

LAND REGISTRATION ACT 2002

EXPLANATORY NOTES

COMMENTARY ON THE SECTIONS

Part 6: Registration: General

Applications

Section 71: Duty to disclose unregistered interests

118. The 1925 Act made no distinction between those interests which are overriding on first registration and those that were overriding on a disposition of registered land. The Act makes this distinction so that the existing concept of overriding interests is not brought forward into the Act. Schedule 1 lists the interests which are overriding on first registration and are therefore binding on the proprietor even though there is no entry in the register (see sections 11(4) and 12(4)). Schedule 3 lists the interests which are binding on persons who acquire an interest in registered land notwithstanding that there is no entry in the register (see section 29(2)). Section 71 provides that a person applying for first registration of title or to register a dealing with registered land must disclose such details of known interests falling within the appropriate Schedule as are specified in rules.
119. This is a new duty. The objective is to ensure that the applicant for registration discloses any interests which are overriding in nature so that they can be entered in the register. The registrar will only wish to enter in the register such rights as are clear and undisputed. Rules will therefore provide guidance as to when the buyer has to provide information, and in relation to which interests it is required.