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STATUTORY INSTRUMENTS

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**1997 No. 1964**

**The Land Registration (Matrimonial Home Rights) Rules 1997**

**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(1);

“the 1983 Act” means the Matrimonial Homes Act 1983(2);

“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(3);

“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(4).

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(1) 1967 c. 75.

(2) 1983 c. 19.

(3) S.I.1997/1710.

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

## 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.

## 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<sup>(5)</sup> 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<sup>(6)</sup> are hereby revoked.

Dated 7th August 1997

*Irvine of Lairg, C.*

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<sup>(5)</sup> S.I. 1992/122; no relevant amendments.

<sup>(6)</sup> S.I. 1990/1360.