



# Land Registration Act 2002

## 2002 CHAPTER 9

### PART 4

#### NOTICES AND RESTRICTIONS

##### *Restrictions*

#### 40 Nature

- (1) A restriction is an entry in the register regulating the circumstances in which a disposition of a registered estate or charge may be the subject of an entry in the register.
- (2) A restriction may, in particular—
  - (a) prohibit the making of an entry in respect of any disposition, or a disposition of a kind specified in the restriction;
  - (b) prohibit the making of an entry—
    - (i) indefinitely,
    - (ii) for a period specified in the restriction, or
    - (iii) until the occurrence of an event so specified.
- (3) Without prejudice to the generality of subsection (2)(b)(iii), the events which may be specified include—
  - (a) the giving of notice,
  - (b) the obtaining of consent, and
  - (c) the making of an order by the court or registrar.
- (4) The entry of a restriction is to be made in relation to the registered estate or charge to which it relates.

**41 Effect**

- (1) Where a restriction is entered in the register, no entry in respect of a disposition to which the restriction applies may be made in the register otherwise than in accordance with the terms of the restriction, subject to any order under subsection (2).
- (2) The registrar may by order—
  - (a) disapply a restriction in relation to a disposition specified in the order or dispositions of a kind so specified, or
  - (b) provide that a restriction has effect, in relation to a disposition specified in the order or dispositions of a kind so specified, with modifications so specified.
- (3) The power under subsection (2) is exercisable only on the application of a person who appears to the registrar to have a sufficient interest in the restriction.

**42 Power of registrar to enter**

- (1) The registrar may enter a restriction in the register if it appears to him that it is necessary or desirable to do so for the purpose of—
  - (a) preventing invalidity or unlawfulness in relation to dispositions of a registered estate or charge,
  - (b) securing that interests which are capable of being overreached on a disposition of a registered estate or charge are overreached, or
  - (c) protecting a right or claim in relation to a registered estate or charge.
- (2) No restriction may be entered under subsection (1)(c) for the purpose of protecting the priority of an interest which is, or could be, the subject of a notice.
- (3) The registrar must give notice of any entry made under this section to the proprietor of the registered estate or charge concerned, except where the entry is made in pursuance of an application under section 43.
- (4) For the purposes of subsection (1)(c), a person entitled to the benefit of a charging order relating to an interest under a trust shall be treated as having a right or claim in relation to the trust property.

**43 Applications**

- (1) A person may apply to the registrar for the entry of a restriction under section 42(1) if—
  - (a) he is the relevant registered proprietor, or a person entitled to be registered as such proprietor,
  - (b) the relevant registered proprietor, or a person entitled to be registered as such proprietor, consents to the application, or
  - (c) he otherwise has a sufficient interest in the making of the entry.
- (2) Rules may—
  - (a) require the making of an application under subsection (1) in such circumstances, and by such person, as the rules may provide;
  - (b) make provision about the form of consent for the purposes of subsection (1)(b);
  - (c) provide for classes of person to be regarded as included in subsection (1)(c);
  - (d) specify standard forms of restriction.

- (3) If an application under subsection (1) is made for the entry of a restriction which is not in a form specified under subsection (2)(d), the registrar may only approve the application if it appears to him—
  - (a) that the terms of the proposed restriction are reasonable, and
  - (b) that applying the proposed restriction would—
    - (i) be straightforward, and
    - (ii) not place an unreasonable burden on him.
- (4) In subsection (1), references to the relevant registered proprietor are to the proprietor of the registered estate or charge to which the application relates.

#### **44 Obligatory restrictions**

- (1) If the registrar enters two or more persons in the register as the proprietor of a registered estate in land, he must also enter in the register such restrictions as rules may provide for the purpose of securing that interests which are capable of being overreached on a disposition of the estate are overreached.
- (2) Where under any enactment the registrar is required to enter a restriction without application, the form of the restriction shall be such as rules may provide.

#### **45 Notifiable applications**

- (1) Where an application under section 43(1) is notifiable, the registrar must give notice of the application, and of the right to object to it, to—
  - (a) the proprietor of the registered estate or charge to which it relates, and
  - (b) such other persons as rules may provide.
- (2) The registrar may not determine an application to which subsection (1) applies before the end of such period as rules may provide, unless the person, or each of the persons, notified under that subsection has exercised his right to object to the application or given the registrar notice that he does not intend to do so.
- (3) For the purposes of this section, an application under section 43(1) is notifiable unless it is—
  - (a) made by or with the consent of the proprietor of the registered estate or charge to which the application relates, or a person entitled to be registered as such proprietor,
  - (b) made in pursuance of rules under section 43(2)(a), or
  - (c) an application for the entry of a restriction reflecting a limitation under an order of the court or registrar, or an undertaking given in place of such an order.

#### **46 Power of court to order entry**

- (1) If it appears to the court that it is necessary or desirable to do so for the purpose of protecting a right or claim in relation to a registered estate or charge, it may make an order requiring the registrar to enter a restriction in the register.
- (2) No order under this section may be made for the purpose of protecting the priority of an interest which is, or could be, the subject of a notice.

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*Status: This is the original version (as it was originally enacted).*

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- (3) The court may include in an order under this section a direction that an entry made in pursuance of the order is to have overriding priority.
- (4) If an order under this section includes a direction under subsection (3), the registrar must make such entry in the register as rules may provide.
- (5) The court may make the exercise of its power under subsection (3) subject to such terms and conditions as it thinks fit.

#### **47 Withdrawal**

A person may apply to the registrar for the withdrawal of a restriction if—

- (a) the restriction was entered in such circumstances as rules may provide, and
- (b) he is of such a description as rules may provide.