



Upper Tribunal (Lands Chamber)

Explanatory leaflet for applications for rights of light certificates

A guide for users

January 2016

Addresses

The Lands Chamber is based at:

5th Floor

Rolls Building

7 Rolls Buildings

Fetter Lane

London EC4A 1NL

Tel: 020 7612 9710

Fax: 0870 761 7751

DX: 160042 Strand 4

Email: lands@hmcts.gsi.gov.uk

The office hours are 9am to 4:30pm

Please contact us if you are unable to find the information you require in this or the other documents on the websites. Our administrative staff can answer questions about the procedures relating to tribunal cases. They are not lawyers and are not permitted to give general legal advice or to advise about the law relating to a particular case.

Our main website is www.justice.gov.uk/tribunals/lands

On this website you will find information to help you with your application. If you do not have access to the internet you can request a copy of any of the documents from our office. Free assistance in gaining access to the internet may be offered by your local library. Also available on the website are the forms you will need to make an application.

Our recently published decisions are available at our main website.

The Lands Chamber deals with certain matters in respect of land in England and Wales. The equivalent bodies for Scotland and Northern Ireland are:

The Lands Tribunal for Scotland

George House

126 George Street

Edinburgh EH2 4HH

DX ED 259

LP 14 Edinburgh 2

Tel: 0131 271 4350

Fax: 0131 271 4399

mailbox@lands-tribunal-scotland.org.uk

The Lands Tribunal for Northern Ireland

Royal Courts of Justice

Chichester Street

Belfast BT1 3JJ

Tel: 02890 327703

Fax: 02890 546187

lands.tribunal@dfpni.gov.uk

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1. Introduction

1.1. What is the Upper Tribunal (Lands Chamber)?

We are a specialist chamber of the Upper Tribunal established to determine a range of disputes concerning land in England and Wales and its valuation, and to hear appeals against decisions of certain other tribunals. We also give directions and issue certificates concerning applications to register Light Obstruction Notices under the Rights of Light Act 1959.

Procedure in the tribunal is governed by rules, namely The Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, as amended, and Practice Directions. You can view these documents online at www.justice.gov.uk/tribunals/lands/rules-and-legislation

This leaflet provides basic information. It is not a substitute for professional advice. As well as considering any legislation relevant to your application, you will need to follow our Rules and Practice Directions.

1.2. Who are the members of Lands Chamber?

The chamber's President is the Honourable Mr Justice Holgate. Mr Martin Rodger QC is the Deputy President and there are six part-time judges, as well as three full-time specialist members, who are Fellows of the Royal Institution of Chartered Surveyors. Assisting them is the registrar, who has certain case management and decision making powers. The tribunal is able to call on both judges currently assigned to the chamber and other judges with such expertise as may be needed in any particular case. The names of the judges currently assigned to the chamber, the members and the registrar are shown online at www.justice.gov.uk/tribunals/lands

The administrative staff that supports the tribunal are civil servants and members of HM Courts & Tribunals Service. They are managed by the delivery manager, Sharon Sober. The Tribunal's office and its own courtrooms are in London but hearings can be arranged anywhere in England or Wales subject to availability of courtrooms.

2. Generally

2.1. Rights of light

If daylight passes across one piece of land to a window or other aperture in a building on another piece of land, the owner of the land with the building on it may eventually acquire a right to light. This is a right to prevent the owner of the first land reducing the amount or passage of light to that window or aperture. The right does not arise if, before 20 years have elapsed, the passage of light has been restricted by a physical structure.

2.2. Notional obstruction

The Rights of Light Act 1959 also allows the passage of light to be interrupted by the registration of a notional structure in the local land charges register of the relevant local authority, rather than by the construction of a physical structure.

2.3. The Tribunal's role

The role of the Tribunal is twofold. First, it is to determine what steps the applicant must take to inform people with a proprietary interest in the building with the windows or other aperture in respect of which the applicant wishes to prevent rights of light accruing (the 'dominant building') about the proposed registration of the notional structure. And second, to issue a certificate enabling the registration of a light obstruction notice when it is satisfied that adequate publicity of the application has been given.

2.4. Fees

The Tribunal's fee is £1,320 for issuing a certificate, plus an additional £330 if a temporary (emergency) certificate is requested.

2.5. Temporary certificates

A temporary certificate is granted only if the building subject of the application is shortly to acquire rights to light. It is very important that the reasons for believing the application to be urgent are explained, otherwise the Registrar will not be able to give you a temporary certificate. When a temporary certificate is issued the applicant must act promptly to comply with publicity/service directions to ensure that they are able to obtain and register a definitive certificate before the temporary one expires.

3. The procedure

3.1. Applying for a certificate

Applications must be made by completing and filing Forms 1 (one copy) and Form A (three copies) with the Tribunal together with the appropriate fee. Cheques must be made payable to 'HM Courts & Tribunals Service'.

3.2. How long will it take to get a certificate from the Tribunal?

Legislation does not prescribe how long the Tribunal should take to issue directions and certificates, and our ability to deal with applications depends upon our available resources. However, applications are normally given a high priority. We endeavour to issue temporary certificates, with directions for service of notice of the application within three days of receipt of a completed application. We aim to give directions for service of ordinary applications within five days of receipt of a completed application. We aim to issue definitive (full) certificates within five days of receipt of satisfactory evidence that service of the application has been effected in accordance with the service directions given.

3.3. A common mistake

A mistake often made by applicants is to outline on their application plans both the servient land - which is correct - and also *all* of the land at the site or land registry title on which the dominant building is situate. This is incorrect (unless the dominant building covers all of the site or land registry title). Only the dominant *building* itself should be outlined or coloured. Land unencumbered by a building must be excluded. This is because rights of light can only be acquired in respect of buildings or other structures with apertures (openings) in them.

Please ensure that you outline, in red, the servient land (the land that belongs to the applicant) but outline in blue *only* the dominant building (the one with the windows or apertures that may acquire a right to light).

3.4. Protecting a right of light

The Tribunal receives many enquiries from people wishing to object to an application that has been made for rights of light certificates, or to the registration of rights of light notices. They seek to protect rights of light that they believe they may have already acquired. Unfortunately, the Tribunal has no power to deal with such challenges. Challenges to the registration of light obstruction notices must be made by issuing proceedings against the applicant for the certificate in either your local county court or the High Court.

If you are served with a notice that a notional structure is to be registered (or if actual construction commences or is planned) which might interfere with a right of light that you believe you have already acquired, you should promptly seek legal advice.

4. Standards and complaints

4.1. Standards

The Tribunal has certain standards of service and performance which it is committed to reaching. We aim to:

- respond to any requests via email or letter within five working days
- answer telephone calls within five rings
- issue temporary certificates within three working days of receipt of the application.
- Issue definitive certificates within 16 weeks of receipt of the application

4.2. Comments and complaints

If you have any comments or complaints about the service you have received from the Lands Chamber contact:

The Upper Tribunal (Lands Chamber)

5th Floor

Rolls Building

7 Rolls Building

Fetter Lane

London

EC4A 1NL

Tel: 020 7612 9710

Fax: 0870 761 7751

Email: lands@hmcts.gsi.gov.uk

If upon receiving a response you wish to take the matter further please contact the Operations Manager, Keeley Martin, at the above address and ask her to review your complaint.

Neither the administrative team nor the Tribunal manager can deal with complaints about judicial decisions.

5. Obtaining legal advice and finding a solicitor

For assistance in finding a solicitor with expertise in rights of light matters contact the Law Society of England and Wales. Its website address is www.lawsociety.org.uk and their general enquiries telephone number is 020 7242 1222. The Law Society does not provide legal advice to members of the public but does provides guides on common legal problems written in plain English, including one on using a solicitor. The guides are available on their website and may be requested in hard copy from the Law Society by calling 0191 428 7439.

To obtain free legal information, advice or assistance you may wish to contact the Citizens' Advice Bureau. Their website www.adviceguide.org.uk contains information sheets and also has a search facility to assist you in finding your local office. If you are not able to access the internet you may find details on your local Citizens' Advice Bureau from your local library.