

# LAND REGISTRATION ACT 2002

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## EXPLANATORY NOTES

### COMMENTARY ON THE SECTIONS

#### **Part 2: First Registration of Title**

##### *Chapter 1: First registration*

#### **Voluntary registration**

##### *Section 3: When title may be registered*

24. This section makes provision for the voluntary first registration of title. *Subsection (1)* specifies the legal estates that may be registered. These are:
- a freehold or leasehold estate in land;
  - a rentcharge;
  - a franchise (a grant from the Crown such as the right to hold a market or fair, or to take tolls; this provision enables franchises to be protected by registration, rather than by means of a notice or caution); and
  - a *profit à prendre* in gross (these are rights with an independent existence such as the right to hunt or shoot game; these also have previously only been able to be protected by an entry against the title of the relevant land, if that land is registered, and will now be able to be registered in their own right, since these rights are often sold and leased and can be very valuable).
25. *Subsection (2)* continues the existing law, stipulating who is entitled to apply to be registered as the first registered proprietor. The first entitlement belongs to the legal owners of the land. The second group comprises people who are entitled to have the legal estate vested in them but where, for example, the title is currently vested in a nominee on their behalf. *Subsection (6)* provides that a person may not apply to be registered if he or she is a person who has contracted to buy land. That is because the contract will be completed by a conveyance, and that conveyance will be subject to compulsory registration under section 4 (fees for voluntary first registration are likely to be lower than those for compulsory first registration).
26. *Subsection (3)* changes the existing law. Currently, only leases with more than 21 years to run may be registered voluntarily. This is reduced to more than seven years, in furtherance of the objective that all title to land in England and Wales should be registered. *Subsection (4)* provides that leases with seven years or less to run may, however, be registered if the right to possession is discontinuous. Such leases are not very common, but are sometimes used for time-share arrangements. *Subsection (7)* makes provision for a situation in which a person holds land under one lease, but has been granted another to take effect on or shortly after the first expires. If, taken together, the terms exceed seven years, the lease will be registrable.

*These notes refer to the Land Registration Act 2002  
(c.9) which received Royal Assent on 26 February 2002*

27. *Subsection (5)* provides that a mortgage term created by demise or sub-demise is not registrable when there is a subsisting right of redemption.