



Land Registration Act 1925 (repealed)

1925 CHAPTER 21 15 and 16 Geo 5

PART III **E+W**

REGISTERED DEALINGS WITH REGISTERED LAND

Textual Amendments applied to the whole legislation

F1 Act repealed (prosp.) by [Land Registration Act 2002 \(c. 9\)](#), ss. 135, 136(2), [Sch. 13](#) (with s. 129, [Sch. 12](#))

Dispositions of Freehold Land

18 Powers of disposition of registered freeholds. **E+W**

- (1) Where the registered land is a freehold estate the proprietor may, in the prescribed manner, transfer the registered estate in the land or any part thereof, and, subject to any entry in the register to the contrary, may in the prescribed manner—
- (a) transfer the fee simple in possession of all or any mines or minerals apart from the surface; or of the surface without all or any of the mines and minerals;
 - (b) grant an annuity or a rentcharge in possession (either perpetual or for a term of years absolute) in any form which sufficiently refers in the prescribed manner to the registered land charged;
 - (c) grant in fee simple in possession any easement, right, or privilege in, over, or derived from the registered land or any part thereof, in any form which sufficiently refers, in the prescribed manner, to the registered servient tenement and to the dominant tenement, whether being registered land or not;
 - (d) transfer the fee simple in possession of the registered land or any part thereof, subject to the creation thereof, by way of reservation, in favour of any person of an annuity or a rentcharge in possession (either perpetual or for a term of years absolute), or of any easement, right, or privilege in possession (either in fee simple or for a term of years absolute);

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- (e) grant (subject or not to the reservation of an easement, right, or privilege) a lease of the registered land or any part thereof, or of all or any mines and minerals apart from the surface, or of the surface without all or any of the mines and minerals, or of an easement, right or privilege in or over the land, or any part thereof, for any term of years absolute for any purpose (but where by way of mortgage subject to the provisions of this Act and the ^{M1}Law of Property Act 1925, relating thereto), and in any form which sufficiently refers, in the prescribed manner, to the registered land.
- (2) A perpetual annuity or rentcharge in possession may be granted or reserved to any person with or without a power of re-entry, exercisable at any time, on default of payment thereof, or on breach of covenant, and shall have incidental thereto all the powers and remedies (as varied if at all by the disposition creating the rentcharge) for recovery thereof conferred by the ^{M2}Law of Property Act 1925; and where an easement, right, or privilege is reserved in a registered disposition for a legal estate, the reservation shall operate to create the same for the benefit of the land for the benefit of which the right is reserved.
- (3) A lease for a term, not exceeding twenty-one years, to take effect in possession or within one year from the date thereof ^{F1}. . . may be granted and shall take effect under this section notwithstanding that a caution, notice of deposit of a certificate, restriction, or inhibition (other than a bankruptcy inhibition) may be subsisting, but subject to the interests intended to be protected by any such caution, notice, restriction, or inhibition.
- (4) The foregoing powers of disposition shall (subject to the express provisions of this Act and of the ^{M3}Law of Property Act 1925, relating to mortgages) apply to dispositions by the registered proprietor by way of charge or mortgage; but no estate, other than a legal estate, shall be capable of being disposed of, or created under this section.
- (5) In this Act “transfer” or “disposition” when referring to registered freehold land includes any disposition authorised as aforesaid; and “transferee” has a corresponding meaning.

Textual Amendments

F1 Words repealed by [Land Registration Act 1986 \(c. 26, SIF 98:2\)](#), s. 4(2)(5)

Marginal Citations

M1 [1925 c. 20 \(98:1\)](#).

M2 [1925 c. 20 \(98:1\)](#).

M3 [1925 c. 20 \(98:1\)](#).

19 Registration of disposition of freeholds. **E+W**

- (1) The transfer of the registered estate in the land or part thereof shall be completed by the registrar entering on the register the transferee as the proprietor of the estate transferred, but until such entry is made the transferor shall be deemed to remain proprietor of the registered estate; and, where part only of the land is transferred, notice thereof shall also be noted on the register.
- (2) All interests transferred or created by dispositions by the proprietor, other than a transfer of the registered estate in the land, or part thereof, shall, subject to the provisions relating to mortgages, be completed by registration in the same manner and

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with the same effect as provided by this Act with respect to transfers of registered estates and notice thereof shall also be noted on the register:

Provided that nothing in this subsection—

- (a) shall authorise the registration of a lease granted for a term not exceeding twenty-one years [^{F2}or of a PPP lease], or require the entry of a notice of such a lease ^{F3} . . . ; or
- (b) shall authorise the registration of a mortgage term where there is a subsisting right of redemption; or
- (c) shall render necessary the registration of any easement, right, or privilege except as appurtenant to registered land, or the entry of notice thereof except as against the registered title of the servient land.

Every such disposition shall, when registered, take effect as a registered disposition, and a lease made by the registered proprietor under the last foregoing section which is not required to be registered or noted on the register shall nevertheless take effect as if it were a registered disposition immediately on being granted.

- (3) The general words implied in conveyances under the ^{M4}Law of Property Act 1925, shall apply, so far as applicable thereto, to dispositions of a registered estate.

Textual Amendments

F2 Words in s. 19(2)(a) inserted (12.1.2000) by 1999 c. 29, s. 219(4) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art.2

F3 Words repealed by Land Registration Act 1986 (c. 26, SIF 98:2), s. 4(3)(5)

Marginal Citations

M4 1925 c. 20 (98:1).

20 Effect of registration of dispositions of freeholds. **E+W**

- (1) In the case of a freehold estate registered with an absolute title, a disposition of the registered land or of a legal estate therein, including a lease thereof, for valuable consideration shall, when registered, confer on the transferee or grantee an estate in fee simple or the term of years absolute or other legal estate expressed to be created in the land dealt with, together with all rights, privileges, and appurtenances belonging or appurtenant thereto, including (subject to any entry to the contrary in the register) the appropriate rights and interests which would, under the ^{M5}Law of Property Act 1925, have been transferred if the land had not been registered, subject—

- (a) to the incumbrances and other entries, if any, appearing on the register [^{F4}and any charge for capital transfer tax subject to which the disposition takes effect under section 73 of this Act]; and
- (b) unless the contrary is expressed on the register, to the overriding interests, if any, affecting the estate transferred or created,

but free from all other estates and interests whatsoever, including estates and interests of His Majesty, and the disposition shall operate in like manner as if the registered transferor or grantor were (subject to any entry to the contrary in the register) entitled to the registered land in fee simple in possession for his own benefit.

- (2) In the case of a freehold estate registered with a qualified title a disposition of the registered land or of a legal estate therein, including a lease thereof, for valuable consideration shall, when registered, have the same effect as it would have had if the

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land had been registered with an absolute title, save that such disposition shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted.

- (3) In the case of a freehold estate registered with a possessory title, a disposition of the registered land or of a legal estate therein, including a lease thereof, for valuable consideration shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered proprietor, and subsisting or capable of arising at the time of the registration of such proprietor; but, save as aforesaid, shall when registered have the same effect as it would have had if the land had been registered with an absolute title.
- (4) Where any such disposition is made without valuable consideration, it shall, so far as the transferee or grantee is concerned, be subject to any minor interests subject to which the transferor or grantor held the same, but, save as aforesaid, shall, when registered, in all respects, and in particular as respects any registered dealings on the part of the transferee or grantee, have the same effect as if the disposition had been made for valuable consideration.

Textual Amendments

F4 Words inserted by [Finance Act 1975 \(c. 7\)](#), [Sch. 12 para. 5\(2\)](#)

Modifications etc. (not altering text)

C1 [S. 20](#) extended by [Housing Act 1985 \(c. 68, SIF 61\)](#), [Sch. 9A para. 6\(1\)\(a\)](#) (as inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(2), [Sch. 2 para. 3](#)) and extended by [S. I. 1986/2092](#) art. 10, Sch. 2 para. 6(1)(a)

Marginal Citations

M5 [1925 c. 20 \(98:1\)](#).

Dispositions of Leasehold Land

21 Powers of disposition of registered leaseholds. E+W

- (1) Where the registered land is a leasehold interest the proprietor may, in the prescribed manner, transfer the registered estate in the land or any part thereof, and, subject to any entry in the register to the contrary may in the prescribed manner—
- (a) transfer all or any of the leasehold mines and minerals apart from the surface; or the surface without all or any of the leasehold mines and minerals;
 - (b) grant (to the extent of the registered estate) any annuity or rentcharge in possession, easement, right or privilege in, over, or derived from the registered land or any part thereof, in any form which sufficiently refers, in the prescribed manner, to the registered lease, and to the dominant tenement, whether being registered land or not;
 - (c) transfer the registered land or any part thereof subject to a reservation to any person of any such annuity, rentcharge, easement, right, or privilege;
 - (d) grant (subject or not to the reservation of an easement, right or privilege) an underlease of the registered land, or any part thereof, or of all or any mines and minerals apart from the surface, or of the surface without all or any of the mines and minerals, or of an easement, right or privilege, in or over the

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registered land or any part thereof, for any term of years absolute of less duration than the registered estate and for any purpose (but where by way of mortgage, subject to the provisions of this Act and of the ^{M6}Law of Property Act 1925, relating thereto), and in any form which sufficiently refers in the prescribed manner to the registered land, and in the case of an easement, right, or privilege, to the dominant tenement, whether being registered land or not.

- (2) A disposition of registered leasehold land may be made subject to a rent legally apportioned in the prescribed manner, or to a rent not so apportioned.
- (3) An underlease for a term, not exceeding twenty-one years, to take effect in possession or within one year from the date thereof, ^{F5}. . . , may be granted and shall take effect under this section, notwithstanding that a caution, notice of deposit of a certificate, restriction, or inhibition (other than a bankruptcy inhibition) may be subsisting, but, subject to the interests intended to be protected by any such caution, notice, restriction or inhibition.
- (4) The foregoing powers of disposition shall (subject to the express provisions of this Act and of the ^{M7}Law of Property Act 1925, relating to mortgages) apply to dispositions by the registered proprietor by way of charge or mortgage, but no estate, other than a legal estate, shall be capable of being disposed of or created under this section.
- (5) In this Act “transfer” or “disposition” when referring to registered leasehold land includes any disposition authorised as aforesaid, and “transferee” has a corresponding meaning.

Textual Amendments

F5 Words repealed by [Land Registration Act 1986 \(c. 26, SIF 98:2\)](#), s. 4(2)(5)

Marginal Citations

M6 1925 c. 20 (98:1).

M7 1925 c. 20 (98:1).

22 Registration of dispositions of leaseholds. **E+W**

- (1) A transfer of the registered estate in the land or part thereof shall be completed by the registrar entering on the register the transferee as proprietor of the estate transferred, but until such entry is made the transferor shall be deemed to remain the proprietor of the registered estate; and where part only of the land is transferred, notice thereof shall also be noted on the register.
- (2) All interests transferred or created by dispositions by the registered proprietor other than the transfer of his registered estate in the land or in part thereof shall (subject to the provisions relating to mortgages) be completed by registration in the same manner and with the same effect as provided by this Act with respect to transfers of the registered estate, and notice thereof shall also be noted on the register in accordance with this Act: Provided that nothing in this subsection—
 - (a) shall authorise the registration of an underlease originally granted for a term not exceeding twenty-one years [^{F6}or of an underlease which is a PPP lease], or require the entry of a notice of such an underlease ^{F7}. . . ; or
 - (b) shall authorise the registration of a mortgage term where there is a subsisting right of redemption, or

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- (c) shall render necessary the registration of any easement, right, or privilege except as appurtenant to registered land, or the entry of notice thereof except as against the registered title of the servient land.

Every such disposition shall, when registered, take effect as a registered disposition, and an underlease made by the registered proprietor which is not required to be registered or noted on the register shall nevertheless take effect as if it were a registered disposition immediately on being granted.

- (3) The general words implied in conveyances under the ^{M8}Law of Property Act 1925, shall apply, so far as applicable thereto, to transfers of a registered leasehold estate.

Textual Amendments

- F6** Words in s. 22(2)(a) inserted (12.1.2000) by 1999 c. 29, s. 219(5) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art.2
- F7** Words repealed by Land Registration Act 1986 (c. 26, SIF 98:2), s. 4(3)(5)

Modifications etc. (not altering text)

- C2** S. 22 extended by Housing Act 1985 (c. 68, SIF 61), s. 154(6) and Sch. 9A para. 3 (as inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 8(2), Sch. 2) and S. I. 1986/2092, art. 10, Sch. 2 para. 3

Marginal Citations

- M8** 1925 c. 20 (98:1)

23 Effect of registration of dispositions of leaseholds. **E+W**

- (1) In the case of a leasehold estate registered with an absolute title, a disposition (including a subdemise thereof) for valuable consideration shall, when registered, be deemed to vest in the transferee or under-lessee the estate transferred or created to the extent of the registered estate, or for the term created by the subdemise, as the case may require, with all implied or expressed rights, privileges, and appurtenances attached to the estate transferred or created, including (subject to any entry to the contrary on the register) the appropriate rights and interests which would under the ^{M9}Law of Property Act 1925, have been transferred if the land had not been registered, but subject as follows:—

- (a) To all implied and express covenants, obligations, and liabilities incident to the estate transferred or created; and
- (b) To the incumbrances and other entries (if any) appearing on the register [^{F8}and any charge for capital transfer tax subject to which the disposition takes effect under section 73 of this Act]; and
- (c) Unless the contrary is expressed on the register, to the overriding interests, if any, affecting the estate transferred or created,

but free from all other estates and interests whatsoever, including estates and interests of His Majesty; and the transfer or subdemise shall operate in like manner as if the registered transferor or sublessor were (subject to any entry to the contrary on the register) absolutely entitled to the registered lease for his own benefit.

- (2) In the case of a leasehold estate registered with a good leasehold title, a disposition (including a subdemise thereof) for valuable consideration shall, when registered, have the same effect as it would have had if the land had been registered with an absolute

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title, save that it shall not affect or prejudice the enforcement of any right or interest affecting or in derogation of the title of the lessor to grant the lease.

- (3) In the case of a leasehold estate registered with a qualified title, a disposition (including a subdemise thereof) for valuable consideration shall, when registered, have the same effect as it would have had if the land had been registered with an absolute title, save that such disposition shall not affect or prejudice the enforcement of any right or interest (whether in respect of the lessor's title or otherwise) appearing by the register to be excepted.
- (4) In the case of a leasehold estate registered with a possessory title, a disposition (including a subdemise thereof) for valuable consideration shall not affect or prejudice the enforcement of any right or interest (whether in respect of the lessor's title or otherwise) adverse to or in derogation of the title of the first registered proprietor, and subsisting or capable of arising at the time of the registration of such proprietor, but save as aforesaid shall, when registered, have the same effect as it would have had if the land had been registered with an absolute title.
- (5) Where any such disposition is made without valuable consideration it shall, so far as the transferee or underlessee is concerned, be subject to any minor interests subject to which the transferor or sublessor held the same; but, save as aforesaid, shall, when registered, in all respects, and in particular as respects any registered dealings on the part of the transferee or underlessee, have the same effect as if the disposition had been made for valuable consideration.

Textual Amendments

F8 Words inserted by [Finance Act 1975 \(c. 7\)](#), [Sch. 12 para. 5\(3\)](#)

Modifications etc. (not altering text)

C3 [S. 23](#) extended by [Housing Act 1985 \(c. 68, SIF 61\)](#), [Sch. 9A para. 6\(1\)\(a\)](#) (as inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(2), [Sch. 2 para. 3](#)) and extended by [S. I. 1986/2092 art. 10](#), [Sch. 2 para. 6\(1\)\(a\)](#)

Marginal Citations

M9 [1925 c. 20 \(98:1\)](#).

24 Implied covenants on transfers of leaseholds. **E+W**

- (1) On the transfer, otherwise than by way of underlease, of any leasehold interest in land under this Act, unless there be an entry on the register negating such implication, there shall be implied—

^{F9}(a)

^{F10}(b)

^{F10}(2)

Textual Amendments

F9 [S. 24\(1\)\(a\)](#) repealed (1.7.1995) as regards dispositions of property made after that date by [1994 c. 36](#), ss. 10, 21(2), [Sch. 2](#) (with ss. 11, 13, 20, 21(2)(3)); [S. I. 1995/1317](#), [art. 2](#)

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F10 S. 24(1)(b)(2) repealed (1.1.1996) by 1995 c. 30, ss. 14(b), 30(2), **Sch.2** (with savings in ss. 26(1)(2), 30(3)); S.I. 1995/2963, **art. 2**

Charges on Freehold and Leasehold Land

VALID FROM 13/10/2003

F11 **25 Proprietor's power to create charges. E+W**

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Textual Amendments

F11 Act repealed (13.10.2003) by *Land Registration Act 2002 (c. 9)*, s. 136(2), **Sch. 13** (with ss. 129, 134(1), *Sch. 12 paras. 1*); S.I. 2003/1725, **art. 2(1)**; (with savings and transitional provisions (13.10.2003) by S.I. 2003/1953, **art. 3**)

26 Registration of charges. E+W

- (1) The charge shall be completed by the registrar entering on the register the person in whose favour the charge is made as the proprietor of such charge, and the particulars of the charge.
- (2) A charge may be registered notwithstanding that it contains any trust, power to appoint new trustees, or other provisions for giving effect to the security.
- (3) Where the land, in respect of which a charge is registered, is registered with a good leasehold, qualified or possessory title, the charge shall take effect subject to the provisions of this Act with respect to land registered with such a title.

27 Terms of years implied in or granted by charges. E+W

- (1) A registered charge shall, unless made or taking effect by demise or subdemise, and subject to any provision to the contrary contained in the charge, take effect as a charge by way of legal mortgage.
- (2) Subject to the provisions of the ^{M10}Law of Property Act 1925, a registered charge may contain in the case of freehold land, an express demise, and in the case of leasehold land an express subdemise of the land to the creditor for a term of years absolute, subject to a proviso for cesser on redemption.
- (3) Any such demise or subdemise or charge by way of legal mortgage shall take effect from the date of the delivery of the deed containing the same, but subject to the estate or interest of any person (other than the proprietor of the land) whose estate or interest (whenever created) is registered or noted on the register before the date of registration of the charge.
- (4) Any charge registered before the commencement of this Act shall take effect as a demise or subdemise of the land in accordance with the provisions of the ^{M11}Law of Property Act 1925, and the registered estate shall (without prejudice to any registered

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charge or any term or subterm created by a charge or by this Act) vest in the person appearing by the register to be entitled to the ultimate equity of redemption.

Marginal Citations

M10 1925 c. 20 (98:1).

M11 1925 c. 20 (98:1).

28 Implied covenants in charges. **E+W**

- (1) Where a registered charge is created on any land there shall be implied on the part of the person being proprietor of such land at the time of the creation of the charge, unless there be an entry on the register negating such implication—
 - (a) a covenant with the proprietor for the time being of the charge to pay the principal sum charged, and interest, if any, thereon, at the appointed time and rate; and
 - (b) a covenant, if the principal sum or any part thereof is unpaid at the appointed time, to pay interest half-yearly at the appointed rate as well after as before any judgment is obtained in respect of the charge on so much of the principal sum as for the time being remains unpaid.
- (2) Where a registered charge is created on any leasehold land there shall (in addition to the covenants aforesaid) be implied on the part of the person being proprietor of such land at the time of the creation of the charge, unless there be an entry on the register negating such implication, a covenant with the proprietor for the time being of the charge, that the person being proprietor of such land at the time of the creation of the charge, or the persons deriving title under him, will pay, perform, and observe the rent, covenants, and conditions, by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed, and observed, and will keep the proprietor of the charge, and the persons deriving title under him, indemnified against all proceedings, expenses, and claims, on account of the non-payment of the said rent, or any part thereof, or the breach of the said covenants or conditions, or any of them.

29 Priorities of registered charges. **E+W**

Subject to any entry to the contrary on the register, registered charges on the same land shall as between themselves rank according to the order in which they are entered on the register, and not according to the order in which they are created.

30 Protection of charges for securing further advances. **E+W**

- (1) When a registered charge is made for securing further advances, the registrar shall, before making any entry on the register which would prejudicially affect the priority of any further advance thereunder, give to the proprietor of the charge at his registered address, notice by registered post of the intended entry, and the proprietor of the charge shall not, in respect of any further advance, be affected by such entry, unless the advance is made after the date when the notice ought to have been received in due course of post.
- (2) If, by reason of any failure on the part of the registrar or the ^{F12}postal operator (within the meaning of the Postal Services Act 2000)] in reference to the notice, the proprietor of the charge suffers loss in relation to a further advance, he shall be entitled to be

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indemnified under this Act in like manner as if a mistake had occurred in the register; but if the loss arises by reason of an omission to register or amend the address for service, no indemnity shall be payable under this Act.

[^{F13}(3) Where the proprietor of a charge is under an obligation, noted on the register, to make a further advance, a subsequent registered charge shall take effect subject to any further advance made pursuant to the obligation.]

Textual Amendments

F12 Words in s. 30(2) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 8(2)**

F13 S. 30(3) added by Law of Property (Amendment) Act 1926 (c. 11, SIF 98:1), s. 5

Modifications etc. (not altering text)

C4 Reference in s. 30(1) to registered post to be construed as including reference to recorded delivery service: **Recorded Delivery Service Act 1962 (c. 27, SIF 96), s. 1(1)(2), Sch. para. 1**

31 Alteration of charges. E+W

- (1) The proprietor of a charge may by deed, in the prescribed manner, alter the terms of the charge, with the consent of the proprietor of the registered land and of the proprietors of all registered charges (if any) of equal or inferior priority, affected by the alteration.
- (2) A deed of alteration of a charge may contain an express demise or subdemise in like manner as an original deed of charge, and the provisions of this Act relating to a demise or subdemise contained in a deed of charge shall apply accordingly.
- (3) The alteration shall be completed by the registrar entering it on the register.

32 Provisions when charge registered in names of several proprietors. E+W

Where a charge is registered in the names of two or more proprietors (whether jointly or in undivided shares) the mortgage term implied or comprised in the charge shall (but without prejudice to the beneficial interests in the mortgage money) vest in them as joint tenants, and the proprietors or the survivors or survivor of them or the personal representatives of the last survivor, shall have power to give valid receipts, notwithstanding that the mortgage money may be held in undivided shares, in like manner as if the money had been held on a joint account.

33 Transfer of charges. E+W

- (1) The proprietor of any registered charge may, in the prescribed manner, transfer the charge to another person as proprietor.
- (2) The transfer shall be completed by the registrar entering on the register the transferee as proprietor of the charge transferred, but the transferor shall be deemed to remain proprietor of the charge until the name of the transferee is entered on the register in respect thereof.
- (3) A registered transferee for valuable consideration of a charge and his successors in title shall not be affected by any irregularity or invalidity in the original charge itself of which the transferee did not have notice when it was transferred to him.

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- (4) On registration of any transfer of a charge, the term or subterm (if any) granted expressly or by implication by the charge or any deed of alteration shall, without any conveyance or assignment and notwithstanding anything to the contrary in the transfer or any other instrument, vest in the proprietor for the time being of the charge.
- (5) Subject to any entry to the contrary on the register, the vesting of any term or subterm in accordance with this section in the proprietor of a charge shall, subject to the right of redemption, have the same effect as if such proprietor had been registered as the transferee for valuable consideration of the term or subterm.

34 Powers of proprietor of charge. E+W

- (1) Subject to any entry on the register to the contrary, the proprietor of a charge shall have and may exercise all the powers conferred by law on the owner of a legal mortgage.
- (2) Subject to any entry to the contrary on the register and subject to the right of any persons appearing on the register to be prior incumbrancers, the proprietor of a charge may, after entry into possession and after having acquired a title under the Limitation Acts, execute a declaration, in the prescribed form, that the right of redemption is barred, and thereupon he shall be entitled, subject to furnishing any evidence which may be prescribed in support thereof, to be registered as proprietor of the land, with the same consequences as if he had been a purchaser for valuable consideration of the land under the power of sale.
- (3) An order for foreclosure shall be completed by the registration of the proprietor of the charge (or such other person as may be named in the foreclosure order absolute for that purpose) as the proprietor of the land, and by the cancellation of the charge and of all incumbrances and entries inferior thereto; and such registration shall operate in like manner and with the same consequences as if the proprietor of the charge or other person aforesaid had been a purchaser for valuable consideration of the land under a subsisting power of sale.
- (4) A sale by the court or under the power of sale shall operate and be completed by registration in the same manner, as nearly as may be (but subject to any alterations on the register affecting the priority of the charge), as a transfer for valuable consideration by the proprietor of the land at the time of the registration of the charge would have operated or been completed, and, as respects the land transferred, the charge and all incumbrances and entries inferior thereto shall be cancelled.
- (5) Notwithstanding the creation of a term or subterm, expressly or by implication, under this Act, such transfer shall (subject to any prior incumbrances or other entries on the register) operate to transfer the registered estate, and the mortgage term or subterm shall become merged, and any purported disposition of or dealing with the mortgage term or subterm apart from the charge, and any process or act purporting to keep alive that term or subterm after the cessation of the charge shall be void.
- (6) For the purposes of this section an incumbrance or entry on the register shall not be deemed to be inferior to the charge in right of which title is made if the incumbrance or other interest is given the requisite priority by statute or otherwise.

35 Discharge of charges. E+W

- (1) The registrar shall, on the requisition of the proprietor of any charge, or on due proof of the satisfaction (whole or partial) thereof, notify on the register in the prescribed

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manner, by cancelling or varying the original entry or otherwise, the cessation (whole or partial) of the charge, and thereupon the charge shall be deemed to have ceased (in whole or in part) accordingly.

- (2) On the notification on the register of the entire cessation of a registered charge, whether as to the whole or part only of the land affected thereby, the term or sub-term implied in or granted by the charge or by any deed of alteration, so far as it affects the land to which the discharge extends, shall merge and be extinguished in the registered estate in reversion without any surrender.

36 Rules as to subcharges. **E+W**

Rules shall be made for applying the provisions of the ^{M12}Law of Property Act 1925, and of this Act to the case of charges by way of submortgage, whether registered before or after the commencement of this Act.

Marginal Citations

M12 1925 c. 20 (98:1).

As to Dealings generally

37 Powers of persons entitled to be registered. **E+W**

- (1) Where a person on whom the right to be registered as proprietor of registered land or of a registered charge has devolved by reason of the death of the proprietor, or has been conferred by a disposition or charge, in accordance with this Act, desires to dispose of or charge the land or to deal with the charge before he is himself registered as proprietor, he may do so in the prescribed manner, and subject to the prescribed conditions.
- (2) Subject to the provisions of this Act with regard to registered dealings for valuable consideration, a disposition or charge so made shall have the same effect as if the person making it were registered as proprietor.
- (3) Rules may be made for extending the provisions of this section to the case of any person entitled to be registered as first proprietor, and to any other case for which it may be deemed expedient to prescribe.

38 Certain provisions of the Law of Property Act to apply. **E+W**

- (1) The provisions as to execution of a conveyance on sale contained in the Law of Property Act 1925, shall apply, so far as applicable thereto, to transfers on sale of registered land.
- (2) Rules may be made for prescribing the effect of covenants implied by virtue of the ^{M13}Law of Property Act 1925 [^{F14}or Part I of the Law of Property (Miscellaneous Provisions) Act 1994], in dispositions of registered land.

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Textual Amendments

F14 Words in s. 38 inserted (15.2.1995) by 1994 c. 36, s. 21(1), **Sch. 1 para. 2** (with s. 20); S.I. 1995/145, art.2

Marginal Citations

M13 1925 c. 20 (98:1).

39 Deeds off register, how far to be void. **E+W**

- (1) Where any transaction relating exclusively to registered land or to a registered charge is capable of being effected and is effected by a registered disposition, then, subject to any prescribed exceptions, any deed or instrument, other than the registered disposition, which is executed by the proprietor for the purpose of giving effect to the transaction shall be void, but only so far as the transaction is carried out by the registered disposition.
- (2) Rules may be made for providing for cases in which any additional deed or instrument may be properly executed and for enabling the registrar to certify that in any special cases an additional deed or instrument will be proper and valid.

40 Creation and discharge of restrictive covenants. **E+W**

- (1) Subject to any entry to the contrary on the register, and without prejudice to the rights of persons entitled to overriding interests (if any) and to any incumbrances entered on the register, who may not concur therein, the proprietor may in any registered disposition or other instrument by covenant, condition, or otherwise, impose or make binding, so far as the law permits, any obligation or reservation with respect to the building on or other user of the registered land or any part thereof, or with respect to mines and minerals (whether registered separately or as part of the registered land), or with respect to any other thing in like manner as if the proprietor were entitled to the registered land for his own benefit.
- (2) The proprietor may (subject as aforesaid) release or waive any rights arising or which may arise by reason of any covenant or condition, or release any obligation or reservation the benefit of which is annexed or belongs to the registered land, to the same extent and in the same manner as if the rights in respect of the breach or the benefit of the covenant, condition, obligation, or reservation had been vested in him absolutely for his own benefit.

This subsection shall authorise the proprietor in reference to the registered land to give any licence, consent or approval which a tenant for life is by the ^{M14}Settled Land Act 1925, authorised to give in reference to settled land.

- (3) Entries shall be made on the register in the prescribed manner of all obligations and reservations imposed by the proprietor, of the release or waiver of any obligation or reservation, and of all obligations and reservations acquired by him for the benefit of the registered estate.

Marginal Citations

M14 1925 c. 18 (98:3).

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Transmissions of Land and Charges on Death and Bankruptcy

41 Transmissions of land and charges on death of proprietor. E+W

- (1) On the death of the sole proprietor, or of the survivor of two or more joint proprietors, of any registered land or charge, the personal representative of such sole deceased proprietor, or of the survivor of such joint proprietors, shall be entitled to be registered as proprietor in his place:

Provided that, where a special or additional personal representative is appointed by the court in reference to a registered estate, then on production of the order he shall be registered as proprietor either solely or jointly with any of the other personal representatives, as the case may require, and a copy of the order shall be filed at the registry.

- (2) Pending an application for the appointment of a special or additional personal representative, a caution against dealings may be lodged under this Act by any person intending to apply to the court for the appointment.
- (3) Subject as aforesaid, provision shall be made by rules for the manner in which effect is to be given on the register to transmissions on death.
- (4) An assent by a personal representative shall, in the case of registered land, be in the prescribed form and the production of the assent in that form shall authorise the registrar to register the person named in the assent as the proprietor of the registered land.

42 Transmissions on bankruptcy of proprietor. E+W

- (1) Upon the bankruptcy of the proprietor of any registered land or charge his trustee shall (on production of the prescribed evidence to be furnished by the official receiver or trustee in bankruptcy that the land or charge is [F15]comprised in the bankrupt's estate]be entitled to be registered as proprietor in his place.

The official receiver shall be entitled to be registered pending the appointment of a trustee.

- (2) Where a trustee in bankruptcy disclaims a registered lease under [F16]sections 315 to 319 of the Insolvency Act 1986], and an order is made by the court vesting the lease in any person, the order shall direct the alteration of the register in favour of the person in whom the lease is so vested, and in such case the registrar shall, on being served with such order, forthwith (without notice to the bankrupt or any other person and without requiring production of the land certificate) alter the register accordingly, and no right to indemnity under this Act shall arise by reason of such alteration.

Textual Amendments

F15 Words substituted by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(1), [Sch. 8 para. 5\(2\)\(a\)](#)

F16 Words substituted by virtue of [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(1), [Sch. 8 para. 5\(2\)\(b\)](#), and [Insolvency Act 1986 \(c. 45, SIF 66\)](#), ss. 439(2), 443, [Sch. 14](#)

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43 Effect of transmissions. **E+W**

Any person registered in the place of a deceased or bankrupt proprietor shall hold the land or charge in respect of which he is registered upon the trusts and for the purposes upon and subject to which the same is applicable by law, and subject to any minor interests subject to which the deceased or bankrupt proprietor held the same; but, save as aforesaid, he shall in all respects, and in particular as respects any registered dealings with such land or charge, be in the same position as if he had taken such land or charge under a transfer for valuable consideration.

Modifications etc. (not altering text)

C5 Section 43 applied (27.7.1993) by 1993 c. 37, s. 12, Sch. 2, Pt. II, para. 52(4)

C6 Section 43 modified (27.7.1993) by 1993 c. 37, s. 36, Sch. 4, para. 13(4)

44 Vesting of term or subterm on transmission of charge. **E+W**

- (1) On the registration of any transmission of a charge the term or subterm granted (expressly or by implication) by the charge or any deed of alteration shall without any conveyance or assignment vest in the proprietor for the time being of the charge.
- (2) Subject to any entry to the contrary on the register, the vesting of a term or subterm in accordance with this section in the proprietor of a charge, shall, subject to the right of redemption, have the same effect as if such proprietor had been registered as the transferee for valuable consideration of the term or subterm.

45 Proof of transmission of registered proprietorship. **E+W**

The fact of any person having become entitled to any registered land or charge in consequence of the death or bankruptcy of any proprietor shall be proved in the prescribed manner.

Subsidiary Provisions

46 Determination or variation of leases, incumbrances, etc. **E+W**

The registrar shall, on proof to his satisfaction of—

- (a) the determination of any lease, rentcharge, or other estate or interest the title to which is registered under this Act; or
- (b) the discharge or determination (whole or partial) or variation of any lease, incumbrance, rentcharge, easement, right or other interest in land which is noted on the register as an incumbrance,

notify in the prescribed manner on the register the determination (whole or partial) or variation of such lease or other interest.

47 Vesting instruments and dispositions in name of proprietor. **E+W**

- (1) The registrar shall give effect on the register to any vesting order or vesting declaration (express or implied) made on the appointment or discharge of a trustee or otherwise, and to dispositions made in the name and on behalf of a proprietor by a person authorised to make the disposition; and the provisions of the ^{M15}Trustee Act 1925,

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relating to the appointment and discharge of trustees and the vesting of trust property, shall apply to registered land subject to the proper entry being made on the register.

- (2) The registrar shall also give effect on the register in the prescribed manner to any vesting instrument which may be made pursuant to any statutory power.

Marginal Citations

M15 1925 c. 19 (98:4).

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Changes to legislation:

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