
STATUTORY INSTRUMENTS

2009 No. 1114

**TRIBUNALS AND INQUIRIES,
ENGLAND AND WALES**

The Upper Tribunal (Lands Chamber) Fees Order 2009

<i>Made</i>	- - - -	<i>27th April 2009</i>
<i>Laid before Parliament</i>		<i>30th April 2009</i>
<i>Coming into force</i>	- -	<i>1st June 2009</i>

The Lord Chancellor makes this Order in exercise of the power conferred on him by section 42(1)(b) of the Tribunals Courts and Enforcement Act 2007(1), after consultation with the Senior President of Tribunals and the Administrative Justice and Tribunals Council in accordance with section 42(5) and with the consent of the Treasury in accordance with section 42(6).

Citation, commencement, extent, application and interpretation

1. This Order may be cited as the Upper Tribunal (Lands Chamber) Fees Order 2009 and comes into force on 1st June 2009.
2. This Order extends to England and Wales and applies to proceedings in the Lands Chamber of the Upper Tribunal established by the First-tier Tribunal and Upper Tribunal (Chambers) Order 2008(2).
3. “The Rules” means the Lands Tribunal Rules 1996(3) and any reference in this Order to a rule by number alone means that rule in the Rules.

Fees payable

4. The fees payable in respect of proceedings before the Lands Chamber of the Upper Tribunal are set out in the Schedule to this Order.

(1) 2007 c.15.
(2) S.I. 2008/2684. That Order was amended by the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2009 (S.I. 2009/196) and is further amended by the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment No.2) Order 2009 (S.I. 2009/1021).
(3) S.I. 1996/1022. The Rules were amended by the Lands Tribunal (Amendment) Rules 1997 (S.I. 1997/1965), the Lands Tribunal (Amendment) Rules 1998 (S.I. 1998/22), the Lands Tribunal (Amendment) Rules 2003 (S.I. 2003/2945), article 2 of and paragraph 54 of Schedule 1 to the Lord Chancellor (Transfer of Functions and Supplementary Provisions) Order 2006 (S.I. 2006/680) and the Lands Tribunal (Amendment) Rules 2006 (S.I. 2006/880), and are further amended by the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009.

5.—(1) A notice, application or other document in respect of which a fee is payable must be accompanied by a cheque or postal order made payable to the Tribunals Service for the amount of the fee.

(2) Otherwise, and unless the Upper Tribunal directs otherwise, a fee shall be payable by the party by whom the proceedings were commenced (without prejudice to that party's right to recover the fee from any other party pursuant to an order for costs) on receipt of notification from the Upper Tribunal.

6. The proceedings referred to in paragraphs 1, 9, 10 and 12 of the Schedule do not include an appeal against a determination by Her Majesty's Revenue and Customs under the Finance Act 1975(4) or a reference under sections 47(1) or 47A of the Taxes Management Act 1970(5).

Exceptions

7. Where it appears to the Lord Chancellor that the payment of any fee prescribed by this Order would, owing to the exceptional circumstances of the case, involve undue financial hardship, the Lord Chancellor may reduce or remit the fee.

8.—(1) Subject to paragraph (2), when a fee has been paid where, if the Lord Chancellor had been aware of all of the circumstances, the Lord Chancellor would have reduced or remitted the fee under article 7, the appropriate amount shall be refunded.

(2) No refund shall be made under paragraph (1) unless the party who paid the fee applies for a refund within 6 months of the date of payment.

(3) The Lord Chancellor may extend the period of 6 months referred to in paragraph (2) if the Lord Chancellor considers that there is good reason for an application being made after the end of that period.

By authority of the Lord Chancellor

21st April 2009

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

We consent

27th April 2009

Tony Cunningham
Dave Watts
Two of the Lords Commissioners of Her
Majesty's Treasury

(4) 1975 c.7.

(5) 1970 c.9.

SCHEDULE

Fees

<i>Item</i>	<i>Fee</i>
	<i>£</i>
Lodging a reference or an appeal (other than a rating appeal)	
1. On lodging a notice of reference under rule 10 (notice of reference) or a notice of appeal (not being a rating appeal) under rule 6 (notice of appeal)	50
Lodging an absent owner application	
2. On lodging an application for a determination under Schedule 2 to the Compulsory Purchase Act 1965(6) (absent or untraced owners) or section 58 of the Land Clauses Consolidation Act 1845(7) (compensation to absent parties to be determined by a surveyor appointed by two justices)	100
Lodging a rating appeal	
3. On lodging a notice of a rating appeal under rule 6 (notice of appeal), one percent of rateable value, subject to—	
(a) minimum fee	50
(b) maximum fee	5,000
Lodging a restrictive covenant application	
4. On lodging an application under rule 13 (method of making application) in respect of section 84 of the Law of Property Act 1925(8) (power to discharge or modify restrictive covenants affecting land)	200
Lodging a rights of light application	
5. On lodging an application under rule 21 (form of application) in respect of section 2 of the Rights of Light Act 1959(9) (registration of notice in lieu of obstruction of access of light)—	
(a) for a definitive certificate	250
(b) for a temporary and definitive certificate	300
Interlocutory or consent order application	
6. On lodging an interlocutory application (rule 38) (interlocutory applications)	40
7. On lodging an application for a consent order (rule 51) (consent orders)	100
Hearing a rating appeal	
8. On the hearing of an appeal from the decision of a Tribunal with jurisdiction to hear rating appeals, five percent of rateable value as determined in the final order of the Tribunal, subject to—	
(a) minimum fee	100
(b) maximum fee	5,000

(6) 1965 c. 56. Schedule 2 was amended by the Statute Law (Repeals) Act 1973 (c. 39) and the Statute Law (Repeals) Act 1974 (c. 22).

(7) 1845 c. 18. Section 58 was amended by Schedule 3 to the Compulsory Purchases Act 1965 (c. 56).

(8) 1925 c. 20. Section 84 was amended by the Law of Property Act 1969 (c. 59), the Civil Aviation Act 1982 (c. 16) and the Land Registration Act 2002 (c. 9).

(9) 1959 (c.56). Section 2 was substituted by Schedule 1 to the Local Land Charges Act 1975 (c.76).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Item</i>	<i>Fee</i>
	<i>£</i>
Hearing a reference or other appeal (excluding one where the hearing fee is calculated on the basis of rental value)	
9. On the hearing of a reference or an appeal against a determination or on an application for a certificate of value (excluding one where the hearing fee is calculated on the basis of rental value), two per cent of the amount awarded or determined by the Tribunal, agreed by the parties following a hearing or determined in accordance with rule 27 (determination of proceedings with a hearing), subject to—	
(a) minimum fee	100
(b) maximum fee	5,000
Hearing a reference or other appeal where the hearing fee is calculated on the basis of rental value	
10. On the hearing of a reference or an appeal against a determination where the award is in terms of rent or other annual payment, two per cent of the annual rent or other payment determined by the Tribunal, agreed by the parties following a hearing or determined in accordance with rule 27 (determination of proceedings with a hearing), subject to—	
(a) minimum fee	100
(b) maximum fee	5,000
Determining a restrictive covenant application	
11. On the hearing of an application or the making of any order under section 84 of the Law of Property Act 1925(10)(power to discharge or modify restrictive covenants affecting land)—	
(a) a hearing as to entitlement under section 84(3A)	250
(b) order without a hearing (rule 17(2) and (3))	250
(c) substantive hearing of an originating application	350
(d) engrossing Minutes of Order	100
Hearing (no amount awarded)	
12. On the hearing or preliminary hearing of a reference or appeal (not being the determination of an application under paragraph 11 above) where either the amount determined is nil or the determination is not expressed in terms of an amount	
Copies of documents	
13. For a photocopy or certified copy of a document, or for examining a plain copy and 1 marking as a certified copy (for each page)	
14. For supplying published decisions to subscribers (for each page)	0.10
Taxation of costs	
15. On a taxation of costs (rule 52(4) (services of notices)), for every £1 or part thereof 0.05 allowed	

(10) 1925 c.20. Section 84 was amended by the Law of Property Act 1969 (c.59), the Civil Aviation Act 1982 (c.16) and the Land Registration Act 2002 (c.9).

EXPLANATORY NOTE

(This note is not part of the Order)

The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 transfers the jurisdiction of the Lands Tribunal to the Upper Tribunal established by section 3 of the Tribunals, Courts and Enforcement Act 2007⁽¹¹⁾, and abolishes the Lands Tribunal. The First-tier Tribunal and Upper Tribunal (Chambers) Order 2008⁽¹²⁾ establishes the Lands Chamber of the Upper Tribunal and assigns functions to it, those functions being the functions previously exercised by the Lands Tribunal. This Order provides for the fees payable in proceedings in the Lands Chamber of the Upper Tribunal. The fees are payable in respect of the same matters, and are set at the same levels, as the fees that were previously payable in proceedings in the Lands Tribunal under the Lands Tribunal (Fees) Rules 1996⁽¹³⁾.

⁽¹¹⁾ 2007 c. 15.

⁽¹²⁾ S.I. 2008/2684. That Order was amended by the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2009 (S.I. 2009/196) and is further amended by the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment No.2) Order 2009 (S.I. 2009/1021).

⁽¹³⁾ S.I. 1996/1021. Those Rules were amended by the Lands Tribunal (Fees) (Amendment) Rules 2002 (S.I. 2002/770).