
STATUTORY INSTRUMENTS

1997 No. 1964

LAND REGISTRATION, ENGLAND AND WALES

The Land Registration (Matrimonial Home Rights) Rules 1997

<i>Made</i>	- - - -	<i>7th August 1997</i>
<i>Laid before Parliament</i>		<i>8th August 1997</i>
<i>Coming into force</i>	- -	<i>1st October 1997</i>

The Lord Chancellor, with the advice and assistance of the Rule Committee appointed in pursuance of section 144 of the Land Registration Act 1925(1), in exercise of the powers conferred on him by that section and section 32 of, and paragraph 4(4) and 4(6) of Schedule 4 to, the Family Law Act 1996(2), hereby makes the following Rules:

PART I

Citation and commencement

1. These Rules may be cited as the Land Registration (Matrimonial Home Rights) Rules 1997 and shall come into force on 1st October 1997.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires:

“the 1967 Act” means the Matrimonial Homes Act 1967(3);

“the 1983 Act” means the Matrimonial Homes Act 1983(4);

“the 1996 Act” means the Family Law Act 1996;

“credit account” means an account authorised by the registrar under article 18 of the Land Registration Fees (No. 2) Order 1997(5);

(1) 1925 c. 21; section 144 was amended by the Land Registration Act 1988 (c. 3), section 1 and Schedule. Section 144(1) was amended by the Administration of Justice Act 1982 (c. 53), Schedule 5, paragraph (d) and the reference to the Minister of Agriculture Fisheries and Food was substituted by the Transfer of Functions (Ministry of Food) Order 1955 (S.I.1955/554).

(2) 1996 c. 27.

(3) 1967 c. 75.

(4) 1983 c. 19.

(5) S.I. 1997/1710.

“matrimonial home rights caution” means a caution registered in pursuance of section 2(7) of the 1967 Act before 14th February 1983;

“matrimonial home rights notice” means a notice registered in pursuance of section 31(10) (a) or section 32 of, and paragraph 4(3)(b) of Schedule 4 to, the 1996 Act, or section 2(8) or section 5(3)(b) of the 1983 Act, or section 2(7) or section 5(3)(b) of the 1967 Act;

“section 33(5) order” means an order made under section 33(5) of the 1996 Act, or under section 1 of the 1983 Act by virtue of section 2(4) of that Act.

(2) In rules 3 and 4 “Registry” shall include any premises where documents are stored on behalf of the registrar.

(3) In these Rules a form referred to by number means the form so numbered in Schedule 1.

(4) Expressions in these Rules have, unless the contrary intention appears, the meaning which they bear in the Land Registration Rules 1925(6).

PART II

APPLICATIONS TO REGISTER OR RENEW A REGISTRATION OF A MATRIMONIAL HOME RIGHTS NOTICE OR CAUTION; WARNING OFF OF MATRIMONIAL HOME RIGHTS CAUTIONS

Application to register a notice

3.—(1) An application in pursuance of section 31(10)(a) or section 32 of, and paragraph 4(3)(b) of Schedule 4 to, the 1996 Act to register a notice shall be made by delivering in documentary form at the proper office an application on Form MH1.

(2) If the application is made under section 32 of, and paragraph 4(3)(b) of Schedule 4 to, the 1996 Act the application shall be accompanied by an official copy of the section 33(5) order for filing in the Registry.

Application to renew the registration of a matrimonial home rights notice or caution

4.—(1) An application to renew the registration of a matrimonial home rights notice or a matrimonial home rights caution under section 32 of, and paragraph 4(3)(a) of Schedule 4 to, the 1996 Act shall be made by delivering in documentary form at the proper office an application on Form MH2 and shall be accompanied by an official copy of the section 33(5) order for filing in the Registry.

(2) If the registrar is satisfied that the application is in order he shall renew the registration by entering on the register a further notice or caution, as the case may require.

Warning off of matrimonial home rights cautions

5. The registrar shall not be required, on the application of the proprietor of the land to which a matrimonial home rights caution relates, to serve the notice referred to in rule 218 of the Land Registration Rules 1925 except upon production of:

- (a) a release in writing of the matrimonial home rights protected by the caution; or
- (b) a statutory declaration that, as to the whole or any part of the land to which the caution relates, no charge under section 31 of the 1996 Act, section 2 of the 1983 Act or section 2 of the 1967 Act has ever arisen or, if such a charge has arisen, it is no longer subsisting.

(6) [S.R.&O. 1925/1093](#); relevant amending instruments are S.I. [1978/1601](#); S.I. [1995/3153](#).

PART III

OFFICIAL SEARCHES BY MORTGAGEES; REQUESTS FOR INFORMATION; NOTICE OF PROVISION OF ADDITIONAL ARRANGEMENTS

Application for official search by a mortgagee

6.—(1) A mortgagee of registered land which consists of or includes all or part of a dwelling-house may apply for an official certificate of the result of a search of the relevant register for the purpose of section 56(3) of the 1996 Act.

(2) An application under paragraph (1) shall be made:

- (a) by delivering in documentary form at the proper office an application on Form MH3; or
- (b) during the currency of any relevant notice given pursuant to rule 9, and subject to and in accordance with the limitations contained in that notice, by delivering the application to the registrar, by any means of communication other than that referred to in sub-paragraph (a) and;
 - (i) where the application is made by facsimile transmission the applicant shall provide Form MH3;
 - (ii) in any other case the applicant shall provide, in such order as may be required by the registrar, such of the particulars as are appropriate and are required for an application in Form MH3.

(3) Where the application is made under paragraph (2)(a), Form MH3, unless the registrar otherwise allows, shall be delivered in duplicate.

Issue of official certificate of result of search

7.—(1) An official certificate giving the result of the search shall be issued in one, or more than one, of the following ways:

- (a) in documentary form as set out under the heading “Official Certificate of Result of Search” in Form MH3;
- (b) in other documentary form;
- (c) during the currency of any relevant notice given pursuant to rule 9, and subject to and in accordance with the limitations contained in that notice, by any means of communication, other than the means referred to in sub-paragraphs (a) and (b).

(2) Subject to paragraphs (3) and (4), an official certificate of result of search issued under paragraph (1) shall include the information specified in Schedule 2.

(3) Where the official certificate of result of search is issued under paragraph (1)(a) or (b), as part of, or together with, the applicant’s Form MH3 or a copy of that form, it need not include any of the information specified in Schedule 2 which appears on that form.

(4) Where an official certificate of result of search is issued under paragraph (1)(c) and another official certificate of result of search is to be, or has been, issued under paragraph (1)(a) or (b) in respect of the same application, it need only include the information specified at E of Schedule 2.

Information requested by applicant making an application under rule 6

8. During the currency of any relevant notice given pursuant to rule 9, and subject to and in accordance with the limitations contained in that notice, and if so requested by an applicant who is making an application under rule 6, the registrar may, before the official search has been completed in respect of such application, inform the applicant, by any means of communication, whether a

matrimonial home rights notice or matrimonial home rights caution has been entered in the register of the relevant title.

Notice for the provision of additional arrangements for an official search under rule 6, an official certificate of result of search under rule 7 or information under rule 8

9.—(1) If the registrar is satisfied that adequate arrangements have been or will be made for dealing with the applications under rule 6(2)(b) or results of search issued under rule 7(1)(c) or requests for information under rule 8 in accordance with this rule, he may, in such manner as he considers appropriate for persons who may wish to make applications under rule 6, give notice to that effect specifying the class or classes of case covered by those arrangements; and such a notice may in particular, but without prejudice to the generality of the foregoing provision, specify the class or classes of case so covered by limiting them:

- (a) to applications made by a person maintaining a credit account;
- (b) to applications which relate to land within specified counties, districts, London boroughs or other administrative areas;
- (c) to applications made between specified hours and on specified days (which need not be those between or on which the Registry is open to the public).

(2) Subject to paragraphs (3) and (4), a notice given pursuant to paragraph (1) shall be current from the time specified in that behalf in the notice either:

- (a) until the time, if any, specified in that behalf in the notice; or
- (b) if no time of ceasing to be current is specified in the notice, indefinitely.

(3) A notice given pursuant to paragraph (1) may from time to time be varied, suspended, withdrawn, renewed or replaced by a further notice.

(4) If and so long as owing to the breakdown or other unavailability of facilities or data involved in giving effect to the arrangements made for dealing with applications for or results of search or requests for information covered by a notice given under paragraph (1) such arrangements cease, in whole or in part, to be effective, the notice shall cease, to the necessary extent, to be treated as current notwithstanding the absence of a variation, suspension or withdrawal thereof under paragraph (3).

(5) Notwithstanding the provisions of rules 6(2)(b), 7(1)(c) and 8 the registrar may in his discretion refuse to accept an application made, or to issue a result, or to provide information under any of those provisions in any individual case.

PART I

AMENDMENT AND REVOCATION

Amendment to rule 14 of the Land Registration (Open Register) Rules 1991

10. In rule 14 of the Land Registration (Open Register) Rules 1991(7) the words “and no application may be so made under the Land Registration (Matrimonial Homes) Rules 1990” shall be omitted.

Revocation

11. The Land Registration (Matrimonial Homes) Rules 1990(8) are hereby revoked.

(7) S.I. 1992/122; no relevant amendments.

(8) S.I. 1990/1360.

Dated 7th August 1997

Irvine of Lairg, C.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Rules 3, 4 and 6

Form MH1
Form MH1

SCHEDULE 1

Rules 3, 4 and 6

Application for
**Registration of a Notice
of Matrimonial Home Rights**

HM Land Registry

Form

MH1

(Rule 3 Land Registration
(Matrimonial Home Rights) Rules 1997)

_____ District Land Registry

1. Please enter the administrative area (county and district, county, county or London borough etc.) in which the property is situated and also insert details of the title number and the dwelling-house against which you wish to register a notice of matrimonial home rights.

2. Please insert your full name and address in the United Kingdom, including postcode. (Where a solicitor is acting, please insert the full name and address of the person on whose behalf the application is being made.)

3. Please insert your husband's or wife's full name.

4. Have you registered a matrimonial home rights charge (in respect of your marriage to the person named at 3 above) in respect of any other dwelling-house? If "yes":

(a) insert the address of that dwelling-house

(b) if the charge is registered under the Land Charges Act 1972, please insert registration number

(c) if the charge is registered under the Land Registration Act 1925, please insert title number.

Note: If your application is successful, the registration of the charge referred to at (b) or (c) will be cancelled under section 32 of, and paragraph 2 of Schedule 4 to, the Family Law Act 1996.

5. Has an order been made under section 33(5) of the Family Law Act 1996 or section 1 of the Matrimonial Homes Act 1983 by virtue of section 2(4) of that Act? If so, please enclose an official copy.

1. Administrative area

Title number
Property

2.

3.

4. YES/NO

(a)

(b) L.C. number

(c) Title number

5. YES/NO

DECLARATION

I declare that the information given above is true and that I am entitled by virtue of section 31(2) or 31(5) of the Family Law Act 1996 to a charge on the legal estate registered under the title number mentioned in 1 above.

APPLICATION

I apply under section 31(10)(a), or section 32, of, and paragraph 4(3)(b) of Schedule 4 to, the Family Law Act 1996 for registration, under section 49(1)(c) of the Land Registration Act 1925, of notice of my matrimonial home rights charge against the title mentioned in 1 above.

My signature
or signature of
applicant's solicitor

Date

Key number	If solicitor lodging application, enter name and address/DX No.	TYPE MHA S Code Red
Reference		
	Telephone No.	

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Form MH2
Form MH2

Application for **Renewal of Registration of a Notice or a Caution in respect of Matrimonial Home Rights**

HM Land Registry

Form

MH2

(Rule 4 Land Registration (Matrimonial Home Rights) Rules 1997)

_____ District Land Registry

1. Please enter the administrative area (county and district, county, county or London borough etc.) in which the property is situated and also insert details of the title number and the dwelling-house against which you wish to renew the registration of a notice or caution in respect of matrimonial home rights.

1. Administrative area
Title number
Property

2. Please insert your full name and address in the United Kingdom, including postcode. (Where a solicitor is acting, please insert the full name and address of the person on whose behalf the application is being made.)

2.

APPLICATION			
Following an Order dated _____ and made under section 33(5) of the Family Law Act 1996 (the 1996 Act) or made under section 1 of the Matrimonial Homes Act 1983 by virtue of section 2(4) of that Act, I apply under section 32 of, and paragraph 4(3)(a) of Schedule 4 to, the 1996 Act for the renewal of the registration of the [notice] [caution against dealings] registered against the above mentioned title on _____ . An official copy of the Order accompanies this application.			
My signature or signature of applicant's solicitor			
Date	Key number	If solicitor lodging application, enter name and address/DX No.	TYPE
			MHA
			S Code
			Red
	Reference	Telephone No.	

Form MH3
Form MH3

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Application by Mortgagee
for Official Search in respect
of Matrimonial Home Rights

HM Land Registry

Form

MH3

(Rule 6 Land Registration
(Matrimonial Home Rights) Rules 1997)

District Land Registry

Please complete the numbered panels using **BLOCK LETTERS**.

1 Administrative area	
2 Title number (only one per form) of the registered property	
3 Property	
4 Full name of Mortgagee(s)	
5 Date of mortgage of the registered property	
6 Key No.	Enter, using BLOCK LETTERS , the name and either address (including postcode) OR (if applicable) the DX No. and exchange of the person lodging the application.
Reference	

7 Enter, using BLOCK LETTERS , the name and either address (including postcode) OR (if applicable) the DX No. and exchange of the person to whom the result is to be sent. (Leave blank if result is to be sent to the address in panel 6.)
8 PAYMENT OF FEE Please enter X in the appropriate box. <input type="checkbox"/> The Land Registry fee of £ <input type="text"/> accompanies this application; or <input type="checkbox"/> Please debit the Credit Account mentioned in panel 6 with the appropriate fee payable under the current Land Registration Fees Order. Note: If the fee is not paid by either of the above methods the application may be rejected
9 Application is made for an official certificate of the result of a search of the register of the above title for the purpose of section 56(3) of the Family Law Act 1996 to ascertain whether a matrimonial home rights notice or matrimonial home rights caution is entered in that register. Signed _____ Date _____ Telephone No. _____
Official Certificate of Result of Search It is certified that the official search applied for has been made with the following result: <input type="checkbox"/> A matrimonial home rights [notice] [caution] in favour of _____ _____ was registered on _____ <input type="checkbox"/> There is no entry in the register of a matrimonial home rights notice or matrimonial home rights caution. Date _____

SCHEDULE 2

Rule 7(2)

INFORMATION TO BE INCLUDED IN THE OFFICIAL CERTIFICATE OF THE RESULT OF SEARCH UNDER RULE 7(2)

- A. The title number
 - B. The date of the official certificate of result of search, being, unless otherwise stated in the said certificate, the date of the last day the Registry was open to the public prior to the day on which the search is commenced
 - C. The applicant's name
 - D. The applicant's (or his solicitor's) reference (if any): limited to 25 digits including spaces, oblique strokes and punctuation
 - E. Whether, at the date of the official certificate of result of search, a matrimonial home rights notice or matrimonial home rights caution has been registered against the title searched and if so the date of registration and the name of the person in whose favour the notice or caution was registered.
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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules, which replace the Land Registration (Matrimonial Homes) Rules 1990:

- (a) prescribe the forms to be used and the evidence to be provided when applying to register a notice, or renew a registration of a notice or caution, in respect of matrimonial home rights under the Family Law Act 1996 (c. 27) (which Act, amongst other things, re-enacts with amendments the provisions of the Matrimonial Homes Act 1983 (c. 19));
- (b) prescribe the form of application for an official search in respect of matrimonial home rights by a mortgagee of registered land for the purpose of section 56(3) of the 1996 Act (in connection with the mortgagee bringing an action in any court for the enforcement of his security over land which consists of or includes a dwelling-house) and the form and contents of the official certificate of result of search;
- (c) provide that, in addition to applications in documentary form or in addition to or instead of issuing an official certificate of result of search in documentary form, during the currency of any notice given pursuant to rules 6(2)(b), 7(1)(c) or 8 and subject to and in accordance with the limitations in that notice, an application for an official search or official certificate of result of search or information, as appropriate, may be made, issued or given by any other means of communication.