

Land Registration Act (Northern Ireland) 1970

1970 CHAPTER 18

PART IV

DEALINGS WITH REGISTERED LAND

MONEY BURDENS

41 Creation and effect of charges on registered land.

- (1) A registered owner of land may, subject to the provisions of this Act, charge the land with the payment of money either with or without interest, and either by way of annuity or otherwise.
- (2) A charge under subsection (1) may be created by deed or by will and, subject to subsection (3), the Registrar shall, on registering such a charge as a burden, register the ownership of that charge in such^[F1] manner] as he may consider proper.
- (3) Where a charge created by will does not expressly charge any registered land with payment to a specified person of a specified sum, with or without interest, or of an annuity, the Registrar shall not, unless the court otherwise directs, be obliged to register the ownership of that charge in^[F1] the title register].
- (4) Any power, howsoever conferred, to borrow or lend money on the security of a mortgage shall be construed as including power to do so on the security of a registered charge.
- (5) Part I of Schedule 7 shall apply in relation to the registration and effect of charges created by registered full owners of land and registered limited owners of land and by persons having the like power to create such charges.

Changes to legislation: Land Registration Act (Northern Ireland) 1970 is up to date with all changes known to be in force on or before 23 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (6) Part II of Schedule 7 shall apply in relation to the creation and effect of charges by registered limited owners of land acting in conjunction with all other persons entitled under the settlement.
- (7) Part III of Schedule 7 shall apply in relation to the validity of certain charges purporting to have been registered in the Land Registry at the 28th July 1957.

F1 1992 NI 7

42 Exercise of power of charging land

- (1) Where—
- (a) a power to charge registered land; or
 - (b) a trust for securing money on registered land;
- is registered as a Schedule 6 burden, it may be exercised or executed by the creation of a charge and not otherwise, and the person empowered under any such power or trust to charge the registered land with the payment of any money shall have the like power to create a charge on the land for that money as the registered owner of that land, and the charge shall, subject to subsection (2), be entered on the^[F2] title register] in its proper priority.
- (2) In the absence of any agreement to the contrary made by the persons entitled to make such agreement, a charge created under a registered power shall be entered on the register as of the same priority as that power.

F2 1992 NI 7

43 Priority of registered charge for future advances.

- (1) ^[F3]Where—
- (a) a deed or other instrument creating a registered charge states that the charge is created for the purposes of securing future advances (whether with or without present advances); and
 - (b) the entry in the title register relating to the charge—
 - (i) contains a statement similar to that in paragraph (a); or
 - (ii) otherwise refers to the charge without specifying the amount secured]
- the registered owner of the charge shall be entitled in priority to any subsequent charge to the payment of any sum due to him in respect of such future advances, except any advances which may have been made after the date of, and with express notice in writing of, the subsequent charge.
- (2) In this section, “future advances” includes sums from time to time due on an account current and all sums which by agreement or the course of business between the parties are considered to be advances on the security of the charge.

F3 1992 NI 7

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44 Powers with respect to charges under certain statutory provisions.

- (1) Where a person has, under any statutory provision other than this Act, a charge on registered land for the payment of any money or a power to charge registered land with the payment of any money, he shall have the same power to create a registered charge on the land for that money as if he were the registered owner of the land.
- (2) Registration of a charge under this section shall have the same effect as, and make unnecessary, registration thereof in pursuance of any other statutory provision.

45 Term of years vested in trustee for raising money out of registered land.

Where a term of years is vested, whether before or after the commencement of this Act, in a trustee or other person for the purpose of raising money out of registered land, such vesting shall operate as a trust for securing money on such registered land or, as the case may be, as a power to charge that registered land and, accordingly, the trust or power may be registered as a Schedule 6 burden.

46 Term of years vested in trustee for raising money, or mortgage, prior to first registration.

- (1) Where any land is first registered after the commencement of this Act and prior to such registration, a term of years is vested in a trustee or other person for the purpose of raising money out of that land, such vesting shall, on the first registration of the land, operate as a trust for securing money on that land or, as the case may be, as a power to charge that land and, accordingly, the trust or power may be registered as a Schedule 6 burden.
- (2) Where, immediately prior to first registration, any land is subject to any mortgage, or to any term of years to secure money actually raised, such mortgage or term of years shall operate as a charge on the land, and shall be registered as a charge thereon and not otherwise, and the provisions of Part I of Schedule 7 shall have effect accordingly.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 11 para. 53 inserted by [2018 c. 5 Sch. 12 para. 1](#)