

### Land Registration System

The Land Registry maintains a computerized land register for each property. Particulars of deeds or other documents affecting a property lodged for registration are entered in the land register of that property. After registration, the land registers and imaged copies of the registered documents are open for public inspection subject to payment of prescribed fees.

2. If a person purchases a property or becomes a party to a property transaction, a deed or other document is executed. The document will normally be registered at the Land Registry.

3. Registration of a document under the present deeds registration system gives it priority over unregistered documents and other documents registered after it. However it does not give the document any validity it does not have. Registration will not create the interest sought, nor will it cure any defect in that interest. It will merely give priority pending court determination of the right of the party registering the interest, and any priority gained. By registration, a person's interest in the property is put on notice to any person who is interested in the property. Any person subsequently dealing with the property will be bound by the registered document. Unregistered documents will lose priority and be void as against any subsequent bona fide purchaser or mortgagee for valuable consideration.

**Registrability and Re-registration of Documents relating to land**

This Circular is supplementary to Land Office Circular Memorandum No. 102 dated 21 September 1991.

**1. Registrability**

There have recently been a number of cases where instruments have been lodged with the Land Office for registration which do not affect land. In particular, some solicitors have lodged unilateral documents by a stranger to the title in the form of a letter (to the registered owner) or a so-called "Memorandum of Beneficial Interest", which claim that the writer or maker of the instrument has a beneficial interest in property registered in the name of another person, whether by virtue of having contributed to the purchase money or mortgage repayment or otherwise. Such instruments do not themselves create any interest in land. They merely claim, unilaterally, that the person signing the letter or instrument has an interest in the property. Such instruments are NOT, therefore, registrable under the Land Registration Ordinance.

**2. Unstamped Instruments**

Since the enactment of the Stamp Duty (Amendment) Ordinance 1992 some solicitors have attempted to gain priority for Agreements for Sale and Purchase of residential property by lodging an unstamped duplicate for registration. The duplicate is then "temporarily" withdrawn and the stamped original is substituted later under the same memorial number. The Land Office will NOT accept an unstamped instrument for registration. It will, however, accept the original stamped instrument when it is delivered for registration but only under a new memorial number. Priority will then relate to the date of the stamped instrument or to the date of its delivery for registration under the provisions of the Land Registration Ordinance.

**3. Re-registration of Documents**

Land Office Circular Memorandum No. 102 was issued with a view to clarifying the circumstances in which the Land Office might accept documents for re-registration so as to permit the correction of clerical errors where the alteration does not amount to a change in the legal effect of the instrument. By way of further clarification, instruments incorporating the following types of alteration are considered to amount to a change in the legal effect of the original instrument which will NOT therefore be accepted for re-registration:

- a. To change the parties, for example: A. B. Finance Ltd to A. B. Credit Ltd.;
- b. To use another form, for example: substituting a charge in modern form for an old form by simply scoring out the old form and stapling the new form onto it;
- c. To rectify an invalid execution;
- d. To rectify a misdescription of the premises; and
- e. To rectify a defective execution.

Acceptance of an instrument for re-registration by the Land Office does not imply any view of the Land Officer as to the precise legal effect for any purpose, including priority, either of the originally registered instrument, the re-registered instrument or the re-registration. Solicitors should consider such legal effect very carefully and, if necessary, take the advice of Counsel.