

SCHEDULES

SCHEDULE 4

Section 65

ALTERATION OF THE REGISTER

Introductory

- 1 In this Schedule, references to rectification, in relation to alteration of the register, are to alteration which—
- (a) involves the correction of a mistake, and
 - (b) prejudicially affects the title of a registered proprietor.

Alteration pursuant to a court order

- 2 (1) The court may make an order for alteration of the register for the purpose of—
- (a) correcting a mistake,
 - (b) bringing the register up to date, or
 - (c) giving effect to any estate, right or interest excepted from the effect of registration.
- (2) An order under this paragraph has effect when served on the registrar to impose a duty on him to give effect to it.
- 3 (1) This paragraph applies to the power under paragraph 2, so far as relating to rectification.
- (2) If alteration affects the title of the proprietor of a registered estate in land, no order may be made under paragraph 2 without the proprietor's consent in relation to land in his possession unless—
- (a) he has by fraud or lack of proper care caused or substantially contributed to the mistake, or
 - (b) it would for any other reason be unjust for the alteration not to be made.
- (3) If in any proceedings the court has power to make an order under paragraph 2, it must do so, unless there are exceptional circumstances which justify its not doing so.
- (4) In sub-paragraph (2), the reference to the title of the proprietor of a registered estate in land includes his title to any registered estate which subsists for the benefit of the estate in land.
- 4 Rules may—
- (a) make provision about the circumstances in which there is a duty to exercise the power under paragraph 2, so far as not relating to rectification;
 - (b) make provision about the form of an order under paragraph 2;
 - (c) make provision about service of such an order.

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Alteration otherwise than pursuant to a court order

- 5 The registrar may alter the register for the purpose of—
- (a) correcting a mistake,
 - (b) bringing the register up to date,
 - (c) giving effect to any estate, right or interest excepted from the effect of registration, or
 - (d) removing a superfluous entry.
- 6 (1) This paragraph applies to the power under paragraph 5, so far as relating to rectification.
- (2) No alteration affecting the title of the proprietor of a registered estate in land may be made under paragraph 5 without the proprietor's consent in relation to land in his possession unless—
- (a) he has by fraud or lack of proper care caused or substantially contributed to the mistake, or
 - (b) it would for any other reason be unjust for the alteration not to be made.
- (3) If on an application for alteration under paragraph 5 the registrar has power to make the alteration, the application must be approved, unless there are exceptional circumstances which justify not making the alteration.
- (4) In sub-paragraph (2), the reference to the title of the proprietor of a registered estate in land includes his title to any registered estate which subsists for the benefit of the estate in land.
- 7 Rules may—
- (a) make provision about the circumstances in which there is a duty to exercise the power under paragraph 5, so far as not relating to rectification;
 - (b) make provision about how the register is to be altered in exercise of that power;
 - (c) make provision about applications for alteration under that paragraph, including provision requiring the making of such applications;
 - (d) make provision about procedure in relation to the exercise of that power, whether on application or otherwise.

Rectification and derivative interests

- 8 The powers under this Schedule to alter the register, so far as relating to rectification, extend to changing for the future the priority of any interest affecting the registered estate or charge concerned.

Costs in non-rectification cases

- 9 (1) If the register is altered under this Schedule in a case not involving rectification, the registrar may pay such amount as he thinks fit in respect of any costs or expenses reasonably incurred by a person in connection with the alteration which have been incurred with the consent of the registrar.
- (2) The registrar may make a payment under sub-paragraph (1) notwithstanding the absence of consent if—
- (a) it appears to him—
 - (i) that the costs or expenses had to be incurred urgently, and

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- (ii) that it was not reasonably practicable to apply for his consent, or
- (b) he has subsequently approved the incurring of the costs or expenses.