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STATUTORY INSTRUMENTS

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**2003 No. 1417**

**The Land Registration Rules 2003**

**PART 8**

**RESTRICTIONS**

**Standard forms of restriction**

**91.**—(1) The forms of restriction set out in Schedule 4 are standard forms of restriction prescribed under section 43(2)(d) of the Act.

(2) The word “conveyancer”, where it appears in any of the standard forms of restriction, has the same meaning as in these rules.

(3) The word “registered”, where it appears in any of the standard forms of restriction in relation to a disposition, means completion of the registration of that disposition by meeting the relevant registration requirements under section 27 of the Act.

**Application for a restriction and the prescribed period under section 45(2) of the Act**

**92.**—(1) Subject to paragraphs (5), (6), (7) and (8) an application for a restriction to be entered in the register must be made in Form RX1.

(2) The application must be accompanied by—

- (a) full details of the required restriction,
- (b) if the restriction—
  - (i) requires notice to be given to a person,
  - (ii) requires a person’s consent or certificate, or
  - (iii) is a standard form of restriction that refers to a named person, that person’s address for service,
- (c) if the application is made with the consent of the relevant registered proprietor, or a person entitled to be registered as such proprietor, and that consent is not given in Form RX1, the relevant consent,
- (d) if the application is made by or with the consent of a person entitled to be registered as the relevant registered proprietor, evidence to satisfy the registrar of his entitlement, and
- (e) if the application is made by a person who claims that he has a sufficient interest in the making of the entry, the statement referred to in paragraph (3) signed by the applicant or his conveyancer.

(3) The statement required under paragraph (2)(e) must either—

- (a) give details of the applicant’s interest in the making of the entry of the required restriction, or
- (b) if the interest is one of those specified in rule 93, state which of them.

(4) If requested to do so, an applicant within paragraph (2)(e) must supply further evidence to satisfy the registrar that he has a sufficient interest.

(5) The registrar may accept a certificate given by a conveyancer that the conveyancer is satisfied that the person making or consenting to the application is entitled to be registered as the relevant proprietor, and that either—

- (a) the conveyancer holds the originals of the documents that contain evidence of that person's entitlement, or
- (b) an application for registration of that person as proprietor is pending at the land registry.

(6) If an application is made with the consent of the relevant registered proprietor, or a person entitled to be registered as such proprietor, the registrar may accept a certificate given by a conveyancer that the conveyancer holds the relevant consent.

(7) Paragraph (1) of this rule does not apply where—

- (a) a person applies for the entry of a standard form of restriction in the additional provisions panel of Form TP1, TP2, TP3, TR1, TR2, TR3, TR4, TR5, AS1, AS2 or AS3,
- (b) a person applies for the entry of a standard form of restriction in panel 7 of Form CH1, or
- (c) a person applies for the entry of a standard form of restriction in an approved charge.

(8) This rule does not apply to an application to the registrar to give effect to an order of the court made under section 46 of the Act.

(9) The period for the purpose of section 45(2) of the Act is the period ending at 12 noon on the fifteenth business day after the date of issue of the notice under section 45(1) or, if more than one such notice is issued, the date of issue of the latest notice.

(10) In this rule “approved charge” means a charge, the form of which (including the application for the restriction) has first been approved by the registrar.

### **Persons regarded as having a sufficient interest to apply for a restriction**

**93.** The following persons are to be regarded as included in section 43(1)(c) of the Act—

- (a) any person who has an interest in a registered estate held under a trust of land where a sole proprietor or a survivor of joint proprietors (unless a trust corporation) will not be able to give a valid receipt for capital money, and who is applying for a restriction in Form A to be entered in the register of that registered estate,
- (b) any person who has a sufficient interest in preventing a contravention of section 6(6) or section 6(8) of the Trusts of Land and Appointment of Trustees Act 1996(1) and who is applying for a restriction in order to prevent such a contravention,
- (c) any person who has an interest in a registered estate held under a trust of land where the powers of the trustees are limited by section 8 of the Trusts of Land and Appointment of Trustees Act 1996, and who is applying for a restriction in Form B to be entered in the register of that registered estate,
- (d) any person who has an interest in the due administration of the estate of a deceased person, where—
  - (i) the personal representatives of the deceased hold a registered estate on a trust of land created by the deceased's will and the personal representatives' powers are limited by section 8 of the Trusts of Land and Appointment of Trustees Act 1996, and
  - (ii) he is applying for a restriction in Form C to be entered in the register of that registered estate,

- (e) the donee of a special power of appointment in relation to registered land affected by that power,
- (f) the Charity Commissioners in relation to registered land held upon charitable trusts,
- (g) the Church Commissioners, the Parsonages Board or the Diocesan Board of Finance if applying for a restriction—
  - (i) to give effect to any arrangement which is made under any enactment or Measure administered by or relating to the Church Commissioners, the Parsonages Board or the Diocesan Board of Finance, or
  - (ii) to protect any interest in registered land arising under any such arrangement or statute,
- (h) any person with the benefit of a freezing order or an undertaking given in place of a freezing order, who is applying for a restriction in Form AA or BB,
- (i) any person who has applied for a freezing order and who is applying for a restriction in Form CC or DD,
- (j) a trustee in bankruptcy who has an interest in a beneficial interest in registered land held under a trust of land, and who is applying for a restriction in Form J to be entered in the register of that land,
- (k) any person with the benefit of a charging order over a beneficial interest in registered land held under a trust of land who is applying for a restriction in Form K to be entered in the register of that land,
- (l) a person who has obtained a restraint order under—
  - (i) paragraph 5(1) or 5(2) of Schedule 4 to the Terrorism Act 2000<sup>(2)</sup>, or
  - (ii) section 41 of the Proceeds of Crime Act 2002<sup>(3)</sup>,and who is applying for a restriction in Form EE or FF,
- (m) a person who has applied for a restraint order under the provisions referred to in paragraph (1) and who is applying for a restriction in Form GG or HH,
- (n) a person who has obtained an acquisition order under section 28 of the Landlord and Tenant Act 1987<sup>(4)</sup> and who is applying for a restriction in Form L or N,
- (o) a person who has applied for an acquisition order under section 28 of the Landlord and Tenant Act 1987 and who is applying for a restriction in Form N,
- (p) a person who has obtained a vesting order under section 26(1) or 50(1) of the Leasehold Reform, Housing and Urban Development Act 1993<sup>(5)</sup> and who is applying for a restriction in Form L or N,
- (q) a person who has applied for a vesting order under section 26(1) or 50(1) of the Leasehold Reform, Housing and Urban Development Act 1993 and who is applying for a restriction in Form N,
- (r) the International Criminal Court where it applies for a restriction—
  - (i) in Form AA or BB to give effect to a freezing order under Schedule 6 to the International Criminal Court Act 2001<sup>(6)</sup>, or
  - (ii) in Form CC or DD to protect an application for such a freezing order,
- (s) a receiver or a sequestrator appointed by order who applies for a restriction in Form L or N,

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(2) 2000 c. 11.  
(3) 2002 c. 29.  
(4) 1987 c. 31.  
(5) 1993 c. 28.  
(6) 2001 c. 17.

- (t) a trustee under a deed of arrangement who applies for a restriction in Form L or N,
- (u) a person who has obtained an interim receiving order under section 246 of the Proceeds of Crime Act 2002 and who is applying for a restriction in Form EE or FF, and
- (v) a person who has applied for an interim receiving order under section 246 of the Proceeds of Crime Act 2002 and who is applying for a restriction in Form GG or HH.

#### **When an application for a restriction must be made**

**94.**—(1) A proprietor of a registered estate must apply for a restriction in Form A where—

- (a) the estate becomes subject to a trust of land, other than on a registrable disposition, and the proprietor or the survivor of joint proprietors will not be able to give a valid receipt for capital money, or
- (b) the estate is held on a trust of land and, as a result of a change in the trusts, the proprietor or the survivor of joint proprietors will not be able to give a valid receipt for capital money.

(2) A sole or last surviving trustee of land held on a trust of land must, when applying to register a disposition of a registered estate in his favour or to be registered as proprietor of an unregistered estate, at the same time apply for a restriction in Form A.

(3) Subject to paragraph (6), a personal representative of a deceased person who holds a registered estate on a trust of land created by the deceased's will, or on a trust of land arising under the laws of intestacy which is subsequently varied, and whose powers have been limited by section 8 of the Trusts of Land and Appointment of Trustees Act 1996(7), must apply for a restriction in Form C.

(4) Subject to paragraphs (6) and (7), a proprietor of a registered estate must apply for a restriction in Form B where—

- (a) a declaration of trust of that estate imposes limitations on the powers of the trustees under section 8 of the Trusts of Land and Appointment of Trustees Act 1996, or
- (b) a change in the trusts on which that estate is held imposes limitations or changes the limitations on the powers of the trustees under section 8 of the Trusts of Land and Appointment of Trustees Act 1996.

(5) Subject to paragraphs (6) and (7), an applicant for first registration of a legal estate held on a trust of land where the powers of the trustees are limited by section 8 of the Trusts of Land and Appointment of Trustees Act 1996 must at the same time apply for a restriction in Form B.

(6) Paragraphs (3), (4) and (5) do not apply to legal estates held on charitable, ecclesiastical or public trusts.

(7) Paragraphs (4) and (5) apply not only where the legal estate is held by the trustees, but also where it is vested in the personal representatives of a sole or last surviving trustee.

(8) An application for a restriction must be made where required by paragraphs (2) or (3) of rule 176 or paragraph (2) of rule 178.

#### **Form of obligatory restrictions**

**95.**—(1) The form of any restriction that the registrar is obliged to enter under any enactment shall be—

- (a) as specified in these rules,
- (b) as required by the relevant enactment, or
- (c) in other cases, such form as the registrar may direct having regard to the provisions of the relevant enactment.

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(7) 1996 c. 47.

- (2) The form of the restriction required under—
- (a) section 44(1) of the Act is Form A,
  - (b) section 37(5A) of the Housing Act 1985<sup>(8)</sup> is Form U,
  - (c) section 157(7) of the Housing Act 1985 is Form V,
  - (d) section 81(10) of the Housing Act 1988<sup>(9)</sup> is Form X,
  - (e) section 133 of the Housing Act 1988 is Form X,
  - (f) paragraph 4 of Schedule 9A to the Housing Act 1985 is Form W,
  - (g) section 173(9) of the Local Government and Housing Act 1989<sup>(10)</sup> is Form X, and
  - (h) section 13(5) of the Housing Act 1996<sup>(11)</sup> is Form Y.

#### **Application for an order that a restriction be disapplied or modified**

**96.**—(1) An application to the registrar for an order under section 41(2) of the Act must be made in Form RX2.

- (2) The application must—
- (a) state whether the application is to disapply or to modify the restriction and, if the latter, give details of the modification requested,
  - (b) explain why the applicant has a sufficient interest in the restriction to make the application,
  - (c) give details of the disposition or the kind of dispositions that will be affected by the order, and
  - (d) state why the applicant considers that the registrar should make the order.

(3) If requested to do so, the applicant must supply further evidence to satisfy the registrar that he should make the order.

(4) The registrar may make such enquiries and serve such notices as he thinks fit in order to determine the application.

(5) A note of the terms of any order made by the registrar under section 41(2) of the Act must be entered in the register.

#### **Application to cancel a restriction**

**97.**—(1) An application to cancel a restriction must be made in Form RX3.

(2) The application must be accompanied by evidence to satisfy the registrar that the restriction is no longer required.

(3) If the registrar is satisfied that the restriction is no longer required, he must cancel the restriction.

#### **Application to withdraw a restriction from the register**

**98.**—(1) An application to withdraw a restriction must be made in Form RX4 and accompanied by the consents required under paragraphs (2) to (5).

(2) Subject to paragraphs (3), (4) and (5) an application to withdraw a restriction may only be made by or with the consent of all persons who appear to the registrar to have an interest in the restriction.

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<sup>(8)</sup> 1985 c. 68.

<sup>(9)</sup> 1988 c. 50.

<sup>(10)</sup> 1989 c. 42.

<sup>(11)</sup> 1996 c. 52.

(3) An application to withdraw a restriction that requires the consent of a specified person may only be made by or with the consent of that person.

(4) An application to withdraw a restriction that requires notice to be given to a specified person may only be made by or with the consent of that person.

(5) An application to withdraw a restriction that requires a certificate to be given by a specified person may only be made by or with the consent of that person.

(6) No application may be made to withdraw a restriction—

(a) that is entered under section 42(1)(a) of the Act and reflects some limitation on the registered proprietor's powers of disposition imposed by statute or the general law,

(b) that is entered in the register following an application under rule 94,

(c) that the registrar is under an obligation to enter in the register,

(d) that reflects a limitation under an order of the court or registrar, or an undertaking given in place of such an order,

(e) that is entered pursuant to a court order under section 46 of the Act.

(7) The registrar may accept a certificate given by a conveyancer that the conveyancer holds any consents required.

#### **Cancellation of a restriction relating to a trust**

**99.** When registering a disposition of a registered estate, the registrar must cancel a restriction entered for the purpose of protecting an interest, right or claim arising under a trust of land if he is satisfied that the registered estate is no longer subject to that trust of land.

#### **Entry following a direction of the court regarding overriding priority in connection with a restriction**

**100.—**(1) Any entry in the register required under section 46(4) of the Act shall be in such form as the registrar may determine so as to ensure that the priority of the restriction ordered by the court is apparent from the register.

(2) Where the making of the entry is completed by the registrar during the priority period of an official search which was delivered before the making of the application for the entry, he must give notice of the entry to the person who applied for the official search or, if a conveyancer or other agent applied on behalf of that person, to that agent, unless he is satisfied that such notice is unnecessary.