



Land Registration Act 1997

1997 CHAPTER 2

An Act to amend the Land Registration Act 1925.

[27th February 1997]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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.

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- (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 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

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- (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
 - (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.”

Indemnity

2 Indemnity for errors or omissions in the register

The following section shall be substituted for section 83 of the Land Registration Act 1925—

“83 Indemnity for errors or omissions in the register

- (1) Where the register is rectified under this Act, then, subject to the provisions of this Act—
 - (a) any person suffering loss by reason of the rectification shall be entitled to be indemnified; and
 - (b) if, notwithstanding the rectification, the person in whose favour the register is rectified suffers loss by reason of an error or omission in the register in respect of which it is so rectified, he also shall be entitled to be indemnified.
- (2) Where an error or omission has occurred in the register, but the register is not rectified, any person suffering loss by reason of the error or omission shall, subject to the provisions of this Act, be entitled to be indemnified.
- (3) Where any person suffers loss by reason of the loss or destruction of any document lodged at the registry for inspection or safe custody or by reason of an error in any official search, he shall be entitled to be indemnified under this Act.
- (4) Subject to the following provisions of this section, a proprietor of any registered land or charge claiming in good faith under a forged disposition shall, where the register is rectified, be deemed to have suffered loss by reason of such rectification and shall be entitled to be indemnified under this Act.
- (5) No indemnity shall be payable under this Act—

- (a) on account of any loss suffered by a claimant wholly or partly as a result of his own fraud or wholly as a result of his own lack of proper care;
 - (b) on account of any mines or minerals, or the existence of any right to work or get mines or minerals, unless it is noted on the register that the mines or minerals are included in the title; or
 - (c) on account of any costs or expenses (of whatever nature) incurred without the consent of the registrar, unless—
 - (i) by reason of urgency it was not practicable to apply for the registrar's consent before they were incurred, and
 - (ii) the registrar subsequently approves them for the purposes of this paragraph.
- (6) Where any loss suffered by a claimant is suffered partly as a result of his own lack of proper care, any indemnity payable to him shall be reduced to such extent as is just and equitable having regard to his share in the responsibility for the loss.
- (7) For the purposes of subsections (5)(a) and (6) above, any fraud or lack of proper care on the part of a person from whom the claimant derives title (otherwise than under a disposition for valuable consideration which is registered or protected on the register) shall be treated as if it were fraud or lack of proper care on the part of the claimant (and the reference in subsection (6) to the claimant's share in the responsibility for the loss shall be construed accordingly).
- (8) Where an indemnity is paid in respect of the loss of an estate or interest in or charge on land, the amount so paid shall not exceed—
- (a) where the register is not rectified, the value of the estate, interest or charge at the time when the error or omission which caused the loss was made;
 - (b) where the register is rectified, the value (if there had been no rectification) of the estate, interest or charge, immediately before the time of rectification.
- (9) Subject to subsection (5)(c) above, as restricted by section 2(2) of the Land Registration and Land Charges Act 1971—
- (a) an indemnity under any provision of this Act shall include such amount, if any, as may be reasonable in respect of any costs or expenses properly incurred by the claimant in relation to the matter; and
 - (b) a claimant for an indemnity under any such provision shall be entitled to an indemnity thereunder of such amount, if any, as may be reasonable in respect of any such costs or expenses, notwithstanding that no other indemnity money is payable thereunder.
- (10) Where indemnity is paid to a claimant in respect of any loss, the registrar, on behalf of the Crown, shall be entitled—
- (a) to recover the amount paid from any person who caused or substantially contributed to the loss by his fraud; or
 - (b) for the purpose of recovering the amount paid, to enforce—
 - (i) any right of action (of whatever nature and however arising) which the claimant would have been entitled to enforce had the indemnity not been paid, and

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- (ii) where the register has been rectified, any right of action (of whatever nature and however arising) which the person in whose favour the register has been rectified would have been entitled to enforce had it not been rectified.
- (11) Subsection (10) above does not prejudice any other rights of recovery which by virtue of any enactment are exercisable by the registrar where he has made a payment of indemnity.
- (12) A liability to pay indemnity under this Act shall be deemed to be a simple contract debt; and for the purposes of the Limitation Act 1980, the cause of action shall be deemed to arise at the time when the claimant knows, or but for his own default might have known, of the existence of his claim.
- (13) This section applies to the Crown in like manner as it applies to a private person.”

Fees

3 Registration fees

The following subsections shall be substituted for subsection (3) of section 145 of the Land Registration Act 1925 (registration fees)—

- “(3) Notwithstanding the provisions of subsection (1)(a) to (c) above, an order under this section may provide for reduced fees to be charged on the first registration of title to freehold or leasehold land in cases where such registration is not effected on an application made in pursuance of section 123A(2) of this Act.
- (3A) An order under this section may make different provision for different cases, and may in particular provide that no fees are payable in certain cases.”

Supplementary

4 Consequential amendments and repeals

- (1) The enactments specified in Schedule 1 are amended in accordance with that Schedule, the amendments being consequential on the provisions of this Act.
- (2) The enactments specified in Schedule 2 are repealed to the extent specified.

5 Short title, commencement and extent

- (1) This Act may be cited as the Land Registration Act 1997.
- (2) The following provisions, namely—
 - (a) section 1,
 - (b) Part I of Schedule 1 and section 4(1) so far as relating thereto, and
 - (c) Part I of Schedule 2 and section 4(2) so far as relating thereto,
 come into force on such day as the Lord Chancellor may appoint by order made by statutory instrument; and different days may be so appointed for different purposes.

- (3) Otherwise this Act comes into force at the end of the period of two months beginning with the day on which it is passed.
- (4) The provisions substituted by section 1 apply only in relation to dispositions made after the commencement of those provisions.
- (5) The new section 83 substituted by section 2 applies in relation to any claim for indemnity made before the commencement of section 2 which has not been settled by agreement or finally determined by that time, as well as in relation to claims for indemnity made thereafter; but subsection (5)(c) of the new section 83 applies only to costs and expenses incurred in respect of proceedings, negotiations or other matters begun after the commencement of section 2.
- (6) An order under subsection (2) above may contain such transitional provisions and savings as the Lord Chancellor considers appropriate in connection with the order.
- (7) This Act extends to England and Wales only.

SCHEDULES

SCHEDULE 1

Section 4(1).

CONSEQUENTIAL AMENDMENTS

PART I

AMENDMENTS CONSEQUENTIAL ON SECTION 1

LAND REGISTRATION ACT 1925 (C. 21)

- 1 (1) In section 8 (application for registration of leasehold land) for subsection (1A) substitute—

“(1A) An application for registration in respect of leasehold land held under a lease in relation to the grant or assignment of which section 123A of this Act applies may be made within the applicable period within the meaning of section 123A, notwithstanding that by the date of the application the unexpired term of the lease is not more than twenty-one years.”

- (2) In section 69(3) (effect of registration on the legal estate), for “land in a compulsory area after the commencement of this Act” substitute “any land”.

- (3) In section 81(1) (power to remove land from the register)—

- (a) for the words from the beginning to “in every case where” substitute “Where”; and
 (b) for “the land (including an undivided share)” substitute “the undivided share”.

LAND REGISTRATION AND LAND CHARGES ACT 1971 (C. 54)

- 2 In section 4 (souvenir land), in subsection (1)(d), for the words from “section 123” onwards substitute “sections 123 and 123A of that Act (compulsory registration);”.

LAND CHARGES ACT 1972 (C. 61)

- 3 In section 14(3) (exclusion of matters affecting registered land or created by instruments necessitating registration of land), for the words from “section 123” to “is compulsory)” substitute “section 123A of the Land Registration Act 1925 (compulsory registration: effect of requirement to register)”.

HOUSING ACT 1985 (C. 68)

- 4 (1) In section 154 (registration of title), for subsection (1) substitute—

“(1) Where on the grant of a lease in pursuance of this Part the landlord’s title to the dwelling-house is not registered, section 123A of the Land Registration Act 1925 (compulsory registration: effect of requirement to register) shall

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apply in relation to the grant of the lease whether or not it is granted for a term of more than 21 years.”

(2) Where—

- (a) after the coming into force of sub-paragraph (1) there is a conveyance falling within section 154(1)(b) as originally enacted (conveyance of freehold in pursuance of right mentioned in paragraph 2(1) or 8(1) of Schedule 8 to the Act in respect of shared ownership lease), and
- (b) the landlord’s title is not registered,

section 123A of the Land Registration Act 1925 (compulsory registration: effect of requirement to register) shall apply in relation to the conveyance (whether or not it would so apply apart from this sub-paragraph).

5 (1) Paragraph 2 of Schedule 9A (land registration etc. where right to buy preserved) shall be amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) Where on a qualifying disposal which takes the form of the grant or assignment of a lease the disponent’s title to the dwelling-house is not registered, section 123A of the Land Registration Act 1925 (compulsory registration: effect of requirement to register) shall apply in relation to the disposal whether or not—

- (a) (in the case of the grant of a lease) the lease is granted for a term of more than 21 years; or
- (b) (in the case of an assignment) the lease is a lease for a term of which more than 21 years are unexpired.”

(3) In sub-paragraph (2), for “In such a case” substitute “Where on a qualifying disposal the disponent’s title to the dwelling-house is not registered.”

CHARITIES ACT 1993 (c. 10)

6 (1) In section 37(7)(b) (supplementary provisions relating to dispositions), for “to which section 123(1)” substitute “in relation to which section 123A”.

(2) After subsection (1) of section 39 (supplementary provisions relating to mortgaging) insert—

“(1A) Where any such mortgage will be one falling within section 123(2) of the Land Registration Act 1925—

- (a) the statement required by subsection (1) above shall be in such form as may be prescribed; and
- (b) if the charity is not an exempt charity, the mortgage shall also contain a statement, in such form as may be prescribed, that the restrictions on disposition imposed by section 36 above apply to the land (subject to subsection (9) of that section).

(1B) Where—

- (a) an application is duly made for registration of a person’s title to land in connection with such a mortgage as is mentioned in subsection (1A) above, and
- (b) the mortgage contains statements complying with subsections (1) and (1A) above, and

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(c) the charity is not an exempt charity,
the registrar shall enter in the register, in respect of the land, a restriction in such form as may be prescribed; and section 37(9) above shall apply in relation to any such restriction as it applies in relation to one entered in pursuance of section 37(8).”

(3) In section 39(6), for the words from ““prescribed”” onwards substitute—

“and subsections (1) to (1B) above shall be construed as one with the Land Registration Act 1925.”

AGRICULTURE ACT 1993 (C. 37)

7 (1) For paragraph 53(3) of Schedule 2 (provisions relating to carrying out of approved scheme of reorganisation) substitute—

“(3) The Chief Land 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 the period mentioned in sub-paragraph (2); and if he does so at a time when that sub-paragraph has operated to negative the transfer effected by section 11 above, it shall be taken not to have so operated.”

(2) In paragraph 53(4) of Schedule 2—

- (a) for “section 123(2)” substitute “section 123A(10)(a)”; and
- (b) for “section 123” substitute “section 123A”.

(3) For paragraph 14(3) of Schedule 4 (provisions relating to carrying out of approved transfer scheme) substitute—

“(3) The Chief Land 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 the period mentioned in sub-paragraph (2); and if he does so at a time when that sub-paragraph has operated to negative the transfer effected by section 35 above, it shall be taken not to have so operated.”

(4) In paragraph 14(4) of Schedule 4—

- (a) for “section 123(2)” substitute “section 123A(10)(a)”; and
- (b) for “section 123” substitute “section 123A”.

PART II

AMENDMENTS CONSEQUENTIAL ON SECTION 2

LAND REGISTRATION ACT 1986 (C. 26)

8 In section 5 (abolition of the Minor Interests Index)—

- (a) in subsection (3), for “section 83(6)(a)” substitute “section 83(8)(a)”; and
- (b) in subsection (4), for “section 83(10)” substitute “section 83(10)(b)(i)”.

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SCHEDULE 2

Section 4(2)

REPEALS

PART I

REPEALS CONSEQUENTIAL ON SECTION 1

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1925 c. 21.	Land Registration Act 1925.	Section 120.
1963 c. 33.	London Government Act 1963.	Section 80.
1965 c. 64.	Commons Registration Act 1965.	Section 12(a).
1985 c. 68.	Housing Act 1985.	In Schedule 20, paragraph 17(1).
1986 c. 26.	Land Registration Act 1986.	Section 2(1) to (3) and (5).
1988 c. 50.	Housing Act 1988.	Section 81(9)(a). Section 133(8)(a).
1989 c. 42.	Local Government and Housing Act 1989.	Section 173(8)(a).

PART II

REPEALS CONSEQUENTIAL ON SECTION 2

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1971 c. 54.	Land Registration and Land Charges Act 1971.	Section 2(4). Section 3. In section 15(5), “3”.
1980 c. 58.	Limitation Act 1980.	In Schedule 3, paragraph 1.