

CHAPTER 11

LOANS, MORTGAGES
AND CHARGES

LAW SOCIETY CONVEYANCING HANDBOOK



S. 18 HOUSING ACT, 1988

RELEASE OF MORTGAGES

(Contd.)

result in redemption figures for that account only being furnished. Also, as with some Bank mortgages, the Deed of mortgage may secure not only the monies due in respect of the home loan but also monies outstanding on foot of an overdraft facility/credit card.

It is essential to obtain the correct figures from the lending institution. A simple request for the amount due on the home loan is not enough. A simple request for the amount due to redeem one loan is not adequate, if there is more than one. The lending institution must be made aware that the request is for redemption figures, which if paid, will entitle the borrower to a release of the property from all security held.

It is felt that if solicitors adhere to the above guidelines, the pitfalls experienced by some solicitors in redeeming loans will be avoided.

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Solicitors acting for borrowers are frequently presented with forms of debenture or mortgage debenture which are intended to secure their clients' liabilities to the lending

STANDARD FORM BANK DEBENTURES

bank. The solicitors should advise the client on the nature of the commitment to follow from the client's execution of the debenture.

In many cases these debentures are pre-printed and include provisions which are not appropriate to the particular loan.

In considering whether the debenture is in an appropriate form, the solicitor should have sight of the bank's loan offer to the client. The debenture should not do any more that enable the bank to take security in the form agreed to by the client. In certain forms of debenture the bank in addition to taking a floating charge will also seek to take a fixed charge over future acquired assets. Apart from the consideration of the validity of such specific provisions, particularly relating to future acquired registered land, the facility offered to the client by the bank may not in the first instance have provided for such a charge. The solicitor should protect his client from executing a debenture which reserves to the bank security over and above what was provided for by the bank in the loan offer letter and accepted by the client.

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When houses are sold vendors normally cancel their home insurance and obtain a refund in respect of the unexpired period of cover. In certain cases insurance cover