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STATUTORY INSTRUMENTS

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**1992 No. 811 (N.I. 7)**

The Registration (Land and Deeds)  
(Northern Ireland) Order 1992 <sup>F1</sup>

- - - - - 16th March 1992

**F1** functions transf. by SR 1999/481

PART I  
INTRODUCTORY

**Title and commencement**

1.—(1) This Order may be cited as the Registration (Land and Deeds) (Northern Ireland) Order 1992.

(2) This Order shall come into operation on such day or days as the Head of the Department may by order appoint<sup>F2</sup>.

**F2** fully exercised by SR 1992/393, 1994/423, 1997/27

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>F3</sup> shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the 1970 Act” means the Land Registration Act (Northern Ireland) 1970<sup>F4</sup>;

“the Deeds Act” means the Registration of Deeds Act (Northern Ireland) 1970<sup>F5</sup>;

“the Department” means the Department of the Environment.

(3) Part II shall be construed as one with the 1970 Act.

(4) Part III shall be construed as one with the Deeds Act.

**F3** 1954 c. 33 (N.I.)

**F4** 1970 c. 18 (N.I.)

**F5** 1970 c. 25 (N.I.)

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Registration (Land and Deeds) (Northern Ireland) Order 1992. (See end of Document for details)*

## PART II

### LAND REGISTRATION

#### *The Land Registry*

#### **Abolition of local offices**

3. Section 1(2) of the 1970 Act, under which the Land Registry consists of a central office in Belfast and local offices, shall cease to have effect.

#### **Officials and seals**

4.—(1) In section 1(3) of the 1970 Act (staff of Land Registry, functions, etc.) after “seals” there shall be inserted “used or”.

(2) The amendments specified in the following paragraphs shall be made in Schedule 1 to the 1970 Act (administrative provisions relating to the Land Registry).

(3) For the cross-heading to paragraph 4 (appointment of other central office officials) substitute “Other officials”.

(4) Before paragraph 6 (functions of staff of Land Registry) insert the cross-heading “Functions”; and in that paragraph for “and with Land Registry Rules” substitute “or any other statutory provision (including Land Registry Rules)”.

(5) For paragraphs 7 to 12 (and their cross-headings) substitute:

“7. An assistant registrar nominated by the Registrar may, in accordance with any general or specific directions given by the Registrar and notwithstanding any vacancy subsequently occurring in the office of Registrar, act as Registrar and exercise all or any of the functions of the Registrar.

8. Where the Registrar is absent from the Land Registry or the office of Registrar is vacant and no person is acting as Registrar under paragraph 7 in accordance with a direction that he exercise all the functions of the Registrar, the senior assistant registrar present may act as Registrar and exercise all the functions of the Registrar.

9. All acts done by an assistant registrar under paragraph 7 or 8 shall, without proof of, respectively, the directions or circumstances, have the same effect in all respects as if they had been done by the Registrar.

#### *The official seal*

10. The Land Registry shall have an official seal.

11.—(1) Judicial notice shall be taken by all courts of the official seal of the Land Registry, and any document purporting to be sealed with that seal shall be admissible in evidence; and if the document is a copy of another document or a copy in legible form of a record kept in non-legible form, the copy shall be admissible in like manner as the original document or record.

(2) In this paragraph “legible” and “record” have the same meaning as in section 85A.

(3) This paragraph also applies to the official seal of the central office or a local office (under this paragraph as originally enacted) which has been affixed to any document before the commencement of Article 3 of the Registration (Land and Deeds) (Northern Ireland) Order 1992.”.

### **Indemnity of Land Registry officials**

5. The following section shall be substituted for section 3 of the 1970 Act:

#### **“Indemnity of Land Registry officials.**

3. The person who is Registrar shall not, nor shall any assistant registrar or other officer or person appointed under paragraph 5 of Schedule 1, be liable to any action, suit or proceedings for or in respect of any act or matter done or omitted to be done in good faith in the exercise, or purported exercise, of the functions conferred under this Act or any other statutory provision on the Registrar, the Land Registry, any assistant registrar or any officer or person appointed for the service of the Land Registry.”.

#### *The title register*

### **Amalgamation of registers**

6.—(1) Separate registers of freeholders, of leaseholders and of subsidiary interests shall cease to be maintained under section 10 of the 1970 Act.

(2) The registers maintained under that section which are in existence immediately before the commencement of this Article shall be treated as a single register to be known as “the title register”.

(3) The following section shall be substituted for section 10 of the 1970 Act:

#### **“The title register.**

10.—(1) There shall be maintained by or on behalf of the Registrar in accordance with the provisions of this Act and of Land Registry Rules a register (in this Act referred to as “the title register”) of title to—

- (a) freehold estates in land;
- (b) leasehold estates in land;
- (c) land comprising incorporeal rights held in gross; and
- (d) such other rights in land as may be prescribed.

(2) The references to estates in paragraphs (a) and (b) of subsection (1) exclude rights such as are mentioned in paragraph (c); and “leasehold estates” in paragraph (b) excludes a leasehold estate granted for a term of 21 years or less.”.

#### *Registration of title*

### **Application for registration with qualified title**

7.—(1) In sections 14(2) and 19(2) of the 1970 Act (class of title for which registration application may be made), after paragraph (c) there shall be inserted (in each case):

“; or

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(d) a qualified title.” .

(2) In sections 14(6) and 19(7) of that Act (in each case) the words “or with a qualified title” shall cease to have effect.

#### **Exemption, etc., of estates and land from Schedule 5 burdens**

**8.—**(1) In sections 15(3) and 20(3) of the 1970 Act (under which, on first registration, the estate of the registered owner is subject to Schedule 5 burdens affecting the estate), at the beginning of paragraph (c) (in each case), there shall be inserted “without prejudice to Schedule 5, Part II, paragraph 1,”.

(2) In section 34(4) of the 1970 Act (under which transfers of registered land are subject to Schedule 5 burdens affecting the land), at the beginning of paragraph (b), there shall be inserted “without prejudice to Schedule 5, Part II, paragraph 1,”.

#### ***Extension of period within which certain matters must be registered***

**9.—**(1) The amendments specified in the following paragraphs shall be made in Schedule 2 to the 1970 Act (compulsory registration).

(2) In column 2 of entry 3 in Part I (under which, where land is compulsorily acquired by a Government department or public or local body, an estate in the land cannot be acquired by persons deriving title until the title to the estate is registered) for “estate” in the second place where it occurs substitute “land”.

(3) In column 2 of entries 4, 5 and 6 in Part I (under which certain leases, rent-charges, fee farm grants and fishing or sporting rights are void unless applications are made to register them within three months) for “three” substitute “six”.

(4) In Part II for “entries 2, 4, 5 and 6” substitute “entry 2, and the period of six months so referred to in respect of entries 4, 5 and 6”.

#### **First registration of certain leasehold estates**

**10.—**(1) At the end of section 24 of the 1970 Act there shall be inserted:

“(6) The provisions of Part IV of Schedule 2 shall have effect in connection with the registration of a leasehold estate the title to which is required to be registered under subsection (1) and entry 4 in Part I of Schedule 2.” .

(2) At the end of Schedule 2 to the 1970 Act (compulsory registration) there shall be inserted the following Part:

### “PART IV

#### PROVISIONS RELATING TO CERTAIN LEASES

**1.** This Part applies to the estate created by a lease to which entry 4 in Part I applies, where the lease is made after the commencement of Article 10 of the Registration (Land and Deeds) (Northern Ireland) Order 1992.

**2.** For the purpose of—

(a) sections 72 and 73 of this Act (exemption from registration in, and notice to, the registry of deeds);

- (b) section 5 of the Registration of Deeds Act (Northern Ireland) 1970 (documents that need not be registered in the registry of deeds); and
- (c) Articles 46, 48 to 52 and 132 of the Judgments Enforcement (Northern Ireland) Order 1981<sup>F6</sup> (orders charging land; vacating of charges),

an estate to which this Part applies shall be deemed to be registered land as from the time when the lease is made.

**3.** No notice of the registration of an estate to which this Part applies need be given to the registrar of deeds under section 72(3) or otherwise.

**4.** Pending registration of an estate to which this Part applies-

- (a) an order made by the Enforcement of Judgments Office charging land held for that estate shall not be capable of registration in the registry of deeds, nor, subject to subparagraph (b), shall it be capable of registration in the Land Registry;
- (b) on the application of the person on whose application the order charging the land was made, notice of the order may be registered in the title register against the land out of which the lease was granted;
- (c) so long as the notice subsists in the title register, the lessee shall not be registered as owner of the estate, nor shall any person claiming under him be registered as owner of the estate or any derivative estate, unless the charge—
  - (i) has been satisfied, or
  - (ii) has ceased to have effect, or
  - (iii) is entered on the title register as a burden;

and the entry relating to the notice shall state the restrictive effect thereof.

**5.** This Part does not prejudice the generality of section 72 (exemption from registration in the registry of deeds).”.

(3) In Article 46(3) of the Judgments Enforcement (Northern Ireland) Order 1981 (order charging land not to have effect until registration)—

- (a) after “Article 48” there shall be inserted “or paragraph 4 of Part IV of Schedule 2 to the Land Registration Act (Northern Ireland) 1970”, and
- (b) after “Land Registry, and” there shall be inserted “subject to Part IV of that Schedule 2”.

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### **Extension of compulsory registration**

**11.** The following amendments shall be made in section 25 of the 1970 Act (under which orders declaring all or part of a county or county borough to be a compulsory registration area are subject to affirmative resolution and cannot take effect until at least six months after being made):

- (a) renumber the section as section 25(1) and in it—
  - (i) for “affirmative” substitute “negative”;
  - (ii) for “county or county borough” (twice) substitute “local government district”;
  - (iii) for “six months” substitute “three months”;

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(b) after section 25(1) insert:

“(2) A compulsory registration area declared under subsection (1) shall not be affected by any subsequent alteration in the boundaries of, or the subsequent abolition of, the local government district in question.” .

#### *Alterations in title register*

#### **Reclassification of title**

**12.**—(1) In Schedule 3 to the 1970 Act, in paragraph 2 (reclassification of possessory titles when 15 years have elapsed since first registration), for “fifteen” there shall be substituted “twelve”.

(2) Paragraph 3(b) of that Schedule (reclassification of title after due examination) and the word “and” immediately preceding it shall cease to have effect.

#### **Extinguishment of leasehold estates**

**13.**—(1) The following subsection shall be substituted for subsection (1) of section 27 of the 1970 Act (extinguishment of leasehold estates by reason of enlargement or merger):

“(1) Where a registered leasehold estate—

- (a) is, under any statutory provision, converted into an estate in fee simple, whether or not subject to a fee farm rent; or
- (b) becomes merged in the freehold or in a superior leasehold estate; or
- (c) has otherwise been extinguished,

the Registrar shall, on application in such manner and subject to such conditions as may be prescribed, and on production of such evidence of the title as the Registrar considers necessary,—

- (i) cancel the entry in the title register relating to the estate which has been so converted, merged or extinguished; and
- (ii) if a superior title has been acquired in circumstances where this subsection applies but has not been registered, register that title in the title register with such class of title as appears to the Registrar to be appropriate; and
- (iii) when a superior title is registered, make such alterations in any entry relating to the land in question in the title register as appear to the Registrar to be appropriate.” .

(2) In subsection (2) of that section for “subsection (1)(a)” and “subsection (1)(b)” there shall be substituted respectively “subsection (1)(i)” and “subsection (1)(ii)”.

#### *Examination of title*

#### **Functions of Registrar on examination of title**

**14.** It shall not be necessary for the Registrar to approve any title which is proposed to be registered under the 1970 Act, but he shall be entitled to withhold registration until he has received such information and documents as he considers necessary to justify him in registering the title applied for.

## *Forms*

### **Forms**

**15.**—(1) In section 34(2) of the 1970 Act (transfers to be in the prescribed form) for the words from “shall sufficiently” onwards there shall be substituted “is approved or allowed by the Registrar.”.

(2) Land Registry Rules may make provision authorising the Registrar to prepare, and cause to be printed and promulgated, such forms and directions as he considers appropriate for the purpose of facilitating proceedings under the 1970 Act.

(3) Directions under paragraph (2) may, for example, specify the characteristics (including shape, design, size, colour and quality) of the paper to be used for forms for any class of dealing or other matter and the deviations from prescribed forms which are permitted or required to be made in connection with dealings or other matters of that class.

## *Transfers, etc.*

### **Abolition of requirement that documents, etc., accompany certain applications for registration**

**16.** Subsection (7) of section 34 of the 1970 Act (which requires certain applications for the registration of transfers of registered land for valuable consideration to be accompanied by the documents and evidence specified in that subsection) shall cease to have effect.

### **Amendment of supplemental provisions relating to defeasance of estates**

**17.** In section 36 of the 1970 Act (estate passing from registered owner or his personal representatives to another person in certain circumstances: duty of the Registrar, if not satisfied that an application by that other person is made with the concurrence of the registered owner or certain other persons, to give notice of the application):

- (a) in subsection (1), after “prescribed” in the second place where it occurs, there shall be inserted “and subject to subsections (2) and (3)”;
- (b) for subsection (2) there shall be substituted:

“(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.” .

### **Assent or transfer by personal representatives**

**18.**—(1) The amendments specified in the following paragraphs shall be made in Schedule 4 to the 1970 Act (registration of person named in assent or transfer by personal representatives).

(2) In paragraph 4, at the end, insert “, and to register any burdens specified in the assent or transfer and the ownership of such burdens, where so specified”.

(3) Renumber paragraph 6 as paragraph 6(1) and at the beginning insert “Without prejudice to sub-paragraph (2) and paragraph 6A,”.

(4) After paragraph 6(1) insert:

“(2) Where—

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- (a) a person has been registered as limited owner by virtue of paragraph 4; and
- (b) the estate ( “the relevant estate”) of that person is determined;

then, the assent or transfer mentioned in paragraph 4 shall, on application in such manner as may be prescribed, authorise the Registrar—

- (i) to register as full or limited owner (as the case may be) the person named in the assent or transfer (or his successor in title) as the person entitled to the land on the determination of the relevant estate; and
- (ii) to register any burdens specified in the assent or transfer and, where the ownership of such burdens is specified in the assent or transfer, the owner so specified or his successor in title.” .

(5) After paragraph 6 insert:

**“Functions of Registrar in relation to assents or transfers by personal representatives**

**6A.** Where an application for registration is made for the purposes of paragraph 4 or 6(2), the Registrar—

- (a) shall not call for any information as to why the assent or transfer was made;
- (b) shall assume that the personal representatives are or were acting correctly, and within their powers, in relation to the assent or transfer and that the assent or transfer is complete and accurate in all its details.”.

(6) In paragraph 7 and its cross-heading, for “6” substitute “6A”.

*Burdens, etc.*

**Schedule 6 burdens**

**19.** Paragraphs 3 and 4 of Part II of Schedule 6 to the 1970 Act (Schedule 6 burden not to be registered without the request or concurrence of the registered owner or a court order) shall cease to have effect.

**Priority of registered burdens**

**20.** In section 40 of the 1970 Act (under which, subject to exceptions, registered burdens on the same land which, if unregistered, would rank in priority according to the date of their creation instead rank according to the order of entering them in the title register) the words from “which, if unregistered” to “their creation” shall cease to have effect.

**Charges on registered land**

**21.—(1)** In paragraph 1 of Part I of Schedule 7 to the 1970 Act (under which a deed of charge by a registered owner must not be a purported conveyance or demise by way of mortgage), the words from “not being” to “by way of mortgage” shall cease to have effect.

(2) That paragraph shall be renumbered as paragraph 1(1), and the following sub-paragraph shall be inserted at the end of it:

“(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.” .



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

**22.**—(1) In section 43(1) of the 1970 Act (priority of registered charge which is expressed to be created to secure future advances) for the words from “Where a registered” to “present advances)” there shall be substituted:

“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” .
- (2) Paragraph (1) applies only to charges registered after the commencement of this Article.

### **Deposit of certificate as security**

**23.** The following amendments shall be made in section 50 of the 1970 Act (creation of security by depositing land certificate or certificate of charge):

- (a) in paragraph (a) (under which the deposit is subject to registered burdens and other matters appearing from the register to affect the land), omit the first “to” and after “land” insert “at the date of the deposit mentioned below”;
- (b) in paragraph (b) (under which the deposit is subject to Schedule 5 burdens affecting the land), after “land” insert “at the date of the deposit mentioned below”.

### *General provisions as to registration*

### **Souvenir land**

**24.** The following section shall be inserted at the beginning of Part V of the 1970 Act:

#### **“Souvenir land.**

**50A.**—(1) Land Registry Rules may make provision-

- (a) for enabling the Registrar, in such circumstances and subject to such conditions as may be prescribed, to declare any area of land to be subject to a souvenir land scheme if the Registrar is satisfied that the land comprised in that area consists wholly or mainly of land—
  - (i) which has been, or is proposed to be, disposed of (by way of sale or otherwise) in souvenir plots; or
  - (ii) of which part has been, and the remainder is proposed to be, so disposed of;
- (b) with respect to the cancellation of declarations and the extension or reduction of the area to which any declaration relates;
- (c) for authorising or requiring the Registrar not to accept applications under this Act relating to souvenir land or notices, cautions or other documents relating to that land;
- (d) for excepting souvenir land from any requirement under this Act for compulsory registration;
- (e) for securing that transactions relating to souvenir land which is registered take effect as if the land were not registered land; and

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(f) generally for modifying or excluding in relation to souvenir land the operation of any provision in this Act or any Land Registry Rules.

(2) In this section

“declaration” means a declaration by the Registrar, made in pursuance of Land Registry Rules made under subsection (1)(a), that an area of land is subject to a souvenir land scheme;

“souvenir land” means land situated within an area in respect of which a declaration is for the time being in force;

“souvenir plot” means any piece of land which, being of inconsiderable size and little or no practical utility, is unlikely to be wanted in isolation except for the sake of pure ownership or for sentimental reasons or commemorative purposes.”.

## **Liens**

**25.**—(1) In sections 2(1) and 30(2) of the 1970 Act (power of Registrar to require production of documents), at the end, there shall be inserted (in each case) “(and may do so notwithstanding that any such document is subject to a lien)”.

(2) After section 54 of that Act there shall be inserted:

### **“Liens.**

**54A.**—(1) No lien other than a lien on land shall be the subject of an entry in the title register.

(2) The power of the Registrar to make an order for production of any certificate of title or other title deed shall not be restricted by notice of the existence of any lien.”.

(3) In section 79 of that Act (land certificates and certificates of charge), at the end, there shall be inserted:

“(3) A provision made under subsection (2)(b) shall have effect notwithstanding that a certificate to which the provision applies is subject to a lien.” .

## **Incumbrances created, etc., by bodies corporate**

**26.** The following amendments shall be made in section 58 of the 1970 Act (by virtue of which the Registrar and other persons are not concerned with incumbrances created or issued by a body corporate unless, in particular, the incumbrance is a registered burden or protected by a caution or an inhibition):

(a) for “a registered burden” substitute “registered as a burden”;

(b) for “or an inhibition” substitute “, an inhibition or a notice”. Minors and persons suffering from mental disorder

**27.** In sections 60(3) and 61 of the 1970 Act (power of court to appoint a representative for, respectively, a minor or a person incapable by reason of mental disorder) after “the court” there shall be inserted (in each case) “or, in the case of a reference to the Lands Tribunal, that Tribunal”.

### *Description of registered land*

## **Description of registered land**

**28.**—(1) For section 62 of the 1970 Act (description of registered land by maps) there shall be substituted:

**“The registry map.**

62.—(1) There shall be maintained by or on behalf of the Registrar a series of maps (in this Act referred to as “the registry map”), based on ordnance maps.

(2) On the registry map there shall be marked or defined, in such manner as may be prescribed, the land the title to which has been registered under this Act.”.

(2) For section 63 of that Act (verbal descriptions of registered land) there shall be substituted:

**“Description of registered land.**

63.—(1) Registered land shall be described in the title register—

- (a) by means of a verbal description and a reference to the registry map; or
- (b) by means of a verbal description and a filed plan, based on an ordnance map; or
- (c) in such other manner as, in the opinion of the Registrar, secures accuracy.

(2) The description of land in the title register need not include its area.”.

*Errors*

**Rectification of errors**

29. The following subsections shall be substituted for section 69(2) of the 1970 Act (rectification of errors):

“(2) Where, in the opinion of the Registrar, an incorrect entry in, or omission from, the register is of a clerical nature, he may, after making such enquiries (if any) and serving such notices (if any) as he considers necessary, rectify the register.

(2A) The Registrar may in his discretion, after making such enquiries (if any), serving such notices (if any) and obtaining such consents (if any) as he considers necessary, amend any mistake in, or omission from, any document presented to the Land Registry, if, in his opinion, the mistake or omission is of a clerical nature.

(2B) The Registrar may, after making such enquiries (if any) and serving such notices (if any) as he considers necessary, order the rectification of the register where all persons interested—

- (a) consent to the rectification; or
- (b) do not, within the prescribed period after being served with notice of the Registrar's intention to order the rectification, notify the Registrar in writing that they object to the rectification.

(2C) Where the Registrar exercises the power conferred by subsection (2) or (2B) he may make such order as to the costs of rectification as the persons interested may, in writing, agree.”.

**Winding up of Insurance Fund**

30.—(1) After the commencement of this Article no compensation under section 71 of and Schedule 9 to the 1970 Act shall be paid out of the Insurance Fund kept under section 70 of that Act, and that Fund shall be wound up in accordance with paragraphs (2) and (3).

(2) Any money which, at the commencement of this Article, stands to the credit of the Insurance Fund shall be paid into the Consolidated Fund.

(3) Any other assets comprised in the Insurance Fund at that commencement shall be realised forthwith, and the proceeds shall be paid into the Consolidated Fund.

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(4) Immediately following the completion of the winding-up, section 70 of the 1970 Act shall cease to have effect.

### **Compensation: amendments of section 71 of the 1970 Act**

**31.**—(1) The amendments specified in paragraphs (2) to (4) shall be made in section 71 of the 1970 Act (claims for compensation).

(2) In subsection (2) for “, subject to section 70(4), be paid out of the Insurance Fund” substitute “be paid by the Department out of money appropriated for the purpose”.

(3) For subsection (3) substitute:

“(3) Subject to subsections (3A), (3B) and (3C), where any such compensation is paid by the Department, the Department shall be entitled to recover the amount so paid from all or any of the following persons—

- (a) any person who caused or substantially contributed to the loss in question;
- (b) any person who has, directly or indirectly, derived title or any other advantage—
  - (i) from such a person as is mentioned in paragraph (a), or
  - (ii) by reason of an error or omission giving rise to the loss;

and, without prejudice to the generality of the foregoing provision, the Department may enforce any express or implied covenant or other right which the person receiving the compensation would have been entitled to enforce in relation to the matter in respect of which the compensation is paid.

(3A) A person shall not be treated for the purposes of subsection (3)(a) or (b)(i) as having caused or substantially contributed to the loss unless he has done so by his fraud or lack of proper care; and where a person substantially contributed to the loss (but did not cause it completely), the amount recoverable under subsection (3) from him or from any person who has derived title or other advantage from him shall be such amount as is just.

(3B) The Department is not entitled under subsection (3) to recover any amount from a person by reason only of his derivation of title or advantage as mentioned in paragraph (b) of that subsection where that person has derived the title or other advantage for valuable consideration and he has not caused or contributed to the loss by his fraud.

(3C) Where the Department is entitled to recover an amount under subsection (3)(b) from a person who did not cause or substantially contribute to the loss, that amount shall not exceed the value, immediately before the Department gives notice to that person of its intention to recover an amount from him under subsection (3), of the advantage obtained by him.”.

(4) For subsection (4) substitute:

“(4) Any question arising as to whether the Department is entitled to recover some amount under subsection (3) from a particular person, as to the quantum of that amount or as to the enforcement of any right by the Department under that subsection shall be referred to and determined by the Lands Tribunal.

(5) A question referred under subsection (4) and one referred under paragraph 10 of Schedule 9 (entitlement to and amount of compensation) may be determined in the same proceedings.

(6) Except where the amount recoverable by the Department under subsection (3) is determined as mentioned in subsection (5),—

- (a) the right of the Department to recover any amount under subsection (3) shall be deemed to accrue on the date on which the Department pays the compensation to which that right relates; and

(b) a claim to recover such an amount shall not be the subject of a reference under subsection (4) after the expiration of one year from the time when the right to recover that amount accrued or after the expiration of 12 years from the time of the error or omission which gave rise to the loss, whichever first occurs.

(7) When the Lands Tribunal determines that any amount is recoverable under subsection (3), it may make an order for the payment of that amount and such an order is a money judgment for the purposes of Article 4 of the Judgments Enforcement (Northern Ireland) Order 1981<sup>F7</sup>.”

(5) Paragraphs (3) and (4) apply only to and in connection with a loss sustained as a result of a rectification, error, omission, loss or destruction occurring after the commencement of this Article.

(6) In the application of section 71 of the 1970 Act to or in connection with a loss sustained as a result of a rectification, error or omission occurring before the commencement of this Article, subsection (3) shall have effect with the insertion, after “section 70(4)”, of “or paid out of money appropriated for the purpose”.

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### **Compensation: amendments of Schedule 9 to the 1970 Act**

**32.**—(1) The amendments specified in paragraphs (2) to (6) shall be made in Schedule 9 to the 1970 Act (compensation payable under the Act).

(2) In paragraph 1(1) (compensation where loss sustained by reason of certain matters):

(a) in head (b) for “which is” substitute “whether or”;

(b) after head (b) insert—

“(bb) the loss or destruction by the Land Registry of any document lodged at the Registry for the purpose of inspection, registration or safe keeping, other than a document destroyed in accordance with Land Registry Rules;” and

(c) after head (d) insert—

“(e) an error in or omission from a filed copy of, or an error in a filed extract from, a document referred to in the title register, where the error or omission was made in preparing the copy or the error was made in preparing the extract.” .

(3) In paragraph 3 (exclusions from compensation) for sub-paragraph (a) substitute:

“(a) where the claimant has himself or by his agent caused or substantially contributed to the loss by his act or omission; or

(aa) where the claimant himself or by his agent contributed to the loss by his fraudulent act or fraudulent omission; or

(ab) where the claimant derives title (otherwise than under a registered disposition taken by him in good faith and for valuable consideration) from a person to whom sub-paragraph (a) or (aa) applies; or

(ac) where the error or omission which gave rise to the loss was occasioned by an error in or omission from an assent or transfer in the prescribed form on the correctness of which the Registrar is required to rely in pursuance of paragraph 6A of Schedule 4 or Land Registry Rules;”.

(4) After paragraph 3 insert:

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“**3A.** Where lack of proper care on the part of the claimant or his agent has contributed to the loss, the amount of compensation to which the claimant would have been entitled had he or his agent not so contributed to the loss shall be reduced to such extent as is just having regard to his or his agent's responsibility for the loss.”.

(5) In paragraph 4(2) (limitation of time for claiming compensation) after head (c) insert:

“(cc) where the right to compensation arises from the loss or destruction of a document or an error in, or omission from, a filed copy of, or an error in a filed extract from, a document referred to in the title register, on the date on which the claimant discovers the loss, destruction, error or omission or could with reasonable diligence have discovered it.”;

and in paragraph 4(3) after “(c)” insert “, (cc)” and for “error or omission” substitute “error, omission, loss or destruction”.

(6) For paragraphs 9 to 13 substitute:

“**9.** The Department shall be the respondent to every claim for compensation made under this Schedule; and notice of every such claim shall be served by the claimant on such persons as may be prescribed.

**10.** Where any question arising as to whether a person is entitled to compensation, or as to the amount of compensation, is not settled between that person and the Department, that question shall be referred to and determined by the Lands Tribunal.

**11.** Before or instead of determining a question referred to it under paragraph 10, the Lands Tribunal may exercise any power which is exercisable by the court under section 69(1) and (3) or paragraph 4 of Schedule 10 (rectification of errors); and an order made in exercise of such a power is an order of a court of competent jurisdiction for the purposes of section 9(1) (Registrar to obey court orders in relation to registered land) and section 9(2) (clarification of orders).”.

(7) Paragraphs (2) to (5) apply only to and in connection with a loss sustained as a result of a rectification, error, omission, loss or destruction occurring after the commencement of this Article.

### *Searches*

#### **Inspection, etc., of documents**

**33.**—(1) The amendments specified in the following paragraphs shall be made in section 81 of the 1970 Act (register to be open for public inspection, searches therein, and right to copies, etc., of the register).

(2) In subsection (1):

- (a) for “Every register shall be kept open” substitute “The register and any relevant document shall be available”;
- (b) for “therein” substitute “in the register or inspect the document”;
- (c) for “appropriate register” substitute “register or relevant document”.

(3) after subsection (1) insert:

“(1A) In subsection (1) “relevant document” means a document retained in the Registry in connection with a registration under the Act of 1891, an application for registration under this Act or a registration under this Act.”.

- (4) In subsection (2):
- (a) for “any register” substitute “the register”;
  - (b) for “the issuing of certificates of” substitute “the provision of information by certificate or otherwise regarding”.
- (5) After subsection (2) insert:
- “(2A) Without prejudice to the generality of subsection (2), Land Registry Rules may make provision with respect to applications for searches in the register, and the provision of information, by telephone or other automated means.” .
- (6) In subsection (4) (applications for registration of certain documents to have priority if application is delivered within 14 days after issue of official search certificate, or such shorter period as may be prescribed) for the words from “a period of fourteen days” to “prescribed)” substitute “such period as may be prescribed”.

#### *Administrative provisions*

#### **Fees**

**34.**—(1) The amendments specified in paragraphs (2) and (3) shall be made in section 84 of the 1970 Act (so far as practicable, Land Registry fees are to be sufficient to pay the salaries and expenses under the Act and to make payments to the Insurance Fund).

(2) In subsection (1) for the words from “(a) to pay all salaries” onwards substitute “to meet so much of the operating expenses of the Land Registry as is attributable to its registration functions”.

(3) after subsection (1) insert:

“(1A) In subsection (1) “registration functions” means the functions of the Land Registry in registering any matter under this Act and its functions under section 81 and section 86(3), (4) and (5).” .

(4) An order under section 84 of the 1970 Act prescribing fees to be taken in the Land Registry may provide that, where directions promulgated by the Registrar under Article 15(2) with respect to dealings or other matters of any class are complied with in connection with a dealing or matter of that class, a lower fee shall be payable in connection with that dealing or matter than the fee which would have been payable if the directions had not been complied with.

#### **Scope of Land Registry Rules**

**35.**—(1) It is hereby declared that Land Registry Rules may make provision:

- (a) for the extension of any period specified in or by virtue of those Rules, notwithstanding that the period has already expired;
- (b) for the rectification of irregularities in procedure;
- (c) authorising the Registrar to disregard any failure to comply with a provision of the Rules relating to procedure.

(2) The amendments specified in paragraphs (3) to (5) shall be made in section 85(3) of the 1970 Act (matters with respect to which Land Registry Rules may be made).

(3) After paragraph (b) insert:

“(ba) authorising the Registrar to refuse to register the ownership of any unregistered land where this Act or some other statutory provision does not make it compulsory to register that ownership;” .

(4) After paragraph (e) insert:

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- “(ea) registration of a title by reference to a map other than the registry map pending the making of an entry on the registry map;” .
- (5) After paragraph (s) insert:
- “(t) regulating the manner in which documents lodged in the Land Registry are to be preserved or recorded, and the destruction of such documents where they have become superseded by entries in the title register or have ceased to have effect.” .
- (6) In section 79(2) of the 1970 Act (Land Registry Rules relating to land certificates and certificates of charge), at the end, there shall be inserted:
- “(g) provide for the cancellation and destruction of land certificates and certificates of charge which have been lodged in the Land Registry (whether or not new certificates are to be issued in their place).” .

### **Documents and records**

**36.** The following section shall be inserted after section 85 of the 1970 Act:

#### **“Documents and records.**

**85A.—**(1) Any reference in this Act to a document includes a reference to information recorded in such non-legible form as may be prescribed.

(2) Records required or authorised to be kept under this Act by or on behalf of the Registrar may be kept in any form the Registrar thinks fit, if it is possible to inspect the information contained in them and to obtain a copy of it in legible form.

(3) Where any provision of this Act provides for a document to be given to or by the Land Registry or the Registrar, Land Registry Rules may make further provision in relation to the application of that provision to automated forms of communication.

(4) Land Registry Rules may authorise documents to be used for the purposes of this Act if they satisfy any prescribed conditions, notwithstanding that they are not original documents.

(5) In this section

“document” includes information recorded in any form;

“inspect” includes inspect by automated means;

“legible” means capable of being read with the naked eye;

“record” includes the register, the Statutory Charges Register and an index.”.

#### *The Statutory Charges Register*

### **Maintenance of, and searches in, the Statutory Charges Register**

**37.—**(1) The amendments specified in the following paragraphs shall be made in section 86 of the 1970 Act (the Statutory Charges Register).

(2) In subsection (1) for “at the central office” substitute “by or on behalf of the Registrar”.

(3) In subsection (3) for “kept open” substitute “available”.

(4) In subsection (4) for “the issuing of certificates of” substitute “the provision of information by certificate or otherwise regarding”.

(5) After subsection (4) insert:



“(5) Without prejudice to the generality of subsection (4), Land Registry Rules may provide for applications for searches in the register, and the provision of information, by telephone or other automated means.” .

### **Application of provisions of 1970 Act to statutory charges**

**38.**—(1) The amendments specified in the following paragraphs shall be made in section 92 of the 1970 Act (application of certain other provisions of the Act to statutory charges).

(2) In subsection (1)(b) for “70, 71, 82 and 83” substitute “and 71”.

(3) In subsection (3) for “84 to 99” substitute “82, 83, 84, 85, 85A and 86 to 99”.

## **PART III**

### **REGISTRATION OF DEEDS**

#### **Registration of deeds and conveyances**

**39.**—(1) In section 1(2) of the Deeds Act (memorial of deed or conveyance to be produced to the registrar of deeds) for the words from “in writing” onwards there shall be substituted “in the prescribed form and such other documentation as may be prescribed”.

(2) The registrar of deeds need not satisfy himself that the execution of a deed or conveyance has been witnessed, and, accordingly, section 1(3) of the Deeds Act shall cease to have effect.

(3) In section 1(4) of the Deeds Act (memorial of deed or conveyance must contain the correct particulars specified in Schedule 1), for the words from “On the registrar being so satisfied” to “from the deed or conveyance” there shall be substituted “Where the registrar is satisfied that the documentation mentioned in subsection (2) has been produced to him”.

(4) In section 1(5) of the Deeds Act (after registration of deed or conveyance, the registrar must endorse on it and sign a certificate giving its serial number and other information) for the words from “the registrar” to “stating” there shall be substituted “it shall be endorsed with”.

(5) In section 1(6) of the Deeds Act (evidence of registration) for the words from the beginning to “conveyance” there shall be substituted “The endorsement of that serial number and date” and for “that registration” there shall be substituted “the registration of the deed or conveyance on that date with the priority of time provided for in section 4(1)”.

#### **Witnesses**

**40.** Section 2(1), (2) and (3A) of the Deeds Act (witnesses required for execution or sealing of documents) shall cease to have effect.

#### **Vacation of registered pending actions**

**41.**—(1) The following subsection shall be inserted after section 3(4) of the Deeds Act (pending actions relating to land):

“(4A) The registration of a pending action may also be vacated by lodging in the registry of deeds a certificate stating such matters as may be prescribed—

(a) which is signed by—

(i) the person on whose behalf the pending action was registered, or

(ii) a solicitor acting for that person or, if that person is dead, for his personal representatives; and

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- (b) except where that person is a body corporate, which has its execution attested by two witnesses whose names and addresses and occupations or descriptions are subscribed to the certificate or attested by one witness who is a solicitor and whose name, address and description as a solicitor are subscribed to the certificate.” .
- (2) In section 3(6) of that Act after “(4)” there shall be inserted “or (4A)”.
- (3) This Article applies only to certificates signed after the commencement of the Article.

### **Certified copies of memorials, etc., to be received in evidence**

**42.** For section 6 of the Deeds Act (office copies of memorials of registered documents) there shall be substituted:

**“Certified copies admissible in evidence.**

- 6.** In any proceedings before any court—
  - (a) a copy of a memorial filed in the registry of deeds; or
  - (b) a copy of a copy of a registered document filed in that registry; or
  - (c) a copy in legible form of a record kept in non-legible form by or on behalf of the registrar of deeds,

shall, if purporting to be certified by or on behalf of the registrar, be admissible in evidence in like manner as the original memorial, copy document or record.”.

### **The registry of deeds**

**43.—(1)** Section 7(1) of the Deeds Act (which requires the registry of deeds to be situated in Belfast) shall cease to have effect.

(2) In section 7(2)(a) of that Act for “an assistant registrar” there shall be substituted “such assistant registrars”.

(3) For section 7(4) and (5) of that Act there shall be substituted the following subsections:

“(4) Each assistant registrar and other officer and person appointed under subsection (2) shall exercise, in accordance with this Act or any other statutory provision (including regulations under section 19), such of the functions of the registrar as may be assigned to him by the registrar, and shall be responsible to the registrar for the exercise of the functions so assigned.

(5) An assistant registrar nominated by the registrar may, in accordance with any general or specific directions given by the registrar and notwithstanding any vacancy subsequently occurring in the office of registrar, act as registrar and exercise all or any of the functions of the registrar.

(5A) Where the registrar is absent from the registry of deeds or the office of registrar is vacant and no person is acting as registrar under subsection (5) in accordance with a direction that he exercise all the functions of the registrar, the assistant registrar or, if there are more assistant registrars than one, the senior assistant registrar present may act as registrar and exercise all the functions of the registrar.

(5B) All acts done by an assistant registrar under subsection (5) or (5A) shall, without proof of, respectively, the directions or circumstances, have the same effect in all respects as if they had been done by the registrar.” .

## Indemnity of registry of deeds' officials

44. The following section shall be inserted after section 7 of the Deeds Act:

### “Indemnity of registry of deeds' officials.

7A. The person who is registrar of deeds shall not, nor shall any assistant registrar or other officer or person appointed under section 7(2), be liable to any action, suit or proceedings for or in respect of any act or matter done or omitted to be done in good faith in the exercise, or purported exercise, of the functions conferred under the Registration of Deeds Acts on the registrar of deeds, the registry of deeds, any assistant registrar or any officer or person appointed for the service of the registry.”

## Lodging documents by post

45.—(1) Any reference in the Registration of Deeds Acts or this Part (however expressed) to lodging documentation in the registry of deeds for registration includes a reference to sending it to that registry by post.

(2) Where such documentation is sent to the registry of deeds by post, the serial number allocated under subsection (1) or (2) of section 8 of the Deeds Act, and the date and time which are to be treated as the date and time of lodgment, shall be determined in accordance with regulations under section 19 of that Act.

## Records, etc.

46.—(1) The information contained in any documentation delivered to the registrar of deeds may be recorded and kept in any form he thinks fit, if it is possible to inspect the information and to produce a copy of it in legible form.

(2) The records required to be kept by the registrar of deeds may be kept in any form he thinks fit, if it is possible to inspect the information contained in them and to produce a copy of it in legible form.

(3) Where the records are kept otherwise than in legible form they may be kept by the registrar of deeds or on his behalf in such place as he may direct.

(4) Any reference in the Registration of Deeds Acts (however expressed) to the issue of any documentation by the registrar of deeds may, if he thinks fit, be satisfied by the communication by him of the requisite information by transmission in any non-legible form prescribed by regulations or approved by him.

(5) Where all the information contained in a book or index in the registry of deeds is also kept by the registrar of deeds otherwise than in legible form, the Department may, subject to any rules made under the Public Records Act (Northern Ireland) 1923<sup>F8</sup> direct that the book or index be removed to the Public Record Office of Northern Ireland, where it shall be dealt with in accordance with that Act and those rules.

(6) Where any documentation referred to in paragraph (4) is required to be signed or certified, it shall instead be authenticated in such manner as may be prescribed by regulations or approved by the registrar of deeds.

(7) In section 11(1) of the Deeds Act (which requires certain records to be preserved in the registry of deeds and not to be removed from the registry), the words from “and shall be preserved” onwards shall cease to have effect.

(8) In this Article—  
“legible” means capable of being read with the naked eye;

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“record” includes a file and an index and the books mentioned in sections 9, 10 and 11 of the Deeds Act;

“regulations” means regulations under section 19 of the Deeds Act.

<b>F8</b> 1923 c. 20 (N.I.)
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### Searches

**47.**—(1) The amendments specified in paragraphs (2) to (4) shall be made in section 13 of the Deeds Act (common and negative searches).

(2) In subsection (2) (preservation of requisitions for searches) after “kept” insert “, or recorded and the record kept,”, and at the end insert “for the prescribed period”.

(3) In subsection (4) (statement or certificate containing the results of a search is to be signed by such person as may be prescribed) the words “and signed by such person as may be prescribed” shall cease to have effect.

(4) In subsection (6) (breach of duty by person signing certificate of search) the words “upon the person signing the certificate” shall cease to have effect.

(5) Regulations under section 19 of the Deeds Act may make provision with respect to applications for searches under section 13 of that Act, and the provision of information, by telephone or other automated means.

### Fees

**48.** Section 16(2) of the Deeds Act (which applies such provisions of the Stamp Act 1891 as are specified in an order under section 16(1) to any fees paid by stamps) shall cease to have effect.

### Regulations

**49.** At the end of section 19(1) of the Deeds Act (power of Department to make regulations) there shall be inserted “and providing for anything for which provision is permitted or required by the Registration of Deeds Acts to be made by regulations”.

### The Crown

**50.**—(1) The following section shall be inserted after section 21 of the Deeds Act:

“**The Crown.**

**21A.** This Act binds the Crown.”.

(2) Paragraph (1) does not affect any priority existing immediately before the commencement of this Article.

*Article 51—Amendments*

*Article 52—Repeals*

*Schedule 1—Amendments*

*Schedule 2—Repeals*

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