



TRIBUNALS
JUDICIARY

**PRACTICE DIRECTIONS
PROPERTY CHAMBER, FIRST-TIER TRIBUNAL
LAND REGISTRATION**

1. Commencement, application and interpretation

1.1. These Practice Directions—

- a) apply to proceedings in land registration cases before the Property Chamber of the First-tier Tribunal;
- b) come into force on 30 July 2013;
- c) supplement the Rules and must be read in conjunction with them;
- d) are made by the Senior President of Tribunals with the agreement of the Lord Chancellor in the exercise of powers conferred by section 23 of the Tribunals, Courts and Enforcement Act 2007.

1.2. In these Practice Directions—

- a) “the Rules” means the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013;
- b) “Rule”, followed by a number, means the rule bearing that number in the Rules.

2. Notices of application under Rule 26

2.1 A notice of application for relief pursuant to section 108(2) of the 2002 LR Act (for the rectification or setting aside of a document) shall include the following information:

- (a) the name and address of the applicant;
- (b) the name and address of the applicant’s representative (if any);
- (c) an address (in England and Wales) where documents for the applicant may be delivered;
- (d) the name and address of the person or persons against whom the order is sought;

- (e) details of the remedy being sought including the precise form of any words to be inserted in any rectified document;
 - (f) the grounds of the application identifying all relevant facts and matters relied upon;
- 2.2 The notice of application shall contain a list of all documents which (i) are important to the applicant's case; or (ii) the Tribunal or any other party to the proceedings will require in order properly to understand the applicant's case and copies of such documents shall accompany the notice. A copy of the instrument intended to be rectified or set aside must be included.
- 2.3 The notice of application must include a statement that the applicant believes that the facts stated in it are true.

3. Statements of Case served under Rule 28

- 3.1 A statement of case served under Rule 28(4) must contain any information referred to in Rule 26(2) which the Tribunal requires.
- 3.2 By reference to Rule 26(2), the following information must be contained in such a statement of case:
- (a) the name and address of the applicant (paragraph (2)(a));
 - (b) the name and address of the applicant's representative (if any) (paragraph (2)(b));
 - (c) an address (in England and Wales) where documents for the applicant may be delivered (paragraph (2)(c));
 - (d) a statement that the applicant believes that the facts stated in it are true (paragraph (2)(j));
- (and by reference to paragraph (2)(n) of Rule 26)
- (e) the applicant's reasons for supporting or objecting to the original application to the registrar identifying all relevant facts and matters relied upon; and
 - (f) a list of all copy documents provided under Rule 28(4)(c).

4. Responses served under Rule 30

- 4.1 A response served under Rule 30 shall contain (in addition to the matters set out at sub-rules (1)(a) and (b) the following:
- (a) the name and address of the respondent;
 - (b) the name and address of the respondent's representative (if any);
 - (c) an address (in England and Wales) where documents for the respondent may be delivered;

- (d) all relevant facts and matters relied upon by the respondent in support of his case;
 - (e) a list of all copy documents provided under Rule 30(1)(b).
- 4.2 The response must include a statement that the respondent believes that the facts stated in it are true.

5. Expert evidence under Rule 19

5.1 Time limits

Subject to Rule 19(6) and notwithstanding Rule 19(4), each party must provide to the Tribunal and to each other party a copy of the written report of any expert witness at such time or within such period as the Tribunal shall direct.

5.2 Costs of the expert witness

The Tribunal may limit the amount of a party's expert's fees and expenses that may be recovered from any other party.

6. Site inspections under Rule 21

- 6.1 Where appropriate the Tribunal will seek to enter and inspect the land or property that is the subject of the proceedings, and, where practicable, any other land or properties referred to by the parties or their experts.
- 6.2 At such inspection, the Tribunal ordinarily will (unless otherwise agreed) be accompanied by each party and/or or his representative.
- 6.3 At such inspection no person should attempt to communicate with the Tribunal except in the hearing of the parties or their representatives.
- 6.4 The Tribunal may make an unaccompanied inspection without entering on private land.
- 6.5 The Tribunal may enter land or property only with the consent of the occupier. If the occupier is a party to the proceedings the Tribunal may take into account the withholding of consent to enter and inspect that party's land without reasonable excuse when making any decision or deciding any application for costs.

7. Information during Court Proceedings

- 7.1 This paragraph applies where a party has commenced court proceedings which concern or relate to the matter before the Tribunal.
- 7.2 The party who has commenced such proceedings must provide in writing to the Tribunal such information as to the progress of the proceedings as the Tribunal shall request in writing.

- 7.3 Unless the Tribunal otherwise directs, the information requested shall be provided to the Tribunal within 14 days of the date of the request by the Tribunal.
- 8. Striking out a party's case under Rule 9(3)(e) – “summary disposal”**
- 8.1 Except with the permission of the Tribunal, an applicant may not apply for summary disposal under Rule 9(3)(e) until the respondent has served a response in accordance with Rule 30 or the respondent's time to do so has expired.
- 8.2 A respondent may apply for summary disposal under Rule 9(3)(e) at any time after the applicant has served a notice of application under Rule 26 or a statement of case under Rule 28, or (in the case of service of a statement of case) the applicant's time to do so has expired.
- 8.3 A party making a written application for summary disposal under Rule 9(3)(e) must comply with the provisions of Rule 7 and must in addition serve together with the copy of the application the witness statement in support.
- 8.4 Paragraph 8.5 applies where
- (a) a respondent applies for summary disposal before serving a response and before the time to do so has expired; and
 - (b) that application does not result in the disposal of the entire proceedings.
- 8.5 In the circumstances described in paragraph 8.4 the respondent's time for serving a response is extended to
- (a) 28 days after service on the respondent of the Tribunal's decision in relation to the application for summary disposal; or
 - (b) such other time as the Tribunal directs.
- 8.6 An application for summary disposal under Rule 9(3)(e) must be supported by a witness statement in support of the application. That witness statement must state that the party making the application believes that the other party has no real prospect of succeeding on the proceedings or on the issue to which the application relates.
- 8.7 The Tribunal may give such other directions for the service of evidence by the parties as it shall think fit.
- 8.8 When the Tribunal determines the issue of summary disposal under Rule 9(3)(e) the Tribunal may make an order
- (a) disposing of the proceedings or of any issue; or
 - (b) dismissing the application for summary disposal.
- 8.9 Where an order made under paragraph 8.8 does not dispose of the entire proceedings, the Tribunal may give case management directions as to the future conduct of the proceedings.

- 8.10 The Tribunal may make an order of its own motion under Rule 9(3)(e) for striking out a party's case in accordance with such directions as it shall consider appropriate.
- 8.11 An order striking out the proceedings under Rule 9(1) or 9(3) in referred cases under Rule 28 shall take the form of an order directing the Chief Land Registrar either to cancel or to give effect to the original application as the case may be together with such other order as may be appropriate in the circumstances.

9. Orders for Costs under Rule 13

9.1. The Tribunal's discretion as to costs

- (a) The Tribunal has discretion as to –
- (i) whether costs are payable by one party to another;
 - (ii) the amount of those costs; and
 - (iii) when they are to be paid.
- (b) If the Tribunal decides to make an order about costs –
- (i) ordinarily the unsuccessful party will be ordered to pay the costs of the successful party; but
 - (iii) the Tribunal may make a different order.
- (c) In deciding what order (if any) to make about costs, the Tribunal will have regard to all the circumstances, including –
- (i) the conduct of all the parties;
 - (ii) whether a party has succeeded on part of its case, even if that party has not been wholly successful; and
 - (iii) any admissible offer to settle made by a party which is drawn to the Tribunal's attention.
- (d) The conduct of the parties includes –
- (i) conduct before, as well as during, the proceedings;
 - (ii) whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue;
 - (iii) the manner in which a party has pursued or defended its case or a particular allegation or issue; and

- (iv) whether a party who has succeeded in the case, in whole or in part, exaggerated its case.
- (e) The orders which the Tribunal may make include that a party must pay –
 - (i) a proportion of another party's costs;
 - (ii) a specified amount in respect of another party's costs;
 - (iii) costs from or until a certain date only;
 - (iv) costs relating to particular steps taken in the proceedings;
 - (v) costs relating only to a distinct part of the proceedings.

9.2 Basis of assessment

- (a) Where the Tribunal is to assess the amount of costs (whether by summary or detailed assessment) it will assess those costs –
 - (i) on the standard basis; or
 - (ii) on the indemnity basis

but the Tribunal will in neither case allow costs which have been unreasonably incurred or are unreasonable in amount.
- (b) Where the Tribunal assesses the amount of costs on the standard basis, it will –
 - (i) only allow costs which are proportionate to the matters in issue. Costs which are disproportionate in amount may be disallowed or reduced even if they were reasonably or necessarily incurred; and
 - (ii) resolve any doubt which it may have as to whether costs were reasonably and proportionately incurred or were reasonable and proportionate in amount in favour of the paying party.

(Factors which the Tribunal may take into account are set out in paragraph 9.3 hereof)
- (c) Where the Tribunal assesses the amount of costs on the indemnity basis, it will resolve any doubt which it may have as to whether costs were reasonably incurred or were reasonable in amount in favour of the receiving party.
- (d) Where the Tribunal makes an order about costs without stating the basis on which the costs are to be assessed the costs will be assessed on the standard basis.

- (e) Costs incurred are proportionate if they bear a reasonable relationship to
 - (i) the value of any asset in issue in the proceedings;
 - (ii) the complexity of the proceedings;
 - (iii) any additional work caused by the conduct of the paying party; and
 - (iv) any wider factors involved in the proceedings, such as reputation or public importance.

9.3 Factors to be taken into account in deciding the amount of costs

- (a) Where the Tribunal assesses costs on the standard basis it will have regard to all the circumstances in deciding whether costs were –
 - (i) proportionately and reasonably incurred; or
 - (ii) proportionate and reasonable in amount.
- (b) Where the Tribunal assesses costs on the indemnity basis it will have regard to all the circumstances in deciding whether costs were –
 - (i) unreasonably incurred; or
 - (ii) unreasonable in amount.
- (c) In particular, the Tribunal will give effect to any orders which have already been made.
- (d) The Tribunal will also have regard to the –
 - (i) conduct of all the parties, including in particular –
 - (aa) conduct before, as well as during, the proceedings; and
 - (bb) the efforts made, if any, before and during the proceedings in order to try to resolve the dispute;
 - (ii) amount or value of any money or property involved;
 - (iii) importance of the matter to all the parties;
 - (iv) particular complexity of the matter or the difficulty or novelty of the questions raised;
 - (v) skill, effort, specialised knowledge and responsibility involved;
 - (vi) time spent on the case;

- (vii) place where and the circumstances in which work or any part of it was done.

9.4 The provisions of the Civil Procedure Rules relating to the detailed assessment of costs are modified to the extent set out in this Practice Direction or as the Tribunal shall from time to time direct.

SIR JEREMY SULLIVAN

SENIOR PRESIDENT OF TRIBUNALS

30 July 2013