



Land Registration Act 2002

2002 CHAPTER 9

PART 4

NOTICES AND RESTRICTIONS

Notices

32 Nature and effect

- (1) A notice is an entry in the register in respect of the burden of an interest affecting a registered estate or charge.
- (2) The entry of a notice is to be made in relation to the registered estate or charge affected by the interest concerned.
- (3) The fact that an interest is the subject of a notice does not necessarily mean that the interest is valid, but does mean that the priority of the interest, if valid, is protected for the purposes of sections 29 and 30.

33 Excluded interests

No notice may be entered in the register in respect of any of the following—

- (a) an interest under—
 - (i) a trust of land, or
 - (ii) a settlement under the Settled Land Act 1925 (c. 18),
- (b) a leasehold estate in land which—
 - (i) is granted for a term of years of three years or less from the date of the grant, and
 - (ii) is not required to be registered,
- (c) a restrictive covenant made between a lessor and lessee, so far as relating to the demised premises,
- (d) an interest which is capable of being registered under the Commons Registration Act 1965 (c. 64), and

Status: This is the original version (as it was originally enacted).

- (e) an interest in any coal or coal mine, the rights attached to any such interest and the rights of any person under section 38, 49 or 51 of the Coal Industry Act 1994 (c. 21).

34 Entry on application

- (1) A person who claims to be entitled to the benefit of an interest affecting a registered estate or charge may, if the interest is not excluded by section 33, apply to the registrar for the entry in the register of a notice in respect of the interest.
- (2) Subject to rules, an application under this section may be for—
 - (a) an agreed notice, or
 - (b) a unilateral notice.
- (3) The registrar may only approve an application for an agreed notice if—
 - (a) the applicant is the relevant registered proprietor, or a person entitled to be registered as such proprietor,
 - (b) the relevant registered proprietor, or a person entitled to be registered as such proprietor, consents to the entry of the notice, or
 - (c) the registrar is satisfied as to the validity of the applicant's claim.
- (4) In subsection (3), references to the relevant registered proprietor are to the proprietor of the registered estate or charge affected by the interest to which the application relates.

35 Unilateral notices

- (1) If the registrar enters a notice in the register in pursuance of an application under section 34(2)(b) ("a unilateral notice"), he must give notice of the entry to—
 - (a) the proprietor of the registered estate or charge to which it relates, and
 - (b) such other persons as rules may provide.
- (2) A unilateral notice must—
 - (a) indicate that it is such a notice, and
 - (b) identify who is the beneficiary of the notice.
- (3) The person shown in the register as the beneficiary of a unilateral notice, or such other person as rules may provide, may apply to the registrar for the removal of the notice from the register.

36 Cancellation of unilateral notices

- (1) A person may apply to the registrar for the cancellation of a unilateral notice if he is—
 - (a) the registered proprietor of the estate or charge to which the notice relates, or
 - (b) a person entitled to be registered as the proprietor of that estate or charge.
- (2) Where an application is made under subsection (1), the registrar must give the beneficiary of the notice notice of the application and of the effect of subsection (3).
- (3) If the beneficiary of the notice does not exercise his right to object to the application before the end of such period as rules may provide, the registrar must cancel the notice.
- (4) In this section—

“beneficiary”, in relation to a unilateral notice, means the person shown in the register as the beneficiary of the notice, or such other person as rules may provide;

“unilateral notice” means a notice entered in the register in pursuance of an application under section 34(2)(b).

37 Unregistered interests

- (1) If it appears to the registrar that a registered estate is subject to an unregistered interest which—
 - (a) falls within any of the paragraphs of Schedule 1, and
 - (b) is not excluded by section 33,he may enter a notice in the register in respect of the interest.
- (2) The registrar must give notice of an entry under this section to such persons as rules may provide.

38 Registrable dispositions

Where a person is entered in the register as the proprietor of an interest under a disposition falling within section 27(2)(b) to (e), the registrar must also enter a notice in the register in respect of that interest.

39 Supplementary

Rules may make provision about the form and content of notices in the register.

Restrictions

40 Nature

- (1) A restriction is an entry in the register regulating the circumstances in which a disposition of a registered estate or charge may be the subject of an entry in the register.
- (2) A restriction may, in particular—
 - (a) prohibit the making of an entry in respect of any disposition, or a disposition of a kind specified in the restriction;
 - (b) prohibit the making of an entry—
 - (i) indefinitely,
 - (ii) for a period specified in the restriction, or
 - (iii) until the occurrence of an event so specified.
- (3) Without prejudice to the generality of subsection (2)(b)(iii), the events which may be specified include—
 - (a) the giving of notice,
 - (b) the obtaining of consent, and
 - (c) the making of an order by the court or registrar.
- (4) The entry of a restriction is to be made in relation to the registered estate or charge to which it relates.

41 Effect

- (1) Where a restriction is entered in the register, no entry in respect of a disposition to which the restriction applies may be made in the register otherwise than in accordance with the terms of the restriction, subject to any order under subsection (2).
- (2) The registrar may by order—
 - (a) disapply a restriction in relation to a disposition specified in the order or dispositions of a kind so specified, or
 - (b) provide that a restriction has effect, in relation to a disposition specified in the order or dispositions of a kind so specified, with modifications so specified.
- (3) The power under subsection (2) is exercisable only on the application of a person who appears to the registrar to have a sufficient interest in the restriction.

42 Power of registrar to enter

- (1) The registrar may enter a restriction in the register if it appears to him that it is necessary or desirable to do so for the purpose of—
 - (a) preventing invalidity or unlawfulness in relation to dispositions of a registered estate or charge,
 - (b) securing that interests which are capable of being overreached on a disposition of a registered estate or charge are overreached, or
 - (c) protecting a right or claim in relation to a registered estate or charge.
- (2) No restriction may be entered under subsection (1)(c) for the purpose of protecting the priority of an interest which is, or could be, the subject of a notice.
- (3) The registrar must give notice of any entry made under this section to the proprietor of the registered estate or charge concerned, except where the entry is made in pursuance of an application under section 43.
- (4) For the purposes of subsection (1)(c), a person entitled to the benefit of a charging order relating to an interest under a trust shall be treated as having a right or claim in relation to the trust property.

43 Applications

- (1) A person may apply to the registrar for the entry of a restriction under section 42(1) if—
 - (a) he is the relevant registered proprietor, or a person entitled to be registered as such proprietor,
 - (b) the relevant registered proprietor, or a person entitled to be registered as such proprietor, consents to the application, or
 - (c) he otherwise has a sufficient interest in the making of the entry.
- (2) Rules may—
 - (a) require the making of an application under subsection (1) in such circumstances, and by such person, as the rules may provide;
 - (b) make provision about the form of consent for the purposes of subsection (1)(b);
 - (c) provide for classes of person to be regarded as included in subsection (1)(c);
 - (d) specify standard forms of restriction.

- (3) If an application under subsection (1) is made for the entry of a restriction which is not in a form specified under subsection (2)(d), the registrar may only approve the application if it appears to him—
- (a) that the terms of the proposed restriction are reasonable, and
 - (b) that applying the proposed restriction would—
 - (i) be straightforward, and
 - (ii) not place an unreasonable burden on him.
- (4) In subsection (1), references to the relevant registered proprietor are to the proprietor of the registered estate or charge to which the application relates.

44 Obligatory restrictions

- (1) If the registrar enters two or more persons in the register as the proprietor of a registered estate in land, he must also enter in the register such restrictions as rules may provide for the purpose of securing that interests which are capable of being overreached on a disposition of the estate are overreached.
- (2) Where under any enactment the registrar is required to enter a restriction without application, the form of the restriction shall be such as rules may provide.

45 Notifiable applications

- (1) Where an application under section 43(1) is notifiable, the registrar must give notice of the application, and of the right to object to it, to—
- (a) the proprietor of the registered estate or charge to which it relates, and
 - (b) such other persons as rules may provide.
- (2) The registrar may not determine an application to which subsection (1) applies before the end of such period as rules may provide, unless the person, or each of the persons, notified under that subsection has exercised his right to object to the application or given the registrar notice that he does not intend to do so.
- (3) For the purposes of this section, an application under section 43(1) is notifiable unless it is—
- (a) made by or with the consent of the proprietor of the registered estate or charge to which the application relates, or a person entitled to be registered as such proprietor,
 - (b) made in pursuance of rules under section 43(2)(a), or
 - (c) an application for the entry of a restriction reflecting a limitation under an order of the court or registrar, or an undertaking given in place of such an order.

46 Power of court to order entry

- (1) If it appears to the court that it is necessary or desirable to do so for the purpose of protecting a right or claim in relation to a registered estate or charge, it may make an order requiring the registrar to enter a restriction in the register.
- (2) No order under this section may be made for the purpose of protecting the priority of an interest which is, or could be, the subject of a notice.

Status: This is the original version (as it was originally enacted).

- (3) The court may include in an order under this section a direction that an entry made in pursuance of the order is to have overriding priority.
- (4) If an order under this section includes a direction under subsection (3), the registrar must make such entry in the register as rules may provide.
- (5) The court may make the exercise of its power under subsection (3) subject to such terms and conditions as it thinks fit.

47 Withdrawal

A person may apply to the registrar for the withdrawal of a restriction if—

- (a) the restriction was entered in such circumstances as rules may provide, and
- (b) he is of such a description as rules may provide.