LAND REGISTRATION ACT 2002

_____

EXPLANATORY NOTES

COMMENTARY ON THE SECTIONS

Part 6: Registration: General

Boundaries

Section 60: Boundaries

107.   For practical and historical reasons, the current register has been compiled using the "general boundaries rule" which means that although the plans are usually mapped to a feature, the exact line of the boundary is left undetermined, e.g. which side of the boundary the feature lies. Rules permit those with an interest to apply for boundaries to be fixed. Section 60 for the first time incorporates the general boundary principle into statute, and provides for rules to be made in relation to the fixing of boundaries. That may happen in two situations. First, as now, the parties may request it. Secondly, the Act enables rules to be made providing for boundaries to be fixed when that is required, for example on the resolution of a boundary dispute or one over adverse possession. Rules will cover when boundary fixing can occur, how it will be done and what procedures will be used. Rules will also stipulate how the fact that the boundaries are fixed is recorded in the Registry's records including the register of title.

Section 61: Accretion and diluvion

108.   Section 61 states that the fixing of the position of the boundary shown on land registry plans does not prevent the adding of land by accretion or the removal of land by diluvion. This happens when the natural boundary between land and water changes gradually over time, in particular where land is formed by deposits from the sea (accretion) or washed away by waves (diluvion). In normal circumstances the adjoining landowners' title would be extended or diminished as a result of the changes. If several landowners have made an agreement that the natural boundary changes will not have that legal effect, for example in relation to the location of a stream, then that agreement will only take effect if it is registered. Rules will govern how that is to be achieved.