



# Land Registration Act (Northern Ireland) 1970

## 1970 CHAPTER 18

### PART IV

#### DEALINGS WITH REGISTERED LAND

##### GENERAL PROVISIONS

### 32 Dealings with registered land.

- (1) Save as is otherwise provided by or under this Act or by any other statutory provision, the registered owner of any land shall alone be entitled to deal with that land by registered disposition.
- (2) Except as provided by this subsection<sup>[F1]</sup> and paragraph 1(2) of Part I of Schedule 7], nothing in this Act shall prevent a person from creating any estate in any registered land as if that land had been unregistered land; but—
  - (a) all estates in registered land shall be subject to the provisions of this Act;<sup>F1</sup> . . .

*Para.(b) rep. by 1992 NI 7*

- <sup>[F2]</sup>(3) An application for—
  - (a) first registration; or
  - (b) registration of a dealing with registered land,may be made by electronic communication if the application is made in respect of an authorised dealing with that land.
- (4) For the purposes of this section and section 32A an “authorised dealing” is a dealing which is directed by the Registrar to be an authorised dealing for the purpose of electronic applications.

*Status: Point in time view as at 03/10/2011.*

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- (5) A direction given by the Registrar under subsection (4)—
- (a) shall be made after consultation with the Law Society of Northern Ireland;
  - (b) shall be published in such manner as the Registrar deems appropriate for the purpose of bringing it to the attention of the persons affected by it;
  - (c) may include incidental, supplementary, saving and transitional provisions; and
  - (d) may be varied or revoked by a subsequent direction.]

**F1** 1992 NI 7

**F2** S. 32(3)-(5) added (3.10.2011) by [Land Registration \(Electronic Communications\) Order \(Northern Ireland\) 2011 \(S.R. 2011/158\)](#), **art. 2(2)**

### [<sup>F3</sup>32A **Validity of electronic documents**

Notwithstanding any statutory provision that may require a transaction relating to an estate or interest in land to be effected by deed or instrument in writing, any authorised dealing with an estate or interest in land may be effected in accordance with the procedure laid down in Schedule 1A.]

**F3** S. 32A inserted (3.10.2011) by [Land Registration \(Electronic Communications\) Order \(Northern Ireland\) 2011 \(S.R. 2011/158\)](#), arts. 1, 2(3)

### **33 Powers of person entitled to be registered.**

- (1) Where a person who has become entitled to be registered as owner of any registered land, either on transmission on the death of a registered owner or in consequence of a disposition by a registered owner, wishes to deal with the land, he may, subject to subsections (2) and (3), do so in such manner and subject to such conditions as may be prescribed.
- (2) Any dealing by a person entitled to be so registered shall, subject to such modifications as may be necessary to define clearly the land, be in the same form as is required for such a dealing by a registered owner, but registration of any such dealing shall not be made until the person executing the document has been registered as owner, or until his right to be so registered has been shown to the satisfaction of the Registrar.
- (3) Subject to the provisions of this Act with regard to registered dealings for valuable consideration, registration of a dealing by a person entitled to be so registered before he is registered shall have the same effect as if he had been so registered.

### **34 Transfers of registered land.**

- (1) Save as is otherwise provided by or under this Act or by any other statutory provision and subject, in the case of a limited owner, to the Settled Land Acts, a registered owner of any land may transfer the land, or any part thereof.
- (2) There shall be executed on any such transfer a document in the prescribed form, or in such other form as [<sup>F4</sup> is approved or allowed by the Registrar.]
- (3) Any such transfer shall be completed by the registration of the transferee as owner of the land, but, until such registration, the document shall not operate to transfer the land.

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- (4) On registration of a transferee of any land as full owner of the land, the document of transfer shall operate as a conveyance by deed within the meaning of the Conveyancing Acts, and there shall be vested in the registered transferee the land transferred, subject—
- (a) to all registered burdens and to all other matters appearing from the register to affect the land;
  - (b) [<sup>F4</sup>without prejudice to Schedule 5, Part II, paragraph 1,] to any Schedule 5 burdens affecting the land;
  - (c) if the transfer is made without valuable consideration, to subsection (5); and
  - (d) if the transferee holds the land as a trustee, to his liabilities and duties as such;
- but, subject to section 11(2) and (3), free from all other rights, including rights of the Crown.
- (5) Where such a transfer is made without valuable consideration, it shall, so far as concerns the transferee and persons claiming under him otherwise than for valuable consideration, be subject to all unregistered rights subject to which the transferor held the land transferred.
- (6) The registration of a transferee as limited owner of any land shall have the same effect as registration of him as a full owner thereof, except that—
- (a) in the case of a transfer of a freehold estate, the fee simple; and
  - (b) in the case of a transfer of a leasehold estate, the leasehold estate;
- shall be vested in the transferee and the other persons entitled under the settlement in respect of which the transferee is registered as limited owner.
- Subs.(7) rep. by 1992 NI 7*
- (8) Land Registry Rules may provide for the modification of the provisions of this section in its application to the transfer of charges.

F4 1992 NI 7

### 35 Words of transfer.

- (1) Subject to subsection (2) and to section 34(3)—
- (a) a document of transfer of a registered freehold estate without words of limitation shall be construed as passing the fee simple, or other the whole estate which the transferor had power to transfer, unless a contrary intention appears in the document of transfer;
  - (b) a document of transfer of a registered freehold estate to a corporation sole by his corporate designation without the word “successors” shall be construed as passing the fee simple, or other the whole estate which the transferor had power to transfer, unless a contrary intention appears in the document of transfer;
  - (c) in a document of transfer of any registered land, a resulting use or trust for the transferor shall not be implied merely by reason that the property is not expressed to be transferred to the use or benefit of the transferee; and
  - (d) [<sup>F5</sup> without prejudice to Article 10 of the Property (Northern Ireland) Order 1978 ] a registered owner of a freehold estate may transfer estates therein to several persons in succession, including himself, and co-registered owners

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of a freehold estate may transfer estates therein to themselves, without the necessity of a grant to uses or the creation of a trust for that purpose.

- (2) Subsection (1) shall apply only to documents of transfer executed after the commencement of this Act.

F5 1978 NI 4

### 36 Defeasance of registered owner's estate.

- (1) In any of the following cases of defeasance of the estate of a registered owner, that is to say, where—

- (a) under a power of sale conferred by a mortgage effected before the first registration of the land;
- (b) under a deed poll executed in pursuance of the Lands Clauses Acts or of any other statutory provision to the same effect;
- (c) under a sale in execution of the judgment of any court;
- (d) under a power of appointment;
- (e) under a vesting order;
- (f) under any statutory provision;
- (g) in any other case which may be prescribed;

the ownership of the estate passes to another person otherwise than by transfer from the registered owner or his personal representatives, then, subject as may be prescribed, the Registrar shall, on the application of that person and on production of such evidence as may be prescribed<sup>F6</sup> and subject to subsections (2) and (3)], register him as owner of the estate.

- <sup>F6</sup>(2) Where it appears to the Registrar that the application may have been made without the knowledge of the registered owner, the Registrar may, before registering the applicant as owner of the estate, send notice of the application to the registered owner.

- (3) The Registrar may, in his discretion, decline to register the applicant as owner except in pursuance of an order of the court.]

F6 1992 NI 7

### 37 Transmission of registered land.

The provisions of Schedule 4 shall have effect in relation to the transmission of registered land on the death of a registered full owner and on the determination of the estate of a registered limited owner.

## BURDENS GENERALLY

### 38 Matters which are burdens affecting registered land without registration.

- (1) Notice of the existence of any of the burdens specified in Part I of Schedule 5, as for the time being subsist, may, <sup>F7</sup> without prejudice to Article 8(a) of the Property (Northern

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Ireland) Order 1978 and] subject to such conditions as may be prescribed, be entered on the<sup>[F8]</sup> title register], but every such burden shall, unless under the provisions of Part II of that Schedule the contrary is expressed on that register, affect the land whether or not such notice is so entered.

- (2) <sup>[F7]</sup> Without prejudice to Article 8(a) of the Property (Northern Ireland) Order 1978] the provisions of Part II of Schedule 5 shall apply in relation to Schedule 5 burdens.

**F7** 1978 NI 4  
**F8** 1992 NI 7

### 39 Registration of certain burdens.

- (1) Any of the matters specified in Part I of Schedule 6 may, subject to Part X of this Act, be entered as burdens on the<sup>[F9]</sup> title register].
- (2) <sup>[F10]</sup> Without prejudice to Article 8(a) of the Property (Northern Ireland) Order 1978] the provisions of Part II of Schedule 6 shall apply in relation to the registration of Schedule 6 burdens.

**F9** 1992 NI 7  
**F10** 1978 NI 4

### 40 Priority of registered burdens.

Save as otherwise provided by this Act or by any other statutory provision and subject to any entry to the contrary contained in the<sup>[F11]</sup> title register], registered burdens affecting the same land<sup>F11</sup>. . . shall, if created or arising since the first registration of the land, rank according to the order in which they are entered or deemed to have been entered on<sup>[F11]</sup> the title register] and not according to the order in which they are created or arise, and shall rank in priority to any other burden (not being a Schedule 5 burden) affecting the land and created or arising since the first registration of the land.

**F11** 1992 NI 7

## MONEY BURDENS

### 41 Creation and effect of charges on registered land.

- (1) A registered owner of land may, subject to the provisions of this Act, charge the land with the payment of money either with or without interest, and either by way of annuity or otherwise.
- (2) A charge under subsection (1) may be created by deed or by will and, subject to subsection (3), the Registrar shall, on registering such a charge as a burden, register the ownership of that charge in such<sup>[F12]</sup> manner] as he may consider proper.
- (3) Where a charge created by will does not expressly charge any registered land with payment to a specified person of a specified sum, with or without interest, or of an

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annuity, the Registrar shall not, unless the court otherwise directs, be obliged to register the ownership of that charge in<sup>[F12]</sup> the title register].

- (4) Any power, howsoever conferred, to borrow or lend money on the security of a mortgage shall be construed as including power to do so on the security of a registered charge.
- (5) Part I of Schedule 7 shall apply in relation to the registration and effect of charges created by registered full owners of land and registered limited owners of land and by persons having the like power to create such charges.
- (6) Part II of Schedule 7 shall apply in relation to the creation and effect of charges by registered limited owners of land acting in conjunction with all other persons entitled under the settlement.
- (7) Part III of Schedule 7 shall apply in relation to the validity of certain charges purporting to have been registered in the Land Registry at the 28th July 1957.

**F12** 1992 NI 7

#### **42 Exercise of power of charging land**

- (1) Where—
  - (a) a power to charge registered land; or
  - (b) a trust for securing money on registered land;
 is registered as a Schedule 6 burden, it may be exercised or executed by the creation of a charge and not otherwise, and the person empowered under any such power or trust to charge the registered land with the payment of any money shall have the like power to create a charge on the land for that money as the registered owner of that land, and the charge shall, subject to subsection (2), be entered on the<sup>[F13]</sup> title register] in its proper priority.
- (2) In the absence of any agreement to the contrary made by the persons entitled to make such agreement, a charge created under a registered power shall be entered on the register as of the same priority as that power.

**F13** 1992 NI 7

#### **43 Priority of registered charge for future advances.**

- (1) <sup>[F14]</sup>Where—
  - (a) a deed or other instrument creating a registered charge states that the charge is created for the purposes of securing future advances (whether with or without present advances); and
  - (b) the entry in the title register relating to the charge—
    - (i) contains a statement similar to that in paragraph (a); or
    - (ii) otherwise refers to the charge without specifying the amount secured]
 the registered owner of the charge shall be entitled in priority to any subsequent charge to the payment of any sum due to him in respect of such future advances, except any advances which may have been made after the date of, and with express notice in writing of, the subsequent charge.

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- (2) In this section, “future advances” includes sums from time to time due on an account current and all sums which by agreement or the course of business between the parties are considered to be advances on the security of the charge.

F14 1992 NI 7

#### **44 Powers with respect to charges under certain statutory provisions.**

- (1) Where a person has, under any statutory provision other than this Act, a charge on registered land for the payment of any money or a power to charge registered land with the payment of any money, he shall have the same power to create a registered charge on the land for that money as if he were the registered owner of the land.
- (2) Registration of a charge under this section shall have the same effect as, and make unnecessary, registration thereof in pursuance of any other statutory provision.

#### **45 Term of years vested in trustee for raising money out of registered land.**

Where a term of years is vested, whether before or after the commencement of this Act, in a trustee or other person for the purpose of raising money out of registered land, such vesting shall operate as a trust for securing money on such registered land or, as the case may be, as a power to charge that registered land and, accordingly, the trust or power may be registered as a Schedule 6 burden.

#### **46 Term of years vested in trustee for raising money, or mortgage, prior to first registration.**

- (1) Where any land is first registered after the commencement of this Act and prior to such registration, a term of years is vested in a trustee or other person for the purpose of raising money out of that land, such vesting shall, on the first registration of the land, operate as a trust for securing money on that land or, as the case may be, as a power to charge that land and, accordingly, the trust or power may be registered as a Schedule 6 burden.
- (2) Where, immediately prior to first registration, any land is subject to any mortgage, or to any term of years to secure money actually raised, such mortgage or term of years shall operate as a charge on the land, and shall be registered as a charge thereon and not otherwise, and the provisions of Part I of Schedule 7 shall have effect accordingly.

### RIGHTS OF RESIDENCE

#### **47 Right of residence on registered land.**

Where—

- (a) a right of residence in or on any registered land, whether a general right of residence in or on that land or an exclusive right of residence in or on part of that land; or
- (b) a right to use a specified part of that land in conjunction with a right of residence referred to in paragraph (a);

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is granted by deed or by will, such right shall be deemed to be personal to the person beneficially entitled thereto and the grant made by such deed or will shall not operate to confer any right of ownership in relation to the land upon such person, but registration of any such right as a Schedule 6 burden shall make it binding upon the registered owner of the land and his successors in title.

## MODIFICATION AND DISCHARGE OF BURDENS

### 48 Modification and discharge of burdens other than charges.

- (1) A covenant or condition registered as a Schedule 6 burden pursuant to entry 12 in Part I of that Schedule [<sup>F15</sup> may be—
- (a) modified or discharged by the Registrar, with the consent of the persons concerned; or
  - (b) discharged by the court on being satisfied that the covenant or condition—
    - (i) does not run with the land; or
    - (ii) is not capable of being enforced against the owner of the land.]
- (2) The Registrar may, on the production of such evidence and subject to such conditions as may be prescribed, modify or cancel any entry in [<sup>F16</sup> the register] of any burden, being neither a charge nor a covenant or condition to which subsection (1) applies.

**F15** 1978 NI 4

**F16** 1992 NI 7

### 49 Discharge, etc., of registered charges.

- (1) The Registrar shall—
- (a) at the request or with the concurrence of the registered owner of the charge; or
  - (b) on proof in the manner specified in subsection (2) or in such other manner as may be prescribed;
- note on the [<sup>F17</sup> title register]
- (i) the satisfaction of a registered charge or of any part thereof;
  - (ii) the release of any part of registered land from a registered charge;
- and, thereupon, the charge shall, to the extent so noted, cease to operate.
- (2) For the purposes of subsection (1), the receipt of the registered owner of a charge shall be sufficient proof of the satisfaction of the charge or, as the case may be, of the part thereof, and a release signed by the registered owner of a charge, or, where the registered owner is a body corporate, under the seal of the body corporate, shall be sufficient proof of the release of any part of registered land subject to that charge.

**F17** 1992 NI 7



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CREATION OF SECURITY BY DEPOSIT OF LAND CERTIFICATE, ETC.

**50 Creation of security by deposit of land certificate or certificate of charge.**

Subject to—

- (a) any registered burdens and<sup>F18</sup> . . . all other matters appearing from the register to affect the land<sup>F18</sup> at the date of the deposit mentioned below];
- (b) any Schedule 5 burdens affecting the land<sup>F18</sup> at the date of the deposit mentioned below]; and
- (c) Land Registry Rules;

the deposit of a land certificate, or a certificate of charge, by the registered owner, for the purpose of giving security for the payment of any sum of money, shall have the same effect as a deposit of title deeds has in respect of unregistered land.

**F18** 1992 NI 7

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