

Land Registry

Landnet

39

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In this issue

Land
Registry's
customer
magazine



Welcome to *Landnet 39*.

Visitors come to Land Registry from all over the world to draw upon our experience and expertise. We welcome lawyers, land administrators and politicians to our offices and show them how we've developed our services over more than 150 years.

Our staff also travel across the globe to help countries who are developing their land registration systems, often in very challenging circumstances. [Our latest mission was to St Helena](#), a stable society but one that's keen to ensure its system is secure and sustainable.

We make decisions on such visits very carefully, ensuring they are as cost-effective as possible. Our representatives return from them with broader horizons and enhanced knowledge of how our partners carry out land registration, so we benefit as well as them.

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Fees to fall from 17 March

On Monday 17 March 2014 we plan to reduce a number of our fees, including simplifying the fees for two of our most commonly used applications and introducing further discounts for many applications lodged electronically.

The main changes introduced by the Land Registration Fee Order 2013 are:

- a 50 per cent reduction for customers who submit transfers of whole, charges of whole, transfers of charges and other dealings of whole applications electronically.
- bringing scale 1 registrations of properties priced between £50,001 and £80,000 into the lowest price band, retaining the lower fee of £40
- reducing the scale 1 fee for registrations of properties priced between £80,001 and £100,000 from £120 to £80
- introducing a flat fee for all ‘inspection of documents’ and ‘official copy of document’ (OC2) applications, removing the differences in fees between documents referred to in the register, not referred to in the register and leases. The fee will be £3 per document when applied for electronically and £7 per document when applied for on

paper. We estimate that 83 per cent of customers will pay less as a result.

We anticipate these changes will allow us to pass on estimated savings of more than £1.5 million to our customers before the end of the 2013/14 financial year.

You can find further details in:

- [Practice Bulletin 21](#)
- [Land Registration Fee Order 2013](#)
- [Fee Order Explanatory Memorandum](#)
- [Fee Order Impact Assessment](#)
- [Frequently asked questions](#).

Further information will be available in due course, including updates to our ready reference guides for [registration services](#) and [information services](#), our guide to [portal information services fees](#) and our [fee calculator](#).

We encourage you to familiarise yourself with the new fees and make any necessary changes to your processes and systems to ensure you pay the amended fee with your applications from 17 March.

Our existing [Land Registration Fee Order 2012](#) will remain in force until 16 March 2014.

Past fee orders

You can view previous fee orders on the legislation.gov.uk website:

- [Land Registration Fee Order 2009 \(6 July 2009 to 21 October 2012\)](#)
- [Land Registration Fee Order 2006 \(7 August 2006 to 5 July 2009\)](#)
- [Land Registration Fee Order 2004 \(1 April 2004 to 6 August 2006\)](#)
- [Land Registration Fee Order 2003 \(13 October 2003 to 31 March 2004\)](#)

Christmas and New Year opening hours

Our [Business e-services](#) will be available in line with our normal service hours throughout the Christmas period. Our [Find a property](#) service will continue to be available 24 hours a day.

Our offices will close for the festive period at 3pm on Christmas Eve (Tuesday 24 December) but our customer information centres will close at 1pm. Customer Support will be available until 2pm.

Our offices and Customer Support will be closed on Christmas Day and Boxing Day. On Friday 27 December, Monday 30 December and Tuesday 31 December our offices and Customer Support will be open until 5pm.

On New Year's Day our offices and Customer Support will be closed. [Normal service hours](#) will resume on Thursday 2 January.

Season's greetings to all our customers. We wish you a very merry festive season and a peaceful and prosperous new year.



Safeguarding land and property in England and Wales

Creating a single UK house price index

In July it was announced a joint project would be initiated to consider the development of a single definitive UK House Price Index (HPI).

This followed agreement across the four producers of official house price statistics: Land Registry, Office for National Statistics, Registers of Scotland and Land & Property Services, Northern Ireland.

The official providers would be able to report from the single index on their own areas of responsibility in a way that could be directly compared.

This collaborative approach would, it was hoped, allow the publishing of consistent HPI data at a national, regional and sub-regional level across the UK.

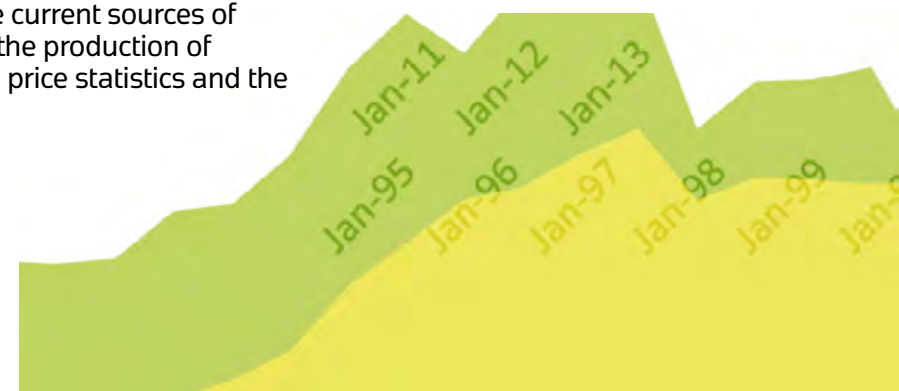
Since July work has focused on assessing the current sources of data used in the production of official house price statistics and the

feasibility of combining these sources to produce a single, definitive HPI.

While good progress has been made, further work is now required to investigate sources of property attributes data that would be required to supplement the current data and to begin assessing the different methodologies that could potentially be used to produce a definitive index.

This additional analysis will take place during the next few months with the aim of identifying a suitable methodology and comprehensive source of property attributes data that could be used to produce the definitive HPI. Details regarding this analysis and any further developments will be made available in the first quarter of 2014.

If you have any questions regarding the proposed development and the analysis taking place, please contact us at hpi@ons.gsi.gov.uk



Open data challenge winners rewarded

Land Registry has been praised for having a “great culture for open data” as the winners of our first open data challenge collected their prizes.

Search engine Adzuna and software developer Dan Hilton received cheques for £3,000 for their innovative uses of our price paid data.

Both winners said the creation of their concepts depended on the data being available free of charge and easily accessible via the Land Registry website.

Speaking at the prizegiving event, Open Data User Group Chair Heather Savory said anyone with a standard laptop could become “the next Google” by exploiting such data, provided government made it freely available.

Ms Savory, whose group acts as an independent adviser to government ministers, said she constantly referred to Land Registry as being at “the top of the tree” in releasing open data.

“There’s a great culture here for open data,” she said. “You are right at the front of the organisations we are working with.”

Director of Commercial & Customer Strategy Eddie Davies said the competition was a measure of how far Land Registry had come in terms of open data.

“The quality of the successful entries was remarkably high and proves that creativity can be harnessed into developing practical tools which can have a positive impact on the UK economy,” he said.

Adzuna’s idea uses Land Registry price paid data to enhance the information provided to consumers searching its database of millions of classified adverts.

Mr Hilton’s draws on the same dataset to enable firms selling online to prompt customers to amend out-of-date delivery addresses.

He said the great virtue of publishing data for others to exploit was that “something you think is valueless, someone else may think is gold. My encouragement to you is to go as far as you can.”



Dan Hilton receives his cheque from Commercial & Customer Strategy Director Eddie Davies



Head of Data Programme Andrew Trigg presents Jenna Brown of Adzuna with her company’s prize



Full historic price paid data now available

All Land Registry’s historic price paid data of more than 18 million sales is **now available to download** for free as part of our open data programme.

The data released last month included records of sales at full market value lodged for registration since January 1995.

Since the first tranche of data was released in June this year, more than 114,000 files have been downloaded.

Heather Savory of the Open Data User Group promotes the virtues of open data

Digital services

Send lease extensions and larger files electronically

We have made three enhancements to our [electronic Document Registration Service \(e-DRS\)](#) to save customers time and money.

The first allows you to send electronic applications to extend the term of an existing registered lease via the Land Registry portal. We have created [a video to demonstrate the service](#).

Secondly we have increased the file size limit for e-DRS attachments from 3.6MB to 10MB. This will allow you to attach larger documents such as leases with your e-DRS applications.

Thirdly the wording of the certification statements for customers who use e-DRS through the portal will change to the following.

- I/We certify this attachment is a true copy of the original document.
- I/We certify this attachment is a true copy of a document which is certified by a conveyancer to be a true copy of the original.
- This attachment is an uncertified copy.

The revised certification statements can be selected or changed by use of a radio button, or option button, rather than the previous drop-down menu. The first statement will be pre-selected as a default setting.

For more information please contact [Head of Product Development Angela Jackson](#).

If you would like to be involved in user testing events for a planned e-DRS launch to include transfers of part and new leases out of a registered title, please contact [Angela](#) or [Julie-Anne Soper](#).

E-DRS was launched a year ago on 3 December 2012, when we received:

- **323** applications (139 via the portal, 184 via Business Gateway)
- from **71** different customers (65 via the portal, six via Business Gateway).

On 3 December 2013 we received:

- **2,510** e-DRS applications (1,625 via the portal, including 20 discretionary first leases, and 865 via Business Gateway)
- from **479** different customers (470 via the portal, eight via Business Gateway and one that used both channels).



The Land Registration Act 2002 – 10 years on

Part 4: Charges and priorities

In the fourth of a series on the anniversary of the Land Registration Act 2002, a Land Registry lawyer considers developments in relation to charges and priorities

Background to changes to the registration of charges in the Land Registration Act 2002
The main intended changes to the law relating to charges of registered land were not as fundamental as the changes relating to adverse possession and easements. The more exciting changes have been procedural, ie the first steps towards

charges being entered in the register by direct electronic action by customers.

The substantive legal changes intended by the Act (LRA 2002) were summarised in paragraph 2.23 of Law Com 271¹.

- to change the law that governs the priority of further advances made under registered charges so that it coincided with the existing practice of mortgage companies,
- to provide a new method of making further advances, and
- to impose a duty on the registrar to notify registered chargees when an overriding statutory charge is registered.

Other changes were put in place.

- It is no longer possible to charge a registered property by demise or subdemise, a method which had become obsolete in practice. The only methods of creating a legal charge of registered land² are either to create a charge expressed to be by way of legal mortgage, or to charge registered land with the payment of money.
- The Act also made provision for methods of creating charges other than by deed³ in readiness for electronic conveyancing⁴.

What is a charge under LRA 2002?

The current law relating to registered charges is mainly set out in Part 5, LRA 2002 (sections 48-57), 23 (owner's powers), section 30 (effect of disposition/priorities) and Part 9 (rules 101-116), Land Registration Rules 2003 (LRR 2003).

These are overlaid over the general law relating to charges including the remaining parts of Part III of the Law of Property Act 1925 (LPA 1925), sections 85 to 122, which deals with mortgagees' powers, including the statutory power of sale.

Section 48, LRA 2002 deals with priorities, setting out that registered charges rank as between themselves in the sequential order in which they are shown in the register, unless this

priority order is varied by agreement between the chargees. Any such priority agreement will be noted in the register. This is a point which is commonly misunderstood. It is only registered legal charges which rank in priority between themselves according to their order in the register (not the date of the charges or entry in the register).

Whether or not the registered proprietor of a charge takes their interest subject to another interest which has an entry in the charges register or is an overriding interest is a different question, dependent on sections 28 and 30, LRA 2002.

Section 49 This is the provision which altered the legal situation of prioritisation relating to tacking and further advances so that this reflects the practice which had developed between first and subsequent chargees. Under this provision the first chargee's further advance under

¹ *Land registration for the twenty-first century*, Law Com 271.

² S.23, LRA 2002.

³ Execution of the charge by deed is required to provide the mortgagee with important powers such as the power of sale, s.101, LPA 1925.

⁴ S.91(5), LRA 2002 provides that a document fulfilling the requirements for electronic conveyancing in the section "is to be regarded for the purposes of any enactment as a deed".

cont'd

a registered charge would rank in priority to the second chargee's charge unless:

- (1) the second charge had given prior notice to the first chargee of the second charge directly in accordance with the rules⁵, or
- (2) if the original charge contained an obligation to make the further advance, and that obligation was reflected by an entry in the register in accordance with the rules⁶, or
- (3) an agreement between the parties to a charge to make a further advance ranking in priority to another charge is entered in the register.

The first of these may appear contrary to the general drive of the Act, to make the register a comprehensive record of land interests without reference to matters off the register, but it appears to have been a practical compromise⁷.

Section 50 contains the obligation on the registrar to notify a registered chargee of the registration of an overriding statutory charge.

Sections 51 and 52 confirm that registration of a charge has the same effect as a charge by deed by way of legal mortgage (linking the provision into the mortgagee's powers including the statutory power of sale

in s.101, LPA1925). Subject to any entry in the register to the contrary, the proprietor of a registered charge is to be taken to have all the powers of disposition conferred by law on the owner of a legal mortgage but only for the purpose of preventing the title of a disponee from being questioned. This does not impact on the mortgagee's fiduciary duty, and the right of the mortgagor to seek redress against the mortgagee if this is not observed in an onward sale of the property.

Practical matters – methods of registration

Pending the advent of full electronic conveyancing, the legislative requirement is still that charges must be completed by deed⁸. The form of charge has not been prescribed by the Act and Rules.

If a charge document lacks the formal requirements for a charge (it must be by deed and contain a charging clause) it may take effect as an equitable charge, for which there is no formal definition⁹, and may be protected by notice.

Registration in paper form is by lodging form AP1. An application for restrictions should be made on form RX1 unless the application is for a standard form of restriction and is made in panel 8 of form CH1, or it is for a standard form of restriction made in an approved form

of charge (r.92, LRR 2003). Land Registry maintains a Commercial Arrangements section which liaises with mortgage providers to approve standard forms of charges and entries¹⁰.

So what has changed?

Early completion policy

With effect from 3 August 2009 Land Registry introduced a policy of early completion for applications to register a discharge of whole and another transaction where the evidence of discharge is not lodged.

This meant that the registration of the complete parts of the multiple transaction, ie the registration of the transfer, could take place immediately rather than waiting for evidence of discharge of the existing mortgage. Many registrations of the transfer and new charge could thus be completed in a discharge/transfer/charge registration application, subject to retention of the entries relating to the charge to be discharged¹¹.

Electronic lodgment and creation of charges

Land registration for the twenty-first century (Law Com 271) assumed an early move to electronic completion and registration of charges so that the need for a charge to be executed as a deed would quickly become redundant¹².

It has only been possible to move to electronic lodgment of documents such as charges after September 2012 under the electronic Document Registration System (e-DRS). However, this is still only a method of lodgment.

Greater progress has been made on the electronic implementation of discharges, starting with the withdrawal of the electronic notification of discharge (END)

⁵ R.107, LRR 2003.

⁶ R.108, LRR 2003. The form of entry for a charge is: "*The proprietor of the Charge dated xxx referred to above is under an obligation to make further advances. These advances will have priority to the extent afforded by section 49(3) of the Land Registration Act 2002*" and application for the entry must be made on form CH2.

⁷ Paragraphs 7.18 to 7.36 of Chapter VII of Law Com 271.

⁸ CH1, or mortgagee's own deed of charge.

⁹ The definition given in Megarry & Wade *The Law of Real Property* 8th edition (online) paragraph 24-042 is: "An equitable charge is created by appropriating specific property to the discharge of some debt or other obligation without there being any change in ownership either at law or in equity. No special form of words is required: it is sufficient if the parties have made plain their intention that the property should constitute a security."

¹⁰ See [Practice Guide 30 – Approval of mortgage documentation](#).

¹¹ See [Practice Bulletin 16 – Early completion](#).

¹² Paragraph 7.6 of Chapter VII of Law Com 271.

system on 3 January 2010 and the introduction of electronic discharge (EDs) and e-DS1s, which both allow charge entries to be cancelled, in some cases automatically, on receipt following inbuilt checks.

Transfers under power of sale

In the case of *Swift 1st Limited v Colin* [2011] EWHC 2410 (Ch) it was held that a chargee still has a statutory power of sale under s.101(1), LPA 1925 provided a charge has been completed as a legal charge, even where that charge has not been completed by registration (unless a contrary intention has been expressed in the deed). The sale will overreach all rights over which the charge has priority, under s.104(1), LPA 1925. A transfer under the power of sale will be a transfer of the registered estate.

Fraud and rectification

Forged charges and discharges have existed for many years. Since about 2007, more concerted attacks have been launched by organised criminal rings on property assets focusing on charges.

The first question that arises is whether the 'mistake' extends to the resulting charge by the fraudster, where there has been a fraudulent transfer of the title, and an application to rectify the

title pursuant to Schedule 4, LRA 2002, and secondly whether this can be rectified at the instance of the original proprietor. A third issue relates to whether the new chargee's title is in any event subject to the overriding interest of the original proprietor in occupation, or whether the conclusiveness of the new registered chargee's title under s.58, LRA 2002 is paramount.

Land Registry has taken the view based on existing case law that the answer to these first three questions is in the affirmative¹⁴.

Land Registry identity checks were introduced in March 2008 for charges and discharges where no conveyancer was acting. This complements the KYC (know your customer) checks undertaken by conveyancing and mortgage customers to help counteract the possibility of registration of fraudulent paper discharges and charges by individuals.

Registration at Companies House

The obligation for companies to also register their charges at Companies House within 21 days of creation was gradually extended from companies in England and Wales, to companies in all of the UK from 6 April 2013.

If this is not done, the charge is void against a liquidator, administrator or creditor of the company.

The certificate of registration of charge issued by Companies House must accompany the application to register the charge at Land Registry (r.111(1), LRR 2003), together with a certificate or confirmation that the charge is the charge to which the certificate of registration relates.

Where now with charges?

The legislative framework surrounding creation and registration of a legal charge seems relatively stable, although the market is constantly evolving and changing. However, they are in the vanguard of the digital revolution, being, in some cases, fully dematerialised.

Further information

[Practice Guide 29 – Registration of legal charges and deeds of variation of charge](#)
[Practice Guide 30 – Approval of mortgage documentation](#)
[Practice Guide 31 – Discharge of charges](#)
[Practice Bulletin 16 – Early completion](#)

¹³ *Malory Enterprises Ltd v Cheshire Homes (UK) Ltd and others and Chief Land Registrar* [2002] EWCA Civ 15.

Registering easements in short term leases

A Land Registry lawyer provides a step-by-step guide

A lease granted on or after 13 October 2003 may not require or even be capable of registration. But, if it grants easements over registered land, then those easements must be completed by registration in order for them to be legal, rather than equitable, easements.

Since the Land Registration Act 2002 came into force on 13 October 2003, the categories of leases that are now either compulsorily or voluntarily registrable or are capable of being noted have changed. For the purpose of this article, these unregistrable leases will be referred to as 'short term leases'. It can be so easy to overlook easements contained in such a lease when the lease itself is one that, in normal circumstances, might go straight back to the client once the usual formalities have been completed.

This article looks at the steps that need to be taken to register easements contained in short term leases. It will also explain the difference between schedules relating to leases referred to in the charges register of the servient title, so that practitioners can consider, when an application can be completed, whether or not the easements have been protected and (if so) whether they have been completed by registration, so as to operate as legal easements.

It will assume the easements in the short term lease are capable of taking effect as legal easements and the lease has been validly created by deed.

There is information relevant to this topic in practice guides [15 – Overriding interests and their disclosure](#), [25 – Leases – when to register](#) and [62 – Easements](#).

Step 1 Identifying a 'short term lease'

A short term lease is one which is not:

- the grant of a lease for more than seven years
- the grant or assignment of a lease which triggers compulsory registration, or
- the subject of voluntary registration.

A full list of leases that either

require registration or are capable of registration is set out in [Practice Guide 25 – Leases – when to register](#), sections 3 and 4.

Step 2 Deciding whether the short term lease needs protecting

Short term leases that do not have to be registered are overriding interests.

Some short term leases for more than three years can be protected by entry of notice in the register but will lose their overriding status if they are.

If it is decided to apply to enter notice of the short term lease in the register of the landlord's title then an application may be made on [form AN1](#) for an agreed notice or [form UN1](#) for a unilateral notice.

For further details see [Practice Guide 15 – Overriding interests and their disclosure](#), section 5.1 and [Practice Guide 25 – Leases – when to register](#), section 7.3.

Step 3 Easements

An easement expressly granted on or after 13 October 2003 cannot take effect as a legal easement unless it is completed by registration.

That is the case even where the easement is granted in a short term lease that cannot itself be registered (or even noted).

So, to ensure that an easement in a short term lease operates at law as a legal easement and to avoid the risk of the benefit of the easement being lost, an easement contained in a short term lease **must** be completed by registration.

As the leasehold estate having the benefit of the easements will not be registered, there will not be a registered dominant title so an application to register those easements will be only required against the servient title.

The protection of equitable easements in short term leases is considered in more detail in [Practice Guide 62 – Easements](#), section 9.

Step 4 How to apply for registration of easements in short term leases

As indicated in step 2 above, some short term leases are capable of protection by notice so it is necessary to consider the different applications that might be made.

a) Easements contained in a short term lease that will NOT be noted on the servient title

- Apply on [form AP1](#)
 - ✓ Complete panel 4 along the following lines:

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“registration of the easements within the lease”, and

- include with the application:
 - ✓ original lease or counterpart
 - ✓ certified copy of the lease (if the original is to be returned)
 - ✓ stamp duty land tax form, if relevant
 - ✓ any necessary consents/ certificates, and
 - ✓ the appropriate fee as set out in the current Fee Order.

b) Easements contained in a short term lease that is to be noted on the servient title

Either:

- apply on [form AP1](#)
 - ✓ complete panel 4 the same as step 4 (a) above, and
 - ✓ complete panel 11 as to ‘Disclosable overriding interests’, and
- lodge a completed [form DI](#) to include details of the lease, and
- include with the application:
 - ✓ the same as **step 4 (a)** above.

Or:

- apply on [form AP1](#)
 - ✓ complete panel 4 as **step 4 (a)** above, and
- apply on [form AN1](#) or [UN1](#) to note the short term lease, and
- include with the application:

✓ the same as **step 4 (a)** above.

NB: Without a specific application to note the lease in [form DI](#), [AN1](#) or [UN1](#), the lease will not be noted.

Step 5 – Checking the register; checking the entries

Normally, there will be a general entry in the charges register relating to noted leases, referring to a schedule for more details of the lease and what it may contain. Sometimes there may be more than one general entry to cover differences between leases. For example, some may grant and reserve easements and others may not.

However, some registers may have more than one schedule in the charges register that relate to leases in some way or another and it is important to understand their purpose to ensure any entry arising out of the short term lease is where you would expect it to be.

1) Schedule of leases

This schedule is used to note all leases and is where notice of a short term lease should be entered if an application has been made to note it on the landlord’s title on [form AP1 and DI](#) or [form AN1/UN1](#) as in **Step 4 (b)** above.

There is usually a charges register entry preceding the schedule.

However, the following entries would not cover the registration of easements contained in a short term lease.

“The land is subject to the lease set out in the schedule of leases hereto”, or

“The parts of the land affected thereby are subject to the leases set out in the schedule of leases hereto”.

So, check there is an entry that specifically mentions easements.

For example:

“The parts of the land affected thereby are subject to the leases set out in the schedule of leases hereto. The leases grant and reserve easements as therein mentioned.”

So far, so good.

But, if only [form AN1](#) or [form UN1](#) is lodged to note the short term lease and the easements contained in it, with no separate application made on [form AP1](#) to specifically register the easements, the easements can only be equitable.

For example, an application to note the short term lease and the burden of the easements contained in it on the landlord’s title on [form AN1](#) or [form UN1](#) will result in the following note appearing after details of the lease in the schedule of leases

for [AN1](#) applications or the usual unilateral notice entry for [form UN1](#) applications.

“NOTE: The grant of the rights in the above lease has not been completed by registration in accordance with section 27 of the Land Registration Act 2002 and so does not operate at law.”

This tells you that the easements contained in the short term lease are only equitable.

An easement granted in a short term lease for value that is only noted and not completed by registration will not enjoy the protection afforded by s.29, Land Registration Act 2002 to a registrable disposition for value that is completed by registration. This means that the noted equitable easement may be overridden if, for example, a charge given before the grant of the short term lease is subsequently completed by registration and if the registered estate is then transferred by that mortgagee in exercise of the power of sale.

But, worse still, if the application made on [form UN1](#) or [AN1](#) only relates to the short term lease and not the easements contained in it, with no separate application made on [form AP1](#) in respect of the easements,

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no reference to the easements will be made in the register.

As the easements cannot be overriding interests, they will have no protection and may be overridden if a subsequent registrable disposition for value is completed by registration.

2) Schedule of notices of leasehold easements

This schedule is used to note the burden of a series of leases of easements on the servient title.

Under s.1 (2) of the Law of Property Act 1925, in order to be legal rather than equitable, easements must be equivalent to:

- either a fee simple absolute in possession
- or a term of years absolute.

An easement over land can therefore be granted in fee simple or for a term of years, in the same way as land and buildings can be conveyed or transferred in fee simple or leased for a specific period.

Again, like easements created in short term leases, since 13 October 2003 easements granted for a term of years must be registered under s.27 Land Registration Act 2002 (LRA 2002) to be valid legal easements.

Just like an easement in fee simple granted for the benefit of land over someone else's land, an easement granted for a specific term of years cannot be registered with its own title separate from the benefitting land. This means any application will be only required against the servient title (although it is possible to enter leases of easements as appurtenant to the dominant title to the land benefitting from it).

An entry in the charges register of the servient title relating to a lease of easement would look like this:

“The land is subject, during the terms created by the leases of easements specified in the schedule of leases of easements hereto, to the rights granted by the said leases.

Schedule of Leases of Easements

1. *Benefitting land : 1 High Street*
Title Number of Benefitting land : AB123456
Date of Lease : 8 January 2011
Term of Lease : 25 years from 8 January 2011
Registration date : 12 January 2011”

The requirements of s.27 LRA 2002 would have been satisfied and the lease of easement would be a valid legal easement.

3) Schedule of notices of leasehold easements with an amended charges register entry for registration of easements in short term leases

Where an application is made to register easements contained in a short term lease but no separate application is made to note the lease, it is less straightforward to work out where to find the entry relating to the registration of the easements.

Clearly, these are easements and not a lease, so it would not be appropriate to make reference to them in the schedule of leases.

Similarly, these are easements being granted for the benefit of an unregistrable leasehold estate in land; they are not leases of easements that could be for the benefit of a freehold estate in land, so they are unlikely to be found in the schedule of leases of easements.

Or are they?

So, where can the relevant entry/entries be found?

Normally the relevant entry relating to the easements contained in the short term lease may be found in the charges register rather than a schedule to it.

For example:

- i. “The land is subject to the easements granted by a lease dated.... of....for a term of.....
NOTE: Copy filed.”

However, it is also possible that if the charges register of the servient title appeared likely to have more than three short term leases noted, because, for example, it was a commercial title, then the following entry could have been made in the charges register when the first application was made to register easements contained in a short term lease.

- ii. “The parts of the land affected thereby are subject to the easements granted by the leases set out in the schedule of leases of easements hereto.
NOTE: The heading to the schedule should be read as if it said “Schedule of notices of leasehold easements.”

Provided the charges register contains either entry i or entry ii with details of the short term lease entered in the schedule of leases of easements, the registration of the easements contained in the short term lease are duly reflected on the servient title and the easements will be valid legal easements.

This is an updated version of an article first published in *Landnet* 24

Team takes Land Registry expertise to remote St Helena

Island asks for help in creating a more modern, secure and sustainable land registration system



Left: Len, Julie, Tracey and Andrew in Jamestown
Below: St Helena's treasured 'green heartland'



A Land Registry team has returned from a 5,000-mile mission to help Britain's second oldest overseas territory improve its land registration system.

Head of International Relations Julie Barry and three colleagues made the long-distance trip to St Helena in the south Atlantic to look at the sustainability of its current system and mapping processes and recommend how to make best use of IT to convert its paper records.

They brought a wide variety of expertise: Julie heads Land Registry's International Unit, Andrew Trigg is Land Registry's Chief Geographic Information Officer, Len Craig is a Senior Software Designer and Tracey Salvin is a Deputy Product Manager with a background in casework.

International Unit

Land Registry's International Unit draws on more than 150 years of expertise to help other countries develop effective land registration systems and processes.

It provides advice, expertise and technical know-how to countries seeking to:

- establish and develop private land and property ownership
- secure land tenure
- develop functioning land and mortgage markets.

St Helena's Chief Magistrate and Registrar of Lands John MacRitchie contacted the International Unit earlier this year after publication of *Supporting the Overseas Territories*, a joint Department for International Development/Foreign Office White Paper.

The White Paper sets out how the British Government must respond to requests for assistance from the 19 British Overseas Territories, naming three of them, including St Helena, as being most in need.

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Thanks to its geographic remoteness St Helena has particular need for government assistance to help it become a self-sufficient and thriving economy, it says.

With St Helena's first airport due to open in 2016 the island's authorities expect tourism and inward investment to boom. But they want to ensure the benefits are fairly shared, the delicate beauty of the island's green heartland is protected and the land registration system is modernised and made more secure and sustainable.

Head of International Business Development Emma Vincent met Mr MacRitchie to discuss how Land Registry could help and realised it was vital to visit St Helena.

"No two countries have the same requirement," says Emma. "Making the trip to see the island's unique conditions was the only way to understand the issues and make an assessment of what needs to be done."

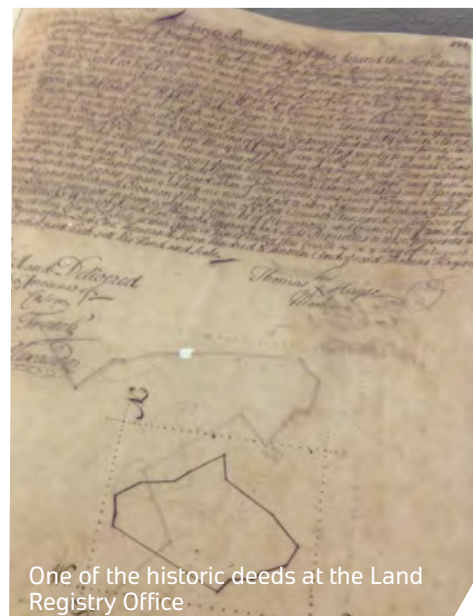
St Helena has a stable property market and enjoys comprehensive registration with agreed boundaries surveyed and marked out on the ground by red-painted 'beacons'.

Its 4,000 properties were registered between 1980 and 1986. Owners

with deeds going back 15 years were granted absolute title. Everyone else was awarded possessory title that could be upgraded after 15 years. However the registrations exist only on paper.

The International Unit's preliminary report makes recommendations on mapping, electronic registration and the scanning of deeds and documents that will be put to the Registrar of Lands and St Helena's Executive Committee.

You can read the team's blog posts from the St Helena trip [here](#).



One of the historic deeds at the Land Registry Office



A street in the capital Jamestown



Andrew digs a hole for a boundary 'beacon'



Jamestown sits in a narrow valley



Deeds registers at the Land Registry Office

Practice and public guides

You can find the latest versions of all our [practice guides](#), [practice bulletins](#) and [public guides](#) on our website.

[Practice Guide 11 – Inspection and application for official copies](#), [Practice Guide 12 – Official searches and outline applications](#), [Practice Guide 34 – Personal insolvency](#), [Practice Guide 43 – Applications in connection with court proceedings, insolvency and tax liability](#), [Practice Guide 44 – Fax facilities](#), [Practice Guide 57 – Exempting documents from the general right to inspect and copy](#) and [Practice Guide 63 – Land Charges – applications for registration, official search, office copy and cancellation](#) have been amended as a result of the closure of the few remaining Land Registry credit accounts.

Section 4.2 of [Practice Guide 5 – Adverse possession of \(1\) unregistered land \(2\) registered land where a right to be registered was acquired before 13 October 2003](#) has been amended to confirm that Crown land includes land owned by government departments.

A new [Practice Guide 14A – Charitable incorporated organisations](#) has been published to deal with the land registration aspects of transactions involving charitable incorporated organisations, including their dissolution. It supplements [Practice Guide 14 – Charities](#). Section 2 of [Practice Guide 35 – Corporate insolvency](#) has been amended as a result. A new section 9.4 has been added to [Practice Guide 8 – Execution of deeds to cover execution by a charitable incorporated organisation](#).

Section 3.3.3 of [Practice Guide 19 – Notices, restrictions and protection of third party interests in the register](#) has been updated to clarify the practice in respect of a unilateral notice entry being made in respect of an agreement.

[Practice Guide 27 – The leasehold reform legislation](#) has been amended to clarify our requirements for the registration of extended leases.

[Practice Guide 43 – Applications in connection with court proceedings, insolvency and tax liability](#) has been amended as a result of the creation of the National Crime Agency.

Section 2 of [Practice Guide 66 – Overriding interests losing automatic protection in 2013](#) has been amended to confirm that a fee will be payable on any application to protect an interest received after 11 October 2013. Section 6 confirms that on first registration the registrar will enter interests which appear from their examination of the title to affect the registered estate.

Section 3.6 of [Public Guide 17 – How to safeguard against property fraud](#) has been amended to confirm that the organisation for protective registration of credit details is CIFAS.

Section 3.1 of [Public Guide 25 – Registration and notices about mines and minerals, chancel repairs and manorial rights](#) has been amended to provide more information about ownership of mines and minerals. The frequently asked questions in section 8 include information about the entries that we will make on first registration and on ‘fracking’.

[Public Guide 24 – INSPIRE](#) has been amended to update [Frequently asked questions](#).

Annual Report and Management Plan

Read our [2012/13 Annual Report and Accounts](#) and our [2013/14 Annual Management Plan](#).

ICR’s annual report

Our [Independent Complaints Reviewer’s annual report for 2012/13](#) describes how we responded to the issues upheld by our complaints reviewer.

Landnet archive

Read [past issues of Landnet](#).