Rights of Light Act (Northern Ireland) 1961

1961 CHAPTER 18

1 Registration of notice in lieu of obstruction of access to light.

(1) For the purpose of preventing the access and use of light from being taken to be enjoyed without interruption, any person who is the owner of land (in this Act referred to as "the servient land") over which light passes to a dwelling house, workshop or other building (in this Act referred to as "the dominant building") may apply to the registrar of titles for the registration of a notice under this section in the Statutory Charges Register.

Subs. (2) rep. by 1970 c. 18 (NI)

(3) An application for the registration of a notice under this section shall—

[F1](a) be accompanied by a fee of five pounds payable in the same manner in which fees may be paid to the Land Registry;]

(b) state the name, address and description of the applicant and be signed by him;

(c) contain a description, by reference to a map or plan drawn to a scale sufficient to enable the servient land and the dominant building to be identified accurately upon the ordnance map for the area within which they are situated;

(d) state the postal addresses of the servient land and of the dominant building;

(e) state the names, addresses and descriptions of all the persons who, at the time when the application is made, appear to the applicant to be persons likely to be affected by the registration of a notice in pursuance of the application;

(f) state that the registration of a notice in pursuance of the application is intended to be equivalent to the obstruction of the access of light to the dominant building across the servient land which would be caused by the erection, in such position on the servient land as is specified in the application, of one, and not more than one, opaque structure of unlimited height.

(4) The registrar of titles shall not register any notice under this section unless he is satisfied—

(a) that adequate notice of the proposed application for registration has been given by post to all the persons described (pursuant to paragraph (*e*) of sub-section (3)) in the application, and to any other person who appears to him to be likely to be affected by the registration of a notice in pursuance of the application; and

(b) that an adequate advertisement of the proposed application has been published in a newspaper circulating in the district in which the servient land and the dominant building are situated.

F1 1976 NI 21

2 Effect of registration of notice.

(1) Where, in pursuance of an application made in accordance with section one, a notice is registered thereunder, then, for the purpose of determining whether any person is entitled (by virtue of the Prescription Act, 1832 , or otherwise) to a right to the access of light to the dominant building across the servient land, the access of light to that building shall be treated as obstructed to the same extent, and with the like consequences, as if an opaque structure, of unlimited height—

(a) had, on the date of registration of the notice, been erected in the position on the servient land specified in the application and had been so erected by the person who made the application; and

(b) had remained in that position during the period for which the notice has effect and had been removed at the end of that period.

(2) For the purposes of this section a notice registered under section one shall be taken to have effect until—

(a) the registration is cancelled; or

(b) the expiration of the period of one year beginning with the date of registration of the notice;

whichever happens first.

(3) Subject to the following provisions of this section, any person who, if such a structure as is mentioned in sub-section (1) had been erected as therein mentioned would have had a right of action in any court in respect of that structure, on the grounds that he was entitled to a right to the access of light to the dominant building across the servient land and that the said right was infringed by that structure, shall have the like right of action in that court in respect of the registration of a notice under section one, but an action shall not be begun by virtue of this sub-section after the notice in question has ceased to have effect.

(4) Where, at any time during the period for which a notice registered under section one has effect, the circumstances are such that, if the access of light to the dominant building had been enjoyed continuously from a date one year earlier than the date on which enjoyment thereof in fact began, a person would have had a right of action in any court by virtue of sub-section (3) in respect of the registration of the notice, that person shall have the like right of action in that court by virtue of this sub-section in respect of the registration of the notice.

(5) The remedies available to the plaintiff in an action brought by virtue of sub-section (3) or sub-section (4) (apart from any order as to costs) shall be such declaration as

the court may consider appropriate in the circumstances and an order directing the registration of the notice to be cancelled or varied, as the court may determine.

(6) For the purposes of section four of the Prescription Act, 1832 (under which nothing constitutes an interruption of the enjoyment of any right to which that Act applies unless submitted to or acquiesced in for one year after notice thereof)—

(a) as from the date of registration of a notice under section one, all persons interested in the dominant building or any part thereof shall be deemed to have notice of the registration thereof and of the person on whose application it was registered;

(b) until such time as an action is brought by virtue of sub-section (3) or sub-section (4) in respect of the registration of a notice under section one, all persons interested in the dominant building shall be deemed to acquiesce in the obstruction which in accordance with sub-section (1), is to be treated as resulting from the registration of the notice;

(c) as from the date on which such an action is brought, no person shall be treated as submitting to or acquiescing in that obstruction;

so, however, that if, in any such action, the court decides against the claim of the plaintiff, the court may direct that the preceding provisions of this section shall apply in relation to the notice as if that action had not been brought.

S. 3 rep. by SLR 1976

4 Application to Crown land.

(1) Subject to sub-section (2), this Act shall bind the Crown to the full extent authorised by the constitutional laws of Northern Ireland and accordingly shall apply in relation to land in which there is a Crown or Duchy estate as it applies in relation to land in which there is no such estate.

(2) Section three of the Prescription Act, 1832, as modified by the preceding provisions of this Act, shall not by virtue of this section be construed as applying to any land to which (by reason that there is a Crown or Duchy estate therein) that section would not apply apart from this Act.

(3) In this section "Crown or Duchy estate" means an estate belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a department of the government of Northern Ireland or of the government of the United Kingdom, or held in trust for Her Majesty for the purposes of a department of either such government.

5 Interpretation.

In this act—

"action" includes a counterclaim, and any reference to the plaintiff in an action shall be construed accordingly;

"tenancy" means a tenancy created either immediately or derivatively out of the freehold, whether by a lease or underlease, by an agreement for a lease or underlease or by a tenancy agreement or in pursuance of any enactment, but does not include a mortgage term or any estate arising in favour of a mortgagor by his attorning tenant to his mortgagee;

"owner", in relation to any land, means a person who is for the time being the owner of any freehold estate therein, or is entitled to a tenancy thereof for a term of years certain of which, at the time in question, not less than seven years remain unexpired, or is a mortgagee in possession (within the meaning of the Conveyancing Act, 1881 [M1]) where the estate mortgaged is either such a freehold estate or such a tenancy.

Marginal Citations

M1 1881 c. 41

6 Short title.

(1) This Act may be cited as the Rights of Light Act (Northern Ireland), 1961.

Subs. (2) rep. by SLR 1973

Changes to legislation:
There are currently no known outstanding effects for the Rights of Light Act (Northern Ireland) 1961.