



# Land Charges Act 1925

## 1925 CHAPTER 22

### PART VIII

#### GENERAL

#### **18 7 Anne, c.20, not to apply to certain instruments**

It is not necessary to register under the Middlesex Registry Act, 1708—

- (a) any deed of arrangement, land charge of Class A or other instrument made or created on or after the thirtieth day of July, nineteen hundred; or
- (b) any land charge (except a puisne mortgage) of Class B, Class C or Class D created or made after the commencement of this Act;

which is or was capable of registration under this Act, or any enactment replaced by this Act.

#### **19 General rules**

(1) The Lord Chancellor may, with the concurrence of the Treasury as to fees, make such general rules as may be required for carrying this Act into effect, and in particular—

- (a) as to forms and contents of applications for registration, modes of identifying where practicable the land affected, requisitions for and certificates of official searches, and regulating the practice of the registry in connexion therewith;
- (b) for providing for the mode of registration of a land charge (and in the case of a puisne mortgage, general equitable charge, estate contract, restrictive covenant or equitable easement by reference to the instrument imposing or creating the charge, interest or restriction, or an extract therefrom) and for the cancellation without an order of court of the registration of a land charge, on the cesser thereof, or with the consent of the person entitled thereto, or on sufficient evidence being furnished that the land charge has been overreached under the provisions of any statute or otherwise.

(2) As respects the registration and re-registration—

- (a) of a petition in bankruptcy as a pending action; and

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(b) of a receiving order in bankruptcy as an order affecting land;  
rules may be made under and in the manner provided by section one hundred and thirty-two of the Bankruptcy Act, 1914, as if the registration and re-registration were required by that Act.

## 20 Definitions

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

- (1) "Conveyance" includes a mortgage, charge, lease, assent, vesting declaration, vesting instrument, release and every other assurance of property, or of an interest therein, by any instrument except a will, and "convey" has a corresponding meaning;
- (2) "Court" means the High Court of Justice, also the Court of Chancery of the County Palatine of Lancaster or Durham, or the county court where those courts respectively have jurisdiction;
- (3) "Deed of arrangement" has the same meaning as in the Deeds of Arrangement Act, 1914;
- (4) "Estate owner," "legal estate," "equitable interest," "trust for sale," "charge by way of legal mortgage," "will," and "death duty" have the same meanings as in the Law of Property Act, 1925;
- (5) "Judgment" includes any order, rule or decree having the effect of a judgment;
- (6) "Land" includes land of any tenure, and mines and minerals, whether or not severed from the surface, buildings or parts of buildings (whether the division is horizontal, vertical or made in any other way) and other corporeal hereditaments, also a manor, an advowson and a rent and other incorporeal hereditaments, and an easement, right, privilege or benefit in, over or derived from land, but not an undivided share in land, and "hereditament" means real property which, on an intestacy occurring before the commencement of this Act, might have devolved on an heir;
- (7) "Land charge" means a land charge of every class and includes a local land charge;
- (8) "Purchaser" means any person (including a mortgagee or lessee) who, for valuable consideration, takes any interest in land or in a charge on land; and "purchase" has a corresponding meaning;
- (9) "Prescribed" means prescribed by rules made pursuant to this Act;
- (10) "Registrar" means the Chief Land Registrar; "registry" means His Majesty's Land Registry; and "registered land" has the same meaning as in the Land Registration Act, 1925;
- (11) "Restrictive covenant" includes the conditions, stipulations and restrictions which the Commissioners of Works may, under any statutory power, impose on enfranchised land, after the commencement of this Act, for the protection of the amenities of royal parks, gardens, and palaces;
- (12) "The three ridings" has the same meaning as in the Yorkshire Registries Act, 1884;
- (13) "Tenant for life," "statutory owner," "vesting instrument" and "settlement" have the same meanings as in the Settled Land Act, 1925.

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## **21 Effect of registration under any Part of Act**

Where any charge or other matter is capable of registration under two or more Parts of this Act, it shall be sufficient if it is registered under any one Part, and if registered under such one Part the person entitled to the benefit thereof shall not be prejudicially affected by the provisions of another Part by reason only that it was not also registered under that other Part.

## **22 Saving of overreaching powers**

- (1) The registration of any charge, annuity, or other interest under this Act shall not prevent the charge, annuity, or interest being overreached under any provision contained in any other statute, except where otherwise provided by that other statute.
- (2) The registration as a land charge of a puisne mortgage or charge shall not operate to prevent that 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.

## **23 Application to registered land**

- (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 this Act, this Act shall not apply thereto, if and so far as they affect registered land, and can be protected under the Land Registration Act, 1925, by lodging or registering a creditor's notice, restriction, caution, inhibition or other notice.
- (2) Nothing in this Act imposes on the registrar any obligation to ascertain whether or not a pending action, writ, order, deed of arrangement or land charge affects registered land.

## **24 Repeals**

The Acts mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that, without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889 :—

- (a) Nothing in this repeal shall affect any entry in a register made under any enactment so repealed, but the registration shall have effect as if made under this Act ;
- (b) Nothing in this repeal shall affect any rules made under any enactment so repealed, but all such rules shall continue in force as if made under the corresponding enactment in this Act;
- (c) References in any document to any enactment repealed by this Act shall be construed as references to this Act or to the corresponding enactment in this Act.

## **25 Application to the Crown.**

The provisions of this Act bind the Crown, but nothing in this Act shall be construed as rendering land owned by or occupied for the purposes of the Crown subject to any charge to which, independently of this Act, it would not be subject.

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**26 Short title, commencement and extent.**

- (1) This Act may be cited as the Land Charges Act, 1925.
- (2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-six.
- (3) This Act extends to England and Wales only.