
STATUTORY INSTRUMENTS

2003 No. 1417

The Land Registration Rules 2003

PART 9

CHARGES

How ranking of registered charges as between themselves to be shown on register

101. Subject to any entry in the individual register to the contrary, for the purpose of section 48(1) of the Act the order in which registered charges are entered in an individual register shows the order in which the registered charges rank as between themselves.

Alteration of priority of registered charges

102.—(1) An application to alter the priority of registered charges, as between themselves, must be made by or with the consent of the proprietor or a person entitled to be registered as the proprietor of any registered charge whose priority is adversely affected by the alteration, but no such consent is required from a person who has executed the instrument which alters the priority of the charges.

(2) The registrar may accept a conveyancer's certificate confirming that the conveyancer holds any necessary consents.

(3) The registrar must make an entry in the register in such terms as the registrar considers appropriate to give effect to the application.

Form of charge of registered estate

103. A legal charge of a registered estate may be made in Form CH1.

Application for registration of the title to a local land charge

104. An application to register the title to a charge over registered land which is a local land charge must be supported by evidence of the charge.

Overriding statutory charges

105.—(1) An applicant for registration of a statutory charge that has the effect mentioned in section 50 of the Act must lodge Form SC with the application.

(2) If the applicant satisfies the registrar that the statutory charge has the priority specified in that Form SC, the registrar must make an entry showing that priority in the charges register of the affected registered title.

(3) If the applicant does not satisfy the registrar as mentioned in paragraph (2) but the registrar considers that the applicant has an arguable case, the registrar may make an entry in the charges register of the affected registered title that the applicant claims the priority specified in that Form SC.

(4) If the registrar makes an entry under paragraph (3) the registrar must give notice of the entry to the persons mentioned in rule 106(1) (subject to rule 106(2)).

- (5) Where an entry has been made under paragraph (3)—
- (a) the proprietor of the statutory charge which gave rise to the entry, or
 - (b) the proprietor of a charge entered in the charges register of the affected registered title which, subject to the effect of the entry, would rank in priority to or have equal priority with that statutory charge under rule 101,

may apply for the entry to be removed or to be replaced by an entry of the kind referred to in paragraph (2).

(6) Paragraph (5)(b) includes the proprietor of a statutory charge entered in the charges register of the affected registered title which has had an entry made in respect of it under paragraph (3) claiming priority over the statutory charge referred to in paragraph (5)(a).

(7) An applicant under paragraph (5) must provide evidence to satisfy the registrar that the registrar should take the action sought by the applicant under that paragraph.

(8) Before taking the action sought by the applicant under paragraph (5), the registrar must give notice of the application to any proprietors within that paragraph (other than the applicant).

Service of notice of overriding statutory charges

106.—(1) The registrar shall give notice under section 50 of the Act to—

- (a) the registered proprietor of a registered charge, and
- (b) subject to paragraph (2), any person who appears to the registrar to be entitled to a charge protected by a notice,

entered in the charges register of the affected registered title at the time of registration of the statutory charge.

(2) The registrar shall not be obliged to give notice to a person referred to in paragraph (1)(b) if that person's name and his address for service under rule 198 are not set out in the individual register in which the notice is entered.

Further advances—notice of creation of subsequent charge

107.—(1) A notice given for the purposes of section 49(1) of the Act by one of the methods mentioned in paragraph (2) ought to have been received at the time shown in the table in paragraph (4).

(2) The methods referred to in paragraph (1) are—

- (a) by post, to the postal address, whether or not in the United Kingdom, entered in the register as the prior chargee's address for service, or
- (b) by leaving the notice at that address, or
- (c) by sending to the box number at the relevant document exchange entered in the register as an additional address for service of the prior chargee, or
- (d) by electronic transmission to the electronic address entered in the register as an additional address for service of the prior chargee, or
- (e) where paragraph (3) applies, by post, document exchange, fax or electronic transmission to the address, box number or fax number provided.

(3) This paragraph applies where the prior chargee has provided to the subsequent chargee a postal address, document exchange box number, fax number, e-mail or other electronic address, and stated in writing to the subsequent chargee that notices to the prior chargee under section 49(1) of the Act may be sent to that address, box number or fax number.

(4) For the purposes of section 49(2) of the Act a notice sent in accordance with paragraph (2) or (3) ought to have been received at the time shown in the table below—

<i>Method of delivery</i>	<i>Time of receipt</i>
Post to an address in the United Kingdom	The second working day after posting
Leaving at a postal address	The working day after it was left
Post to an address outside the United Kingdom	The seventh working day after posting
Document exchange	On the second working day after it was left at the sender's document exchange
Fax	The working day after transmission
Electronic transmission to an electronic address entered in the register as an address for service or e-mail or other electronic means of delivery under paragraph (3)	The second working day after transmission

(5) A notice posted or transmitted after 1700 hours on a working day or posted or transmitted on a day which is not a working day is to be treated as having been posted or transmitted on the next working day.

(6) In this rule—

“post” means pre-paid delivery by a postal service which seeks to deliver documents within the United Kingdom no later than the next working day in all or the majority of cases, and to deliver outside the United Kingdom within such a period as is reasonable in all the circumstances,

“prior chargee” means the proprietor of a registered charge to whom notice is being given under section 49(1) of the Act,

“subsequent chargee” means the chargee giving notice under section 49(1) of the Act,

“working day” means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or any other day either specified or declared by proclamation under section 1 of the Banking and Financial Dealings Act 1971(1) or appointed by the Lord Chancellor.

Obligations to make further advances

108.—(1) The proprietor of a registered charge or a person applying to be so registered, who is under an obligation to make further advances on the security of that charge, may apply to the registrar for such obligation to be entered in the register for the purposes of section 49(3) of the Act.

(2) Except as provided in paragraph (3), the application must be made in Form CH2.

(3) Form CH2 need not be used if the application is contained in panel 7 of Form CH1, or in a charge received for registration where the form of that charge has been approved by the registrar.

(4) The registrar must make an entry in the register in such terms as he considers appropriate to give effect to an application under this rule.

Agreement of maximum amount of security

109.—(1) Where the parties to a legal charge which is a registered charge or which is a registrable disposition have agreed a maximum amount for which the charge is security, the proprietor of the

(1) 1971 c. 80.

registered charge or a person applying to be registered as proprietor of the registrable disposition may apply to the registrar for such agreement to be entered in the register under section 49(4) of the Act.

(2) The application must be made in Form CH3.

(3) The registrar must make an entry in the register in such terms as he considers appropriate to give effect to an application under this rule.

Consolidation of registered charges

110.—(1) A chargee who has a right of consolidation in relation to a registered charge may apply to the registrar for an entry to be made in respect of that right in the individual register in which the charge is registered.

(2) The application must be made in Form CC.

(3) The registrar must make an entry in the individual register in such terms as he considers appropriate to give effect to an application under this rule.

Certificate of registration of company charges

111.—(1) When making an application for the registration of a charge created by a company registered under the Companies Acts, a limited liability partnership incorporated under the Limited Liability Partnerships Act 2000(2), or a Northern Ireland company, the applicant must produce to the registrar—

- (a) a certificate issued under section 401 of the 1985 Act that the charge has been registered under section 395 of that Act, or
- (b) (in the case of a charge created by a company registered in Scotland) a certificate issued under section 418 of the 1985 Act that the charge has been registered under section 410 of that Act, or
- (c) (in the case of a charge created by a Northern Ireland company) a certificate issued under article 409 of the 1986 Order that the charge has been registered under article 403 of that Order.

(2) If the applicant does not produce the certificate required by paragraph (1) with the application for registration of the charge, the registrar must enter a note in the register that the charge is subject to the provisions of section 395 or section 410 of the 1985 Act, or article 403 of the 1986 Order (as appropriate).

(3) In this rule—

“the 1985 Act” means the Companies Act 1985(3),

“the 1986 Order” means the Companies (N.I.) Order 1986(4),

“Northern Ireland” company means a company formed and registered under the 1986 Order or a company formed and registered, or deemed to have been registered, in Northern Ireland under the former Northern Ireland Companies Acts,

“former Northern Ireland Companies Acts” means the Joint Stock Companies Acts, the Companies Act 1862(5), the Companies (Consolidation) Act 1908(6), the Companies Act (Northern Ireland) 1932(7) and the Companies Acts (Northern Ireland) 1960 to 1983(8),

(2) 2000 c. 12.

(3) 1985 c. 6.

(4) S.I. 1986/1032 (N.I. 6).

(5) 1862 c. 89.

(6) 1908 c. 69.

(7) 1932 c. 7 (N.I.).

(8) 1960 c. 22 (N.I.), 1963 c. 25 (N.I.), S.I. 1978/1042, (N.I. 12/78), S.I. 1981/838 (N.I. 19/81), S.I. 1982/1534 (N.I. 17/82), S.I. 1983/1119 (N.I. 12/83).

“Joint Stock Companies Acts” means the Joint Stock Companies Act 1856⁽⁹⁾, the Joint Stock Companies Act 1857⁽¹⁰⁾, the Joint Stock Banking Companies Act 1857⁽¹¹⁾ and the Act to enable Joint Stock Banking Companies to be formed on the principle of limited liability⁽¹²⁾, or any one or more of those Acts (as the case may require), but does not include the Joint Stock Companies Act 1844⁽¹³⁾.

Foreclosure—registration requirements

112.—(1) Subject to paragraph (3), an application by a person who has obtained an order for foreclosure absolute to be entered in the register as proprietor of the registered estate in respect of which the charge is registered must be accompanied by the order.

(2) The registrar must—

- (a) cancel the registration of the charge in respect of which the order was made,
- (b) cancel all entries in respect of interests over which the charge has priority, and
- (c) enter the applicant as proprietor of the registered estate.

(3) The registrar may accept a conveyancer’s certificate confirming that the conveyancer holds the order for foreclosure absolute or an office copy of it.

Variation of the terms of a registered charge

113.—(1) An application to register an instrument varying the terms of a registered charge must be made—

- (a) by, or with the consent of, the proprietor of the registered charge and the proprietor of the estate charged, and
- (b) with the consent of the proprietor, or a person entitled to be registered as proprietor, of every other registered charge of equal or inferior priority that is prejudicially affected by the variation,

but no such consent is required from a person who has executed the instrument.

(2) The registrar may accept a conveyancer’s certificate confirming that the conveyancer holds any necessary consents.

(3) If the registrar is satisfied that the proprietor of any other registered charge of equal or inferior priority to the varied charge that is prejudicially affected by the variation is bound by it, he shall make a note of the variation in the register.

(4) If the registrar is not so satisfied, he may make an entry in the register that an instrument which is expressed to vary the terms of the registered charge has been entered into.

Discharges and releases of registered charges

114.—(1) Subject to rule 115, a discharge of a registered charge must be in Form DS1.

(2) Subject to rule 115, a release of part of the registered estate in a registered title from a registered charge must be in Form DS3.

(3) Any discharge or release in Form DS1 or DS3 must be executed as a deed or authenticated in such other manner as the registrar may approve.

(9) 1856 c. 47.
(10) 1857 c. 14.
(11) 1857 c. 49.
(12) 1858 c. 91.
(13) 1844 c. 110.

(4) Notwithstanding paragraphs (1) and (2) and rule 115, the registrar is entitled to accept and act upon any other proof of satisfaction of a charge that he may regard as sufficient.

(5) An application to register a discharge in Form DS1 must be made in Form AP1 or DS2 and an application to register a release in Form DS3 must be made in Form AP1.

Discharges and releases of registered charges in electronic form

115.—(1) During the currency of a notice given under Schedule 2 and subject to and in accordance with the limitations contained in such notice, notification of—

- (a) the discharge of, or
- (b) the release of part of a registered estate in a registered title from,

a registered charge may be delivered to the registrar in electronic form.

(2) Notification of discharge or release of part given in accordance with paragraph (1) shall be regarded as having the same effect as a discharge in Form DS1, or a release of part in Form DS3, as appropriate, executed in accordance with rule 114 by or on behalf the person who has delivered it to the registrar.

Transfer of a registered charge

116. A transfer of a registered charge must be in Form TR3, TR4 or AS2, as appropriate.