13. Covenants in freehold land

This chapter focuses on covenants in freehold land. A covenant is a promise made by one landowner to another regarding the use of freehold land. Enforceability is not a problem when considering the original parties to a covenant. The parties have simply entered into a contract with each other. Complications are caused, however, by Law of Property Act 1925, s. 56(1), which extends the scope of persons who may be counted as original covenantees, and the Contracts (Rights of Third Parties) Act 1999 (C(RTP)A 1999), which enables the benefit of a contract to be given to those who are not parties to it. The common law and equitable rules for passing of the benefit and burden of a covenant, positive covenants, breach of covenants, modification and discharge of covenants, and proposals for reform are discussed.

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