

Land Registration Act 2002

2002 Chapter 9

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Land Registration Act 2002

2002 Chapter 9

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An Act to make provision about land registration; and for connected purposes.

[26th February 2002]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART 1

PRELIMINARY

1

Register of title

(1) There is to continue to be a register of title kept by the registrar.

(2) Rules may make provision about how the register is to be kept and may, in particular, make provision about-

(a) the information to be included in the register,

and
(b) the form in which information included in the register is to be kept,

(c) the arrangement of that information.

2

Scope of title registration

This Act makes provision about the registration of title to-

following kinds-
(a) unregistered legal estates which are interests of any of the

(i) an estate in land,

(ii) a rentcharge,

(iii) a franchise,

(iv) a profit a prendre in gross, and

(v) any other interest or charge which subsists for the benefit of, or is a charge on, an interest the title to which is registered; and

(b) interests capable of subsisting at law which are created by a disposition of an interest the title to which is registered

PART 2

FIRST REGISTRATION OF TITLE

CHAPTER 1

FIRST REGISTRATION

Voluntary registration

3

When title may be registered

(1) This section applies to any unregistered legal estate which is an interest of any of the following kinds-

- (a) an estate in land,
- (b) a rentcharge,
- (c) a franchise, and
- (d) a profit a prendre in gross.

(2) Subject to the following provisions, a person may apply to the registrar to be registered as the proprietor of an unregistered legal estate to which this section applies if-

- (a) the estate is vested in him, or
- (b) he is entitled to require the estate to be vested in him.

(3) Subject to subsection (4), an application under subsection (2) in respect of a leasehold estate may only be made if the estate was granted for a term of which more than seven years are unexpired.

(4) In the case of an estate in land, subsection (3) does not apply if the right to possession under the lease is discontinuous.

(5) A person may not make an application under subsection (2)(a) in respect of a leasehold estate vested in him as a mortgagee where there is a subsisting right of redemption.

(6) A person may not make an application under subsection (2)(b) if his entitlement is as a person who has contracted to buy under a contract.

(7) If a person holds in the same right both-

(a) a lease in possession, and

(b) a lease to take effect in possession on, or within a month of, the end of the lease in possession,

then, to the extent that they relate to the same land, they are to be treated for the purposes of this section as creating one continuous term.

Compulsory registration

4

When title must be registered

(1) The requirement of registration applies on the occurrence of any of the following events-

(a) the transfer of a qualifying estate-

(i) for valuable or other consideration, by way of gift or in pursuance of an order of any court, or

(ii) by means of an assent (including a vesting assent);

(b) the transfer of an unregistered legal estate in land in circumstances where section 171A of the Housing Act 1985 (c.

68) applies (disposal by landlord which leads to a person no longer being a secure tenant);

(c) the grant out of a qualifying estate of an estate in land-

(i) for a term of years absolute of more than seven years from the date of the grant, and

(ii) for valuable or other consideration, by way of gift or in pursuance of an order of any court;

(d) the grant out of a qualifying estate of an estate in land for a term of years absolute to take effect in possession after the end of the period of three months beginning with the date of the grant;

(e) the grant of a lease in pursuance of Part 5 of the Housing Act 1985 (the right to buy) out of an unregistered legal estate in land;

(f) the grant of a lease out of an unregistered legal estate in land in such circumstances as are mentioned in paragraph (b);

(g) the creation of a protected first legal mortgage of a qualifying estate.

(2) For the purposes of subsection (1), a qualifying estate is an unregistered legal estate which is-

(a) a freehold estate in land, or

(b) a leasehold estate in land for a term which, at the time of the transfer, grant or creation, has more than seven years to run.

(3) In subsection (1)(a), the reference to transfer does not include transfer by operation of law.

(4) Subsection (1)(a) does not apply to-

(a) the assignment of a mortgage term, or

(b) the assignment or surrender of a lease to the owner of the immediate reversion where the term is to merge in that reversion.

(5) Subsection (1)(c) does not apply to the grant of an estate to a person as a mortgagee.

(6) For the purposes of subsection (1)(a) and (c), if the estate transferred or granted has a negative value, it is to be regarded as transferred or granted for valuable or other consideration.

(7) In subsection (1)(a) and (c), references to transfer or grant by way of gift include transfer or grant for the purpose of-

(a) constituting a trust under which the settlor does not retain the whole of the beneficial interest, or

(b) uniting the bare legal title and the beneficial interest in property held under a trust under which the settlor did not, on constitution, retain the whole of the beneficial interest.

(8) For the purposes of subsection (1)(g)-

(a) a legal mortgage is protected if it takes effect on its creation as a mortgage to be protected by the deposit of documents relating to the mortgaged estate, and

(b) a first legal mortgage is one which, on its creation, ranks in priority ahead of any other mortgages then affecting the mortgaged estate.

(9) In this section-

"land" does not include mines and minerals held apart from the surface;

"vesting assent" has the same meaning as in the Settled Land Act 1925 (c. 18).

5

Power to extend section 4

(1) The Lord Chancellor may by order-

(a) amend section 4 so as to add to the events on the occurrence of which the requirement of registration applies such relevant event as he may specify in the order, and

(b) make such consequential amendments of any provision of, or having effect under, any Act as he thinks appropriate.

(2) For the purposes of subsection (1)(a), a relevant event is an event relating to an unregistered legal estate which is an interest of any of the following kinds-

(a) an estate in land,

(b) a rentcharge,

(c) a franchise, and

(d) a profit a prendre in gross.

(3) The power conferred by subsection (1) may not be exercised so as to require the title to an estate granted to a person as a mortgagee to be registered.

(4) Before making an order under this section the Lord Chancellor must consult such persons as he considers appropriate.

6

Duty to apply for registration of title

(1) If the requirement of registration applies, the responsible estate owner, or his successor in title, must, before the end of the period for registration, apply to the registrar to be registered as the proprietor of the registrable estate.

(2) If the requirement of registration applies because of section 4(1)(g)-

(a) the registrable estate is the estate charged by the mortgage, and

(b) the responsible estate owner is the owner of that estate.

section 4(1)(g)- (3) If the requirement of registration applies otherwise than because of

and (a) the registrable estate is the estate which is transferred or granted,

(b) the responsible estate owner is the transferee or grantee of that estate.

(4) The period for registration is 2 months beginning with the date on which the relevant event occurs, or such longer period as the registrar may provide under subsection (5).

(5) If on the application of any interested person the registrar is satisfied that there is good reason for doing so, he may by order provide that the period for registration ends on such later date as he may specify in the order.

(6) Rules may make provision enabling the mortgagee under any mortgage falling within section 4(1)(g) to require the estate charged by the mortgage to be registered whether or not the mortgagor consents.

7

Effect of non-compliance with section 6

(1) If the requirement of registration is not complied with, the transfer, grant or creation becomes void as regards the transfer, grant or creation of a legal estate.

(2) On the application of subsection (1)-

(a) in a case falling within section 4(1)(a) or (b), the title to the legal estate reverts to the transferor who holds it on a bare trust for the transferee, and

(b) in a case falling within section 4(1)(c) to (g), the grant or creation has effect as a contract made for valuable consideration to grant or create the legal estate concerned.

(3) If an order under section 6(5) is made in a case where subsection (1) has already applied, that application of the subsection is to be treated as not having occurred.

(4) The possibility of reverter under subsection (1) is to be disregarded for the purposes of determining whether a fee simple is a fee simple absolute.

8

Liability for making good void transfers etc

If a legal estate is retransferred, regranted or recreated because of a failure to comply with the requirement of registration, the transferee, grantee or, as the case may be, the mortgagor-

(a) is liable to the other party for all the proper costs of and incidental to the retransfer, regrant or recreation of the legal estate, and

(b) is liable to indemnify the other party in respect of any other liability reasonably incurred by him because of the failure to comply with the requirement of registration.

Classes of title

9

Titles to freehold estates

(1) In the case of an application for registration under this Chapter of a freehold estate, the classes of title with which the applicant may be registered as proprietor are-

(a) absolute title,

(b) qualified title, and

(c) possessory title;

and the following provisions deal with when each of the classes of title is available.

(2) A person may be registered with absolute title if the registrar is of the opinion that the person's title to the estate is such as a willing buyer could properly be advised by a competent professional adviser to accept.

(3) In applying subsection (2), the registrar may disregard the fact that a person's title appears to him to be open to objection if he is of the opinion that the defect will not cause the holding under the title to be disturbed.

(4) A person may be registered with qualified title if the registrar is of the opinion that the person's title to the estate has been established only for a limited period or subject to certain reservations which cannot be disregarded under subsection (3).

(5) A person may be registered with possessory title if the registrar is of the opinion-

(a) that the person is in actual possession of the land, or in receipt of the rents and profits of the land, by virtue of the estate, and

(b) that there is no other class of title with which he may be registered.

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Titles to leasehold estates

(1) In the case of an application for registration under this Chapter of a leasehold estate, the classes of title with which the applicant may be registered as proprietor are-

(a) absolute title,

(b) good leasehold title,

(c) qualified title, and

(d) possessory title;

and the following provisions deal with when each of the classes of title is available.

(2) A person may be registered with absolute title if-

(a) the registrar is of the opinion that the person's title to the estate is such as a willing buyer could properly be advised by a competent professional adviser to accept, and

(b) the registrar approves the lessor's title to grant the lease.

(3) A person may be registered with good leasehold title if the registrar is of the opinion that the person's title to the estate is such as a willing buyer could properly be advised by a competent professional adviser to accept.

(4) In applying subsection (2) or (3), the registrar may disregard the fact that a person's title appears to him to be open to objection if he is of the opinion that the defect will not cause the holding under the title to be disturbed.

(5) A person may be registered with qualified title if the registrar is of the opinion that the person's title to the estate, or the lessor's title to the reversion, has been established only for a limited period or subject to certain reservations which cannot be disregarded under subsection (4).

(6) A person may be registered with possessory title if the registrar is of the opinion-

(a) that the person is in actual possession of the land, or in receipt of the rents and profits of the land, by virtue of the estate, and

(b) that there is no other class of title with which he may be registered.

Effect of first registration

(1) This section is concerned with the registration of a person under this Chapter as the proprietor of a freehold estate.

(2) Registration with absolute title has the effect described in subsections (3) to (5).

(3) The estate is vested in the proprietor together with all interests subsisting for the benefit of the estate.

(4) The estate is vested in the proprietor subject only to the following interests affecting the estate at the time of registration-

(a) interests which are the subject of an entry in the register in relation to the estate,

(b) unregistered interests which fall within any of the paragraphs of Schedule 1, and

(c) interests acquired under the Limitation Act 1980 (c. 58) of which the proprietor has notice.

(5) If the proprietor is not entitled to the estate for his own benefit, or not entitled solely for his own benefit, then, as
between himself and the persons beneficially entitled to the estate, the estate is vested in him subject to such of their interests as
he has notice of.

(6) Registration with qualified title has the same effect as registration with absolute title, except that it does not affect the
enforcement of any estate, right or interest which appears from the register to be excepted from the effect of registration.

(7) Registration with possessory title has the same effect as registration with absolute title, except that it does not affect the
enforcement of any estate, right or interest adverse to, or in derogation of, the proprietor's title subsisting at the time of
registration or then capable of arising.

(1) This section is concerned with the registration of a person under this Chapter as the proprietor of a leasehold estate.

(2) Registration with absolute title has the effect described in subsections (3) to (5).

(3) The estate is vested in the proprietor together with all interests subsisting for the benefit of the estate.

(4) The estate is vested subject only to the following interests affecting the estate at the time of registration-

(a) implied and express covenants, obligations and liabilities incident to the estate,

(b) interests which are the subject of an entry in the register in relation to the estate,

(c) unregistered interests which fall within any of the paragraphs of Schedule 1, and

(d) interests acquired under the Limitation Act 1980 (c. 58) of which the proprietor has notice.

(5) If the proprietor is not entitled to the estate for his own benefit, or not entitled solely for his own benefit, then, as between himself and the persons beneficially entitled to the estate, the estate is vested in him subject to such of their interests as he has notice of.

(6) Registration with good leasehold title has the same effect as registration with absolute title, except that it does not affect the enforcement of any estate, right or interest affecting, or in derogation of, the title of the lessor to grant the lease.

(7) Registration with qualified title has the same effect as registration with absolute title except that it does not affect the enforcement of any estate, right or interest which appears from the register to be excepted from the effect of registration.

(8) Registration with possessory title has the same effect as registration with absolute title, except that it does not affect the enforcement of any estate, right or interest adverse to, or in derogation of, the proprietor's title subsisting at the time of registration or then capable of arising.

Dependent estates

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Appurtenant rights and charges

Rules may-

(a) make provision for the registration of the proprietor of a registered estate as the proprietor of an unregistered legal estate which subsists for the benefit of the registered estate;

(b) make provision for the registration of a person as the proprietor of an unregistered legal estate which is a charge on a registered estate.

Supplementary

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Rules about first registration

Rules may-

(a) make provision about the making of applications for registration under this Chapter;

(b) make provision about the functions of the registrar following the making of such an application, including provision about-

- (i) the examination of title, and
- (ii) the entries to be made in the register where such an application is approved;
- (c) make provision about the effect of any entry made in the register in pursuance of such an application.

CHAPTER 2

CAUTIONS AGAINST FIRST REGISTRATION

15

Right to lodge

(1) Subject to subsection (3), a person may lodge a caution against the registration of title to an unregistered legal estate if he claims to be-

- (a) the owner of a qualifying estate, or
- (b) entitled to an interest affecting a qualifying estate.

(2) For the purposes of subsection (1), a qualifying estate is a legal estate which-

- (a) relates to land to which the caution relates, and
- (b) is an interest of any of the following kinds-

- (i) an estate in land,
- (ii) a rentcharge,
- (iii) a franchise, and
- (iv) a profit a prendre in gross.

(3) No caution may be lodged under subsection (1)-

- (a) in the case of paragraph (a), by virtue of ownership of-

(i) a freehold estate in land, or

(ii) a leasehold estate in land granted for a term of which more than seven years are unexpired;

(b) in the case of paragraph (b), by virtue of entitlement to such a leasehold estate as is mentioned in paragraph (a)(ii) of this subsection.

(4) The right under subsection (1) is exercisable by application to the registrar.

16

Effect

(1) Where an application for registration under this Part relates to a legal estate which is the subject of a caution against first registration, the registrar must give the cautioner notice of the application and of his right to object to it.

(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 cautioner has exercised his right to object to the application or given the registrar notice that he does not intend to do so.

(3) Except as provided by this section, a caution against first registration has no effect and, in particular, has no effect on the validity or priority of any interest of the cautioner in the legal estate to which the caution relates.

(4) For the purposes of subsection (1), notice given by a person acting on behalf of an applicant for registration under this Part is to be treated as given by the registrar if-

(a) the person is of a description provided by rules, and

(b) notice is given in such circumstances as rules may provide.

17

Withdrawal

The cautioner may withdraw a caution against first registration by application to the registrar.

18

Cancellation

(1) A person may apply to the registrar for cancellation of a caution against first registration if he is-

(a) the owner of the legal estate to which the caution relates, or

(b) a person of such other description as rules may provide.

(2) Subject to rules, no application under subsection (1)(a) may be made by a person who-

(a) consented in such manner as rules may provide to the lodging of the caution, or

(b) derives title to the legal estate by operation of law from a person who did so.

(3) Where an application is made under subsection (1), the registrar must give the cautioner notice of the application and of the effect of subsection (4).

(4) If the cautioner does not exercise his right to object to the application before the end of such period as rules may provide, the registrar must cancel the caution.

19

Cautions register

(1) The registrar must keep a register of cautions against first registration.

(2) Rules may make provision about how the cautions register is to be kept and may, in particular, make provision about-

- (a) the information to be included in the register,
- and (b) the form in which information included in the register is to be kept,
- (c) the arrangement of that information.

20

Alteration of register by court

(1) The court may make an order for alteration of the cautions register for the purpose of-

- (a) correcting a mistake, or
- (b) bringing the register up to date.

(2) An order under subsection (1) has effect when served on the registrar to impose a duty on him to give effect to it.

(3) Rules may make provision about-

- (a) the circumstances in which there is a duty to exercise the power under subsection (1),
- (b) the form of an order under that subsection, and
- (c) service of such an order.

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Alteration of register by registrar

(1) The registrar may alter the cautions register for the purpose of-

- (a) correcting a mistake, or
- (b) bringing the register up to date.

(2) Rules may make provision about-

(a) the circumstances in which there is a duty to exercise the power under subsection (1),

(b) how the cautions register is to be altered in exercise of that power,

(c) applications for the exercise of that power, and

(d) procedure in relation to the exercise of that power, whether on application or otherwise.

(3) Where an alteration is made under this section, the registrar may pay such amount as he thinks fit in respect of any costs reasonably incurred by a person in connection with the alteration.

22

Supplementary

In this Chapter, "the cautioner", in relation to a caution against first registration, means the person who lodged the caution, or such other person as rules may provide.

PART 3

DISPOSITIONS OF REGISTERED LAND

Powers of disposition

23

Owner's powers

(1) Owner's powers in relation to a registered estate consist of-

(a) power to make a disposition of any kind permitted by the general law in relation to an interest of that description, other than a mortgage by demise or sub-demise, and

(b) power to charge the estate at law with the payment of money.

(2) Owner's powers in relation to a registered charge consist of-

(a) power to make a disposition of any kind permitted by the general law in relation to an interest of that description, other than a legal sub-mortgage, and

(b) power to charge at law with the payment of money indebtedness secured by the registered charge.

(3) In subsection (2)(a), "legal sub-mortgage" means-

(a) a transfer by way of mortgage,

(b) a sub-mortgage by sub-demise, and

(c) a charge by way of legal mortgage.

24

Right to exercise owner's powers

A person is entitled to exercise owner's powers in relation to a registered estate or charge if he is-

(a) the registered proprietor, or

(b) entitled to be registered as the proprietor.

25

Mode of exercise

(1) A registrable disposition of a registered estate or charge only has effect if it complies with such requirements as to form and content as rules may provide.

(2) Rules may apply subsection (1) to any other kind of disposition which depends for its effect on registration.

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Protection of disponees

(1) Subject to subsection (2), a person's right to exercise owner's powers in relation to a registered estate or charge is to be taken to be free from any limitation affecting the validity of a disposition.

(2) Subsection (1) does not apply to a limitation-

(a) reflected by an entry in the register, or

(b) imposed by, or under, this Act.

(3) This section has effect only for the purpose of preventing the title of a donee being questioned (and so does not affect the lawfulness of a disposition).

Registrable dispositions

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Dispositions required to be registered

(1) If a disposition of a registered estate or registered charge is required to be completed by registration, it does not operate at law until the relevant registration requirements are met.

(2) In the case of a registered estate, the following are the dispositions which are required to be completed by registration-

(a) a transfer,

(b) where the registered estate is an estate in land, the grant of a term of years absolute-

(i) for a term of more than seven years from the date of the grant,

(ii) to take effect in possession after the end of the period of three months beginning with the date of the grant,

(iii) under which the right to possession is discontinuous,

(iv) in pursuance of Part 5 of the Housing Act 1985 (c. 68) (the right to buy), or

(v) in circumstances where section 171A of that Act applies (disposal by landlord which leads to a person no longer

being a secure tenant),

(c) where the registered estate is a franchise or manor, the grant of a lease,

(d) the express grant or reservation of an interest of a kind falling within section 1(2)(a) of the Law of Property Act 1925

(c. 20), other than one which is capable of being registered under the Commons Registration Act 1965 (c. 64),

(e) the express grant or reservation of an interest of a kind falling within section 1(2)(b) or (e) of the Law of Property Act 1925, and

(f) the grant of a legal charge.

(3) In the case of a registered charge, the following are the dispositions which are required to be completed by registration-

(a) a transfer, and

(b) the grant of a sub-charge.

(4) Schedule 2 to this Act (which deals with the relevant registration requirements) has effect.

(5) This section applies to dispositions by operation of law as it applies to other dispositions, but with the exception of the following-

(a) a transfer on the death or bankruptcy of an individual proprietor,

(b) a transfer on the dissolution of a corporate proprietor, and

(c) the creation of a legal charge which is a local land charge.

(6) Rules may make provision about applications to the registrar for the purpose of meeting registration requirements under this section.

(7) In subsection (2)(d), the reference to express grant does not include grant as a result of the operation of section 62 of the

Law of Property Act 1925 (c. 20).

Effect of dispositions on priority

28

Basic rule

(1) Except as provided by sections 29 and 30, the priority of an interest affecting a registered estate or charge is not affected by a disposition of the estate or charge.

(2) It makes no difference for the purposes of this section whether the interest or disposition is registered.

29

Effect of registered dispositions: estates

(1) If a registrable disposition of a registered estate is made for valuable consideration, completion of the disposition by registration has the effect of postponing to the interest under the disposition any interest affecting the estate immediately before the disposition whose priority is not protected at the time of registration.

(2) For the purposes of subsection (1), the priority of an interest is protected-

(a) in any case, if the interest-

(i) is a registered charge or the subject of a notice in the register,

(ii) falls within any of the paragraphs of Schedule 3, or

(iii) appears from the register to be excepted from the effect of registration, and

(b) in the case of a disposition of a leasehold estate, if the burden of the interest is incident to the estate.

(3) Subsection (2)(a)(ii) does not apply to an interest which has been the subject of a notice in the register at any time since the

coming into force of this section.

(4) Where the grant of a leasehold estate in land out of a registered estate does not involve a registrable disposition, this section has effect as if-

(a) the grant involved such a disposition, and

(b) the disposition were registered at the time of the grant.

30

Effect of registered dispositions: charges

(1) If a registrable disposition of a registered charge is made for valuable consideration, completion of the disposition by registration has the effect of postponing to the interest under the disposition any interest affecting the charge immediately before the disposition whose priority is not protected at the time of registration.

(2) For the purposes of subsection (1), the priority of an interest is protected-

(a) in any case, if the interest-

(i) is a registered charge or the subject of a notice in the register,

(ii) falls within any of the paragraphs of Schedule 3, or

(iii) appears from the register to be excepted from the effect of registration, and

(b) in the case of a disposition of a charge which relates to a leasehold estate, if the burden of the interest is incident to the estate.

(3) Subsection (2)(a)(ii) does not apply to an interest which has been the subject of a notice in the register at any time since the coming into force of this section.

31

Inland Revenue charges

The effect of a disposition of a registered estate or charge on a charge under section 237 of the Inheritance Tax Act 1984 (c. 51) (charge for unpaid tax) is to be determined, not in accordance with sections 28 to 30 above, but in accordance with sections 237(6) and 238 of that Act (under which a purchaser in good faith for money or money's worth takes free from the charge in the absence of registration).

PART 4

NOTICES AND RESTRICTIONS

Notices

32

Nature and effect

(1) A notice is an entry in the register in respect of the burden of an interest affecting a registered estate or charge.

(2) The entry of a notice is to be made in relation to the registered estate or charge affected by the interest concerned.

(3) The fact that an interest is the subject of a notice does not necessarily mean that the interest is valid, but does mean that the priority of the interest, if valid, is protected for the purposes of sections 29 and 30.

33

Excluded interests

No notice may be entered in the register in respect of any of the following-

(a) an interest under-

(i) a trust of land, or

(ii) a settlement under the Settled Land Act 1925 (c. 18),

(b) a leasehold estate in land which-

(i) is granted for a term of years of three years or less from the date of the grant, and

(ii) is not required to be registered,

(c) a restrictive covenant made between a lessor and lessee, so far as relating to the demised premises,

(d) an interest which is capable of being registered under the Commons Registration Act 1965 (c. 64), and

(e) an interest in any coal or coal mine, the rights attached to any such interest and the rights of any person under section 38, 49 or 51 of the Coal Industry Act 1994 (c. 21).

34

Entry on application

(1) A person who claims to be entitled to the benefit of an interest affecting a registered estate or charge may, if the interest is not excluded by section 33, apply to the registrar for the entry in the register of a notice in respect of the interest.

(2) Subject to rules, an application under this section may be for-

(a) an agreed notice, or

(b) a unilateral notice.

(3) The registrar may only approve an application for an agreed notice if-

(a) the applicant 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 entry of the notice, or

(c) the registrar is satisfied as to the validity of the applicant's claim.

(4) In subsection (3), references to the relevant registered proprietor are to the proprietor of the registered estate or charge affected by the interest to which the application relates.

35

Unilateral notices

(1) If the registrar enters a notice in the register in pursuance of an application under section 34(2)(b) ("a unilateral notice"), he must give notice of the entry to-

and (a) the proprietor of the registered estate or charge to which it relates,

(b) such other persons as rules may provide.

(2) A unilateral notice must-

(a) indicate that it is such a notice, and

(b) identify who is the beneficiary of the notice.

(3) The person shown in the register as the beneficiary of a unilateral notice, or such other person as rules may provide, may apply to the registrar for the removal of the notice from the register.

36

Cancellation of unilateral notices

(1) A person may apply to the registrar for the cancellation of a unilateral notice if he is-

relates, or (a) the registered proprietor of the estate or charge to which the notice

charge. (b) a person entitled to be registered as the proprietor of that estate or

(2) Where an application is made under subsection (1), the registrar must give the beneficiary of the notice notice of the

application and of the effect of subsection (3).

(3) If the beneficiary of the notice does not exercise his right to object to the application before the end of such period as rules may provide, the registrar must cancel the notice.

(4) In this section-

"beneficiary", in relation to a unilateral notice, means the person shown in the register as the beneficiary of the notice, or such other person as rules may provide;

"unilateral notice" means a notice entered in the register in pursuance of an application under section 34(2)(b).

37

Unregistered interests

(1) If it appears to the registrar that a registered estate is subject to an unregistered interest which-

(a) falls within any of the paragraphs of Schedule 1, and

(b) is not excluded by section 33,

he may enter a notice in the register in respect of the interest.

(2) The registrar must give notice of an entry under this section to such persons as rules may provide.

38

Registrable dispositions

Where a person is entered in the register as the proprietor of an interest under a disposition falling within section 27(2)(b) to (e), the registrar must also enter a notice in the register in respect of that interest.

39

Supplementary

Rules may make provision about the form and content of notices in the register.

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.

(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-

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

PART 5

CHARGES

Relative priority

48

Registered charges

(1) Registered charges on the same registered estate, or on the same registered charge, are to be taken to rank as between themselves in the order shown in the register.

(2) Rules may make provision about-

(a) how the priority of registered charges as between themselves is to be shown in the register, and

(b) applications for registration of the priority of registered charges as between themselves.

49

Tacking and further advances

(1) The proprietor of a registered charge may make a further advance on the security of the charge ranking in priority to a subsequent charge if he has not received from the subsequent chargee notice of the creation of the subsequent charge.

(2) Notice given for the purposes of subsection (1) shall be treated as received at the time when, in accordance with rules, it ought to have been received.

(3) The proprietor of a registered charge may also make a further advance on the security of the charge ranking in priority to a subsequent charge if-

(a) the advance is made in pursuance of an obligation, and

(b) at the time of the creation of the subsequent charge the obligation was entered in the register in accordance with rules.

(4) The proprietor of a registered charge may also make a further advance on the security of the charge ranking in priority to a subsequent charge if-

(a) the parties to the prior charge have agreed a maximum amount for which the charge is security, and

(b) at the time of the creation of the subsequent charge the agreement was entered in the register in accordance with rules.

(5) Rules may-

(a) disapply subsection (4) in relation to charges of a description specified in the rules, or

(b) provide for the application of that subsection to be subject, in the case of charges of a description so specified, to compliance with such conditions as may be so specified.

(6) Except as provided by this section, tacking in relation to a charge over registered land is only possible with the agreement of the subsequent chargee.

which- If the registrar enters a person in the register as the proprietor of a charge

(a) is created by or under an enactment, and

(b) has effect to postpone a charge which at the time of registration of the statutory charge is-

(i) entered in the register, or

(ii) the basis for an entry in the register,

he must in accordance with rules give notice of the creation of the statutory charge to such person as rules may provide.

Powers as chargee

51

Effect of completion by registration

On completion of the relevant registration requirements, a charge created by means of a registrable disposition of a registered estate has effect, if it would not otherwise do so, as a charge by deed by way of legal mortgage.

52

Protection of disponees

(1) Subject to any entry in the register to the contrary, the proprietor of a registered charge is to be taken to have, in relation to the property subject to the charge, the powers of disposition conferred by law on the owner of a legal mortgage.

(2) Subsection (1) has effect only for the purpose of preventing the title of a donee being questioned (and so does not affect the lawfulness of a disposition).

53

Powers as sub-chargee

The registered proprietor of a sub-charge has, in relation to the property subject to the principal charge or any intermediate charge, the same powers as the sub-chargor.

Realisation of security

54

Proceeds of sale: chargee's duty

For the purposes of section 105 of the Law of Property Act 1925 (c. 20) (mortgagee's duties in relation to application of proceeds of sale), in its application to the proceeds of sale of registered land, a person shall be taken to have notice of anything in the register immediately before the disposition on sale.

55

Local land charges

A charge over registered land which is a local land charge may only be realised if the title to the charge is registered.

Miscellaneous

56

Receipt in case of joint proprietors

Where a charge is registered in the name of two or more proprietors, a valid receipt for the money secured by the charge may be given by-

(a) the registered proprietors,

(b) the survivors or survivor of the registered proprietors, or

(c) the personal representative of the last survivor of the registered proprietors.

57

Entry of right of consolidation

Rules may make provision about entry in the register of a right of consolidation in relation to a registered charge.

PART 6

REGISTRATION: GENERAL

Registration as proprietor

58

Conclusiveness

(1) If, on the entry of a person in the register as the proprietor of a legal estate, the legal estate would not otherwise be vested in him, it shall be deemed to be vested in him as a result of the registration.

(2) Subsection (1) does not apply where the entry is made in pursuance of a registrable disposition in relation to which some other registration requirement remains to be met.

59

Dependent estates

(1) The entry of a person in the register as the proprietor of a legal estate which subsists for the benefit of a registered estate must be made in relation to the registered estate.

(2) The entry of a person in the register as the proprietor of a charge on a registered estate must be made in relation to that estate.

(3) The entry of a person in the register as the proprietor of a sub-charge on a registered charge must be made in relation to that charge.

(1) The boundary of a registered estate as shown for the purposes of the register is a general boundary, unless shown as determined under this section.

(2) A general boundary does not determine the exact line of the boundary.

(3) Rules may make provision enabling or requiring the exact line of the boundary of a registered estate to be determined and may, in particular, make provision about-

(a) the circumstances in which the exact line of a boundary may or must be determined,

(b) how the exact line of a boundary may be determined,

(c) procedure in relation to applications for determination, and

(d) the recording of the fact of determination in the register or the index maintained under section 68.

(4) Rules under this section must provide for applications for determination to be made to the registrar.

(1) The fact that a registered estate in land is shown in the register as having a particular boundary does not affect the operation of accretion or diluvion.

(2) An agreement about the operation of accretion or diluvion in relation to a registered estate in land has effect only if registered in accordance with rules.

Quality of title

62

Power to upgrade title

(1) Where the title to a freehold estate is entered in the register as possessory or qualified, the registrar may enter it as absolute if he is satisfied as to the title to the estate.

(2) Where the title to a leasehold estate is entered in the register as good leasehold, the registrar may enter it as absolute if he is satisfied as to the superior title.

(3) Where the title to a leasehold estate is entered in the register as possessory or qualified the registrar may-

(a) enter it as good leasehold if he is satisfied as to the title to the estate, and

(b) enter it as absolute if he is satisfied both as to the title to the estate and as to the superior title.

(4) Where the title to a freehold estate in land has been entered in the register as possessory for at least twelve years, the registrar may enter it as absolute if he is satisfied that the proprietor is in possession of the land.

(5) Where the title to a leasehold estate in land has been entered in the register as possessory for at least twelve years, the registrar may enter it as good leasehold if he is satisfied that the proprietor is in possession of the land.

(6) None of the powers under subsections (1) to (5) is exercisable if there is outstanding any claim adverse to the title of the registered proprietor which is made by virtue of an estate, right or interest whose enforceability is preserved by virtue of the existing entry about the class of title.

(7) The only persons who may apply to the registrar for the exercise of any of the powers under subsections (1) to (5) are-

- (a) the proprietor of the estate to which the application relates,
- (b) a person entitled to be registered as the proprietor of that estate,
- (c) the proprietor of a registered charge affecting that estate, and
- (d) a person interested in a registered estate which derives from that estate.

(8) In determining for the purposes of this section whether he is satisfied as to any title, the registrar is to apply the same standards as those which apply under section 9 or 10 to first registration of title.

(9) The Lord Chancellor may by order amend subsection (4) or (5) by substituting for the number of years for the time being specified in that subsection such number of years as the order may provide.

63

Effect of upgrading title

(1) On the title to a registered freehold or leasehold estate being entered under section 62 as absolute, the proprietor ceases to hold the estate subject to any estate, right or interest whose enforceability was preserved by virtue of the previous entry about the class of title.

(2) Subsection (1) also applies on the title to a registered leasehold estate being entered under section 62 as good leasehold, except that the entry does not affect or prejudice the enforcement of any estate, right or interest affecting, or in derogation of, the title of the lessor to grant the lease.

64

Use of register to record defects in title

(1) If it appears to the registrar that a right to determine a registered estate in land is exercisable, he may enter the fact in the register.

(2) Rules may make provision about entries under subsection (1) and may, in particular, make provision about-

(a) the circumstances in which there is a duty to exercise the power conferred by that subsection,

(b) how entries under that subsection are to be made, and

(c) the removal of such entries.

Alteration of register

65

Alteration of register

Schedule 4 (which makes provision about alteration of the register) has effect.

Information etc.

66

Inspection of the registers etc

(1) Any person may inspect and make copies of, or of any part of-

(a) the register of title,

(b) any document kept by the registrar which is referred to in the register of title,

(c) any other document kept by the registrar which relates to an application to him, or

(d) the register of cautions against first registration.

particular- (2) The right under subsection (1) is subject to rules which may, in

(a) provide for exceptions to the right, and

(b) impose conditions on its exercise, including conditions requiring the payment of fees.

67

Official copies of the registers etc

(1) An official copy of, or of a part of-

(a) the register of title,

(b) any document which is referred to in the register of title and kept by the registrar,

(c) any other document kept by the registrar which relates to an application to him, or

(d) the register of cautions against first registration,

is admissible in evidence to the same extent as the original.

(2) A person who relies on an official copy in which there is a mistake is not liable for loss suffered by another by reason of the mistake.

(3) Rules may make provision for the issue of official copies and may, in particular, make provision about-

(a) the form of official copies,

(b) who may issue official copies,

(c) applications for official copies, and

(d) the conditions to be met by applicants for official copies, including conditions requiring the payment of fees.

68

Index

(1) The registrar must keep an index for the purpose of enabling the following matters to be ascertained in relation to any parcel of land-

(a) whether any registered estate relates to the land,

(b) how any registered estate which relates to the land is identified for the purposes of the register,

(c) whether the land is affected by any, and, if so what, caution against first registration, and

(d) such other matters as rules may provide.

(2) Rules may-

(a) make provision about how the index is to be kept and may, in particular, make provision about-

(i) the information to be included in the index,

(ii) the form in which information included in the index is to be kept, and

(iii) the arrangement of that information;

(b) make provision about official searches of the index.

69

Historical information

(1) The registrar may on application provide information about the history of a registered title.

(2) Rules may make provision about applications for the exercise of the power conferred by subsection (1).

(3) The registrar may-

(a) arrange for the provision of information about the history of registered titles, and

(b) authorise anyone who has the function of providing information under paragraph (a) to have access on such terms as the registrar thinks fit to any relevant information kept by him.

70

Official searches

Rules may make provision for official searches of the register, including searches of pending applications for first registration, and may, in particular, make provision about-

- (a) the form of applications for searches,
- (b) the manner in which such applications may be made,
- (c) the form of official search certificates, and
- (d) the manner in which such certificates may be issued.

Applications

71

Duty to disclose unregistered interests

Where rules so provide-

(a) a person applying for registration under Chapter 1 of Part 2 must provide to the registrar such information as the rules may provide about any interest affecting the estate to which the application relates which-

- (i) falls within any of the paragraphs of Schedule 1, and
- (ii) is of a description specified by the rules;

(b) a person applying to register a registrable disposition of a registered estate must provide to the registrar such information as the rules may provide about any unregistered interest affecting the estate which-

(i) falls within any of the paragraphs of Schedule 3, and

(ii) is of description specified by the rules.

72

Priority protection

(1) For the purposes of this section, an application for an entry in the register is protected if-

(a) it is one to which a priority period relates, and

(b) it is made before the end of that period.

(2) Where an application for an entry in the register is protected, any entry made in the register during the priority period relating to the application is postponed to any entry made in pursuance of it.

(3) Subsection (2) does not apply if-

(a) the earlier entry was made in pursuance of a protected application,
and

(b) the priority period relating to that application ranks ahead of the one relating to the application for the other entry.

(4) Subsection (2) does not apply if the earlier entry is one to which a direction under section 46(3) applies.

(5) The registrar may defer dealing with an application for an entry in the register if it appears to him that subsection (2) might apply to the entry were he to make it.

(6) Rules may-

(a) make provision for priority periods in connection with-

(i) official searches of the register, including searches of pending applications for first registration, or

(ii) the noting in the register of a contract for the making of a registrable disposition of a registered estate or charge;

(b) make provision for the keeping of records in relation to priority periods and the inspection of such records.

(7) Rules under subsection (6)(a) may, in particular, make provision about-

(a) the commencement and length of a priority period,

(b) the applications for registration to which such a period relates,

(c) the order in which competing priority periods rank, and

(d) the application of subsections (2) and (3) in cases where more than one priority period relates to the same application.

73

Objections

(1) Subject to subsections (2) and (3), anyone may object to an application to the registrar.

(2) In the case of an application under section 18, only the person who lodged the caution to which the application relates, or such other person as rules may provide, may object.

(3) In the case of an application under section 36, only the person shown in the register as the beneficiary of the notice to which the application relates, or such other person as rules may provide, may object.

(4) The right to object under this section is subject to rules.

(5) Where an objection is made under this section, the registrar-

(a) must give notice of the objection to the applicant, and

(b) may not determine the application until the objection has been disposed of.

(6) Subsection (5) does not apply if the objection is one which the registrar is satisfied is groundless.

(7) If it is not possible to dispose by agreement of an objection to which subsection (5) applies, the registrar must refer the matter to the adjudicator.

(8) Rules may make provision about references under subsection (7).

74

Effective date of registration

An entry made in the register in pursuance of-

(a) an application for registration of an unregistered legal estate, or

(b) an application for registration in relation to a disposition required to be completed by registration,

has effect from the time of the making of the application.

Proceedings before the registrar

75

Production of documents

(1) The registrar may require a person to produce a document for the purposes of proceedings before him.

(2) The power under subsection (1) is subject to rules.

(3) A requirement under subsection (1) shall be enforceable as an order of the court.

(4) A person aggrieved by a requirement under subsection (1) may appeal to a county court, which may make any order which appears appropriate.

76

Costs

(1) The registrar may make orders about costs in relation to proceedings before him.

(2) The power under subsection (1) is subject to rules which may, in particular, make provision about-

(a) who may be required to pay costs,

(b) whose costs a person may be required to pay,

(c) the kind of costs which a person may be required to pay, and

(d) the assessment of costs.

(3) Without prejudice to the generality of subsection (2), rules under that subsection may include provision about-

(a) costs of the registrar, and

(b) liability for costs thrown away as the result of neglect or delay by a legal representative of a party to proceedings.

(4) An order under subsection (1) shall be enforceable as an order of the court.

(5) A person aggrieved by an order under subsection (1) may appeal to a county court, which may make any order which appears appropriate.

77

Duty to act reasonably

(1) A person must not exercise any of the following rights without reasonable cause-

- (a) the right to lodge a caution under section 15,
- (b) the right to apply for the entry of a notice or restriction, and
- (c) the right to object to an application to the registrar.

(2) The duty under this section is owed to any person who suffers damage in consequence of its breach.

78

Notice of trust not to affect registrar

The registrar shall not be affected with notice of a trust.

PART 7

SPECIAL CASES

The Crown

79

Voluntary registration of demesne land

(1) Her Majesty may grant an estate in fee simple absolute in possession out of demesne land to Herself.

(2) The grant of an estate under subsection (1) is to be regarded as not having been made unless an application under section 3 is made in respect of the estate before the end of the period for registration.

(3) The period for registration is two months beginning with the date of the grant, or such longer period as the registrar may provide under subsection (4).

(4) If on the application of Her Majesty the registrar is satisfied that there is a good reason for doing so, he may by order provide that the period for registration ends on such later date as he may specify in the order.

(5) If an order under subsection (4) is made in a case where subsection (2) has already applied, that application of the subsection is to be treated as not having occurred.

80

Compulsory registration of grants out of demesne land

(1) Section 4(1) shall apply as if the following were included among the events listed-

(a) the grant by Her Majesty out of demesne land of an estate in fee simple absolute in possession, otherwise than under section 79;

(b) the grant by Her Majesty out of demesne land of an estate in land-

(i) for a term of years absolute of more than seven years from the date of the grant, and

(ii) for valuable or other consideration, by way of gift or in pursuance of an order of any court.

(2) In subsection (1)(b)(ii), the reference to grant by way of gift includes grant for the purpose of constituting a trust under which Her Majesty does not retain the whole of the beneficial interest.

(3) Subsection (1) does not apply to the grant of an estate in mines and minerals held apart from the surface.

(4) The Lord Chancellor may by order-

(a) amend this section so as to add to the events in subsection (1) such events relating to demesne land as he may specify in the order, and

(b) make such consequential amendments of any provision of, or having effect under, any Act as he thinks appropriate.

(5) In its application by virtue of subsection (1), section 7 has effect with the substitution for subsection (2) of-

"(2) On the application of subsection (1), the grant has effect as a contract made for valuable consideration to grant the legal estate concerned".

81

Demesne land: cautions against first registration

(1) Section 15 shall apply as if demesne land were held by Her Majesty for an unregistered estate in fee simple absolute in possession.

(2) The provisions of this Act relating to cautions against first registration shall, in relation to cautions lodged by virtue of subsection (1), have effect subject to such modifications as rules may provide.

82

Escheat etc

(1) Rules may make provision about-

(a) the determination of a registered freehold estate in land, and

(b) the registration of an unregistered freehold legal estate in land in respect of land to which a former registered freehold estate in land related.

(2) Rules under this section may, in particular-

(a) make provision for determination to be dependent on the meeting of such registration requirements as the rules may specify;

(b) make provision for entries relating to a freehold estate in land to continue in the register, notwithstanding determination, for such time as the rules may provide;

(c) make provision for the making in the register in relation to a former freehold estate in land of such entries as the rules may provide;

(d) make provision imposing requirements to be met in connection with an application for the registration of such an unregistered estate as is mentioned in subsection (1)(b).

83

Crown and Duchy land: representation

(1) With respect to a Crown or Duchy interest, the appropriate authority-

(a) may represent the owner of the interest for all purposes of this Act,

(b) is entitled to receive such notice as that person is entitled to receive under this Act, and

(c) may make such applications and do such other acts as that person is entitled to make or do under this Act.

(2) In this section-

"the appropriate authority" means-

(a) in relation to an interest belonging to Her Majesty in right of the Crown and forming part of the Crown Estate,
the Crown Estate Commissioners;

(b) in relation to any other interest belonging to Her Majesty in right of the Crown, the government department
having the management of the interest or, if there is no such department, such person as Her Majesty may appoint

in writing under the Royal Sign Manual;

(c) in relation to an interest belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;

(d) in relation to an interest belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;

(e) in relation to an interest belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, that department;

"Crown interest" means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department;

"Duchy interest" means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall;

"interest" means any estate, interest or charge in or over land and any right or claim in relation to land.

84

Disapplication of requirements relating to Duchy land

Nothing in any enactment relating to the Duchy of Lancaster or the Duchy of Cornwall shall have effect to impose any requirement with respect to formalities or enrolment in relation to a disposition by a registered proprietor.

85

Bona vacantia

Rules may make provision about how the passing of a registered estate or charge as bona vacantia is to be dealt with for the purposes of this Act.

Pending actions etc.

86

Bankruptcy

(1) In this Act, references to an interest affecting an estate or charge do not include a petition in bankruptcy or bankruptcy order.

(2) As soon as practicable after registration of a petition in bankruptcy as a pending action under the Land Charges Act 1972

(c. 61), the registrar must enter in the register in relation to any registered estate or charge which appears to him to be affected a notice in respect of the pending action.

(3) Unless cancelled by the registrar in such manner as rules may provide, a notice entered under subsection (2) continues in force until-

(a) a restriction is entered in the register under subsection (4), or

(b) the trustee in bankruptcy is registered as proprietor.

(4) As soon as practicable after registration of a bankruptcy order under the Land Charges Act 1972, the registrar must, in relation to any registered estate or charge which appears to him to be affected by the order, enter in the register a restriction reflecting the effect of the Insolvency Act 1986 (c. 45).

(5) Where the proprietor of a registered estate or charge is adjudged bankrupt, the title of his trustee in bankruptcy is void as against a person to whom a registrable disposition of the estate or charge is made if-

(a) the disposition is made for valuable consideration,

(b) the person to whom the disposition is made acts in good faith, and

(c) at the time of the disposition-

(i) no notice or restriction is entered under this section in relation to the registered estate or charge, and

(ii) the person to whom the disposition is made has no notice of the bankruptcy petition or the adjudication.

(6) Subsection (5) only applies if the relevant registration requirements are met in relation to the disposition, but, when they are met, has effect as from the date of the disposition.

(7) Nothing in this section requires a person to whom a registrable disposition is made to make any search under the Land Charges Act 1972.

87

Pending land actions, writs, orders and deeds of arrangement

(1) Subject to the following provisions, references in this Act to an interest affecting an estate or charge include-

(a) a pending land action within the meaning of the Land Charges Act 1972,

(b) a writ or order of the kind mentioned in section 6(1)(a) of that Act (writ or order affecting land issued or made by any court for the purposes of enforcing a judgment or recognisance),

(c) an order appointing a receiver or sequestrator, and

(d) a deed of arrangement.

(2) No notice may be entered in the register in respect of-

(a) an order appointing a receiver or sequestrator, or

(b) a deed of arrangement.

(3) None of the matters mentioned in subsection (1) shall be capable of falling within paragraph 2 of Schedule 1 or 3.

(4) In its application to any of the matters mentioned in subsection (1), this Act shall have effect subject to such modifications as rules may provide.

(5) In this section, "deed of arrangement" has the same meaning as in the Deeds of Arrangement Act 1914 (c. 47).

Miscellaneous

88

Incorporeal hereditaments

In its application to-

- (a) rentcharges,
- (b) franchises,
- (c) profits a prendre in gross, or
- (d) manors,

this Act shall have effect subject to such modification as rules may provide.

89

Settlements

(1) Rules may make provision for the purposes of this Act in relation to the application to registered land of the enactments relating to settlements under the Settled Land Act 1925 (c. 18).

(2) Rules under this section may include provision modifying any of those enactments in its application to registered land.

(3) In this section, "registered land" means an interest the title to which is, or is required to be, registered.

90

PPP leases relating to transport in London

(1) No application for registration under section 3 may be made in respect of a leasehold estate in land under a PPP lease.

(2) The requirement of registration does not apply on the grant or transfer of a leasehold estate in land under a PPP lease.

(3) For the purposes of section 27, the following are not dispositions requiring to be completed by registration-

(a) the grant of a term of years absolute under a PPP lease;

(b) the express grant of an interest falling within section 1(2) of the Law of Property Act 1925 (c. 20), where the interest is created for the benefit of a leasehold estate in land under a PPP lease.

(4) No notice may be entered in the register in respect of an interest under a PPP lease.

(5) Schedules 1 and 3 have effect as if they included a paragraph referring to a PPP lease.

(6) In this section, "PPP lease" has the meaning given by section 218 of the Greater London Authority Act 1999 (c. 29) (which makes provision about leases created for public-private partnerships relating to transport in London).

PART 8

ELECTRONIC CONVEYANCING

91

Electronic dispositions: formalities

(1) This section applies to a document in electronic form where-

(a) the document purports to effect a disposition which falls within subsection (2), and

(b) the conditions in subsection (3) are met.

(2) A disposition falls within this subsection if it is-

(a) a disposition of a registered estate or charge,

(b) a disposition of an interest which is the subject of a notice in the register, or

(c) a disposition which triggers the requirement of registration,

which is of a kind specified by rules.

(3) The conditions referred to above are that-

(a) the document makes provision for the time and date when it takes effect,

(b) the document has the electronic signature of each person by whom it purports to be authenticated,

(c) each electronic signature is certified, and

(d) such other conditions as rules may provide are met.

(4) A document to which this section applies is to be regarded as-

(a) in writing, and

(b) signed by each individual, and sealed by each corporation, whose electronic signature it has.

(5) A document to which this section applies is to be regarded for the purposes of any enactment as a deed.

(6) If a document to which this section applies is authenticated by a person as agent, it is to be regarded for the purposes of any enactment as authenticated by him under the written authority of his principal.

(7) If notice of an assignment made by means of a document to which this section applies is given in electronic form in accordance with rules, it is to be regarded for the purposes of any enactment as given in writing.

(8) The right conferred by section 75 of the Law of Property Act 1925 (c. 20) (purchaser's right to have the execution of a conveyance attested) does not apply to a document to which this section applies.

(9) If subsection (4) of section 36A of the Companies Act 1985 (c. 6) (execution of documents) applies to a document because of subsection (4) above, subsection (6) of that section (presumption of due execution) shall have effect in relation to the document with the substitution of "authenticated" for "signed".

(10) In this section, references to an electronic signature and to the certification of such a signature are to be read in accordance with section 7(2) and (3) of the Electronic Communications Act 2000 (c. 7).

92

Land registry network

(1) The registrar may provide, or arrange for the provision of, an electronic communications network for use for such purposes as he thinks fit relating to registration or the carrying on of transactions which-

(a) involve registration, and

(b) are capable of being effected electronically.

(2) Schedule 5 (which makes provision in connection with a network provided under subsection (1) and transactions carried on by means of such a network) has effect.

93

Power to require simultaneous registration

(1) This section applies to a disposition of-

(a) a registered estate or charge, or

(b) an interest which is the subject of a notice in the register,

where the disposition is of a description specified by rules.

(2) A disposition to which this section applies, or a contract to make such a disposition, only has effect if it is made by means of a document in electronic form and if, when the document purports to take effect-

(a) it is electronically communicated to the registrar, and

(b) the relevant registration requirements are met.

(3) For the purposes of subsection (2)(b), the relevant registration requirements are-

(a) in the case of a registrable disposition, the requirements under Schedule 2, and

(b) in the case of any other disposition, or a contract, such requirements as rules may provide.

(4) Section 27(1) does not apply to a disposition to which this section applies.

(5) Before making rules under this section the Lord Chancellor must consult such persons as he considers appropriate.

(6) In this section, "disposition", in relation to a registered charge, includes postponement.

The registrar may take such steps as he thinks fit for the purpose of securing the provision of a system of electronic settlement in relation to transactions involving registration.

95

Supplementary

Rules may-

(a) make provision about the communication of documents in electronic form to the registrar;

(b) make provision about the electronic storage of documents communicated to the registrar in electronic form.

PART 9

ADVERSE POSSESSION

96

Disapplication of periods of limitation

(1) No period of limitation under section 15 of the Limitation Act 1980 (c. 58) (time limits in relation to recovery of land) shall run against any person, other than a chargee, in relation to an estate in land or rentcharge the title to which is registered.

(2) No period of limitation under section 16 of that Act (time limits in relation to redemption of land) shall run against any person in relation to such an estate in land or rentcharge.

(3) Accordingly, section 17 of that Act (extinction of title on expiry of time limit) does not operate to extinguish the title of any person where, by virtue of this section, a period of limitation does not run against him.

97

Registration of adverse possessor

Schedule 6 (which makes provision about the registration of an adverse possessor of an estate in land or rentcharge) has effect.

98

Defences

(1) A person has a defence to an action for possession of land if-

(a) on the day immediately preceding that on which the action was brought he was entitled to make an application under paragraph 1 of Schedule 6 to be registered as the proprietor of an estate in the land, and

(b) had he made such an application on that day, the condition in paragraph 5(4) of that Schedule would have been satisfied.

(2) A judgment for possession of land ceases to be enforceable at the end of the period of two years beginning with the date of the judgment if the proceedings in which the judgment is given were commenced against a person who was at that time entitled to make an application under paragraph 1 of Schedule 6.

(3) A person has a defence to an action for possession of land if on the day immediately preceding that on which the action was brought he was entitled to make an application under paragraph 6 of Schedule 6 to be registered as the proprietor of an estate in the land.

(4) A judgment for possession of land ceases to be enforceable at the end of the period of two years beginning with the date of the judgment if, at the end of that period, the person against whom the judgment was given is entitled to make an application under paragraph 6 of Schedule 6 to be registered as the proprietor of an estate in the land.

(5) Where in any proceedings a court determines that-

(a) a person is entitled to a defence under this section, or

(b) a judgment for possession has ceased to be enforceable against a person by virtue of subsection (4),

the court must order the registrar to register him as the proprietor of the estate in relation to which he is entitled to make an application under Schedule 6.

(6) The defences under this section are additional to any other defences a person may have.

(7) Rules may make provision to prohibit the recovery of rent due under a rentcharge from a person who has been in adverse possession of the rentcharge.

PART 10

LAND REGISTRY

Administration

99

The land registry

(1) There is to continue to be an office called Her Majesty's Land Registry which is to deal with the business of registration under this Act.

(2) The land registry is to consist of-

(a) the Chief Land Registrar, who is its head, and

(b) the staff appointed by him;

and references in this Act to a member of the land registry are to be read accordingly.

(3) The Lord Chancellor shall appoint a person to be the Chief Land Registrar.

(4) Schedule 7 (which makes further provision about the land registry) has effect.

100

Conduct of business

(1) Any function of the registrar may be carried out by any member of the land registry who is authorised for the purpose by the registrar.

(2) The Lord Chancellor may by regulations make provision about the carrying out of functions during any vacancy in the office of registrar.

(3) The Lord Chancellor may by order designate a particular office of the land registry as the proper office for the receipt of applications or a specified description of application.

(4) The registrar may prepare and publish such forms and directions as he considers necessary or desirable for facilitating the conduct of the business of registration under this Act.

101

Annual report

(1) The registrar must make an annual report on the business of the land registry to the Lord Chancellor.

(2) The registrar must publish every report under this section and may do so in such manner as he thinks fit.

(3) The Lord Chancellor must lay copies of every report under this section before Parliament.

Fees and indemnities

102

Fee orders

The Lord Chancellor may with the advice and assistance of the body referred to in section 127(2) (the Rule Committee), and the consent of the Treasury, by order-

(a) prescribe fees to be paid in respect of dealings with the land registry, except under section 69(3)(b) or 105;

(b) make provision about the payment of prescribed fees.

103

Indemnities

Schedule 8 (which makes provision for the payment of indemnities by the registrar) has effect.

Miscellaneous

104

General information about land

The registrar may publish information about land in England and Wales if it appears to him to be information in which there is legitimate public interest.

105

Consultancy and advisory services

(1) The registrar may provide, or arrange for the provision of, consultancy or advisory services about the registration of land in England and Wales or elsewhere.

(2) The terms on which services are provided under this section by the registrar, in particular terms as to payment, shall be such as he thinks fit.

Incidental powers: companies

(1) If the registrar considers it expedient to do so in connection with his functions under section 69(3)(a), 92(1), 94 or 105(1) or paragraph 10 of Schedule 5, he may-

(a) form, or participate in the formation of, a company, or

(b) purchase, or invest in, a company.

(2) In this section-

"company" means a company within the meaning of the Companies Act 1985 (c. 6);

"invest" means invest in any way (whether by acquiring assets, securities or rights or otherwise).

(3) This section is without prejudice to any powers of the registrar exercisable otherwise than by virtue of this section.

PART 11

ADJUDICATION

The adjudicator

(1) The Lord Chancellor shall appoint a person to be the Adjudicator to Her Majesty's Land Registry.

(2) To be qualified for appointment under subsection (1), a person must have a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41)).

(3) Schedule 9 (which makes further provision about the adjudicator) has effect.

(1) The adjudicator has the following functions-

- (a) determining matters referred to him under section 73(7), and
- (b) determining appeals under paragraph 4 of Schedule 5.

(2) Also, the adjudicator may, on application, make any order which the High Court could make for the rectification or setting aside of a document which-

- (a) effects a qualifying disposition of a registered estate or charge,
- (b) is a contract to make such a disposition, or
- (c) effects a transfer of an interest which is the subject of a notice in the register.

(3) For the purposes of subsection (2)(a), a qualifying disposition is-

- (a) a registrable disposition, or
- (b) a disposition which creates an interest which may be the subject of a notice in the register.

(4) The general law about the effect of an order of the High Court for the rectification or setting aside of a document shall apply to an order under this section.

(1) Hearings before the adjudicator shall be held in public, except where he is satisfied that exclusion of the public is just and reasonable.

(2) Subject to that, rules may regulate the practice and procedure to be followed with respect to proceedings before the

adjudicator and matters incidental to or consequential on such proceedings.

(3) Rules under subsection (2) may, in particular, make provision about-

- (a) when hearings are to be held,
- (b) requiring persons to attend hearings to give evidence or to produce documents,
- (c) the form in which any decision of the adjudicator is to be given,
- (d) payment of costs of a party to proceedings by another party to the proceedings, and
- (e) liability for costs thrown away as the result of neglect or delay by a legal representative of a party to proceedings.

110

Functions in relation to disputes

(1) In proceedings on a reference under section 73(7), the adjudicator may, instead of deciding a matter himself, direct a party to the proceedings to commence proceedings within a specified time in the court for the purpose of obtaining the court's decision on the matter.

(2) Rules may make provision about the reference under subsection (1) of matters to the court and may, in particular, make provision about-

- (a) adjournment of the proceedings before the adjudicator pending the outcome of the proceedings before the court, and
- (b) the powers of the adjudicator in the event of failure to comply with a direction under subsection (1).

(3) Rules may make provision about the functions of the adjudicator in consequence of a decision on a reference under section 73(7) and may, in particular, make provision enabling the adjudicator to determine, or give directions about the determination of-

(a) the application to which the reference relates, or
(b) such other present or future application to the registrar as the rules may provide.

(4) If, in the case of a reference under section 73(7) relating to an application under paragraph 1 of Schedule 6, the adjudicator determines that it would be unconscionable because of an equity by estoppel for the registered proprietor to seek to dispossess the applicant, but that the circumstances are not such that the applicant ought to be registered as proprietor, the adjudicator-

(a) must determine how the equity due to the applicant is to be satisfied, and

(b) may for that purpose make any order that the High Court could make in the exercise of its equitable jurisdiction.

111

Appeals

(1) Subject to subsection (2), a person aggrieved by a decision of the adjudicator may appeal to the High Court.

(2) In the case of a decision on an appeal under paragraph 4 of Schedule 5, only appeal on a point of law is possible.

(3) If on an appeal under this section relating to an application under paragraph 1 of Schedule 6 the court determines that it would be unconscionable because of an equity by estoppel for the registered proprietor to seek to dispossess the applicant, but that the circumstances are not such that the applicant ought to be registered as proprietor, the court must determine how the equity due to the applicant is to be satisfied.

112

Enforcement of orders etc

A requirement of the adjudicator shall be enforceable as an order of the court.

113
Fees

The Lord Chancellor may by order-

(a) prescribe fees to be paid in respect of proceedings before the
adjudicator;

(b) make provision about the payment of prescribed fees.
114
Supplementary

Power to make rules under this Part is exercisable by the Lord Chancellor.

PART 12

MISCELLANEOUS AND GENERAL

Miscellaneous
115
Rights of pre-emption

(1) A right of pre-emption in relation to registered land has effect from the time of creation as an interest capable of binding successors in title (subject to the rules about the effect of dispositions on priority).

(2) This section has effect in relation to rights of pre-emption created on or after the day on which this section comes into force.

116
Proprietary estoppel and mere equities

It is hereby declared for the avoidance of doubt that, in relation to registered land, each of the following-

(a) an equity by estoppel, and

(b) a mere equity,

has effect from the time the equity arises as an interest capable of binding successors in title (subject to the rules about the effect of dispositions on priority).

117

Reduction in unregistered interests with automatic protection

(1) Paragraphs 10 to 14 of Schedules 1 and 3 shall cease to have effect at the end of the period of ten years beginning with the day on which those Schedules come into force.

(2) If made before the end of the period mentioned in subsection (1), no fee may be charged for-

(a) an application to lodge a caution against first registration by virtue of an interest falling within any of paragraphs 10 to 14 of Schedule 1, or

(b) an application for the entry in the register of a notice in respect of an interest falling within any of paragraphs 10 to 14 of Schedule 3.

118

Power to reduce qualifying term

(1) The Lord Chancellor may by order substitute for the term specified in any of the following provisions-

(a) section 3(3),

(b) section 4(1)(c)(i) and (2)(b),

(c) section 15(3)(a)(ii),

(d) section 27(2)(b)(i),

- (e) section 80(1)(b)(i),
 - (f) paragraph 1 of Schedule 1,
 - (g) paragraphs 4(1), 5(1) and 6(1) of Schedule 2, and
 - (h) paragraph 1 of Schedule 3,
- such shorter term as he thinks fit.

(2) An order under this section may contain such transitional provision as the Lord Chancellor thinks fit.

(3) Before making an order under this section, the Lord Chancellor must consult such persons as he considers appropriate.

119

Power to deregister manors

On the application of the proprietor of a registered manor, the registrar may remove the title to the manor from the register.

120

Conclusiveness of filed copies etc

(1) This section applies where-

(a) a disposition relates to land to which a registered estate relates, and

(b) an entry in the register relating to the registered estate refers to a document kept by the registrar which is not an original.

(2) As between the parties to the disposition, the document kept by the registrar is to be taken-

(a) to be correct, and

(b) to contain all the material parts of the original document.

(3) No party to the disposition may require production of the original document.

(4) No party to the disposition is to be affected by any provision of the original document which is not contained in the document kept by the registrar.

121

Forwarding of applications to registrar of companies

The Lord Chancellor may by rules make provision about the transmission by the registrar to the registrar of companies (within the meaning of the Companies Act 1985 (c. 6)) of applications under-

(a) Part 12 of that Act (registration of charges), or

(b) Chapter 3 of Part 23 of that Act (corresponding provision for overseas companies).

122

Repeal of Land Registry Act 1862

(1) The Land Registry Act 1862 (c. 53) shall cease to have effect.

(2) The registrar shall have custody of records of title made under that Act.

(3) The registrar may discharge his duty under subsection (2) by keeping the relevant information in electronic form.

(4) The registrar may on application provide a copy of any information included in a record of title made under that Act.

(5) Rules may make provision about applications for the exercise of the power conferred by subsection (4).

Offences etc.

Suppression of information

(1) A person commits an offence if in the course of proceedings relating to registration under this Act he suppresses information with the intention of-

(a) concealing a person's right or claim, or

(b) substantiating a false claim.

(2) A person guilty of an offence under this section is liable-

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine;

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.

Improper alteration of the registers

(1) A person commits an offence if he dishonestly induces another-

(a) to change the register of title or cautions register, or

(b) to authorise the making of such a change.

(2) A person commits an offence if he intentionally or recklessly makes an unauthorised change in the register of title or cautions register.

(3) A person guilty of an offence under this section is liable-

(a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine;

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory

maximum, or to both.

(4) In this section, references to changing the register of title include changing a document referred to in it.

125

Privilege against self-incrimination

(1) The privilege against self-incrimination, so far as relating to offences under this Act, shall not entitle a person to refuse to answer any question or produce any document or thing in any legal proceedings other than criminal proceedings.

(2) No evidence obtained under subsection (1) shall be admissible in any criminal proceedings under this Act against the person from whom it was obtained or that person's spouse.

Land registration rules

126

Miscellaneous and general powers

Schedule 10 (which contains miscellaneous and general land registration rule-making powers) has effect.

127

Exercise of powers

(1) Power to make land registration rules is exercisable by the Lord Chancellor with the advice and assistance of the Rule Committee.

(2) The Rule Committee is a body consisting of-

(a) a judge of the Chancery Division of the High Court nominated by the Lord Chancellor,

(b) the registrar,

- (c) a person nominated by the General Council of the Bar,
- (d) a person nominated by the Council of the Law Society,
- (e) a person nominated by the Council of Mortgage Lenders,
- (f) a person nominated by the Council of Licensed Conveyancers,
- (g) a person nominated by the Royal Institution of Chartered Surveyors,
- (h) a person with experience in, and knowledge of, consumer affairs,
- (i) any person nominated under subsection (3).

(3) The Lord Chancellor may nominate to be a member of the Rule Committee any person who appears to him to have qualifications or experience which would be of value to the committee in considering any matter with which it is concerned.

Supplementary

128

Rules, regulations and orders

(1) Any power of the Lord Chancellor to make rules, regulations or orders under this Act includes power to make different provision for different cases.

(2) Any power of the Lord Chancellor to make rules, regulations or orders under this Act is exercisable by statutory instrument.

(3) A statutory instrument containing-

(a) regulations under section 100(2), or

(b) an order under section 100(3), 102 or 113,

is to be laid before Parliament after being made.

(4) A statutory instrument containing-

- (a) land registration rules,
- (b) rules under Part 11 or section 121,
- (c) regulations under paragraph 5 of Schedule 9, or
- (d) an order under section 5(1), 62(9), 80(4), 118(1) or 130,

is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Rules under section 93 or paragraph 1, 2 or 3 of Schedule 5 shall not be made unless a draft of the rules has been laid before and approved by resolution of each House of Parliament.

129

Crown application

This Act binds the Crown.

130

Application to internal waters

This Act applies to land covered by internal waters of the United Kingdom which are-

(a) within England or Wales, or

(b) adjacent to England or Wales and specified for the purposes of this section by order made by the Lord Chancellor.

131

"Proprietor in possession"

(1) For the purposes of this Act, land is in the possession of the proprietor of a registered estate in land if it is physically in his

possession, or in that of a person who is entitled to be registered as the proprietor of the registered estate.

(2) In the case of the following relationships, land which is (or is treated as being) in the possession of the second-mentioned person is to be treated for the purposes of subsection (1) as in the possession of the first-mentioned person-

- (a) landlord and tenant;
- (b) mortgagor and mortgagee;
- (c) licensor and licensee;
- (d) trustee and beneficiary.

(3) In subsection (1), the reference to entitlement does not include entitlement under Schedule 6.

132

General interpretation

(1) In this Act-

"adjudicator" means the Adjudicator to Her Majesty's Land Registry;

"caution against first registration" means a caution lodged under section 15;

"cautions register" means the register kept under section 19(1);

"charge" means any mortgage, charge or lien for securing money or money's worth;

"demesne land" means land belonging to Her Majesty in right of the Crown which is not held for an estate in fee simple absolute in possession;

"land" includes-

- (a) buildings and other structures,

(b) land covered with water, and

(c) mines and minerals, whether or not held with the surface;

"land registration rules" means any rules under this Act, other than rules under section 93, Part 11, section 121 or paragraph 1, 2 or 3 of Schedule 5;

"legal estate" has the same meaning as in the Law of Property Act 1925 (c. 20);

"legal mortgage" has the same meaning as in the Law of Property Act 1925;

"mines and minerals" includes any strata or seam of minerals or substances in or under any land, and powers of working and getting any such minerals or substances;

"registrar" means the Chief Land Registrar;

"register" means the register of title, except in the context of cautions against first registration;

"registered" means entered in the register;

"registered charge" means a charge the title to which is entered in the register;

"registered estate" means a legal estate the title to which is entered in the register, other than a registered charge;

"registered land" means a registered estate or registered charge;

"registrable disposition" means a disposition which is required to be completed by registration under section 27;

"requirement of registration" means the requirement of registration under section 4;

"sub-charge" means a charge under section 23(2)(b);

"term of years absolute" has the same meaning as in the Law of Property Act 1925 (c. 20);

"valuable consideration" does not include marriage consideration or a nominal consideration in money.

(2) In subsection (1), in the definition of "demesne land", the reference to land belonging to Her Majesty does not include land in relation to which a freehold estate in land has determined, but in relation to which there has been no act of entry or management by the Crown.

(3) In this Act-

(a) references to the court are to the High Court or a county court,

(b) references to an interest affecting an estate or charge are to an adverse right affecting the title to the estate or charge,
and

(c) references to the right to object to an application to the registrar are to the right under section 73.

Final provisions

133

Minor and consequential amendments

Schedule 11 (which makes minor and consequential amendments) has effect.

134

Transition

(1) The Lord Chancellor may by order make such transitional provisions and savings as he thinks fit in connection with the coming into force of any of the provisions of this Act.

(2) Schedule 12 (which makes transitional provisions and savings) has effect.

(3) Nothing in Schedule 12 affects the power to make transitional provisions and savings under subsection (1); and an order under that subsection may modify any provision made by that Schedule.

135

Repeals

The enactments specified in Schedule 13 (which include certain provisions which are already spent) are hereby repealed to the extent specified there.

136

Short title, commencement and extent

(1) This Act may be cited as the Land Registration Act 2002.

(2) This Act shall come into force on such day as the Lord Chancellor may by order appoint, and different days may be so appointed for different purposes.

(3) Subject to subsection (4), this Act extends to England and Wales only.

(4) Any amendment or repeal by this Act of an existing enactment, other than-

(a) section 37 of the Requisitioned Land and War Works Act 1945 (c. 43), and

(b) Schedule 2A to the Building Societies Act 1986 (c. 53),
has the same extent as the enactment amended or repealed.

SCHEDULES

SCHEDULE 1

UNREGISTERED INTERESTS WHICH
OVERRIDE FIRST REGISTRATION

Leasehold estates in land

- 1 A leasehold estate in land granted for a term not exceeding seven years from the date of the grant, except for a lease the grant of which falls within section 4(1) (d), (e) or (f).

Interests of persons in actual occupation

- 2 An interest belonging to a person in actual occupation, so far as relating to land of which he is in actual occupation, except for an interest under a settlement under the Settled Land Act 1925 (c. 18).

Easements and profits a prendre

- 3 A legal easement or profit a prendre.

Customary and public rights

- 4 A customary right.
- 5 A public right.

Local land charges

- 6 A local land charge.

Mines and minerals

- 7 An interest in any coal or coal mine, the rights attached to any such interest and the rights of any person under section 38, 49 or 51 of the Coal Industry Act 1994 (c. 21).
- 8 In the case of land to which title was registered before 1898, rights to mines and minerals (and incidental rights) created before 1898.
- 9 In the case of land to which title was registered between 1898 and 1925 inclusive,

rights to mines and minerals (and incidental rights) created before the date of registration of the title.

Miscellaneous

- 10 A franchise.
- 11 A manorial right.
- 12 A right to rent which was reserved to the Crown on the granting of any freehold estate (whether or not the right is still vested in the Crown).
- 13 A non-statutory right in respect of an embankment or sea or river wall.
- 14 A right to payment in lieu of tithe.

SCHEDULE 2

REGISTRABLE DISPOSITIONS: REGISTRATION REQUIREMENTS

PART 1

REGISTERED ESTATES

Introductory

- 1 This Part deals with the registration requirements relating to those dispositions of registered estates which are required to be completed by registration.

Transfer

- 2 (1) In the case of a transfer of whole or part, the transferee, or his successor in title, must be entered in the register as the proprietor.

(2) In the case of a transfer of part, such details of the transfer as rules may provide must be entered in the register in relation to the registered estate out of which the transfer is made.

Lease of estate in land

- 3 (1) This paragraph applies to a disposition consisting of the grant out of an estate in land of a term of years absolute.

(2) In the case of a disposition to which this paragraph applies-

- (a) the grantee, or his successor in title, must be entered in the register as the proprietor of the lease, and
- (b) a notice in respect of the lease must be entered in the register.

Lease of franchise or manor

- 4 (1) This paragraph applies to a disposition consisting of the grant out of a franchise or manor of a lease for a term of more than seven years from the date of the grant.

(2) In the case of a disposition to which this paragraph applies-

- (a) the grantee, or his successor in title, must be entered in the register as the proprietor of the lease, and
- (b) a notice in respect of the lease must be entered in the register.

- 5 (1) This paragraph applies to a disposition consisting of the grant out of a franchise or manor of a lease for a term not exceeding seven years from the date of the grant.

(2) In the case of a disposition to which this paragraph applies, a notice in respect of the lease must be entered in the register.

Creation of independently registrable legal interest

- 6 (1) This paragraph applies to a disposition consisting of the creation of a legal rentcharge or profit a prendre in gross, other than one created for, or for an interest equivalent to, a term of years absolute not exceeding seven years from the date of creation.

(2) In the case of a disposition to which this paragraph applies-

(a) the grantee, or his successor in title, must be entered in the register as the proprietor of the interest created, and

(b) a notice in respect of the interest created must be entered in the register.

(3) In sub-paragraph (1), the reference to a legal rentcharge or profit a prendre in gross is to one falling within section 1(2) of the Law of Property Act 1925 (c. 20).

Creation of other legal interest

7 (1) This paragraph applies to a disposition which-

(a) consists of the creation of an interest of a kind falling within section 1(2)(a), (b) or (c) of the Law of Property Act 1925, and

(b) is not a disposition to which paragraph 4, 5 or 6 applies.

(2) In the case of a disposition to which this paragraph applies-

(a) a notice in respect of the interest created must be entered in the register, and

(b) if the interest is created for the benefit of a registered estate, the proprietor of the registered estate must be entered in the register as its proprietor.

(3) Rules may provide for sub-paragraph (2) to have effect with modifications in relation to a right of entry over or in respect of a term of years absolute.

Creation of legal charge

8 In the case of the creation of a charge, the chargee, or his successor in title, must be entered in the register as the proprietor of the charge.

PART 2

REGISTERED CHARGES

Introductory

9 This Part deals with the registration requirements relating to those

dispositions of registered charges which are required to be completed by registration.

Transfer

- 10 In the case of a transfer, the transferee, or his successor in title, must be entered in the register as the proprietor.

Creation of sub-charge

- 11 In the case of the creation of a sub-charge, the sub-chargee, or his successor in title, must be entered in the register as the proprietor of the sub-charge.

SCHEDULE 3

UNREGISTERED INTERESTS WHICH OVERRIDE REGISTERED DISPOSITIONS

Leasehold estates in land

- 1 A leasehold estate in land granted for a term not exceeding seven years from the date of the grant, except for-
 - (a) a lease the grant of which falls within section 4(1)(d), (e) or (f);
 - (b) a lease the grant of which constitutes a registrable disposition.

Interests of persons in actual occupation

- 2 An interest belonging at the time of the disposition to a person in actual occupation, so far as relating to land of which he is in actual occupation, except for-
 - (a) an interest under a settlement under the Settled Land Act 1925 (c. 18);
 - (b) an interest of a person of whom inquiry was made before the disposition and who failed to disclose the right when he could reasonably have been expected to do so;
 - (c) an interest-

- (i) which belongs to a person whose occupation would not have been obvious on a reasonably careful inspection of the land at the time of the disposition, and
- (ii) of which the person to whom the disposition is made does not have actual knowledge at that time;
- (d) a leasehold estate in land granted to take effect in possession after the end of the period of three months beginning with the date of the grant and which has not taken effect in possession at the time of the disposition.

Easements and profits a prendre

- 3 (1) A legal easement or profit a prendre, except for an easement, or a profit a prendre which is not registered under the Commons Registration Act 1965 (c. 64), which at the time of the disposition-

(a) is not within the actual knowledge of the person to whom the disposition is made, and

(b) would not have been obvious on a reasonably careful inspection of the land over which the easement or profit is exercisable.

(2) The exception in sub-paragraph (1) does not apply if the person entitled to the easement or profit proves that it has been exercised in the period of one year ending with the day of the disposition.

Customary and public rights

- 4 A customary right.

- 5 A public right.

Local land charges

- 6 A local land charge.

Mines and minerals

- 7 An interest in any coal or coal mine, the rights attached to any such interest and the rights of any person under section 38, 49 or 51 of the Coal Industry Act 1994 (c. 21).

- 8 In the case of land to which title was registered before 1898, rights to mines and minerals (and incidental rights) created before 1898.
- 9 In the case of land to which title was registered between 1898 and 1925 inclusive, rights to mines and minerals (and incidental rights) created before the date of registration of the title.

Miscellaneous

- 10 A franchise.
- 11 A manorial right.
- 12 A right to rent which was reserved to the Crown on the granting of any freehold estate (whether or not the right is still vested in the Crown).
- 13 A non-statutory right in respect of an embankment or sea or river wall.
- 14 A right to payment in lieu of tithe.

SCHEDULE 4

ALTERATION OF THE REGISTER

Introductory

- 1 In this Schedule, references to rectification, in relation to alteration of the register, are to alteration which-

- (a) involves the correction of a mistake, and
- (b) prejudicially affects the title of a registered proprietor.

Alteration pursuant to a court order

- 2 (1) The court may make an order for alteration of the register for the purpose of-

- (a) correcting a mistake,

- (b) bringing the register up to date, or
- (c) giving effect to any estate, right or interest excepted from the effect of registration.

(2) An order under this paragraph has effect when served on the registrar to impose a duty on him to give effect to it.

3 (1) This paragraph applies to the power under paragraph 2, so far as relating to rectification.

(2) If alteration affects the title of the proprietor of a registered estate in land, no order may be made under paragraph 2 without the proprietor's consent in relation to land in his possession unless-

- (a) he has by fraud or lack of proper care caused or substantially contributed to the mistake, or
- (b) it would for any other reason be unjust for the alteration not to be made.

(3) If in any proceedings the court has power to make an order under paragraph 2, it must do so, unless there are exceptional circumstances which justify its not doing so.

(4) In sub-paragraph (2), the reference to the title of the proprietor of a registered estate in land includes his title to any registered estate which subsists for the benefit of the estate in land.

4 Rules may-

- (a) make provision about the circumstances in which there is a duty to exercise the power under paragraph 2, so far as not relating to rectification;
- (b) make provision about the form of an order under paragraph 2;
- (c) make provision about service of such an order.

Alteration otherwise than pursuant to a court order

5 The registrar may alter the register for the purpose of-

- (a) correcting a mistake,
- (b) bringing the register up to date,
- (c) giving effect to any estate, right or interest excepted from the effect of registration, or

(d) removing a superfluous entry.

6 (1) This paragraph applies to the power under paragraph 5, so far as relating to rectification.

(2) No alteration affecting the title of the proprietor of a registered estate in land may be made under paragraph 5 without the proprietor's consent in relation to land in his possession unless-

(a) he has by fraud or lack of proper care caused or substantially contributed to the mistake, or

(b) it would for any other reason be unjust for the alteration not to be made.

(3) If on an application for alteration under paragraph 5 the registrar has power to make the alteration, the application must be approved, unless there are exceptional circumstances which justify not making the alteration.

(4) In sub-paragraph (2), the reference to the title of the proprietor of a registered estate in land includes his title to any registered estate which subsists for the benefit of the estate in land.

7 Rules may-

(a) make provision about the circumstances in which there is a duty to exercise the power under paragraph 5, so far as not relating to rectification;

(b) make provision about how the register is to be altered in exercise of that power;

(c) make provision about applications for alteration under that paragraph, including provision requiring the making of such applications;

(d) make provision about procedure in relation to the exercise of that power, whether on application or otherwise.

Rectification and derivative interests

8 The powers under this Schedule to alter the register, so far as relating to rectification, extend to changing for the future the priority of any interest affecting the registered estate or charge concerned.

Costs in non-rectification cases

9 (1) If the register is altered under this Schedule in a case not involving rectification, the registrar may pay such amount as he thinks fit in respect of any costs or expenses reasonably incurred by a person in connection with the alteration which have been incurred with the consent of the registrar.

(2) The registrar may make a payment under sub-paragraph (1) notwithstanding the absence of consent if-

(a) it appears to him-

(i) that the costs or expenses had to be incurred urgently, and

(ii) that it was not reasonably practicable to apply for his consent, or

(b) he has subsequently approved the incurring of the costs or expenses.

SCHEDULE 5

LAND REGISTRY NETWORK

Access to network

1 (1) A person who is not a member of the land registry may only have access to a land registry network under authority conferred by means of an agreement with the registrar.

(2) An agreement for the purposes of sub-paragraph (1) ("network access agreement") may authorise access for-

(a) the communication, posting or retrieval of information,

(b) the making of changes to the register of title or cautions register,

(c) the issue of official search certificates,

(d) the issue of official copies, or

(e) such other conveyancing purposes as the registrar thinks fit.

(3) Rules may regulate the use of network access agreements to confer authority to carry out functions of the registrar.

(4) The registrar must, on application, enter into a network access agreement with the applicant if the applicant meets such criteria as rules may provide.

Terms of access

2 (1) The terms on which access to a land registry network is authorised shall be such as the registrar thinks fit, subject to sub-paragraphs (3) and (4), and may, in particular, include charges for access.

(2) The power under sub-paragraph (1) may be used, not only for the purpose of regulating the use of the network, but also for-

(a) securing that the person granted access uses the network to carry on such qualifying transactions as may be specified in, or under, the agreement,

(b) such other purpose relating to the carrying on of qualifying transactions as rules may provide, or

(c) enabling network transactions to be monitored.

(3) It shall be a condition of a network access agreement which enables the person granted access to use the network to carry on qualifying transactions that he must comply with any rules for the time being in force under paragraph 5.

(4) Rules may regulate the terms on which access to a land registry network is authorised.

Termination of access

3 (1) The person granted access by a network access agreement may terminate the agreement at any time by notice to the registrar.

(2) Rules may make provision about the termination of a network access agreement by the registrar and may, in particular, make provision about-

(a) the grounds of termination,

(b) the procedure to be followed in relation to termination, and

(c) the suspension of termination pending appeal.

(3) Without prejudice to the generality of sub-paragraph (2)(a), rules under that provision may authorise the registrar to terminate a network access agreement if the person granted access-

- (a) fails to comply with the terms of the agreement,
- (b) ceases to be a person with whom the registrar would be required to enter into a network access agreement conferring the authority which the agreement confers, or
- (c) does not meet such conditions as the rules may provide.

Appeals

- 4 (1) A person who is aggrieved by a decision of the registrar with respect to entry into, or termination of, a network access agreement may appeal against the decision to the adjudicator.

(2) On determining an appeal under this paragraph, the adjudicator may give such directions as he considers appropriate to give effect to his determination.

(3) Rules may make provision about appeals under this paragraph.

Network transaction rules

- 5 (1) Rules may make provision about how to go about network transactions.

(2) Rules under sub-paragraph (1) may, in particular, make provision about dealings with the land registry, including provision about-

- (a) the procedure to be followed, and
- (b) the supply of information (including information about unregistered interests).

Overriding nature of network access obligations

- 6 To the extent that an obligation not owed under a network access agreement conflicts with an obligation owed under such an agreement by the person granted access, the obligation not owed under the agreement is discharged.

Do-it-yourself conveyancing

- 7 (1) If there is a land registry network, the registrar has a duty to provide such assistance as he thinks appropriate for the purpose of enabling persons engaged in qualifying transactions who wish to do their own conveyancing to do so by means of the network.

(2) The duty under sub-paragraph (1) does not extend to the provision of legal advice.

Presumption of authority

- 8 Where-

(a) a person who is authorised under a network access agreement to do so uses the network for the making of a disposition or contract, and

(b) the document which purports to effect the disposition or to be the contract-

(i) purports to be authenticated by him as agent, and

(ii) contains a statement to the effect that he is acting under the authority of his principal,

he shall be deemed, in favour of any other party, to be so acting.

Management of network transactions

- 9 (1) The registrar may use monitoring information for the purpose of managing network transactions and may, in particular, disclose such information to persons authorised to use the network, and authorise the further disclosure of information so disclosed, if he considers it is necessary or desirable to do so.

(2) The registrar may delegate his functions under sub-paragraph (1), subject to such conditions as he thinks fit.

(3) In sub-paragraph (1), "monitoring information" means information provided in pursuance of provision in a network access agreement included under paragraph 2(2)(c).

Supplementary

- 10 The registrar may provide, or arrange for the provision of, education and training in relation to the use of a land registry network.
- 11 (1) Power to make rules under paragraph 1, 2 or 3 is exercisable by the Lord Chancellor.
- (2) Before making such rules, the Lord Chancellor must consult such persons as he considers appropriate.
- (3) In making rules under paragraph 1 or 3(2)(a), the Lord Chancellor must have regard, in particular, to the need to secure-
- (a) the confidentiality of private information kept on the network,
 - (b) competence in relation to the use of the network (in particular for the purpose of making changes), and
 - (c) the adequate insurance of potential liabilities in connection with use of the network.
- 12 In this Schedule-
- "land registry network" means a network provided under section 92(1);
- "network access agreement" has the meaning given by paragraph 1(2);
- "network transaction" means a transaction carried on by means of a land registry network;
- "qualifying transaction" means a transaction which-
- (a) involves registration, and
 - (b) is capable of being effected electronically.

SCHEDULE 6

REGISTRATION OF ADVERSE POSSESSOR

Right to apply for registration

- 1 (1) A person may apply to the registrar to be registered as the

proprietor of a registered estate in land if he has been in adverse possession of the estate for the period of ten years ending on the date of the application.

(2) A person may also apply to the registrar to be registered as the proprietor of a registered estate in land if-

(a) he has in the period of six months ending on the date of the application ceased to be in adverse possession of the estate because of eviction by the registered proprietor, or a person claiming under the registered proprietor,

(b) on the day before his eviction he was entitled to make an application under sub-paragraph (1), and

(c) the eviction was not pursuant to a judgment for possession.

(3) However, a person may not make an application under this paragraph if-

(a) he is a defendant in proceedings which involve asserting a right to possession of the land, or

(b) judgment for possession of the land has been given against him in the last two years.

(4) For the purposes of sub-paragraph (1), the estate need not have been registered throughout the period of adverse possession.

Notification of application

2 (1) The registrar must give notice of an application under paragraph 1 to-

(a) the proprietor of the estate to which the application relates,

(b) the proprietor of any registered charge on the estate,

(c) where the estate is leasehold, the proprietor of any superior registered estate,

(d) any person who is registered in accordance with rules as a person to be notified under this paragraph, and

(e) such other persons as rules may provide.

(2) Notice under this paragraph shall include notice of the effect of paragraph 4.

Treatment of application

- 3 (1) A person given notice under paragraph 2 may require that the application to which the notice relates be dealt with under paragraph 5.

(2) The right under this paragraph is exercisable by notice to the registrar given before the end of such period as rules may provide.

- 4 If an application under paragraph 1 is not required to be dealt with under paragraph 5, the applicant is entitled to be entered in the register as the new proprietor of the estate.

- 5 (1) If an application under paragraph 1 is required to be dealt with under this paragraph, the applicant is only entitled to be registered as the new proprietor of the estate if any of the following conditions is met.

(2) The first condition is that-

(a) it would be unconscionable because of an equity by estoppel for the registered proprietor to seek to dispossess the applicant, and

(b) the circumstances are such that the applicant ought to be registered as the proprietor.

(3) The second condition is that the applicant is for some other reason entitled to be registered as the proprietor of the estate.

(4) The third condition is that-

(a) the land to which the application relates is adjacent to land belonging to the applicant,

(b) the exact line of the boundary between the two has not been determined under rules under section 60,

(c) for at least ten years of the period of adverse possession ending on the date of the application, the applicant (or any predecessor in title) reasonably believed that the land to which the application relates belonged to him, and

(d) the estate to which the application relates was registered more than one year prior to the date of the application.

(5) In relation to an application under paragraph 1(2), this paragraph has effect as if the reference in sub-paragraph (4)(c) to

the date of the application were to the day before the date of the applicant's eviction.

Right to make further application for registration

- 6 (1) Where a person's application under paragraph 1 is rejected, he may make a further application to be registered as the proprietor of the estate if he is in adverse possession of the estate from the date of the application until the last day of the period of two years beginning with the date of its rejection.

(2) However, a person may not make an application under this paragraph if-

- (a) he is a defendant in proceedings which involve asserting a right to possession of the land,
- (b) judgment for possession of the land has been given against him in the last two years, or
- (c) he has been evicted from the land pursuant to a judgment for possession.

- 7 If a person makes an application under paragraph 6, he is entitled to be entered in the register as the new proprietor of the estate.

Restriction on applications

- 8 (1) No one may apply under this Schedule to be registered as the proprietor of an estate in land during, or before the end of twelve months after the end of, any period in which the existing registered proprietor is for the purposes of the Limitation (Enemies and War Prisoners) Act 1945 (8 & 9 Geo. 6 c. 16)-

- (a) an enemy, or
- (b) detained in enemy territory.

(2) No-one may apply under this Schedule to be registered as the proprietor of an estate in land during any period in which the existing registered proprietor is-

- (a) unable because of mental disability to make decisions about issues of the kind to which such an application would give rise, or
- (b) unable to communicate such decisions because of mental disability or physical impairment.

(3) For the purposes of sub-paragraph (2), "mental disability" means a disability or disorder of the mind or brain, whether permanent or temporary, which results in an impairment or disturbance of mental functioning.

(4) Where it appears to the registrar that sub-paragraph (1) or (2) applies in relation to an estate in land, he may include a note to that effect in the register.

Effect of registration

9 (1) Where a person is registered as the proprietor of an estate in land in pursuance of an application under this Schedule, the title by virtue of adverse possession which he had at the time of the application is extinguished.

(2) Subject to sub-paragraph (3), the registration of a person under this Schedule as the proprietor of an estate in land does not affect the priority of any interest affecting the estate.

(3) Subject to sub-paragraph (4), where a person is registered under this Schedule as the proprietor of an estate, the estate is vested in him free of any registered charge affecting the estate immediately before his registration.

(4) Sub-paragraph (3) does not apply where registration as proprietor is in pursuance of an application determined by reference to whether any of the conditions in paragraph 5 applies.

Apportionment and discharge of charges

10 (1) Where-

(a) a registered estate continues to be subject to a charge notwithstanding the registration of a person under this Schedule as the proprietor, and

(b) the charge affects property other than the estate, the proprietor of the estate may require the chargee to apportion the amount secured by the charge at that time between the estate and the other property on the basis of their respective values.

(2) The person requiring the apportionment is entitled to a

discharge of his estate from the charge on payment of-

- (a) the amount apportioned to the estate, and
- (b) the costs incurred by the chargee as a result of the apportionment.

(3) On a discharge under this paragraph, the liability of the chargor to the chargee is reduced by the amount apportioned to the estate.

(4) Rules may make provision about apportionment under this paragraph, in particular, provision about-

- (a) procedure,
- (b) valuation,
- (c) calculation of costs payable under sub-paragraph (2)(b), and
- (d) payment of the costs of the chargor.

Meaning of "adverse possession"

11 (1) A person is in adverse possession of an estate in land for the purposes of this Schedule if, but for section 96, a period of limitation under section 15 of the Limitation Act 1980 (c. 58) would run in his favour in relation to the estate.

(2) A person is also to be regarded for those purposes as having been in adverse possession of an estate in land-

- (a) where he is the successor in title to an estate in the land, during any period of adverse possession by a predecessor in title to that estate, or
- (b) during any period of adverse possession by another person which comes between, and is continuous with, periods of adverse possession of his own.

(3) In determining whether for the purposes of this paragraph a period of limitation would run under section 15 of the Limitation Act 1980, there are to be disregarded-

- (a) the commencement of any legal proceedings, and
- (b) paragraph 6 of Schedule 1 to that Act.

Trusts

- 12 A person is not to be regarded as being in adverse possession of an estate for the purposes of this Schedule at any time when the estate is subject to a trust, unless the interest of each of the beneficiaries in the estate is an interest in possession.

Crown foreshore

- 13 (1) Where-

- (a) a person is in adverse possession of an estate in land,
- (b) the estate belongs to Her Majesty in right of the Crown or the Duchy of Lancaster or to the Duchy of Cornwall, and
- (c) the land consists of foreshore,

paragraph 1(1) is to have effect as if the reference to ten years were to sixty years.

(2) For the purposes of sub-paragraph (1), land is to be treated as foreshore if it has been foreshore at any time in the previous ten years.

(3) In this paragraph, "foreshore" means the shore and bed of the sea and of any tidal water, below the line of the medium high tide between the spring and neap tides.

Rentcharges

- 14 Rules must make provision to apply the preceding provisions of this Schedule to registered rentcharges, subject to such modifications and exceptions as the rules may provide.

Procedure

- 15 Rules may make provision about the procedure to be followed pursuant to an application under this Schedule.

SCHEDULE 7

THE LAND REGISTRY

Holding of office by Chief Land Registrar

- 1 (1) The registrar may at any time resign his office by written notice to the Lord Chancellor.

(2) The Lord Chancellor may remove the registrar from office if he is unable or unfit to discharge the functions of office.

(3) Subject to the above, a person appointed to be the registrar is to hold and vacate office in accordance with the terms of his appointment and, on ceasing to hold office, is eligible for reappointment.

Remuneration etc. of Chief Land Registrar

- 2 (1) The Lord Chancellor shall pay the registrar such remuneration, and such travelling and other allowances, as the Lord Chancellor may determine.

(2) The Lord Chancellor shall-
 - (a) pay such pension, allowances or gratuities as he may determine to or in respect of a person who is or has been the registrar, or
 - (b) make such payments as he may determine towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person.
(3) If, when a person ceases to be the registrar, the Lord Chancellor determines that there are special circumstances which make it right that the person should receive compensation, the Lord Chancellor may pay to the person by way of compensation a sum of such amount as he may determine.

Staff

- 3 (1) The registrar may appoint such staff as he thinks fit.

(2) The terms and conditions of appointments under this paragraph shall be such as the registrar, with the approval of the Minister for the Civil Service, thinks fit.

Indemnity for members

- 4 No member of the land registry is to be liable in damages for anything done or omitted in the discharge or purported discharge of any function relating to land registration, unless it is shown that the act or omission was in bad faith.

Seal

- 5 The land registry is to continue to have a seal and any document purporting to be sealed with it is to be admissible in evidence without any further or other proof.

Documentary evidence

- 6 The Documentary Evidence Act 1868 (c. 37) has effect as if-
 - (a) the registrar were included in the first column of the Schedule to that Act,
 - (b) the registrar and any person authorised to act on his behalf were mentioned in the second column of that Schedule, and
 - (c) the regulations referred to in that Act included any form or direction issued by the registrar or by any such person.

Parliamentary disqualification

- 7 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (other disqualifying offices), there is inserted at the appropriate place-

"Chief Land Registrar.";

and a corresponding amendment is made in Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25).

SCHEDULE 8

INDEMNITIES

Entitlement

- 1 (1) A person is entitled to be indemnified by the registrar if he suffers loss by reason of-
 - (a) rectification of the register,
 - (b) a mistake whose correction would involve rectification of the register,
 - (c) a mistake in an official search,
 - (d) a mistake in an official copy,
 - (e) a mistake in a document kept by the registrar which is not an original and is referred to in the register,
 - (f) the loss or destruction of a document lodged at the registry for inspection or safe custody,
 - (g) a mistake in the cautions register, or
 - (h) failure by the registrar to perform his duty under section 50.
- (2) For the purposes of sub-paragraph (1)(a)-
 - (a) any person who suffers loss by reason of the change of title under section 62 is to be regarded as having suffered loss by reason of rectification of the register, and
 - (b) the proprietor of a registered estate or charge claiming in good faith under a forged disposition is, where the register is rectified, to be regarded as having suffered loss by reason of such rectification as if the disposition had not been forged.
- (3) No indemnity under sub-paragraph (1)(b) is payable until a decision has been made about whether to alter the register for the purpose of correcting the mistake; and the loss suffered by reason of the mistake is to be determined in the light of that decision.

Mines and minerals

- 2 No indemnity is payable under this Schedule on account of-
 - (a) any mines or minerals, or
 - (b) the existence of any right to work or get mines or minerals,

unless it is noted in the register that the title to the registered estate concerned includes the mines or minerals.

Costs

- 3 (1) In respect of loss consisting of costs or expenses incurred by the claimant in relation to the matter, an indemnity under this Schedule is payable only on account of costs or expenses reasonably incurred by the claimant with the consent of the registrar.

(2) The requirement of consent does not apply where-

(a) the costs or expenses must be incurred by the claimant urgently, and

(b) it is not reasonably practicable to apply for the registrar's consent.

(3) If the registrar approves the incurring of costs or expenses after they have been incurred, they shall be treated for the purposes of this paragraph as having been incurred with his consent.

- 4 (1) If no indemnity is payable to a claimant under this Schedule, the registrar may pay such amount as he thinks fit in respect of any costs or expenses reasonably incurred by the claimant in connection with the claim which have been incurred with the consent of the registrar.

(2) The registrar may make a payment under sub-paragraph (1) notwithstanding the absence of consent if-

(a) it appears to him-

(i) that the costs or expenses had to be incurred urgently, and

(ii) that it was not reasonably practicable to apply for his consent, or

(b) he has subsequently approved the incurring of the costs or expenses.

Claimant's fraud or lack of care

- 5 (1) No indemnity is payable under this Schedule on account of any loss suffered by a claimant-

(a) wholly or partly as a result of his own fraud, or

(b) wholly as a result of his own lack of proper care.

(2) Where any loss is suffered by a claimant partly as a result of his own lack of proper care, any indemnity payable to him is to be reduced to such extent as is fair having regard to his share in the responsibility for the loss.

(3) For the purposes of this paragraph any fraud or lack of care on the part of a person from whom the claimant derives title (otherwise than under a disposition for valuable consideration which is registered or protected by an entry in the register) is to be treated as if it were fraud or lack of care on the part of the claimant.

Valuation of estates etc.

6 Where an indemnity is payable in respect of the loss of an estate, interest or charge, the value of the estate, interest or charge for the purposes of the indemnity is to be regarded as not exceeding-

(a) in the case of an indemnity under paragraph 1(1)(a), its value immediately before rectification of the register (but as if there were to be no rectification), and

(b) in the case of an indemnity under paragraph 1(1)(b), its value at the time when the mistake which caused the loss was made.

Determination of indemnity by court

7 (1) A person may apply to the court for the determination of any question as to-

(a) whether he is entitled to an indemnity under this Schedule, or

(b) the amount of such an indemnity.

(2) Paragraph 3(1) does not apply to the costs of an application to the court under this paragraph or of any legal proceedings arising out of such an application.

Time limits

8 For the purposes of the Limitation Act 1980 (c. 58)-

(a) a liability to pay an indemnity under this Schedule is a simple contract debt, and

(b) the cause of action arises at the time when the claimant knows, or but for his own default might have known, of the existence of his claim.

Interest

9 Rules may make provision about the payment of interest on an indemnity under this Schedule, including-

- (a) the circumstances in which interest is payable, and
- (b) the periods for and rates at which it is payable.

Recovery of indemnity by registrar

10 (1) Where an indemnity under this Schedule is paid to a claimant in respect of any loss, the registrar is entitled (without prejudice to any other rights he may have)-

- (a) to recover the amount paid from any person who caused or substantially contributed to the loss by his fraud, or
- (b) for the purpose of recovering the amount paid, to enforce the rights of action referred to in sub-paragraph (2).

(2) Those rights of action are-

- (a) any right of action (of whatever nature and however arising) which the claimant would have been entitled to enforce had the indemnity not been paid, and
- (b) where the register has been rectified, any right of action (of whatever nature and however arising) which the person in whose favour the register has been rectified would have been entitled to enforce had it not been rectified.

(3) References in this paragraph to an indemnity include interest paid on an indemnity under rules under paragraph 9.

Interpretation

11 (1) For the purposes of this Schedule, references to a mistake in something include anything mistakenly omitted from it as well as anything mistakenly included in it.

(2) In this Schedule, references to rectification of the register are to alteration of the register which-

- (a) involves the correction of a mistake, and
- (b) prejudicially affects the title of a registered proprietor

SCHEDULE 9

THE ADJUDICATOR

Holding of office

- 1 (1) The adjudicator may at any time resign his office by written notice to the Lord Chancellor.

(2) The Lord Chancellor may remove the adjudicator from office on the ground of incapacity or misbehaviour.

(3) Section 26 of the Judicial Pensions and Retirement Act 1993 (c. 8) (compulsory retirement at 70, subject to the possibility of annual extension up to 75) applies to the adjudicator.

(4) Subject to the above, a person appointed to be the adjudicator is to hold and vacate office in accordance with the terms of his appointment and, on ceasing to hold office, is eligible for reappointment.

Remuneration

- 2 (1) The Lord Chancellor shall pay the adjudicator such remuneration, and such other allowances, as the Lord Chancellor may determine.

(2) The Lord Chancellor shall-
 - (a) pay such pension, allowances or gratuities as he may determine to or in respect of a person who is or has been the adjudicator, or
 - (b) make such payments as he may determine towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person.

(3) Sub-paragraph (2) does not apply if the office of adjudicator is a qualifying judicial office within the meaning of the Judicial Pensions and Retirement Act 1993.

(4) If, when a person ceases to be the adjudicator, the Lord Chancellor determines that there are special circumstances which make it right that the person should receive compensation, the Lord Chancellor may pay to the person by way of compensation a sum of such amount as he may determine.

Staff

3 (1) The adjudicator may appoint such staff as he thinks fit.

(2) The terms and conditions of appointments under this paragraph shall be such as the adjudicator, with the approval of the Minister for the Civil Service, thinks fit.

Conduct of business

4 (1) Subject to sub-paragraph (2), any function of the adjudicator may be carried out by any member of his staff who is authorised by him for the purpose.

(2) In the case of functions which are not of an administrative character, sub-paragraph (1) only applies if the member of staff has a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41)).

5 The Lord Chancellor may by regulations make provision about the carrying out of functions during any vacancy in the office of adjudicator.

Finances

6 The Lord Chancellor shall be liable to reimburse expenditure incurred by the adjudicator in the discharge of his functions.

7 The Lord Chancellor may require the registrar to make payments towards expenses of the Lord Chancellor under this Schedule.

Application of Tribunals and Inquiries Act 1992

- 8 In Schedule 1 to the Tribunal and Inquiries Act 1992 (c. 53) (tribunals under the supervision of the Council on Tribunals), after paragraph 27 there is inserted-

"Land Registration
27B. The Adjudicator to Her Majesty's Land Registry."

Parliamentary disqualification

- 9 In Part 1 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (judicial offices), there is inserted at the end-

"Adjudicator to Her Majesty's Land Registry.";

and a corresponding amendment is made in Part 1 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25).

SCHEDULE 10

MISCELLANEOUS AND GENERAL POWERS

PART 1

MISCELLANEOUS

Dealings with estates subject to compulsory first registration

- 1 (1) Rules may make provision-
- (a) applying this Act to a pre-registration dealing with a registrable legal estate as if the dealing had taken place after the date of first registration of the estate, and
 - (b) about the date on which registration of the dealing is effective.
- (2) For the purposes of sub-paragraph (1)-
- (a) a legal estate is registrable if a person is subject to a

duty under section 6 to make an application to be registered as the proprietor of it, and

(b) a pre-registration dealing is one which takes place before the making of such an application.

Regulation of title matters between sellers and buyers

2 (1) Rules may make provision about the obligations with respect to-

(a) proof of title, or

(b) perfection of title,

of the seller under a contract for the transfer, or other disposition, for valuable consideration of a registered estate or charge.

(2) Rules under this paragraph may be expressed to have effect notwithstanding any stipulation to the contrary.

Implied covenants

3 Rules may-

(a) make provision about the form of provisions extending or limiting any covenant implied by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994 (c. 36) (implied covenants for title) on a registrable disposition;

(b) make provision about the application of section 77 of the Law of Property Act 1925 (c. 20) (implied covenants in conveyance subject to rents) to transfers of registered estates;

(c) make provision about reference in the register to implied covenants, including provision for the state of the register to be conclusive in relation to whether covenants have been implied.

Land certificates

4 Rules may make provision about-

(a) when a certificate of registration of title to a legal estate may be issued,

(b) the form and content of such a certificate, and

(c) when such a certificate must be produced or surrendered to the registrar.

PART 2

GENERAL

Notice

5 (1) Rules may make provision about the form, content and service of notice under this Act.

(2) Rules under this paragraph about the service of notice may, in particular-

(a) make provision requiring the supply of an address for service and about the entry of addresses for service in the register;

(b) make provision about-

(i) the time for service,

(ii) the mode of service, and

(iii) when service is to be regarded as having taken place.

Applications

6 Rules may-

(a) make provision about the form and content of applications under this Act;

(b) make provision requiring applications under this Act to be supported by such evidence as the rules may provide;

(c) make provision about when an application under this Act is to be taken as made;

(d) make provision about the order in which competing applications are to be taken to rank;

(e) make provision for an alteration made by the registrar for the purpose of correcting a mistake in an application or accompanying document to have effect in such circumstances as the rules may provide as if made by the applicant or other interested party or

parties.

Statutory statements

- 7 Rules may make provision about the form of any statement required under an enactment to be included in an instrument effecting a registrable disposition or a disposition which triggers the requirement of registration.

Residual power

- 8 Rules may make any other provision which it is expedient to make for the purposes of carrying this Act into effect, whether similar or not to any provision which may be made under the other powers to make land registration rules.

SCHEDULE 12

TRANSITION

Existing entries in the register

- 1 Nothing in the repeals made by this Act affects the validity of any entry in the register.
- 2 (1) This Act applies to notices entered under the Land Registration Act 1925 (c. 21) as it applies to notices entered in pursuance of an application under section 34(2)(a).

(2) This Act applies to restrictions and inhibitions entered under the Land Registration Act 1925 as it applies to restrictions entered under this Act.

(3) Notwithstanding their repeal by this Act, sections 55 and 56 of the Land Registration Act 1925 shall continue to have effect so far as relating to cautions against dealings lodged under that Act.

(4) Rules may make provision about cautions against dealings entered under the Land Registration Act 1925.

(5) In this paragraph, references to the Land Registration Act 1925 include a

reference to any enactment replaced (directly or indirectly) by that Act.

- 3 An entry in the register which, immediately before the repeal of section 144(1)(xi) of the Land Registration Act 1925, operated by virtue of rule 239 of the Land Registration Rules (S.I. 1925/1093) as a caution under section 54 of that Act shall continue to operate as such a caution.

Existing cautions against first registration

- 4 Notwithstanding the repeal of section 56(3) of the Land Registration Act 1925, that provision shall continue to have effect in relation to cautions against first registration lodged under that Act, or any enactment replaced (directly or indirectly) by that Act.

Pending applications

- 5 Notwithstanding the repeal of the Land Registration Act 1925, that Act shall continue to have effect in relation to an application for the entry in the register of a notice, restriction, inhibition or caution against dealings which is pending immediately before the repeal of the provision under which the application is made.
- 6 Notwithstanding the repeal of section 53 of the Land Registration Act 1925, subsections (1) and (2) of that section shall continue to have effect in relation to an application to lodge a caution against first registration which is pending immediately before the repeal of those provisions.

Former overriding interests

- 7 For the period of three years beginning with the day on which Schedule 1 comes into force, it has effect with the insertion after paragraph 14 of-

"15. A right acquired under the Limitation Act 1980 before the coming into force of this Schedule."

- 8 Schedule 3 has effect with the insertion after paragraph 2 of-

"2A (1) An interest which, immediately before the coming into force of this Schedule, was an overriding interest under section 70(1)(g) of the Land Registration Act 1925 by virtue of a person's receipt of rents and profits, except for an interest of a person of whom inquiry was made before the disposition and who failed to disclose the right when he could reasonably have

been expected to do so.

(2) Sub-paragraph (1) does not apply to an interest if at any time since the coming into force of this Schedule it has been an interest which, had the Land Registration Act 1925 (c. 21) continued in force, would not have been an overriding interest under section 70(1)(g) of that Act by virtue of a person's receipt of rents and profits."

- 9 (1) This paragraph applies to an easement or profit a prendre which was an overriding interest in relation to a registered estate immediately before the coming into force of Schedule 3, but which would not fall within paragraph 3 of that Schedule if created after the coming into force of that Schedule.

(2) In relation to an interest to which this paragraph applies, Schedule 3 has effect as if the interest were not excluded from paragraph 3.

- 10 For the period of three years beginning with the day on which Schedule 3 comes into force, paragraph 3 of the Schedule has effect with the omission of the exception.

- 11 For the period of three years beginning with the day on which Schedule 3 comes into force, it has effect with the insertion after paragraph 14 of-

"15. A right under paragraph 18(1) of Schedule 12."

- 12 Paragraph 1 of each of Schedules 1 and 3 shall be taken to include an interest which immediately before the coming into force of the Schedule was an overriding interest under section 70(1)(k) of the Land Registration Act 1925.

- 13 Paragraph 6 of each of Schedules 1 and 3 shall be taken to include an interest which immediately before the coming into force of the Schedule was an overriding interest under section 70(1)(i) of the Land Registration Act 1925 and whose status as such was preserved by section 19(3) of the Local Land Charges Act 1975 (c. 76) (transitional provision in relation to change in definition of "local land charge").

Cautions against first registration

- 14 (1) For the period of two years beginning with the day on which section 15 comes into force, it has effect with the following omissions-

- (a) in subsection (1), the words "Subject to subsection (3)", and
- (b) subsection (3).

(2) Any caution lodged by virtue of sub-paragraph (1) which is in force immediately before the end of the period mentioned in that sub-paragraph shall cease to have effect at the end of that period, except in relation to applications for registration made before the end of that period.

(3) This paragraph does not apply to section 15 as applied by section 81.

- 15 (1) As applied by section 81, section 15 has effect for the period of ten years beginning with the day on which it comes into force, or such longer period as rules may provide, with the omission of subsection (3)(a)(i).

(2) Any caution lodged by virtue of sub-paragraph (1) which is in force immediately before the end of the period mentioned in that sub-paragraph shall cease to have effect at the end of that period, except in relation to applications for registration made before the end of that period.

- 16 This Act shall apply as if the definition of "caution against first registration" in section 132 included cautions lodged under section 53 of the Land Registration Act 1925 (c. 21).

Applications under section 34 or 43 by cautioners

- 17 Where a caution under section 54 of the Land Registration Act 1925 is lodged in respect of a person's estate, right, interest or claim, he may only make an application under section 34 or 43 above in respect of that estate, right, interest or claim if he also applies to the registrar for the withdrawal of the caution.

Adverse possession

- 18 (1) Where a registered estate in land is held in trust for a person by virtue of section 75(1) of the Land Registration Act 1925 immediately before the coming into force of section 97, he is entitled to be registered as the proprietor of the estate.

(2) A person has a defence to any action for the possession of land (in addition to any other defence he may have) if he is entitled under this paragraph to be registered as the proprietor of an estate in the land.

(3) Where in an action for possession of land a court determines that a person is entitled to a defence under this paragraph, the court must order the

registrar to register him as the proprietor of the estate in relation to which he is entitled under this paragraph to be registered.

(4) Entitlement under this paragraph shall be disregarded for the purposes of section 131(1).

(5) Rules may make transitional provision for cases where a rentcharge is held in trust under section 75(1) of the Land Registration Act 1925 immediately before the coming into force of section 97.

Indemnities

- 19 (1) Schedule 8 applies in relation to claims made before the commencement of that Schedule which have not been settled by agreement or finally determined by that time (as well as to claims for indemnity made after the commencement of that Schedule).

(2) But paragraph 3(1) of that Schedule does not apply in relation to costs and expenses incurred in respect of proceedings, negotiations or other matters begun before 27 April 1997.

Implied indemnity covenants on transfers of pre-1996 leases

- 20 (1) On a disposition of a registered leasehold estate by way of transfer, the following covenants are implied in the instrument effecting the disposition, unless the contrary intention is expressed-
- (a) in the case of a transfer of the whole of the land comprised in the registered lease, the covenant in sub-paragraph (2), and
 - (b) in the case of a transfer of part of the land comprised in the lease-
 - (i) the covenant in sub-paragraph (3), and
 - (ii) where the transferor continues to hold land under the lease, the covenant in sub-paragraph (4).
- (2) The transferee covenants with the transferor that during the residue of the term granted by the registered lease the transferee and the persons deriving title under him will-
- (a) pay the rent reserved by the lease,
 - (b) comply with the covenants and conditions contained in the lease, and
 - (c) keep the transferor and the persons deriving title under him

indemnified against all actions, expenses and claims on account of any failure to comply with paragraphs (a) and (b).

(3) The transferee covenants with the transferor that during the residue of the term granted by the registered lease the transferee and the persons deriving title under him will-

(a) where the rent reserved by the lease is apportioned, pay the rent apportioned to the part transferred,

(b) comply with the covenants and conditions contained in the lease so far as affecting the part transferred, and

(c) keep the transferor and the persons deriving title under him indemnified against all actions, expenses and claims on account of any failure to comply with paragraphs (a) and (b).

(4) The transferor covenants with the transferee that during the residue of the term granted by the registered lease the transferor and the persons deriving title under him will-

(a) where the rent reserved by the lease is apportioned, pay the rent apportioned to the part retained,

(b) comply with the covenants and conditions contained in the lease so far as affecting the part retained, and

(c) keep the transferee and the persons deriving title under him indemnified against all actions, expenses and claims on account of any failure to comply with paragraphs (a) and (b).

(5) This paragraph does not apply to a lease which is a new tenancy for the purposes of section 1 of the Landlord and Tenant (Covenants) Act 1995 (c. 30).

SCHEDULE 13

REPEALS

Short title and chapter Extent of repeal

Land Registry Act 1862 (c. 53).
The whole Act.

Settled Land Act 1925 (c. 18).
Section 119(3).

Law of Property Act 1925 (c. 20).
In section 84(8), the words from ", but" to the end.
In section 205(1)(xxii), the words from ", and" to the end.

Land Registration Act 1925 (c. 21).
The whole Act.

Law of Property (Amendment) Act 1926 (c. 11).
Section 5.

Land Registration Act 1936 (c. 26).
The whole Act.

Requisitioned Land and War Works Act 1945 (c. 43).
Section 37(3).

Mental Health Act 1959 (c. 72).
In Schedule 7, the entry relating to the Land Registration Act 1925.

Charities Act 1960 (c. 58).
In Schedule 6, the entry relating to the Land Registration Act 1925.

Civil Evidence Act 1968 (c. 64).
In the Schedule, the entry relating to the Land Registration Act 1925.

Post Office Act 1969 (c. 48).
In Schedule 4, paragraph 27.

Law of Property Act 1969 (c. 59).
Section 28(7).

Land Registration and Land Charges Act 1971 (c. 54).
The whole Act.

Superannuation Act 1972 (c. 11).
In Schedule 6, paragraph 16.

Local Government Act 1972 (c. 70).
In Schedule 29, paragraph 26.

Solicitors Act 1974 (c. 47).
Section 75(b).

Finance Act 1975 (c. 7).
In Schedule 12, paragraph 5.

Local Land Charges Act 1975 (c. 76).
Section 19(3).
In Schedule 1, the entry relating to the Land Registration Act 1925.

Endowments and Glebe Measure 1976 (No. 4).
In Schedule 5, paragraph 1.

Administration of Justice Act 1977 (c. 38).
Sections 24 and 26.

Charging Orders Act 1979 (c. 53).
Section 3(3).
Section 7(4).

Limitation Act 1980 (c. 58).
In section 17, paragraph (b) and the preceding "and".

Highways Act 1980 (c. 66).
Section 251(5).

Matrimonial Homes and Property Act 1981 (c. 24).
Section 4.

Administration of Justice Act 1982 (c. 53).
Sections 66 and 67 and Schedule 5.

Mental Health Act 1983 (c. 20).
In Schedule 4, paragraph 6.

Capital Transfer Tax Act 1984 (c. 51).
In Schedule 8, paragraph 1.

Administration of Justice Act 1985 (c. 61).
In section 34, in subsection (1), paragraph (b) and the preceding "and" and, in subsection (2), paragraph (b).
In Schedule 2, paragraph 37(b).

Insolvency Act 1985 (c. 65).
In Schedule 8, paragraph 5.

Housing Act 1985 (c. 68).

Section 36(3).
Section 154(1), (6) and (7).
Section 156(3).
Section 168(5).
In Schedule 9A, paragraphs 2(1), 3 and 5(3).

Land Registration Act 1986 (c. 26).
Sections 1 to 4.

Insolvency Act 1986 (c. 45).
In Schedule 14, the entry relating to the Land Registration Act 1925.

Building Societies Act 1986 (c. 53).
In Schedule 2A, in paragraph 1, sub-paragraph (4) and, in sub-paragraph (5), the definition of "registered land" and the preceding "and".
In Schedule 18, paragraph 2.
In Schedule 21, paragraph 9(b).

Patronage (Benefices) Measure 1986 (No. 3).
Section 6.

Landlord and Tenant Act 1987 (c. 31).
Section 28(6).
In Schedule 4, paragraphs 1 and 2.

Diplomatic and Consular Premises Act 1987 (c. 46).
In Schedule 1, in paragraph 1, the words from "and expressions" to the end.

Land Registration Act 1988 (c. 3).
The whole Act.

Criminal Justice Act 1988 (c. 33).
Section 77(13).
In Schedule 15, paragraphs 6 and 7.

Housing Act 1988 (c. 50).
In Schedule 11, paragraph 2(3).

Finance Act 1989 (c. 26).
Sections 178(2)(e) and 179(1)(a)(iv).

Courts and Legal Services Act 1990 (c. 41).
In Schedule 10, paragraph 3.

In Schedule 17, paragraph 2.

Access to Neighbouring Land Act 1992 (c. 23).
Section 5(2) and (3).

Leasehold Reform, Housing and Urban Development Act 1993
(c. 28).
Section 97(3).
In Schedule 21, paragraph 1.

Coal Industry Act 1994 (c. 21).
In Schedule 9, paragraph 1.

Law of Property (Miscellaneous Provisions) Act 1994 (c. 36).

In Schedule 1, paragraph 2.

Drug Trafficking Act 1994 (c. 37).
Section 26(13).
In Schedule 1, paragraph 1.

Family Law Act 1996 (c. 27).
Section 31(11).
In Schedule 8, paragraph 45.

Trusts of Land and Appointment of Trustees Act 1996 (c. 47).

In Schedule 3, paragraph 5.

Housing Act 1996 (c. 52).
Section 11(4).

Housing Grants, Construction and Regeneration Act 1996 (c. 53).
Section 138(3).

Land Registration Act 1997 (c. 2).
Sections 1 to 3 and 5(4) and (5).
In Schedule 1, paragraphs 1 to 6.

Greater London Authority Act 1999 (c. 29).
Section 219.

Terrorism Act 2000 (c. 11).
In Schedule 4, paragraph 8(2) and (3).

Trustee Act 2000 (c. 29).
In Schedule 2, paragraph 26.

International Criminal Court Act 2001 (c. 17).
In Schedule 6, paragraph 7(2).

*These notes refer to the Land Registration Act 2002(c.9)
which received Royal Assent on 26 February 2002*

LAND REGISTRATION ACT 2002

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Land Registration Act 2002 which received Royal Assent on 26 February 2002. They have been prepared by the Lord Chancellor's Department (LCD) in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament. A glossary of technical terms used in these notes is provided at Annex A.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

BACKGROUND

Origins of the Act

3. In 1996, the Law Commission and HM Land Registry began a joint programme to update and reform the statute law relating to land registration. Their initial proposals were published in *Land Registration for the Twenty-First Century: A Consultative Document* in September 1998. Revised recommendations, amended in the light of the consultation response, were published in *Land Registration for the Twenty-First Century: A Conveyancing Revolution* on 10 July. The Act implements most of those recommendations. The joint report contains a detailed discussion of the policy behind the recommendations, and full explanatory notes on each clause of the draft Bill contained in the report.

Title to land

4. The Crown is the only absolute owner of land in England and Wales: all others hold an estate in land. Estates, which derive from feudal terms of tenure, originally took many

forms but were reduced by the Law of Property Act 1925 to two, an estate in fee simple absolute in possession, generally known as "freehold"; and an estate for a term of years absolute generally known as "leasehold". Apart from an estate, land may have the benefit of or be subject to other interests, which are rights and obligations relating to the land, belonging to the owner or to a third party.

Unregistered conveyancing

5. Before the introduction of registration, there was only one way to establish the seller's right to sell a property. Purchasers had to satisfy themselves from the title deeds, searches and inspection of the land that the seller had power to sell the land, and that it was subject to no undisclosed obligations. That remains the case with properties which have not yet been registered (perhaps around one-fifth of freehold titles).

Registered conveyancing

6. In registered conveyancing, there is a single statement of title as it stands at any given time, guaranteed by the State. If any person suffers a loss as a result of some omission or mistake in the register of title, they are entitled to be indemnified for that loss.

7. Land registration was first introduced to England and Wales by legislation of 1862 and 1875. Those Acts provided only for voluntary registration of title, and few titles were registered until the Land Transfer Act 1897 made registration of title compulsory in dealings with land in the County of London. Under the Land Registration Act 1925 compulsory registration was gradually extended to cover the rest of the country. Since 1 December 1990, the whole of England and Wales has been subject to compulsory registration. This requires registration of a conveyance of a freehold estate, a grant of a lease of more than 21 years, and an assignment of leasehold land with more than 21 years to run. If the disposition is not registered within the required time, it becomes void as regards the transfer or creation of a legal estate or mortgage. The legal estate reverts to the person transferring it (who then, however, holds it on a trust for the intended recipient).

8. Under this system freehold titles are registered with three degrees of quality, and leasehold with four. A purchaser may also be bound by two kinds of interest on the land: an overriding interest, which does not appear in the register (e.g. leases for 21 years or less and rights of access across the land), and minor interests which only bind if they are protected by some entry in the register (e.g. a contract for sale or a restrictive covenant).

The current legislation

9. The principal legislation was provided by the Land Registration Act 1925, as amended by Land Registration Acts in 1936, 1986, 1988, and 1997, and by the Land Registration and Land Charges Act 1971. That legislation provides an improved machinery of conveyancing, rather than changing the underlying law, which applies to both unregistered and registered conveyancing. Its principles and definitions have sometimes been found obscure and confusing, and its language not easy for even professional users.

The objectives of the Act

10. The joint project undertaken by the Law Commission and the Land Registry therefore faced a complex, and in many respects, out-dated piece of legislation. As work proceeded an additional factor had to be considered. The Land Registry has now automated many of its functions, which can now be accessed on line. It became clear during the Commission's work that there was wide support within the property industry and from many legal practitioners for the introduction of a system of dealing with land electronically. The Law Commission and Land Registry therefore recommend that the new legislation should aim to create the necessary legal framework in which all registered conveyancing can be conducted electronically. The Act establishes such a system. The Law Commission and the Land Registry recommend a fundamental objective. To enable an effective system of electronic dealing with land, the register should be a complete and accurate reflection of the state of the title of the land at any given time, so that it is possible to investigate title to land on line, with the absolute minimum of additional inquiries and inspections.

Electronic conveyancing

11. The Act creates a framework in which it will be possible to transfer and create interests in registered land by electronic means. It does so by enabling the formal documents to be executed electronically; and providing for a secure electronic communications network. Because it is envisaged that the execution of those documents and their registration will be simultaneous, and the process of registration will be initiated by conveyancers, permitting access to the network is to be controlled by the Land Registry, which will also exercise control over the changes which can be made to the register. The Land Registry will be obliged to make arrangements for access to the network by those who wish to undertake their own conveyancing. Establishment of the system will require new ways of working by the Registry, and by conveyancing practitioners. It will, therefore, best be introduced in stages, starting with the simplest transactions and progressing to the more complex. The Act therefore provides for the Lord Chancellor to regulate by rules transactions that can be carried out electronically.

12. Some of the benefits of electronic conveyancing can only be maximised if it is used universally. The Act, therefore gives the Lord Chancellor power to make the use of electronic means for conveyancing compulsory, subject to appropriate consultation. The use of this power will become feasible only when electronic conveyancing has become much the most usual way of effecting transactions.

Associated changes

13. The Act contains a range of other provisions which increase the extent to which the register gives a complete and accurate reflection of the state of title. The number of dispositions that must be registered is extended, in particular by reducing the length of registrable leases from more than 21 to more than seven years, with a power to reduce it further. With very limited exceptions, express dispositions of registered land will also have to be appropriately protected in the register.

14. One important aspect of the current legislation changed by the Act is that of "overriding interests". Under the Land Registration Act 1925, these include all the incumbrances, interests, rights and powers which are not entered on the register, but override registered dispositions under the Act. Such interests create a number of problems, since people can find that they have bought estates which are subject to adverse interests which are not be clear from the register, and can be quite difficult to determine. In the Act, the categories of interests which are not registrable appear in two distinct lists, one relevant to first registration of title, the other to dealings with registered land. In each list they will be reduced in scope. The ambit of particular categories will be narrowed, some categories will be abolished altogether, and others will be phased out after ten years.

15. In favour of those dealing with them, owners of registered land will be presumed to have unrestricted powers of disposition in the absence of any entry in the register. The rules as to the competing priority of interests in registered land are clarified. Charge certificates will be abolished, and land certificates will have a less important role.

16. The Act reduces to two the methods of protecting the interests of third parties over registered land. *Notices* may be used to protect encumbrances on land that are intended to bind third parties (such as easements or restrictive covenants). *Restrictions* regulate the circumstances in which a disposition of a registered estate or charge may be the subject of an entry in the register. Either can be sought without the consent of the registered proprietor who must be notified and who will be able to apply for cancellation of the notice, or object to an application for a restriction. People who apply for either must act reasonably.

17. One of the objectives of the Law Commission and Land Registry's report is that registration alone should confer title. The Act introduces a new scheme for protecting the interests of registered proprietors against the acquisition of title by persons in adverse possession, or "squatters". A squatter will be able to apply to be registered as proprietor after ten years' adverse possession. The registered proprietor will, however, be notified of that application and will, in most cases, be able to object to it. Where the proprietor does object, the application will be rejected unless the squatter can meet one of three limited exceptions. The proprietor will then have to take steps to evict the squatter, or otherwise regularise the position within two years. Squatters still in adverse possession after two years will be entitled to be registered as proprietor.

18. Where the Crown is the direct owner of its land (known as demesne land), it does not hold an estate. It is therefore not open to it to register this land (since only estates are registrable). The Act provides a procedure for the voluntary registration of demesne land. It also modernises procedures for returning to economic use land which has reverted to Crown ownership (usually in the course of insolvency proceedings).

19. The Act also revises the arrangements for the handling of business within the Land Registry. A new system of independent adjudication of disputes arising out of disputed applications to the registrar will be set up. The Act includes provision enabling the Registry to provide consultancy and advisory services.

20. The Act also restates the law in modern and simple language.

SUMMARY

21. The following is a summary of the contents of the Act:

Part 1: Preliminary

- to continue provision for a register of title to estates in land, and explain what interests can be the subject of title registration;

Part 2: First registration of title

- to specify who is entitled to apply voluntarily for the first registration of a title;
- to define when an application must be made, on whom the duty to make it lies; and the consequences of failing to do so;
- to define the titles in freehold and leasehold land which may be registered, and the effects of registration;
- to provide for cautions against first registration;

Part 3: Dispositions of registered land

- to define the powers of an owner of registered land, and who can exercise them;
- to make provision to protect disponees from the effect of limits on powers which are not the subject of an entry in the register;
- to define the dispositions of registered land which must be registered;
- to lay down rules about the effect of dispositions on the priority of interests effecting registered land;

Part 4: Notices and restrictions

- to provide for the registration of third party rights against registered titles by means of notices in the register and for the entry of restrictions which limit the circumstances in which an entry in the register may be made in respect of a disposition of registered land without the approval of the Registrar or a court;

Part 5: Charges

- to make provision about the relative priority of charges on registered land and about powers and duties of chargees;

Part 6: Registration: General

- to make provision about the effects of registration of title;
- to make provision about alteration of the register;

- to make provision for public access to the register;
- to make provision for procedures for priority periods during which the rights of intending buyers can be protected;
- to make provision for a right to object to applications to the Registrar and for the reference of disputes about applications to the adjudicator;

Part 7: Special cases

- to make special provision for a number of cases for which that is appropriate, including various matters relating to the Crown, and the treatment on pending actions, writs, orders and deeds of arrangement (including bankruptcy petitions and orders);

Part 8: Electronic conveyancing

- to enable dispositions with a connection to land registration to be made by means of documents in electronic form;
- to enable registration to be made a pre-condition to effect dispositions of registered land or other interests which are the subject of a notice in the register;
- to enable an electronic network to be set up to carry out functions related to registration;
- to provide for circumstances in which conveyancers may be required to use electronic means to complete and register transactions simultaneously;

Part 9: Adverse possession

- to introduce a new regime for dealing with adverse possession in relation to certain registered interests;

Part 10: Land registry

- to make provision about the land registry, including the conduct of business and fees;

Part 11: Adjudication

- to establish a new independent officer to determine disputes between individual parties relating to land registration, and to regulate proceedings before him;

Part 12: Miscellaneous and general

- to enable specific provision to be made for a number of rights in land, and other miscellaneous and general provisions.

COMMENTARY ON THE SECTIONS

PART 1: PRELIMINARY

Section 1: Register of title

22. This section continues the requirement for a register of title to be kept, under the responsibility of the Chief Land Registrar. Rules may govern the information to be kept in the register, and its form.

Section 2: Scope of title registration

23. This section sets out the matters in relation to which the Act makes provision for registration. Section 2(a) is concerned with the unregistered estates which are capable of being registered. These are dealt with in Part 2, Chapter 1 of the Act. Section 2(b) is concerned with legal interests created by a disposition of land the title to which is registered. These are addressed in Part 3 of the Act.

PART 2: FIRST REGISTRATION OF TITLE

Chapter 1: First registration

Voluntary registration

Section 3: When title may be registered

24. This section makes provision for the voluntary first registration of title. *Subsection (1)* specifies the legal estates that may be registered. These are:

- a freehold or leasehold estate in land;
- a rentcharge;
- a franchise (a grant from the Crown such as the right to hold a market or fair, or to take tolls; this provision enables franchises to be protected by registration, rather than by means of a notice or caution); and
- a *profit ... prendre* in gross (these are rights with an independent existence such as the right to hunt or shoot game; these also have previously only been able to be protected by an entry against the title of the relevant land, if that land is registered, and will now be able to be registered in their own right, since these rights are often sold and leased and can be very valuable).

25. *Subsection (2)* continues the existing law, stipulating who is entitled to apply to be registered as the first registered proprietor. The first entitlement belongs to the legal owners of the land. The second group comprises people who are entitled to have the legal estate vested in them but where, for example, the title is currently vested in a nominee on their behalf. *Subsection (6)* provides that a person may not apply to be registered if he or she is a person who has contracted to buy land. That is because the contract will be completed by a conveyance, and that conveyance will be subject to compulsory registration under section 4 (fees for voluntary first registration are likely to be lower than those for compulsory first registration).

26. *Subsection (3)* changes the existing law. Currently, only leases with more than 21 years to run may be registered voluntarily. This is reduced to more than seven years, in furtherance of the objective that all title to land in England and Wales should be registered. *Subsection (4)* provides that leases with seven years or less to run may, however, be registered if the right to possession is discontinuous. Such leases are not very common, but are sometimes used for time-share arrangements. *Subsection (7)* makes provision for a situation in which a person holds land under one lease, but has been granted another to take effect on or shortly after the first expires. If, taken together, the terms exceed seven years, the lease will be registrable.

27. *Subsection (5)* provides that a mortgage term created by demise or sub-demise is not registrable when there is a subsisting right of redemption.

Compulsory registration

Section 4: When title must be registered

28. Section 4 sets out the events that trigger the compulsory first registration of title. These were updated and extended by the Land Registration Act 1997, and the Act therefore largely replicates the existing position. First, compulsory registration is triggered by specified types of transfer of a qualifying estate, which is defined as either a legal freehold estate, or a legal lease with more than seven years to run. The transfers are those made:

- i) for valuable or other consideration (which under *subsection (6)* includes estates which have a negative value);
- ii) by way of gift (which *subsection (7)* provides will include transfers for the purposes of constituting a trust under which the settlor does not retain the whole of the beneficial interest, or transfers for the purpose of uniting the legal title and the beneficial interest in property held under a trust under which the settlor did not, on constitution, retain the whole of the beneficial interest);
- iii) under a court order; and
- iv) by means of an assent (including a vesting assent).

29. Under *subsection (3)*, transfers do not include transfers by operation of law (where, for example, an owner's property vests in personal representatives on death). Under *subsection (4)* compulsory registration will not apply to transfers involving:

- i) the assignment of a mortgage term (where there is a mortgage by demise or sub-demise, and the mortgagee assigns the mortgage by transferring the mortgage term); or
- ii) where a lease is assigned or surrendered to the owner of the immediate reversion where the term is to merge in that reversion (because the estate transferred disappears).

30. Registration will be compulsory where section 171A of the Housing Act 1985 applies (i.e. where a person ceases to be a secure tenant because his or her landlord

disposes of an interest in a house to a private sector landlord (*subsection (1)(b)*, replicating the current law)). Compulsory registration will also apply to the grant of leases out of freehold land or a leasehold, with more than seven years to run, where the lease is granted for valuable or other consideration, by way of a gift, or under a court order, apart from the exceptions in the section.

31. Compulsory registration will also apply where a lease is granted to take effect more than three months after it is granted. This provision is new, and is designed to avoid a conveyancing trap that such reversionary leases may create. At present, a lease granted for 21 years or less, which has not yet taken effect cannot be registered or protected by the entry of a notice in the register against the landlord's title but takes effect as an overriding interest. A buyer of land so affected may not be able to discover the existence of the lease, because the tenant will not be in possession.

32. Grants of a lease out of an unregistered legal estate under the right to buy provisions of Part 5 of the Housing Act 1985 will also be subject to compulsory registration (replicating the present law). Compulsory registration will also apply to the creation of a protected first legal mortgage (i.e. one which on creation ranks in priority ahead of other mortgages affecting the mortgaged estate) out of a legal freehold estate, or a lease with more than seven years to run.

Section 5: Power to extend section 4

33. This section enables the Lord Chancellor to add new events to those that trigger compulsory registration, by statutory instrument to be laid before Parliament. There is a similar power under the present law, although the new one is exercisable only after consultation. To be added, events must relate to unregistered estates specified in the section, which correspond to those listed as capable of registration with their own titles under section 3. Under *subsection (3)*, the power may not be exercised to require the compulsory registration of an estate granted to a mortgagee, because no benefit would be derived from requiring a charge over land to be registered, if the title to the estate affected remained unregistered.

Section 6: Duty to apply for registration of title

34. This section imposes a duty on the responsible estate owner to apply for registration within the period for registration if the registration requirement applies. Where registration is triggered by the creation of a protected legal mortgage (under section 4 (1)(g)), the mortgagor must apply for the registration of the estate charged by the mortgage. As now, there is a power by rules to make provision to enable the mortgagee to require the estate charged by the mortgage to be registered, whether or not the mortgagor consents. In other cases it is the transferee or grantee who must apply. The period for registration is two months beginning with the date on which the relevant event occurs (*subsection (4)*), but *subsection (5)* enables the registrar, on application by an interested person, to specify a longer period for registration if there is a good reason for doing so.

Section 7: Effect of non-compliance with section 6

35. The effect of not complying with the requirement of registration is:
- i) where the event is a transfer, the transfer becomes void and the transferor hold the legal estate on a bare trust for the transferee (*subsection (4)* avoids the possibility which arises under *subsection (1)* of converting an unregistered fee simple into a determinable fee, which is not a legal estate); and
 - ii) where the event is the grant of a lease or the creation of a protected mortgage, the grant or creation is void and takes effect instead as a contract made for valuable consideration to grant or create the lease or mortgage concerned.
36. If a transaction has become void under these provisions and the registrar then makes an order extending the period in which an application for registration can be made, it is treated as having never become void.

Section 8: Liability for making good void transfers etc

37. If it is necessary to repeat a transaction because it became void under the provisions in Section 7, the person who is responsible for the registration is liable to the disponent or mortgagee for all the proper costs of and incidental to the repeated disposition. He or she is also liable to indemnify the disponent or mortgagee in respect of any other liability reasonably incurred because of the failure to register.

Classes of Title

Section 9: Titles to freehold estates

38. Where a person applies to be registered as proprietor of a freehold estate, he or she may (as now) be registered with an absolute, qualified or possessory title. A person may be registered with absolute title if the registrar considers that the title is such as a willing buyer could properly be advised to accept. Defective titles may still be registered as absolute if the registrar considers that the defect will not cause the holding under the title to be disturbed. Almost all freehold titles are, in practice, absolute. A person may, however, be registered only with qualified title, if the registrar considers that the applicant's title can only be established for a limited period, or subject to certain reservations. Qualified title is extremely rare but it might be appropriate, where, for example, the transfer to the applicant had been in breach of trust. Possessory title is only appropriate where the applicant is either in actual possession or in receipt of the rent and profits from the land, and there is no other class of title which may be registered. In practice, land is registered with a possessory title where the basis of the application is adverse possession, or where the applicant's title cannot be proved (usually because the title deeds have been lost or destroyed).

Section 10: Titles to leasehold estates

39. A person applying to be registered as proprietor of a leasehold estate may be registered (in substance, as now), as proprietor with an absolute, good leasehold,

qualified or possessory title. Absolute title may be given if the registrar considers that the title is such as a willing buyer could be properly advised to accept, and approves that the lessor had good title to grant the lease. It is, therefore, only appropriate where the superior title is either registered with absolute title, or, if unregistered, has been deduced to the registrar's satisfaction. Again, even defective titles can be registered as absolute, if the registrar considers that the defect will not cause the holding under it to be challenged. A good leasehold title is such that a willing buyer could properly be advised to accept. It will be appropriate where the superior title is neither registered nor deduced. It can be given in the case of a defective title, if the defect will not cause the holding to be challenged. Qualified title may be registered if either the applicant's title or the lessor's title to the reversion can only be established for a limited period, or is subject to reservations. The circumstances for registration of a possessory title are the same as with freehold.

Effect of first registration

Section 11: Freehold estates

40. Section 11 sets out the effect of first registration as the proprietor of a freehold estate. *Subsections (2) to (5)* prescribe the effect of registration of a freehold with absolute title. Where a person is first registered as proprietor of a freehold estate, *subsection (3)* provides that the legal estate is vested in him or her together with all interests subsisting for the benefit of the estate. The legal estate will therefore vest in the first registered proprietor together with such interests as (for example) the benefit of any easement and *profit ... prendre* that is appurtenant to the estate.

41. *Subsection (4)* provides that on first registration with absolute title, the estate is vested in the proprietor subject only to the following interests affecting the estate at the time of registration :

- i) Interests which are the subject of an entry in the register in relation to the estate. As this provision only applies to first registration under the Act, the interests which may be subject to an entry in the register will be registered charges, notices and restrictions.
- ii) Unregistered interests which fall within any of the paragraphs of Schedule 1 (that is, those that override first registration).
- iii) Interests acquired under the Limitation Act 1980 of which the proprietor has notice. This provision is new and is designed to meet the following situation. A takes adverse possession of unregistered land belonging to B. After 12 years' adverse possession, B's title is extinguished and A becomes owner of the land. A then abandons the land and B resumes possession of it. Before B has been back in possession of the land for 12 years he sells it to C. B sells as paper owner in accordance with the title deeds, but A is in fact the true owner. The sale triggers compulsory registration and C applies to be first registered proprietor. Subject to the transitional provisions contained in Schedule 12 paragraph 7, the rights of a squatter will not under the Act take priority on first registration or on a registered disposition without the need for registration, as they presently do. By virtue of

section 11(4)(c), C will take free of A's rights unless, at the time of registration, he had notice of them. If C is registered as proprietor even though he has notice of A's rights, A will be able to seek alteration of the register. C is bound by her rights and so alteration of the register will not involve rectification. As the register is inaccurate it may be altered to give effect to her rights by registering her as proprietor in place of C, as provided in Schedule 4, paragraphs 2 and 5.

42. *Subsection (5)* deals with the situation where the first registered proprietor is not entitled to the estate solely for his or her own benefit. The effect of subsection (5) is that where the first registered proprietor holds the land on trust, the estate will be vested in him or her subject to the rights of the beneficiaries under that trust.

43. *Subsections (6) and (7)* prescribe the effects of registration with qualified or with possessory title.

Section 12: Leasehold estates

44. Section 12 makes provision for the effect of first registration of a person as the proprietor of a leasehold estate. *Subsections (2), (3), (4) and (5)* prescribe the effect of registration of a lease with absolute title. In most respects, the registration of a leaseholder with absolute title has the same effect as registration of a freeholder with absolute title. The only difference is that where a leasehold estate is registered with absolute title, it is vested in the leaseholder subject to implied and express covenants, obligations and liabilities incident to the estate as provided by subsection (4). Thus the first registered proprietor of a lease will take subject to such proprietary interests as restrictive covenants relating to the premises leased.

45. *Subsections (6) to (8)* prescribe the effects of the registration of a lease with good leasehold title, qualified title and possessory title respectively.

Dependent estates

Section 13: Appurtenant rights and charges

46. Section 13 empowers the Lord Chancellor to make rules in relation to the registration of dependent legal estates. First, rules may make provision for the entry in the register of a registered proprietor as the proprietor of an unregistered legal estate which subsists for the benefit of a registered estate. Rules made under this provision are meant to cover the situation where, on or subsequent to first registration, a registered proprietor has, or is granted, the benefit of a legal estate, such as an easement or a *profit ... prendre*, over unregistered land. Rules will enable the benefit of such an estate to be entered in the register.

47. Secondly, rules may make provision for the registration of a person as the proprietor of an unregistered legal estate which is a charge on a registered estate. Rules under this provision are intended to cover the situations where:

- i) On first registration, the land is already subject to a legal mortgage.

- ii) Subsequent to first registration, a charge is created that does not have to be registered to have effect at law, as in relation to certain local land charges (cf section 55 below).

In such circumstances, rules may enable the registration of the mortgagee as the proprietor of a registered charge.

Supplementary

Section 14: Rules about first registration

48. Section 14 confers a power to make rules in relation to various matters concerning first registration.

Chapter 2: Cautions against first registration

49. Cautions against first registration provide a means by which a person with an interest in *unregistered* land can be informed of an application for first registration of the title to an estate in that land. Under the present law, persons having or claiming to have an interest in unregistered land of a kind that entitles them to object to a disposition being made without their consent, may apply to lodge a caution with the registrar. In practice, in relation to the circumstances when the applicant's consent is required, this provision has been interpreted by the registrar to enable almost any person interested in the unregistered land to apply to lodge such a caution. Once a caution against first registration has been entered, no registration of the estate affected will be made until notice has been served on the cautioner and an opportunity given to appear before the registrar and oppose the application for first registration. There is no mechanism for "warning off" cautions against first registration. The cautioner will only be required to defend his or her caution when an application for first registration is made. Cautions against first registration are recorded on the index map and may be discovered by an official search of that map.

Section 15: Right to lodge

50. Section 15 confers a right on any person who owns or who has an interest in a qualifying estate to lodge a caution. A qualifying estate is a legal estate which relates to land to which the caution relates, and is one of the four registrable estates i.e. an estate in land, a rentcharge, a franchise or a *profit ... prendre* in gross. *Subsection (3)* provides that the owner of a freehold estate, or of a leasehold estate with a term of more than seven years, cannot lodge a caution in respect of that estate. This is a new provision. The reason for it is that cautions against first registration are not intended to provide a substitute for first registration. The goal of total registration requires that a person with an unregistered legal estate that is registrable should register it. This prohibition will, however, not apply for two years after the provisions are brought into force. Under the transitional arrangements in paragraph 14 of Schedule 12, the new provision will have effect two years after the rest of the section is brought into force. At the end of the two year period, subsisting cautions against first registration lodged by the landowner will cease to have effect unless an application has been made for first registration.

Section 16: Effect

51. A caution only gives the right to be notified of an application for first registration, so enabling an objection to be made. It has no effect on the validity or priority of any interest that the cautioner may have in the legal estate to which the caution relates. Where the cautioner objects, the matter must be referred to the adjudicator, unless the registrar is satisfied that the objection is groundless, or the matter can be determined by agreement. *Subsection (4)* enables an agent for the applicant for first registration to give notice, and for this notice to be treated as having been given by the registrar. This enables a solicitor or licensed conveyancer acting for an applicant to give notice at the time the application is made, and so help to expedite the process. Those entitled to give such a notice will be prescribed by rules.

Section 18: Cancellation

52. This section provides a procedure for the cancellation of cautions against first registration. Only the owner of the relevant estate, or such people as are prescribed by rules, can apply for cancellation. Owners who have consented to the lodging of a caution against first registration are generally prohibited by *subsection (2)* from applying for it to be cancelled. Rules will, however, be able to specify circumstances in which owners should be entitled to apply (where, for example, the interest protected by the caution had terminated).

Section 19: Cautions register

53. This section requires the registrar for the first time to keep a register of cautions against first registration. Details of cautions against first registration are currently kept on a 'caution title'. The rules about the information to be kept in the register, and its form and arrangement, will enable it to be translated into electronic form, in due course.

PART 3 : DISPOSITIONS OF REGISTERED LAND

Powers of disposition

54. One way in which a title to land may be defective is that owners can have limited powers, and may purport to make a disposition beyond them. The current legislation does not clearly establish that a person can rely upon the register to say whether there are any limitations on the powers of a registered proprietor, and safely act in reliance upon it. This section of the Act corrects that.

Section 23: Owner's powers

55. This section states the unlimited powers of an owner. It makes one change to the current law. Under the existing law, there is a presumption that a registered charge takes effect as a charge by way of legal mortgage, unless there is clear provision to the contrary, or it is made or takes effect as a mortgage by demise or sub-demise. Mortgages by demise or sub-demise are now in practice obsolete, because of the advantages of a charge (that enables freeholds and leaseholds to be made the subject of a single charge rather than separate demises or sub-demises; the grant of a charge of a lease is not thought to amount to a breach of the common-form covenant against subletting without

the landlord's consent; and the form of legal charge is short and simple). *Subsection (1)(a)* therefore abolishes them, with prospective effect.

Section 24: Right to exercise owner's powers

56. Owner's powers can be exercised both by the registered proprietor, or someone entitled so to be registered, such as the personal representatives of an owner who has died.

Section 25: Mode of exercise

57. *Subsection (1)* enables the Lord Chancellor to prescribe the form and content of any registrable disposition of a registered estate or charge. This subsection would cover, for example, prescribing the form of a transfer. It is wider than the powers in the Land Registration Act 1925 in that it would be possible for the Lord Chancellor to prescribe the form of any registered charge. *Subsection (2)* provides that the Lord Chancellor may make rules as to form and content covering any kind of disposition (i.e. not just registrable dispositions) which depends for its effect on registration.

Section 26: Protection of disponees

58. The effect of section 26 is that a donee is entitled to proceed, in the absence of such an entry, on the basis that there are no limitations on the owner's powers and the donee's title cannot be called into question. Under *subsection (3)*, however, the disposition will not be rendered lawful. Donors who have acted beyond their powers can, therefore, be called to account, and a donee may not escape liability if privy to the donor's conduct.

59. For example, where the disposition is in fact unlawful, the consequences of that unlawfulness can be pursued so long as these do not call into question the validity of the donee's title. The example may be given of trustees of land, A and B, who had limited powers of disposition, but who failed to enter a restriction in the register to reflect this fact. If they transferred the land to a buyer, C, in circumstances that were prohibited by the trust, they would commit a breach of trust. Furthermore, although C's title could not be impeached, the protection given by the section does not extend to any independent forms of liability to which she might be subject. Thus if C knew of the trustees' breach of trust when the transfer was made, she might be personally accountable in equity for the knowing receipt of trust property transferred in breach of trust.

60. Although cautions against dealings with the land are being abolished, cautions entered in the register under the existing legislation will continue in force under the transition arrangements in Schedule 12, and may be a means by which an underlying limitation on the proprietor's powers is reflected in the register.

Registrable dispositions

Section 27: Dispositions required to be registered

61. This section sets out those dispositions of registered land that must be completed by registration if they are to operate at law. There are similar, but not identical provisions in the current legislation (in particular, sections 18 and 21 of the 1925 Act). Registrable dispositions, when registered, confer a legal estate, and are therefore given special priority provided for in sections 28 to 30. In principle, all dispositions that create or transfer a legal estate by express grant should be subject to some form of registration, whether with their own titles or by the entry of some form of notice on the title which is subject to them. The section therefore provides that any transfer of, or the grant or reservation of any legal estate out of, registered land, is a registrable disposition. This includes dispositions by operation of law, but with some limited exceptions.

62. *Subsection (2)(a)* provides that transfers of a registered estate, i.e. a legal estate which has registered title and is not a registered charge, must be entered on a register. There are three exceptions. The first is where a sole individual proprietor dies, where title to the estate vests by operation of law in the executors, if there are any, or in the Public Trustee until such time as there is a grant of administration. Personal representatives can apply to alter the register to bring it up to date by registering the applicant as proprietor. Secondly, when a sole individual proprietor becomes bankrupt, his or her estate will vest without any conveyance or transfer in the trustee for bankruptcy immediately on appointment (or in the Official Receiver in default of any such appointment), who can then apply to be registered. Thirdly, when a company is dissolved, its property is deemed to be *bona vacantia* and therefore vests in the Crown (or Royal Duchies). These exceptions are inevitable, and apply also to the transfer of registered charges (*subsection (3)*).

63. An explanation of the categories of lease which are registrable under *subsection (2)(b)* is to be found in paragraphs 30 to 32. An explanation of the two categories of lease granted out of the registered estate that are not registrable (a lease of less than seven years or less, or a London Transport Public/Private Partnership Lease) is to be found in paragraphs 26 and 145.

64. Lease out of franchises and manors are made registrable under *subsection (2)(c)*. They are both incorporeal rights of such a nature that the existence of a lease of them may not be apparent unless the lease affected is registered. The registration requirements vary. Where the term of the lease is for more than seven years, the grantee or successor in title must be entered in the register as the proprietor of the lease, and a notice in respect of the lease must also be entered (Schedule 2, paragraph 4). If the term is seven years or less a notice in respect of the lease must be entered in the register. (Schedule 2, paragraph 5).

65. *Subsection (2)(d)* relates to easements and *profits ... prendre*, whether in gross or appurtenant to an estate. There are two exceptions. The Commons Registration Act 1965 prohibits the registration under the 1925 Act of rights of common that are registrable under the 1965 Act. This prohibition will continue under the Act. Secondly, an easement, right or privilege granted under the operation of section 62 of the 1925 Act (a so called 'word-saving provision' that is taken to import certain words into a conveyance unless its effect is excluded) is not regarded as an express grant for these purposes, so as to require registration. Under *subsection (2)(e)*, both:

- i) a rentcharge in possession issuing out of or charged on land being either perpetual or for a term of years absolute;
- ii) a right of entry exercisable over or in respect of a legal term of years absolute, or annexed, for any purpose to a legal rentcharge;

are made registrable dispositions (these being the interests provided for in section 1(2)(b) and (e) of the Law of Property Act 1925).

66. Most grants of a legal charge are registrable dispositions. *Subsection (5)(c)* exempts local land charges. A local land charge operates at law without the need for registration. Nor does the priority of a local land charge need to be protected by registration. But a local land charge which secures the payment of money cannot be realised unless it is a registered charge. Section 55 provides that a charge over registered land which is a local land charge may only be realised if the title to the charge is registered.

It should be noted that one of the effects of the introduction of electronic conveyancing as provided for in Part 8 will be that dispositions will be simultaneously executed, communicated electronically to the registrar, and registered and section 93 contains powers for that to be made compulsory. The general principle set out in *subsection (1)* of this section is likely, in time, to be superseded.

Effect of dispositions on priority

67. Sections 28 to 30 provide a clear statutory statement of the principles that determine the priority of interests in registered land. The essence of the present law is that the priority of interests in registered land is normally determined by the date of their creation, regardless of whether or not they are protected in the register. This has been laid down in relation to minor interests on the basis that such interests are equitable, and the rules that determine the priority of competing minor interests are therefore the traditional rules relating to competing equitable interests. The general maxim is that 'where the equities are equal, the first in time prevails'. That maxim is not always easy to apply, because of uncertainty as to when the equities are not equal, namely in cases of negligence or gross carelessness. As an exception to the general principle, registered dispositions are given special effect or priority when made for valuable consideration: any interests not protected in the register are subordinated to a registered disposition, unless the unregistered interests override.

68. Under the proposals on electronic conveyancing, it will not be possible to create or transfer many interests in registered land expressly except by simultaneously registering them or protecting them by a notice in the register. In time, therefore, the register will become conclusive as to the priority of such interests, because the date of their creation and their registration will be the same. The provisions of these sections will therefore, over time, also become obsolete.

Section 28: Basic rule

69. This section provides that the priority of an interest affecting a registered estate or charge is not affected by a disposition (whether or not the interest or disposition is

registered). The priority of any interest in registered land is therefore determined by the date of creation. Unlike the current rule, this is an absolute one, subject only to the exceptions provided for by the Act.

Section 29: Effect of registered dispositions: estates

Section 30: Effect of registered dispositions: charges

70. Section 29 preserves the principal exception to the basic rule to be found in the current law. If a registrable disposition of either a registered estate or a registered charge is made for valuable consideration, completion of the disposition by registration has the effect of postponing to the interest under the disposition any interest affecting the estate or charge immediately before the disposition whose priority is not protected at the time of registration. The donee in the later disposition will take the estate free of the unprotected interest (which may not be destroyed, and may remain valid against interests other than that of the donee under the registered disposition).

71. The principle applies only to dispositions made for valuable consideration. As under the current law, that will not include a nominal consideration in money, where the general rule of priority applies.

72. Under the current law, valuable consideration does include a transfer of land in consideration of marriage. The Law Commission and the Land Registry recommend that this should not continue on the grounds that it is an anachronism. Such a transfer is normally a wedding gift, and there is no reason for treating it differently from gifts in general. The section therefore amends the current law by leaving out this exception.

Section 31: Inland Revenue charges

73. Section 31 provides that the effect of a disposition of a registered estate or charge on an Inland Revenue charge under section 237 of the Inheritance Tax Act 1984 is to be determined in accordance with the relevant provisions of the Act, and not under sections 28 to 30 of the Act.

PART 4: NOTICES AND RESTRICTIONS

74. Part 4 of the Act contains provisions on notices and restrictions. It is concerned primarily with the protection of third party rights over or in relation to a registered estate or charge. At present, a person may lodge a caution against dealings with a registered estate or charge in respect of interests which under the Act can be protected by a notice and other types of interest. A caution does not confer priority; only the right to receive notice of dealings with the affected registered estate or charge and to raise objections. Under the Act it will no longer be possible to lodge such a caution but existing cautions will remain in the register by virtue of the transitional provisions contained in paragraphs 1 and 2(3) of Schedule 12.

Notices

Section 32: Nature and effect

75. This section explains that a notice is an entry, made in the register, in respect of the burden of a third party's interest. The entry is to be made against the registered estate or registered charge that is said to be burdened. As under the Land Registration Act 1925, if the interest is not valid (for example, if parties had entered into an agreement that was not a valid contract) the entry of a notice will not validate it.

Section 33: Excluded interests

76. Section 33 provides that there are five kinds of interest which cannot be the subject of a notice. The five categories set out in this section cover:

- Interests under either a trust of land or a settlement - any interest under any form of trust is excluded because the purpose of a notice is to protect an interest in registered land by binding any person who acquires the land. An interest under a trust will not bind, say, a buyer of land if the buyer pays the purchase money to the trustees and there are at least two of them or a trust corporation. (A restriction is a proper form of entry to ensure that this occurs.)
- A lease granted for three years or less - at present, subject to certain statutory exceptions, a lease granted for 21 years or less cannot be a registered estate and a notice cannot be entered in respect of such a lease but it is protected as an overriding interest, even though not mentioned in the register. Under the Act, again subject to statutory exceptions, a lease granted for seven years (rather than for 21 years as at present) or less cannot be a registered estate, but will override first registration and registered dispositions, even though not mentioned in the register. As explained in paragraph 192, section 118 gives the Lord Chancellor power to reduce the qualifying time for the registration of leases, and this section anticipates a reduction by providing that notices cannot be entered for leases of 3 years or less (the likely minimum qualifying period).
- Restrictive covenants made between a lessor and lessee, so far as relating to the property leased. Such covenants are normally apparent from the lease, so it is unnecessary for them to be noted in the register. At present the exception includes a restrictive covenant over land not comprised in the lease, such as adjacent property owned by the landlord. This means no notice can be entered in respect of a restrictive covenant that relates to land that is not comprised in the lease, such as other adjacent property owned by the landlord. The Act removes the difficulties created by the current law.
- An interest capable of being registered under the Commons Registration Act 1965.
- An interest in any coal or coal mine, the rights attached to any such interest or the rights of any person under section 38, 49, or 51 of the Coal Industry Act 1994. This exception is as at present. Under the Act these interests override first registration and registered dispositions, even though not mentioned in the register, as provided for in paragraph 7 of Schedule 1, and paragraph 7 of Schedule 3.