



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART XII

BORROWING BY LOCAL AUTHORITIES.

Provisions as to Mortgages.

267 Forms of mortgage, transfer, renewal and discharge thereof.

- (1) A mortgage created under this Part of this Act, a transfer thereof, a minute of renewal thereof and a discharge thereof shall each be in the appropriate form set out in the Seventh Schedule to this Act or in a form substantially to the like effect:

Provided that—

- (i) nothing in this subsection or in the said Schedule shall require that a mortgage shall be transferred only by transfer endorsed on the mortgage;
 - (ii) a form of a mortgage, a transfer thereof, a minute of renewal thereof or a discharge thereof prescribed in a local Act may be used in substitution for the appropriate form set out in the Seventh Schedule to this Act, so however that if the form of mortgage so prescribed does not contain an assignation by way of security of the funds, rates and revenues of the local authority as provided in the form set out in the said Schedule, it shall be modified to contain such an assignation;
 - (iii) in the case of a loan made by the Public Works Loan Commissioners the mortgage shall be in such form as may be prescribed under the Public Works Loans Acts, 1875 to 1882.
- (2) A mortgage shall be held to be validly executed on behalf of a local authority having a common seal if it is sealed with the common seal of the authority and subscribed on behalf of the authority by one member of the authority, and by the clerk without the necessity of witnesses, and a minute of renewal of a mortgage shall be held to be validly executed on behalf of a local authority, whether having a common seal or not, if it is signed on behalf of the authority by the clerk without the necessity of witnesses, so however, that nothing in this subsection shall affect the provisions of any local Act

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with respect to the manner in which a mortgage or a minute of renewal thereof may be executed.

- (3) Notwithstanding anything in this section, the Secretary of State may from time to time by regulations make modifications in any of the forms set out in the Seventh Schedule to this Act or prescribe other forms if it appears to him necessary or desirable to do so, and such regulations may apply generally or to any particular local authority or class of local authority.

268 Register of mortgages.

- (1) The clerk of a local authority or such other officer as the authority may designate for the purpose (in this section referred to as "the registrar") shall keep at the office of the authority a register of mortgages created by the authority under this Part of this Act.
- (2) Before a mortgage is delivered to the mortgagee, the registrar shall enter or cause to be entered in the register of mortgages the following particulars, that is to say:—
- (a) the name and address of the mortgagee;
 - (b) the principal sum due under the mortgage;
 - (c) the number and date of the mortgage;
 - (d) the term or date of repayment; and
 - (e) the rate of interest payable;

and a certificate of registration shall be endorsed on the mortgage and signed by or on behalf of the registrar. Where the treasurer of the authority is not the registrar, there shall also be endorsed on the mortgage a receipt by the treasurer for the principal sum paid by the mortgagee.

- (3) On production to the registrar of the mortgage and—
- (a) in the case of a transfer of the mortgage, of a duly executed transfer thereof;
 - (b) in the case of a transmission of the mortgage by the death of the person entitled thereto, of confirmation in favour of the executors of the deceased, or probate of the will or letters of administration of the estate of the deceased duly resealed;
 - (c) in the case of a transmission of a mortgage otherwise than as aforesaid, of satisfactory evidence of the transmission;

the registrar shall make or cause to be made an entry in the register of mortgages of the date of the transfer or transmission and of the name and address of the person becoming entitled thereunder to the mortgage. .

- (4) Any change of name or address on the part of a person entitled to a mortgage shall forthwith be notified to the local authority, and the registrar shall on, being satisfied of the change alter the register of mortgages or cause the same to be altered accordingly.
- (5) On the renewal of a mortgage the registrar shall enter or cause to be entered in the register the following particulars of the renewal, that is to say:—
- (a) the date as from which the mortgage is renewed;
 - (b) the term or date of repayment of the principal sum under the renewal; and
 - (c) the rate of interest for the period of the renewal.
- (6) On the discharge of a mortgage the registrar shall forthwith make or cause to be made in the register an entry relating to the discharge and the date thereof.

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- (7) The Secretary of State may make regulations for enabling entries relating to mortgages or to transfers or transmissions of mortgages contained in any register of mortgages kept by or on behalf of a local authority under any enactment in force at the commencement of this Act to be transferred to the register of mortgages kept under this section, and for applying to the mortgages to which the entries relate the provisions of this section subject to any necessary modifications in place of the corresponding provisions of that enactment, and for terminating the obligation of the authority or of any officer of the authority to make entries in the register of mortgages kept under that enactment.
- (8) Any person who satisfies the local authority or the registrar that- he has an interest to inspect the register of mortgages shall be entitled to inspect the register so far as he has an interest to do so:

Provided that this subsection shall not apply in the case of a local authority if the authority are not required by any provision of a local Act relating to a register of mortgages kept by the authority under that Act to allow inspection of that register.