
STATUTORY INSTRUMENTS

1995 No. 3153

The Land Registration (No. 3) Rules 1995

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- (b) section 77 of, or Schedule 2 to, the Law of Property Act 1925 as originally enacted,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

“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(2) (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

(1) 1995 c. 30.

(2) 15 Geo. 5 c.20.

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(3)) and no covenants are implied by section 77(1) of the Law of Property Act 1925(4), 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:

“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.

(3) 1977 c. 30.

(4) 15 Geo. 5 c.20.

(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 negated; 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.