



Land Registry Act 1862 (repealed)

1862 CHAPTER 53 25 and 26 Vict

PART IV **E+W**

GENERAL PROVISIONS TO FACILITATE REGISTRATION

89 Money charge not ascertained, &c. may be referred to judge at chambers. **E
+W**

If on the examination of any title it shall appear that the land or any part of it is subject to any money charge or incumbrance, the ownership of which is not ascertained, or the right to which is doubtful or uncertain, or to any doubtful or uncertain right or claim which may be estimated or compensated by money, and does not involve a right to the land itself otherwise than as a security for money, the case may, at the request of the applicant for registration, be referred to a judge of the Court of Chancery sitting in chambers for the purpose of determining whether such right or claim and the costs of any party entitled by virtue thereof can be justly provided for by payment of money into Court, and if so to fix the sum to be so paid in, and direct the investment and application of the interest thereof; and after such payment shall have been made, the land and the title thereto shall be wholly discharged from such right, claim, charge, or incumbrance, as fully as if the same had never existed.

90 Judge may order money not distributable, &c. to be paid into Court of Chancery. **E+W**

Where any part of the money arising from the sale of a registered estate is not immediately distributable, or the persons entitled thereto cannot be fully ascertained, it shall be competent for one of the judges of the Court of Chancery, on any application for that purpose made with the concurrence of the registrar, to direct any sum of money arising from such sale to be paid into the Court of Chancery, or otherwise invested, and to declare the account or purpose to or for which such money is to be transferred or holden, and afterwards to make all such orders touching such money, and the investment, application, and distribution thereof, as the circumstances of the case may require.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Land Registry Act 1862 (repealed), Part IV. (See end of Document for details)

91 Deeds to be stamped. E+W

When an estate is entered on the register, whether with or without an indefeasible title, all such deeds and evidences of title as shall be produced to the registrar, under any of the provisions aforesaid, shall be stamped or endorsed in such a manner, under the direction of the registrar, as to give notice to any person to whom such deeds or instruments may be afterwards produced that the land, or some portion of the land comprised therein, has been registered under this Act.

92 Judge may decide questions of priority of incumbrances, &c. E+W

If in any proceeding under this Act any question shall arise respecting the priority of any charges or incumbrances, claims or interests, it shall be competent to the registrar to report the same to a judge of the Court of Chancery, who shall have power to summon all parties interested to attend him either in court or at chambers, and to decide all questions touching the priority and relative rights of the parties, as fully as if they were parties to a suit instituted for the purpose.

As to Restraint of Conveyance

93 As to restrictions on conveyance, &c. of land. E+W

Where the registered proprietor of any land or charge is desirous for his own sake, or at the request of some person beneficially interested in such land or charge, to place restrictions on transferring or charging such land or charge, such proprietor may, upon application to the registrar, direct that no transfer shall be made of or charge created on such land or charge, unless the following things, or such of them as he may prescribe, are done; (that is to say,)

Unless notice of any application for a transfer or creation of a charge is transmitted by post to such address as he may specify to the registrar:

Unless the consent of some person or persons, to be named by such proprietor, is given to the transfer or creation of a charge:

Unless some such other matter or thing is done as may be required by the applicant and approved by the registrar.

94 Registrar to make a note of such restrictions. E+W

The registrar shall thereupon make a note of such directions on the record of title of such proprietor, or otherwise as he shall think fit; and no transfer shall be made or charge created except in conformity with such directions; and any such directions may at any time be withdrawn or modified at the instance of all the persons for the time being appearing to the registrar to be interested in such directions, and shall also be subject to be set aside by the order of a judge of the Court of Chancery.

95 Court of Chancery may exercise powers of 13 & 14 Vict. c. 60. E+W

For the purpose of authorizing or compelling a transfer to be made of any registered land or charge, the Court of Chancery may exercise all such powers as are vested in it by the Trustee Act, 1850, or by any Act amending the same, in relation to transfers of stock.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Land Registry Act 1862 (repealed), Part IV. (See end of Document for details)

Caution

96 Person interested may lodge caution with registrar. E+W

Any person interested under an agreement, or otherwise howsoever, in any land or charge registered in the name of any other person, may lodge a caveat with the registrar to the effect that no disposition of such land or charge be made until notice has been served upon the cautioner.

97 Caution to be supported by affidavit. E+W

The caveat shall be supported by an affidavit made by the cautioner or his agent, in such form as the registrar shall direct, stating the nature of the interest of the cautioner, and such other matters as may be required by the registrar.

98 Statutory disposition of land not to be registered until notice served on cautioner. E+W

After any such caveat has been lodged in respect of any land or charge, the registrar shall not register any disposition thereof until he has served notice on the cautioner, warning him that his caveat will cease to have any effect after the expiration of twenty-one days next ensuing the date of such notice; and after the expiration of such time as aforesaid the caveat shall cease, unless an order to the contrary is made by the Court of Chancery; and upon the caveat so ceasing the land or charge shall be dealt with in the same manner as if no caveat had been lodged.

99 Cautioner to give security against damage sustained by delay, &c. E+W

If before the expiration of the said period of twenty-one days the cautioner, or some other person on his behalf, appears before the registrar, and enters into a bond, with sufficient security, conditioned to indemnify every person against any damage that may be sustained by reason of any disposition of the property being delayed, the Court of Chancery may thereupon, if it thinks fit so to do, make an order on the registrar requiring him to delay registering any disposition of the property for such further period as is mentioned in the order.

100 Compensation for lodging caution without reasonable cause. E+W

If any person lodges a caveat with the registrar, he shall be liable to make, to any person who may have sustained damage by the lodging of such caveat, such compensation as a judge of the Court of Chancery shall deem just.

Injunction

101 Court may issue order restraining disposition of land, &c. E+W

The Court of Chancery may, without prejudice to the exercise of any other power of the Court, upon the application of any person interested in any registered land made in such manner as the Court directs, issue an order restraining for a time, or until the occurrence of an event to be named in such order, or generally until further order, any disposition of any land or charge.

Status: Point in time view as at 01/02/1991.

*Changes to legislation: There are currently no known outstanding effects for the
 Land Registry Act 1862 (repealed), Part IV. (See end of Document for details)*

102 Court of Chancery may refuse or annex terms, &c. to such order, &c. E+W

The Court may make or refuse any such order, and annex thereto any terms or conditions it may think fit, and discharge such order when granted, with or without costs, and generally act in the premises in such manner as the justice of the case requires; and the registrar, without being made a party to the proceedings, upon being served with such order or an official copy thereof, shall obey the same.

103 Jurisdiction of Equity courts. E+W

Nothing contained in this Act shall take away or affect the existing jurisdiction of courts of equity, on the ground of actual fraud.

104 Acts relating to registries in Middlesex and York not to apply, &c. E+W

The provisions of the several Acts of Parliament now in force relating to the registries which have been established in the counties of Middlesex and York shall cease to be applicable to any land situate in the said counties respectively, so soon as the same land has been put upon the register under the provisions of this Act, and whilst it remains thereon.

Penalty on Fraud, &c.

105 Person concealing making false statement guilty of misdemeanor. E+W

If in any proceeding to obtain the registration of any land, or any land certificate or certificate of title, or otherwise in any transaction relating to land which is or is proposed to be put upon the registry, any person acting either as principal or agent shall, knowingly and with intent to deceive, . . . ^{F1} suppress, conceal, or assist or join in or be privy to the suppressing, withholding, or concealing from any judge, or the registrar, or any person employed by or assisting the registrar, any material document, fact, or matter of information, every person so acting shall be deemed to be guilty of a misdemeanor, and on conviction shall be liable to be imprisoned for a term not exceeding three years, and either with or without hard labour, or to be fined such sum as the court by which he is convicted shall award: the act or thing done or obtained by means of such fraud or falsehood shall be null and void to all intents and purposes, except as against a purchaser for valuable consideration without notice.

Textual Amendments

F1 Words repealed by [Perjury Act 1911 \(c. 6\), Sch.](#)

Modifications etc. (not altering text)

C1 [S. 105](#) amended as to imprisonment with hard labour by [Criminal Justice Act 1948 \(c. 58\), s. 1\(2\)](#)

106 As to persons aggrieved by proceeding, &c. for misdemeanor. E+W

No proceeding or conviction for any act hereby declared to be a misdemeanor shall affect any remedy which any person aggrieved by such act may be entitled to, either at law or in equity, against the person who has committed such act.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Land Registry Act 1862 (repealed), Part IV. (See end of Document for details)

107 **Answers to bills, questions, &c. not admissible in evidence.** **E+W**

Nothing in this Act contained shall entitle any person to refuse to make a complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding, in any court of law or equity, or in the Court of Bankruptcy; but no answer to any such bill, question, or interrogatory shall be admissible in evidence against such person in any criminal proceeding.

108– ^{F2} **E+W**
113

Textual Amendments

F2 Ss. 108–113 repealed by Statute Law (Repeals) Act 1971 (c. 52)

General Provisions

114 **Crown, &c. lands.** **E+W**

With respect to lands vested in Her Majesty either in right of the Crown or of the Duchy of Lancaster or otherwise, or vested in any public officer or body in trust for the public service, the public officer or body having the management thereof, if any, or, if none, then such person as Her Majesty, shall by writing under her Sign Manual appoint, may and shall (whether the land be vested in him or them or not) represent the owner of such lands for all the purposes of this Act, and shall be entitled to such notices, and may make and enter any such application or caveat, and do all such other acts, as any owner of lands for an estate in fee simple is entitled to receive, make, enter, or do under the provisions of this Act; and with respect to lands belonging to the Duchy of Cornwall, such person as the Duke of Cornwall for the time being, or as the personage for the time being entitled to the revenues and possessions of the Duchy of Cornwall, shall in writing appoint, may and shall act as and represent the owner of such lands for all the purposes of this Act, and shall be entitled to receive such notices, and may make and enter any such application or caveat, and do all such other acts as any owner of lands for an estate in fee simple is entitled to receive, make, enter, or do under the provisions of this Act; and it shall be sufficient that any oaths, affidavits, or declarations required by this Act be taken or made by any such public officer, body, or person as in this section mentioned, or by any person nominated in writing by such public officer, body, or person, and, in either case, without any solicitor joining in any affidavit or declaration; and it shall not be necessary for any such public officer, body, or person as in this section mentioned to enter into any such bond as in this Act mentioned, nor to give any security for costs; nor shall they or any of them be liable in damages, except for any acts done wrongfully and without reasonable cause.

115 **Provision as to applications made by married women. Examinations may be taken under 3 & 4 W. 4 c. 74.** **E+W**

Where any married woman is desirous of making any application, giving any consent, or doing any act, or becoming party to any proceeding under this Act, her husband's concurrence shall be required, and she shall be examined apart from her husband touching her knowledge of the nature and effect of the application or other act, and it shall be ascertained that she is acting freely and voluntarily; and such examination may

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Land Registry Act 1862 (repealed), Part IV. (See end of Document for details)

be taken by the Court or by such persons as are authorized to take acknowledgments of deeds by married women under the Fines and Recoveries Act, 1833; and the form and manner in which such examination is to be certified to the Court shall be determined by the general rules and orders to be made under this Act: a married woman entitled to her separate use, and not restrained from anticipation, shall for the purposes of this Act be deemed a feme sole.

116 Provision for other persons under disability. E+W

Where any person who (if not under disability) might have made any application, given any consent, done any act, or been party to any proceeding under this Act, is a minor, idiot, or lunatic, the guardian or committee of the estate respectively of such person may make such applications, give such consents, do such acts, and be party to such proceedings, as such person respectively, if free from disability, might have made, given, done, or been party to, and shall otherwise represent such person for the purposes of this Act; where there is no guardian or committee of the estate of any such person as aforesaid, being infant, idiot, or lunatic, or where any person, the committee of whose estates if he were idiot or lunatic would be authorized to act for and represent such person under this Act is of unsound mind or incapable of managing his affairs, but has not been found idiot or lunatic under an inquisition, it shall be lawful for the Court of Chancery to appoint a guardian of such person for the purpose of any proceedings under this Act, and from time to time to change such guardian; and where the Court sees fit it may appoint a person to act as the next friend of a married woman for the purpose of any proceeding under this Act, and from time to time remove or change such next friend.

Modifications etc. (not altering text)

C2 S. 116 excluded by [Mental Health Act 1983 \(c.20, SIF 85\)](#), s. 113, [Sch. 3](#)

117 Registrars, &c. may administer oaths, &c. E+W

The registrars and assistant registrars are hereby empowered to administer oaths and take statutory declarations in lieu of oaths in all proceedings under this Act.

118 As to loss of land certificate. E+W

If any land certificate is lost or destroyed, the registrar may, upon being satisfied of the fact of such loss or destruction, grant a new land certificate in the place of the former one, and shall state upon the face thereof that it is granted in substitution for the former certificate; but no such new certificate shall be of any avail against any person who may have already derived title under the former certificate.

119 Granting new certificates. E+W

The registrar may, upon the delivery up to him of a land certificate, grant a new certificate in the place of the one delivered up.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Land Registry Act 1862 (repealed), Part IV. (See end of Document for details)

120 Lord Chancellor to make rules and orders for carrying into effect purposes of Act. E+W

The Lord Chancellor, with the advice and assistance of any two of the judges of the Court of Chancery, shall from time to time make such general rules and orders as he may see fit for carrying the purposes of this Act into effect, and for regulating the times, form and mode of procedure, and generally the practice of the Court in respect of the matters of this Act, and such rules and orders may from time to time be rescinded or altered by the like authority; and all such rules and orders shall take effect as general orders of the Court.

121 As to assignment of duties and appointment of additional clerks. E+W

The Lord Chancellor may from time to time assign the duties vested in the Court of Chancery in relation to the matters of this Act to any particular judge or judges of that Court, and may appoint such new or additional clerk or clerks as to him may seem necessary for enabling such judge or judges duly to execute such duties; and every such additional clerk shall receive such . . . ^{F3} salary as the Lord Chancellor may think proper.

Textual Amendments

F3 Words repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

122 Forms to be printed and promulgated. E+W

The registrar shall, with the sanction of the Lord Chancellor, frame, and cause to be printed and promulgated, as he sees occasion, forms of applications, and directions indicating the particulars of the information to be furnished when any application is made to him under this Act, and also forms of instruments, and such other forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act.

123 Seal of Land Registry Office. E+W

A seal shall be prepared for the Land Registry Office; and any instrument purporting to be sealed with such seal shall be admissible in evidence.

124 Addresses of proprietors to be registered. E+W

A place of address shall be given to the registrar for every person in England whose name is entered on the register of title as proprietor of land, of a charge, or as cautioner, or as entitled to receive any notice, or in any other character.

125 Registrar may frame general orders. E+W

The registrar shall, with the sanction and under the direction of the Lord Chancellor, from time to time frame general orders for regulating the manner of registering land, the examination of titles, the transfer, transmission, and withdrawal of official notes and caveats, the keeping the registers of title and assurances, and generally for the due execution of the provisions of this Act, and for giving effect to the objects thereof.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Land Registry Act 1862 (repealed), Part IV. (See end of Document for details)

126 Such orders to have effect as Act of Parliament. E+W

Any general orders so made by the registrar with such sanction as aforesaid shall be of the same force as if enacted by Parliament: they may from time to time be rescinded, added to, amended, or altered in like manner.

Fees

127 Registrar to determine amount of fees. E+W

The registrar shall, with the sanction of the Lord Chancellor, determine the amount of payments to be made with respect to the following matters:

The first entry on the register of title of land and charges on land:

The registration of transfers and transmissions of land and charges, and all other matters to be done by the registrar:

The registration of instruments and the withdrawal of such instruments:

And the registrar may, with the like sanction, from time to time alter any amounts so determined; but all payments mentioned in this section shall be paid into the receipt of Her Majesty's Exchequer, and carried to the account of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

128 Matters to be considered in determining amount of fees. E+W

In determining the amount of fees payable in respect of entries on the register of title under this Act, regard shall be had to the following matters:

- (1) In the case of the registration of land or of any transfer of land on the occasion of a sale,—to the value of the land as determined by the amount of purchase money:
- (2) In the case of the registration of land, or of any transfer of land not upon a sale,—to the value of the land, to be ascertained in such manner as may be directed by general order:
- (3) In the case of registration of a charge, or of any transfer of a charge,—to the amount of such charge:

Subject, nevertheless, to the qualifications following:

A maximum amount shall be fixed; and in cases where the value of any land or the amount of any charge exceeds such maximum, fees may be made payable in respect of such excess on such a reduced scale as may be thought expedient:

Where increased labour is thrown on the registrar by reason of the severance of the parcels of an estate, the entry of a new description of parcels, or of any other matter, an increased sum may be charged.

129 Collection of fees. E+W

The following rules shall be observed with respect to the collection of fees:

- (1) All fees payable in respect of registration shall be received by stamps denoting the amount of fees payable, and not in money:
- (2) When any fee is payable in respect of a document, a stamp denoting the amount of fee shall be affixed to such document:

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Land Registry Act 1862 (repealed), Part IV. (See end of Document for details)

- (3) The Commissioners of Inland Revenue shall provide everything that is necessary for the collection of the monies hereby directed to be paid by stamps.

130 Stamp Acts applied to stamps under this Act. E+W

The several Acts for the time being in force relating to stamps under the care or management of the Commissioners of Inland Revenue shall apply to the stamps to be provided in pursuance of this Act, and to any document on which such stamps may be impressed, and to collecting and securing the sums of money denoted by stamps, and to preventing, detecting, and punishing all frauds, forgeries, and other offences relating thereto, as fully as if such provisions had been herein repeated and specially enacted with reference to the said last-mentioned stamps and sums of money respectively.

131 Lord Chancellor may fix scale of costs. E+W

The Lord Chancellor may from time to time fix a scale of fees to be paid to the examiners of title, and also of costs to be paid to solicitors or certificated conveyancers, in respect of any service rendered by them in any matter relating to proceedings under this Act; and he may from time to time alter any such scale when fixed; and any scale of costs so fixed may, if the Lord Chancellor thinks fit, be based on an ad valorem principle.

132 Costs may, in certain cases, be raised by mortgage. E+W

Where registration is made on the application of parties who cannot make a valid charge on the fee simple, the Court of Chancery may declare that the costs and expenses of registration may be raised by a mortgage of the fee simple; and the same shall be charged accordingly.

133 Orders to be laid before Parliament. E+W

All general orders, scales of fees, and costs made and fixed under this Act, shall be laid before Parliament forthwith, if Parliament is sitting, or, if not, within fourteen days after the next sitting of Parliament.

Proceedings in Court of Chancery

134 Applications to Court of Chancery to be by summons. E+W

All applications to be made to the Court of Chancery under this Act may be made by summons in chambers; and any power by this Act given to the Court of Chancery may, subject to any order by the Lord Chancellor as aforesaid, be exercised by any judge of the Court sitting in chambers; such judge shall have the power of directing any matter before him to be argued in court, and of directing any bill to be filed or action to be brought that may be necessary: any person aggrieved by an order made by a judge of the Court of Chancery may appeal to the Court of Appeal in Chancery, in such manner, within such time, and subject to such regulations and limitations, as the Lord Chancellor may prescribe; and any order made by the Court of Appeal in Chancery on appeal shall be subject to reversal or modification by the House of Lords, in like manner as decrees made by the Court of Chancery; provided that such appeal

Status: Point in time view as at 01/02/1991.

*Changes to legislation: There are currently no known outstanding effects for the
 Land Registry Act 1862 (repealed), Part IV. (See end of Document for details)*

is made within such time and subject to such regulations as the House of Lords may provide by any standing order.

135^{F4} **E+W**

Textual Amendments

F4 S. 135 repealed by Statute Law (Repeals) Act 1974 (c.22), s. 1, **Sch. Pt. IV**

Forms

136 **Forms.** **E+W**

The forms in the schedule hereto shall be used in all matters to which they refer: the registrar, with the sanction of the Lord Chancellor, may from time to time make such alterations in such forms contained in the schedule hereto as he deems requisite: he shall publish any form, when altered, in the London Gazette; and upon such publication being made it shall have the same force as if it were included in the schedule to this Act.

Inspection of Register

137 **Inspection of register.** **E+W**

Subject to such regulations as may be imposed, and to the payment of such sums as may be fixed by the registrar with the sanction of the Lord Chancellor, any person registered as proprietor of any estate or interest in any land or charge, and any person authorized by any such proprietor or by an order of the Court of Chancery, but no other person, may inspect and make copies of and extracts from any register or document in the custody of the registrar relating to such land or charge.

Fraud

138 **Fraud a misdemeanor.** **E+W**

If any person fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of any order of the Court of Chancery in relation to registered land, or fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of the entry on the register of any caveat or notice of a charge, or of the erasure from the register or alteration on the register of any caveat of notice of a charge, such person shall be deemed to be guilty of a misdemeanor; and any order procured by fraud, and any act consequent on such order, and any entry, erasure, or alteration so made by fraud, shall be void as between all parties or privies to such fraud.

139 **Punishment.** **E+W**

Any person convicted of a misdemeanor under the last preceding section shall be liable to imprisonment for any term not exceeding three years, with or without hard labour, or to be fined such sum as the Court by which he is convicted shall think just.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Land Registry Act 1862 (repealed), Part IV. (See end of Document for details)

Modifications etc. (not altering text)

C3 S. 139 amended as to imprisonment with hard labour by [Criminal Justice Act 1948 \(c. 58\), s. 1\(2\)](#)

140 Interpretation of terms. E+W

In the construction of this Act (except where the context or other provisions require a different construction), the word “person” shall include Her Majesty, and the Duke of Cornwall for the time being, and also a body politic or corporate; the word “possession” shall include receipt of the rents and profits; the word “land” shall include messuages, tenements, and hereditaments, corporeal or incorporeal; and the word “incumbrance” shall mean any legal or equitable mortgage in fee or for any less estate, and also any money secured or charged on land by a trust, or by judgment, decree, or order of any Superior Court of Law or Equity, and also any legacy, portion, lien, or other charge whereby a gross sum of money is secured to be paid, and also any annual or periodical charge, which by the instrument creating the same, or by any other instrument, is made repurchasable on payment of a gross sum of money, and also any arrear remaining unpaid of any annual or periodical charge, for payment of which arrear a sale of any land charged therewith might be decreed by a court of equity.

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

There are currently no known outstanding effects for the Land Registry Act 1862 (repealed), Part IV.