



Land Registration Act 1925

1925 CHAPTER 21

PART IX

UNREGISTERED DEALINGS WITH REGISTERED LAND.

Powers of dealing with Registered Land off the Register.

101 Dispositions off register creating " minor interests. "

- (1) Any person, whether being the proprietor or not, having a sufficient interest or power in or over registered land, may dispose of or deal with the same, and create any interests or rights therein which are permissible in like manner and by the like modes of assurance in all respects as if the land were not registered, but subject as provided by this section.
- (2) All interests and rights disposed of or created under subsection (1) of this section (whether by the proprietor or any other person) shall, subject to the provisions of this section, take effect as minor interests, and be capable of being overridden by registered dispositions for valuable consideration,
- (3) Minor interests shall, subject to the express exceptions contained in this section, take effect only in equity, but may be protected by entry on the register of such notices, cautions, inhibitions and restrictions as are provided for by this Act or rules.
- (4) A minor interest in registered land subsisting or capable of taking effect at the commencement of this Act, shall not fail or become invalid by reason of the same being converted into an equitable interest; but after such commencement a minor interest in registered land shall only be capable of being validly created in any case in which an equivalent equitable interest could have been validly created if the land had not been registered.
- (5) Where after the commencement of this Act, the proprietor of the registered estate which is settled, disposes of or deals with his beneficial interest in possession in favour of a purchaser, and accordingly the minor interest disposed of or created would, but for the restrictions imposed by the Law of Property Act, 1925, and this section, on the

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creation of legal estates, have been a legal estate, the purchaser (subject as provided by the next following section in regard to priorities) may exercise all such rights and remedies as he might have exercised had the minor interest been a legal estate, and the reversion (if any) on any leases or tenancies derived out of the registered estate had been vested in him.

- (6) A minor interest created under this section does not operate to prevent a registered estate passing to the personal representative of a deceased proprietor, or to the survivor or survivors of two or more joint proprietors, nor does this section affect the right of any person entitled to an overriding interest, or having any power to dispose of or create an overriding interest, to dispose of or create the same.

102 Priorities as between minor interests.

- (1) If a minor interest subsisting or capable of taking effect at the commencement of this Act, would, if the Law of Property Acts, 1922 and 1925, and this Act had not been passed have taken effect as a legal estate, then (subject and without prejudice to the estate and powers of the proprietor whose estate is affected) the conversion thereof into an equitable interest shall not affect its priority over other minor interests.
- (2) Priorities as regards dealings effected after the commencement of this Act between assignees and incumbrancers of life interests, remainders, reversions and executory interests shall be regulated by the order of the priority cautions or inhibitions lodged (in a specially prescribed form) against the proprietor of the registered estate affected, but, save as aforesaid, priorities as between persons interested in minor interests shall not be affected by the lodgment of cautions or inhibitions.
- (3) The lodgment of a priority caution or inhibition shall not affect the powers of the proprietor whose estate is affected by the minor interest.

103 Obligation to give effect on the register to certain minor interests.

- (1) Where by the operation of any statute or statutory or other power, or by virtue of any vesting order of any court or other competent authority, or an order appointing a person to convey, or of a vesting declaration (express or implied) or of an appointment or other assurance, a minor interest in the registered land is disposed of or created which would, if registered, be capable of taking effect as a legal estate or charge by way of legal mortgage, then—
- (i) if the estate owner would, had the land not been registered, have been bound to give effect thereto by conveying or creating a legal estate or charge by way of legal mortgage, the proprietor shall, subject to proper provision being made for payment of costs, be bound to give legal effect to the transaction by a registered disposition :
- (ii) if the proprietor is unable or refuses to make the requisite disposition or cannot be found, or if for any other reason a disposition by him cannot be obtained within a reasonable time, or if, had the land not been registered, no conveyance by the estate owner would have been required to give legal effect to the transaction, the registrar shall give effect thereto in the prescribed manner in like manner and with the like consequences as if the transaction had been carried out by a registered disposition :

Provided that—

- (a) So long as the proprietor has power under the Settled Land Act, 1925, or any other statute conferring special powers on a tenant for life or statutory owner, or under the settlement, to override the minor interest so disposed of or created, no estate or charge shall be registered which would prejudicially affect any such powers:
 - (b) So long as the proprietor holds the land on trust for sale, no estate or charge shall be registered in respect of an interest which, under the Law of Property Act, 1925, or otherwise, ought to remain liable to be overridden on the execution of the trust for sale:
 - (c) Nothing in this subsection shall impose on a proprietor an obligation to make a disposition unless the person requiring the disposition to be made has a right in equity to call for the same:
 - (d) Nothing in this subsection shall prejudicially affect the rights of a personal representative in relation to the administration of the estate of the deceased.
- (2) On every alteration in the register made pursuant to this section the land certificate and any charge certificate which may be affected shall be produced to the registrar unless an order to the contrary is made by him.

104 Protection of leases granted under statutory powers by persons other than registered proprietor; and restriction on power.

All leases at a rent for a term of years absolute authorised by the powers conferred by the Law of Property Act, 1925, or the Settled Land Act, 1925, or any other statute (whether or not as extended by any instrument) may be granted in the name and on behalf of the proprietor by any other person empowered to grant the same, and shall be valid at law or in equity (as the case may require) and shall be protected by notice on the register and registered in the same cases, in like manner and with the same effect as if the lease had been granted by the proprietor of the land, and without prejudice to any priority acquired by the exercise of the power; but nothing in this section shall authorise any person granting any lease in the name of the proprietor to impose (save in regard to the usual qualified covenant for quiet enjoyment) any personal liability on such proprietor.

105 As to minor interests in mortgage debts.

Rules may be made for applying the provisions of this Part of this Act as to minor interests to the case of minor interests in a debt secured by a registered charge.

106 Mortgages protected on the register.

- (1) The proprietor of any registered land may, subject to any entry to the contrary on the register, mortgage, by deed or otherwise, the land or any part thereof in any manner which would have been permissible if the land had not been registered and with the like effect: Provided that the registered land comprised in the mortgage is described (whether by reference to the register or in any other manner) in such a way as is sufficient to enable the registrar to identify the same without reference to any other document.
- (2) A mortgage made under this section may, if by deed, be protected by a caution in a specially prescribed form and in no other way, and if not by deed, by a caution.

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- (3) The entry of a caution in a specially prescribed form under this section shall be deemed a dealing capable of being restrained by caution.
- (4) Until the mortgage is protected on the register under this section, it shall be capable of taking effect only in equity and of being overridden as a minor interest.
- (5) Where a mortgage by deed has been protected by a caution in the specially prescribed form, the mortgagee, or the persons deriving title under him, may, subject to furnishing sufficient evidence of title, and notwithstanding that any interest or charge affecting the land not registered or protected on the register which has priority to the mortgage is disclosed, require the mortgage to be registered as a charge with the same priority as the caution.

Neither the registrar or any person interested under a registered disposition shall be affected with notice of any such interest or charge so disclosed.

- (6) Where a mortgage by deed has been so registered, the proprietor thereof shall, subject to any entry to the contrary on the register, have all the powers which are by this Act conferred on the proprietor of a registered charge; but so long as the mortgage is protected only by a caution, the mortgagee shall not be capable of dealing with the registered land by a registered disposition.
- (7) Any mortgage to which this section applies shall devolve and may be transferred, discharged, surrendered, or otherwise dealt with by the same instruments and in the same manner as if the land had not been registered :

Provided that—

- (a) Where the mortgage has been registered as a charge, the devolutions, dealings and notification of cessation shall be registered in the same manner and with the same consequences as in the case of a registered charge :
 - (b) Where the mortgage has been protected only by a caution in a specially prescribed form, then such devolutions and dealings shall be protected in like manner and in no other way :
 - (c) Subject to any entry to the contrary on the register, the priorities arising in respect of devolutions and dealings shall be regulated by the order of application for registration or for the entry of a caution in the specially prescribed form.
- (8) An ad valorem fee may be charged for a caution in a specially prescribed form, but, if and when a mortgage protected by such a caution is registered as a charge, any ad valorem fee paid in respect of the caution shall be taken in or towards satisfaction of the fees payable on such registration.
 - (9) Rules shall be made for giving effect to the provisions of this section, and in particular for providing in what case documents, or copies thereof, shall be left at the registry, for providing for the marking of documents not retained at the registry, and for extending and adapting the provisions of this section to the case of submortgages:

Provided that where—

- (a) The mortgage relates also to property other than registered land; or
- (b) The mortgage is only protected by a caution whether in a specially prescribed form or not; or
- (c) The nature of the security is such that it is not expedient or practicable that the mortgage should be retained at the registry;

neither the mortgage nor any instruments dealing therewith nor discharges affecting other property besides the registered land shall be required to be permanently retained at the registry.

107 Power for proprietors to bind successors and to enforce contracts.

- (1) Subject to any entry to the contrary on the register, the proprietor of any registered land or charge may enter into any contract in reference thereto in like manner as if the land or charge had not been registered, and, subject to any disposition for valuable consideration which may be registered or protected on the register before the contract is completed or protected on the register, the contract may be enforced as a minor interest against any succeeding proprietor in like manner and to the same extent as if the land or charge had not been registered.
- (2) A contract entered into for the benefit of any registered land or charge may (if the same would have been enforceable by the owner for the time being of the land or charge, if not registered, or by a person deriving title under the party contracting for the benefit) be enforced by the proprietor for the time being of the land or charge.

108 Acquisition of easements and other benefits.

The proprietor of registered land may accept for the benefit thereof the grant of any easement, right, or privilege or the benefit of any restrictive covenant or provision (affecting other land, whether registered or not) in like manner and to the same extent as if he were legally and beneficially entitled to the fee simple in possession, or to the term created by the registered lease, for his own benefit free from incumbrances.

109 Restriction on exercise of powers off the register.

Subject to the express provisions relating to leases and mortgages, nothing in this Part of this Act shall be construed as authorising any disposition of any estate, interest, or right or other dealing with land to be effected under this Part of this Act if the disposition or dealing is one which could, be effected under another Part of this Act, and any such disposition or dealing shall be effected under and in the manner required by such other Part of this Act, and when so required shall be registered or protected as provided by this Act or the rules.