

Status: Point in time view as at 01/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Land Registration Act (Northern Ireland) 1970, SCHEDULE 7. (See end of Document for details)

SCHEDULES

SCHEDULE 7

Section 41(5), (6) and (7).

PROVISIONS RELATING TO CHARGES ON REGISTERED LAND

PART I

GENERAL PROVISIONS

REGISTRATION OF CHARGES

1 [F1(1)] Subject to paragraphs 2 and 3, every deed of charge by a registered owner shall be in the prescribed form or in such other form,^{F1} . . . , as shall sufficiently charge the land and as shall not be calculated to mislead.

[F1(2)] A document purporting to transfer or demise (whether or not subject to defeasance) a freehold or leasehold estate in registered land by way of mortgage shall so far only as it relates to such land be deemed to be a deed of charge of, respectively, that estate or the estate out of which the leasehold estate is purported to be demised, and shall not operate to vest any freehold or leasehold estate in the registered land in the person in whose favour the document is executed.]

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2 The registered land comprised in a charge created by deed after the commencement of this Act shall be described by reference to the[F2 title register] or in any other manner sufficient to enable the Registrar to identify the same.

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3 A deed of charge shall not refer to any other burden affecting the land which would have priority over the charge unless such burden is—
(a) entered or deemed to be entered on the[F3 title register]; or
(b) a Schedule 5 burden.

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4 When it is expressed in a deed of charge that any person covenants for payment of the principal sum charged, there shall, unless provision to the contrary is contained in the deed of charge, be implied a covenant by that person with the registered owner for the time being of the charge—
(a) to pay the principal sum charged and interest, if any, at the time and rate specified in the deed of charge; and

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- (b) if the principal sum, or any part thereof, is unpaid at the time so specified, to pay interest half-yearly at the rate so specified on so much of the principal sum as for the time being remains unpaid.

EFFECT OF REGISTRATION OF OWNERSHIP OF CHARGE

- 5 (1) On registration of an owner of a charge on registered land for the payment of any principal sum of money, with or without interest, the owner of the charge shall have all the rights and powers of a mortgagee under a mortgage by deed within the meaning of the Conveyancing Acts, including the power to sell the estate which is subject to the charge, and any deed creating such a charge shall be liable to stamp duty as if it were such a mortgage.
- (2) The registered owner of a charge may apply to the court for the possession of the registered land, the subject of the charge, or any part of that land, and—
- (a) on such application, the court may, subject to sub-paragraph (3), order the possession of the land, or that part thereof, to be delivered to him; and
- (b) upon so obtaining possession of the land or, as the case may be, that part thereof, he shall be deemed to be a mortgagee in possession.
- (3) The power conferred on the court by sub-paragraph (2) shall not be exercised—
- (a) except when payment of the principal sum of money secured by the deed of charge has become due and the court thinks it proper to exercise the power; or
- (b) unless the court is satisfied that, although payment of the principal sum has not become due, there are urgent and special reasons for exercising the power.
- 6 If the registered owner of a charge on land sells the land in pursuance of any of his powers, his transferee shall be registered as owner of the land, and thereupon the registration shall have the same effect as registration of a transfer for valuable consideration by a registered owner.
- 7 When a purchaser from the registered owner of a charge is registered, under paragraph 6, as owner of the land, the charge and all estates inferior thereto shall, subject to paragraph 8, be discharged.
- 8 Nothing in paragraph 7 shall operate so as to discharge any entry made or deemed to have been made in any register relating to a right of turbary conferred or defined by regulations under section 4 of the Turbary (Ireland) Act 1891 , or under section 21 of the Irish Land Act 1903 , as extended by section 26 of the Northern Ireland Land Act 1925 (which relate to turbary).
- 9 On registration of the owner of a charge by way of annuity, the owner of the charge shall have such remedies for recovering and compelling payment of the annuity as are mentioned in section 44 of the Conveyancing Act 1881 , as modified by section 6 of the Conveyancing Act 1911 .

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PART II

SPECIAL PROVISIONS RELATING TO CERTAIN CHARGES IN RESPECT OF SETTLED LAND

A registered limited owner of registered land may, in conjunction with all other persons entitled under the settlement (if such owner and all such other persons are of full age and capacity) charge that land with the payment of money in like manner as if such owner and such other persons were registered as full owners of the land.

PART III

VALIDITY OF CERTAIN CHARGES PURPORTING TO BE REGISTERED AT 28TH JULY 1957

- 1 (1) Notwithstanding anything to the contrary contained in this Act or in any other statutory provision, a charge purporting to have been registered in the Land Registry at the 28th July 1957 shall, subject to paragraphs 2 and 3, not be void by reason only—
 - (a) that it was expressed to have been created by way of mortgage; or
 - (b) that the consent of the Ministry was not obtained to a demise or sub-demise expressed to have been created by any such mortgage;and the purported registration of the charge, as a charge on registered land, shall not be invalid for either of those reasons.
- (2) In this paragraph, “mortgage” includes both a mortgage by demise or sub-demise and a mortgage by conveyance or assignment with a proviso for redemption.
- 2 Except as provided by paragraph 3, paragraph 1 shall not affect any order or judgment made or given before the 29th July 1957 in legal proceedings begun before the 18th June 1957, or any appeal or other proceedings consequent on any such order or judgment.
- 3 Paragraph 2—
 - (a) shall not apply to any order or judgment specified in that paragraph to the extent that any such order or judgment was set aside by any court pursuant to section 2(3) of the Land Registry Charges Act (Northern Ireland) 1957 ; and
 - (b) shall apply to any further order made by any court pursuant to the said section 2(3).

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