



# Land Registry Act 1862 (repealed)

1862 CHAPTER 53 25 and 26 Vict

## PART I

AS TO THE REGISTRATION OF REAL ESTATES, AND THE TITLE THERETO

**2 Registry to be established.**

There shall be established a registry of the title to landed estates.

**3 Limits of registry.**

The registry shall be confined to estates of freehold tenure, and leasehold estates in freehold lands.

**4 By whom application for registration to be made.**

Application may be made for registration of title, by any of the following persons, viz.,

- (1) The owner of the fee simple:
- (2) Persons who collectively are owners of the fee simple, or have the power of acquiring the same:
- (3) Persons who have the power of appointing the fee simple:
- (4) Trustees for sale of the fee simple:
- (5) The owner of the first estate of freehold and first vested estate of inheritance:
- (6) Any purchaser of a fee simple, where his contract empowers him so to do, or the vendor consents:
- (7) Any person authorized by the Court of Chancery to make such application.

Application may be made, although the estate of the person applying may be subject to charges and incumbrances.

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*Proceedings to obtain Registration of a Title as indefeasible*

**5 Examination of title with guarantee.**

On application for the registration of a title as indefeasible, the title shall be examined by the registrar and examiners of title herein-after mentioned in such manner as general orders shall direct: no title shall be accepted for registration as indefeasible unless it shall appear to be such as a court of equity would hold to be a valid marketable title.

**6 Reference of questions of title.**

Any question, doubt, or dispute as to any matter of title that may arise in the course of such investigation may be referred to such judge of the Court of Chancery as the Lord Chancellor shall appoint to hear applications under this Act.

**7 Particulars to be furnished to registrar.**

If the title shall (either absolutely or subject as aforesaid) appear to be good and marketable, the applicants shall furnish to the registrar, and he shall examine and settle for the purposes of registration:

First, an exact description of the lands to be registered:

Secondly, a statement of the persons, or classes or descriptions of persons, that are or may become entitled to such lands, and of the estates, powers, and interests that exist, or may arise or become vested in such persons respectively:

Thirdly, a statement of the mortgages, charges, and incumbrances affecting such lands or any part thereof, and of the persons entitled thereto, both at law and in equity:

Copies of such description and statements, when settled by the registrar shall be delivered back to the applicants: any objection to the same or to any part thereof, if not allowed by the registrar, shall, at the request of the applicants, be referred to and decided by the judge of the Court of Chancery.

**8 May be verified on oath.**

If required by the registrar, the description of the land furnished by the applicant shall be verified by his own oath or the oaths of persons having full means of information.

**9 Claim to mines and minerals.**

It shall be stated in the description of the land to be so furnished by the applicant whether he does or does not claim to be entitled to all or any part of the mines and minerals under such land; and unless in such description mines or minerals shall be expressly mentioned, they shall be deemed not to be included therein; and if in such description mines or minerals shall be expressly mentioned, it shall be the duty of the registrar to have especial regard thereto in all subsequent inquiries to be made by him with respect to such lands, and in the investigation of the title thereto, and also in the service of such notices as hereinafter mentioned.

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**10 Identity of lands to be established.**

The identity of the lands with the parcels or descriptions contained in the title deeds shall be fully established; and the registrar shall have power by such inquiries as he shall think fit to ascertain the accuracy of the description and the quantities and boundaries of the lands; and, except in the case of incorporeal hereditaments, a map or plan shall be made and deposited as part of the description.

**11 Notice of intention to register.**

When such description has been settled, and the registrar is satisfied with the title shown to the land, and with the result of the inquiries made, he shall require such notices as general orders shall direct to be given by public advertisement of his intention to register such land with an indefeasible title, at the expiration of a period not less than three months from the date of such advertisement.

**12 Contents of notice.**

Such notice shall contain a copy of the description of the land as proposed to be registered and the names and descriptions of the applicants for registration: a copy of such notice shall be served on every adjoining occupier, and the person (if any) to whom such occupier pays rent, and on the lord of the manor in any case in which the lands are situate within or held of any manor, and also on every person not having already had notice of the application, who shall appear to have or claim any estate or interest in or right over the land, or any part thereof, and on such other persons as under the special circumstances of each case shall be deemed necessary.

The notice shall also state the place, time, and manner at and in which any party may be heard to show cause against such registration.

**13 Cause may be shown against registration.**

At the time and place named in the notice, or at such time and place as general orders shall direct, any person may attend and show cause before the registrar, by affidavit or otherwise, against the registration, or claim that the same should be subject to any conditions or reservations; the registrar may decide on such objection or claim, or may refer the same to the judge of the Court of Chancery: if the registrar decide, either party may appeal from his decision to the said Court, in manner herein-after directed.

**14 Completion of registration.**

If at the expiration of the time named in such notice there shall be no objection to the registration applied for or none allowed, and no appeal pending, or, if any appeal shall be then pending, as soon as any objection to such registration shall have been finally disallowed by the Court of Appeal, or the appeal withdrawn, the registrar shall complete such registration in manner following; that is to say,

First, the registrar shall enter in a book to be called “The Register of Estates with an indefeasible Title” such description of the estate as shall be finally approved of, and shall annex thereto any map or plan which shall be deemed necessary, and shall distinguish the estate so entered by a particular number or numbers, and the entry shall refer to another book to be entitled “The Record of Title to Lands on the Registry”:

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Secondly, in the last-mentioned book, under the same number or numbers, shall be entered in concise terms an exact record of the existing estates, powers, and interests in the land so registered as aforesaid, and the names and descriptions of the persons or classes of persons that are or may become entitled thereto respectively:

Thirdly, in a book to be entitled “The Register of Mortgages and Incumbrances” shall be entered under the same number or numbers an account of all the charges and incumbrances affecting the lands or any part thereof, or the estate or interest therein of any person named in the record of title.

**15 Books may be inspected.**

Subject to such directions as may be given by general orders, the aforesaid books of registry may be inspected by the owners of the estates and interests, or of the mortgages and incumbrances recorded therein, or their respective solicitors or agents: no other person shall be permitted to inspect such books, except under an order of the Court of Chancery.

*As to the Record of Title*

**16 As to exception, &c. in record of title.**

In the record of title so made as aforesaid it shall be competent for the registrar to specify or define any exception or qualification or condition affecting the whole of the interests so recorded, or any of them, and also to reserve expressly the right of any person or class of persons, and to describe any outstanding right or possibility of claim or interest subject to which such registration is made; and if there shall be any disputed question of boundary between the applicants and any proprietor of adjoining land which shall not have been previously determined by any competent authority, it shall be competent for the parties or either of them to object in writing to the determination of such question by the registrar, or by a judge of the Court of Chancery, under this Act; and if any such objection shall be made, the registrar shall specify upon the record of title the existence of such disputed question of boundary, and that the registration is made subject thereto.

**17 Any question as to true construction of any deed, &c. to be referred by registrar to a judge of Court of Chancery.**

If in making up, or afterwards continuing, such record of title as aforesaid, any question shall arise as to the true construction or legal validity or effect of any deed, instrument, or will, or as to the persons entitled, or the extent or nature of the estate, right, or interest, power or authority of any person or class of persons, or the mode in which any entry ought to be made in the record of title, or any doubtful or uncertain right or interest stated or dealt with by the registrar, it shall be competent for the registrar, or for any of the parties interested, to refer the same to a judge of the Court of Chancery: if on such reference the judge, having regard to the parties appearing before him, shall think proper to decide the question, he shall have power to do so, or to direct any proceeding at law or in equity to be instituted for that purpose, or at his discretion, and without deciding such question, to direct such particular form of entry to be made on the record of title as under the circumstances shall appear to be right.

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**18 Registrar may refer in record of title to deed, &c. for estates of parties.**

In any case described in the preceding section, the registrar may, at the request of the parties or at his own discretion, refer in the record of title to the deed, will, or other instrument for the estates and interests of the parties, instead of setting out or describing the same: Provided always, that in every case in which such deed, will, or other instrument shall be so referred to, a copy thereof (which shall be verified and printed in the manner herein-after directed with respect to deeds or instruments conveying, mortgaging, or charging the estate or interest of any proprietor on the register,) shall be delivered to the registrar by the parties applying for registration, and shall be preserved in the registry; and for the purposes of any subsequent sale, mortgage, or contract for valuable consideration by any person appearing thereby to have any estate or interest in the land to which the record of title so made up shall relate, such copy shall be conclusive evidence of the contents of the said deed, without the production of the original thereof.

**19 Persons entitled to principal money, &c. not to be entered in record of title unless registrar thinks fit.**

The names of the persons entitled to the proceeds of any trust for sale of the lands so registered, or to any principal money to be raised by virtue of any charge under the trusts of any estate or term, shall not be entered in the register unless the registrar shall think fit so to do; but the estate of the trustees shall be defined and the purpose of the trust shortly described.

*When an indefeasible title shall arise*

**20 Persons described in record of title to be deemed as possessed of such estates, &c.**

Subject to any exception, qualification, or condition mentioned in such record of title, and to any right or interest thereby reserved, and to any registered charges or incumbrances, and to such charges and interests (if any) as are herein declared not to be incumbrances, the persons originally and from time to time named and described in such record of title as aforesaid shall, for the purposes of any sale, mortgage, or contract for valuable consideration by such persons respectively, be and be deemed to be as from the date of registering such record by the registrar, or from such time as shall be fixed by him therein, absolutely and indefeasibly possessed of and entitled to such estates, rights, powers, and interests as shall be defined and expressed in such record, against all persons, and free from all rights, interests, claims, and demands whatsoever, including any estate, claim, or interest of Her Majesty.

**21 Informality not to prejudice entry in record of title.**

No entry in such record of title as aforesaid shall be set aside or called in question as against any person who may afterwards become interested therein under any sale, mortgage, or contract for valuable consideration, by reason of any irregularity or informality in the proceedings previous to the making thereof.

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**22 Before registration applicant, &c. to make oath that all deeds, &c. have been made known to registrar.**

Before the final registration of any land with an indefeasible title, the applicant and his solicitor or agent, or certificated conveyancer, and such other person or persons as the registrar shall require, shall make oath that all deeds, wills, and writings relating to the title of the lands, or any part thereof, and all facts material to the title thereto, and all charges, liens, incumbrances, contracts, and dealings affecting the same or any part thereof, or giving any right as against the applicant, have to the fullest extent of their respective knowledge, information, and belief been made known to the registrar.

**23 Power to registrar to refuse registration.**

If at any time before registration the registrar is of opinion that any further or other evidence is necessary, he may refuse to complete the registration until such further or other evidence shall have been produced.

**24 Power to registrar to demand security for costs.**

The registrar shall, before taking any proceeding on an application for registration with an indefeasible title, require the applicant to give such security for costs as general orders shall direct; and it shall be lawful for the registrar and for the judge of the Court of Chancery respectively to order the costs and expenses properly incurred of any person properly appearing upon any proceeding taken under this Act for the purpose of such registration to be paid by the applicant.

*Proceedings for Registration without an indefeasible Title*

**25 Registration without guarantee of title may be made under certain conditions.**

Application for registration without an indefeasible title may be made by any person, subject to the following conditions:

- (1) The applicant shall prove to the satisfaction of the registrar that he, or some person under whom he claims, has been in the actual enjoyment or receipt of the rents and profits of the land as owner of the fee simple thereof, continuously and without interruption, for a period of ten years immediately preceding the time of such application:
- (2) The last deed or will (if any) under which the applicant derives title shall be produced to the registrar:

If the applicant claims as heir-at-law, evidence shall be given that the ancestor was in the enjoyment of the estate as owner thereof at the time of his decease:

- (3) The rules above enacted as to the description of the land to be registered shall apply, and the registrar shall adopt the same course, and take the same proceedings, for the purpose of ascertaining the accuracy of the description of the lands and of the boundaries thereof, as are hereinbefore directed with respect to registration with an indefeasible title:
- (4) A statutory declaration shall be made by the applicant and his solicitor or agent, or certificated conveyancer, and, if necessary, any other person whose evidence may be deemed necessary by the registrar, that they respectively believe the applicant to be,

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either alone or jointly with other persons to be named and described (and subject to any qualification, condition, or exception which shall be stated,) well entitled to the fee simple of the lands proposed to be registered:

- (5) If the land be registered, the registrar shall, in the record of title, define the time, event, or circumstances from and after which an indefeasible title shall attach: when the time has arrived, the event happened, or the defined circumstances exist, a judge of the Court of Chancery may, upon proof thereof, and if there be no other objection, after such and the like notices as are herein-before required in case of an application for registration of a title as indefeasible shall have been duly given, direct a transfer of the land to the register of estates with an indefeasible title; and thereupon the registrar shall make up a proper record of the title to such land, and the applicant and other persons named in such record of title shall have the same estates, rights, and privileges as if the land had been registered with an indefeasible title:
- (6) Subject to the enactments herein contained, the registration of any person as owner of land without an indefeasible title shall not prejudice any estate, right, or interest created or existing at or before the date of such registration.

#### *Registration of Leasehold Estates*

### **26 Leasehold estates may be registered in like manner as freehold lands.**

Leasehold estates, namely, lands demised for terms of years of which fifty years are still to come and unexpired, or demised for lives or for years determinable with lives, and in which two lives at least are still subsisting, may be registered with an indefeasible title in a similar manner and subject to the same or similar directions and rules of proceedings as are herein contained with respect to freehold lands: such application may be made by persons having such estates and interests in the leasehold estates as are similar or correspondent to the estates and interests of the persons entitled to apply for the registry of freehold land: no indefeasible title shall, in the case of a leasehold, extend to the title of the lessor or grantor of the same: such further directions shall be observed with regard to leasehold estates as shall be given from time to time by general orders.

#### *General Provisions as to Title*

### **27 Charges and liabilities not to be deemed incumbrances.**

The following charges and liabilities shall not be deemed incumbrances within the meaning of this Act; namely,

- (1) Land tax, succession duty, tithe rentcharges, rents payable to the Crown:
- (2) Public rights of way, liability to repair highways by reason of tenure, rights of way, watercourses, and rights of water, and other easements or servitudes, rights of common, manorial rights and franchises:
- (3) Leases or agreements for leases not exceeding twenty-one years, where there is an actual occupation under the same:

Nevertheless, where any such charges or liabilities appear or are discovered in the course of proceeding prior to registration, the registrar shall, in such manner as he shall think fit, notice in the register the existence of such charges or liabilities.

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**28 Land may be registered as one estate.**

Land entered on the register may, at the option of the proprietor, be registered as one estate or as separate estates; but the particulars of each estate, and any transactions relating thereto, shall, subject to any regulations to the contrary that may be made by general order, form a separate record in the register, distinguished by a separate number, or in such other manner as the registrar may determine.

**29 Registered land made subject to certain conditions, &c.**

If land registered or proposed to be registered, or any part thereof, be subject, or be agreed to be made subject to any condition, as, for example, that it shall not be built upon, or used in a particular manner, or any other legal condition, notice thereof shall be entered in the “Record of Title,” and any transfer, demise, or charge of such land shall be subject to such condition; but it shall be lawful for the Court of Chancery to discharge, alter, or modify any such condition upon hearing all parties who may be entitled to claim under or against the same.

**30 Notice of registration to be given by registrar.**

So soon as any land is registered, if there shall appear to be any charge or incumbrance affecting such land or any part thereof which is entered in the register of incumbrances (the owner of which has not had notice of the application), notice of such registration shall be immediately given by the registrar to the person entitled or interested in such charge or incumbrance.

**31 Judicial declaration of title.**

If any judicial declaration of the title to any land shall be made by the Court of Chancery under any Act which may be passed in the present session for the purpose of enabling persons having interests in land to obtain a judicial declaration of their title to the same, so as to enable them to make an indefeasible title to persons claiming under them, as purchasers for valuable consideration, the land as to which any such declaration may be made may, at the option of the person obtaining the same, be entered upon the register of estates with an indefeasible title under this Act when and so soon as the time allowed for appealing under any such Act as last aforesaid shall have expired, or (if any appeal shall be prosecuted) when and so soon as any such declaration shall be affirmed by the last Court of Appeal, or the appeal withdrawn; and the title to such land, as the same shall be declared by the Court, shall in such case be entered upon the record of title to lands on the registry under this Act; and such land shall thenceforth be subject to the provisions of this Act in the same manner in all respects as if the registration thereof had been made by virtue of proceedings duly taken for the registration of an indefeasible title thereto under this Act.

**32 Every estate, &c. to be entered in record of title after registration of land.**

From and after the registration of any land, every estate or interest, use, trust, mortgage, charge, lien, right, or title granted, declared, arising, becoming vested or in any manner created, or coming into existence in, to, upon, out of, or affecting such land or any part thereof (except as herein excepted), shall be entered, described, or noticed in the record of title or register of incumbrances to be so kept as aforesaid.



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**33 Estates registered subject to existing law.**

Subject to the enactments herein contained, the estates and interests of all registered proprietors shall remain subject to the existing law, and may be dealt with, assured, devised, and transmitted by descent or representation according to the ordinary rules of law and equity.

**34 Registered proprietor, with consent may close register.**

The registered proprietor of land may, with the consent of all persons appearing by the register to be interested in such land, remove the same from the register, and thereupon the register shall as respects such land be deemed to be closed.

*Caveat against Entry of Land on Register*

**35 Caveats may be lodged with registrar, &c.**

Any person having or claiming such an interest in land as entitles him to object to any disposition thereof being made without his consent may lodge a caveat with the registrar, to the effect that the cautioner is entitled to notice of any application that may be made for registration of such land, and appointing a place within Great Britain for the service of such notice.

**36 Caveat to be supported by affidavit.**

The caveat shall be supported by an affidavit, stating the nature of the interest of the cautioner, and such other matters as may be required by the registrar.

**37 How notice to be served.**

Notice may be served on the cautioner either personally or by sending it through the post to the address stated in the caveat.

**38 No registration to be made till ten days after notice.**

After a caveat has been lodged, no registration shall be made of any lands to which such caveat refers until notice has been served on the cautioner to appear and oppose such registration, and ten days have expired since the date of the service of such notice, or until the cautioner has entered an appearance, which may first happen.

**39 Compensation, when to be made.**

If any person wrongfully and without reasonable cause, lodges a caveat with the registrar, he shall be liable to make, to any person who may have sustained damage by the lodging of such caveat, such compensation as a judge of the Court of Chancery shall deem just.

**40 Caveat not title of any person.**

A caveat lodged in pursuance of this Act shall not prejudice the claim or title of any person, and shall have no effect whatever, except to entitle the cautioner to receive

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such notice as is herein-before mentioned of any application made for registration of land.

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