
STATUTORY INSTRUMENTS

1995 No. 3153

LAND REGISTRATION, ENGLAND AND WALES

The Land Registration (No. 3) Rules 1995

Made - - - - - *6th December 1995*
Laid before Parliament *6th December 1995*
Coming into force - - *1st January 1996*

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 by section 38(2) of that Act(2), hereby makes the following rules:

PART I
GENERAL

Citation, commencement and interpretation

1.—(1) These rules may be cited as the Land Registration (No. 3) Rules 1995 and shall come into force on 1st January 1996.

(2) In these rules:

- (a) “the principal rules” means the Land Registration Rules 1925(3);
- (b) a rule referred to by number means the rule so numbered in the principal rules.

PART II
DEFINITION OF “PROPER OFFICE”

Amendment to rule 1

2. The following paragraph is substituted for paragraph (5A) of rule 1:

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- (1) 1925 c. 21; section 144(1) was amended by the Administration of Justice Act 1982 (c. 53), section 67(2) and Schedule 5, paragraph (d). The reference to the Ministry of Agriculture, Fisheries and Food was substituted by the Transfer of Functions (Ministry of Food) Order 1955 (S.I. 1955/554).
 - (2) Amended by the Law of Property (Miscellaneous Provisions) Act 1994 (c. 36), section 2(1) and Schedule 1 para. 2.
 - (3) S.R. & O. 1925/1093; relevant amending instruments S.I. 1990/314, 1993/3275 and 1995/377.

“(5A) “Proper office” for the purposes of any application means the district registry within whose district, as constituted by orders made from time to time under section 132(1) of the Act, the land to which the application relates is situated or, where it is situated in the districts of two or more district registries, either or any of those district registries.”

Revocation of rules 24(4) and 83(2)

3. Rules 24(4)(4) and 83(2)(5) are revoked.

Amendments to rules other than the principal rules

4.—(1) The definitions of “proper office” in rule 1(2) of the Land Registration (Open Register) Rules 1991(6) and rule 2(1) of the Land Registration (Official Searches) Rules 1993(7) are revoked.

(2) The following is substituted for the definition of “proper office” in rule 2(1) of the Land Registration (Matrimonial Homes) Rules 1990(8):

““proper office” has the meaning given to it by rule 1(5A) of the Land Registration Rules 1925(9).”

PART III

REGISTERED DEALINGS WITH REGISTERED LAND

Amendment to rule 1

5. In rule 1 the following paragraphs are inserted after paragraph (5J):

“(5K) In these rules “new tenancy” has the same meaning as in section 1 of the Landlord and Tenant (Covenants) Act 1995(10), and “old tenancy” means a lease which is not a new tenancy.

(5L) In these rules references to:

- (a) section 24 of the Act; or
- (b) section 77 of, or Schedule 2 to, the Law of Property Act 1925 as originally enacted,

are references to those provisions as they operate in relation to old tenancies by virtue of section 30(3) of the Landlord and Tenant (Covenants) Act 1995.”

Revocation of rule 76

6. Rule 76 is revoked.

New rule 109

- 7.—(1) The following rule is substituted for rule 109:

(4) Added by S.I. 1990/314, rule 7.
(5) Inserted by S.I. 1990/314, rule 9.
(6) S.I. 1992/122.
(7) S.I. 1993/3276.
(8) 1990/1360.
(9) S.R. & O. 1925/1093.
(10) 1995 c. 30.

“Transfer of land subject to a rentcharge

109.—(1) A transfer of land subject to a rentcharge not falling within paragraph (2) below shall be made by an instrument in Form 19 or 32.

(2) A transfer of part of land subject to a rentcharge in which the rent is apportioned or land is exonerated from it shall be made by an instrument in Form 34B, or as near thereto as circumstances permit.

(3) Where the covenants set out in Part VII or Part VIII of Schedule 2 to the Law of Property Act 1925(**11**) (in this rule called “the 1925 Act”) are included in a transfer, the references to “the grantees”, “the conveyance” and “the conveying parties” shall be treated as references to the transferees, the transfer and the transferors respectively.

(4) Where in a transfer part of land affected by a rentcharge is, without the consent of the owner of the rentcharge, expressed to be transferred exonerated from the entire rent, and the covenants in paragraph (ii) of Part VIII of Schedule 2 to the 1925 Act are included, that paragraph shall apply as if:

- (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.

(5) Where in a transfer to which section 77(1)(B) of the 1925 Act does not apply part of land affected by a rentcharge is, without the consent of the owner of the rentcharge, expressed to be transferred subject to or charged with the entire rent, and the covenants in paragraph (i) of Part VIII of Schedule 2 to the 1925 Act are included, that paragraph shall apply as if:

- (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.

(6) On a transfer of land subject to a rentcharge:

- (a) any covenant implied by section 77(1)(A) or (B)(i) of the 1925 Act may be modified or negatived; and
- (b) any covenant included in the instrument of transfer may be modified,

by adding suitable words to the instrument.”

(2) In the heading of Form 19 in the Schedule to the principal rules a reference to Rules 98 and 109 is substituted for the reference to Rule 98.

(3) The following note shall be inserted in the notes to Form 19 in the Schedule to the principal rules:

“(4A) Where the transfer is subject to a rentcharge (other than a rentcharge created after 22nd July 1977 by virtue of section 2(3)(a) or (b) of the Rentcharges Act 1977(**12**)) and no covenants are implied by section 77(1) of the Law of Property Act 1925(**13**), the appropriate covenants may be incorporated by adding the words “The covenants set out in Part VII (*or if the rent has previously been apportioned without the consent of the owner of the rentcharge*, paragraph (i) of Part VIII) of Schedule 2 to the Law of Property Act 1925 shall be included in this transfer”.”

New rules 115 and 116

8. The following rule is substituted for rule 115:

(11) 15 Geo. 5 c.20.

(12) 1977 c. 30.

(13) 15 Geo. 5 c.20.

“Transfer of leasehold land

115.—(1) A transfer of leasehold land not falling within rule 116 shall be made by an instrument in Form 32 or 33.

(2) Where the transfer is a transfer of an old tenancy and covenants are to be implied under section 77 of the Law of Property Act 1925 as originally enacted, express reference shall be made in the transfer to that section.”

9. The following rule is substituted for rule 116:

“Transfer of leasehold land, the rent being apportioned or land exonerated

116.—(1) A transfer of part of leasehold land in which the rent is apportioned or land is exonerated from it shall be made by an instrument in Form 34 or 34A, or as near thereto as circumstances will permit.

(2) Where in a transfer part of land held under an old tenancy is, without the consent of the lessor, expressed to be transferred exonerated from the entire rent, and the covenants in paragraph (ii) of Part X of Schedule 2 to the Law of Property Act 1925 as originally enacted are included, that paragraph shall apply as if:

- (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) Where in a transfer to which section 77(1)(D) of the Law of Property Act 1925 as originally enacted does not apply part of land held under an old tenancy is, without the consent of the lessor, expressed to be transferred subject to or charged with the entire rent, and the covenants in paragraph (i) of Part X of Schedule 2 to the Law of Property Act 1925 as originally enacted are included, that paragraph shall apply as if:

- (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.

(4) Where the transfer is a transfer of part of the land held under an old tenancy and covenants are to be implied under section 24 of the Act, express reference shall be made in the transfer to that section.”

New rule 117

10. The following rule is substituted for rule 117:

“Variation of implied covenants in transfer of land held under old tenancy

117.—(1) Where in a transfer the covenants set out in Part IX or Part X of Schedule 2 to the Law of Property Act 1925 as originally enacted are included, the references to “the assignees”, “the conveyance” and “the conveying parties” shall be treated as references to the transferees, the transfer and the transferors respectively.

(2) On a transfer of land held under an old tenancy:

- (a) any covenants implied by section 24 of the Act or by section 77(1)(C) or (D) (i) of the Law of Property Act 1925 as originally enacted may be modified or negatived; and
- (b) any covenants included in the instrument of transfer may be modified,

by adding suitable words to the instrument, and a note shall be made in the register.”

New Forms 32, 33, 34, 34A and 34B

11. Forms 32, 33, 34, 34A and 34B in the Schedule to these rules shall be substituted for Forms 32, 33 and 34 in the Schedule to the principal rules.

Dated 6th December 1995

Mackay of Clashfern, C.

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

THE SCHEDULE

FORM 32—*Transfer of leasehold land (whole or part). (Rules 109 and 115.)*

As Form 19 or Form 20, adding at the end “for the residue of the term granted by the registered lease.”

Where it is intended to negative the covenants implied by Section 24 of the Act in relation to the transfer of an old tenancy, the following words may be added to the form:

“The covenant by the transferor (*or transferee, or the covenants by the transferor and transferee*) implied by Section 24 of the Act is (*or are*) not to be implied.”

FORM 33—*Transfer of leasehold land (whole) being part of the land originally comprised in the Lease, where the rent has already been apportioned. (Rule 115.)*

(*Date.*) In consideration of pounds (£), I, A.B., of &c., transfer to C. D., of &c., the land comprised in the title above referred to for the residue of the term granted by the registered lease subject to the apportioned rent of £ being part of the rent of £ reserved by the registered lease.

Note.—Where it is intended to negative the covenants implied by section 24 of the Act in relation to the transfer of an old tenancy, the following words may be added to the form:

“The covenant by the transferee implied by section 24 of the Act is not to be implied.”

FORM 34—*Transfer of land held under a new tenancy (part), in which the rent is apportioned or land exonerated. (Rule 116.)*

(Heading as in Form 19)

(*Date.*) In consideration of pounds (£), A.B., of &c., transfer to C. D., of &c., the land shown and edged with red on the accompanying plan, being part of the land comprised in the title above referred to for the residue of the term granted by the registered lease.

It is agreed that liability for the payment of [*where rent previously apportioned* the previously apportioned rent of £ being part of] the rent reserved by the registered lease is apportioned between the parties as follows:

£ (*or The whole*) shall be payable out of the land hereby transferred

The balance of £ (*or The whole*) shall be payable out of the residue of the land in the title(s) above referred to

If the whole rent is to be payable by one party, omit whichever of the above does not apply and add, and the residue of the land in the title(s) above referred to (or the land hereby transferred as the case may be) is exonerated from the said rent.

(To be executed as Form 19 by both parties)

FORM 34A—*Transfer of land held under an old tenancy (part), in which the rent is apportioned or land exonerated. (Rule 116.)*

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As Form 34, adding if desired, where the rent is apportioned or land exonerated without the consent of the lessor, "The covenants set out in paragraph (ii) of Part X of Schedule 2 to the Law of Property Act 1925 shall be included in this transfer."

The covenants set out in paragraph (i) of the said Part X may, where no covenants are implied by section 77(1)(D)(i) of the Law of Property Act 1925 as originally enacted, be incorporated by omitting the words "paragraph (ii) of".

Mutual charges in support of the covenants may be added if desired, and if added should be accompanied by application to register notice thereof.

Where the rent is apportioned or land exonerated with the consent of the lessor and no covenants are implied by section 77(1)(c) of the Law of Property Act 1925 as originally enacted, the appropriate covenants may be incorporated by adding the words, "The covenants set out in Part IX of Schedule 2 to the Law of Property Act 1925 shall be included in this transfer."

FORM 34B—*Transfer of land subject to a rentcharge (part), in which the rent is apportioned or land exonerated. (Rule 109.)*

(Heading as in Form 19)

(Date.) In consideration of pounds (£), A.B., of &c., hereby transfers to C. D., of &c., the land shown and edged with red on the accompanying plan, being part of the land comprised in the title above referred to.

It is agreed that liability for the payment of [*where rent previously apportioned* the previously apportioned rent of £ being part of] the yearly rentcharge of £ created by (*describe instrument*) to which the land transferred with other land is subject, is apportioned between the parties as follows:

£ (*or* The whole) shall be payable out of the land hereby transferred

The balance of £ (*or* The whole) shall be payable out of the residue of the land in the title(s) above referred to

If the whole rent is to be payable by one party, omit whichever of the above does not apply and add, and the residue of the land in the title(s) above referred to (or the land hereby transferred as the case may be) is exonerated from the said rent.

If the rent is apportioned or land exonerated without the consent of the owner of the rentcharge add, if desired: The covenants set out in paragraph (ii) of Part VIII of Schedule 2 to the Law of Property Act 1925 shall be included in this transfer.

(To be executed as Form 19 by both parties)

Note.—The covenants set out in paragraph (i) of the said Part VIII may, where no covenants are implied by section 77(1)(B)(i) of the Law of Property Act 1925, be included by omitting the words "paragraph (ii) of".

Mutual charges in support of the covenants may be added if desired, and if added should be accompanied by application to register notice thereof.

Where the rent is apportioned or land exonerated with the consent of the owner of the rentcharge and no covenants are implied by section 77(1)(A) of the Law of Property Act 1925, the appropriate covenants may be incorporated by adding the words, "The covenants set out in Part VII of Schedule 2 to the Law of Property Act 1925 shall be included in this transfer."

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EXPLANATORY NOTE

(This note does not form part of the Rules)

These Rules, which come into force on 1 January 1996, amend the Land Registration Rules 1925 (“the 1925 Rules”), the Land Registration (Matrimonial Homes) Rules 1990, the Land Registration (Open Register) Rules 1991 and the Land Registration (Official Searches) Rules 1993.

“Proper office” is defined in rule 1(5A) of the 1925 Rules for the purposes of all four of these sets of rules. The proper office is the district registry within whose district the land, or any of the land, to which an application relates is situated.

New rules are substituted for rules 115 and 116 of the 1925 Rules to provide for transfers of land held under “new tenancies” within the meaning of the Landlord and Tenant (Covenants) Act 1995 (that is, leases granted on or after 1 January 1996 otherwise than in pursuance of an agreement entered into, an option granted or a court order made before that date) as well as transfers of land held under leases which are not new tenancies.

The covenants implied by section 24 of the Land Registration Act 1925 and Section 77 of the Law of Property Act 1925 as originally enacted, both repealed in relation to new tenancies, can only apply to transfers of land held under leases which are not new tenancies. This is reflected in the new rules.

Rule 76 of the 1925 Rules, which provided for land subject to a rentcharge and leasehold land to be transferred as beneficial owner, etc. so as to imply the covenants by the transferor implied by section 77 of the Law of Property Act 1925, is revoked. New rules and forms allow the appropriate covenants to be incorporated in transfers without the transfer being made as beneficial owner.

New rule 109 (Transfers of land subject to a rentcharge) adapts the wording of Parts VII and VIII of Schedule 2 to the Law of Property Act 1925 to the requirements of registered conveyancing. It applies to transfers of either freehold or leasehold land.

A new rule 117 (Variation of implied covenants in transfer of land held under old tenancy) adapts the wording of Parts IX and X of Schedule 2 (saved in relation to leases which are not new tenancies) to the requirements of registered conveyancing, and provides for a note to be made on the register when the implied covenants are modified or negated.

New Forms 32, 33, 34, 34A and 34B are substituted for Forms 32, 33 and 34 in the Schedule to the 1925 Rules.