

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

LAND REGISTRATION ACT 2002

EXPLANATORY NOTES

COMMENTARY ON THE SECTIONS

Part 2: First Registration of Title

Chapter 1: First registration

Classes of Title

Section 9: Titles to freehold estates

38. Where a person applies to be registered as proprietor of a freehold estate, he or she may (as now) be registered with an absolute, qualified or possessory title. A person may be registered with absolute title if the registrar considers that the title is such as a willing buyer could properly be advised to accept. Defective titles may still be registered as absolute if the registrar considers that the defect will not cause the holding under the title to be disturbed. Almost all freehold titles are, in practice, absolute. A person may, however, be registered only with qualified title, if the registrar considers that the applicant's title can only be established for a limited period, or subject to certain reservations. Qualified title is extremely rare but it might be appropriate, where, for example, the transfer to the applicant had been in breach of trust. Possessory title is only appropriate where the applicant is either in actual possession or in receipt of the rent and profits from the land, and there is no other class of title which may be registered. In practice, land is registered with a possessory title where the basis of the application is adverse possession, or where the applicant's title cannot be proved (usually because the title deeds have been lost or destroyed).