



# Land Registration Act 1997

## 1997 CHAPTER 2

### *Registration*

#### **1 Compulsory first registration**

The following sections shall be substituted for section 123 of the Land Registration Act 1925—

**“123 Compulsory registration: dispositions to which requirement to register applies**

- (1) The requirement of compulsory registration applies in relation to the following dispositions of unregistered land—
  - (a) any qualifying conveyance of the freehold estate;
  - (b) any qualifying grant of a term of years absolute of more than 21 years from the date of the grant;
  - (c) any qualifying assignment of a term of years absolute which on the date of the assignment has more than 21 years to run; and
  - (d) any disposition effected by an assent (including a vesting assent) or by a vesting deed which is a disposition of—
    - (i) the freehold estate, or
    - (ii) a term of years absolute which on the date of the disposition has more than 21 years to run.
- (2) The requirement of compulsory registration also applies in relation to any disposition by the estate owner of unregistered land which is a legal mortgage of—
  - (a) the freehold estate, or
  - (b) a term of years absolute which on the date of the mortgage has more than 21 years to run,

where, on its creation, the mortgage takes effect as a mortgage to be protected by the deposit of documents relating to that estate or term of years, and ranks

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in priority ahead of all other mortgages (if any) then affecting that estate or term of years.

- (3) Without prejudice to the power to make an order under subsection (4) below, nothing in this section or section 123A of this Act has the effect of requiring the registration of title to—
- (a) an incorporeal hereditament;
  - (b) mines and minerals apart from the surface; or
  - (c) corporeal hereditaments which are part of a manor and included in the sale of a manor as such.
- (4) The Lord Chancellor may by order—
- (a) amend this section so as to add to the dispositions in relation to which the requirement of compulsory registration applies any such disposition of, or otherwise affecting, a legal estate in unregistered land as is specified in the order; and
  - (b) make such consequential amendments of any provision of, or having effect under, any Act as he thinks appropriate.
- (5) Any order under subsection (4) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) For the purposes of this section—
- (a) a conveyance, grant or assignment is a “qualifying” conveyance, grant or assignment if it is made—
    - (i) for valuable or other consideration,
    - (ii) by way of gift, or
    - (iii) in pursuance of an order of any court;
  - (b) a conveyance, grant or assignment of property with a negative value is to be regarded (without prejudice to the generality of paragraph (a)(i) above) as made for valuable or other consideration; and
  - (c) “assignment” does not include an assignment or surrender of a lease to the owner of the immediate reversion where the term is to merge in that reversion.

### **123A Compulsory registration: effect of requirement to register**

- (1) This section applies to any disposition which, by virtue of any provision of section 123 of this Act, is one in relation to which the requirement of compulsory registration applies.
- (2) Where any such disposition is effected, then—
- (a) if it is a disposition falling within section 123(1), the person who under the disposition is entitled to the legal estate transferred or created by it, or
  - (b) if it is a disposition falling within section 123(2), the estate owner of the legal estate charged by the mortgage, or
  - (c) (in either case) that person’s successor in title or assign,
- must before the end of the applicable period apply to the registrar to be registered (or alternatively, where he is not a person in a fiduciary position, to have any nominee registered) as the first proprietor of that estate.

- (3) In this section “the applicable period” means in the first instance the period of two months beginning with the date of the disposition, but—
- (a) the registrar may, if satisfied on the application of any interested person that there is good reason for doing so, make an order extending or further extending that period; and
  - (b) if he does so, “the applicable period” means that period as for the time being extended under this subsection.
- (4) Pending compliance with subsection (2) above the disposition shall operate to transfer or grant a legal estate, or (as the case may be) create a legal mortgage, in accordance with its terms.
- (5) If subsection (2) above is not complied with, the disposition shall at the end of the applicable period become void as regards any such transfer, grant or creation of a legal estate; and—
- (a) if it is a disposition purporting to transfer a legal estate, the title to that estate shall thereupon revert to the transferor who shall hold that estate on a bare trust for the transferee;
  - (b) if it is a disposition purporting to grant a legal estate or create a legal mortgage, the disposition shall thereupon take effect as if it were a contract to grant or create that estate or mortgage made for valuable consideration (whether or not it was so made or satisfies any of the formal requirements of such a contract).
- (6) If an order extending the applicable period under subsection (3) above is made at a time when the disposition has become void in accordance with subsection (5) above, then as from the making of the order—
- (a) subsection (5) shall cease to apply to the disposition, and
  - (b) subsection (4) above shall apply to it instead,
- and similarly in the case of any further order so made.
- (7) If any disposition is subsequently effected by way of replacement for a disposition which has become void in accordance with subsection (5) above, the requirement of compulsory registration shall apply in relation to it under section 123 in the same way as it applied in relation to the void disposition, and the provisions of this section shall have effect accordingly.
- (8) Except to the extent to which the parties to any such replacement disposition agree otherwise, the transferee or grantee (as the case may be) shall—
- (a) bear all the proper costs of and incidental to that disposition, and
  - (b) indemnify the transferor or grantor (as the case may be) in respect of any other liability reasonably incurred by him in consequence of the failure to comply with subsection (2) above.
- (9) Where any such replacement disposition is a mortgage falling within section 123(2) of this Act, subsection (8) above shall apply as if the reference to the grantee were a reference to the mortgagor and the reference to the grantor were a reference to the mortgagee.
- (10) Rules under this Act may make provision—
- (a) applying the provisions of this Act to any dealings which take place between—
    - (i) the date of any disposition to which this section applies, and

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- (ii) the date of the application for first registration,  
as if the dealings had taken place after the date of the registration, and  
for the registration to be effective as of the date of the application;
- (b) enabling the mortgagee under any mortgage falling within  
section 123(2) of this Act to require the legal estate charged by the  
mortgage to be registered whether or not the mortgagor consents.”