

REGISTRAR'S PRACTICE DIRECTION 3/2015

FIRST REGISTRATION APPLICATIONS – LOST DEEDS

Background

Applications for first registration involving non-production of original title deeds are treated by the Land Registry on their individual merits under Section 14(5) of the Land Registration Act (NI) 1970.

In any case where original title deeds cannot be produced, the Registry must be satisfied –

- (i) as to the boundaries of the property;
- (ii) as to whether there are any rents, covenants or other rights affecting the property; and
- (iii) that the deeds are not subject to an equitable deposit.

New Arrangements

Applications involving missing deeds that are lodged on or after 1 December 2015 can be granted a Good Leasehold or Good Fee Farm Grant title if they are made using Form LD1 (see Appendix).

Such applications cannot, at this stage, be lodged using the E-registration process. However, applications that request a Qualified title may still be lodged using E-registration.

1. Applications where the title deeds have been lost or destroyed.

Where deeds have been lost or destroyed but a certified copy (or legible photocopy) of the root of title is available, an application for First Registration for a Good Leasehold or Good Fee Farm Grant title should be made in Form LD1.

Such a title will normally be granted provided all the following conditions apply –

- (a) A certified copy or legible photocopy of the root of title is produced; AND
- (b) The original deed to the applicant is produced; AND
- (c) The applicant's solicitor provides a supplemental certificate using precedent LD2 in the Appendix.

2. Applications where no copy of the root of title is available

A Good Fee Farm or Good Leasehold title may also be given, on an application for First Registration using Form LD1 (suitably amended), even though a certified copy or legible photocopy of the root of title is not available, if –

- (a) A Memorial of the Lease or Fee Farm Grant is produced (unless the deed was made before 1922); AND
- (b) The root of title is recited in an original deed more than 20 years old which sufficiently identifies the property; AND
- (c) The original deed to the applicant is produced; AND
- (d) The applicant's solicitor provides a supplemental certificate using precedent LD2 in the Appendix.

3. Other Situations

Cases where a certified copy of the root of title is lodged because the original deed relates to other land, and is in the possession of the owner of the other land, may still be made in Form 1.

Any other applications, where deeds have been lost or destroyed, that do not fall within 1 or 2 above will have to be considered on their own merits – but with an expectation that a Qualified title is likely to be granted. In such circumstances, applicants who do not want a Qualified title may wish to consider taking steps to enhance the title, e.g. by acquiring the reversionary interest, obtaining a Court declaration of title or obtaining a Certificate of Redemption under the Ground Rents Act (NI) 2001.

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Registrar of Titles
29 October 2015