

New Zealand.



ANALYSIS.

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1928, No. 18.

Title. AN ACT to provide for the Registration of Statutory Charges on Land.
[2nd October, 1928.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title. 1. This Act may be cited as the Statutory Land Charges Registration Act, 1928.

Interpretation. 2. In this Act, unless the context otherwise requires,—
Cf. 15 Geo. V, c. 22,
s. 20

“Land” has the same meaning as in the Land Transfer Act, 1915:

“Purchaser” means any person (including a mortgagee or lessee) who, for valuable consideration, takes any interest in land or in a charge on land; and “purchase” has a corresponding meaning:

“Registered” means registered under the Deeds Registration Act, 1908, or the Land Transfer Act, 1915; and “registration” has a corresponding meaning:

“Registrar” means the District Land Registrar or Registrar of Deeds, as the case may require, of the registration district in which the land affected by a charge to which this Act applies is situated.

Exemptions
from application
of Act.

3. (1) Nothing in this Act shall apply to any charge in respect of unpaid land-tax created by or arising under the Land and Income Tax Act, 1923.

(2) Nothing in this Act shall apply to—

(a) Charges created by or arising under the provisions of section forty-seven of the Workers' Compensation Act, 1922:

REGULATIONS:—

AMENDMENT ACT:—
1930 No. 23.

Section 2 of the Act is amended by adding after the word "and" in the definition of the word "charge" the words "and the charge of a mortgage of a leasehold interest in land" and by adding after the word "and" in the definition of the word "charge" the words "and the charge of a mortgage of a leasehold interest in land".

AFFECTED BY ACTS:—

The Act applies to all charges registered in the Land Charges Register after the commencement of this Act. The Act also applies to all charges registered in the Land Charges Register before the commencement of this Act which have not been registered in the Land Charges Register before the commencement of this Act. The Act also applies to all charges registered in the Land Charges Register before the commencement of this Act which have not been registered in the Land Charges Register before the commencement of this Act.

(b) Charges created by or arising under the provisions of section two hundred and twenty-eight of the Mining Act, 1926 :

(c) Charges created by or arising under the provisions of section two of the Coal-mines Amendment Act, 1927 :

(d) Any charge against Native land the title to which is not at the time of the creation of the charge on the register or the provisional register under the Land Transfer Act, 1915.

(3) No general, separate, or special rate made and levied by any local authority or other body having rating-powers shall be deemed to be a charge on land within the meaning or for the purposes of this Act.

4. (1) Except as provided in the last preceding section this Act shall apply to all charges on land created or arising (whether before or after the commencement of this Act) by virtue of the operation of any enactment now in force or that may hereafter be in force.

Charges to which Act applies.

(2) The provisions of this Act shall apply notwithstanding anything to the contrary in any enactment under which a charge is created or arises.

5. (1) Every charge to which this Act applies shall so far as regards any land affected thereby be void as against a purchaser under any deed, contract, or instrument ^{Take in addition 1936 Act} duly registered before the registration of such charge :

Land charges to be registered.
Cf. 15 Geo. V, c. 22, s. 13

Provided that any such charge that is in existence at the time of the passing of this Act shall not by virtue of this section be prejudicially affected by any purchase if such charge is registered on or before the first day of January, nineteen hundred and thirty :

Provided further that any such charge created or arising after the passing of this Act and before the first day of January, nineteen hundred and twenty-nine, shall not by virtue of this section be prejudicially affected by any purchase if such charge is registered on or before the last-mentioned date.

(2) A contract relating to land the title to which is under the provisions of the Land Transfer Act, 1915, shall for the purposes of this Act be deemed to be duly registered if a caveat protecting such contract shall have been duly entered upon the title and shall not have been removed therefrom.

6. (1) Registration of charges may be effected under this Act by depositing with the Registrar a notice in the form No. 1 in the Schedule hereto.

Mode of effecting registration.

(2) On receipt of a notice under the last preceding subsection, and on payment of a fee of five shillings in respect thereof, the Registrar shall register the charge under the Deeds Registration Act, 1908, or the Land Transfer Act, 1915, as the case may require.

(3) Notice of a charge to be given under this section may be signed on behalf of any corporation entitled to the benefit of such charge by the chairman or the secretary, clerk, or other responsible officer of the governing body of such corporation.

(4) The fee payable under this section shall be deemed to be an addition to the amount of the charge, and shall be recoverable accordingly by the person paying the same from the person liable for the satisfaction of the charge.

Release of registered charge.

7. (1) Upon satisfaction of any charge registered under this Act the person or authority entitled to the benefit of the charge shall, without fee, sign a certificate in the form No. 2 in the Schedule hereto.

(2) On such certificate being deposited with the Registrar the Registrar shall, without payment of a fee, cause a release of the charge to be registered.

(3) In the case of a charge registered for the benefit of a corporation, a certificate under this section may be signed on behalf of such corporation by the chairman or the secretary, clerk, or other responsible officer of the governing body thereof.

(4) If it appears to the Registrar that any charge registered under this Act has been satisfied, and that for any reason it is impossible or impracticable to obtain a certificate to that effect as required by the foregoing provisions of this section, the Registrar may, on application in writing by any proprietor of the land affected by the charge, cause a release of the charge to be registered.

Saving of existing provisions as to registration.

8. Where provision for the registration of any charge is made by the Act by virtue of which such charge is created or arises, or is made by any Act other than this Act, the provisions of such other Act as to registration, including any provisions thereof as to the payment of fees or as to exemption from the payment of fees, or as to the cancellation of registration, shall continue in force, and compliance therewith shall be deemed to be sufficient compliance with the provisions of this Act.

Instruments required for purposes of this Act not liable to stamp duty.

9. No stamp duty shall be chargeable in respect of any document executed for the purposes of this Act in either of the forms in the Schedule hereto.

Application to the Crown.

Cf. 15 Geo. V, c. 22, s. 25

10. The provisions of this Act shall bind the Crown, but nothing in this Act shall be construed as rendering land owned by or occupied for the purposes of the Crown subject to any charge to which independently of this Act it would not be subject.

Protection of Registrar and of Land Assurance Fund.

11. (1) The Registrar shall not be concerned to inquire as to the truth of the statements contained in any notice of charge deposited for registration under this Act, or in any certificate of satisfaction presented for the release of any such charge; and no action shall lie against the Crown or against the Registrar or any other person on behalf of the Crown in respect of any such registration or release.

(2) No person shall have any claim against the Land Assurance Fund by reason of any omission, mistake, or misfeasance of any person other than the Registrar, his officers or clerks, in relation to the registration or release of a charge under this Act.

Regulations

12. The Governor-General may from time to time by Order in Council make all such regulations as may in his opinion be necessary for the purpose of giving full effect to this Act.

SCHEDULE.

Schedule.

[Form No. 1.]

NOTICE OF STATUTORY LAND CHARGE.

To the District Land Registrar,
[or Registrar of Deeds],

.....Land Registration District.
[or Deeds Registration District].

TAKE notice that the land hereinafter described is subject to a charge for [Specify amount of charge] on account of [Here specify the nature of the charge and the authority under which it arises or has been created], and that you are hereby directed and required to register the same pursuant to the Statutory Land Charges Registration Act, 1928.

A fee of 5s. for registration is forwarded herewith.

DESCRIPTION OF LAND AFFECTED BY CHARGE.

Name of proprietor :

Situation :

Area :

Description by reference to Section number, &c. :

[If under Land Transfer Act] Reference to Certificate of Title : Vol. ; Fol.

Dated at , this day of , 19 .

.....
.....
[Name and description of applicant.]

NOTE.—A plan of the land affected must be endorsed if the land is not under the Land Transfer Act, or, where the land is under that Act, if portion only of the land included in a certificate of title is affected by the charge.

[Form No. 2.]

RELEASE OF REGISTERED STATUTORY LAND CHARGE.

To the District Land Registrar,
[or Registrar of Deeds],

.....Land Registration District.
[or Deeds Registration District].

I HEREBY certify that the statutory land charge hereinafter referred to has been satisfied, and you are hereby required and directed to register a release of the same accordingly.

DESCRIPTION OF LAND AFFECTED AND REFERENCE TO CHARGE.

Name of Proprietor :

Situation :

Area :

Description by reference to Section number, &c. :

[If under Land Transfer Act] Reference to Certificate of Title : Vol. ; Fol.

Description of charge :

[Insert particulars as to amount, registered number, &c., sufficient to identify the charge.]

Dated at , this day of , 19 .

.....
.....
[Name and description of person or body
in whose favour the charge was created.]