



Land Registration and Land Charges Act 1971

1971 CHAPTER 54

An Act to amend the Land Registration Acts 1925 to 1966; to amend the Land Charges Act 1925 and related enactments; and for connected purposes. [27th July 1971]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

AMENDMENT OF LAND REGISTRATION ACTS 1925 TO 1966

1 Payment of indemnity

- (1) Any indemnity payable after the commencement of this section under any provision of the Land Registration Act 1925, including so much of any indemnity which has become so payable at any time before then as has not then been paid, shall, instead of being paid out of the insurance fund, be paid by the registrar out of moneys provided by Parliament; and no other person shall thereafter be under any liability to pay any such indemnity.
- (2) Any money which at the commencement of this section stands to the credit of the insurance fund shall be paid into the Consolidated Fund, and any other assets then comprised in the insurance fund shall be realised forthwith, and the proceeds thereof shall be paid into the Consolidated Fund; and as soon as its assets have been so dealt with, the insurance fund shall cease to exist.
- (3) In this section " the insurance fund " means the insurance fund established under the Land Transfer Act 1897.

2 Determination of questions as to right to or amount of indemnity

- (1) If any question arises as to whether a person is entitled to an indemnity under any provision of the Land Registration Act 1925 or as to the amount of any such indemnity, he may apply to the court to have that question determined.
- (2) Section 83(5)(c) of the Land Registration Act 1925 (by virtue of which no indemnity is payable under that Act on account of costs incurred in taking or defending any legal proceedings without the consent of the registrar) shall not apply to the costs of an application to the court under subsection (1) above or of any legal proceedings arising out of such an application ; and as regards any such application or proceedings section 131 of that Act (which provides that the registrar, among others, shall not be liable to any action or proceeding for or in respect of anything done or omitted as there mentioned) shall not apply to the registrar.
- (3) On an application under subsection (1) above the court shall not order the applicant, even if unsuccessful, to pay any costs except his own unless it considers that the application was unreasonable.
- (4) Section 83(7) of the Land Registration Act 1925 (registrar's power to determine certain questions falling within subsection (1) above) shall cease to have effect; and for section 83(8) of that Act (which, as amended by section 1(3) of the Land Registration Act 1966, empowers the registrar to grant an indemnity on account of costs and expenses properly incurred in relation to a matter in respect of which indemnity is claimed, whether or not any other indemnity money is payable in respect of that matter) there shall be substituted the following subsection—
 - “(8) Subject to subsection (5)(c) of this section, as amended by section 2(2) of the Land Registration and Land Charges Act 1971—
 - (a) an indemnity under any provision of this Act shall include such amount, if any, as may be reasonable in respect of any costs or expenses properly incurred by the applicant in relation to the matter; and
 - (b) an applicant for an indemnity under any such provision shall be entitled to an indemnity thereunder of such amount, if any, as may be reasonable in respect of any such costs or expenses, notwithstanding that no other indemnity money is payable thereunder.”
- (5) Nothing in this section shall be taken to preclude the registrar from settling by agreement claims for indemnity under the Land Registration Act 1925.
- (6) Where any such question as is mentioned in subsection (1) above has arisen (whether before or after the passing of this Act) before the time of the commencement of this section and has not before that time been referred to the court in pursuance of rules under the Land Registration Act 1925, that subsection shall apply to it notwithstanding that it arose before that time ; but where any such question has been so referred before that time, it shall be determined as if this section and, so far as it relates to the repeal of section 83(7) of the Land Registration Act 1925 and section 1(3) of the Land Registration Act 1966, section 14(2)(b) of this Act had not come into force.

3 Right to indemnity not to be excluded by reason of act etc not amounting to fraud or lack of proper care

- (1) In section 83(5) of the Land Registration Act 1925 (which provides that no indemnity shall be payable under that Act in certain cases), for paragraph (a) (which, as amended

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by section 1(4) of the Land Registration Act 1966, specifies the case where the applicant himself or, in certain circumstances, a person from whom he derives title has caused or substantially contributed to the loss by his fraud or any act, neglect or default of his) there shall be substituted the following paragraph—

“(a) Where the applicant or a person from whom he derives title (otherwise than under a disposition for valuable consideration which is registered or protected on the register) has caused or substantially contributed to the loss by fraud or lack of proper care ;”

and the said section 1(4) shall cease to have effect.

(2) Subsection (1) above shall have effect in relation to any claim for indemnity made before the time of the commencement of this section and not settled by agreement or finally determined before that time, as well as to all such claims made after that time.

4 Souvenir land

(1) The Lord Chancellor may by rules made with the advice and assistance of the Rule Committee make provision—

- (a) for enabling the registrar, in such circumstances and subject to such conditions as may be specified in the rules, to declare any area of land to be subject to a souvenir land scheme if the registrar is satisfied that the land comprised in that area consists wholly or mainly of land which has been or is proposed to be disposed of (by way of sale or otherwise) in souvenir plots or of which part has been, and the remainder is proposed to be, so disposed of;
- (b) with respect to the cancellation of declarations and the extension or reduction of the area to which any declaration relates;
- (c) for authorising or requiring the registrar not to accept applications under the Land Registration Act 1925 relating to souvenir land or cautions or other documents relating to such land;
- (d) for excepting souvenir land from the operation of section 123 of that Act (effect of that Act in areas where registration is compulsory);
- (e) for securing that transactions relating to souvenir land which is registered land take effect as if the souvenir land in question were not registered land; and
- (f) generally for modifying or excluding in relation to souvenir land the operation of any provision contained in the Land Registration Acts 1925 to 1966 or any general rules thereunder.

(2) Rules under this section may include such supplemental, consequential or incidental provision as may appear to the Lord Chancellor to be necessary or expedient for the purposes of the rules, and may make different provision for souvenir land in general and souvenir land so far as it consists or does not consist of souvenir plots, and for other different circumstances.

(3) The power to make rules under this section shall be exercisable by statutory instrument, and a statutory instrument containing any such rules shall be laid before Parliament after being made.

(4) Section 131 of the Land Registration Act 1925 (indemnity to officers of registry) shall apply in relation to rules made under this section as it applies in relation to general rules made in pursuance of that Act.

(5) For the purposes of this section—

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" declaration " means a declaration by the registrar, made in pursuance of rules under this section made by virtue of subsection (1)(a) above, that an area of land is subject to a souvenir land scheme ;

" souvenir land " means land situated within an area in respect of which a declaration is for the time being in force;

" souvenir plot " means any piece of land which, being of inconsiderable size and little or no practical utility, is unlikely to be wanted in isolation except for the sake of pure ownership or for sentimental reasons or commemorative purposes.

PART II

AMENDMENT OF LAND CHARGES ACT 1925 AND RELATED ENACTMENTS

5 Provisions as to form of index and searches

(1) For section 1(2) of the Land Charges Act 1925 (which requires an alphabetical index to be kept of all entries in any register kept at the registry in pursuance of that Act) there shall be substituted the following subsection—

“(2) The registrar shall also keep at the registry an index whereby all entries made in any register kept by him pursuant to this Act can readily be traced. In this subsection ' index' includes any device or combination of devices serving the purpose of an index.”

(2) In section 16 of the Land Charges Act 1925 (right to search in any register or index kept in pursuance of that Act on payment of the prescribed fee) the words " or index " shall be omitted.

(3) The said section 16, as amended by subsection (2) above, shall be renumbered so as to become section 16(1) of the said Act; and at the end of the resulting subsection (1) there shall be added as subsection (2)—

“(2) Without prejudice to subsection (1) above, the registrar may provide facilities for enabling persons entitled to search in any such register to see photographic or other images or copies of any portion of the register which they may wish to examine.”

(4) In subsection (1) of section 17 of the Land Charges Act 1925 (which provides that where a person requires a search to be made at the registry, he may on payment of the prescribed fee lodge at the registry a requisition in that behalf), for the words from " he " to the end of the subsection there shall be substituted the words " he may make a requisition in that behalf to the registrar, which may be either—

(a) a written requisition delivered at or sent by post to the registry; or

(b) a requisition communicated by teleprinter, telephone or other means in such manner as may be prescribed in relation to the means in question, in which case it shall be treated as made to the registrar if, but only if, he accepts it;

and the registrar shall not accept a requisition made in accordance with paragraph (b) above unless it is made by a person maintaining a credit account at the registry, and may at his discretion refuse to accept it notwithstanding that it is made by such a person."

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(5) For subsection (2) of the said section 17 (registrar's duty to make a search and issue a certificate) there shall be substituted the following subsections—

“(2) The prescribed fee shall be payable in respect of every requisition made under this section ; and that fee—

- (a) in the case of a requisition made in accordance with subsection (1) (a) above, shall be paid in such manner as may be prescribed for the purposes of this paragraph unless the requisition is made by a person maintaining a credit account at the registry and the fee is debited to that account;
- (b) in the case of a requisition made in accordance with subsection (1)(b) above, shall be debited to the credit account of the person by whom the requisition is made.

(2A) Where a requisition is made under subsection (1) above and the fee payable in respect thereof is paid or debited in accordance with subsection (2) above, the registrar shall thereupon make the search required and—

- (a) shall issue a certificate setting out the result of the search; and
- (b) without prejudice to paragraph (a) above, may take such other steps as he considers appropriate to communicate that result to the person by whom the requisition was made.”

(6) Subsection (4) of the said section 17 (form and content of requisitions) shall cease to have effect.

(7) In the said section 17, after subsection (5) there shall be inserted as subsection (5A)—

“(5A) Without prejudice to subsection (5) above, no officer, clerk or person employed in the registry shall, in the absence of fraud on his part, be liable for any loss which may be suffered—

- (a) by reason of any discrepancy between—
 - (i) the particulars which are shown in a certificate under this section as being the particulars in respect of which the search for entries was made, and
 - (ii) the particulars in respect of which a search for entries was required by the person who made the requisition ; or
- (b) by reason of any communication of the result of a search under this section made otherwise than by issuing a certificate thereunder.”

6 Office copies of entries in registers kept under Land Charges Act 1925 s. 1

(1) An office copy of an entry in any register kept at the registry in pursuance of the Land Charges Act 1925 shall be admissible in evidence in all proceedings and between all parties to the same extent as the original would be admissible.

(2) No solicitor, trustee, personal representative or other person in a fiduciary position shall be answerable in respect of any loss occasioned by reliance on an office copy of any such entry.

7 **Amendment of Law of Property (Amendment) Act 1926, s. 4(2)**

In section 4(2) of the Law of Property (Amendment) Act 1926 (which, as varied, provides that where a purchaser has obtained an official certificate of the result of search, any entry which is made in the register after the date of the certificate and before the completion of the purchase, and is not made pursuant to a priority notice entered on the register before the certificate is issued, shall not, if the purchase is completed before the expiration of the fourteenth day after the date of the certificate, affect the purchaser), for the words " before the certificate is issued " there shall be substituted the words " on or before the date of the certificate ".

8 **Provision of credit accounting facilities**

- (1) Without prejudice to the generality of subsection (1) of section 19 of the Land Charges Act 1925 (power to make general rules for carrying that Act into effect), rules under that subsection may make provision for enabling the registrar to provide credit accounting facilities in respect of fees payable by virtue of that Act, and may provide that, for such purposes of that Act or of rules made thereunder as may be specified in the rules, the debiting of such a fee to a credit account maintained at the registry shall be treated as payment of that fee.
- (2) Rules made by virtue of subsection (1) above may include provision for the termination or general suspension of any credit accounting facilities provided under the rules or for their withdrawal or suspension in particular cases at the discretion of the registrar.

9 **Exclusion of certain land charges from Land Charges Act 1925**

- (1) After section 23 of the Land Charges Act 1925 there shall be inserted the following section—

**“23A Exclusion of certain land charges created by instruments
necessitating registration under Land Registration Act 1925.**

Where an instrument executed after the passing of the Land Registration and Land Charges Act 1971 conveys, grants or assigns an estate in land and creates a land charge (other than a local land charge) affecting that estate, this Act shall not apply to the land charge, so far as it affects that estate, if under section 123 of the Land Registration Act 1925 (effect of that Act in areas where registration is compulsory) the instrument will, unless the necessary application for registration under that Act is made within the time allowed by or under that section, become void so far as respects the conveyance, grant or assignment of that estate”.

- (2) In section 97 of the Law of Property Act 1925 (priorities as between puisne mortgages), after the words " This section does not apply " there shall be inserted the words " to mortgages or charges to which the Land Charges Act 1925 does not apply by virtue of section 23A of that Act (which excludes certain land charges created by instruments necessitating registration under the Land Registration Act 1925), or ".

10 Exclusions from operation of Part II

The foregoing provisions of this Part of this Act, and any specific repeal made by this Act in so far as it reproduces the effect of any of those provisions—

- (a) shall not have effect in relation to local land charges except in so far as may be provided by rules made under the Land Charges Act 1925; and
- (b) shall not affect the operation of any of the provisions of the Land Charges Act 1925 as to official searches as applied by section 9(7) of the Agricultural Credits Act 1928 in connection with the registration of agricultural charges.

11 Part VII of Land Charges Act 1925 set out as amended

Part VII of the Land Charges Act 1925 is set out in Schedule 1 to this Act as it will have effect, subject to the exclusions in relation to local land charges and agricultural charges contained in section 10 of this Act, when all repeals and amendments made in it by this Act operate.

PART III

MISCELLANEOUS AND GENERAL

12 Meaning of " Her Majesty's Land Registry "

Section 126(1) of the Land Registration Act 1925 (which provides that there shall continue to be an office in London to be called Her Majesty's Land Registry) shall not be construed as requiring the whole of the business of Her Majesty's Land Registry to be conducted in London; and for the purposes of any provision in the Land Charges Act 1925 or in section 9 (registration of agricultural charges) of the Agricultural Credits Act 1928 requiring any register or index to be kept at that Registry or otherwise requiring or authorising anything to be done at or delivered or sent to that Registry (including any such provision of the Land Charges Act 1925 as applied by the said section 9), any reference to that Registry shall, if the Chief Land Registrar so directs, be read as a reference to such office of that Registry (whether in London or elsewhere) as may be specified in the direction.

13 Expenses

There shall be paid out of moneys provided by Parliament any increase in the expenses of the Chief Land Registrar which is attributable to any provision of this Act.

14 Repeals

- (1) The following provisions (which are obsolete or otherwise unnecessary) shall cease to have effect, namely—
- (a) the Land Registry (Middlesex Deeds) Act 1891;
 - (b) section 75(4) of the Land Registration Act 1925 (power of registrar to award indemnity in connection with acquisition of title by possession);
 - (c) in the Land Charges Act 1925—
 - (i) section 2(7) (entry of discharge or satisfaction of registered pending action);

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- (ii) section 4(3) (entry of satisfaction, cesser or discharge of registered annuity);
 - (iii) section 6(6) (entry of discharge or satisfaction of registered writ or order affecting land);
 - (iv) section 17(6) (saving for extraneous rights to search in registry);
 - (v) section 18 (Middlesex Registry Act 1708 not to apply to certain instruments);
 - (d) section 2 of the Land Registration Act 1936 (closing of Middlesex Deeds Registry).
- (2) Subject to sections 2(6) and 10 of this Act—
- (a) the enactments mentioned in Part I of Schedule 2 to this Act are hereby repealed as from the passing of this Act to the extent specified in column 3 of that Part; and
 - (b) the enactments mentioned in Part II of that Schedule are hereby repealed as from the commencement of this paragraph to the extent specified in column 3 of that Part.

15 Short title, citation, construction, interpretation, commencement and extent

- (1) This Act may be cited as the Land Registration and Land Charges Act 1971, and—
- (a) the Land Registration Acts 1925 to 1966 and Part I of this Act may be cited together as the Land Registration Acts 1925 to 1971; and
 - (b) the Land Charges Act 1925 and Part II of this Act may be cited together as the Land Charges Acts 1925 and 1971.
- (2) Part I of this Act shall be construed as one with the Land Registration Act 1925, so however that, in section 144(1)(xxxi) of that Act and section 4(1)(f) of this Act, the references to that Act shall not be construed as extending to section 4 of this Act; and Part II of this Act shall be construed as one with the Land Charges Act 1925.
- (3) Without prejudice to subsection (2) above, it is hereby declared that the provisions of this Act bind the Crown.
- (4) Except in so far as the context otherwise requires, any reference in this Act to any enactment is a reference to it as amended by or under any other enactment, including this Act.
- (5) The following provisions of this Act, namely sections 3, 4, 5(1), 6 to 14 (except section 14(2)(b)), this section, Schedule 1 and Part I of Schedule 2, shall come into force on the day this Act is passed, and the other provisions of this Act shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint; and different days may be so appointed for different purposes.
- (6) Any reference in this Act to the commencement of any provision thereof shall be construed as a reference to the time at which under or by virtue of subsection (5) above that provision comes into force.
- (7) This Act does not extend to Scotland or Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 11.

PART VII OF THE LAND CHARGES ACT 1925, AS IT WILL HAVE EFFECT, SUBJECT TO THE EXCLUSIONS IN RELATION TO LOCAL LAND CHARGES AND AGRICULTURAL CHARGES CONTAINED IN SECTION 10 OF THIS ACT, WHEN ALL REPEALS AND AMENDMENTS MADE IN IT BY THIS ACT OPERATE

“PART VII

SEARCHES AND OFFICIAL SEARCHES

16 Searches.

- (1) Any person may search in any register kept in pursuance of this Act on paying the prescribed fee.
- (2) Without prejudice to subsection (1) above, the registrar may provide facilities for enabling persons entitled to search in any such register to see photographic or other images or copies of any portion of the register which they may wish to examine.

17 Official searches.

- (1) Where any person requires search to be made at the registry for entries of any matters or documents, whereof entries are required or allowed to be made in the registry by this Act, he may make a requisition in that behalf to the registrar, which may be either—
 - (a) a written requisition delivered at or sent by post to the registry; or
 - (b) a requisition communicated by teleprinter, telephone or other means in such manner as may be prescribed in relation to the means in question, in which case it shall be treated as made to the registrar if, but only if, he accepts it;and the registrar shall not accept a requisition made in accordance with paragraph (b) above unless it is made by a person maintaining a credit account at the registry, and may at his discretion refuse to accept it notwithstanding that it is made by such a person.
- (2) The prescribed fee shall be payable in respect of every requisition made under this section ; and that fee—
 - (a) in the case of a requisition made in accordance with sub section (1)(a) above, shall be paid in such manner as may be prescribed for the purposes of this paragraph unless the requisition is made by a person maintaining a credit account at the registry and the fee is debited to that account;
 - (b) in the case of a requisition made in accordance with subsection (1)(b) above, shall be debited to the credit account of the person by whom the requisition is made.

- (2A) Where a requisition is made under subsection (1) above and the fee payable in respect thereof is paid or debited in accordance with subsection (2) above, the registrar shall thereupon make the search required and—
- (a) shall issue a certificate setting out the result of the search; and
 - (b) without prejudice to paragraph (a) above, may take such other steps as he considers appropriate to communicate that result to the person by whom the requisition was made.
- (3) In favour of a purchaser or an intending purchaser, as against persons interested under or in respect of matters or documents whereof entries are required or allowed as aforesaid, the certificate, according to the tenor thereof, shall be conclusive, affirmatively or negatively, as the case may be.
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- (5) If any officer, clerk or person employed in the registry commits, or is party or privy to, any act of fraud or collusion, or is wilfully negligent, in the making of or otherwise in relation to any certificate under this section, he shall be guilty of a misdemeanour and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty pounds, or to both such imprisonment and fine.
- (5A) Without prejudice to subsection (5) above, no officer, clerk or person employed in the registry shall, in the absence of fraud on his part, be liable for any loss which may be suffered—
- (a) by reason of any discrepancy between—
 - (i) the particulars which are shown in a certificate under this section as being the particulars in respect of which the search for entries was made, and
 - (ii) the particulars in respect of which a search for entries was required by the person who made the requisition; or
 - (b) by reason of any communication of the result of a search under this section made otherwise than by issuing a certificate thereunder.
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- (7) Where a solicitor obtains a certificate of result of search under this section, he shall not be answerable in respect of any loss that may arise from error in the certificate.
- (8) Where the solicitor is acting for trustees, executors, agents or other persons in a fiduciary position, those persons also shall not be so answerable.
- (9) Where such persons obtain such a certificate without a solicitor, they shall also be protected in like manner.”

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SCHEDULE 2

Section 14.

REPEALS

PART I

ENACTMENTS REPEALED AS FROM THE PASSING OF THIS ACT

Chapter	Short Title	Extent of Repeal
54 & 55 Vict. c 64.	The Land Registry (Middlesex Deeds) Act 1891.	The whole Act.
15 & 16 Geo. 5. c. 21.	The Land Registration Act 1925.	Section 75(4).
15 & 16 Geo. 5. c. 22.	The Land Charges Act 1925.	Section 2(7). Section 4(3). Section 6(6). Section 17(6). Section 18.
26 Geo. 6 & 1 Edw. 8. c. 26.	The Land Registration Act 1936.	Sections 2 and 3.
1966 c. 39.	The Land Registration Act 1966.	Section 1(4).
1969 c. 59.	The Law of Property Act 1969	In section 25(7)(b), the word "alphabetical".

PART II

ENACTMENTS REPEALED AS FROM COMMENCEMENT OF SECTION 14(2)(B)

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 21.	The Land Registration Act 1925.	Section 83(7). Section 85.
15 & 16 Geo. 5. c. 22.	The Land Charges Act 1925.	In section 16, the words "" or index ". Section 17(4).
26 Geo. 5. & 1 Edw. 8. c. 26.	The Land Registration Act 1936.	Sections 4 to 6. Section 8.
1966 c. 39.	The Land Registration Act 1966.	Section 1(3).