

## SCHEDULES

### SCHEDULE 12

Section 134

#### TRANSITION

##### *Existing entries in the register*

- 1 Nothing in the repeals made by this Act affects the validity of any entry in the register.
- 2 (1) This Act applies to notices entered under the Land Registration Act 1925 (c. 21) as it applies to notices entered in pursuance of an application under section 34(2)(a).  
(2) This Act applies to restrictions and inhibitions entered under the Land Registration Act 1925 as it applies to restrictions entered under this Act.  
(3) Notwithstanding their repeal by this Act, sections 55 and 56 of the Land Registration Act 1925 shall continue to have effect so far as relating to cautions against dealings lodged under that Act.  
(4) Rules may make provision about cautions against dealings entered under the Land Registration Act 1925.  
(5) In this paragraph, references to the Land Registration Act 1925 include a reference to any enactment replaced (directly or indirectly) by that Act.

##### **Modifications etc. (not altering text)**

- C1** Sch. 12 para. 2(3) modified (13.10.2003) by The Land Registration Act 2002 (Transitional Provisions) Order 2003 (S.I. 2003/1953), art. 17; S.I. 2003/1725, art. 2(1)

- 3 An entry in the register which, immediately before the repeal of section 144(1) (xi) of the Land Registration Act 1925, operated by virtue of rule 239 of the Land Registration Rules (S.I. 1925/1093) as a caution under section 54 of that Act shall continue to operate as such a caution.

##### *Existing cautions against first registration*

- 4 Notwithstanding the repeal of section 56(3) of the Land Registration Act 1925, that provision shall continue to have effect in relation to cautions against first registration lodged under that Act, or any enactment replaced (directly or indirectly) by that Act.

##### *Pending applications*

- 5 Notwithstanding the repeal of the Land Registration Act 1925, that Act shall continue to have effect in relation to an application for the entry in the register of a notice, restriction, inhibition or caution against dealings which is pending immediately before the repeal of the provision under which the application is made.

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*Changes to legislation: There are currently no known outstanding effects for the Land Registration Act 2002, SCHEDULE 12. (See end of Document for details)*

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**Modifications etc. (not altering text)**

**C2** Sch. 12 para. 5 excluded (13.10.2003) by [The Land Registration Act 2002 \(Transitional Provisions\) Order 2003 \(S.I. 2003/1953\)](#), arts. {7(2)}, {24(1)}; [S.I. 2003/1725](#), **art. 2(1)**

- 6 Notwithstanding the repeal of section 53 of the Land Registration Act 1925, subsections (1) and (2) of that section shall continue to have effect in relation to an application to lodge a caution against first registration which is pending immediately before the repeal of those provisions.

*Former overriding interests*

- 7 For the period of three years beginning with the day on which Schedule 1 comes into force, it has effect with the insertion after paragraph 14 of—
- “15 A right acquired under the Limitation Act 1980 before the coming into force of this Schedule.”
- 8 Schedule 3 has effect with the insertion after paragraph 2 of—
- “2A (1) An interest which, immediately before the coming into force of this Schedule, was an overriding interest under section 70(1)(g) of the Land Registration Act 1925 by virtue of a person’s receipt of rents and profits, except for an interest of a person of whom inquiry was made before the disposition and who failed to disclose the right when he could reasonably have been expected to do so.
- (2) Sub-paragraph (1) does not apply to an interest if at any time since the coming into force of this Schedule it has been an interest which, had the Land Registration Act 1925 (c. 21) continued in force, would not have been an overriding interest under section 70(1)(g) of that Act by virtue of a person’s receipt of rents and profits.”
- 9 (1) This paragraph applies to an easement or profit a prendre which was an overriding interest in relation to a registered estate immediately before the coming into force of Schedule 3, but which would not fall within paragraph 3 of that Schedule if created after the coming into force of that Schedule.
- (2) In relation to an interest to which this paragraph applies, Schedule 3 has effect as if the interest were not excluded from paragraph 3.
- 10 For the period of three years beginning with the day on which Schedule 3 comes into force, paragraph 3 of the Schedule has effect with the omission of the exception.
- 11 For the period of three years beginning with the day on which Schedule 3 comes into force, it has effect with the insertion after paragraph 14 of—
- “15 A right under paragraph 18(1) of Schedule 12.”
- 12 Paragraph 1 of each of Schedules 1 and 3 shall be taken to include an interest which immediately before the coming into force of the Schedule was an overriding interest under section 70(1)(k) of the Land Registration Act 1925.
- 13 Paragraph 6 of each of Schedules 1 and 3 shall be taken to include an interest which immediately before the coming into force of the Schedule was an overriding interest under section 70(1)(i) of the Land Registration Act 1925 and whose status

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as such was preserved by section 19(3) of the Local Land Charges Act 1975 (c. 76) (transitional provision in relation to change in definition of “local land charge”).

#### *Cautions against first registration*

- 14 (1) For the period of two years beginning with the day on which section 15 comes into force, it has effect with the following omissions—
- (a) in subsection (1), the words “Subject to subsection (3),” and
  - (b) subsection (3).
- (2) Any caution lodged by virtue of sub-paragraph (1) which is in force immediately before the end of the period mentioned in that sub-paragraph shall cease to have effect at the end of that period, except in relation to applications for registration made before the end of that period.
- (3) This paragraph does not apply to section 15 as applied by section 81.
- 15 (1) As applied by section 81, section 15 has effect for the period of ten years beginning with the day on which it comes into force, or such longer period as rules may provide, with the omission of subsection (3)(a)(i).
- (2) Any caution lodged by virtue of sub-paragraph (1) which is in force immediately before the end of the period mentioned in that sub-paragraph shall cease to have effect at the end of that period, except in relation to applications for registration made before the end of that period.
- 16 This Act shall apply as if the definition of “caution against first registration” in section 132 included cautions lodged under section 53 of the Land Registration Act 1925 (c. 21).

#### *Applications under section 34 or 43 by cautioners*

- 17 Where a caution under section 54 of the Land Registration Act 1925 is lodged in respect of a person’s estate, right, interest or claim, he may only make an application under section 34 or 43 above in respect of that estate, right, interest or claim if he also applies to the registrar for the withdrawal of the caution.

#### *Adverse possession*

- 18 (1) Where a registered estate in land is held in trust for a person by virtue of section 75(1) of the Land Registration Act 1925 immediately before the coming into force of section 97, he is entitled to be registered as the proprietor of the estate.
- (2) A person has a defence to any action for the possession of land (in addition to any other defence he may have) if he is entitled under this paragraph to be registered as the proprietor of an estate in the land.
- (3) Where in an action for possession of land a court determines that a person is entitled to a defence under this paragraph, the court must order the registrar to register him as the proprietor of the estate in relation to which he is entitled under this paragraph to be registered.
- (4) Entitlement under this paragraph shall be disregarded for the purposes of section 131(1).

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- (5) Rules may make transitional provision for cases where a rentcharge is held in trust under section 75(1) of the Land Registration Act 1925 immediately before the coming into force of section 97.

#### *Indemnities*

- 19 (1) Schedule 8 applies in relation to claims made before the commencement of that Schedule which have not been settled by agreement or finally determined by that time (as well as to claims for indemnity made after the commencement of that Schedule).
- (2) But paragraph 3(1) of that Schedule does not apply in relation to costs and expenses incurred in respect of proceedings, negotiations or other matters begun before 27 April 1997.

#### *Implied indemnity covenants on transfers of pre-1996 leases*

- 20 (1) On a disposition of a registered leasehold estate by way of transfer, the following covenants are implied in the instrument effecting the disposition, unless the contrary intention is expressed—
- (a) in the case of a transfer of the whole of the land comprised in the registered lease, the covenant in sub-paragraph (2), and
  - (b) in the case of a transfer of part of the land comprised in the lease—
    - (i) the covenant in sub-paragraph (3), and
    - (ii) where the transferor continues to hold land under the lease, the covenant in sub-paragraph (4).
- (2) The transferee covenants with the transferor that during the residue of the term granted by the registered lease the transferee and the persons deriving title under him will—
- (a) pay the rent reserved by the lease,
  - (b) comply with the covenants and conditions contained in the lease, and
  - (c) keep the transferor and the persons deriving title under him indemnified against all actions, expenses and claims on account of any failure to comply with paragraphs (a) and (b).
- (3) The transferee covenants with the transferor that during the residue of the term granted by the registered lease the transferee and the persons deriving title under him will—
- (a) where the rent reserved by the lease is apportioned, pay the rent apportioned to the part transferred,
  - (b) comply with the covenants and conditions contained in the lease so far as affecting the part transferred, and
  - (c) keep the transferor and the persons deriving title under him indemnified against all actions, expenses and claims on account of any failure to comply with paragraphs (a) and (b).
- (4) The transferor covenants with the transferee that during the residue of the term granted by the registered lease the transferor and the persons deriving title under him will—
- (a) where the rent reserved by the lease is apportioned, pay the rent apportioned to the part retained,

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- (b) comply with the covenants and conditions contained in the lease so far as affecting the part retained, and
  - (c) keep the transferee and the persons deriving title under him indemnified against all actions, expenses and claims on account of any failure to comply with paragraphs (a) and (b).
- (5) This paragraph does not apply to a lease which is a new tenancy for the purposes of section 1 of the Landlord and Tenant (Covenants) Act 1995 (c. 30).

**Changes to legislation:**

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