

LAND REGISTRATION ACT 2002

EXPLANATORY NOTES

COMMENTARY ON THE SECTIONS

Part 5: Charges

Powers as chargee

Section 51: Effect of completion by registration

98. Historically, there are two forms of words that can be used in a charge document to create a registrable charge. Section 51 provides that they both have the same effect and that the chargee has the same rights and remedies for the purpose of the Law of Property Act 1925 once they are registered. Section 25 enables rules to be made which prescribe a single form of charge for the future.

Section 52: Protection of disponees

99. The sole purpose of section 52 is to protect the rights of someone in whose favour a disposition is made by a chargee. It therefore corresponds to section 26. If nothing appears in the register to the contrary, the chargee is taken to have all the powers of disposal of a legal mortgagee under the Law of Property Act 1925 so that the rights and interest given by the disposition cannot be challenged under any circumstances. The section is limited in scope, and does not, for example, prevent any claims being brought against the chargee by the chargor.

Section 53: Powers as sub-chargee

100. A chargee can charge the indebtedness which the registered charge secures by way of sub-charge. This section gives the sub-chargee the same powers over the registered estate as the chargee himself has been given by the original charge, as is currently provided by rule. The section also applies to a registered sub-sub-charge in which case the sub-sub-chargee has not only the powers of the principal chargee in relation to the property subject to the principal charge (i.e. the registered estate), but also the powers of the sub-chargee in relation to the property subject to the sub-charge (i.e. the indebtedness secured by the principal charge). This is a new provision not covered in the current rules.