

## SCHEDULES

### SCHEDULE 5

Section 34

#### TRANSFER OF RESPONSIBILITY FOR LOCAL LAND CHARGES TO LAND REGISTRY

##### PART 1

###### AMENDMENTS TO THE LOCAL LAND CHARGES ACT 1975

- 1 The Local Land Charges Act 1975 is amended as follows.
- 2 In the italic heading before section 3 for “registers” substitute “register”.
- 3 For section 3 (registering authorities, local land charges registers, and indexes) substitute—

##### “3 The local land charges register

- (1) The Chief Land Registrar must keep the local land charges register.
- (2) The local land charges register is a register of—
  - (a) each local land charge registered in a local land charges register for a local authority’s area immediately before this section first had effect in relation to that area, and
  - (b) each local land charge subsequently registered under section 5 or 6 or another relevant enactment in respect of land which is wholly or partly within that area.
- (3) Subsection (2) is subject to any later variation or cancellation of the registration of the local land charge.
- (4) The local land charges register may be kept in electronic form.
- (5) In this section—

“local authority” means—

  - (a) a district council,
  - (b) a county council in England for an area for which there is no district council,
  - (c) a county council in Wales,
  - (d) a county borough council,
  - (e) a London borough council,
  - (f) the Common Council of the City of London, or
  - (g) the Council of the Isles of Scilly;

“relevant enactment” means a provision which is made by or under an Act and which provides for the registration of a charge or other matter as a local land charge.

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- (6) For the purposes of this section the area of the Common Council of the City of London includes the Inner Temple and the Middle Temple.”
- 4 Omit section 4 (the appropriate local land charges register).
- 5 (1) Section 5 (registration) is amended as follows.
- (2) Omit subsection (1).
- (3) For subsections (2) and (3) substitute—
- “(2) Subject to subsection (6) below, the originating authority as respects a local land charge must apply to the Chief Land Registrar for its registration in the local land charges register; and on the application being made the Chief Land Registrar must register the charge accordingly.
- (3) The registration in the local land charges register of a local land charge, or of any matter which when registered becomes a local land charge, must be carried out by reference to the land affected.”
- (4) In subsection (6) for “a local land charges register” substitute “the local land charges register”.
- 6 (1) Section 6 (local authority’s right to register a general charge against land in certain circumstances) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) At any time before the specific charge comes into existence, the Chief Land Registrar must register a general charge against the land, without any amount being specified, in the local land charges register if the originating authority make an application for that purpose.”
- (3) In subsection (3) for “5(1) and (2)” substitute “5(2)”.
- (4) In subsection (4)—
- (a) for “pursuant to an application by the originating authority, they” substitute “the originating authority”, and
- (b) for “registering authority” substitute “Chief Land Registrar”.
- 7 (1) Section 8 (personal searches) is amended as follows.
- (2) In subsection (1)—
- (a) for “any local land charges register” substitute “the local land charges register”, and
- (b) after “fee” insert “(if any)”.
- (3) In subsection (1A)—
- (a) for “a local land charges register is kept otherwise than in documentary” substitute “the local land charges register is kept in electronic”, and
- (b) for “registering authority” substitute “Chief Land Registrar”.
- (4) In subsection (2)—
- (a) for “a registering authority” substitute “the Chief Land Registrar”, and
- (b) omit “authority’s”.
- 8 (1) Section 9 (official searches) is amended as follows.

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- (2) In subsection (1)—
    - (a) omit “appropriate”, and
    - (b) for “registering authority” substitute “Chief Land Registrar”.
  - (3) Omit subsection (2).
  - (4) For subsections (3) and (3A) substitute—

“(3) The prescribed fee (if any) shall be payable in the prescribed manner in respect of any requisition made under this section.”
  - (5) In subsection (4)—
    - (a) for “a registering authority” substitute “the Chief Land Registrar”,
    - (b) omit “or (3A)”, and
    - (c) for “the registering authority” substitute “the Chief Land Registrar”.
  - (6) In consequence of the amendment made by sub-paragraph (5)(b), in Schedule 4 to the Constitutional Reform Act 2005 omit paragraph 84(3)(b).
- 9 (1) Section 10 (compensation for non-registration or defective official search certificate) is amended as follows.
- (2) In subsection (1)—
    - (a) omit “appropriate” in each place,
    - (b) in paragraph (aa) for “in a case where” substitute “if”, and
    - (c) in that paragraph for “otherwise than in documentary” substitute “in electronic”.
  - (3) Omit subsection (2).
  - (4) In subsection (4) for “registering authority in whose area the land affected is situated” substitute “Chief Land Registrar”.
  - (5) In subsection (5)—
    - (a) for the words from “a registering authority” to “not the originating authority” substitute “the Chief Land Registrar”, and
    - (b) for “the registering authority” in each place substitute “the Chief Land Registrar”.
  - (6) After that subsection insert—

“(5A) An amount equal to any compensation paid under this section by the Chief Land Registrar in respect of a local land charge is also recoverable from the originating authority in a case where the matter within subsection (1) giving rise to the Chief Land Registrar’s liability is a consequence of—

    - (a) an error made by the originating authority in applying to register the local land charge, or
    - (b) an error made by the originating authority in applying for the registration of the local land charge to be varied or cancelled.”
  - (7) In subsection (6)—
    - (a) for “a registering authority” substitute “the Chief Land Registrar”,
    - (b) for “that authority” substitute “the Chief Land Registrar”,
    - (c) after “(5)” in each place insert “or (5A)”, and

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- (d) for “the registering authority” substitute “the Chief Land Registrar”.
- (8) After subsection (6) insert—
- “(6A) The Chief Land Registrar may insure against the risk of liability to pay compensation under this section.”
- (9) In subsection (7) for “Limitation Act 1939” substitute “Limitation Act 1980”.
- (10) In subsection (9) for “registering authority’s” substitute “Chief Land Registrar’s”.
- 10 In section 12 (office copies as evidence) for “any local land charges register” substitute “the local land charges register”.
- 11 In section 13 (protection of solicitors, trustees etc) for “a local land charges register” substitute “the local land charges register”.
- 12 (1) Omit section 13A (specification of fees by registering authorities in England).
- (2) In consequence of the amendment made by sub-paragraph (1), in Schedule 4 to the Constitutional Reform Act 2005 omit paragraph 83.
- 13 (1) Section 14 (rules) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) for “registering authorities” substitute “the Chief Land Registrar”,
- (b) after paragraph (f) insert—
- “(fa) as to the variation without an order of the court of the registration of a local land charge—
- (i) on the application or with the consent of the person by whom it is enforceable, or
- (ii) of the Chief Land Registrar’s own motion;”,
- (c) for paragraph (g) substitute—
- “(g) as to the cancellation without an order of the court of the registration of a local land charge—
- (i) on its cesser,
- (ii) on the application or with the consent of the person by whom it is or was enforceable, or
- (iii) of the Chief Land Registrar’s own motion;”, and”
- (d) for paragraph (h) substitute—
- “(h) for prescribing the fees to be paid to the Chief Land Registrar for services relating to local land charges provided by the Chief Land Registrar.”
- (3) In subsection (2)—
- (a) in paragraph (a) for “any local land charges register” substitute “the local land charges register”,
- (b) after paragraph (a) insert—
- “(aa) power to make rules—
- (i) prescribing different fees for different services or descriptions of service;
- (ii) prescribing services or descriptions of service for which no fees are payable;”, and

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- (c) for paragraph (b) and the “and” at the end of that paragraph substitute—
- “(b) power to make rules about communications for the purposes of this Act, or any statutory provision by virtue of which any matter is registrable in the local land charges register, including rules as to—
    - (i) the particular means of communication which may or must be used for such purposes (which may include an electronic means of communication),
    - (ii) the circumstances in which a particular means of communication may or must be used (which may be all circumstances, subject to exceptions);
    - (iii) the form or contents of anything sent using a particular means of communication;
  - (ba) power to make rules requiring or enabling anything which is provided to or by the Chief Land Registrar for the purposes of this Act, or any statutory provision by virtue of which any matter is registrable in the local land charges register, to be provided in electronic form;
  - (bb) power to make rules enabling the Chief Land Registrar, or a person providing services to the Chief Land Registrar, to determine—
    - (i) any matter within paragraph (b), or
    - (ii) whether anything of the kind referred to in paragraph (ba) may or must be provided in electronic form; and”.
- (4) Sub-paragraphs (5) and (6) apply to the function of the Lord Chancellor under section 14(1) of the Local Land Charges Act 1975 as amended by this paragraph so far as it relates to the power to make rules for prescribing fees and the manner of payment of fees (“the new function”).
- (5) The new function is to be treated as having been transferred to the Welsh Ministers by—
- (a) the National Assembly for Wales (Transfer of Functions) Order 2004 ([S.I. 2004/3044](#)), and
  - (b) Schedule 11 to the Government of Wales Act 2006,
- in the same way as the equivalent function of the Lord Chancellor under that section as it had effect apart from this paragraph (“the old function”).
- (6) A provision made by that Order or that Act in respect of the old function continues to apply to the new function.
- 14 In section 15(b) (expenses) for “a registering authority” substitute “the Chief Land Registrar”.
- 15 (1) Section 16 (interpretation) is amended as follows.
- (2) In subsection (1) omit the definitions of “the appropriate local land charges register” and “the registering authority”.
  - (3) In subsection (1A) for “otherwise than in documentary” substitute “in electronic”.
- 16 In section 19(4) (transitional provision) omit the words from “In so far as” to “so made, but”.

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## PART 2

### AMENDMENTS TO THE LAND REGISTRATION ACT 2002

- 17 The Land Registration Act 2002 is amended as follows.
- 18 In section 100 (conduct of business) after subsection (2) insert—
- “(2A) Subsections (1) and (2) apply to all functions of the registrar, whether or not conferred by this Act.”
- 19 In section 106(1) (incidental powers of registrar in relation to companies) after “Schedule 5,” insert “or under the Local Land Charges Act 1975,”.
- 20 In paragraph 4 of Schedule 7 (indemnity for members of the land registry in relation to functions relating to land registration) after “land registration” insert “or local land charges”.

## PART 3

### AMENDMENTS TO OTHER ACTS

#### *Law of Property Act 1925 (c. 20)*

- 21 In section 198(1) of the Law of Property Act 1925 (registration in local land charges register to be notice) for “any local land charges register” substitute “the local land charges register”.

#### *Requisitioned Land and War Works Act 1948 (c. 17)*

- 22 In section 14 of the Requisitioned Land and War Works Act 1948 (registration of rights as to government oil pipelines)—
- (a) in subsections (1) and (4)(b) omit “appropriate”,
  - (b) in subsection (1) for “authority keeping that register that authority” substitute “Chief Land Registrar, the Chief Land Registrar”, and
  - (c) in subsection (4) for “a local land charges register” substitute “the local land charges register”.

#### *Cheshire County Council Act 1953 (c. xl)*

- 23 In section 25(3) of the Cheshire County Council Act 1953 (notice preventing building next to proposed street to be void unless registered as a local land charge) omit the words from “Provided that” to “local land charge”.

#### *Land Powers (Defence) Act 1958 (c. 30)*

- 24 The Land Powers (Defence) Act 1958 is amended as follows.
- 25 In section 12 (extension of provisions of Requisitioned Land and War Works Acts) in each of subsections (2) and (5) for “appropriate register of local land charges” substitute “local land charges register”.
- 26 In section 17 (registration of wayleave orders and restrictions under section 16)—
- (a) in subsections (2)(a), (2A) and (3)(b) omit “appropriate”,

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- (b) in subsection (2A) for “authority keeping that register” substitute “Chief Land Registrar”, and
- (c) in subsection (3) for “a local land charges register” substitute “the local land charges register”.

#### *Rights of Light Act 1959 (c. 56)*

- 27 The Rights of Light Act 1959 is amended as follows.
- 28 (1) Section 2 (registration of notice in lieu of obstruction of access of light) is amended as follows.
- (2) In subsection (1) for “local authority in whose area the dominant building is situated” substitute “Chief Land Registrar”.
  - (3) In subsection (2) omit “be in the prescribed form and shall”.
  - (4) In subsection (3) after “accompanied by” insert “ a copy of”.
  - (5) In subsection (4)—
    - (a) for “a local authority” substitute “the Chief Land Registrar”,
    - (b) for “that authority” substitute “the Chief Land Registrar”,
    - (c) omit “appropriate”, and
    - (d) in paragraph (b) for “5(1) and (2)” substitute “5(2)”.
- 29 In section 3(2)(c) (period for which notice has effect)—
  - (a) after “expires without” insert “a copy of”, and
  - (b) for “local authority” substitute “Chief Land Registrar”.
- 30 In section 7(1) (interpretation)—
  - (a) for the definition of “prescribed” substitute—

““prescribed” means prescribed by rules under section 14 of the Local Land Charges Act 1975;”, and
  - (b) omit the definition of “local authority”.
- 31 In consequence of the amendment made by paragraph 30(b), in Schedule 1 to the Local Land Charges Act 1975 omit paragraph (c) of the amendments to the Rights of Light Act 1959.

#### *Leasehold Reform Act 1967 (c. 88)*

- 32 In section 19(10) of the Leasehold Reform Act 1967 (registration of scheme or certificate under section 19 in appropriate local land charges register) in the opening words omit “appropriate”.

#### *Land Compensation Act 1973 (c. 26)*

- 33 In section 52(9) of the Land Compensation Act 1973 (registration of advance payment of compensation in appropriate local land charges register) omit “appropriate”.

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*Interpretation Act 1978 (c. 30)*

- 34 In Schedule 1 to the Interpretation Act 1978 (words and expressions defined) in the entry containing definitions of “local land charges register” and “the appropriate local land charges register”—
- (a) for “a register” substitute “the register”, and
  - (b) omit the words from “and “the appropriate local land charges register”” to the end of that entry.

*Highways Act 1980 (c. 66)*

- 35 In paragraph 9(a) of Schedule 9 to the Highways Act 1980 (notification of revocation of improvement line or building line) for the words from “the council” to “is situated” substitute “the Chief Land Registrar”.

*Disused Burial Grounds (Amendment) Act 1981 (c. 18)*

- 36 In section 2(4) of the Disused Burial Grounds (Amendment) Act 1981 (requirement to deposit copy of order of Secretary of State dispensing with requirements as to human remains with registering authority) for the words from “deposited with” to “1975” substitute “sent to the Chief Land Registrar”.

*Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66)*

- 37 In section 3(4) of the Compulsory Purchase (Vesting Declarations) Act 1981 (registration of preliminary notice) for the words from “registered” to the end of the subsection substitute “sent to the Chief Land Registrar, and the notice shall be a local land charge”.

*Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)*

- 38 In section 70(12) of the Leasehold Reform, Housing and Urban Development Act 1993 (consequence of registration of scheme in appropriate local land charges register) in the opening words omit “appropriate”.

*Local Government (Wales) Act 1994 (c. 19)*

- 39 In Schedule 17 to the Local Government (Wales) Act 1994 (savings and transitional provision) omit paragraph 11 (local land charges registers).

## PART 4

### TRANSITIONAL PROVISION

*Power for Parts 1 and 3 to be applied gradually to local authority areas*

- 40 (1) Parts 1 and 3 of this Schedule have effect in relation to the area of a local authority if (and only if)—
- (a) the Chief Land Registrar gives notice in writing to the local authority that, on and after the date specified in the notice, those Parts will have effect in relation to that area, and

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- (b) before that date, the notice is publicised in such manner as the Chief Land Registrar thinks is likely to bring the arrangements under the Local Land Charges Act 1975 as amended by Part 1 of this Schedule to the attention of persons who are likely to want to apply to register local land charges in, or to search, the register of local land charges after that Part has effect in relation to that area.
- (2) The Chief Land Registrar may withdraw a notice under sub-paragraph (1) (“the original notice”) by a notice in writing which—
- (a) is given before the date specified in the original notice to the authorities to whom the original notice was given, and
  - (b) is publicised before that date in such manner as the Chief Land Registrar thinks is likely to bring the withdrawal to the attention of the persons to whom the original notice was publicised.
- (3) If, in accordance with this paragraph, the Chief Land Registrar gives a notice under sub-paragraph (1) which is not withdrawn, Parts 1 and 3 have effect in relation to the area specified in the notice on and after the date specified in it.
- (4) This paragraph does not prevent the making of rules under section 14 of the Local Land Charges Act 1975 as amended by Part 1 of this Schedule—
- (a) in relation to the operation of that Act as amended by that Part, or
  - (b) in relation to the operation of any other statutory provision by virtue of which any matter is registrable in the local land charges register,
- but such rules have effect in relation to the area of a local authority if (and only if) that Part has effect in relation to that area in accordance with this paragraph.

#### *Duty of local authorities to assist Chief Land Registrar*

- 41 A local authority must provide the Chief Land Registrar with such information or other assistance as the Chief Land Registrar reasonably requires for the purposes of enabling Part 1 of this Schedule to have effect in relation to the area of that authority.

#### *Continuity of functions*

- 42 (1) This paragraph and paragraph 43 apply where Parts 1 and 3 of this Schedule have effect in relation to the area of a local authority by virtue of paragraph 40.
- (2) Anything done or omitted to be done by or in relation to the local authority and in relation to the old register which is in force or effective immediately before the relevant date is to be treated as done or omitted to be done by or in relation to the Chief Land Registrar and in relation to the new register.
- (3) There may be continued by or in relation to the Chief Land Registrar anything (including legal proceedings) that relates to the old register and is in the process of being done by or in relation to the local authority immediately before the relevant date.

#### *Compensation*

- 43 (1) The amendments in Part 1 of this Schedule to section 10(1) and (2) of the Local Land Charges Act 1975 (compensation for non-registration or defective official search

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certificate) and to section 16(1) of that Act so far as it applies to that section do not have effect in relation to a search of the old register made before the relevant date.

- (2) Subject to sub-paragraphs (4) and (5), the Chief Land Registrar may recover from the local authority an amount equal to any compensation which the Chief Land Registrar is liable to pay under section 10 of the Local Land Charges Act 1975 in consequence of—
- (a) the authority's failure before the relevant date to register, or register correctly, a local land charge in the old register,
  - (b) the authority's failure before the relevant date to satisfy an entitlement to search in the old register conferred by section 8 of that Act as mentioned in subsection (1A) of that section, or
  - (c) the omission of a local land charge from an official search certificate issued by the authority before the relevant date.
- (3) Subject to sub-paragraphs (4) and (5), the Chief Land Registrar may recover from the local authority an amount equal to any compensation which the Chief Land Registrar is liable to pay under section 10 of the Local Land Charges Act 1975 where—
- (a) an act or omission of the Chief Land Registrar gives rise to that liability, but
  - (b) that act or omission is in consequence of a failure by the authority to provide any information about a charge registered in the old register.
- (4) Sub-paragraph (5) applies where—
- (a) the Chief Land Registrar's liability arises as a result of the local authority's failure before the relevant date—
    - (i) to register, or register correctly, a local land charge in the old register, or
    - (ii) to provide any information about a local land charge registered in the old register to the Chief Land Registrar,
  - (b) the local authority is not the originating authority in relation to the charge, and
  - (c) the originating authority—
    - (i) did not apply for registration of the charge in time for it to be practicable for the local authority to register it before the relevant date, or
    - (ii) made an error in applying to register the charge, or in applying for the registration of the charge to be varied or cancelled.
- (5) Where this sub-paragraph applies, the Chief Land Registrar may recover an amount equal to the compensation from the originating authority (and may not recover such an amount from the local authority).
- (6) Sub-paragraph (7) applies where compensation for loss under section 10 of the Local Land Charges Act 1975 is paid by the Chief Land Registrar in the circumstances described in any of sub-paragraphs (2) to (4).
- (7) No part of the amount paid, or of any corresponding amount paid to the Chief Land Registrar by the local authority or originating authority under any of those sub-paragraphs, is to be recovered by the Chief Land Registrar, the local authority or originating authority from any other person except as provided by any of sub-paragraphs (2) to (4) or under a policy of insurance or on grounds of fraud.

- (8) Subsections (5) and (6) of section 10 of the Local Land Charges Act 1975 do not apply where compensation for loss under that section is paid by the Chief Land Registrar in the circumstances described in any of sub-paragraphs (2) to (4).

### *Interpretation*

- 44 (1) In this Part of this Schedule—
- “local authority” means—
- (a) a district council,
  - (b) a county council in England for an area for which there is no district council,
  - (c) a county council in Wales,
  - (d) a county borough council,
  - (e) a London borough council,
  - (f) the Common Council of the City of London, or
  - (g) the Council of the Isles of Scilly;
- “the old register”, in relation to a local authority, means the local land charges register kept by the authority under the Local Land Charges Act 1975 before the relevant date;
- “the new register” means the local land charges register kept by the Chief Land Registrar under the Local Land Charges Act 1975;
- “the relevant date”, in relation to a local authority, means the date on which Parts 1 and 3 of this Schedule first had effect in relation to the authority’s area.
- (2) For the purposes of this Part of this Schedule the area of the Common Council of the City of London includes the Inner Temple and the Middle Temple.
- (3) Expressions used in this Part of this Schedule and in the Local Land Charges Act 1975 have the same meaning as in that Act.