



Law of Property (Miscellaneous Provisions) Act 1994

1994 CHAPTER 36

PART I

IMPLIED COVENANTS FOR TITLE

Transitional provisions

10 General saving for covenants in old form

- (1) Except as provided by section 11 below (cases in which covenants in old form implied on disposition after commencement), the following provisions, namely—
 - (a) section 76 of the Law of Property Act 1925, and
 - (b) section 24(1)(a) of the Land Registration Act 1925,are repealed as regards dispositions of property made after the commencement of this Part.
- (2) The repeal of those provisions by this Act accordingly does not affect the enforcement of a covenant implied by virtue of either of them on a disposition before the commencement of this Part.

11 Covenants in old form implied in certain cases

- (1) Section 76 of the Law of Property Act 1925 applies in relation to a disposition of property made after the commencement of this Part in pursuance of a contract entered into before commencement where—
 - (a) the contract contains a term providing for a disposition to which that section would have applied if the disposition had been made before commencement, and
 - (b) the existence of the contract and of that term is apparent on the face of the instrument effecting the disposition,

unless there has been an intervening disposition of the property expressed, in accordance with this Part, to be made with full title guarantee.

- (2) Section 24(1)(a) of the Land Registration Act 1925 applies in relation to a disposition of a leasehold interest in land made after the commencement of this Part in pursuance of a contract entered into before commencement where—

- (a) the covenant specified in that provision would have been implied on the disposition if it had been made before commencement, and
- (b) the existence of the contract is apparent on the face of the instrument effecting the disposition,

unless there has been an intervening disposition of the leasehold interest expressed, in accordance with this Part, to be made with full title guarantee.

- (3) In subsections (1) and (2) an “intervening disposition” means a disposition after the commencement of this Part to, or to a predecessor in title of, the person by whom the disposition in question is made.
- (4) Where in order for subsection (1) or (2) to apply it is necessary for certain matters to be apparent on the face of the instrument effecting the disposition, the contract shall be deemed to contain an implied term that they should so appear.

12 Covenants in new form to be implied in other cases

- (1) This section applies to a contract for the disposition of property entered into before the commencement of this Part where the disposition is made after commencement and section 11 (cases in which covenants in old form to be implied) does not apply because there has been an intervening disposition expressed, in accordance with this Part, to be with full title guarantee.
- (2) A contract which contains a term that the person making the disposition shall do so as beneficial owner shall be construed as requiring that person to do so by an instrument expressed to be made with full title guarantee.
- (3) A contract which contains a term that the person making the disposition shall do so—
- (a) as settlor, or
 - (b) as trustee or mortgagee or personal representative,
- shall be construed as requiring that person to do so by an instrument expressed to be made with limited title guarantee.
- (4) A contract for the disposition of a leasehold interest in land entered into at a date when the title to the leasehold interest was registered shall be construed as requiring the person making the disposition for which it provides to do so by an instrument expressed to be made with full title guarantee.
- (5) Where this section applies and the contract provides that any of the covenants to be implied by virtue of section 76 of the Law of Property Act 1925 or section 24(1)(a) of the Land Registration Act 1925 shall be implied in a modified form, the contract shall be construed as requiring a corresponding modification of the covenants implied by virtue of this Part.

13 Application of transitional provisions in relation to options

For the purposes of sections 11 and 12 (transitional provisions: implication of covenants in old form in certain cases and new form in others) as they apply in relation to a disposition of property in accordance with an option granted before the commencement of this Part and exercised after commencement, the contract for the disposition shall be deemed to have been entered into on the grant of the option.