
STATUTORY INSTRUMENTS

1995 No. 377

LAND REGISTRATION, ENGLAND AND WALES

The Land Registration (Implied Covenants for Title) Rules 1995

Made - - - - *15th February 1995*
Laid before Parliament *17th February 1995*
Coming infor force - - *1st July 1995*

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:

Citation, commenCement and interpretation

1.—(1) These rules may be cited as the Land Registration (Implied Covenants for Title) Rules 1995 and shall come into force on 1st July 1995.

(2) In these rules a rule referred to by number means the rule so numbered in the Land Registration Rules 1925(3).

New Rule 76

2. The following rule shall be substituted for rule 76:

“Covenants implied under section 77 of the Law of Property Act 1925(4)

76. For the purpose of introducing the covenants implied under paragraphs (B)(ii) and (D)(ii) of section 77(1) of the Law of Property Act 1925 a person may, in a registered disposition:

- (a) be expressed to execute, transfer or charge as beneficial owner; or
- (b) where the instrument effecting the disposition expressly refers to section 77 of the Law of Property Act 1925, be expressed to execute, transfer or charge as settlor,

(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) Section 38(2) was amended by section 21(1) of and paragraph 2 of Schedule 1 to the Law of Property (Miscellaneous Provisions) Act 1994 (c. 36).

(3) S.R. & O. 1925/1093, to which there are amendments not relevant to these rules.

(4) 1925 c. 20.

trustee, mortgagee, or personal representative of a deceased person, or under an order of the court,

and the instrument effecting the disposition may be framed accordingly.”

New rule 76A

“Covenants implied under Part I of the Law of Property (Miscellaneous Provisions) Act 1994(5)

76A.—(1) In this rule “the 1994 Act” means the Law of Property (Miscellaneous Provisions) Act 1994.

(2) Subject to paragraph (3), a registered disposition may be expressed to be made either with full title guarantee or with limited title guarantee and, in the case of a disposition which is effected by an instrument in the Welsh language, the appropriate Welsh expression specified in section 8(4) of the 1994 Act may be used.

(3) In the case of a registered disposition to which section 76 of the Law of Property Act 1925 applies by virtue of section 11(1) of the 1994 Act, a person may be expressed to execute, transfer or charge as beneficial owner, settlor, trustee, mortgagee, or personal representative of a deceased person or under an order of the court, and the instrument effecting the disposition may be framed accordingly.

(4) Except as provided in paragraph (5), no reference to any covenant implied by virtue of Part I of the 1994 Act, or by section 76 of the Law of Property Act 1925 as applied by section 11(1) of the 1994 Act, shall be made in the register.

(5) A reference may be made in the register where a registered disposition of leasehold land limits or extends the covenant implied under section 4 of the 1994 Act.”

Amendment to rule 77

4. Rule 77 shall be amended as follows:

- (a) the words “Pursuant to subsection (2) of section 38 of the Act, it is hereby provided that —” shall be deleted;
- (b) in paragraph (1), for the words “Any covenant” there shall be substituted the words “In relation to a disposition of registered land to which section 76 of the Law of Property Act 1925 applies by virtue of section 11(1) of the Law of Property (Miscellaneous Provisions) Act 1994, any covenant”;
- (c) in paragraph (1), for the words “a disposition of registered land” there shall be substituted the words “such a disposition”;
- (d) in paragraph (2), for the word “aforesaid” there shall be substituted the words “of the Law of Property Act 1925”;
- (e) paragraph (4) shall be deleted.

New rule 77A

5. The following rule shall be inserted after rule 77:

“Additional provisions as to implied covenants

77A.—(1) In this rule “the 1994 Act” means the Law of Property (Miscellaneous Provisions) Act 1994.

(2) Any covenant implied by virtue of Part I of the 1994 Act in a registered disposition shall take effect as if the disposition had been expressly made subject to:—

- (a) all charges and other interests appearing or protected on the register at the time of the execution of the disposition and affecting the title of the registered proprietor;
- (b) any overriding interest of which the person to whom the disposition is made has notice and which will affect the estate created or disposed of when the disposition is registered.

(3) Where the instrument effecting a registered disposition contains a provision limiting or extending any covenant implied by virtue of Part I of the 1994 Act express reference shall be made to the section of that Act in which the covenant is set out.”

Amendment to rule 115

6. in rule 115(2) the words “or by Part I of the Law of Property (Miscellaneous Provisions) Act 1994,” shall be inserted after the words “section 24,”.

Amendment to rule 117

7. In rule 117 the words “or Part I of the Law of Property (Miscellaneous Provisions) Act 1994,” shall be inserted after the words “Law of Property Act 1925,”.

15th February 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.

EXPLANATORY NOTE

(This note does not form part of the Rules)

These Rules give effect to the provisions of Part I of the Law of Property (Miscellaneous Provisions) Act 1994 (“the 1994 Act”) on implied covenants for title in relation to dispositions of registered land.

They allow registered dispositions to include references to the new terms which, under the 1994 Act, imply covenants for title (“with full title guarantee” and “with limited title guarantee” or, in the case of a disposition in the Welsh language, the equivalent terms in Welsh). Provision is made for such covenants to take effect as if the disposition had been expressly made subject to specified entries on the register and to the overriding interests of which the person to whom the disposition was made had notice. Except where the registered disposition incorporating such a reference is of leasehold land no reference to the implied covenants are to be entered on the register whether the implied covenants are modified or not.

The Rules provide for the case where a person may, in a registered disposition, continue to be expressed to execute, transfer or charge as beneficial owner, or a settlor, or as trustee or as mortgagee, or as personal representative of a deceased person, or under an order of the court, so as:

- (a) to imply covenants for title under section 77 of the Law of Property Act 1925;
- (b) to imply covenants for title under section 76 of the Law of Property Act 1925 where that section applies to the disposition by virtue of section 11(1) of the 1994 Act (contract entered into before commencement of the 1994 Act containing term providing for a disposition to which section 76 would have applied before such commencement; existence of the contract apparent on the face of the instrument effecting the disposition; and no intervening disposition made with full title guarantee).