

*Status: Point in time view as at 05/12/2005.*

**Changes to legislation:** Family Law Act 1996, Cross Heading: Cancellation of registration after termination of marriage or civil partnership, etc. is up to date with all changes known to be in force on or before 24 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### SCHEDULE 4

#### PROVISIONS SUPPLEMENTARY TO SECTIONS 30 AND 31

*Cancellation of registration after termination of marriage [<sup>F1</sup>or civil partnership], etc.*

##### Textual Amendments

- F1** Words in Sch. 4 para. 4 heading inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 15(8); S.I. 2005/3175, art. 2(1), Sch. 1

- 4 (1) Where a [<sup>F2</sup>spouse's or civil partner's home rights] are a charge on an estate in the dwelling-house and the charge is registered under section 31(10) or under section 2 of the <sup>M1</sup>Land Charges Act 1972, the Chief Land Registrar shall, subject to sub-paragraph (2), cancel the registration of the charge if he is satisfied—
- [<sup>F3</sup>(a) in the case of a marriage—
- (i) by the production of a certificate or other sufficient evidence, that either spouse is dead,
- (ii) by the production of an official copy of a decree or order of a court, that the marriage has been terminated otherwise than by death, or
- (iii) by the production of an order of the court, that the spouse's home rights constituting the charge have been terminated by the order, and
- (b) in the case of a civil partnership—
- (i) by the production of a certificate or other sufficient evidence, that either civil partner is dead,
- (ii) by the production of an official copy of an order or decree of a court, that the civil partnership has been terminated otherwise than by death, or
- (iii) by the production of an order of the court, that the civil partner's home rights constituting the charge have been terminated by the order.]
- (2) Where—
- (a) the marriage [<sup>F4</sup>or civil partnership] in question has been terminated by the death of the spouse [<sup>F5</sup>or civil partner] entitled to an estate in the dwelling-house or otherwise than by death, and
- (b) an order affecting the charge of the spouse [<sup>F6</sup>or civil partner] not so entitled had been made under section 33(5),
- then if, after the making of the order, registration of the charge was renewed or the charge registered in pursuance of sub-paragraph (3), the Chief Land Registrar shall not cancel the registration of the charge in accordance with sub-paragraph (1) unless he is also satisfied that the order has ceased to have effect.

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- (3) Where such an order has been made, then, for the purposes of sub-paragraph (2), the spouse [<sup>F7</sup>or civil partner] entitled to the charge affected by the order may—
  - (a) if before the date of the order the charge was registered under section 31(10) or under section 2 of the Land Charges Act 1972, renew the registration of the charge, and
  - (b) if before the said date the charge was not so registered, register the charge under section 31(10) or under section 2 of the Land Charges Act 1972.
- (4) Renewal of the registration of a charge in pursuance of sub-paragraph (3) shall be effected in such manner as may be prescribed, and an application for such renewal or for registration of a charge in pursuance of that sub-paragraph shall contain such particulars of any order affecting the charge made under section 33(5) as may be prescribed.
- (5) The renewal in pursuance of sub-paragraph (3) of the registration of a charge shall not affect the priority of the charge.
- (6) In this paragraph “prescribed” means prescribed by rules made under section 16 of the Land Charges Act 1972 or [<sup>F8</sup>by land registration rules under the Land Registration Act 2002], as the circumstances of the case require.

#### Textual Amendments

- F2** Words in Sch. 4 para. 4(1) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 15\(4\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F3** Sch. 4 para. 4(1)(a)(b) substituted (5.12.2005) for Sch. 4 para. 4(1)(a)-(c) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 15\(5\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F4** Words in Sch. 4 para. 4(2)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 15\(6\)\(a\)\(i\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F5** Words in Sch. 4 para. 4(2)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 15\(6\)\(a\)\(ii\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F6** Words in Sch. 4 para. 4(2)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 15\(6\)\(b\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F7** Words in Sch. 4 para. 4(3) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 15\(7\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F8** Words in Sch. 4 para. 4(6) substituted (13.10.2003) by [2002 c. 9](#), ss. 133, 136(2), Sch. 11 para. 34(3) (with s. 129); S.I. 2003/1725, [art. 2\(1\)](#) (subject to [art. 2\(2\)](#))

#### Marginal Citations

- M1** [1972 c. 61](#).

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