



# Land Registration Act 2002

## 2002 CHAPTER 9

### PART 12

#### MISCELLANEOUS AND GENERAL

##### *Supplementary*

#### **128 Rules, regulations and orders**

- (1) Any power of the Lord Chancellor [<sup>F1</sup>or the Secretary of State] to make rules, regulations or orders under this Act includes power to make different provision for different cases.
- (2) Any power of the Lord Chancellor [<sup>F2</sup>or the Secretary of State] to make rules, regulations or orders under this Act is exercisable by statutory instrument.
- (3) A statutory instrument containing—
  - (a) regulations under section 100(2), or
  - (b) an order under section 100(3), 102 or 113,is to be laid before Parliament after being made.
- (4) A statutory instrument containing—
  - (a) land registration rules,
  - (b) rules under [<sup>F3</sup>section 121, or],
  - <sup>F4</sup>(c) .....
  - (d) an order under section 5(1), 62(9), 80(4), 118(1) or 130,is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Rules under section 93 or paragraph 1, 2 or 3 of Schedule 5 shall not be made unless a draft of the rules has been laid before and approved by resolution of each House of Parliament.

*Status: Point in time view as at 22/04/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Land Registration Act 2002, Cross Heading: Supplementary. (See end of Document for details)*

#### Textual Amendments

- F1** Words in s. 128(1) inserted (9.11.2011) by [The Transfer of Functions \(Her Majesty's Land Registry, the Meteorological Office and Ordnance Survey\) Order 2011 \(S.I. 2011/2436\)](#), art. 1(2), **Sch. 2 para. 4(3)**
- F2** Words in s. 128(2) inserted (9.11.2011) by [The Transfer of Functions \(Her Majesty's Land Registry, the Meteorological Office and Ordnance Survey\) Order 2011 \(S.I. 2011/2436\)](#), art. 1(2), **Sch. 2 para. 4(3)**
- F3** Words in s. 128(4)(b) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 235(a)** (with Sch. 3)
- F4** S. 128(4)(c) omitted (1.7.2013) by virtue of [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 235(b)** (with Sch. 3)

### 129 Crown application

This Act binds the Crown.

### 130 Application to internal waters

This Act applies to land covered by internal waters of the United Kingdom which are—

- (a) within England or Wales, or
- (b) adjacent to England or Wales and specified for the purposes of this section by order made by the [<sup>F5</sup>Secretary of State].

#### Textual Amendments

- F5** Words in s. 130(b) substituted (9.11.2011) by [The Transfer of Functions \(Her Majesty's Land Registry, the Meteorological Office and Ordnance Survey\) Order 2011 \(S.I. 2011/2436\)](#), art. 1(2), **Sch. 2 para. 4(2)**

### 131 “Proprietor in possession”

- (1) For the purposes of this Act, land is in the possession of the proprietor of a registered estate in land if it is physically in his possession, or in that of a person who is entitled to be registered as the proprietor of the registered estate.
- (2) In the case of the following relationships, land which is (or is treated as being) in the possession of the second-mentioned person is to be treated for the purposes of subsection (1) as in the possession of the first-mentioned person—
  - (a) landlord and tenant;
  - (b) mortgagor and mortgagee;
  - (c) licensor and licensee;
  - (d) trustee and beneficiary.
- (3) In subsection (1), the reference to entitlement does not include entitlement under Schedule 6.

### 132 General interpretation

- (1) In this Act—

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F6  
...

[<sup>F7</sup> “assured tenancy” has the same meaning as in Part 1 of the Housing Act 1988; ]

“caution against first registration” means a caution lodged under section 15;

“cautions register” means the register kept under section 19(1);

“charge” means any mortgage, charge or lien for securing money or money’s worth;

“demesne land” means land belonging to Her Majesty in right of the Crown which is not held for an estate in fee simple absolute in possession;

[<sup>F7</sup> “dwelling-house” has the same meaning as in Part 1 of the Housing Act 1988;]

[<sup>F7</sup> “flexible tenancy” has the meaning given by section 107A of the Housing Act 1985;]

“land” includes—

- (a) buildings and other structures,
- (b) land covered with water, and
- (c) mines and minerals, whether or not held with the surface;

“land registration rules” means any rules under this Act, other than rules under section 93, Part 11, section 121 or paragraph 1, 2 or 3 of Schedule 5;

“legal estate” has the same meaning as in the Law of Property Act 1925 (c. 20);

“legal mortgage” has the same meaning as in the Law of Property Act 1925;

[<sup>F7</sup> “long tenancy” means a tenancy granted for a term certain of more than 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture; ]

“mines and minerals” includes any strata or seam of minerals or substances in or under any land, and powers of working and getting any such minerals or substances;

“registrar” means the Chief Land Registrar;

“register” means the register of title, except in the context of cautions against first registration;

“registered” means entered in the register;

“registered charge” means a charge the title to which is entered in the register;

“registered estate” means a legal estate the title to which is entered in the register, other than a registered charge;

“registered land” means a registered estate or registered charge;

“registrable disposition” means a disposition which is required to be completed by registration under section 27;

[<sup>F7</sup> “relevant social housing tenancy” means—

(a) a flexible tenancy, or

(b) an assured tenancy of a dwelling-house in England granted by a private registered provider of social housing, other than a long tenancy or a shared ownership lease;]

“requirement of registration” means the requirement of registration under section 4;

[<sup>F7</sup> “shared ownership lease” means a lease of a dwelling-house—

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(a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or

(b) under which the lessee (or the lessee's personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house;]

“sub-charge” means a charge under section 23(2)(b);

“term of years absolute” has the same meaning as in the Law of Property Act 1925 (c. 20);

“valuable consideration” does not include marriage consideration or a nominal consideration in money.

(2) In subsection (1), in the definition of “demesne land”, the reference to land belonging to Her Majesty does not include land in relation to which a freehold estate in land has determined, but in relation to which there has been no act of entry or management by the Crown.

(3) In this Act—

- (a) references to the court are to the High Court or [<sup>F8</sup>the county court],
- (b) references to an interest affecting an estate or charge are to an adverse right affecting the title to the estate or charge, and
- (c) references to the right to object to an application to the registrar are to the right under section 73.

#### **Textual Amendments**

- F6** Words in s. 132(1) omitted (1.7.2013) by virtue of [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, Sch. 1 para. 236 (with Sch. 3)
- F7** Words in s. 132(1) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 157(6)**, 240(2); S.I. 2012/628, art. 6(a) (with arts. 9,11,14,15,17)
- F8** Words in s. 132(3)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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