



# Land Registration Act 2002

## 2002 CHAPTER 9

### PART 2

#### FIRST REGISTRATION OF TITLE

### CHAPTER 1

#### FIRST REGISTRATION

#### *Voluntary registration*

### **3 When title may be registered**

- (1) This section applies to any unregistered legal estate which is an interest of any of the following kinds—
  - (a) an estate in land,
  - (b) a rentcharge,
  - (c) a franchise, and
  - (d) a profit a prendre in gross.
- (2) Subject to the following provisions, a person may apply to the registrar to be registered as the proprietor of an unregistered legal estate to which this section applies if—
  - (a) the estate is vested in him, or
  - (b) he is entitled to require the estate to be vested in him.
- (3) Subject to subsection (4), an application under subsection (2) in respect of a leasehold estate may only be made if the estate was granted for a term of which more than seven years are unexpired.
- (4) In the case of an estate in land, subsection (3) does not apply if the right to possession under the lease is discontinuous.

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- (5) A person may not make an application under subsection (2)(a) in respect of a leasehold estate vested in him as a mortgagee where there is a subsisting right of redemption.
- (6) A person may not make an application under subsection (2)(b) if his entitlement is as a person who has contracted to buy under a contract.
- (7) If a person holds in the same right both—
  - (a) a lease in possession, and
  - (b) a lease to take effect in possession on, or within a month of, the end of the lease in possession,
 then, to the extent that they relate to the same land, they are to be treated for the purposes of this section as creating one continuous term.

### *Compulsory registration*

#### **4 When title must be registered**

- (1) The requirement of registration applies on the occurrence of any of the following events—
  - (a) the transfer of a qualifying estate—
    - (i) for valuable or other consideration, by way of gift or in pursuance of an order of any court, or
    - (ii) by means of an assent (including a vesting assent);
  - (b) the transfer of an unregistered legal estate in land in circumstances where section 171A of the Housing Act 1985 (c. 68) applies (disposal by landlord which leads to a person no longer being a secure tenant);
  - (c) the grant out of a qualifying estate of an estate in land—
    - (i) for a term of years absolute of more than seven years from the date of the grant, and
    - (ii) for valuable or other consideration, by way of gift or in pursuance of an order of any court;
  - (d) the grant out of a qualifying estate of an estate in land for a term of years absolute to take effect in possession after the end of the period of three months beginning with the date of the grant;
  - (e) the grant of a lease in pursuance of Part 5 of the Housing Act 1985 (the right to buy) out of an unregistered legal estate in land;
  - (f) the grant of a lease out of an unregistered legal estate in land in such circumstances as are mentioned in paragraph (b);
  - (g) the creation of a protected first legal mortgage of a qualifying estate.
- (2) For the purposes of subsection (1), a qualifying estate is an unregistered legal estate which is—
  - (a) a freehold estate in land, or
  - (b) a leasehold estate in land for a term which, at the time of the transfer, grant or creation, has more than seven years to run.
- (3) In subsection (1)(a), the reference to transfer does not include transfer by operation of law.
- (4) Subsection (1)(a) does not apply to—

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- (a) the assignment of a mortgage term, or
  - (b) the assignment or surrender of a lease to the owner of the immediate reversion where the term is to merge in that reversion.
- (5) Subsection (1)(c) does not apply to the grant of an estate to a person as a mortgagee.
- (6) For the purposes of subsection (1)(a) and (c), if the estate transferred or granted has a negative value, it is to be regarded as transferred or granted for valuable or other consideration.
- (7) In subsection (1)(a) and (c), references to transfer or grant by way of gift include transfer or grant for the purpose of—
- (a) constituting a trust under which the settlor does not retain the whole of the beneficial interest, or
  - (b) uniting the bare legal title and the beneficial interest in property held under a trust under which the settlor did not, on constitution, retain the whole of the beneficial interest.
- (8) For the purposes of subsection (1)(g)—
- (a) a legal mortgage is protected if it takes effect on its creation as a mortgage to be protected by the deposit of documents relating to the mortgaged estate, and
  - (b) a first legal mortgage is one which, on its creation, ranks in priority ahead of any other mortgages then affecting the mortgaged estate.
- (9) In this section—
- “land” does not include mines and minerals held apart from the surface;
  - “vesting assent” has the same meaning as in the Settled Land Act 1925 (c. 18).

## **5 Power to extend section 4**

- (1) The Lord Chancellor may by order—
- (a) amend section 4 so as to add to the events on the occurrence of which the requirement of registration applies such relevant event as he may specify in the order, and
  - (b) make such consequential amendments of any provision of, or having effect under, any Act as he thinks appropriate.
- (2) For the purposes of subsection (1)(a), a relevant event is an event relating to an unregistered legal estate which is an interest of any of the following kinds—
- (a) an estate in land,
  - (b) a rentcharge,
  - (c) a franchise, and
  - (d) a profit a prendre in gross.
- (3) The power conferred by subsection (1) may not be exercised so as to require the title to an estate granted to a person as a mortgagee to be registered.
- (4) Before making an order under this section the Lord Chancellor must consult such persons as he considers appropriate.

## **6 Duty to apply for registration of title**

- (1) If the requirement of registration applies, the responsible estate owner, or his successor in title, must, before the end of the period for registration, apply to the registrar to be registered as the proprietor of the registrable estate.
- (2) If the requirement of registration applies because of section 4(1)(g)—
  - (a) the registrable estate is the estate charged by the mortgage, and
  - (b) the responsible estate owner is the owner of that estate.
- (3) If the requirement of registration applies otherwise than because of section 4(1)(g)—
  - (a) the registrable estate is the estate which is transferred or granted, and
  - (b) the responsible estate owner is the transferee or grantee of that estate.
- (4) The period for registration is 2 months beginning with the date on which the relevant event occurs, or such longer period as the registrar may provide under subsection (5).
- (5) If on the application of any interested person the registrar is satisfied that there is good reason for doing so, he may by order provide that the period for registration ends on such later date as he may specify in the order.
- (6) Rules may make provision enabling the mortgagee under any mortgage falling within section 4(1)(g) to require the estate charged by the mortgage to be registered whether or not the mortgagor consents.

## **7 Effect of non-compliance with section 6**

- (1) If the requirement of registration is not complied with, the transfer, grant or creation becomes void as regards the transfer, grant or creation of a legal estate.
- (2) On the application of subsection (1)—
  - (a) in a case falling within section 4(1)(a) or (b), the title to the legal estate reverts to the transferor who holds it on a bare trust for the transferee, and
  - (b) in a case falling within section 4(1)(c) to (g), the grant or creation has effect as a contract made for valuable consideration to grant or create the legal estate concerned.
- (3) If an order under section 6(5) is made in a case where subsection (1) has already applied, that application of the subsection is to be treated as not having occurred.
- (4) The possibility of reverter under subsection (1) is to be disregarded for the purposes of determining whether a fee simple is a fee simple absolute.

## **8 Liability for making good void transfers etc**

If a legal estate is retransferred, regranted or recreated because of a failure to comply with the requirement of registration, the transferee, grantee or, as the case may be, the mortgagor—

- (a) is liable to the other party for all the proper costs of and incidental to the retransfer, regrant or recreation of the legal estate, and
- (b) is liable to indemnify the other party in respect of any other liability reasonably incurred by him because of the failure to comply with the requirement of registration.

## *Classes of title*

### **9 Titles to freehold estates**

- (1) In the case of an application for registration under this Chapter of a freehold estate, the classes of title with which the applicant may be registered as proprietor are—
  - (a) absolute title,
  - (b) qualified title, and
  - (c) possessory title;and the following provisions deal with when each of the classes of title is available.
- (2) A person may be registered with absolute title if the registrar is of the opinion that the person's title to the estate is such as a willing buyer could properly be advised by a competent professional adviser to accept.
- (3) In applying subsection (2), the registrar may disregard the fact that a person's title appears to him to be open to objection if he is of the opinion that the defect will not cause the holding under the title to be disturbed.
- (4) A person may be registered with qualified title if the registrar is of the opinion that the person's title to the estate has been established only for a limited period or subject to certain reservations which cannot be disregarded under subsection (3).
- (5) A person may be registered with possessory title if the registrar is of the opinion—
  - (a) that the person is in actual possession of the land, or in receipt of the rents and profits of the land, by virtue of the estate, and
  - (b) that there is no other class of title with which he may be registered.

### **10 Titles to leasehold estates**

- (1) In the case of an application for registration under this Chapter of a leasehold estate, the classes of title with which the applicant may be registered as proprietor are—
  - (a) absolute title,
  - (b) good leasehold title,
  - (c) qualified title, and
  - (d) possessory title;and the following provisions deal with when each of the classes of title is available.
- (2) A person may be registered with absolute title if—
  - (a) the registrar is of the opinion that the person's title to the estate is such as a willing buyer could properly be advised by a competent professional adviser to accept, and
  - (b) the registrar approves the lessor's title to grant the lease.
- (3) A person may be registered with good leasehold title if the registrar is of the opinion that the person's title to the estate is such as a willing buyer could properly be advised by a competent professional adviser to accept.
- (4) In applying subsection (2) or (3), the registrar may disregard the fact that a person's title appears to him to be open to objection if he is of the opinion that the defect will not cause the holding under the title to be disturbed.

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- (5) A person may be registered with qualified title if the registrar is of the opinion that the person's title to the estate, or the lessor's title to the reversion, has been established only for a limited period or subject to certain reservations which cannot be disregarded under subsection (4).
- (6) A person may be registered with possessory title if the registrar is of the opinion—
  - (a) that the person is in actual possession of the land, or in receipt of the rents and profits of the land, by virtue of the estate, and
  - (b) that there is no other class of title with which he may be registered.

### *Effect of first registration*

## **11 Freehold estates**

- (1) This section is concerned with the registration of a person under this Chapter as the proprietor of a freehold estate.
- (2) Registration with absolute title has the effect described in subsections (3) to (5).
- (3) The estate is vested in the proprietor together with all interests subsisting for the benefit of the estate.
- (4) The estate is vested in the proprietor subject only to the following interests affecting the estate at the time of registration—
  - (a) interests which are the subject of an entry in the register in relation to the estate,
  - (b) unregistered interests which fall within any of the paragraphs of Schedule 1, and
  - (c) interests acquired under the Limitation Act 1980 (c. 58) of which the proprietor has notice.
- (5) If the proprietor is not entitled to the estate for his own benefit, or not entitled solely for his own benefit, then, as between himself and the persons beneficially entitled to the estate, the estate is vested in him subject to such of their interests as he has notice of.
- (6) Registration with qualified title has the same effect as registration with absolute title, except that it does not affect the enforcement of any estate, right or interest which appears from the register to be excepted from the effect of registration.
- (7) Registration with possessory title has the same effect as registration with absolute title, except that it does not affect the enforcement of any estate, right or interest adverse to, or in derogation of, the proprietor's title subsisting at the time of registration or then capable of arising.

## **12 Leasehold estates**

- (1) This section is concerned with the registration of a person under this Chapter as the proprietor of a leasehold estate.
- (2) Registration with absolute title has the effect described in subsections (3) to (5).
- (3) The estate is vested in the proprietor together with all interests subsisting for the benefit of the estate.

- (4) The estate is vested subject only to the following interests affecting the estate at the time of registration—
- (a) implied and express covenants, obligations and liabilities incident to the estate,
  - (b) interests which are the subject of an entry in the register in relation to the estate,
  - (c) unregistered interests which fall within any of the paragraphs of Schedule 1, and
  - (d) interests acquired under the Limitation Act 1980 (c. 58) of which the proprietor has notice.
- (5) If the proprietor is not entitled to the estate for his own benefit, or not entitled solely for his own benefit, then, as between himself and the persons beneficially entitled to the estate, the estate is vested in him subject to such of their interests as he has notice of.
- (6) Registration with good leasehold title has the same effect as registration with absolute title, except that it does not affect the enforcement of any estate, right or interest affecting, or in derogation of, the title of the lessor to grant the lease.
- (7) Registration with qualified title has the same effect as registration with absolute title except that it does not affect the enforcement of any estate, right or interest which appears from the register to be excepted from the effect of registration.
- (8) Registration with possessory title has the same effect as registration with absolute title, except that it does not affect the enforcement of any estate, right or interest adverse to, or in derogation of, the proprietor's title subsisting at the time of registration or then capable of arising.

#### *Dependent estates*

### **13 Appurtenant rights and charges**

Rules may—

- (a) make provision for the registration of the proprietor of a registered estate as the proprietor of an unregistered legal estate which subsists for the benefit of the registered estate;
- (b) make provision for the registration of a person as the proprietor of an unregistered legal estate which is a charge on a registered estate.

#### *Supplementary*

### **14 Rules about first registration**

Rules may—

- (a) make provision about the making of applications for registration under this Chapter;
- (b) make provision about the functions of the registrar following the making of such an application, including provision about—
  - (i) the examination of title, and

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- (ii) the entries to be made in the register where such an application is approved;
- (c) make provision about the effect of any entry made in the register in pursuance of such an application.