

EXPLANATORY MEMORANDUM TO

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

SR 2011 No. 158

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Finance and Personnel to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 1 and 2 of the Electronic Communications Act (Northern Ireland) 2001 and is subject to the negative resolution procedure.
- 1.3. The rule is due to come into operation on 3 October 2011.

2. Purpose

- 2.1. To amend existing legislation which provides that all transactions in registered land which are to be registered in the Land Registry of Northern Ireland must be made using paper-based documentation. The amendments will permit electronic documents created within the Land Registry's computer system, 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.

3. Background

- 3.1. The rule will introduce, for those who volunteer to use it, a new alternative electronic method of lodging their applications for registration. Those not wishing to use the new method, will still be able to apply to register their transactions using paper-based documentation.
- 3.2. Users will be provided with a choice which they do not have under existing legislation and they will be able to lodge documents on-line. The introduction of an electronic means for registering transactions is in keeping with the government's 'E-business Policy' which is to conduct government business electronically wherever practicable. Land Registry should be able to enhance the delivery of its services to customers who opt to use the new way by providing speedier and less costly registrations.

4. Matters of Special Interest to the Finance and Personnel Committee

- 4.1. Electronic registration, which will be facilitated by this rule, will be introduced on a voluntary basis and no one will be under any compunction to use it. It will lead eventually to cheaper, faster and more accurate registrations and statutory provision is already in place which will allow Land Registry to reduce the fees it charges for electronic applications for registration.
- 4.2. The amendments which this rule will bring about will have little effect on the citizen who is buying or selling a property but it will change how solicitors and lenders interact with Land Registry and this is why training is being provided to solicitor firms and lending institutions who already conduct business using electronic means.

5. Consultation

- 5.1. A 12 week consultation exercise was carried out from 10 August 2009 to 30 October 2009 on the proposal to make this rule in order to facilitate the introduction of electronic registration. It was carried out with solicitors, lenders, other stakeholders and central and local government.
- 5.2. A report on the responses received was published in January 2010. It reveals the proposal is generally favoured and there is acceptance that the electronic registration which it will facilitate, will reduce registration fees and help Land Registry to achieve an even quicker throughput of registration applications.

6. Position in Great Britain

- 6.1. The rule will bring Land Registry into line with other land registries in the United Kingdom and the Republic of Ireland which already provide, or are in the process of providing, some form of electronic registration.

7. Equality Impact

- 7.1. While it is confirmed that consideration was given to compliance with section 75 of the Northern Ireland Act 1998, an impact assessment was not carried out because the proposal was subjected to a Policy Screening exercise which revealed that an impact assessment was not necessary. The findings of this Policy Screening exercise were published as an annex to the public consultation document which was issued in August 2009

8. Regulatory Impact

- 8.1. A Regulatory Impact Assessment was carried out. It shows that these proposals will not impose any new regulatory burdens or penalties given the use of the new electronic facility will be entirely voluntary and given that no additional regulatory burden will be imposed on those who opt to continue to use the current paper-based system. The rule will enable the Land Registry to lower some registration fees and provide a quicker service to its customers.

9. Financial Implications

- 9.1. This rule will enable Land Registry to introduce a new electronic means of doing business with its customers. It intends to recover the hardware and software costs and all other on-going costs of providing this new service by means of the fees it charges for registrations.
- 9.2. It will also mean that Land Registry will require less storage space for documents and there is a possibility that fewer staff will be required for the purposes of filing and retrieving documents.

10. Section 24 of the Northern Ireland Act 1998

- 10.1. This rule, if approved, complies with section 24 in that it is not incompatible with any of the Convention rights or with Community law and it does not discriminate against a person or class of person on the grounds of religious belief or political opinion; nor does it modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

11. EU Implications

- 11.1. Not applicable.

12. Additional Information

12.1. Not applicable.