

Land Law and Conveyancing Law (4) Service of completion notices

In December 1991, the Commission published a Report on [Land Law and Conveyancing Law: \(4\) Service of Completion Notices \(LRC 40-1991\)](#), following a 1987 request by the Attorney General and dealing with the entitlement of a vendor to require a purchaser who is in delay to complete the sale.

Unless the proposed date for completion has been agreed to be, or is deemed to be, a binding one a vendor is obliged to serve a notice requiring a delaying purchaser to complete, usually before the expiry of a 28 day period. Some concern existed following a decision of the Supreme Court in the case of *Viscount Securities Ltd v Kennedy* that a vendor might be required to vacate the property and/or pay off any mortgage before being entitled to serve a completion notice

The Commission was concerned that any proposed solution to the issue must on the one hand, prevent the vendor from being able automatically to extend the closing date for the full twenty-eight days and, on the other, prevent the purchaser from being able to surprise the vendor demanding completion shortly after the vendor has served notice to complete. As such, the Commission proposed that the service of a completion notice should not alter the vendor's duty to give vacant possession on actual completion. The requirement that a vendor be able, ready and willing to complete before serving a completion notice should not be regarded as extending to vacant possession per se. Should the matter which is an impediment to the giving of vacant possession also prevent the vendor from showing a good title, then in this latter respect it will prevent him from being able, ready and willing to complete and render invalid any completion notice served.

The Commission further proposed that, after serving a completion notice, the vendor should be required to complete, giving vacant possession, within ten days of being requested to do so by the purchaser.

The Commission recommended that a statutory provision should be enacted to provide that:

- (i) The vendor shall not be deemed to be other than able, ready and willing to complete at the date of service of a completion notice:
 - a. by reason of being unable to deliver vacant possession at that date; or
 - b. by reason of not having discharge any mortgage which may effect the property.
- (ii) Once a completion notice has been served by the vendor, he may be required to complete, giving vacant possession, and discharging any encumbrance, within ten days of being requested to do so by the purchaser.

Draft Legislation in Report

Recommendations were incorporated into a draft Bill in the Report on [Reform and Modernisation of Land Law and Conveyancing Law \(LRC 74-2005\)](#).

Information on Implementation

Recommendations of the Commission were implemented by the *Land and Conveyancing Law Reform Act 2009*.