



# Land Registration Act 1925

## 1925 CHAPTER 21

### PART IV

#### NOTICES, CAUTIONS, INHIBITIONS AND RESTRICTIONS.

##### *Notices.*

#### **48 Registration of notice of lease.**

- (1) Any lessee or other person entitled to or interested in a lease of registered land, where the term granted is not an overriding interest, may apply to the registrar to register notice of such lease in the prescribed manner, and when so registered, every proprietor and the persons deriving title under him shall be deemed to be affected with notice of such lease, as being an incumbrance on the registered land in respect of which the notice is entered:

Provided that a proprietor of a charge or incumbrance registered or protected on the register prior to the registration of such notice shall not be deemed to be so affected by the notice unless such proprietor is, by reason of the lease having been made under a statutory or other power or by reason of his concurrence or otherwise, bound by the terms of the lease.

- (2) In order to register notice of a lease, if the proprietor of the registered land affected does not concur in the registration thereof, the applicant shall obtain an order of the court authorising the registration of notice of the lease, and shall deliver the order to the registrar, accompanied with the original lease or a copy thereof, and thereupon the registrar shall make a note in the register identifying the lease or copy so deposited, and the lease or copy so deposited shall be deemed to be the instrument of which notice is given; but if the proprietor concurs in the notice being registered, notice may be entered in such manner as may be agreed upon :

Provided that, where the lease is binding on the proprietor of the land, neither the concurrence of such proprietor nor an order of the court shall be required.

#### **49 Rules to provide for notices of other rights, interests and claims.**

- (1) The provisions of the last foregoing section shall be extended by the rules so as to apply to the registration of notices of or of claims in respect of—
- (a) The grant or reservation of any annuity or rentcharge in possession, either perpetual or for a term of years absolute :
  - (b) The severance of any mines or minerals from the surface, except where the mines and minerals severed are expressly included in the registration:
  - (c) Land charges until the land charge is registered as a registered charge :
  - (d) The right of any person interested in the proceeds of sale of land held on trust for sale or in land subject to a settlement to require that (unless a trust corporation is acting as trustee) there shall be at least two trustees of the disposition on trust for sale or of the settlement:
  - (e) The rights of any widow in respect of dower or under the Intestates' Estates Act, 1890, and any right to free bench or other like right saved by any statute coming into force concurrently with this Act (which rights shall take effect in equity as minor interests):
  - (f) Creditors' notices and any other right, interest, or claim which it may be deemed expedient to protect by notice instead of by caution, inhibition, or restriction.

- (2) A notice shall not be registered in respect of any estate, right, or interest which (independently of this Act) is capable of being overridden by the proprietor under a trust for sale or the powers of the Settled Land Act, 1925, or any other statute, or of a settlement, and of being protected by a restriction in the prescribed manner:

Provided that notice of such an estate right or interest may be lodged pending the appointment of trustees of a disposition on trust for sale or a settlement, and if so lodged, shall be cancelled if and when the appointment is made and the proper restriction (if any) is entered.

- (3) A notice when registered in respect of a right, interest, or claim shall not affect prejudicially—
- (a) The powers of disposition of the personal representative of the deceased under whose will or by the operation of whose intestacy the right, interest, or claim arose; or
  - (b) The powers of disposition (independently of this Act) of a proprietor holding the registered land on trust for sale.

#### **50 Notices of restrictive covenants.**

- (1) Any person entitled to the benefit of a restrictive covenant or agreement (not being a covenant or agreement made between a lessor and lessee) with respect to the building on or other user of registered land may apply to the registrar to enter notice thereof on the register, and where practicable the notice shall be by reference to the instrument, if any, which contains the covenant or agreement, and a copy or abstract of such instrument shall be filed at the registry; and where any such covenant or agreement appears to exist at the time of first registration, notice thereof shall be entered on the register. In the case of registered land the notice aforesaid shall take the place of registration as a land charge.
- (2) When such a notice is entered the proprietor of the land and the persons deriving title under him (except incumbrancers or other persons who at the time when the notice

is entered may not be bound by the covenant or agreement) shall be deemed to be affected with notice of the covenant or agreement as being an incumbrance on the land.

- (3) Where the covenant or agreement is discharged or modified by an order under the Law of Property Act, 1925, or otherwise, or the court refuses to grant an injunction for enforcing the same, the entry shall either be cancelled or reference made to the order or other instrument and a copy of the order, judgment, or instrument shall be filed at the registry.
- (4) The notice shall, when practicable, refer to the land, whether registered or not, for the benefit of which the restriction was made.

## **51 Notice of manorial incidents.**

Where land is affected by manorial incidents, the registrar may enter a note of that fact on the register, and may cancel such note when extinguishment of the manorial incidents has been proved to his satisfaction.

## **52 Effect of notices.**

- (1) A disposition by the proprietor shall take effect subject to all estates, rights, and claims which are protected by way of notice on the register at the date of the registration or entry of notice of the disposition, but only if and so far as such estates, rights, and claims may be valid and are not (independently of this Act) overridden by the disposition.
- (2) Where notice of a claim is entered on the register, such entry shall operate by way of notice only, and shall not operate to render the claim valid whether made adversely to or for the benefit of the registered land or charge.

### *Cautions.*

## **53 Cautions against first registration.**

- (1) Any person having or claiming such an interest in land not already registered as entitles him to object to any disposition thereof being made without his consent, may lodge a caution with the registrar to the effect that the cautioner is entitled to notice in the prescribed form, and to be served in the prescribed manner, of any application that may be made for the registration of an interest in the land affecting the right of the cautioner.
- (2) The caution shall be supported by an affidavit or declaration in the prescribed form, stating the nature of the interest of the cautioner, the land and estate therein to be affected by such caution, and such other matters as may be prescribed.
- (3) After a caution has been lodged in respect of any estate, which has not already been registered, registration shall not be made of such estate until notice has been served on the cautioner to appear and oppose, if he thinks fit, such registration, and the prescribed time has elapsed since the date of the service of such notice, or the cautioner has entered an appearance, whichever may first happen.

#### **54 Cautions against dealings.**

- (1) Any person interested under any unregistered instrument, or interested as a judgment creditor, or otherwise howsoever, in any land or charge registered in the name of any other person, may lodge a caution with the registrar to the effect that no dealing with such land or charge on the part of the proprietor is to be registered until notice has been served upon the cautioner:

Provided that a person whose estate, right, interest, or claim has been registered or protected by a notice or restriction shall not be entitled (except with the consent of the registrar) to lodge a caution in respect of such estate, right, interest, or claim, but this provision shall not operate to prevent an incumbrancer or assignee of a life interest, remainder, reversion or executory interest, from lodging a priority caution in a specially prescribed form.

- (2) A caution lodged under this section shall be supported by such evidence as may be prescribed.

#### **55 Effect of cautions against dealings.**

- (1) After any such caution against dealings has been lodged in respect of any registered land or charge, the registrar shall not, without the consent of the cautioner, register any dealing or make any entry on the register for protecting the rights acquired under a deposit of a land or charge certificate or other dealing by the proprietor with such land or charge until he has served notice on the cautioner, warning him that his caution will cease to have any effect after the expiration of the prescribed number of days next following the date at which such notice is served; and after the expiration of such time as aforesaid the caution shall cease unless an order to the contrary is made by the registrar, and upon the caution so ceasing the registered land or charge may be dealt with in the same manner as if no caution had been lodged.
- (2) If before the expiration of the said period the cautioner, or some person on his behalf, appears before the registrar, and where so required by the registrar gives sufficient security to indemnify every party against any damage that may be sustained by reason of any dealing with the registered land or charge, or the making of any such entry as aforesaid, being delayed, the registrar may thereupon, if he thinks fit to do so, delay registering any dealing with the land or charge or making any such entry for such period as he thinks just.

#### **56 General provisions as to cautions.**

- (1) Any person aggrieved by any act done by the registrar in relation to a caution under this Act may appeal to the court in the prescribed manner.
- (2) A caution lodged in pursuance of this Act shall not prejudice the claim or title of any person and shall have no effect whatever except as in this Act mentioned.
- (3) If any person lodges a caution with the registrar without reasonable cause, he shall be liable to make to any person who may have sustained damage by the lodging of the caution such compensation as may be just, and such compensation shall be recoverable as a debt by the person who has sustained damage from the person who lodged the caution.
- (4) The personal representative of a deceased cautioner may consent or object to registration or a dealing in the same manner as the cautioner.

*Inhibitions.*

**57 Power for court or registrar to inhibit registered dealings.**

- (1) The court, or, subject to an appeal to the court, the registrar, upon the application of any person interested, made in the prescribed manner, in relation to any registered land or charge, may, after directing such inquiries (if any) to be made and notices to be given and hearing such persons as the court or registrar thinks expedient, issue an order or make an entry inhibiting for a time, or until the occurrence of an event to be named in such order or entry, or generally until further order or entry, the registration or entry of any dealing with any registered land or registered charge.
- (2) The court or registrar may make or refuse to make any such order or entry, and annex thereto any terms or conditions the court or registrar may think fit, and discharge such order or cancel such entry when granted, with or without costs, and generally act in the premises in such manner as the justice of the case requires.
- (3) Any person aggrieved by any act done by the registrar in pursuance of this section may appeal to the court in the prescribed manner.
- (4) The court or the registrar may, in lieu of an inhibition, order a notice or restriction to be placed on the register.

*Restrictions.*

**58 Power to place restrictions on register.**

- (1) Where the proprietor of any registered land or charge desires to place restrictions on transferring or charging the land or on disposing of or dealing with the land or charge in any manner in which he is by this Act authorised to dispose of or deal with it, or on the deposit by way of security of any certificate, the proprietor may apply to the registrar to make an entry in the register that no transaction to which the application relates shall be effected, unless the following things, or such of them as the proprietor may determine, are done—
  - (a) unless notice of any application for the transaction is transmitted by post to such address as he may specify to the registrar;
  - (b) unless the consent of some person or persons, to be named by the proprietor, is given to the transaction;
  - (c) unless some such other matter or thing is done as may be required by the applicant and approved by the registrar:

Provided that no restriction under this section shall extend or apply to dispositions of or dealings with minor interests.

- (2) The registrar shall thereupon, if satisfied of the right of the applicant to give the directions, enter the requisite restriction on the register, and no transaction to which the restriction relates shall be effected except in conformity therewith; but it shall not be the duty of the registrar to enter any such restriction, except upon such terms as to payment of fees and otherwise as may be prescribed, or to enter any restriction that the registrar may deem unreasonable or calculated to cause inconvenience.
- (3) In the case of joint proprietors the restriction may be to the effect that when the number of proprietors is reduced below a certain specified number no disposition shall be

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registered except under an order of the court, or of the registrar after inquiry into title, subject to appeal to the court, and, subject to general rules, such an entry under this subsection as may be prescribed shall be obligatory unless it is shown to the registrar's satisfaction that the joint proprietors are entitled for their own benefit, or can give valid receipts for capital money, or that one of them is a trust corporation.

- (4) Any such restrictions, except such as are in this section declared to be obligatory, may at any time be withdrawn or modified at the instance of all the persons for the time being appearing by the register to be interested in such directions, and shall also be liable to be set aside by an order of the court.
- (5) Rules may be made to enable applications to be made for the entry of restrictions by persons other than the proprietor.

*Protection of various Interests.*

**59 Writs, orders, deeds of arrangement, pending actions, &c.**

- (1) A writ, order, deed of arrangement, pending action, or other interest which in the case of unregistered land may be protected by registration under the Land Charges Act, 1925, shall, where the land affected or the charge securing the debt affected is registered, be protected only by lodging a creditor's notice, a bankruptcy inhibition or a caution against dealings with the land or the charge.
- (2) Registration of a land charge (other than a local land charge) shall, where the land affected is registered, be effected only by registering under this Act a notice caution or other prescribed entry :

Provided that before a land charge including a local land charge affecting registered land (being a charge to secure money) is realised, it shall be registered and take effect as a registered charge under this Act in the prescribed manner, without prejudice to the priority conferred by the land charge.

- (3) A person interested under a writ or order for enforcing a judgment against registered land or a registered charge, may inspect and make copies of and extracts from the register and documents referred to therein which are in the custody of the registrar, so far as the same relate to the registered land or charge, and may, in accordance with this Act, lodge a caution against dealings therewith.
- (4) When a land charge protected by notice has been discharged as to all or any part of the land comprised therein, the notices relating thereto and to all devolutions of and dealings therewith shall be vacated as to the registered land affected by the discharge.
- (5) The foregoing provisions of this section shall apply only to writs and orders, deeds of arrangement, pending actions and land charges which if the land were unregistered would for purposes of protection be required to be registered or re-registered after the commencement of this Act under the Land Charges Act, 1925; and for the purposes of this section a land charge does not include a puisne mortgage or an Inland Revenue charge.
- (6) Subject to the provisions of this Act relating to fraud and to the title of a trustee in bankruptcy, a purchaser acquiring title under a registered disposition, shall not be concerned with any pending action, writ, order, deed of arrangement, or other document, matter, or claim (not being an overriding interest) which is not protected

by a caution or other entry on the register, whether he has or has not notice thereof, express, implied, or constructive.

- (7) In this section references to registration under the Land Charges Act, 1925, apply to any registration made under any other statute which, in the case of unregistered land, is by the Land Charges Act, 1925, to have effect as if the registration had been made under that Act.

## **60 Notice of incumbrances registered under the Companies Act.**

- (1) Where a company, registered under the Companies (Consolidation) Act, 1908, is registered as proprietor of any estate or charge already registered, the registrar shall not be concerned with any mortgage, charge, debenture, debenture stock, trust deed for securing the same, or other incumbrance created or issued by the company, whether or not registered under that Act, unless the same is registered or protected by caution or otherwise under this Act.
- (2) No indemnity shall be payable under this Act by reason of a purchaser acquiring any interest under a registered disposition from the company free from any such incumbrance.

## **61 Protection of creditors prior to registration of trustee in bankruptcy.**

- (1) The registrar shall as soon as practicable after registration of a petition in bankruptcy as a pending action under the Land Charges Act, 1925, register a notice (in this Act called a creditors' notice) against the title of any proprietor of any registered land or charge which appears to be affected, and such notice shall protect the rights of all creditors, and unless cancelled by the registrar in the prescribed manner such notice shall remain in force until a bankruptcy inhibition is registered or the trustee in bankruptcy is registered as proprietor.

No fee shall be charged for the registration of the notice.

- (2) Until a creditors' notice is registered, a petition in bankruptcy filed after the commencement of this Act shall not, as respects any registered disposition for money or money's worth of any registered land or charge, be notice or evidence of any act of bankruptcy therein alleged.
- (3) The registrar shall, as soon as practicable after registration of a receiving order in bankruptcy under the Land Charges Act, 1925, enter an inhibition (in this Act called a bankruptcy inhibition) against the title of any proprietor of any registered land or charge which appears to be affected. No fee shall be charged for the registration of the inhibition.
- (4) From and after the entry of a bankruptcy inhibition (but without prejudice to dealings with or in right of interests or charges having priority over the estate or charge of the bankrupt proprietor), no dealing affecting the registered land or charge of the proprietor, other than the registration of the trustee in bankruptcy, shall be entered on the register until the inhibition is vacated as to the whole or part of the land or charge dealt with.
- (5) If and when a proprietor of any registered land or charge is adjudged bankrupt, his registered estate or interest, if belonging to him beneficially, and whether acquired before or after the date of adjudication, shall vest in the trustee in bankruptcy in

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accordance with the statutory provisions relating to bankruptcy for the time being in force.

- (6) Where under a disposition to a purchaser in good faith for money or money's worth such purchaser is registered as proprietor of an estate or a charge, then, notwithstanding that an available act of bankruptcy has been committed by the person making the disposition, the title of his trustee in bankruptcy acquired after the commencement of this Act shall, as from the date of such disposition, be void as against such purchaser unless at the date of such disposition, either a creditors' notice or a bankruptcy inhibition has been registered, but a purchaser who, at the date of the execution of the registered disposition, has notice of an available act of bankruptcy, or of the receiving order, or adjudication, shall not be deemed to take in good faith.

Nothing in this section shall impose on a purchaser a liability to make any search under the Land Charges Act, 1925.

- (7) Where the estate or assets of a bankrupt proprietor suffer loss by reason of the omission of the registrar to register a creditors' notice or bankruptcy inhibition, as required by this section, or on account of the execution or registration of a disposition after a petition is registered as a pending action or after a receiving order is registered and before the registration of a creditors' notice or bankruptcy inhibition, the trustee in bankruptcy shall be entitled to indemnity as a person suffering loss by reason of an error or omission in the register.
- (8) If neither a creditors' notice nor a bankruptcy inhibition is registered against a bankrupt proprietor, nothing in this section shall prejudicially affect a registered disposition of any registered land or charge acquired by the bankrupt after adjudication which would have been valid by virtue of section forty-seven of the Bankruptcy Act, 1914, if the land or charge had not been registered.
- (9) If and when a bankruptcy inhibition is wholly or partially vacated, for any cause other than by reason of the registration of the trustee in bankruptcy, any registered estate or interest vested in the trustee in bankruptcy shall, as respects the registered land or charge to which the vacation extends, be divested and the same shall vest in the proprietor in whom it would have been vested if there had been no adjudication in bankruptcy.
- (10) The official receiver or trustee in bankruptcy may inspect the register so far as it relates to any proprietor against whom a receiving order has been made, and any creditor, on behalf of himself and all other creditors, or the official receiver or trustee in bankruptcy, may lodge a caution against any such proprietor in respect of any minor interest affecting the registered land.

## **62 Rules to be made as to certain details.**

Rules shall be made under this Act—

- (a) For postponing the registration of a creditors' notice or bankruptcy inhibition, where the name, address and description of the debtor appearing in the application for the registration of the pending action or receiving order are not identical with those stated in the register, until the registrar is satisfied as to the identity of the debtor;
- (b) For requiring the official receiver to notify to the registrar any mistake occurring in the receiving order or any other fact relevant to any proposed



amendment in the register; and for enabling the registrar to make any consequential amendment;

- (c) For providing for the whole or partial vacation (subject to notice to the official receiver or trustee in bankruptcy and to his right to appeal to the court) of a bankruptcy inhibition, where the receiving order is rescinded or the bankruptcy is annulled, or the registrar is satisfied that the bankruptcy proceedings do not affect or have ceased to affect the statutory powers of the bankrupt to deal with the registered land or charge.