Changes to legislation: *The Property (Discharge of Mortgage by Receipt) (Northern Ireland) Order 1983 is up to date with all changes known to be in force on or before 12 July 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1983 No. 766 (N.I. 9)

The Property (Discharge of Mortgage by Receipt) (Northern Ireland) Order 1983

- - - - - - *18th May 1983*

Title and commencement

1.—(1) This Order may be cited as the Property (Discharge of Mortgage by Receipt) (Northern Ireland) Order 1983.

(2) This Order shall come into operation on the expiration of the period of two months from the day on which it is made.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954[F1] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

F1 1954 c. 33 (N.I.).

Discharge of mortgage by endorsed or annexed receipt

3.—(1) Where a receipt—

(a) is endorsed on, written at the foot of or annexed to, a mortgage, for all money thereby secured, and

(b) is executed by the mortgagee,

the receipt operates—

(i) as a discharge of the mortgaged property from all principal money and interest secured by, and from all claims under, the mortgage;

(ii) as a termination of the mortgage and of all the mortgagee's estate in the mortgaged property; and

(iii) to vest in the mortgagor the estate of the mortgagee in the mortgaged property.

(2) This Article does not affect the right of any person to require a reconveyance, re-assignment, surrender, release or transfer to be executed in lieu of a receipt.

(3) A receipt discharging a mortgage shall be given in the form set out in the Schedule, with such variations and additions, if any, as the circumstances may require.

(4) Where the mortgage is comprised of more than one deed, the receipt shall be endorsed on, written at the foot of or annexed to, each of the mortgage deeds and shall refer to all the deeds

whereby the mortgage money is secured (giving the serial number of each such deed registered in the registry of deeds).

(5) Where the mortgagee who executes the receipt ("the present mortgagee") is not the original mortgagee, the receipt shall—

(a) refer to the manner in which the present mortgagee derives title under the original mortgagee; and

(b) where the title is derived under any deed registered in the registry of deeds, give the serial number of each such deed in the registry of deeds.

(6) Where the mortgage is registered in accordance with the Registration of Deeds Acts, the registrar under those Acts shall on production of a receipt purporting to operate under paragraph (1)**[**F2 and, except where the mortgagee is a body corporate, attested by two witnesses whose names and addresses and occupations or descriptions are subscribed to the receipt or attested by one witness who is a solicitor and whose name, address and description as a solicitor are subscribed to the receipt**]**

(a) make a note in the Abstract Book against the entry relating to the mortgage that a receipt in satisfaction has been given; and

(b) grant a certificate, either on the mortgage or separately, that such a receipt has been given.

(7) This Article applies to mortgages whenever made, but applies to mortgages made before the commencement of this Order only as respects discharges effected after that time.

(8) This Article does not apply to the discharge of a charge on registered land.

(9) In a receipt given under this Article the same covenants shall be implied as if the person who executes the receipt had by deed conveyed, and had been expressed to convey, the property as mortgagee.

(10) In this Article—

"mortgage" includes a charge for securing money and a further charge, but does not include a mortgage to which**F3**. . . section 33 of **[**F4the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969**]** ,**F5F6**. . . **[**F7 section 57A of the Friendly Societies Act 1974**][**F6 or Article 34 of the Credit Unions (Northern Ireland) Order 1985(e)**]** applies**[**F3 and, subject to paragraph 2(7) of Schedule 4 to the Building Societies Act 1986, does not include a mortgage to which that paragraph 2 applies;**]**

"mortgaged property" means the property remaining subject to the mortgage at the date of the receipt;

"mortgagee" includes any person deriving title under the original mortgagee; and

"mortgagor", in relation to a mortgage, means the person for the time being entitled to the equity of redemption and includes any person deriving title under the original mortgagor, or entitled to redeem, a mortgage according to his estate in the mortgaged property.

F2 1992 NI 7
F3 1986 c.53
F4 Words in art. 3(10) substituted (6.4.2018) by Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17(2), **Sch. 1 para. 20**; S.R. 2017/217, art. 2(d)
F5 1969 c. 24 (N.I.).
F6 1985 NI 12
F7 1992 c.40