

SCHEDULES

SCHEDULE 3

Section 18.

CONSEQUENTIAL AMENDMENTS

Law of Property Act 1925

- 1 In section 97 of the Law of Property Act 1925 (priorities as between puisne mortgages) for the words from " to mortgages " to " 1925), or " (which were inserted by section 9(2) of the Land Registration and Land Charges Act 1971) there shall be substituted the words " to mortgages or charges to which the Land Charges Act 1972 does not apply by virtue of section 14(3) of that Act (which excludes certain land charges created by instruments necessitating registration under the Land Registration Act 1925), or ".

Land Charges Act 1925

- 2 In section 15 of the Land Charges Act 1925 (registration of local land charges), after subsection (1) there shall be inserted—

“(1A) The expenses incurred by the person entitled to a charge registrable under subsection (1) above in causing the charge to be registered in the proper register shall be deemed to form part of the charge, and shall be recoverable by him accordingly on the day for payment of any part of the charge next after such expenses are incurred.”

- 3 Subsection (6) of that section shall cease to have effect.

- 4 After subsection (7) there shall be inserted—

“(7A) Where any matter is registrable both in a register kept under this Act and in one or more of the registers kept under the Land Charges Act 1972, it shall be sufficient if it is registered in one register, and if it is so registered the person entitled to the benefit of it shall not be prejudicially affected by the provisions of this Act or that Act applying to any other register.

(7B) The registration of a charge under this Act may be vacated pursuant to an order of the court.”

- 5 In section 19 of that Act (general rules), for paragraphs (a) and (b) of subsection (1) there shall be substituted—

- “(a) for prescribing the mode of registration of a local land charge, whether by reference to the estate owner or to the land affected or otherwise ;
- (b) for prescribing the proper officer to act as local registrar, and making provision as to official certificates of search to be given by him in reference to subsisting entries in his register;
- (c) for determining the effect of an official certificate of search in regard to the protection of a purchaser, or a solicitor, trustee or other person

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- in a fiduciary position, and for prescribing the fees to be paid for any such certificate or for a search;
- (d) for adapting the provisions of section 11 of the Land Charges Act 1972 to local land charges ;
 - (e) for providing for the cancellation without an order of the court of the registration of a local land charge, on the cesser thereof, or with the consent of the person entitled thereto ;
 - (f) for prescribing the fees, if any, to be paid for the cancellation of an entry in the register ;
 - (g) for providing that any enactment which was contained in Part II of the Land Registration and Land Charges Act 1971, and any specific repeal made by that Act in so far as it reproduced the effect of any such enactment, shall have effect in relation to local land charges.”

6 In section 20 of that Act (definitions)—

(a) for paragraph (2) there shall be substituted—

“(2) ' court ' means the High Court of Justice, or the county court where that court has jurisdiction ;”

(b) for paragraph (4) there shall be substituted—

“(4) ' estate owner ' and ' legal estate ' have the same meanings as in the Law of Property Act 1925 ;”.

Agricultural Credits Act 1928

7 For section 9(7) of the Agricultural Credits Act 1928 (agricultural charges) there shall be substituted—

“(7) The Schedule to this Act shall have effect in relation to official searches in the register of agricultural charges.”;

and at the end of that Act there shall be added—

“SCHEDULE

OFFICIAL SEARCHES IN THE REGISTER OF AGRICULTURAL CHARGES

- 1 Where any person requires search to be made at the Land Registry for entries of agricultural charges, he may on payment of a prescribed fee lodge at the Land Registry a requisition in that behalf.
- 2 The reference to the Land Registry in paragraph 1 above shall, if the Land Registrar so directs, be read as a reference to such office of Her Majesty's Land Registry (whether in London or elsewhere) as may be specified in the direction.
- 3 The Land Registrar shall make the search required, and shall issue a certificate setting forth the result of the search.
- 4 In favour of a purchaser or an intending purchaser, as against persons interested under or in respect of an agricultural charge, the certificate, according to its tenor, shall be conclusive, affirmatively or negatively, as the case may be.
- 5 Every requisition under this Schedule shall be in writing, signed by the person making it, specifying the name against which he desires search

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to be made, or in relation to which he requires a certificate of result of search, and other sufficient particulars.

- 6 If any officer, clerk or person employed in the Land Registry commits, or is party or privy to, any act of fraud or collusion, or is wilfully negligent, in the making of or otherwise in relation to any certificate under this Schedule, he shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £20, or to both such imprisonment and fine.
- 7 A solicitor, or a trustee, personal representative, agent, or other person in a fiduciary position, shall not be answerable for any loss that may arise from error in a certificate under this Schedule obtained by him.”

Matrimonial Homes Act 1967

- 8 (1) In section 2(5) of the Matrimonial Homes Act 1967 (effect of statutory rights of occupation of dwelling house) for the words " in accordance with the following provisions of this section " there shall be substituted the words " under section 2 of the Land Charges Act 1972 or subsection (7) below ".
- (2) In subsection (8) of the said section 2 for the words "by virtue of subsection (6) above," there shall be substituted the words " under section 2 of the Land Charges Act 1972. "
- 9 In section 3 of that Act (restriction on registration where spouse entitled to more than one charge) for the words " in accordance with subsection (6) or (7) of that section " there shall be substituted the words " under section 2 of the Land Charges Act 1972 or section 2(7) above " and for the words " in accordance with the said subsection (6) or (7) " there shall be substituted the words " under either of those provisions. "
- 10 In section 4(1) of that Act (cancellation of charge before completion of sale of house) for the words " in accordance with subsection (6) or (7) of that section " there shall be substituted the words " under section 2 of the Land Charges Act 1972 or section 2(7) above ".
- 11 In section 5 of that Act (cancellation of registration after termination of marriage, etc.)—
- (a) in subsection (1), and in paragraph (a) of subsection (3), for the words "in accordance with subsection (6) or (7) of section 2 above" there shall be substituted the words " under section 2 of the Land Charges Act 1972 or section 2(7) above ";
- (b) in paragraph (b) of subsection (3), for the words " in accordance with the said subsection (6) or (7) " there shall be substituted the words " under section 2 of the Land Charges Act 1972 or section 2(7) of this Act; ";
- (c) in subsection (6), for the words " section 19 of the Land Charges Act 1925 " there shall be substituted the words " section 16 of the Land Charges Act 1972 ".
- 12 In section 6(2) of that Act (release of rights of occupation) for the words "in accordance with subsection (6) or (7) of section 2 above " there shall be substituted the words " under section 2 of the Land Charges Act 1972 or section 2(7) above ".