



Land Registration Act 1925

1925 CHAPTER 21

PART VII

RECTIFICATION OF REGISTER AND INDEMNITY.

82 Rectification of the register.

- (1) The register may be rectified pursuant to an order of the court or by the registrar, subject to an appeal to the court, in any of the following cases, but subject to the provisions of this section :—
- (a) Subject to any express provisions of this Act to the contrary, where a court of competent jurisdiction has decided that any person is entitled to any estate right or interest in or to any registered land or charge, and as a consequence of such decision such court is of opinion that a rectification of the register is required, and makes an order to that effect ;
 - (b) Subject to any express provision of this Act to the contrary, where the court, on the application in the prescribed manner of any person who is aggrieved by any entry made in, or by the omission of any entry from, the register, or by any default being made, or unnecessary delay taking place, in the making of any entry in the register, makes an order for the rectification of the register;
 - (c) In any case and at any time with the consent of all persons interested;
 - (d) Where the court or the registrar is satisfied that any entry in the register has been obtained by fraud;
 - (e) Where two or more persons are, by mistake, registered as proprietors of the same registered estate or of the same charge;
 - (f) Where a mortgagee has been registered as proprietor of the land instead of as proprietor of a charge and a right of redemption is subsisting ;
 - (g) Where a legal estate has been registered in the name of a person who if the land had not been registered would not have been the estate owner; and
 - (h) In any other case where, by reason of any error or omission in the register, or by reason of any entry made under a mistake, it may be deemed just to rectify the register.

Status: This is the original version (as it was originally enacted).

- (2) The register may be rectified under this section, notwithstanding that the rectification may affect any estates, rights, charges, or interests acquired or protected by registration, or by any entry on the register, or otherwise.
- (3) The register shall not be rectified, except for the purpose of giving effect to an overriding interest, so as to affect the title of the proprietor who is in possession—
 - (a) unless such proprietor is a party or privy or has caused or substantially contributed, by his act, neglect or default, to the fraud, mistake or omission in consequence of which such rectification is sought; or
 - (b) unless the immediate disposition to him was void, or the disposition to any person through whom he claims otherwise than for valuable consideration was void; or
 - (c) unless for any other reason, in any particular case, it is considered that it would be unjust not to rectify the register against him.
- (4) Where a person is in possession of registered land in right of a minor interest, he shall, for the purposes of this section, be deemed to be in possession as agent for the proprietor.
- (5) The registrar shall obey the order of any competent court in relation to any registered land on being served with the order or an official copy thereof.
- (6) On every rectification of the register the land certificate and any charge certificate which may be affected shall be produced to the registrar unless an order to the contrary is made by him.

83 Right to indemnity in certain cases.

- (1) Subject to the provisions of this Act to the contrary, any person suffering loss by reason of any rectification of the register under this Act shall be entitled to be indemnified.
- (2) Where an error or omission has occurred in the register, but the register is not rectified, any person suffering loss by reason of such error or omission, shall, subject to the provisions of this Act, be entitled to be indemnified.
- (3) Where any person suffers loss by reason of the loss or destruction of any document lodged at the registry for inspection or safe custody or by reason of an error in any official search, he shall be entitled to be indemnified under this Act.
- (4) Subject as hereinafter provided, a proprietor of any registered land or charge claiming in good faith under a forged disposition shall, where the register is rectified, be deemed to have suffered loss by reason of such rectification and shall be entitled to be indemnified under this Act.
- (5) No indemnity shall be payable under this Act in any of the following cases :—
 - (a) Where the applicant has himself caused or substantially contributed to the loss by his fraud, or derives title (otherwise than under a disposition for valuable consideration which is registered or protected on the register) from a person so committing fraud;
 - (b) On account of any mines or minerals or of the existence of any rights to work or get mines or minerals, unless a note is entered on the register that the mines or minerals are included in the registered title;
 - (c) On account of costs incurred in taking or defending any legal proceedings without the consent of the registrar.

Status: This is the original version (as it was originally enacted).

- (6) Where an indemnity is paid in respect of the loss of an estate or interest in or charge on land the amount so paid shall not exceed—
- (a) Where the register is not rectified, the value of the estate, interest or charge at the time when the error or omission which caused the loss was made;
 - (b) Where the register is rectified, the value (if there had been no rectification) of the estate, interest or charge, immediately before the time of rectification.
- (7) The registrar may, if the applicant desires it, and subject to an appeal to the court, determine whether a right to indemnity has arisen under this section, and, if so, award indemnity. In the event of an appeal to the court the applicant shall not be required to pay any costs except his own, even if unsuccessful, unless the court considers that the appeal is unreasonable.
- (8) In granting arty indemnity the registrar may have regard to any costs and expenses properly incurred in relation to the matter, and may add the same to the amount of the indemnity money which would otherwise be payable.
- (9) Where indemnity is paid for a loss, the registrar, on behalf of the Crown, shall be entitled to recover the amount paid from any person who has caused or substantially contributed to the loss by his fraud.
- (10) The registrar shall be entitled to enforce, on behalf of the Crown, any express or implied covenant or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which indemnity has been paid.
- (11) A liability to pay indemnity under this Act shall be deemed a simple contract debt; and for the purposes of the Limitation Act, 1623, the cause of action shall be deemed to arise at the time when the claimant knows, or but for his own default might have known, of the existence of his claim:

Provided that, when a claim to indemnity arises in consequence of the registration of an estate in land with an absolute or good leasehold title, the claim shall be enforceable only if made within six years from the date of such registration, except in the following cases :—

- (a) Where at the date of registration the person interested is an infant, the claim by him may be made within six years from the time he attains full age;
 - (b) In the case of settled land, or land held on trust for sale, a claim by a person interested in remainder or reversion, may be made within six years from the time when his interest falls into possession;
 - (c) Where a claim arises in respect of a restrictive covenant or agreement affecting freehold land which by reason of notice or the registration of a land charge or otherwise was binding on the first proprietor at the time of first registration, the claim shall only be enforceable within six years from the breach of the covenant or agreement ;
 - (d) Where any person interested is entitled as a proprietor of a charge or as a mortgagee protected by a caution in the specially prescribed form, the claim by him may be made within six years from the last payment in respect of principal or interest.
- (12) This section applies to the Crown in like manner as it applies to a private person.

Status: This is the original version (as it was originally enacted).

84 Application of indemnity in case of settled land.

Where any indemnity is paid in respect of settled land, and not in respect of any particular estate, remainder, or reversion therein, the money shall be paid to the trustees of the settlement and held by them as capital money for the purposes of the Settled Land Act, 1925, arising from the settled land.

85 Insurance fund for providing indemnity.

- (1) Any indemnity payable by reason of the rectification or non-rectification of the register shall be paid out of the insurance fund established under the Land Transfer Act, 1897.
- (2) There shall be set aside and paid into the said fund at the end of each financial year such portion of the receipts from fees taken in the land registry under this Act as the Lord Chancellor and the Treasury may by order determine.
- (3) The insurance fund shall be invested in such names and manner as the Treasury from time to time direct.
- (4) If the insurance fund is at any time insufficient to pay indemnity for any loss chargeable thereon, the deficiency shall (except where otherwise expressly provided by this Act) be charged on and paid out of the Consolidated Fund, or the growing produce thereof, but any sum so paid out of the Consolidated Fund, or the growing produce thereof, shall be repaid out of the money subsequently standing to the credit of the insurance fund.
- (5) Accounts of the fund shall be kept and be audited as public accounts, in accordance with such regulations as the Treasury from time to time make.