



# Land Charges Act 1972

## 1972 CHAPTER 61

### *Miscellaneous and supplementary*

#### **11 Date of effective registration and priority notices**

- (1) Any person intending to make an application for the registration of any contemplated charge, instrument or other matter in pursuance of this Act or any rule made under this Act may give a priority notice in the prescribed form at least the relevant number of days before the registration is to take effect.
- (2) Where a notice is given under subsection (1) above, it shall be entered in the register to which the intended application when made will relate.
- (3) If the application is presented within the relevant number of days thereafter and refers in the prescribed manner to the notice, the registration shall take effect as if the registration had been made at the time when the charge, instrument or matter was created, entered into, made or arose, and the date at which the registration so takes effect shall be deemed to be the date of registration.
- (4) Where—
  - (a) any two charges, instruments or matters are contemporaneous ; and
  - (b) one of them (whether or not protected by a priority notice) is subject to or dependent on the other; and
  - (c) the latter is protected by a priority notice,the subsequent or dependent charge, instrument or matter shall be deemed to have been created, entered into or made, or to have arisen, after the registration of the other.
- (5) Where a purchaser has obtained a certificate under section 10 above, any entry which is made in the register after the date of the certificate and before the completion of the purchase, and is not made pursuant to a priority notice entered on the register on or before the date of the certificate, shall not affect the purchaser if the purchase is completed before the expiration of the relevant number of days after the date of the certificate.
- (6) The relevant number of days is—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) for the purposes of subsections (1) and (5) above, fifteen;
- (b) for the purposes of subsection (3) above, thirty.

or such other number as may be prescribed; but in reckoning the relevant number of days for any of the purposes of this section any days when the registry is not open to the public shall be excluded.

## **12 Protection of solicitors, trustees, etc.**

A solicitor, or a trustee, personal representative, agent or other person in a fiduciary position, shall not be answerable—

- (a) in respect of any loss occasioned by reliance on an office copy of an entry in any register kept under this Act;
- (b) for any loss that may arise from error in a certificate under section 10 above obtained by him.

## **13 Saving for 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 other Act, except where otherwise provided by that other Act.
- (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 or foreclosure, or otherwise, the right of the puisne mortgagee or subsequent chargee to redeem is barred.

## **14 Exclusion of matters affecting registered land or created by instruments necessitating registration of land**

- (1) This Act shall not apply to instruments or matters required to be registered or re-registered on or after 1st January 1926, 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 an instrument or matter affects registered land.
- (3) Where an instrument executed on or after 27th July 1971 conveys, grants or assigns an estate in land and creates a land charge affecting that estate, this Act shall not apply to the land charge, so far as it affects that estate, if under section 123 of the Land Registration Act 1925 (effect of that Act in areas where registration is compulsory) the instrument will, unless the necessary application for registration under that Act is made within the time allowed by or under that section, become void so far as respects the conveyance, grant or assignment of that estate.

## **15 Application to the Crown**

- (1) This Act binds 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.
- (2) References in this Act to restrictive covenants include references to any conditions, stipulations or restrictions imposed on or after 1st January 1926, by virtue of

section 137 of the Law of Property Act 1922, for (the protection of the amenities of royal parks, gardens and palaces.

## 16 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 connection 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 from that instrument) and for the cancellation without an order of court of the registration of a land charge, on its cesser, or with the consent of the person entitled to it, or on sufficient evidence being furnished that the land charge has been overreached under the provisions of any Act or otherwise ;
  - (c) for determining the date on which applications and notices shall be treated for the purposes of section 11 of this Act as having been made or given;
  - (d) for determining the times and order at and in which applications and priority notices are to be registered;
  - (e) for varying the relevant number of days for any of the purposes of section 11 of this Act;
  - (f) for enabling the registrar to provide credit accounting facilities in respect of fees payable by virtue of this Act;
  - (g) for treating the debiting of such a fee to a credit account maintained at the registry as being, for such purposes of this Act or of the rules as may be specified in the rules, payment of that fee;
  - (h) for the termination or general suspension of any credit accounting facilities provided under the rules or for their withdrawal or suspension in particular cases at the discretion of the registrar;
  - (j) for requiring the registrar to take steps in relation to any instrument or matter in respect of which compensation has been claimed under section 25 of the Law of Property Act 1969 which would be likely to bring that instrument or matter to the notice of any person who subsequently makes a search of the registers kept under section 1 of this Act or requires such a search to be made in relation to the estate or interest affected by the instrument or matter ; and
  - (k) for authorising the use of the index kept under this Act in any manner which will serve that purpose, notwithstanding that its use in that manner is not otherwise authorised by or by virtue of this Act.
- (2) The power of the Lord Chancellor, with the concurrence of the Secretary of State, to make general rules under section 132 of the Bankruptcy Act 1914 for carrying into effect the objects of that Act shall include power to make rules as respects the registration and re-registration of a petition in bankruptcy under section 5 of this Act and a receiving order in bankruptcy under section 6 of this Act, as if the registration and re-registration were required by that Act.

## 17 Interpretation

(1) In this Act, unless the context otherwise requires.—

" annuity " means a rentcharge or an annuity for a life or lives or for any term of years or greater estate determinable on a life or on lives and created after 25th April 1855 and before 1st January 1926, but does not include an annuity created by a marriage settlement or will;

" the Board " means the Commissioners of Inland Revenue ;

" conveyance " includes a mortgage, charge, lease, assent, vesting declaration, vesting instrument, release and every other assurance of property, or of an interest in property, by any instrument except a will, and " convey " has a corresponding meaning ;

" court " means the High Court, or the county court in a case where that court has jurisdiction;

" deed of arrangement " has the same meaning as in the Deeds of Arrangement Act 1914 ;

" estate owner ", " legal estate ", " equitable interest ", " trust for sale ", " charge by way of legal mortgage ", " will " and " death duties " have the same meanings as in the Law of Property Act 1925 ;

" judgment " includes any order or decree having the effect of a judgment;

" 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 1st January 1926, might have devolved on an heir ;

" land improvement charge " means any charge under the Improvement of Land Act 1864 or under any special improvement Act within the meaning of the Improvement of Land Act 1899;

" pending land action " means any action or proceeding pending in court relating to land or any interest in or charge on land;

" prescribed " means prescribed by rules made pursuant to this Act;

" 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 ;

" registrar " means the Chief Land Registrar, " registry " means Her Majesty's Land Registry, and " registered land " has the same meaning as in the Land Registration Act 1925 ;

" tenant for life ", " statutory owner ", " vesting instrument " and " settlement " have the same meanings as in the Settled Land Act 1925.

(2) For the purposes of any provision in this Act requiring or authorising anything to be done at or delivered or sent to the registry, any reference to the registry shall, if the registrar so directs, be read as a reference to such office of the registry (whether in London or elsewhere) as may be specified in the direction.

(3) Any reference in this Act to any enactment is a reference to it as amended by or under any other enactment, including this Act.

## **18 Consequential amendments, repeals, savings, etc.**

- (1) Schedule 3 to this Act, which contains consequential amendments of other Acts, shall have effect.
- (2) The Land Charges Act 1925 is set out in Schedule 4 to this Act as it will have effect when all repeals and amendments made in it by this Act and by the Law of Property Act 1969 (repeals of provisions relating to Yorkshire deeds registries) operate.
- (3) The enactments specified in Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) The Land Charges Rules 1972 are hereby revoked.
- (5) In so far as any entry in a register or instrument made or other thing whatsoever done under any enactment repealed by this Act could have been made or done under a corresponding provision in this Act, it shall have effect as if made or done under that corresponding provision; and for the purposes of this provision any entry in a register which under section 24 of the Land Charges Act 1925 had effect as if made under that Act shall, so far as may be necessary for the continuity of the law, be treated as made under this Act.
- (6) Any enactment or other document referring to an enactment repealed by this Act or to an enactment repealed by the Land Charges Act 1925 shall, as far as may be necessary for preserving its effect, be construed as referring, or as including a reference, to the corresponding enactment in this Act.
- (7) Nothing in the foregoing provisions of this section shall be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

## **19 Short title, commencement and extent**

- (1) This Act may be cited as the Land Charges Act 1972.
- (2) This Act shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint; and different days may be so appointed for different purposes.
- (3) This Act extends to England and Wales only.