

1990 No. 1360

LAND REGISTRATION, ENGLAND AND WALES

The Land Registration (Matrimonial Homes) Rules 1990

Made - - - - - *4th July 1990*

Laid before Parliament *6th July 1990*

Coming into force - *3rd December 1990*

The Lord Chancellor, with the advice and assistance of the Rule Committee appointed in pursuance of section 144 of the Land Registration Act 1925(a), in exercise of the powers conferred on him by that section and section 5(4) and 5(6) of the Matrimonial Homes Act 1983(b), hereby makes the following rules:—

Citation, Commencement and Interpretation

1. These rules may be cited as the Land Registration (Matrimonial Homes) Rules 1990 and shall come into force on 3rd December 1990.

2.—(1) In these rules, unless the context otherwise requires:—

“The 1967 Act” means the Matrimonial Homes Act 1967(c);

“The 1983 Act” means the Matrimonial Homes Act 1983;

“proper office” means the district land registry designated as the proper office by Article 2(2) of the Land Registration (District Registries) Order 1989(d);

(2) A form referred to by number means the form so numbered in the Schedule to these rules.

Application to register notice

3. An application in pursuance of section 2(8) of the 1983 Act to register a notice shall be made in Form 99 to the proper office and, if at the date of the application an order has been made by virtue of section 2(4) of that Act, the application shall be accompanied by an official copy of the order for filing in the Registry.

Application to renew registration of notice or caution

4.—(1) Where a notice has been registered in pursuance of section 2(7) of the 1967 Act or section 2(8) of the 1983 Act or, before 14th February 1983, a caution has been registered in pursuance of section 2(7) of the 1967 Act, an application to renew the registration under paragraph (a) of section 5(3) of the 1983 Act shall be made in Form 100 to the proper office and shall be accompanied by an official copy of the order referred to in the said paragraph (a) for filing in the Registry.

(a) 1925 c.21; section 144 was amended by the Land Registration Act 1988 (c.3), section 1(2)(c) and Schedule.

(b) 1983 c.19.

(c) 1967 c.75.

(d) S.I. 1989/1902.

(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 cautions registered under section 2(7) of the 1967 Act

5. Where, before 14th February 1983, a caution has been registered in pursuance of section 2(7) of the 1967 Act, the registrar shall not be required, on the application of the proprietor of the land to which the caution relates, to serve the notice referred to in rule 218 of the Land Registration Rules 1925(a) except upon production of:

- (a) a release in writing of the rights of occupation 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 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.

Official search by mortgage

6.—(1) Where registered land which consists of or includes a dwelling house is subject to a registered charge, or to a mortgage which is protected by a notice of caution in accordance with section 106(3) of the Land Registration Act 1925(b), the proprietor of the registered charge, or as the case may be the mortgagee, may apply for an official certificate of the result of a search of the register for the purpose of section 8(4) of the 1983 Act.

(2) An application under paragraph (1) shall be in Form 106 and shall be delivered in duplicate at the proper office.

(3) An official certificate giving the result of the search shall be issued in the form set out under the heading "Official Certificate of Result of Search" in Form 106.

Revocation

7. The Land Registration (Matrimonial Homes) Rules 1983(c) are hereby revoked.

Dated 4th July 1990

Mackay of Clashfern, C.

SCHEDULE

Rules 3, 4 and 6

(a) S.R. & O. 1925/1093.

(b) This section was substituted by the Administration of Justice Act 1977 (c.38), section 26(1).

(c) S.I. 1983/40.

Application for
Registration of a Notice
of Rights of Occupation

HM Land Registry

Form **99**

(Rule 3 Land Registration
(Matrimonial Homes) Rules 1990)

_____ District Land Registry

1. Please insert details of the dwelling house against
— which you wish to register a notice of rights of
occupation.

2. Please state your full name and address.

3. Please state your husband's or wife's full name.

4. Is there a subsisting Class F Land Charge in your
favour affecting any other dwelling house?

If "yes":

(a) insert address of that dwelling house

(b) if registered under the Land Charges Act 1972,
please state registration number

(c) if registered under the Land Registration Act
1925, please state title number

5. Has an order been made under section 2(4) of the
Matrimonial Homes Act 1983? If so, please enclose an
official copy.

1. County and District or London Borough
Title number
Property

2.

3.

4. YES/NO

(a)

(b) L.C. number

(c) Title number

5. YES/NO

DECLARATION

I declare that the information given above is true and that I am entitled by virtue of section 2(1) or (2) of the Matrimonial Homes Act 1983 to a charge on the legal estate registered under the title mentioned in 1 above.

APPLICATION

I apply under section 2(8) of the Matrimonial Homes Act 1983 for registration, under section 49(1)(c) of the Land Registration Act 1925, of notice of a Class F Land Charge against the title mentioned in 1 above [and I apply for cancellation of the registration of the subsisting Class F Land Charge referred to in 4 above in accordance with section 3 of the Matrimonial Homes Act 1983.]

My signature
or signature of
applicant's solicitor

Date

Key number	If applicable, name and address, in Block Letters, of applicant's solicitor.
Reference	

Application for Renewal of
Registration of a Notice or
a Caution in respect of
Rights of Occupation

HM Land Registry

Form

100

(Rule 4 Land Registration
(Matrimonial Homes) Rules 1990)

_____ District Land Registry

County and District or London Borough _____
Title number _____
Property _____

Following an Order dated _____ and made under section 2(4) of the
Matrimonial Homes Act 1983, [I,] [We, _____
of _____
solicitors acting for] _____
of _____
apply under section 5(3)(a) of the said Act for the renewal of the registration of the [notice]
[caution against dealings] registered against the above mentioned title on _____
_____.

An official copy of the said Order accompanies this application.

Signature of Applicant or Applicant's solicitor _____

Date _____

Telephone number _____

Reference _____

Key number (if any) _____

Application by Mortgagee
for Official Search in
respect of Rights of Occupation

HM Land Registry

Form

106

(Rule 6 Land Registration
(Matrimonial Homes) Rules 1990)

_____ District Land Registry

Please complete the numbered panels using **BLOCK LETTERS**.

1 County and District or London Borough:-	For official use only
2 Title number (one only per form) of the registered property:-	
3 Property:-	6 I/We [as solicitors acting for] the before-mentioned mortgagee(s) apply pursuant to rule 6 of the Land Registration (Matrimonial Homes) Rules 1990 for an official certificate of the result of a search of the register of the above title for the purpose of section 8(4) of the Matrimonial Homes Act 1983 to ascertain whether any notice or caution is entered in that register to protect rights of occupation under that Act. Signed _____ Date _____ Telephone No. _____
4 Full name of Mortgagee(s):-	
5 Particulars of Mortgage:- (Please enter X in the appropriate box.) <input type="checkbox"/> Registered charge dated _____ numbered _____ in the Charges Register OR <input type="checkbox"/> Mortgage dated _____ protected by notice entered on _____ in the Charges Register OR <input type="checkbox"/> Mortgage dated _____ protected by caution entered on _____ in the Proprietorship Register	
7 Key number	Official Certificate of Result of Search It is certified that the official search applied for has been made with the following result: <input type="checkbox"/> [Notice of] [Caution to protect] rights of occupation under the Matrimonial Homes Act 1983 in favour of _____ _____ was registered on _____ <input type="checkbox"/> There is no entry in the register of a notice or caution to protect rights of occupation under the Matrimonial Homes Act 1983. Date _____
Complete this panel using BLOCK LETTERS and insert the name and address (including postcode) of the person to whom the official certificate of result of search is to be sent. _____ _____ _____ Reference _____	

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules, which replace the Land Registration (Matrimonial Homes) Rules 1983, make provision for the protection by notice of a charge in respect of a spouse's rights of occupation under the Matrimonial Homes Act 1983 in relation to registered land. The Rules also make provision and prescribe revised forms for applications to register and renew such notices and for renewal of cautions, entered before 14th February 1983, to protect a spouse's rights of occupation. They also re-state the circumstances in which the Chief Land Registrar may be required to serve a notice warning off an existing caution protecting a spouse's rights of occupation.

The Rules prescribe that a proprietor of a registered chargee or a mortgagee may requisition an official search of the register in the prescribed form to ascertain whether any such caution or notice has been registered and also prescribe the form of the official certificate of the result of search.

£1.40 net

ISBN 0 11 004360 X

Printed in the United Kingdom for HMSO

795 WO1292 C13 7/90 452/3 4235 46378 9001610