

# **Rights of Light Act, 1959**

7 & 8 ELIZ. 2 CH. 56

---

## **ARRANGEMENT OF SECTIONS**

### **Section**

1. Temporary extension of period of prescription for acquisition of rights of light.
2. Registration of notice in lieu of obstruction of access of light.
3. Effect of registered notice and proceedings relating thereto.
4. Application to Crown land.
5. Power to make rules.
6. Corresponding legislation in Northern Ireland.
7. Interpretation.
8. Short title, commencement and extent.



## CHAPTER 56

An Act to amend the law relating to rights of light, and for purposes connected therewith.

[16th July, 1959]

**B**E 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:—

1.—(1) For the purposes of any such proceedings as are mentioned in the next following subsection—

Temporary extension of period of prescription for acquisition of rights of light.

(a) section three of the Prescription Act, 1832 (whereby the uninterrupted enjoyment of the access of light for twenty years may confer an absolute right thereto), and

(b) section six of that Act (which provides that, in cases for which a period of prescription is defined by that Act, proof of enjoyment for a lesser period shall not raise any presumption in support of a claim),

shall have effect as if, in the said section three, for the words "twenty years" there were substituted the words "twenty-seven years".

(2) The said proceedings are—

(a) proceedings in any action begun after the passing of this Act and before the first day of January, nineteen hundred and sixty-three;

(b) proceedings in any action begun on or after the fourteenth day of July, nineteen hundred and fifty-eight, but before the passing of this Act, except any such action which has been finally disposed of before the passing of this Act.

(3) The said sections three and six shall also have effect as mentioned in subsection (1) of this section for the purposes of any proceedings in any action begun on or after the first day

of January, nineteen hundred and sixty-three, in so far as it falls to be determined in those proceedings whether—

- (a) a person is entitled to an absolute and indefeasible right to the access and use of light to and for a dwelling-house, workshop or other building, and
- (b) anything done or begun before the said first day of January (whether in pursuance of the following provisions of this Act or otherwise) constitutes, or if continued or completed would constitute, an infringement of that right.

(4) For the purposes of this section an action shall be taken to be finally disposed of on the earliest date by which the proceedings in the action have been determined and any time for appealing or further appealing has expired, except that, if the action is withdrawn or any appeal is abandoned, the action shall be taken to be finally disposed of on the date of the withdrawal or abandonment.

(5) In this section any reference to proceedings in an action includes a reference to any proceedings on or in consequence of an appeal from the decision in that action.

2.—(1) For the purpose of preventing the access and use of light from being taken to be enjoyed without interruption, any person who is an owner of land (in this and the next following section referred to as “the servient land”) over which light passes to a dwelling-house, workshop or other building (in this and the next following section referred to as “the dominant building”) may apply to the local authority in whose area the dominant building is situated for the registration of a notice under this section.

(2) An application for the registration of a notice under this section shall be in the prescribed form and shall—

- (a) identify the servient land and the dominant building in the prescribed manner, and
- (b) state that the registration of a notice in pursuance of the application is intended to be equivalent to the obstruction of the access of light to the dominant building across the servient land which would be caused by the erection, in such position on the servient land as may be specified in the application, of an opaque structure of such dimensions (including, if the application so states, unlimited height) as may be so specified.

(3) Any such application shall be accompanied by one or other of the following certificates issued by the Lands Tribunal, that is to say,—

- (a) a certificate certifying that adequate notice of the proposed application has been given to all persons who,

Registration  
of notice in  
lieu of  
obstruction of  
access of light.

in the circumstances existing at the time when the certificate is issued, appear to the Lands Tribunal to be persons likely to be affected by the registration of a notice in pursuance of the application ;

- (b) a certificate certifying that, in the opinion of the Lands Tribunal, the case is one of exceptional urgency, and that accordingly a notice should be registered forthwith as a temporary notice for such period as may be specified in the certificate.

(4) Where application is duly made to a local authority for the registration of a notice under this section, it shall be the duty of the proper officer of that authority to register the notice in the prescribed manner in the register of local land charges.

(5) Provision shall be made by rules under section three of the Lands Tribunal Act, 1949, for regulating proceedings before the Lands Tribunal with respect to the issue of certificates for the purposes of this section, and, subject to the approval of the Treasury, the fees chargeable in respect of those proceedings ; and, without prejudice to the generality of subsection (6) of that section, any such rules made for the purposes of this section shall include provision—

- (a) for requiring applicants for certificates under paragraph (a) of subsection (3) of this section to give such notices, whether by way of advertisement or otherwise, and to produce such documents and provide such information, as may be determined by or under the rules ;
- (b) for determining the period to be specified in a certificate issued under paragraph (b) of subsection (3) of this section ; and
- (c) in connection with any certificate issued under the said paragraph (b), for enabling a further certificate to be issued in accordance (subject to the necessary modifications) with paragraph (a) of subsection (3) of this section.

3.—(1) Where, in pursuance of an application made in accordance with the last preceding section, a notice is registered thereunder, then, for the purpose of determining whether any person is entitled (by virtue of the Prescription Act, 1832, or otherwise) to a right to the access of light to the dominant building across the servient land, the access of light to that building across that land shall be treated as obstructed to the same extent, and with the like consequences, as if an opaque structure, of the dimensions specified in the application,—

- (a) had, on the date of registration of the notice, been erected in the position on the servient land specified in the application, and had been so erected by the person who made the application, and

Effect of registered notice and proceedings relating thereto.

(b) had remained in that position during the period for which the notice has effect and had been removed at the end of that period.

(2) For the purposes of this section a notice registered under the last preceding section shall be taken to have effect until either—

- (a) the registration is cancelled, or
- (b) the period of one year beginning with the date of registration of the notice expires, or
- (c) in the case of a notice registered in pursuance of an application accompanied by a certificate issued under paragraph (b) of subsection (3) of the last preceding section, the period specified in the certificate expires without such a further certificate as is mentioned in paragraph (c) of subsection (5) of that section having before the end of that period been lodged with the local authority,

and shall cease to have effect on the occurrence of any one of those events.

(3) Subject to the following provisions of this section, any person who, if such a structure as is mentioned in subsection (1) of this section had been erected as therein mentioned, would have had a right of action in any court in respect of that structure, on the grounds that he was entitled to a right to the access of light to the dominant building across the servient land, and that the said right was infringed by that structure, shall have the like right of action in that court in respect of the registration of a notice under the last preceding section:

Provided that an action shall not be begun by virtue of this subsection after the notice in question has ceased to have effect.

(4) Where, at any time during the period for which a notice registered under the last preceding section has effect, the circumstances are such that, if the access of light to the dominant building had been enjoyed continuously from a date one year earlier than the date on which the enjoyment thereof in fact began, a person would have had a right of action in any court by virtue of the last preceding subsection in respect of the registration of the notice, that person shall have the like right of action in that court by virtue of this subsection in respect of the registration of the notice.

(5) The remedies available to the plaintiff in an action brought by virtue of subsection (3) or subsection (4) of this section (apart from any order as to costs) shall be such declaration as the court may consider appropriate in the circumstances, and an order directing the registration of the notice to be cancelled or varied, as the court may determine.

(6) For the purposes of section four of the Prescription Act, 1832 (under which a period of enjoyment of any of the rights to which that Act applies is not to be treated as interrupted except by a matter submitted to or acquiesced in for one year after notice thereof)—

- (a) as from the date of registration of a notice under the last preceding section, all persons interested in the dominant building or any part thereof shall be deemed to have notice of the registration thereof and of the person on whose application it was registered ;
- (b) until such time as an action is brought by virtue of subsection (3) or subsection (4) of this section in respect of the registration of a notice under the last preceding section, all persons interested in the dominant building or any part thereof shall be deemed to acquiesce in the obstruction which, in accordance with subsection (1) of this section, is to be treated as resulting from the registration of the notice ;
- (c) as from the date on which such an action is brought, no person shall be treated as submitting to or acquiescing in that obstruction :

Provided that if, in any such action, the court decides against the claim of the plaintiff, the court may direct that the preceding provisions of this subsection shall apply in relation to the notice as if that action had not been brought.

4.—(1) Subject to the next following subsection, this Act shall apply in relation to land in which there is a Crown or Duchy interest as it applies in relation to land in which there is no such interest. Application to Crown land.

(2) Section three of the Prescription Act, 1832, as modified by the preceding provisions of this Act, shall not by virtue of this section be construed as applying to any land to which (by reason that there is a Crown or Duchy interest therein) that section would not apply apart from this Act.

(3) In this section “ Crown or Duchy interest ” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.

5.—(1) The power conferred by subsection (6) of section fifteen of the Land Charges Act, 1925, to make rules for giving effect to the provisions of that section shall be exercisable for giving effect to the provisions of section two of this Act, other than provisions relating to the Lands Tribunal. Power to make rules.

(2) Any rules made by virtue of subsection (6) of the said section fifteen as applied by the preceding subsection shall (without prejudice to the inclusion therein of other provisions as to

cancelling or varying the registration of notices or agreements) include provision for giving effect to any order of the court under subsection (5) of section three of this Act.

Corresponding legislation in Northern Ireland.

6. No limitation or restriction imposed by virtue of any enactment on the powers of the Parliament of Northern Ireland shall preclude that Parliament from passing legislation for purposes similar to the purposes of any of the provisions of this Act.

Interpretation.

7.—(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“action” includes a counterclaim, and any reference to the plaintiff in an action shall be construed accordingly;

“local authority”, in relation to land in a county borough, county district or metropolitan borough, means the council of the borough or district, and, in relation to land in the City of London, means the Common Council of the City;

“owner”, in relation to any land, means a person who is the estate owner in respect of the fee simple thereof, or is entitled to a tenancy thereof (within the meaning of the Landlord and Tenant Act, 1954) for a term of years certain of which, at the time in question, not less than seven years remain unexpired, or is a mortgagee in possession (within the meaning of the Law of Property Act, 1925) where the interest mortgaged is either the fee simple of the land or such a tenancy thereof;

“prescribed” means prescribed by rules made by virtue of subsection (6) of section fifteen of the Land Charges Act, 1925, as applied by section five of this Act.

(2) References in this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment.

Short title, commencement and extent.

8.—(1) This Act may be cited as the Rights of Light Act, 1959.

(2) This Act, except sections one and six thereof, shall come into operation at the end of the period of three months beginning with the day on which it is passed.

(3) This Act shall not extend to Scotland.

(4) This Act, except section six thereof, shall not extend to Northern Ireland.

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Prescription Act, 1832 ... ..	2 & 3 Will. 4. c. 71.
Law of Property Act, 1925 ... ..	15 & 16 Geo. 5. c. 20.
Land Charges Act, 1925 ... ..	15 & 16 Geo. 5. c. 22.
Lands Tribunal Act, 1949 ... ..	12, 13 & 14 Geo. 6. c. 42.
Landlord and Tenant Act, 1954 ... ..	2 & 3 Eliz. 2. c. 56.

PRINTED BY SIR JOHN ROUGHTON SIMPSON, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament



LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 9d. net

PRINTED IN GREAT BRITAIN