



Section 73 of the Registration of Deeds and Title Act 2006 provides for the abolition of land certificates and certificates of charge. S 73(1) provides that the Property Registration Authority ('the Authority') to be set up under the Act will cease to issue such certificates. The Land Registry has indicated that this provision is not expected to come into effect until one month after the establishment date for the Authority has been set by Ministerial Order.

S 73(2) provides that any land certificates or certificates of charge issued before the commencement of S 73(1) and not already cancelled will cease to have any force or effect on the expiration of 3 years from the commencement of this subsection.

During this 3-year period any existing land certificates or certificates of charge will still need to be lodged for registration of any dealings with the relevant property, but they will be cancelled on completion of such dealings and will not be re-issued.

S 73(3)(b) provides that any person holding a lien on registered land or a registered charge through deposit or possession of land certificates or certificates of charge may apply to the Authority for registration of the lien.¹ This application is to be on notice to the registered owner of the land or the charge and the relevant certificate must be lodged with the application. There will be no fee for the registration. The Authority will publicise the effects of this section.

It is expected that the Authority will in due course make rules setting out the manner in which applications for registration of liens should be made. In the meantime solicitors should alert all relevant clients to the potential implications for them of this section of the Act, and they might also check their own records to see if they are holding liens over such certificates for unpaid fees. Any clients likely to have large volumes of liens they will wish to secure by applying to have them registered within the 3-year period should be encouraged to begin now to identify such liens so that the scale of the work to be completed within the 3-year period can be assessed.² It would be advisable not to leave applications for registration to the eleventh hour, bearing in mind that queries may arise on such applications or any documentation lodged with them.

There is a provision in S 73(4) for application to court for a declaration that the holder of a lien is entitled to compensation if the holder suffers loss through not having applied for registration of the lien within the 3-year period. However, the circumstances in which such an application can be made are quite limited and clients should be advised that it would be in their own best interests if they did not view this provision as a "fall-back" option.

The Society will keep solicitors updated on this topic through its website and in the Gazette over the next few months according as it receives information on the establishment date of the Property Registration Authority and other related matters. The Act can be viewed on the Land Registry or the Oireachtas websites.

LIENS - REGISTER THEM OR LOSE THEM

1.(as a burden under Section 69 of the 1964 Act.)

2. It should be noted that registration of a lien as a burden will not "secure" the lien in the same way as a registered charge, but it will put parties dealing with the folio on notice of the burden.