



# Law of Property Act 1925

## 1925 CHAPTER 20 15 and 16 Geo 5

### PART II

#### CONTRACTS, CONVEYANCES AND OTHER INSTRUMENTS

##### *Covenants*

#### **77 Implied covenants in conveyances subject to rents.**

- (1) In addition to the covenants implied under [F1Part I of the Law of Property (Miscellaneous Provisions) Act 1994], there shall in the several cases in this section mentioned, be deemed to be included and implied, a covenant to the effect in this section stated, by and with such persons as are hereinafter mentioned, that is to say:—
- (a) In a conveyance for valuable consideration, other than a mortgage, of the entirety of the land affected by a rentcharge, a covenant by the grantee or joint and several covenants by the grantees, if more than one, with the conveying parties and with each of them, if more than one, in the terms set out in Part VII. of the Second Schedule to this Act. Where a rentcharge has been apportioned in respect of any land, with the consent of the owner of the rentcharge, the covenants in this paragraph shall be implied in the conveyance of that land in like manner as if the apportioned rentcharge were the rentcharge referred to, and the document creating the rentcharge related solely to that land:
  - (b) In a conveyance for valuable consideration, other than a mortgage, of part of land affected by a rentcharge, subject to a part of that rentcharge which has been or is by that conveyance apportioned (but in either case without the consent of the owner of the rentcharge) in respect of the land conveyed:—
    - (i) A covenant by the grantee of the land or joint and several covenants by the grantees, if more than one, with the conveying parties and with each of them, if more than one, in the terms set out in paragraph (i) of Part VIII. of the Second Schedule to this Act;
    - (ii) A covenant by a person who conveys or is expressed to convey as beneficial owner, or joint and several covenants by the persons who so convey or are expressed to so convey, if at the date of the conveyance

*Status: Point in time view as at 01/01/1996.*

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any part of the land affected by such rentcharge is retained, with the grantees of the land and with each of them (if more than one) in the terms set out in paragraph (ii) of Part VIII. of the Second Schedule to this Act:

- F2(c) .....
- F2(d) .....

[F3(2) Where in a conveyance for valuable consideration, other than a mortgage, part of land affected by a rentcharge is, without the consent of the owner of the rentcharge, expressed to be conveyed subject to or charged with the entire rent, paragraph (B)(i) of subsection (1) of this section shall apply as if, in paragraph (i) of Part VIII of the Second Schedule to this Act—

- (a) any reference to the apportioned rent were to the entire rent; and
- (b) the words “(other than the covenant to pay the entire rent)” were omitted.

F3(2A) Where in a conveyance for valuable consideration, other than a mortgage, part of land affected by a rentcharge is, without the consent of the owner of the rentcharge, expressed to be conveyed discharged or exonerated from the entire rent, paragraph (B)(ii) of subsection (1) of this section shall apply as if, in paragraph (ii) of Part VIII of the Second Schedule to this Act—

- (a) any reference to the balance of the rent were to the entire rent; and
- (b) the words “, other than the covenant to pay the entire rent,” were omitted.]

- (3) In this section “conveyance” does not include a demise by way of lease at a rent.
- (4) Any covenant which would be implied under this section by reason of a person conveying or being expressed to convey as beneficial owner may, by express reference to this section, be implied, with or without variation, in a conveyance, whether or not for valuable consideration, by a person who conveys or is expressed to convey as settlor, or as trustee, or as mortgagee, or as personal representative of a deceased person, . . . F4 or under an order of the court.
- (5) The benefit of a covenant implied as aforesaid shall be annexed and incident to, and shall go with, the estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is, for the whole or any part thereof, from time to time vested.
- (6) A covenant implied as aforesaid may be varied or extended by deed, and, as so varied or extended, shall, as far as may be, operate in the like manner, and with all the like incidents, effects and consequences, as if such variations or extensions were directed in this section to be implied.
- (7) In particular any covenant implied under this section may be extended by providing that—
  - (a) the land conveyed; or
  - (b) the part of the land affected by the rentcharge which remains vested in the covenantor; F5 . . .
 F5(c) .....  
 shall, as the case may require, stand charged with the payment of all money which may become payable under the implied covenant.
- (8) This section applies only to conveyances made after the commencement of this Act.

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#### **Textual Amendments**

- F1** Words in s. 77(1) substituted (1.7.1995) by 1994 c. 36, ss. 21(1), 22(2), **Sch. 1 para. 1** (with s. 20); S.I. 1995/1317, **art. 2**
- F2** S. 77(1)(C)(D) repealed (1.1.1996) by 1995 c. 30, ss. 14(a), 30(2), **Sch. 2**, (with saving in s. 30(3)(a) and with ss. 1(1), 2(2), 26(1)(2)); S.I. 1995/2963, **art. 2**
- F3** S. 77(2)(2A) substituted (1.1.1996) for s. 77(2) by 1995 c. 30, s. 30(1), **Sch. 1 para. 2** (with savings in s. 30(3)(a) and with ss. 2(2), 26(1)(2)); S.I. 1995/2963, **art. 2**
- F4** Words repealed by **Mental Health Act 1959** (c. 72), **Sch. 8 Pt. I**
- F5** S. 77(7)(c) and preceding word repealed (1.1.1996) by 1995 c. 30, s. 30(2), **Sch. 2** (with savings in s. 30(3)(a) and with ss. 2(2), 26(1)(2)); S.I. 1995/2963, **art. 2**

#### **Modifications etc. (not altering text)**

- C1** S. 77 superseded for certain purposes as regards land affected by a rentcharge created after 22.7.1977 by **Rentcharges Act 1977** (c. 30, SIF 98:1), s. **11**

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**Changes to legislation:**

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