Land Registration Act 2002

2002 CHAPTER 9

PART 5

CHARGES

Relative priority

48 Registered charges

(1) Registered charges on the same registered estate, or on the same registered charge, are to be taken to rank as between themselves in the order shown in the register.

(2) Rules may make provision about—

(a) how the priority of registered charges as between themselves is to be shown in the register, and

(b) applications for registration of the priority of registered charges as between themselves.

49 Tacking and further advances

(1) The proprietor of a registered charge may make a further advance on the security of the charge ranking in priority to a subsequent charge if he has not received from the subsequent chargee notice of the creation of the subsequent charge.

(2) Notice given for the purposes of subsection (1) shall be treated as received at the time when, in accordance with rules, it ought to have been received.

(3) The proprietor of a registered charge may also make a further advance on the security of the charge ranking in priority to a subsequent charge if—

(a) the advance is made in pursuance of an obligation, and

(b) at the time of the creation of the subsequent charge the obligation was entered in the register in accordance with rules.

(4) The proprietor of a registered charge may also make a further advance on the security of the charge ranking in priority to a subsequent charge if—

(a) the parties to the prior charge have agreed a maximum amount for which the charge is security, and

(b) at the time of the creation of the subsequent charge the agreement was entered in the register in accordance with rules.

(5) Rules may—

(a) disapply subsection (4) in relation to charges of a description specified in the rules, or

(b) provide for the application of that subsection to be subject, in the case of charges of a description so specified, to compliance with such conditions as may be so specified.

(6) Except as provided by this section, tacking in relation to a charge over registered land is only possible with the agreement of the subsequent chargee.

50 Overriding statutory charges: duty of notification

If the registrar enters a person in the register as the proprietor of a charge which—

(a) is created by or under an enactment, and

(b) has effect to postpone a charge which at the time of registration of the statutory charge is—

(i) entered in the register, or

(ii) the basis for an entry in the register,

he must in accordance with rules give notice of the creation of the statutory charge to such person as rules may provide.

Powers as chargee

51 Effect of completion by registration

On completion of the relevant registration requirements, a charge created by means of a registrable disposition of a registered estate has effect, if it would not otherwise do so, as a charge by deed by way of legal mortgage.

52 Protection of disponees

(1) Subject to any entry in the register to the contrary, the proprietor of a registered charge is to be taken to have, in relation to the property subject to the charge, the powers of disposition conferred by law on the owner of a legal mortgage.

(2) Subsection (1) has effect only for the purpose of preventing the title of a disponee being questioned (and so does not affect the lawfulness of a disposition).

53 Powers as sub-chargee

The registered proprietor of a sub-charge has, in relation to the property subject to the principal charge or any intermediate charge, the same powers as the sub-chargor.

Realisation of security

54 Proceeds of sale: chargee's duty

For the purposes of section 105 of the Law of Property Act 1925 (c. 20) (mortgagee's duties in relation to application of proceeds of sale), in its application to the proceeds of sale of registered land, a person shall be taken to have notice of anything in the register immediately before the disposition on sale.

55 Local land charges

A charge over registered land which is a local land charge may only be realised if the title to the charge is registered.

Miscellaneous

56 Receipt in case of joint proprietors

Where a charge is registered in the name of two or more proprietors, a valid receipt for the money secured by the charge may be given by—

(a) the registered proprietors,

(b) the survivors or survivor of the registered proprietors, or

(c) the personal representative of the last survivor of the registered proprietors.

57 Entry of right of consolidation

Rules may make provision about entry in the register of a right of consolidation in relation to a registered charge.