

Chapter 2: Registered Land

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Aims of this Chapter

This chapter will enable you to achieve the following learning outcomes from the ILEX syllabus:

- 1 Understand the meaning of the term “conveyancing”
- 6 Understand how to investigate title

2.1 Introduction

This material adds to the points already explained in **Chapter 1**. It is necessary for a complete understanding of the conveyancing procedures covered in the rest of the Unit.

As explained in **Chapter 1**, the registered land system is governed by the **Land Registration Act 2002 (LRA 2002)** and the **Land Registration Rules 2003 (LRR 2003)**, both of which came into force on 13 October 2003.

All current procedures (e.g. proof of title, forms and registration requirements) are governed by **LRA 2002** and **LRR 2003** (as amended).

This chapter also makes limited reference, where relevant, to the pre-October 2003 position, since there are many older titles in existence that were created under the old law. Some understanding of the old law is therefore necessary (e.g. in relation to some of the entries in pre-October 2003 registers).

It may be helpful to return to this chapter while studying the rest of the conveyancing material, as some of the terminology will become more familiar as the Unit progresses.

2.2 Title documentation

(1) Title documentation issued prior to LRA 2002

There are many pre-October 2003 titles in existence (e.g. Kevin and Demi bought their house in 2000) and it is therefore important to know what documentation exists in respect of these older titles.

The owner of a piece of land with registered title is called the registered proprietor. The actual register of each title is held at the Land Registry, in electronic format. Prior to 13 October 2003, the Land Registry issued paper title certificates to evidence title. Where there was no mortgage on the land, the certificate was called a land certificate and contained a copy of the register entries and a plan of the land called a filed plan. The land certificate could be held by the client or wherever the client wished (e.g. stored by the solicitor for safekeeping). Where there was a mortgage on the land, the certificate was called a charge certificate and was held by the mortgage lender as security for the loan. A charge certificate would contain copies of the register entries, the

filed plan and a copy of the charge (mortgage). To reduce storage costs some lenders asked the Land Registry not to issue a paper certificate, a process called dematerialisation and a register entry would be made to say that the Land Registry was retaining the certificate.

The paper certificate would be handed over from seller to buyer as proof of title when the property was sold. The certificate would be lodged with the registration application and an updated certificate issued to the new owner recording the change of ownership. On first registration a new title certificate would be issued in place of the title deeds.

There are many paper certificates in existence, as many owners bought before 13 October 2003. Many old paper certificates are being held, for instance, by lenders or by solicitors for safekeeping, but, as will be seen shortly, they are no longer evidence of title. **LRA 2002** abolished their status as such and they are no longer lodged with the Land Registry in respect of any application. They are no longer title documents – title is proved in accordance with the procedures under **LRA 2002** and **LRR 2003**.

(2) Title documentation issued under LRA 2002

As explained above, land and charge certificates were abolished under **LRA 2002** and are no longer issued. Existing ones have lost their status as evidence of title. Certificates are no longer lodged at the Land Registry with any applications. If they are, they may be destroyed.

Title is now proved by using official copies of the register entries. Subsequent chapters will explain that these official copies are obtained from the Land Registry when acting for a seller, together with a copy of the title plan. The format of the register entries will be explained in the next section. The official copies are issued upon payment of a fee and bear the time and date of issue. They reflect the state of the register entries at that time. These official copies are used to evidence the seller's title. The official copies are not sent to the Land Registry at any stage, as it already holds the register entries on its computers.

Document 3 of the **Appendix** is an example of an official copy of a register.

When a registration is completed (e.g. on a change of registered land ownership or following first registration) the Land Registry issues a “title information document”. This is not the same as a paper certificate. It is for information purposes only and can be given to the client (unless a mortgage lender wants to hold it). For future dealings with the title, fresh official copies will be obtained to show the up-to-date register entries.

2.3 The register

(1) Register entries prior to LRA 2002

There are still many registers in existence that were created prior to 13 October 2003. **LRA 2002** has not changed the general format or organisation of the register and these older registers look very similar to new ones. There are three register sections, A, B and C.

Older registers will, however, contain some entries made under the old law and these may differ in some detailed respects (e.g. there may be caution or inhibition entries, considered at **2.5**). Any entries made after 13 October 2003 have been made under **LRA 2002**, so some registers may contain a mix of old and new entries.

(2) **The format of a register**

The register of title is kept at the Land Registry. As explained above, official copies can be obtained for payment of a small fee.

Document 3 of the **Appendix** shows the entries on a specimen register. It may be helpful to look at the register in conjunction with these notes. The specimen register was originally created in 1989 when the land was registered for the first time.

The register contains the title number, which is unique to each title, and the edition date (a new edition is prepared when an entry is added or removed). The edition date of the specimen register is 19 November 2008. The register is accompanied by a title plan.

As shown in **Document 3**, the register is in three sections:

- **A** – the property register;
- **B** – the proprietorship register;
- **C** – the charges register.

Each part will now be examined in turn.

(a) The property register

This part of the register contains a description of the land and reference to the title plan, which will accurately identify the property. The plan is based on a large-scale Ordnance Survey map. The estate held will be stipulated as being freehold or leasehold (the specimen is for freehold land). In addition the register may contain details of any easements or covenants that exist for the benefit of the land (there are several rights shown in the specimen, including a right of way and a right of drainage).

If it is a leasehold title, the register will contain further entries, but these are outside the scope of this unit.

There may be other entries in this part of the register (e.g. in relation to land removed from a title, as shown in the specimen), but these are again outside the scope of this Unit.

(b) The proprietorship register

This is headed with the category or grade (class) of title. The class of title determines the extent of the state guarantee. The Land Registry checks the title on first registration before deciding what category to award. There are different classes, depending on whether the land is freehold or leasehold.

Freehold titles can be one of the following.

(i) **Absolute freehold (Title Absolute)**: this is equivalent to the fee simple absolute and is essentially subject only to interests that are subject to an entry in the register and interests which are overriding (see **2.5**). It is the best class of freehold title. This is the class shown in the specimen.

(ii) **Possessory title**: this is an inferior grade. It does not guarantee the registered proprietor against the possible existence of other valid claims to rights over the land existing from before registration. A possessory title might be granted, for instance, where title deeds have been lost or destroyed. A possessory title can be converted to absolute title by the Registrar if he is

satisfied as to the title (for instance, in the example above, that the deeds have been found and title is now satisfactory), or if the land has been registered for at least 12 years and the Registrar is satisfied as to the registered proprietor's unchallenged possession for that period.

(iii) **Qualified title:** this title grade is very rare but is granted when the Land Registry wants to guarantee the title apart from a specified defect. The specific defect will be noted on the register but the state guarantee is otherwise the same as with title absolute. Again, this type of title can be upgraded in due course if the defect is removed.

There are specific classes of leasehold title but these are not considered in this Unit.

The first entry in the proprietorship register is the name, address and date of registration of the registered proprietors (i.e. owners). The owner can list up to three addresses. One must be a postal address, but the others can be DX or email addresses if wished. It is important for a buyer's solicitor to check that the registered owners are the persons stated to be selling in the contract. Where a different person is shown as seller, further enquiries will be needed. It may be, for instance, that one joint proprietor has died and the survivor is selling. If they were beneficial joint tenants the death certificate will be needed to prove the death – the buyer can then buy from the survivor. Title checks are explained in **Chapter 6**.

There may be register entries to record the rights of third parties, notably any restrictions on the registered proprietor's powers to deal with the land (see **2.5**). One common restriction is where joint owners hold the property as tenants in common. Upon registration by tenants in common the Land Registry will enter a standard form restriction to show that the survivor alone cannot deal with the land (see **1.3.3**). There is a restriction of this type shown in the specimen. There is also a restriction imposed by a lender shown in the specimen.

Since 1 April 2000, the price paid for the property is entered in the proprietorship register (as shown in the specimen).

(c) The charges register

This part of the register shows any charges on the property, such as mortgages. The entry will show the name and address of the lender, but not the amount of the mortgage. The specimen shows a registered charge to a building society lender.

The charges register also contains notices of third party rights such as restrictive covenants, adverse easements and certain leases affecting the registered title (see **2.5**). There are examples of covenants and an adverse right of way in the specimen.

Details of covenants are often found in deeds attached to the register, where the wording is very extensive.

Where the register refers to a copy of a document being "copy filed" (as in the specimen), this means that the Land Registry holds the document and a copy can be obtained for a small fee.

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