



# Land Registration Act 1925 (repealed)

1925 CHAPTER 21 15 and 16 Geo 5

## PART III

REGISTERED DEALINGS WITH REGISTERED LAND

*Charges on Freehold and Leasehold 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**F1** Act repealed (prosp.)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](#))

## 25 Proprietor's power to create charges.

- (1) The proprietor of any registered land may by deed—
  - (a) charge the registered land with the payment at an appointed time of any principal sum of money either with or without interest;
  - (b) charge the registered land in favour of a building society under the Building Societies Acts, 1874 to 1894, in accordance with the rules of that society.
- (2) A charge may be in any form provided that—
  - (a) the registered land comprised in the charge is described by reference to the register or in any other manner sufficient to enable the registrar to identify the same without reference to any other document;
  - (b) the charge does not refer to any other interest or charge affecting the land which—
    - (i) would have priority over the same and is not registered or protected on the register,
    - (ii) is not an overriding interest.
- (3) Any provision contained in a charge which purports to—

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- (i) take away from the proprietor thereof the power of transferring it by registered disposition or of requiring the cessation thereof to be noted on the register; or
  - (ii) affect any registered land or charge other than that in respect of which the charge is to be expressly registered,
- shall be void.

## **26 Registration of charges.**

- (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.**

- (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 <sup>M1</sup>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 <sup>M2</sup>Law of Property Act 1925, and the registered estate shall (without prejudice to any registered 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**

**M1** 1925 c. 20 (98:1).

**M2** 1925 c. 20 (98:1).

## **28 Implied covenants in charges.**

- (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—

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- (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.**

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.**

- (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 post office in reference to the notice, the proprietor of the charge suffers loss in relation to a further advance, he shall be entitled to be 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.

[<sup>F1</sup>(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**

**F1** S. 30(3) added by [Law of Property \(Amendment\) Act 1926 \(c. 11, SIF 98:1\)](#), s. 5

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**Modifications etc. (not altering text)**

- C1 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.**

- (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.**

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.**

- (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.
- (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.

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### **34 Powers of proprietor of charge.**

- (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.**

- (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 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.

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### 36 Rules as to subcharges.

Rules shall be made for applying the provisions of the <sup>M3</sup>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.

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#### Marginal Citations

**M3** 1925 c. 20 (98:1).

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