

1989 No. 271

FAMILY LAW

REGISTRATION OF DEEDS

Matrimonial Charges Regulations (Northern Ireland) 1989

Made 11th July 1989

Coming into operation 1st September 1989

The Department of the Environment, in exercise of the powers conferred by sections 12(1), 13(1), (2), (3) and (4), 15 and 19(1) of the Registration of Deeds Act (Northern Ireland) 1970(a) and now vested in it(b), of the powers conferred on it by Articles 6(7) and 7(4) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984(c), and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Matrimonial Charges Regulations (Northern Ireland) 1989 and shall come into operation on 1st September 1989.

Interpretation

2. In these Regulations—

“the Act” means the Registration of Deeds Act (Northern Ireland) 1970;

“the Matrimonial Charges Index” has the meaning assigned to it by regulation 3(2);

“the Order” means the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984.

Registration, etc, of matrimonial charges

3.—(1) The documents to be lodged in the Registry of Deeds under Article 6(6) of the Order for or in connection with—

(a) the registration of a matrimonial charge to which Article 6(1)(b) of the Order applies;

(b) the renewal of such registration;

(c) the vacating or variation of such registration or the postponement of the priority of a matrimonial charge so registered,

shall be in Forms MC1, MC2 and MC3 in Schedule 1, respectively.

(a) 1970 c. 25 (N.I.);

(b) Functions of the Department of Finance transferred to the Department of the Environment: see S.I. 1982/338 (N.I. 6) Art. 5 and Sch. 1 Pt. II

(c) S.I. 1984/1984 (N.I. 14)

(2) Each document so lodged shall be accompanied by a copy and shall, subject to section 12 of the Act and any regulations made under that section, be registered—

- (a) by filing the copy in the Registry of Deeds in sequence according to the serial number allocated to the document under section 8 of the Act; and
- (b) by recording the document in an index kept in the Registry for that purpose (“the Matrimonial Charges Index”).

Cancellation of registration on foot of subsequent registration

4.—(1) Where the Registrar of Titles or the Registrar of Deeds (as the case may be) is notified by a spouse pursuant to Article 7(3) of the Order of a subsisting registration of a matrimonial charge, then, upon the subsequent registration of a matrimonial charge in favour of that spouse in respect of another dwelling house, that registrar shall (as the circumstances require)—

- (a) cause the first mentioned registration (which has ceased to have effect by virtue of Article 7(2) of the Order) to be cancelled or vacated; or
- (b) transmit a certificate in Form MC4 in Schedule 1 to the Registrar of Deeds or the Registrar of Titles (as the case may be), who shall, on receipt of such certificate, cause the first mentioned registration to be cancelled or vacated.

(2) The registration of a matrimonial charge in the Registry of Deeds which has ceased to have effect by virtue of Article 7(2) of the Order shall be vacated (as the circumstances require) by—

- (a) making an entry in the Matrimonial Charges Index recording in relation to that registration a reference to the superseding registration in the Registry of Deeds; or
- (b) filing a certificate by the Registrar of Titles pursuant to paragraph 1(b) in the Registry of Deeds in sequence according to the serial number allocated to the certificate under section 8 of the Act and recording the certificate in the Matrimonial Charges Index.

Amendment of Registration of Deeds Regulations (Northern Ireland) 1968

5.—(1) The Registration of Deeds Regulations (Northern Ireland) 1968(a) shall be amended in accordance with the following provisions of this regulation.

(2) In Regulation 2 the words from “and the Regulations” to the end of that Regulation shall cease to have effect.

(3) For Regulations 7 to 9 there shall be substituted the following Regulations—

“Requisitions for searches

7.—(1) A requisition for a common search shall be in the form prescribed in Form 1 in the Schedule and a requisition for a negative search shall be in the form prescribed in Form 2 in the Schedule.

(2) Requisitions for searches shall be given serial numbers and filed in the order in which they are received.

Common search, negative search and public search

8.—(1) A common search shall be carried out in accordance with the requisition to which it relates by one officer of the Registry of Deeds.

(2) A negative search shall be carried out in accordance with the requisition to which it relates by two officers of that Registry (independently of each other), who shall agree as to the result.

(3) Any person may—

(a) between the hours of 10 in the morning and 4 in the afternoon on such days as the Registry of Deeds is open to the public for the transaction of business, and

(b) in the presence of any officer of that Registry,

search, inspect and examine, and make extracts from or short notes of, the indexes, abstracts, transcript books and files of memorials and of other documents registered under the Registration of Deeds Acts.

Statement of common search and certificate of negative search

9.—(1) A statement of a common search shall be in the form prescribed in Form 3 in the Schedule and a certificate of a negative search shall be in the form prescribed in Form 4 in the Schedule.

(2) The abstract of each memorial set forth in that statement or certificate shall contain the same particulars as an abstract under Regulation 5 and the particulars so set forth of each document relating to a matrimonial charge shall contain—

(a) the name of the person against whom the charge is registered;

(b) the name of the person in whose favour the charge is registered;

(c) the identification of the dwelling house affected by the charge; and

(d) the nature of the document and its date of registration and serial number.”.

(4) For the Schedule there shall be substituted the Schedule set out in Schedule 2.

Nature of paper to be used in documents relating to matrimonial charges

6. In Regulation 4 of the Registration of Deeds (Nature of Paper) Regulations (Northern Ireland) 1971(a), after paragraph (2) there shall be inserted—

“(3) The paper to be used for copy documents lodged pursuant to Article 6(6) and (7) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 and regulation 3 of the Matrimonial Charges Regulations (Northern Ireland) 1989 shall conform with the specifications prescribed in paragraph (1).”.

Sealed with the Official Seal of the Department of the Environment for
Northern Ireland on 11th July 1989.

(L.S.)

J. Kirk

Assistant Secretary

Notice of a Matrimonial Charge

FAMILY LAW (MISCELLANEOUS PROVISIONS)
 (NORTHERN IRELAND) ORDER 1984
 (“the 1984 Order”)

To the Registrar of Deeds in Northern Ireland

Particulars of Matrimonial Charge to be Registered

Name(s), address(es) and occupation(s) or description(s) of the person(s) against whom the matrimonial charge is to be registered (1):

Name and address of the person entitled to the benefit of the matrimonial charge in whose favour it is to be registered (2):

Identification of dwelling house affected by the charge (3):

[omit if not applicable:]

Particulars of court order made by virtue of Article 5(4) of the 1984 Order:

By an order of the [Family Division of the High Court of Justice in Northern Ireland/the Recorder’s Court/the County Court for the Division of]

dated the day of

19 and made by virtue of Article 5(4) of the 1984 Order it was directed that *[give particulars of any direction extending the rights of occupation of person entitled to the benefit of the charge in respect of the above-mentioned dwelling-house beyond the termination of the marriage of that person by death or otherwise].*

[omit if not applicable:]

Particulars of Subsisting Registration of Matrimonial Charge which is to be Cancelled or Vacated by virtue of Article 7 of the 1984 Order

Particulars of any subsisting registration of a matrimonial charge in favour of the person entitled to the benefit of the matrimonial charge identified in the particulars above.

[if registered in the Land Registry in accordance with Article 6(1)(a) of the 1984 Order, give the following particulars—

Folio: County:

Registered Owner:]

[if registered in the Registry of Deeds in accordance with Article 6(1)(b) of the 1984 Order, give the following particulars—

Name(s) of the person(s) against whom the charge is registered:

Name of person entitled to benefit of charge in whose favour it is registered:

Identification of dwelling house:

Date and serial number of registration of charge:

Date and serial number of any renewal of registration in pursuance of Article 9(3):]

By virtue of Article 7(2) of the 1984 Order the above registration ceases to have effect on the registration of the matrimonial charge to which this notice relates and is to be cancelled or vacated accordingly.

Dated this day of 19 .

.....
(To be signed by the person entitled to the benefit of the charge and attested by two witnesses who shall furnish their full names, addresses and occupations or descriptions)

Notes

- (1) By virtue of Article 6(1) of the 1984 Order a matrimonial charge may be registered when it is a charge on a legal estate, defined in Article 3(1) to include an equity of redemption arising on the conveyance or assignment of the legal estate by way of mortgage. Where the person against whose legal estate it is proposed to register the charge has granted a mortgage in respect of the dwelling house and the mortgage is registered in the Registry of Deeds the name of that person (forenames and surnames) should be furnished in accordance with the name of the mortgagor (grantor) on the registered mortgage deed; otherwise the full name (eg in accordance with a birth certificate) should be furnished.

- (2) The full name should be furnished.
- (3) All available particulars should be furnished including the name and number of the dwelling house, the road, street, townland, barony, village, town, county as appropriate. Reference might be made to the identification of the dwelling house as given in an earlier registered deed (such as a mortgage). Refer to any release as respects part of the dwelling house and to any order of the court under Article 4 of the 1984 Order in relation to the rights of occupation constituting the charge.

Renewal of the Registration of a Matrimonial Charge

FAMILY LAW (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND)
ORDER 1984

(“the 1984 Order”)

To the Registrar of Deeds in Northern Ireland

**Particulars of the Matrimonial Charge whose Registration is to be
Renewed**

Name(s), address(es) and occupation(s) or
description(s) of the person(s) against
whom the matrimonial charge is registered:

Name and address of the person in whose
favour the charge is registered:

Identification of the dwelling house
affected by the charge:

Date and serial number of registration:

Particulars of court order made by virtue [as in Form *MC1*]
of Article 5(4) of the 1984 Order:

Dated this day of 19 .

.....
(To be signed by the person entitled to
benefit of the charge and attested by two
witnesses, who shall furnish their full
names, addresses and occupations or
descriptions)

**Vacate or Variation of the Registration of a Matrimonial Charge or the
Postponement of its Priority**

FAMILY LAW (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND)
ORDER 1984

(“the 1984 Order”)

To the Registrar of Deeds in Northern Ireland

I [name] of [address and occupation or description] make oath and say as follows:—

1. I am [state the capacity in which this affidavit is made] and I refer to the matrimonial charge particulars of which are set out in the First Schedule hereto..
2. I refer to and exhibit as the Second Schedule hereto [continue as appropriate, e.g.]

* a release dated whereby the person in whose favour the said matrimonial charge is registered, has released [in part] the rights of occupation constituting the said matrimonial charge.

* a copy of an order of [name of court] dated , certified as a true copy of the said order by the proper officer of the said court. The said order, made under Article 4 of the 1984 Order, [briefly state the effect of the order]

* a copy of a decree absolute of divorce in respect of and pronounced on by [name of court] certified as a true copy of the said decree by the proper officer of the said court. The said decree terminated the marriage under which the rights of occupation constituting the said matrimonial charge arose. The registration of the said matrimonial charge was not effected under Article 9(3) of the 1984 Order on the basis of an order made by virtue of Article 5(4) of the 1984 Order extending the rights of occupation beyond the termination of the marriage, nor was the registration so renewed.

* a copy of a decree absolute of nullity of marriage in respect of and pronounced on by [name of court] certified as a true copy of the said decree by the proper officer of the said court. The said decree [declared void] [annulled] the marriage under which the rights of occupation constituting the said matrimonial charge arose.

* a copy of a declaration of marital status in respect of and made on by [name of court] certified as a true copy of the said declaration by the proper officer of the said court. The said declaration declared that a [divorce] [annulment] obtained in a country outside Northern Ireland in respect of the marriage under which the rights of occupation constituting the said matrimonial charge arose is entitled to recognition in Northern Ireland. [The registration of the said matrimonial charge was not effected under Article 9(3) of the 1984 Order on the basis of an order made by virtue of Article 5(4) of the 1984 Order extending the rights of occupation beyond the termination of the marriage, nor was the registration so renewed.]

* a death certificate in respect of [the spouse of] the person in whose favour the charge is registered. [The registration of the said matrimonial charge was not effected under Article 9(3) of the 1984 Order on the basis of an order made by virtue of Article 5(4) of the 1984 Order extending the rights of occupation constituting the said matrimonial charge beyond the death of the spouse of the person in whose favour the said matrimonial charge is registered, nor was the registration so renewed.]

* a postponement of the priority of the said matrimonial charge dated by the person in whose favour the said matrimonial charge is registered.

3. The registration of the said matrimonial charge [has ceased to have effect by virtue of the events referred to in paragraph 2 hereof and set out in the Second Schedule hereto and is vacated] [has effect subject to the events referred to in paragraph 2 hereof and set out in the Second Schedule hereto and is varied accordingly].

OR

3. The priority of the said matrimonial charge is postponed by virtue of the postponement referred to in paragraph 2 hereof and set out in the Second Schedule hereto.

Sworn this day of 19
 at in the County of
 before me a Commissioner
 for Oaths/Solicitor

.....
 Deponent

* continue as appropriate to the circumstances relied on

Particulars of Matrimonial Charge whose Registration is to be vacated or varied or whose priority is to be recorded as postponed

Name(s) of the person(s) against whom the matrimonial charge is registered:

Name of the person in whose favour the charge is registered:

Identification of the dwelling house affected by the charge:

Date and serial number of registration of the charge:

Date and serial number of any renewal of registration in pursuance of Article 9(3)(a) of the 1984 Order:

SECOND SCHEDULE

[In relation to the original document in Form MC3 mark the exhibit as "Second Schedule"; and set out a copy of the exhibit as the Second Schedule to the copy document in Form MC3.]

Certificate of Registrar

[Land Registry]

[Registry of Deeds]

To the Registrar [of Deeds] [of Titles]

Certificate of registrar where the registration of a matrimonial charge has ceased to have effect by virtue of Article 7(2) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 (“the 1984 Order”)—

1. I hereby certify that the matrimonial charge, particulars of which are set out in the First Schedule hereto, was registered [in pursuance of Article 6(1)(a) of the 1984 Order as a burden in the appropriate register in the Land Registry] [in pursuance of Article 6(1)(b) of the 1984 Order in the Registry of Deeds] on 19 .

2. I further certify that I was notified in pursuance of Article 7(3) of the 1984 Order of a registered matrimonial charge, then subsisting as such, particulars of which are set out in the Second Schedule hereto.

3. By virtue of Article 7(2) of the 1984 Order the registration of the matrimonial charge to which the Second Schedule refers ceased to have effect upon the registration of the matrimonial charge referred to in the First Schedule hereto.

Dated

19 .

.....
Registrar [of Titles] [of Deeds] [other person exercising functions of the Registrar of Titles or the Registrar of Deeds in accordance with paragraph 6 of Schedule 1 to the Land Registration Act (Northern Ireland) 1970 or section 7 of the Registration of Deeds Act (Northern Ireland) 1970]

FIRST SCHEDULE

**Particulars of Matrimonial Charge Registered upon Application or
Notice of Person entitled to the Benefit of Charge***[Land Registry]*

Folio:

County:

Registered owner:

*[Registry of Deeds]*Name(s) of the person(s) against whom
the charge is registered:Name of the person entitled to the benefit
of the charge in whose favour it is
registered:Identification of dwelling house
affected:Date and serial number of registration of
the charge:

SECOND SCHEDULE

Particulars of Matrimonial Charge of which the Registrar was notified in pursuance of Article 7(3) of the 1984 Order and whose Registration has ceased to have effect by virtue of Article 7(2) thereof upon the Registration of the Charge referred to in the First Schedule hereto

[Registry of Deeds]

Name(s) of person(s) against whom charge is registered:

Name of person in whose favour charge is registered:

Identification of dwelling house:

Date and serial number of registration of charge:

Date and serial number of any renewal of registration in pursuance of Article 9(3)(a) of the 1984 Order:

[Land Registry]

Folio:

County:

Registered Owner:

**Schedule to be Substituted for the Schedule to the Registration of Deeds
Regulations (Northern Ireland) 1968**

SCHEDULE regulations 7 and 9

FORMS

FORM 1

Requisition for a Common Search

Search on:

- (a) the Index of Names for all acts by
 from until
 affecting lands or premises situate in Town of
 Barony of County of;
 except (*here insert date and description of the
 instrument and the names of the parties*);
- (b) the Matrimonial Charges Index for all documents relating to a matrimonial
 charge registered against (*insert name(s)*) in favour of
 (*insert name*) affecting (*here identify the
 dwelling house as fully as possible*).

Name and address of Solicitor
or other person requisitioning search

Date

(Note — omit either (a) or (b) if not applicable)

To the Registrar of Deeds in Northern Ireland

Requisition for a Negative Search

I/We require—

- (a) an Abstract of every Memorial filed in the Registry of Deeds appearing on a Negative Search on the Index of Names of all acts by (name of person) affecting
(name of street or lands, Town, Barony, County) from until; except the Memorial of the following instrument
(here insert the date and description of the instrument and the names of the parties);
- (b) particulars of every document filed in the Registry of Deeds appearing on a Negative Search on the Matrimonial Charges Index relating to a matrimonial charge registered against (insert name(s)) in favour of (insert name) affecting (here identify the dwelling house as fully as possible).

Name and address of solicitor or other person requisitioning search

Date

(Note — omit either (a) or (b) if not applicable)

FORM 3

Registry of Deeds

Statement of Common Search

The following are—

- (a) the abstract of every memorial found to come within the terms of the requisition;
- (b) particulars of every document relating to a matrimonial charge found to come within the terms of the requisition.

Dated

Signed

Registrar or Assistant Registrar
(or other officer exercising
the functions of the Registrar in
accordance with section 7 of the
Registration of Deeds Act (Northern
Ireland) 1970)

(Note — omit either (a) or (b) if not applicable)

FORM 4

Registry of Deeds

Certificate of a Negative Search

After diligent search made in the Registry of Deeds, upon a requisition of which the following is a copy

I certify—

- (a) that there is not any Memorial registered in the said registry which comes within the terms of the said requisition whereof an abstract is not in this certificate truly set forth;
- (b) that there is not any document relating to a matrimonial charge registered in the said registry which comes within the terms of the said requisition whereof particulars are not in this certificate truly set forth.

Dated

Signed

Registrar or Assistant Registrar
(or other officer exercising the functions
of the Registrar in accordance with
section 7 of the Registration of Deeds
Act (Northern Ireland) 1970)

(Note — omit either (a) or (b) if not applicable)

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations—

- (a) prescribe the documents to be lodged and the procedure to be followed in the Registry of Deeds in connection with the registration of matrimonial charges affecting unregistered land, the renewal, vacating or variation of such registration and the postponement of the priority of matrimonial charges so registered (*regulation 3 and Forms MC1, MC2 and MC3 in Schedule 1*);
- (b) provide for the cancellation or vacating of the registration of a matrimonial charge (registered in either the Land Registry or the Registry of Deeds) where the registration of the charge has ceased to have effect on the subsequent registration of a matrimonial charge in respect of another dwelling house in favour of the same spouse (*regulation 4 and Form MC4 in Schedule 1*);
- (c) amend the Registration of Deeds Regulations (Northern Ireland) 1968 by restating Regulations 7 to 9 of those Regulations (which deal with searches) with amendments relating to matrimonial charges and other minor and consequential amendments (*regulation 5 and Schedule 2*);
- (d) insert a new paragraph in Regulation 4 of the Registration of Deeds (Nature of Paper) Regulations (Northern Ireland) 1971 the effect of which is to prescribe specifications for the paper to be used for copy documents in Forms MC1, MC2 and MC3 lodged in the Registry of Deeds (*regulation 6*).

Provision is made for a new index in the Registry of Deeds called the Matrimonial Charges Index (*regulation 3(2)(b)*).