



Law of Property Act 1925

1925 CHAPTER 20 15 and 16 Geo 5

PART II

CONTRACTS, CONVEYANCES AND OTHER INSTRUMENTS

Covenants

F176

Textual Amendments

F1 S. 76 repealed (1.7.1995) by 1994 c. 36, ss. 10, 11, 13, 21(2)(3), **Sch.2** (with s. 20); S.I. 1995/1317, **art. 2**

77 Implied covenants in conveyances subject to rents.

(1) In addition to the covenants implied under [^{F2}Part I of the Law of Property (Miscellaneous Provisions) Act 1994], there shall in the several cases in this section mentioned, be deemed to be included and implied, a covenant to the effect in this section stated, by and with such persons as are hereinafter mentioned, that is to say:—

- (a) In a conveyance for valuable consideration, other than a mortgage, of the entirety of the land affected by a rentcharge, a covenant by the grantee or joint and several covenants by the grantees, if more than one, with the conveying parties and with each of them, if more than one, in the terms set out in Part VII. of the Second Schedule to this Act. Where a rentcharge has been apportioned in respect of any land, with the consent of the owner of the rentcharge, the covenants in this paragraph shall be implied in the conveyance of that land in like manner as if the apportioned rentcharge were the rentcharge referred to, and the document creating the rentcharge related solely to that land:
- (b) In a conveyance for valuable consideration, other than a mortgage, of part of land affected by a rentcharge, subject to a part of that rentcharge which

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has been or is by that conveyance apportioned (but in either case without the consent of the owner of the rentcharge) in respect of the land conveyed:—

- (i) A covenant by the grantee of the land or joint and several covenants by the grantees, if more than one, with the conveying parties and with each of them, if more than one, in the terms set out in paragraph (i) of Part VIII. of the Second Schedule to this Act;
- (ii) A covenant by a person who conveys or is expressed to convey as beneficial owner, or joint and several covenants by the persons who so convey or are expressed to so convey, if at the date of the conveyance any part of the land affected by such rentcharge is retained, with the grantees of the land and with each of them (if more than one) in the terms set out in paragraph (ii) of Part VIII. of the Second Schedule to this Act:

- ^{F3}(c)
- ^{F3}(d)

^{F4}(2) Where in a conveyance for valuable consideration, other than a mortgage, part of land affected by a rentcharge is, without the consent of the owner of the rentcharge, expressed to be conveyed subject to or charged with the entire rent, paragraph (B)(i) of subsection (1) of this section shall apply as if, in paragraph (i) of Part VIII of the Second Schedule to this Act—

- (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.

^{F4}(2A) Where in a conveyance for valuable consideration, other than a mortgage, part of land affected by a rentcharge is, without the consent of the owner of the rentcharge, expressed to be conveyed discharged or exonerated from the entire rent, paragraph (B)(ii) of subsection (1) of this section shall apply as if, in paragraph (ii) of Part VIII of the Second Schedule to this Act—

- (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) In this section “conveyance” does not include a demise by way of lease at a rent.
- (4) Any covenant which would be implied under this section by reason of a person conveying or being expressed to convey as beneficial owner may, by express reference to this section, be implied, with or without variation, in a conveyance, whether or not for valuable consideration, by a person who conveys or is expressed to convey as settlor, or as trustee, or as mortgagee, or as personal representative of a deceased person, . . . ^{F5} or under an order of the court.
- (5) The benefit of a covenant implied as aforesaid shall be annexed and incident to, and shall go with, the estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is, for the whole or any part thereof, from time to time vested.
- (6) A covenant implied as aforesaid may be varied or extended by deed, and, as so varied or extended, shall, as far as may be, operate in the like manner, and with all the like incidents, effects and consequences, as if such variations or extensions were directed in this section to be implied.
- (7) In particular any covenant implied under this section may be extended by providing that—
 - (a) the land conveyed; or

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(b) the part of the land affected by the rentcharge which remains vested in the covenantor;^{F6} . . .

^{F6}(c)

shall, as the case may require, stand charged with the payment of all money which may become payable under the implied covenant.

(8) This section applies only to conveyances made after the commencement of this Act.

Textual Amendments

- F2** Words in s. 77(1) substituted (1.7.1995) by 1994 c. 36, ss. 21(1), 22(2), **Sch. 1 para. 1** (with s. 20); S.I. 1995/1317, **art. 2**
- F3** S. 77(1)(C)(D) repealed (1.1.1996) by 1995 c. 30, ss. 14(a), 30(2), **Sch. 2**, (with saving in s. 30(3)(a) and with ss. 1(1), 2(2), 26(1)(2)); S.I. 1995/2963, **art. 2**
- F4** S. 77(2)(2A) substituted (1.1.1996) for s. 77(2) by 1995 c. 30, s. 30(1), **Sch. 1 para.2** (with savings in s. 30(3)(a) and with ss. 2(2), 26(1)(2)); S.I. 1995/2963, **art. 2**
- F5** Words repealed by **Mental Health Act 1959 (c. 72), Sch. 8 Pt. I**
- F6** S. 77(7)(c) and preceding word repealed (1.1.1996) by 1995 c. 30, s. 30(2), **Sch.2** (with savings in s. 30(3)(a) and with ss. 2(2), 26(1)(2)); S.I. 1995/2963, **art.2**

Modifications etc. (not altering text)

- C1** S. 77 superseded for certain purposes as regards land affected by a rentcharge created after 22.7.1977 by **Rentcharges Act 1977 (c. 30, SIF 98:1), s. 11**

78 Benefit of covenants relating to land.

(1) A covenant relating to any land of the covenantee shall be deemed to be made with the covenantee and his successors in title and the persons deriving title under him or them, and shall have effect as if such successors and other persons were expressed.

For the purposes of this subsection in connexion with covenants restrictive of the user of land “successors in title” shall be deemed to include the owners and occupiers for the time being of the land of the covenantee intended to be benefited.

(2) This section applies to covenants made after the commencement of this Act, but the repeal of section fifty-eight of the ^{M1}Conveyancing Act, 1881, does not affect the operation of covenants to which that section applied.

Modifications etc. (not altering text)

- C2** S. 78 excluded (1.1.1996) by 1995 c. 30, s. 30(4)(a) (with ss. 2(2), 26(1)(2)); S.I. 1995/2963, **art.2**

Marginal Citations

- M1** 1881 c. 41.

79 Burden of covenants relating to land.

(1) A covenant relating to any land of a covenantor or capable of being bound by him, shall, unless a contrary intention is expressed, be deemed to be made by the covenantor on behalf of himself his successors in title and the persons deriving title under him

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or them, and, subject as aforesaid, shall have effect as if such successors and other persons were expressed.

This subsection extends to a covenant to do some act relating to the land, notwithstanding that the subject-matter may not be in existence when the covenant is made.

- (2) For the purposes of this section in connexion with covenants restrictive of the user of land “successors in title” shall be deemed to include the owners and occupiers for the time being of such land.
- (3) This section applies only to covenants made after the commencement of this Act.

Modifications etc. (not altering text)

- C3** S. 79 extended by [Coal Act 1938 \(c. 52\), s. 19\(3\)](#); applied with modifications by [Countryside Act 1968 \(c. 41\), s. 15\(4\)](#)
- C4** S. 79 excluded (1.1.1996) by [1995 c. 30, s. 30\(4\)\(a\)](#) (with [ss. 2\(2\), 26\(1\)\(2\)](#)); [S.I. 1995/2963, art.2](#)

80 Covenants binding land.

- (1) A covenant and a bond and an obligation or contract [^{F7}made under seal after 31st December 1881 but before the coming into force of section 1 of the Law of Property (Miscellaneous Provisions) Act 1989 or executed as a deed in accordance with that section after its coming into force], binds the real estate as well as the personal estate of the person making the same if and so far as a contrary intention is not expressed in the covenant, bond, obligation, or contract.

This subsection extends to a covenant implied by virtue of this Act.

- (2) Every covenant running with the land, whether entered into before or after the commencement of this Act, shall take effect in accordance with any statutory enactment affecting the devolution of the land, and accordingly the benefit or burden of every such covenant shall vest in or bind the persons who by virtue of any such enactment or otherwise succeed to the title of the covenantee or the covenantor, as the case may be.
- (3) The benefit of a covenant relating to land entered into after the commencement of this Act may be made to run with the land without the use of any technical expression if the covenant is of such a nature that the benefit could have been made to run with the land before the commencement of this Act.
- (4) For the purposes of this section, a covenant runs with the land when the benefit or burden of it, whether at law or in equity, passes to the successors in title of the covenantee or the covenantor, as the case may be.

Textual Amendments

- F7** Words substituted by [Law of Property \(Miscellaneous Provisions\) Act 1989 \(c. 34, SIF 98:1\), s. 1\(8\), Sch. 1, para. 4](#)

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81 Effect of covenant with two or more jointly.

- (1) A covenant, and a contract under seal, and a bond or obligation under seal, made with two or more jointly, to pay money or to make a conveyance, or to do any other act, to them or for their benefit, shall be deemed to include, and shall, by virtue of this Act, imply, an obligation to do the act to, or for the benefit of, the survivor or survivors of them, and to, or for the benefit of, any other person to whom the right to sue on the covenant, contract, bond, or obligation devolves, and where made after the commencement of this Act shall be construed as being also made with each of them.
- (2) This section extends to a covenant implied by virtue of this Act.
- (3) This section applies only if and as far as a contrary intention is not expressed in the covenant, contract, bond, or obligation, and has effect subject to the covenant, contract, bond, or obligation, and to the provisions therein contained.
- (4) Except as otherwise expressly provided, this section applies to a covenant, contract, bond, or obligation made or implied after the thirty-first day of December, eighteen hundred and eighty-one.
- [^{F8}(5) In its application to instruments made after the coming into force of section 1 of the Law of Property (Miscellaneous Provisions) Act 1989 subsection (1) above shall have effect as if for the words “under seal, and a bond or obligation under seal,” there were substituted the words “bond or obligation executed as a deed in accordance with section 1 of the Law of Property (Miscellaneous Provisions) Act 1989”.]

Textual Amendments

F8 S. 81(5) added by [Law of Property \(Miscellaneous Provisions\) Act 1989 \(c. 34, SIF 98:1\), s. 1\(8\), Sch. 1, para. 5](#)

Modifications etc. (not altering text)

C5 S. 81 applied (1.7.1995) by [1994 c. 36, s. 8\(2\)](#) (with s. 20); [S.I. 1995/1317, art.2](#)

82 Covenants and agreements entered into by a person with himself and another or others.

- (1) Any covenant, whether express or implied, or agreement entered into by a person with himself and one or more other persons shall be construed and be capable of being enforced in like manner as if the covenant or agreement had been entered into with the other person or persons alone.
- (2) This section applies to covenants or agreements entered into before or after the commencement of this Act, and to covenants implied by statute in the case of a person who conveys or is expressed to convey to himself and one or more other persons, but without prejudice to any order of the court made before such commencement.

83 Construction of implied covenants.

In the construction of a covenant or proviso, or other provision, implied in a deed or assent by virtue of this Act, words importing the singular or plural number, or the masculine gender, shall be read as also importing the plural or singular number, or as extending to females, as the case may require.

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Modifications etc. (not altering text)

C6 S. 83 applied (1.7.1995) by 1994 c. 36, s. 8(2) (with s. 20); S.I. 1995/1317, art.2

84 Power to discharge or modify restrictive covenants affecting land.

(1) [^{F9}The Lands Tribunal] shall (without prejudice to any concurrent jurisdiction of the court) have power from time to time, on the application of any person interested in any freehold land affected by any restriction arising under covenant or otherwise as to the user thereof or the building thereon, by order wholly or partially to discharge or modify any such restriction . . . ^{F10} on being satisfied—

- (a) that by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which [^{F9}the Lands Tribunal] may deem material, the restriction ought to be deemed obsolete, or
- [^{F11}(aa) that [^{F12}in a case falling within subsection (1A) below] the continued existence thereof would impede [^{F9}some reasonable user] of the land for public or private purposes . . . ^{F13} or, as the case may be, would unless modified so impede such user; or]
- (b) that the persons of full age and capacity for the time being or from time to time entitled to the benefit of the restriction, whether in respect of estates in fee simple or any lesser estates or interests in the property to which the benefit of the restriction is annexed, have agreed, either expressly or by implication, by their acts or omissions, to the same being discharged or modified; or
- (c) that the proposed discharge or modification will not injure the persons entitled to the benefit of the restriction:

[^{F14}and an order discharging or modifying a restriction under this subsection may direct the applicant to pay to any person entitled to the benefit of the restriction such sum by way of consideration as the Tribunal may think it just to award under one, but not both, of the following heads, that is to say, either—

- (i) a sum to make up for any loss or disadvantage suffered by that person in consequence of the discharge or modification; or
- (ii) a sum to make up for any effect which the restriction had, at the time when it was imposed, in reducing the consideration then received for the land affected by it.]

. ^{F10}

[^{F15}(1A) Subsection (1) (aa) above authorises the discharge or modification of a restriction by reference to its impeding some reasonable user of land in any case in which the Lands Tribunal is satisfied that the restriction, in impeding that user, either—

- (a) does not secure to persons entitled to the benefit of it any practical benefits of substantial value or advantage to them; or
- (b) is contrary to the public interest;

and that money will be an adequate compensation for the loss or disadvantage (if any) which any such person will suffer from the discharge or modification.]

[^{F15}(1B) In determining whether a case is one falling within subsection (1A) above, and in determining whether (in any such case or otherwise) a restriction ought to be discharged or modified, the Lands Tribunal shall take into account the development plan and any declared or ascertainable pattern for the grant or refusal of planning

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permissions in the relevant areas, as well as the period at which and context in which the restriction was created or imposed and any other material circumstances.]

[^{F16}(1C) It is hereby declared that the power conferred by this section to modify a restriction includes power to add such further provisions restricting the user of or the building on the land affected as appear to the Lands Tribunal to be reasonable in view of the relaxation of the existing provisions, and as may be accepted by the applicant; and the Lands Tribunal may accordingly refuse to modify a restriction without some such addition.]

(2) The court shall have power on the application of any person interested—

(a) To declare whether or not in any particular case any freehold land is [^{F17}or would in any given event be] affected by a restriction imposed by any instrument; or

(b) To declare what, upon the true construction of any instrument purporting to impose a restriction, is the nature and extent of the restriction thereby imposed and whether the same is [^{F17}or would in any given event be] enforceable and if so by whom.

[^{F18}Neither subsections (7) and (11) of this section nor, unless the contrary is expressed, any later enactment providing for this section not to apply to any restrictions shall affect the operation of this subsection or the operation for purposes of this subsection of any other provisions of this section.]

(3) [^{F19}The Lands Tribunal] shall, before making any order under this section, direct such enquiries, if any, to be made of any [^{F17}government department or] local authority, and such notices, if any, whether by way of advertisement or otherwise, to be given to such of the persons who appear to be entitled to the benefit of the restriction intended to be discharged, modified, or dealt with as, having regard to any enquiries notices or other proceedings previously made, given or taken, [^{F19}the Lands Tribunal] may think fit.

[^{F20}(3A) On an application to the Lands Tribunal under this section the Lands Tribunal shall give any necessary directions as to the persons who are or are not to be admitted (as appearing to be entitled to the benefit of the restriction) to oppose the application, and no appeal shall lie against any such direction; but rules under the ^{M2}Lands Tribunal Act 1949 shall make provision whereby, in cases in which there arises on such an application (whether or not in connection with the admission of persons to oppose) any such question as is referred to in subsection (2) (a) or (b) of this section, the proceedings on the application can and, if the rules so provide, shall be suspended to enable the decision of the court to be obtained on that question by an application under that subsection, or by means of a case stated by the Lands Tribunal, or otherwise, as may be provided by those rules or by rules of court.]

(4) ^{F21}

(5) Any order made under this section shall be binding on all persons, whether ascertained or of full age or capacity or not, then entitled or thereafter capable of becoming entitled to the benefit of any restriction, which is thereby discharged, modified, or dealt with, and whether such persons are parties to the proceedings or have been served with notice or not . . . ^{F22}

(6) An order may be made under this section notwithstanding that any instrument which is alleged to impose the restriction intended to be discharged, modified, or dealt with, may not have been produced to the court or [^{F19}the Lands Tribunal], and the court or [^{F19}the Lands Tribunal] may act on such evidence of that instrument as it may think sufficient.

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(7) This section applies to restrictions whether subsisting at the commencement of this Act or imposed thereafter, but this section does not apply where the restriction was imposed on the occasion of a disposition made gratuitously or for a nominal consideration for public purposes.

(8) This section applies whether the land affected by the restrictions is registered or not, but, in the case of registered land, the Land Registrar shall give effect on the register to any order under this section [F19in accordance with the M3Land Registration Act, 1925],

(9) Where any proceedings by action or otherwise are taken to enforce a restrictive covenant, any person against whom the proceedings are taken, may in such proceedings apply to the court for an order giving leave to apply to [F19the Lands Tribunal] under this section, and staying the proceedings in the meantime.

(10) F21

(11) This section does not apply to restrictions imposed by the Commissioners of Works under any statutory power for the protection of any Royal Park or Garden or to restrictions of a like character imposed upon the occasion of any enfranchisement effected before the commencement of this Act in any manor vested in His Majesty in right of the Crown or the Duchy of Lancaster, nor [F23subject to subsection (11A) below] to restrictions created or imposed—

- (a) for Naval, Military or Air Force purposes,
- [F24(b) for civil aviation purposes under the powers of the Air Navigation Act 1920, of section 19 or 23 of the Civil Aviation Act 1949 or of section 30 or 41 of the Civil Aviation Act 1982.]

[F25(11A) Subsection (11) of this section—

- (a) shall exclude the application of this section to a restriction falling within subsection (11)(a), and not created or imposed in connection with the use of any land as an aerodrome, only so long as the restriction is enforceable by or on behalf of the Crown; and
- (b) shall exclude the application of this section to a restriction falling within subsection (11)(b), or created or imposed in connection with the use of any land as an aerodrome, only so long as the restriction is enforceable by or on behalf of the Crown or any public or international authority.]

(12) Where a term of more than [F26forty] years is created in land (whether before or after the commencement of this Act) this section shall, after the expiration of [F26twenty-five] years of the term, apply to restrictions affecting such leasehold land in like manner as it would have applied had the land been freehold:

Provided that this subsection shall not apply to mining leases.

(13) F21

Textual Amendments

- F9** Words substituted by Law of Property Act 1969 (c. 59), s. 28(1)(a)(2)(b)
- F10** Words and proviso repealed by Law of Property Act 1969 (c. 59), s. 28(3)
- F11** So much of s. 84(1)(a) as follows words “obsolete, or” amended and incorporated in para. (aa) by Law of Property Act 1969 (c. 59), s. 28(1)(a)
- F12** Words inserted by Law of Property Act 1969 (c. 59), s. 28(2)(a)
- F13** Words repealed by Law of Property Act 1969 (c. 59), s. 28(2)(c)

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- F14** Words added by Law of Property Act 1969 (c. 59), s. 28(3)
- F15** S. 84(1A)(1B) added by Law of Property Act 1969 (c. 59), s. 28(2)
- F16** S. 84(1C) added by Law of Property Act 1969 (c. 59), s. 28(2)
- F17** Words inserted by Law of Property Act 1969 (c. 59), s. 28(4)(5)
- F18** Words added by Law of Property Act 1969 (c. 59), s. 28(4)
- F19** Words substituted by Law of Property Act 1969 (c. 59), s. 28(1)(a)(7)
- F20** S. 84(3A) added by Law of Property Act 1969 (c. 59), s. 28(6)
- F21** S. 84(4)(10)(13) repealed by Lands Tribunal Act 1949 (c. 42), Sch. 2
- F22** Words repealed by Lands Tribunal Act 1949 (c. 42), Sch. 2
- F23** Words inserted by Law of Property Act 1969 (c. 59), s. 28(9)
- F24** S. 84(11) para. (b) substituted by Civil Aviation Act 1982 (c. 16, SIF 9), s. 109(2), Sch. 15 para. 1
- F25** S. 84(11A) added by Law of Property Act 1969 (c. 59), s. 28(9)
- F26** Words substituted by Landlord and Tenant Act 1954 (c. 56), s. 52(1)

Modifications etc. (not altering text)

- C7** S. 84 applied with modifications by Landlord and Tenant (War Damage) Act 1939 (c. 72), s. 18; restricted by Requisitioned Land and War Works Act 1945 (c. 43), s. 38(3); amended by Lands Tribunal Act 1949 (c. 42), s. 1(4) (a); saved by Leasehold Reform Act 1967 (c. 88), Sch. 4 para. 1(5); excluded by Forestry Act 1967 (c. 10), s. 5(2)(b) and Countryside Act 1968 (c. 41), s. 15(4)
- C8** S. 84 as amended by Lands Tribunal Act 1949 (c. 42), Sch. 2, Landlord and Tenant Act 1954 (c. 56), s. 52(1) and Law of Property Act 1969 (c. 59), s. 28, is set out in Law of Property Act 1969 (c. 59), Sch. 3
- C9** S. 84 (except s. 84(2)) excluded (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), ss. 22(7), 23; Archbishops' Instrument dated 16.2.1993
- C10** S. 84 excluded: (25.11.1991) by Town and Country Planning Act 1990 (c. 8, SIF 123:1), s. 106A(10) (as substituted (25.11.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), s. 12(1); S.I.1991/2728, art. 2); and (30.10.1994) by S.I. 1994/2716, reg. 16(4)
- C11** S. 84(11) saved by Requisitioned Land and War Works Act 1945 (c. 43), s. 38(3); extended by S.I. 1965/1536
- C12** Functions of Commissioners of Works now exercisable by Secretary of State: S.R. & O. 1945/991 (Rev.XV, p. 232: 1945 I, p. 1414), S.I. 1962/1549 and 1970/1681

Marginal Citations

- M2** 1949 c. 42.
- M3** 1925 c. 21.

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