,

is (either alone or in combination with other factors) a valid means of establishing the authenticity of the document, the integrity of the document or both.

Equivalent treatment of electronic documents

4.—(1) An electronic document authenticated in accordance with paragraph 3(2) is to be regarded for the purposes of any statutory provision as having the same effect as if the electronic document were a deed or a written document.

(2) Where a person executes an electronic document in more than one capacity, authentication of that document by that person in accordance with this Act shall be sufficient to bind that person in all such capacities, unless a contrary intention appears from the document.

Presumption as to the authentication of electronic documents

5. Where an electronic document purports to be authenticated in accordance with the provisions of this Schedule the Registrar shall be entitled to presume that such electronic document was authenticated by the person by whom it purports to be authenticated.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Land Registration Act (Northern Ireland) 1970 (“the Act”) to permit electronic documents created within the Land Registry’s computer system, and authenticated by means of digital signature, to be valid for the creation, transfer, variation or extinction of estates and interests in land and to introduce conditions upon which electronic applications for registration may be made. These changes are intended to enable the electronic registration in the Land Registry of Northern Ireland of transactions affecting land.

Article 2(2) adds new subsections (3), (4) and (5) to section 32 of the Act. Subsection (3) provides that certain applications for first registration or registration of a dealing with registered land may be made electronically. Subsection (4) defines an authorised dealing. Subsection (5) makes provision about the procedure for giving directions as to which dealings will be authorised dealings.

Article 2(3) inserts a new section 32A into the Act. This provides that where any statutory provision requires a transaction relating to an estate or interest in land to be effected by deed or instrument in writing, the dealing may be effected in accordance with the provisions of a new Schedule 1A.

Article 2(4) inserts a definition of “electronic communication” into section 94 of the Act.

Article 2(5) inserts a new Schedule 1A into the Act as set out in the Schedule to the Order.

Article 2(6) amends Schedule 2 Part 2 by removing the need for a physical endorsement of an order extending the period for an application for compulsory first registration.

The Schedule sets out the provisions of Schedule 1A.

Paragraph 1 of Schedule 1A provides for definitions.

Paragraphs 2 and 3 of Schedule 1A provide that an electronic document is to be valid in respect of the formalities of execution if it is authenticated. To be authenticated the digital signature of each person by whom the document purports to be authenticated must be incorporated into or logically associated with the document, be created by the signatory in accordance with such conditions as the Registrar may direct and be certified in accordance with paragraph 3.

Paragraph 3 stipulates that a digital signature is to be certified by a statement confirming that the signature, the means used to create, communicate or verify the signature or the procedure applied to the signature are a valid means of establishing the authenticity or integrity of the document.

Paragraph 4 of Schedule 1A provides that electronic documents which are valid in respect of the formalities of execution are to have the same effect as written documents for purposes of other statutory provisions. It also provides that a person who is party to an electronic document in more than one capacity need only authenticate it once to bind all capacities.

Paragraph 5 of Schedule 1A provides that the Registrar shall be entitled to assume that the authentication of an electronic document has been done by the person by whom it purports to be done. The result is that electronic documents which are authenticated will have “self-proving status”.

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