

**EXPLANATORY MEMORANDUM TO
THE LAND REGISTRATION FEE ORDER 2006**

2006 No. 1332

1. This explanatory memorandum has been prepared by Her Majesty's Land Registry and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 The Land Registration Fee Order 2006 (the Order) prescribes the fees for applications to, and services provided by, HM Land Registry; prescribes the applications and services that are exempt from fees; and contains administrative provisions relating to the payments of fees. It replaces the Land Registration Fee Order 2004 (as amended by the Land Registration Fee (Amendment) Order 2004).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The Order increases the fees payable for inspecting and obtaining copies of registers, plans and documents kept by the Chief Land Registrar, and for various searches. There is now a fee relating specifically to inspection and copying of leases. This fee reflects the true handling costs. In most cases, leases are lengthy documents. Currently the copying costs are being met in part from fees for other applications and services.

3.2 Otherwise, there is no increase in HM Land Registry's fees: they are no more than prescribed before the Order was made.

3.3 HM Land Registry is a trading fund and must recover from its fees and charges its entire operating costs and the Treasury prescribed return on capital employed. It has reviewed its anticipated income and costs for 2006/7 and, without an increase in fees, has predicted a shortfall of approximately £28 million. The small increase in fees in the Order, formulated at a time of slow-down in the property market is the first for thirteen years. Since becoming a trading fund in 1993, HM Land Registry has successively reduced its fees. The fees prescribed in future Fee Orders will always reflect the circumstances operating at the time they are formulated and, in particular, the prevailing state of the property market.

4. **Legislative Background**

4.1 Under the Land Registration Act 2002, the Chief Land Registrar keeps a register of the ownership of land in England and Wales. More precisely, there is a register of the titles to legal freehold and leasehold estates in land (and several other types of estate). Not all land is yet registered but where it is there will be a registered title for each registered freehold or leasehold estate in land that exists in respect of that

land. Applications for first registration of title to a legal estate, and to change the register where the title is already registered, all attract fees: these are unchanged by the Order.

4.2 For each such registered title there is an individual register and title plan; copies of these individual registers and title plans can be obtained from HM Land Registry and they are open to public inspection. Documents relating to applications to the Chief Land Registrar will be lodged at HM Land Registry from time to time and certain of them will be kept by the Chief Land Registrar; with some exceptions, copies of the kept documents can be obtained and they are open to public inspection. The Order increases the fees payable for copies of, and to inspect, these registers, plans and documents.

4.3 Applications can be made for official searches of the register of title kept by the Chief Land Registrar and pending first registration applications. The fees for these official searches have been increased.

4.4 When land is unregistered, a person who claims to have an interest in it can (subject to exceptions) lodge a “caution against first registration”, which means that he is notified of any application for first registration of the land. A caution register and plan are created. The fees for inspecting and obtaining copies of these are also increased.

4.5 The Lord Chancellor has made the Order under sections 102 and 128(1) of the Land Registration Act 2002. In accordance with section 102, the Order has been made with the advice and assistance of the Rule Committee and with the consent of the Treasury.

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The new fees are still extremely small in proportion to overall costs of a typical property transaction. Nevertheless, the increases in fees are the only aspect of the Order that is likely to attract public interest.

7.2 The seller or buyer in a property transaction pays HM Land Registry fees, they are part of a conveyancer’s disbursements and so paid by or recoverable from his client. HM Land Registry has planned a detailed publicity programme to maximise conveyancers’ awareness of the fee changes.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector, with the obvious exception of HM Land Registry, is, negligible.

9. Contact

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can answer any queries regarding the instrument.