



# Land Registration Act 1997

## 1997 CHAPTER 2

### *Indemnity*

#### **2 Indemnity for errors or omissions in the register**

The following section shall be substituted for section 83 of the Land Registration Act 1925—

##### **“83 Indemnity for errors or omissions in the register**

- (1) Where the register is rectified under this Act, then, subject to the provisions of this Act—
  - (a) any person suffering loss by reason of the rectification shall be entitled to be indemnified; and
  - (b) if, notwithstanding the rectification, the person in whose favour the register is rectified suffers loss by reason of an error or omission in the register in respect of which it is so rectified, he also shall be entitled to be indemnified.
- (2) Where an error or omission has occurred in the register, but the register is not rectified, any person suffering loss by reason of the error or omission shall, subject to the provisions of this Act, be entitled to be indemnified.
- (3) Where any person suffers loss by reason of the loss or destruction of any document lodged at the registry for inspection or safe custody or by reason of an error in any official search, he shall be entitled to be indemnified under this Act.
- (4) Subject to the following provisions of this section, a proprietor of any registered land or charge claiming in good faith under a forged disposition shall, where the register is rectified, be deemed to have suffered loss by reason of such rectification and shall be entitled to be indemnified under this Act.
- (5) No indemnity shall be payable under this Act—
  - (a) on account of any loss suffered by a claimant wholly or partly as a result of his own fraud or wholly as a result of his own lack of proper care;

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*Status: This is the original version (as it was originally enacted).*

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- (b) on account of any mines or minerals, or the existence of any right to work or get mines or minerals, unless it is noted on the register that the mines or minerals are included in the title; or
  - (c) on account of any costs or expenses (of whatever nature) incurred without the consent of the registrar, unless—
    - (i) by reason of urgency it was not practicable to apply for the registrar's consent before they were incurred, and
    - (ii) the registrar subsequently approves them for the purposes of this paragraph.
- (6) Where any loss suffered by a claimant is suffered partly as a result of his own lack of proper care, any indemnity payable to him shall be reduced to such extent as is just and equitable having regard to his share in the responsibility for the loss.
- (7) For the purposes of subsections (5)(a) and (6) above, any fraud or lack of proper care on the part of a person from whom the claimant derives title (otherwise than under a disposition for valuable consideration which is registered or protected on the register) shall be treated as if it were fraud or lack of proper care on the part of the claimant (and the reference in subsection (6) to the claimant's share in the responsibility for the loss shall be construed accordingly).
- (8) Where an indemnity is paid in respect of the loss of an estate or interest in or charge on land, the amount so paid shall not exceed—
- (a) where the register is not rectified, the value of the estate, interest or charge at the time when the error or omission which caused the loss was made;
  - (b) where the register is rectified, the value (if there had been no rectification) of the estate, interest or charge, immediately before the time of rectification.
- (9) Subject to subsection (5)(c) above, as restricted 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 claimant in relation to the matter; and
  - (b) a claimant 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.
- (10) Where indemnity is paid to a claimant in respect of any loss, the registrar, on behalf of the Crown, shall be entitled—
- (a) to recover the amount paid from any person who caused or substantially contributed to the loss by his fraud; or
  - (b) for the purpose of recovering the amount paid, to enforce—
    - (i) any right of action (of whatever nature and however arising) which the claimant would have been entitled to enforce had the indemnity not been paid, and
    - (ii) where the register has been rectified, any right of action (of whatever nature and however arising) which the person in

whose favour the register has been rectified would have been entitled to enforce had it not been rectified.

- (11) Subsection (10) above does not prejudice any other rights of recovery which by virtue of any enactment are exercisable by the registrar where he has made a payment of indemnity.
- (12) A liability to pay indemnity under this Act shall be deemed to be a simple contract debt; and for the purposes of the Limitation Act 1980, the cause of action shall be deemed to arise at the time when the claimant knows, or but for his own default might have known, of the existence of his claim.
- (13) This section applies to the Crown in like manner as it applies to a private person.”