
STATUTORY INSTRUMENTS

2008 No. 1750

LAND REGISTRATION, ENGLAND AND WALES

The Land Registration (Electronic Conveyancing) Rules 2008

Made - - - - *2nd July 2008*
Laid before Parliament *4th July 2008*
Coming into force - - *4th August 2008*

The Lord Chancellor makes the following rules in exercise of the powers conferred by sections 1(2), 25(1), 66(2), 67(3), 71, 73(4), 91(2), 91(3)(d), 92(2), 95(b), 126 and 128(1) of, and paragraph 5 of Schedule 5 and paragraphs 6(a), (b) and (c) and 8 of Schedule 10 to, the Land Registration Act 2002(1).

In accordance with section 127(2) of the Land Registration Act 2002, he has received the advice and assistance of the Rule Committee appointed under that section.

Citation and commencement

1. These rules may be cited as the Land Registration (Electronic Conveyancing) Rules 2008 and shall come into force on 4 August 2008.

Interpretation

2.—(1) In these rules—

“Borrower” means the person who charges the registered estate,

“E-MD reference” means a reference supplied by the registrar to the Lender which enables all or part of the wording of an electronic legal charge to be generated automatically,

“electronic legal charge” means a charge within rule 3(1),

“land registry network” means a network provided under section 92(1) of the Act,

“Lender” means the person to whom the registered estate is charged, and

“the principal rules” means the Land Registration Rules 2003(3).

(2) Expressions used in these rules have the meaning that they bear in the principal rules, unless the contrary intention appears.

(1) 2002 c.9.

(2) Section 127 was amended by the Constitutional Reform Act 2005 (c.4.), section 15(1) and Schedule 4, Part 1, paragraphs 301 and 302.

(3) S.I. 2003/1417; relevant amending instruments are S.I. 2005/1766, 2005/1982.

(3) In Schedule 2, a reference to a rule by number is a reference to the rule so numbered in the principal rules.

Electronic legal charges

3.—(1) Subject to paragraphs (2) to (7), the grant of a legal charge of the whole of the registered estate in a single registered title is a disposition within section 91(2) of the Act.

(2) Paragraph (1) does not apply to—

- (a) a disposition to which rule 38 of the principal rules applies,
- (b) the grant of a legal charge by a body corporate, whether the body corporate is the Borrower or a Joint Borrower, or
- (c) a charge which is authenticated by a person other than the Borrower.

(3) Paragraph (1) only applies if at the time a person authenticates the charge as Borrower or Joint Borrower—

- (a) that person is entered in the register as proprietor or joint proprietor of the registered estate that is charged, or
- (b) there is entered in the day list notice of an application to register that person as proprietor or joint proprietor of the registered estate that is charged.

(4) Paragraph (1) only applies if the Borrower authenticates the charge personally.

(5) Paragraph (1) only applies if—

- (a) the charge is prepared using a procedure for doing so permitted by the land registry network, and
- (b) each electronic signature which the charge has, and the certification of each electronic signature, are in accordance with the provisions of a network access agreement.

(6) A procedure within paragraph (5)(a) may, whether or not it is the only procedure within that sub-paragraph, require all or any of the provisions specified in Schedule 1 to be drafted automatically using an E-MD reference.

(7) Schedule 1 (which makes provision about the contents of an electronic legal charge) has effect.

(8) In this rule —

“Joint Borrower” means, where the Borrower comprises two or more persons, one of those persons, and

“joint proprietor” means, where the proprietor of a registered estate comprises two or more persons, one of those persons.

Registrar’s acknowledgement of time and date that an electronic legal charge took effect

4. Following receipt of notification, in accordance with the provisions in the charge required by paragraph 1(b) and (c) of Schedule 1, that the charge is to take effect, the registrar must send to the person who notified the registrar an acknowledgement stating the time and date when the notification was received.

Amendments to the principal rules

5. The principal rules are amended as set out in Part 1 of Schedule 2.

Disapplication of certain provisions in the principal rules

6. Provisions in the principal rules are disappplied as set out in Part 2 of Schedule 2.

Signed by authority of the Lord Chancellor

2nd July 2008

Michael Wills
Minister of State
Ministry of Justice

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SCHEDULE 1

rule 3

CONTENTS OF AN ELECTRONIC LEGAL CHARGE

1. To be within rule 3(1), a charge must contain the following—
 - (a) the title number and description of the property that is charged,
 - (b) a provision that the charge takes effect when the registrar receives notification, using a procedure for doing so permitted by the land registry network and in accordance with the provision in the charge required by sub-paragraph (c), that the charge is to take effect,
 - (c) a provision that the Subscriber who prepared the charge under rule 3(5)(a) is the person who is to notify the registrar that the charge is to take effect,
 - (d) the Borrower’s name,
 - (e) the E-MD reference, if any, applicable to the charge,
 - (f) the Lender’s name and intended address for service for entry in the register,
 - (g) if the Lender is a company registered in any part of the United Kingdom under the Companies Acts or the Companies (Northern Ireland) Order 1986(4), the Lender’s registered number,
 - (h) if the Lender is a limited liability partnership incorporated under the Limited Liability Partnerships Act 2000(5), the Lender’s registered number,
 - (i) if the Lender is a corporation incorporated outside the United Kingdom, the territory in which the Lender is incorporated and the Lender’s registered number, if any, in England and Wales,
 - (j) a statement to the effect that the Borrower (stating, if desired, whether with full or limited title guarantee) charges to the Lender the property referred to in sub-paragraph (a) by way of legal mortgage with payment of all money secured by the charge,
 - (k) a statement, if such be the case, that the Lender is under an obligation to make further advances and applies for the obligation to be entered in the register, and
 - (l) a statement, if such be the case, that the Borrower applies to enter a standard form of restriction in the proprietorship register of the registered estate that is charged and, if so, the wording of the standard form of restriction.

2.—(1) A charge within rule 3(1) may contain provisions additional to those in paragraph 1.

(2) For the purposes of registration of an electronic legal charge, if there is a conflict between any such additional provision and a provision contained in the charge in accordance with paragraph 1 the latter provision shall prevail.

(3) The registrar need make no entry in the register in respect of any matter contained in any such additional provisions.

3. In this Schedule—

“full network access agreement” has the same meaning as in the Land Registration (Network Access) Rules 2008(6), and

“Subscriber” means a person who has entered into a full network access agreement with the registrar.

(4) S.I. 1986/1032 (N.I.6).

(5) 2000 c.12.

(6) S.I. 2008/.

SCHEDULE 2

Rules 5 and 6

PROVISIONS AFFECTING THE PRINCIPAL RULES

PART 1

AMENDMENTS TO THE PRINCIPAL RULES

Amendment of rule 12

1. In rule 12(4), after “include” insert “an application for a network access agreement under paragraph 1(4) of Schedule 5 to the Act, or”.

Amendment of rule 15

2. In rule 15(2)(a), for “a business” substitute “the”.

Amendment of rule 92

3. In rule 92(7)(b), after “CH1” insert “or in an electronic legal charge”.

Amendment of rule 108

4. In rule 108(3), after “CH1,” insert “in an electronic legal charge”.

Amendment of rule 133

5. In rule 133(2), omit the “and” at the end of sub-paragraph (e), and before the full stop at the end of paragraph (f) insert—

“, and

(g) any document relating to an application for a network access agreement under paragraph 1(4) of Schedule 5 to the Act”.

Amendment of rule 135

6. In rule 135(2), omit the “and” at the end of sub-paragraph (e), and before the full stop at the end of paragraph (f) insert—

“, and

(g) any document relating to an application for a network access agreement under paragraph 1(4) of Schedule 5 to the Act”.

Amendment of rule 217

7. In rule 217(1), after the definition of “day list”, insert ““electronic legal charge” has the same meaning as in the Land Registration (Electronic Conveyancing) Rules 2008.”.

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PART 2

DISAPPLICATION OF PROVISIONS IN THE PRINCIPAL RULES

Disapplication of Part 3 of the principal rules

1. Part 3 of the principal rules (Applications: General Provisions) does not apply to applications for a network access agreement under paragraph 1(4) of Schedule 5 to the Act.

Disapplication of rule 57

2. Rule 57 does not apply to a person applying to register an electronic legal charge.

Disapplication of rule 81(1)(b)

3. Rule 81(1)(b) does not apply to an application for an agreed notice in respect of an electronic legal charge stored by the registrar, provided that the applicant gives sufficient details of the charge to enable the registrar to identify it.

Disapplication of rule 203

4. Rule 203 does not apply to an application made using the land registry network where the document delivered with the application is in electronic form but the registrar may retain the document and at any time thereafter delete it if satisfied that further retention is unnecessary.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules are made under the Land Registration Act 2002 (the Act), and make provision for the creation of legal charges in electronic form.

Rule 3, made under section 91 of the Act, provides for certain kinds of legal charge to be created by means of an electronic document. In accordance with section 91(3), it lays down conditions that must be met if such a document is to be effective. Schedule 1 states what information such a charge must contain, while allowing for optional information. Rule 4 requires that, when notified in accordance with the provisions of the charge that the charge is to take effect, the registrar must send the person giving the notification an acknowledgement stating the time and date that it was received.

Rules 5 and 6, and Schedule 2, amend or disapply certain provisions of the Land Registration Rules 2003 to cater for electronic legal charges, retention and deletion of electronic documents and applications to the registrar under paragraph 1 of Schedule 5 to the Act to enter into a network access agreement. Additionally, rule 15 (time at which applications are taken to be made) is amended. This rule covers certain applications, whether or not they are delivered in electronic form.

An Impact Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the Land Registry, 32 Lincoln's Inn Fields, London WC2A 3PH.

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