

S.I. No. 558/2006 — Land Registration Rules 2006

S.I. No. 558 of 2006

Land Registration Rules 2006

1. (1) These Rules may be cited as the Land Registration Rules, 2006.

(2) These Rules and the Land Registration Rules 1972 to 2005 may be cited together as the Land Registration Rules 1972 to 2006.

(3) These Rules and the Land Registration Rules 1972 to 2005 shall be construed together as one.

2. These Rules shall come into operation on the 4th day of November 2006.

Interpretation

3. The Land Registration Rules 1972 are amended by the substitution of the following for Rule 2 of those Rules:

“2. (1) In these Rules—

“the Act” means the Registration of Title Act, 1964 ; and words or expressions defined in the Act have the same meaning as in the Act, where the context so admits;

“the Act of 1891” or the “1891 Act” means the Registration of Title Act, 1891;

“the Act of 2006” means the Registration of Deeds and Title Act 2006 ; and words or expressions defined in the Act have the same meaning as in the Act, where the context so admits;

“the Acts” means the Registration of Deeds and Titles Acts 1964 and 2006;

“the Authority” means the Property Registration Authority;

“the Registry” means the Land Registry;

“folio” means a constituent part of a register, containing individual ownership details;

“Form” or “Forms” means a form or the forms in the Schedule of Forms;

“local authority” includes a county council, county or other borough council,

urban district council, the commissioners of any town, and any public body or person established by or in pursuance of any statute to perform any of their functions;

“property” includes land, and any estate, leasehold interest, incorporeal hereditament, or other right, in or to land, the ownership of which is or may be registered in the registers established by the Act;

“possessory title” includes a title deemed under the Act or under these Rules to be possessory;

“prescribed fee” means the appropriate registration fee fixed by the Minister for Justice, Equality and Law Reform by order under section 14 of the Act.

(2) The Interpretation Act, 2005, shall apply for the purpose of the interpretation of these Rules as it applies for the purpose of the interpretation of an Act of the Oireachtas, except so far as it may be inconsistent with the Act or with these Rules.”

4. The Land Registration Rules 1972 are amended by the substitution of the following for Rule 3 of those Rules:

- “3. (1) The registers shall consist of information required by the Acts and these Rules to be recorded in respect of each ownership registered under the Acts.
- (2) Each ownership registered shall be identified by a distinguishing number to be called the folio or title number.
- (3) The registers shall be maintained in paper or electronic form or partly in one form and partly in the other form.
- (4) The registers shall be maintained in Irish or English or partly in one language and partly in the other language.
- (5) Where a register or any part thereof is in paper form the information shall be recorded on a folio or folios which shall be in three parts.
- (6) There shall be entered in the first part of a folio—
- (a) a description of the property the ownership of which is registered, with a reference to the plan on the registry maps of the land affected;
 - (b) such information as is authorised by the Acts or these Rules relative to—
 - (i) easements and rights for the benefit of the property;
 - (ii) the inclusion of mines and minerals in, or their exclusion from, the property;
 - (iii) the boundaries of the property;
 - (iv) at the Authority's discretion, Land Commission or Department of Agriculture and Food references and notes regarding issue of land certificates and copy maps.
- (7) There shall be entered in the second part of a folio—

Form and
contents
of
registers

- (a) the name of the owner of the property and his address in the State for service of notices;
 - (b) such information as is necessary relative to—
 - (i) the classes of owners and titles that are registered pursuant to sections 27 and 33 or 40 of the Act;
 - (ii) the devolution of the property;
 - (iii) the matters referred to in sections 91, 99 and 101 of the Act;
 - (iv) the issue of land certificates.
 - (c) cautions and inhibitions restricting the registration of dispositions of the property;
 - (d) a note under section 61 (6) (b) of the Act of the death of the registered owner and of the names of his personal representatives.
- (8) There shall be entered in the third part of a folio—
- (a) the burdens the registration of which is authorised by section 69 of the Act;
 - (b) (i) the ownership of a registered charge, where it is not registered in the register maintained under section 8 (b) of the Act and, where the Authority permits, sub-charges on a registered charge and their ownership;
 - (ii) such information as is necessary relative to the issue of certificates of charge;
 - (c) notice of the exemption from or existence of the burdens specified in Section 72 of the Act;
 - (d) cautions and inhibitions against registration of dealings with a registered burden the ownership of which is not registered in the register maintained under section 8 (b) of the Act.
- (9) Where a register or any part thereof is in electronic form it shall be capable of being reproduced in legible form in the same format as if it were in paper form.
- (10) The information in respect of any particular ownership shall not be accessible during such period as
- (a) may be required to update that information,
 - (b) may arise as a result of *force majeure*, that is to say unusual and unforeseen circumstances beyond the control of the Authority.
- (11) All existing folios of the registers shall be revised in accordance with the foregoing provisions of this rule whenever the Authority considers such revision expedient.”

5. The Land Registration Rules 1972 are amended by the substitution of the following for Rule 4 of those Rules:

Manner of
registration

- “4. Information recorded shall identify the particular property or interest in the property that it is intended to affect; and no information shall refer

to a matter that is not authorised by the Act or these Rules.”

6. The Land Registration Rules 1972 are amended by the substitution of the following for Rule 9 of those Rules:

- “9. (1) The description of property in the registers shall be by reference to the names and denominations recorded by Ordnance Survey Ireland and may, where the Authority permits, include co-ordinates referenced to an appropriate geodetic framework or any other geographical or locational information. Description of property
- (2) Neither the description of land in a register nor its identification by reference to a registry map is conclusive as to its boundaries or extent and a note to this effect shall be entered on the register.
- (3) Where areas of land are recorded, such areas are not conclusive.
- (4) The description shall be revised by the Authority from time to time and made conformable with the description on the registry map as and when revised.”

7. The Land Registration Rules 1972 are amended by the substitution of the following for rule 121 of those Rules:

- “121. (1) Where an entry of notice of the deposit of an affidavit of judgement is made in the register of any property, a registered owner, or any other person interested, who claims that the deposit and the notice thereof in the register do not create a valid burden may apply to the Authority for the cancellation of the notice. Application to cancel notice of deposit of affidavit on grounds of invalidity of judgement mortgage
- (2) The application shall be in writing and shall state the grounds on which the applicant claims that the entry should be cancelled, as, for instance, that a specified provision of the Judgment Mortgage (Ireland) Acts, 1850 and 1858, has not been complied with or that the judgment debtor had no estate or interest in the property or no estate or interest capable of being affected by registration of the affidavit, and shall state the facts on which he relies in support of his claim.
- (3) Where the Authority is satisfied on the facts stated that a *prima facie* case for cancellation of the entry has been made, notice of the application and of the cancellation proposed to be made shall be given to the judgment creditor and, in default of objection thereto by him within the time specified by the notice, the entry shall be cancelled.
- (4) Every objection to a proposed cancellation shall be in writing and shall be signed by the judgment creditor or his solicitor. It shall state the grounds of the objection and the facts relied on in support thereof.
- (5) Where, in the opinion of the Authority, the application and objection do not raise a question of law or fact relative to the

validity of the registration made which should be referred to the court, it may cancel or refuse to cancel the entry of notice of the deposit; but, if a question of law or fact is disclosed on which, in its opinion the validity of the affidavit as a judgment mortgage depends, it may refer the question to the court for decision”.

8. The Land Registration Rules 1972 are amended by the substitution of the following for Rule 155 of those Rules:

- “155. (1) A land certificate, on first issue shall be in the form of the relevant folio of the register and may, where the Authority permits, include a copy of a filed plan. It shall certify, in Form 92 (with such modifications as the case may require), the ownership registered and the burdens, notices of burdens, cautions and inhibitions appearing in the register on the date of issue.
- (2) A land certificate, on first issue, may be a facsimile of the relevant folio of the register and may where the Authority permits include a copy of a filed plan (which shall for the purpose of section 105 (4) of the Act be deemed to be a part of the certificate), with, in a case to which paragraph (3) of this rule applies, such omissions as the Authority may deem necessary. On re-issue, such certificate may be suitably amended by the addition of such entries as may be necessary to make it conformable with the register.
- (3) Where owners of property are registered as tenants in common, separate land certificates may be issued to each owner certifying his ownership of his undivided share or shares in the property as appearing in the register. The ownership of the shares of more than one tenant in common shall not be certified in one land certificate.
- (4) Every land certificate shall be authenticated by the affixing of an authentication seal thereto.”

Form and
contents of
Land
Certificates

9. The Land Registration Rules 1972 are amended by the substitution of the following for Rule 157 of those Rules:

- “157 (1) Except as provided in rule 156, a certificate of charge shall be in Form 93, with such modifications as the Authority in the special circumstances of any case may direct. It shall be authenticated by the affixing of an authentication seal thereto
- (2) The certificate shall certify the registration of the charge and its ownership and shall contain particulars of the property charged and the burdens, notices of burdens, cautions and inhibitions appearing in the register as affecting the charge on the date of issue.
- (3) The certificate may have a duplicate or an office copy of the instrument of charge annexed to it; and the particulars of the charge may be given in the certificate by reference to the duplicate or office copy.
- (4) Where owners of a charge are registered as tenants in common of the charge, separate certificates of charge may be issued to each owner certifying his ownership of his undivided share or shares in

Form and
contents
of
certificate
of charge

the charge as appearing in the register. The ownership of the shares of more than one tenant in common shall not be certified in one certificate.”

10. The Land Registration Rules 1972 are amended by the substitution of the following for Rule 164 of those Rules:

“164. (1) An application to the Authority under section 105 (2) of the Act for an order for the production of a certificate shall be in Form 94 and shall be signed by the applicant or his solicitor.

(2) On receipt of the application, the Authority shall send notice to the person against whom the order is sought, requiring him to state whether he has the custody of the certificate, and, if he has, whether he claims that the dealing for which production is required is one that cannot be registered without his consent and the grounds of his claim.

Application
for order or
production
of
certificate

(3) Where the person having the custody of the certificate claims that the dealing cannot be registered without his consent, the Authority shall, subject to an appeal to the court, determine the question and, for that purpose, may appoint a day and time for the parties to attend before him.

(4) In default of a reply to the notice within the time specified therein, where it appears to the Authority, from the statements in the application and the documents lodged for the purpose of the registration for which the certificate is required, that the dealing is one that can be effected without the consent of the person having the custody of the certificate, the Authority shall make the order sought.”

11. The Land Registration Rules 1972 are amended by the substitution of the following for Rule 174 of those Rules:

“174. (1) Registry maps shall be maintained for the plans of property described in the registers.

Registry
maps

(2) The Registry map shall include—

(a) general and/or index maps showing thereon the position and extent of every registered property,

(b) individual plans of registered properties (otherwise known as filed or title plans).

(c) plans referred to in rule 30,

(d) any map adopted under the provisions of section 84(2) of the Act as substituted by section 61 of the Act of 2006.

(3) The maps maintained shall be on such map projection, with necessary or obvious adjustments to conform to Ordnance detail or with such consents or after such enquiries or notices, as the Authority directs. Where this is not feasible maps may be maintained for such areas and on such scale as the Authority allows.”

12. The Land Registration Rules 1972 are amended by the substitution of the following

for Rule 185 of those Rules:

“185. The Authority may transmit a document filed in the Registry to a county registrar for production in court on the hearing of a cause or matter relating to the property the subject of the document—

Transmission
of documents
to court

- (a) where the registered owner of the property the subject of the document or his personal representative or successor in title is a party in the cause or matter, or
- (b) where the applicant for transmission is entitled to its inspection under these Rules and is a party to the cause or matter, or
- (c) where the registered owner of the property the subject of the document consents to its transmission, or
- (d) where the proceedings in the court are proceedings under the Act relating to the property the subject of the document.”

13. Rules 186 and 187 of the Land Registration Rules 1972 are amended by the substitution of the word “county” for the word “local” where it appears.

14. The Land Registration Rules 1972 are amended by the substitution of the following for Rule 198 of those Rules:

Searches
by public

- “198. (1) Any person, on payment of the prescribed fee, may search in the registry maps, the index of names, the index of lands and the folios of the registers during the hours the Registry is open to the public.
- (2) Where the Authority is satisfied that appropriate arrangements are in place for searching outside of public hours, by electronic means, such searching may be conducted between the hours of 7.00 a.m. and 8.00 p.m., Monday to Friday, and 7.00 a.m. and 12.00 p.m. on Saturday.
- (3) Copies of folios or maps or extracts from folios or maps may be obtained on payment of the prescribed fee. Where the register or any part thereof is in electronic form, a reproduction in paper form may be issued as a copy.”

15. Subrule (4) of Rule 10, Rules 12, 13, 218-223, 232-238, 240-242 and the Schedule of Costs of the Land Registration Rules 1972 and Rule 3 of the Land Registration Rules 1986 are rescinded.

We, the Registration of Deeds and Title Rules Committee, constituted pursuant to the provisions of section 74 of the Registration of Deeds and title Act 2006 in exercise of the powers conferred on us by section 126 of the Registration of Title Act, 1964 , as amended by section 72 of the Registration of Deeds and Title Act 2006 , with the concurrence of the Minister for Justice, Equality and Law Reform, do hereby make the foregoing Rules.

DATED this 4th day of November, 2006

MARY LAFFOY, Judge of the High Court.

GERRY McCAUGHEY, Chairman of the Property Registration Authority

CATHERINE TREACY, Chief Executive of the Property Registration Authority

JAMES DWYER, Senior Counsel.

OWEN M. BINCHY, Solicitor.

I, Michael McDowell, Minister for Justice, Equality and Law Reform, in exercise of the powers conferred on me by section 126 of the Registration of Title Act, 1964, as amended by section 72 of the Registration of Deeds and Title Act 2006 hereby concur in the making of the foregoing Rules.

GIVEN under my Official Seal,

4th November, 2006



MICHAEL McDOWELL

MINISTER FOR JUSTICE, EQUALITY AND LAW
REFORM.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation)

These Rules, which come into effect on 4 November 2006, provide for the amendment of the Land Registration Rules 1972 to 2005.

The Rules provide for the amendment of Rules 2, 3, 4, 9, 121, 155, 157, 164, 174, 198 of the Land Registration Rules 1972, the rescinding of Rules 10(4), 12, 13, 218- 223, 232-238, 240-242 and the Schedule of Costs of those Rules of 1972, and Rule 3 of the Land Registration Rules 1986.