

# **LAND REGISTRATION ACT 2002**

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## **EXPLANATORY NOTES**

### **BACKGROUND**

#### ***Title to land***

4. The Crown is the only absolute owner of land in England and Wales: all others hold an estate in land. Estates, which derive from feudal terms of tenure, originally took many forms but were reduced by the Law of Property Act 1925 to two, an estate in fee simple absolute in possession, generally known as “freehold”; and an estate for a term of years absolute generally known as “leasehold”. Apart from an estate, land may have the benefit of or be subject to other interests, which are rights and obligations relating to the land, belonging to the owner or to a third party.

#### ***Unregistered conveyancing***

5. Before the introduction of registration, there was only one way to establish the seller’s right to sell a property. Purchasers had to satisfy themselves from the title deeds, searches and inspection of the land that the seller had power to sell the land, and that it was subject to no undisclosed obligations. That remains the case with properties which have not yet been registered (perhaps around one-fifth of freehold titles).

#### ***Registered conveyancing***

6. In registered conveyancing, there is a single statement of title as it stands at any given time, guaranteed by the State. If any person suffers a loss as a result of some omission or mistake in the register of title, they are entitled to be indemnified for that loss.
7. Land registration was first introduced to England and Wales by legislation of 1862 and 1875. Those Acts provided only for voluntary registration of title, and few titles were registered until the Land Transfer Act 1897 made registration of title compulsory in dealings with land in the County of London. Under the Land Registration Act 1925 compulsory registration was gradually extended to cover the rest of the country. Since 1 December 1990, the whole of England and Wales has been subject to compulsory registration. This requires registration of a conveyance of a freehold estate, a grant of a lease of more than 21 years, and an assignment of leasehold land with more than 21 years to run. If the disposition is not registered within the required time, it becomes void as regards the transfer or creation of a legal estate or mortgage. The legal estate reverts to the person transferring it (who then, however, holds it on a trust for the intended recipient).
8. Under this system freehold titles are registered with three degrees of quality, and leasehold with four. A purchaser may also be bound by two kinds of interest on the land: an overriding interest, which does not appear in the register (e.g. leases for 21 years or less and rights of access across the land), and minor interests which only bind if they are protected by some entry in the register (e.g. a contract for sale or a restrictive covenant).