



Land Registry
Land Registry Practice Directive
Issued April 2023

Land Registration Act 1982 - Land Registration Rules 2000
Land, Deeds and Probate Registries Fees and Duties Order 2023 (the “2023 Fees Order”)

Applications to the Land and Deeds Registries under the 2023 Fees Order

This directive is made under section 77 of the Land Registration Act 1982 and Rules 98 and 99 of the Land Registry Rules 2000 (SD588/00).

These directions and guidance come into operation on **1 May 2023** being the date on which the Land, Deeds and Probate Registries Fees and Duties Order 2023 comes into operation. Acting in accordance with Rule 99(4) the Registrar certifies that it is essential to the operational delivery of the lower fee rate elements of the Fees Orders that the Forms and Guidance promulgated in this Practice Directive come into operation by 1 May 2023.

Interpretation

In these directions -

“the Act” means the Land Registration Act 1982

“the Registry” means the Land Registry maintained by the Registrar General in accordance with the Act

“the Fees Order” means the Land, Deeds and Probate Registries Fees and Duties Order 2023

“the Fees” means those fees and duty payable under the Fees Order.

1. Types of Duty Payer

Introduction

On the 1st May 2023 the Fees Order comes into force and repeals the previous order made in 2019.

The key change in the Fees order is that there are now 3 main classes of property buyer recognized in relation to the fees. These are an Owner-Occupier, a Non Owner-Occupier and a Non-Resident Buyer.

In addition fees payable in both the Land and Deeds Registries are now prescribed in the one Fees Order.

There are different fees payable on a transaction depending on the classification of the buyer. This Directive provides interpretive guidance and examples of the application of the Fees Order.

A). Owner-Occupier

The Owner-Occupier qualification is not changing with the exception that the declaration now states that the property is the person's sole residential property worldwide and that there is a requirement to confirm residency status in the amended form CR. This is to provide clarity and not to penalize a buyer if for example they own a field, garage or commercial premises which is not residential. As long as the property being purchased is their only residential dwelling that will be occupied by the person's household then the person qualifies for the owner-occupier rate.

The language used in the fee order at article 4 is that the Owner Occupier rate should be available on the registration of a transaction if:

The applicant or his or her advocates declares:-

A. That the person holds and occupies the land for himself or herself in a personal capacity

B That the land consists of a dwelling house, with or without outbuildings and the land assigned to its use, with a value of less than £1,000,000.00

C That the person or their advocate must declare the property to be-

(a) the person's sole residential property worldwide: and

(b) occupied for residential use exclusively by that person and as appropriate the person's household.

D. The person must also qualify as an Isle of Man resident.

Form CR1 as amended contains the declaration required in relation to A, B, C and D.

Interpretation relating to Owner Occupier Status

Declaration of Intent

The declaration relates to current and future events. The Registrar accepts the future is something that it is impossible to warrant. The Registrar is satisfied that the declaration can be a declaration of future intention from the time it is made in the Deed Registry or the Land Registry or when it is relied on as continuing to be accurate in support of a Land Registry application where this follows a prior registration in the Deed Registry.

Dwelling house for residential use

For example in the case of a new build or off plan property it will be sufficient for an applicant to claim that the property **will** be a dwelling. Accordingly a purchaser of an off-plan residential house will be able to qualify as the property **will** be a dwelling house in the foreseeable future and **will** be for residential use. By applying the same test of intention it will be possible for an applicant to qualify if it is the intention that the property **will** be occupied exclusively by the applicant or his or her household. No specific time limit is provided for how long this development may take. The applicant must therefore be confident in making the declaration.

An intention to use the property for TT Homestay, or for working from home, childminding or as a guest house within the meaning of the Town and Country Planning (Permitted Development) Order 2012 will not vitiate the intention for the property to be used for residential use provided these uses are combined or ancillary to residential use.

Occupied exclusively by the applicant (and as appropriate the applicant's household).

Household can extend to relations, employees or dependents and other occupiers of the property provided that the applicant maintains the position of being the head of household. Accordingly the presence of lodgers, or annexed accommodation for staff or family units (eg Grandparent annexes) will not exclude an applicant from qualifying.

The applicant's sole residential property worldwide. Timing of transactions.

It is appreciated that property transactions are often protracted especially in the case of people locating or returning to the Island from overseas. The Registrar will rely on the declaration of honest intention from applicants and does not intend to inquire, other than in cases of obviously apparent error or suspected dishonesty, into the declaration made. The Registrar is entitled to rely on the accuracy of the declaration of intent from an applicant. The scope of this entitlement is provided to ensure that an applicant who may not be able to dispose of his assets contemporaneously with the completion of an acquisition by registration (pursuant to sections 23 and 31 of the Act) will not be disqualified from an entitlement to claim the Owner Occupier rate.

Ownership of shares in a collective investment vehicle or membership of a pension scheme which may hold land does not need to be declared as a separate property interest as the owner does not enjoy the appropriate level of exclusive occupation and control of that property. The same is the case of ownership of a contract interest allowing common occupation -eg a timeshare. Ownership of shares in a limited company which may own land does not prevent an individual in their personal capacity making the declaration because the company's land is held by a body with a distinct legal personality.

An aspiration to acquire a second property in future does not prevent an applicant from giving a declaration that the first property will qualify for the Owner occupier rate. The second property will not (unless the first property is sold or is to be sold) qualify for the owner occupier relief.

Persons holding and occupying land for themselves in a personal capacity.

The Fees Order seeks to provide lower fees for private individuals owning property for themselves. Accordingly land held by a body corporate will not qualify for the Owner Occupier

rate. A *de minimis* exception will apply where, as in the case of shared areas owned by an estate management entity or association in which for example a property owner is required to become a member. This landholder will be deemed to be part and parcel of the principal land ownership to which it is ancillary.

Trustee ownership

The Registrar recognises that some properties may be held by trustees whether professional or otherwise as executors or trustees. Legal ownership will vest in the trustees who will usually also be the applicants for registration. In order to give effect to the purpose of the owner occupier fee policy, in the case of land held in the capacity of trustees the beneficial owner(s) shall be deemed to be the applicants for the Owner-occupier rate with the legal owners acting on their behalf in holding the land. The declaration that an applicant, agent or advocate is required to make should relate to the beneficial owner (in the case of an owner occupier). For the purpose of the Owner Occupier rate the owner will be deemed to be the beneficiary of such a trust if they otherwise would qualify for the Owner occupier rate -ie they will occupy the property for residential purposes and satisfy the remaining qualifying aspects of the Owner Occupier rate. In such a case the trust beneficiaries occupying the property must declare in Form CR1 and the applicant must provide a covering letter explaining the relationship with a brief statement of the terms of appointment and the trust relationship.

An applicant may similarly disregard from “other residential property worldwide” property that he or she may hold as a trustee of a charity. Where an applicant holds land on trust for another type of beneficial owner and wishes to apply for the owner occupier rate this must be disclosed to the Registrar in writing for determination.

In the case of common ownership (other than shared areas in development estate or leasehold common areas) all applicants must be able to declare that on registration of their interest they will each hold no other residential property (ie intend to sell any other residential property) and otherwise qualify for the Owner Occupier scheme (or are able to rely on exemptions in the case of trustee ownership). Where, exceptionally, an applicant is only registering a part ownership the applicant is required only to make the declaration for himself as opposed to other (potentially unknown) shared owners.

Subject to the above, when an application is made for registration of a single estate in co-ownership (whether as joint tenants or as tenants in common) each applicant must individually be able to qualify for the owner occupier rate for that rate to apply to the application.

Household, Lodgers, and Tenants.

The word “household” is adopted in the Fees Order with the intention that this would be sufficiently broad, on its ordinary construction, to include lodgers whether or not they share living space. Whether a shared occupation will lead to the establishment of more than one household will ultimately be a question of fact in each case but the policy intention was that those people who intend or later decide to make accommodation available for lodgers will still be able to qualify for the Owner Occupier rate. If the property will become a house in multiple occupation for the purposes of the Housing (Multiple-Occupancy) Act 2005 the premises will be considered to be occupied by two households rather than one.

As regards Tenants as opposed to Lodgers the relevant test will be the test applied in the

planning regime of whether a property consists of a sufficiently discrete residential unit. Reference may be made to the Town and Country Planning (Permitted Development) Order 2012 for additional guidance.

B). Non Owner-Occupier

To qualify as a Non Owner-Occupier a purchaser will be unable to satisfy the requirements of conditions A, B and C of Article 4 but is able to satisfy the residency requirement in Article 4(7).

If there are more than one purchasers only one purchaser needs to be classed as a resident.

For individual purchasers the criteria for resident status is that the person has been present in the Isle of Man for 183 days in the 364 days before the transaction date. Form CR3 needs to be completed for the resident purchaser or purchasers to declare that they are a resident or that they declare their intention to become a resident. Article 5(2)(b) will be amended shortly to read

(b) on or before the transaction date, declare that P has satisfied the requirement in paragraph (a)

For property purchased by trusts the Land Registry does not register the legal ownership of property in the name of the trust it is registered in the names of the trustees and therefore the resident status of the purchaser will be determined by the resident status of the trustees. There is no relevance as to the resident status of the beneficiary of the trust in the fee calculation.

For corporate purchasers the resident qualification criteria is contained in Article 6 of the fees order. Form CR3 requires the purchaser to indicate which type of qualifying entity they are.

There is no relevance as to who is the beneficial owners of the corporate body are or what their residency status is. The qualification criteria is based entirely on the type of body corporate

C) Non- Resident

A purchaser is a Non-Resident if they do not meet the Owner-Occupier criteria or the Non-Owner Occupier criteria.

2. Other General Guidance

Exemptions from Non-Resident Rate

Irrespective of the status of the purchaser the Owner Occupier rate is payable if the property is exclusively or partly used for commercial purposes (Article 9 (3)). This exemption is intended to apply for purchases of property that is not residential property. Examples where it is considered to apply would be a shop with a residential flat above, farmland, garages, the freehold of a block of flats. This exemption would not however apply to a purchase of a buy-to let property or properties or a residential property with a home office unless there was specific planning permission for change of use from residential useage.

Effective dates

The relevant date for the calculation of fees is the date of deemed receipt of applications or deeds by the Land Registry or the Deeds Registry if documents are lodged in that Registry in advance of an application for registration in the Land Registry. NB transactions completing before the 1 May 2023 but not lodged in the appropriate registry prior to 1 May 2023 will attract charges at the new rates.

Family Members assistance with a purchase

Article 10(3) of the Fees Order provides that when one of the purchasers of a property qualifies as an Owner Occupier and the other purchaser or purchasers of the property are family members that the owner occupier rate can be claimed for a percentage of the transaction value.

In order to claim this reduction in fees the purchaser must complete form CR4.

Reduced rate for Separating couples or gifts in consideration of marriage

The Fee Order prescribes in Part 4(1) that a gift of property following marriage or a civil partnership amongst themselves will attract a set fee of £250 irrespective of the value of the property interest gifted. For example where one party owns a property prior to entering into a civil partnership of which the other party will be made a joint tenant or tenant in common there will be a set fee of £250.

This is dependent on an applicant declaring to the applicant in Form CR2 (Part A) that:

- i) the gift is of a residential property interest,
- ii) that the property will be the sole residential property of the couple and
- iii) it will be occupied exclusively by them and their household.

The application must be accompanied by form CR2 and a certified copy of the civil partnership/marriage certificate. No certificate of valuation will be required.

As with the Owner Occupier rate application this declaration is a declaration of intent at the time of the transaction and application.

On a separation or divorce the transfer of land away from one spousal or partnership interest to the other pursuant to an Order of the Court will attract a fixed fee of £250. Such an application must be accompanied a certified copy of the order and a declaration in Form CR2 (Part B) that this is a transaction to which Part 4 (2) applies.

Form CR2 (Part B) will also apply when couples in an *intimate personal relationship* owning residential property together as tenants in common or joint tenants split up/separate and in consequence of such separation one party transfers or conveys its interest in the property to the other. The applicant will be required to declare that this is a transaction to which Part 4(3) of the Fees Order applies.

The wording 'intimate personal relationship' is intended to cover couples (2 people) living together outside of marriage or a civil partnership as if they were in such a union. Parties within a prohibited degree of relationship as set out in Schedules 1 of the Civil Partnership

Act 2011 and the Marriage Act 1984 will not be recognized as persons in an intimate personal relationship.

Fees Calculator

The Fees Calculator relating to the Fees Order is accessible via the link on the Land Registry web page. A printable calculator is available and we advise this is used and retain on the advocates file in the event there are any queries regarding the fees calculation.

Amendment to existing Forms and introduction of New Forms

Forms CR1 and CR2 are hereby amended and new Forms CR3 and CR4 are introduced.

Land Registry Practice Directive PD02/2019 is hereby revoked.

[Sealed]

Made by James Lowery
Deputy Registrar General and Land Registrar

Isle of Man Land Registry

27th April 2023