

LAND REGISTRATION ACT 2002

EXPLANATORY NOTES

COMMENTARY ON THE SECTIONS

Schedule 2: Registrable Dispositions: Registration Requirements

Part 1: Registered Estates

Introductory

217. *Paragraph 1* explains that this Part of the Schedule sets out the registration requirements for those dispositions of registered estates required to be completed by registration under section 27(2). Until these requirements are met, legal title does not pass. These disposition requirements also apply to dispositions by operation of law apart from those that occur on the death or bankruptcy of an individual, the dissolution of a company or the creation of a legal charge which is a local land charge (section 27(5)). The requirements as set out are in accordance with the Land Registry's current procedures for recording dispositions.

Transfer

218. *Paragraph 2* provides that on a transfer of the whole of the registered estate, the transferee (or any person who has acquired the estate from him) must be entered in the register as proprietor. There are no other registration requirements as details of the new owner simply replace those of the old. Where the transfer is of part only, a new section of the register is created for the part transferred which shows the transferee or his successor as proprietor. In addition, an entry must be recorded in the register relating to the original proprietor's estate to show that part of the land has been removed. Rules will cover the way in which this is recorded.

Lease of estate in land

219. *Paragraph 3* provides that when a lease is granted by the owner of a registered estate in land, the person to whom the lease was granted (or any person who has acquired the estate from him) must be shown in the register as proprietor. In addition, a notice is inserted in the register of the landlord's title to show that the land is now subject to the newly created lease. Leases of more than seven years, (and certain other leases as specified in section 27), will be registered in their own right rather than just recorded in the register relating to the landlord's title.

Lease of franchise or manor

220. *Paragraph 4* applies when a lease of more than seven years is granted out of a franchise or a manor and *paragraph 5* to any shorter lease of such property. For a lease of more than seven years, the register must show the person to whom the lease was granted (or any person who has acquired the estate from him) as proprietor of the lease. In addition, and whatever the length of the lease, the register relating to the landlord's estate must contain a notice that the registered estate is now subject to the lease.

Creation of independently registrable legal interest

221. *Paragraph 6* relates to the creation of a rentcharge or *profit à prendre* which is for seven years or more and so therefore capable of registration in its own right. The title to the benefit of the interest must be entered in the register. In addition, the register relating to the landlord's estate must contain a notice that the registered estate is now subject to the interest.

Creation of other legal interest

222. *Paragraph 7* specifies the registration requirements for those dispositions falling within section 27 (2) (d) or (e) which are not dealt with by paragraph 4, 5 or 6. In any of these cases, a notice must be entered in the register relating to the registered estate out of which it was granted which shows that the registered estate is now subject to that interest. If the interest also benefits another registered estate, then it should be recorded in the register relating to that other estate, showing the proprietor as proprietor of that interest. For example if a right of way is granted by a deed of grant over land to a neighbouring landowner, the easement will be noted in the register as being something that burdens that land. Additionally, the register relating to the adjoining title will be amended to show that the owner of that land has the benefit of the right of way contained in the deed of grant. Power is given to the Lord Chancellor to amend the registration requirements applying to a right of entry contained in a lease. At present the benefit of a right of way contained in a lease is not recorded in the landlord's title. The purpose of this power is to enable the current practice to continue for now, whilst leaving open the possibility that the practice might be changed in future.

Creation of legal charge

223. *Paragraph 8* relates to a newly created charge over a registered estate or a registered rentcharge. The charge must be recorded in the register relating to the registered estate and show the chargee (typically the lender) as proprietor of that charge.

Part 2: Registered Charges

Introductory; Transfer; and Creation of a sub-charge

224. This Part of the Schedule sets out the registration requirements for those dispositions of registered charges required to be completed by registration under section 27 (3). The requirements reflect the way in which transfers of charges and the creation of sub-charges are currently recorded. Under *paragraph 10*, if the benefit of a registered charge is transferred then the transferee, or any person who acquired the benefit from him, must be entered in the register as proprietor of the charge. In practice this means that the entries relating to the charge are altered by the insertion of the new owner's details. Under *paragraph 11*, if a sub-charge is created, then the person who acquired the benefit of the sub-charge (or any person who has acquired the benefit of the sub-charge from him) must be entered in the register as proprietor of the sub-charge. This in practice results in an additional entry. The details of the original chargee remain in the register.