

SCHEDULES.

SIXTH SCHEDULE

Section 6.

LAND CHARGES, &C

PART I

AMENDMENTS

Closing of the annuities register.

- 1 The Land Charges Acts shall have effect as if the following section were comprised therein:—

“An annuity registered before the commencement of the principal Act, in the register of annuities may remain registered until the entry is vacated in the prescribed manner, on the prescribed evidence as to satisfaction cesser or discharge being furnished.

No annuity shall be entered in the register of annuities after the commencement of the principal Act, and the register may be closed in the prescribed manner when all the entries therein have been vacated, or the prescribed evidence of the satisfaction cesser or discharge of all the annuities has been furnished.”

Local and charges.

- 2 In sub-paragraph (7) of paragraph 2 of the Seventh Schedule to the principal Act the words “or any order, scheme or other instrument made in pursuance of any statute ” shall be inserted after “as aforesaid ” and in the proviso to that subsection the words "border, scheme or instrument“shall be inserted after ” statute "

Penalty for misdemeanour in reference to official certificates of search.

- 3 The following words shall be inserted at the end of subsection (6) of section two of the Conveyancing Act, 1882 :—

“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 twenty pounds or to both such imprisonment and fine.”

PART II

PROVISIONS FOR FACILITATING CONSOLIDATION OF THE LAW RELATING TO THE REGISTRATION OF PENDING ACTIONS, ANNUITIES, WRITS, ORDERS, DEEDS OF ARRANGEMENT AND LAND CHARGES, AND TO SEARCHES

Applications.

- 1 Every application to register a pending action, writ or order affecting land, deed of arrangement affecting land or land charge, shall be in the prescribed form and shall contain the prescribed particulars.

Pending actions.

- 2 The enactments (namely, section seven of the Judgments Act, 1839, and section sixteen of the principal Act) relating to the registration of pending actions shall be read as follows :—

“A pending action (that is to say, any action, information or proceeding pending in court relating to land or any interest in or charge on land, and a petition in bankruptcy filed after the commencement of the principal Act) may be registered in the register of pending actions.”

Register of land charges.

- 3 (1) The following classes of charges on, or obligations affecting, land may be registered as land charges in the register of land charges, namely :—

Class A—A rent, or annuity, or principal money payable by instalments or otherwise, with or without interest, being a charge (otherwise than by deed) upon land created pursuant to the application of some person either before or after the commencement of the principal Act—

- (i) under the provisions of any Act of Parliament, for securing to any person either the money spent by him or the costs, charges, and expenses incurred by him under such Act, or the money advanced by him for repaying the money spent, or the costs, charges, and expenses incurred by another person under the authority of an Act of Parliament; or
- (ii) under section thirty-five of the Land Drainage Act, 1861; or
- (iii) under section twenty or section forty-one of the Agricultural Holdings Act, 1923, or any previous similar enactment; or
- (iv) under section four or section six of the Tithe Act, 1918; or
- (v) under section one of the Tithe Annuities Apportionment Act, 1921;

but not including a rate or scot.

Class B—A charge on land (not being a local land charge) of any of the kinds described in Class A, created, otherwise than pursuant to the application of any person, either before or after the commencement of the principal Act, but if created before such commencement only if acquired under a conveyance made after such commencement.

Class C—A mortgage charge or obligation affecting land of any of the following kinds, created either before or after the commencement of the principal Act, but if created before such commencement only if acquired under a conveyance made after such commencement, namely :—

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- (i) Any legal mortgage not being a mortgage protected by a deposit of documents relating to the legal estate affected and (where the whole of the land affected is within the jurisdiction of a local deeds registry) not being registered in the local deeds register (in the Land Charges Acts called a “puisne mortgage”); and
- (ii) Any equitable charge acquired by a tenant for life or statutory owner under the Finance Act, 1894, or any other statute, by reason of the discharge by him of any death duties or other liabilities, and to which special priority is given by the statute (in the Land Charges Acts called “a limited owner's charge”); and
- (iii) Any other equitable charge, which is not secured by a deposit of documents relating to the legal estate affected or does not arise or affect an interest arising under a trust for sale or a settlement and is not included in any other class of land charge (in the Land Charges Acts called “a general equitable charge”); and
- (iv) Any contract by an estate owner or by a person entitled at the date of the contract to have a legal estate conveyed to him to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option of purchase, a right of pre-emption or any other like right (in the Land Charges Acts referred to as “an estate contract”)

Class D—A charge or obligation affecting land of any of the following kinds, namely :—

- (i) Any charge acquired by the Commissioners of Inland Revenue under any statute passed or hereafter to be passed for death duties leviable or payable on any death which occurs after the commencement of the principal Act; and
- (ii) A covenant or agreement (not being a covenant or agreement made between a lessor and lessee) restrictive of the user of land entered into after the commencement of the principal Act (in the Land Charges Acts referred to as “a restrictive covenant”); and
- (iii) Any easement right or privilege over or affecting land created or arising after the commencement of the principal Act, and being merely an equitable interest (in the Land Charges Acts referred to as an “equitable easement”).

Class E—An annuity within the meaning of the Judgments Act, 1855, created before the commencement of the principal Act, and not registered in the register of annuities.

- (2) A land charge shall be registered in the name of the estate owner whose estate is intended to be affected save that, in the case of a land charge registered before the commencement of the principal Act, in the name of a person not being the estate owner, it may remain so registered until it is registered in the name of the estate owner in the prescribed manner.
- (3) Where a land charge is not created by an instrument, short particulars of the effect of the charge shall be furnished with the application to register the charge.
- (4) Nothing in this section shall be deemed to authorise the Commissioners of Inland Revenue to register a land charge in respect of any claim for death duties unless the duty has become a charge on the land, and the application to register any such charge, shall state the duties in respect of which the charge is claimed, and, so far

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as possible, shall define the land affected, and such particulars shall be entered or referred to in the register.

- (5) In the case of a land charge for securing money, created by a company, registration under section ninety-three of the Companies (Consolidation) Act, 1908, shall be sufficient in place of registration under the Land Charges Acts, and shall have effect as if the land charge had been registered under the Land Charges Acts.
- (6) In the case of a general equitable charge, restrictive covenant, equitable easement or estate contract, affecting land within any of the three ridings, the registration in the prescribed manner in the appropriate local deeds registry of the document creating it shall be sufficient in place of registration under the Land Charges Acts, and the registration shall have effect as if the land charge created by the document had been registered under the Land Charges Acts.
- (7) A puisne mortgage created before the commencement of the principal Act may be registered as a land charge before any transfer of the mortgage is made.
- (8) The registration of a land charge may be vacated pursuant to an order of court, or a judge thereof.
- (9) The provisions of this paragraph shall have effect in substitution for section ten of the Act of 1888.

Protection of purchasers.

- 4 (1) A land charge of Class A created after the thirty-first day of December, eighteen hundred and eighty-eight, is void as against a purchaser of the land charged therewith or of any interest in such land, unless the land charge is registered in the register of land charges before the completion of the purchase.
- (2) A land charge of Class B, C or D created or arising after the commencement of the principal Act, shall (save as hereinafter provided) be void as against a purchaser of the land charged therewith, or of any interest in such land, unless the land charge is registered in the appropriate register before the completion of the purchase:

Provided that as respects a land charge of Class D and an estate contract created or entered into after the commencement of the principal Act, the last subsection only applies in favour of a purchaser of a legal estate for money or money's worth.
- (3) The foregoing provisions of this paragraph shall have effect in substitution for section twelve of the Act of 1888.

Further protection of purchasers.

- 5 (1) After the expiration of one year from the first conveyance, occurring on or after the first day of January, eighteen hundred and eighty-nine, of a land charge of Class A created before that date, the person entitled thereto is not able to recover the same or any part thereof, as against a purchaser of the land charged therewith, or of any interest in such land, unless the land charge is registered in the register of land charges before the completion of the purchase.
- (2) After the expiration of one year from the first conveyance, occurring after the commencement of the principal Act, of a land charge of Class B or C created before such commencement, the person entitled thereto shall not be able to enforce or recover the same or any part thereof as against a purchaser of the land charged

therewith, or of any interest in such land, unless the land charge is registered in the appropriate register before the completion of the purchase.

- (3) The foregoing provisions of this paragraph shall have effect in substitution for section thirteen of the Act of 1888.

Rules.

- 6 The words “and any assignment thereof” in sub-paragraph (3) of paragraph 1 of the Seventh Schedule to the principal Act are hereby repealed, and the power to make general rules shall be extended so as to authorise the making of rules providing for the registration of a puisne mortgage.

Saving of over-reaching powers.

- 7 The Land Charges Acts shall have effect as if the following sections were included therein:—

“(1) The registration of any charge, annuity or other interest under the Land Charges Acts shall not prevent such charge, annuity or interest being overreached under any provision contained in any other statute, except where otherwise provided by such other statute.

(2) The registration as a land charge of a puisne mortgage or charge shall not operate to prevent such mortgage or charge being overreached in favour of a prior mortgagee or a person deriving title under him where, by reason of a sale foreclosure or otherwise, the right of the puisne mortgagee or subsequent chargee to redeem is barred.”

“(1) As respects pending actions, writs, orders, deeds of arrangement and land charges, not including local land charges, required to be registered or re-registered after the commencement of the principal Act, the Land Charges Acts shall not apply thereto if and so far as they affect registered land, and can be protected under the Land Transfer Acts, by lodging or registering a creditor's notice, restriction, caution, inhibition or other notice.

(2) Nothing in the Land Charges Acts shall impose on the registrar any obligation to ascertain whether or not a pending action, writ, order, deed of arrangement or land charge affects registered land;”

Application to the Crown.

- 8 The Land Charges Acts shall bind the Crown, but nothing therein contained shall be construed as rendering land owned or occupied for the purposes of the Crown, subject to any charge to which independently of those enactments it would not be subject.