

SCHEDULES

SCHEDULE 5

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.

- (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”.