

Glossary

1925 property legislation a series of Acts of Parliament that came into effect on 1 January 1926. These Acts consolidated earlier piecemeal changes in the law—particularly from 1922–24—and brought them all together as a body of law, which made substantial changes to the common law of property.

abatement a remedy that, in relation to nuisances, allows for the removal, termination, or destruction of that nuisance under certain conditions

absolute complete; unconditional; not qualified

ad medium filum ‘to the mid line’

administrators personal representatives in cases of intestacy—that is, in which there is no will (cf executors)

adverse possession the possession of land by someone other than the registered proprietor or unregistered owner, without that proprietor or owner’s consent

agreed notice a notice on registered land that is either requested or agreed to by the proprietor, or the validity of which satisfies the registrar (cf unilateral notice)

allodial land land that is owned outright, rather than as an estate held of a lord

alteration any change to the register

ancient lights rights to light that have been gained by long use

animus possidendi an intention to possess the land to the exclusion of all others

annexation the permanent attachment of the benefit of a covenant to the land of the covenantee, so that it passes with the land whenever it is transferred

assignee the person receiving the benefit of covenant or lease by assignment (cf assignor)

assignment 1. (of leases) the transfer of the whole of the remainder of the term of a lease; 2. (of covenants in freehold land) the transfer of the benefit of a covenant to a particular person

assignor the person assigning the covenant or lease (cf assignee)

bankruptcy a state under which a person has been judged by a court to be insolvent, involving the appointment of an administrator to distribute the bankrupt’s assets among his or her creditors

bare trust a trust under which the trustee has no obligation other than to hold property on trust for an adult beneficiary who is absolutely entitled to the property

bona fide ‘in good faith’

bona fide purchaser of the legal estate for value

without notice broken down, this phrase refers to someone who has bought the legal estate in the land—the ‘purchaser of the legal estate’—who has acted honestly in the purchase—that is, in good faith or ‘bona fide’—and has bought the land without knowing about the equitable interest in the land—that is, ‘without notice’

break clause a clause that allows the parties to bring a lease to an end at various specified points in advance of the lease’s end

building scheme a defined area of land sold by a single vendor in plots that are subject to restrictive covenants intended to benefit the whole

caution against first registration a notice lodged with the Land Registry by any person claiming to have ownership of, or an interest in, unregistered land that obliges the Registry to notify that person of any application for first registration of title to that land

certain term a period that has a specified beginning and end

charge a legal or equitable interest in land, securing the payment of money

charges register third part of the register of title, containing charges or encumbrances over land such as mortgages, easements, and restrictive covenants burdening the land

chattels all property that is not real property, including leasehold land, and is also often used as the opposite to fixture. Leasehold land came to have such importance, however, that it was called a ‘chattel real’, because it has many of the characteristics of real property.

clogs and fetters any provision in a mortgage deed that restricts the mortgagor’s equity of redemption

common law the law developed by the Royal Courts—that is, the law applicable to the whole country, not purely local law (cf equity)

commonhold a way of owning property that features shared areas, for which ownership needs to remain in central ownership and maintenance

commonhold association the formal body that commonhold leaseholders must establish to manage the common parts of the property so held

concurrent interest the owners all hold an interest in the land at the same time (cf successive interest)

- condition precedent** a condition that must be met before the estate comes into being (cf condition subsequent)
- condition subsequent** a condition that may be fulfilled after the estate has been created (cf condition precedent)
- conditional fee simple** an estate that might last forever, but which may be brought to an end on the satisfaction of a condition subsequent (cf determinable fee simple)
- contingent remainder** a future interest that can only come into being on meeting a condition precedent (cf vested remainder)
- conveyance** the transfer of a legal estate in land from one person to another
- conveyancer** a person who specializes in the transfer of estates in land—usually a solicitor or licensed conveyancer
- conveyancing** the process of transferring a legal estate in land from one person to another
- corporeal hereditaments** any real property, having a physical form (cf incorporeal hereditaments)
- covenant** a promise contained in a deed
- covenantee** the person to whom a promise is made under covenant, who has its benefit—that is, who can enforce the promise against the covenantor
- covenantor** the person making a promise under covenant, who bears its burden—that is, who is bound to carry out the promise (cf covenantee)
- cuius est solum eius est usque ad coelum et ad inferos*** ‘he who owns the land owns everything reaching up to the very heavens and down to the depths of the earth’
- curtain principle** the principle in registration of title that the details of any trusts affecting the land should be kept off the title
- deed** a formal document that makes it clear, on its face, that it is intended to be a deed and which is executed as a deed
- de minimis*** of the rule *de minimis non curat lex*, or ‘the law does not take account of trifles’
- demesne land** ‘land belonging to [the monarch] in right of the Crown’
- demise** a lease
- determinable fee simple** an estate that may last forever, but which may be cut short by a specified but unpredictable event (cf conditional fee simple)
- determined** ended; terminated
- discontinuance** the act of giving up possession, often an act of simply abandoning the land (cf dispossession)
- disponee** the person to whom a registrable disposition is made
- dispossession** the act of being dispossessed—that is, of another person assuming ordinary possession of the land (cf discontinuance)
- distress** the seizure of goods as security for the performance of an obligation
- dominant owner** the owner of the land that benefits from the easement (cf servient owner)
- dominant tenement** a piece of land that benefits from an easement (cf servient tenement)
- easement** a right enjoyed by the owner of land to a benefit from other land
- electronic conveyancing, or e-conveyancing** the transfer of land by electronic, rather than paper-based, means
- equitable charge** an equitable interest in land that acts to secure the payment of money
- equitable interest** an interest in land that is recognized by equity (cf legal estate)
- equitable lease** a lease that grants an interest in land on terms that correspond to those of a legal lease, but without completion of the legal formalities
- equitable mortgage** a mortgage under which the mortgagee does not acquire a legal interest in the land (cf legal mortgage)
- equitable right of redemption** the right of a mortgagor to repay all of the capital, interest, and costs involved in their mortgage arrangement at any time and thereby wholly own his or her property
- equity** 1. the law developed by the Lord Chancellor and the Court of Chancery to remedy defects in the common law; 2. an equitable right or claim; 3. the value that is the difference between the monetary worth of a property and the amount of outstanding mortgage debt
- equity of redemption** the bundle of rights given by law to the mortgagor, which includes the equitable right of redemption
- escheat** the right of the lord to the tenant’s land if he were to die without leaving an heir. This survives into modern times as the right of the Crown to land left without an owner (*bona vacantia*), although it is now regulated by the Administration of Estates Act 1925. Common law escheat survives under which land is disclaimed by a debtor on insolvency (bankruptcy).
- estate** the length of time for which land has been granted to a tenant under the system of tenure. It means the duration of the grant. Note that this is a use of the word ‘estate’ that differs from the general use of the word; estate is used in this technical sense in land law.
- estate in remainder** an interest that gives its owner the present right to future enjoyment (cf in possession)
- estate in reversion** an interest that is retained by the grantor, because the fee simple estate in the land has not been transferred to anyone
- exclusive occupation** sole occupation of all, or part, of a property

- exclusive possession** possession of a property to the exclusion of all others, including the landlord
- executors** personal representatives named in the will (cf administrators)
- express covenants** terms that are expressly stated in a lease (cf implied covenants)
- express trust** a trust created by the express intention of the settlor (cf resulting and constructive trusts)
- fee** the estate is inheritable, meaning that it can be left in a will after someone dies
- fee simple** an estate that is inheritable for as long as there are general heirs of the owner (cf fee tail)
- fee simple absolute in possession** this refers to the legal freehold estate
- fee tail** an estate that is inheritable for as long as there are lineal descendants of the owner (cf fee simple)
- feudal system** a political, economic, and social system under which only the monarch was able to own land outright
- first registration of title** the first time that title to an estate in land is registered at the Land Registry and at which point it therefore changes from unregistered land to registered land
- fixed-term lease** a lease that is entered into for a fixed period of time
- fixture** an object that is attached to the land in such a way and for such a reason that it becomes part of the land
- foreclosure** a remedy under which the court orders a date by which the mortgagor must pay off his or her debt, or on which his or her property will be lost to the mortgagee
- foreshore** the land between the high-water mark and low-water mark
- forfeiture** the bringing to an end of an estate as the consequence of an offence or a breach of an undertaking
- four unities of joint tenancy** the four conditions that must be satisfied in order for a joint tenancy in equity to exist—that is, possession, interest, time, and title
- franchise** a right, conferred by the Crown on a subject, to do something specific on certain land, eg hold a market
- frustration** the termination of a contract as a result of an event that renders its performance impossible or illegal, or otherwise prevents its fulfilment
- gazangling** the vendor pulling out of the sale altogether at the last moment
- gazumping** the process of a third party offering, or the vendor accepting, a higher offer on a property on which a sale price has already been agreed, but for which agreement no binding contract is yet in place (cf gazundering)
- gazundering** the process of the purchaser demanding a lower price on a property after a sale price has already been agreed, but for which agreement no binding contract is yet in place (cf gazumping)
- heir** someone who inherits property under a will
- implied covenants** terms that are implied into a lease by law (cf express covenants)
- inchoate** incomplete or unformed
- incorporeal hereditaments** intangible rights in land (cf corporeal hereditaments)
- indemnity covenant** a promise on behalf of a successor in title to pay, to the original covenantor, any damages that might be awarded against him or her for a future breach of the covenant by the successor in title
- indemnity principle** an indemnity (compensation) is payable by the state if loss is caused by errors in the register
- in gross** not attached to land
- in loco parentis** ‘in place of a parent’
- in personam** a right enforceable against certain persons or classes of persons (cf *in rem*)
- in possession** the estate must confer upon its owner the immediate right to enjoy the land, or the rents and profits of the land, from the date of the grant (cf estate in remainder)
- in rem** a right enforceable against everyone—that is, a right in the property itself (cf *in personam*)
- in reversion** at some point in the future (cf in possession)
- injunction** an order of the court that obliges somebody to do something or refrain from doing something
- interest-only mortgage** a type of mortgage arrangement under which the mortgagor repays only interest each month, with capital to be repaid in full at the end of the mortgage term (cf repayment mortgage)
- joint tenancy** the legal or equitable co-ownership of land by persons who together own the whole of the land (cf tenancy in common)
- land registration** the system of registering certain legal estates and interests in land
- landlord or lessor** the person granting the lease, which is sometimes described as ‘letting’ the property
- landlord’s covenants** clauses in a lease specifying the obligations of the landlord under the lease (cf tenant’s covenants)
- lease or tenancy** any such term refers to a lease: shorter leases tend to be called tenancies, longer leases tend to be referred to as leases—but often, for all practical purposes, the terms are used interchangeably
- leasehold covenant** a clause in a lease, specifying certain obligations on the part of either party

- leasehold enfranchisement** the turning of a leasehold estate into a freehold estate by means of selling the reversion of the lease to the tenant
- legal charge** a legal interest in land that acts to secure the payment of money
- legal estate** an estate in land that is recognized by the common law (cf equitable interest)
- legal interests** interests in land that can exist at common law, rather than in equity
- legal lease** a lease that creates an estate in land for a term of years absolute and with certain formalities (cf equitable lease)
- legal mortgage** a mortgage that is created by legal charge (in registered land) and completed by means of certain formalities (cf equitable mortgage)
- licence** a personal arrangement between licensor and licensee under which the licensee may occupy the licensor's property for a specified purpose
- limitation period** statutory time limit after which no action to reclaim land under adverse possession can be started
- market value** a full rent at current economic rates
- mirror principle** the principle in registration of title that the register should be a mirror of the estates and interests affecting the land
- mortgage** a way of using land as security for a loan. Properly, the name for the charge over land that is the security for the loan granted by a bank to the purchaser of the land, rather than the name for the loan itself.
- mortgagee** the lender, who, in return for receiving the mortgage, lends the money (cf mortgagor)
- mortgagor** the borrower, who grants the mortgage to the bank (cf mortgagee)
- nec vi, nec clam, nec precario*** 'without force, without secrecy, without permission'
- negative equity** a negative value that arises when the monetary worth of a property is less than the amount of outstanding mortgage debt
- notice** 1. an entry against a registered title lodged by a person with a specified interest in the land; 2. in unregistered land, knowledge of an equitable interest
- overreaching** the process by which interests in land are converted into corresponding interests in money arising from the sale of the land
- overriding interests** certain rights and interests in land that need not be protected by land registration, but which will bind the proprietor and any subsequent purchaser unless overreached
- paper owner** the person who holds the documentary title—the 'papers'—to the land
- periodic tenancy** a lease or tenancy in which rent is payable at fixed intervals and which continues indefinitely from one rent period to the next, until being terminated by notice
- permissive waste** waste that is caused by the tenant's neglect (cf voluntary waste)
- personal property, or personality** all property that does not comprise freehold land or incorporeal hereditaments (cf real property, or realty)
- personal representatives** those responsible for looking after the property of someone who has died, who might, for example, make sure that any bequests made in the deceased person's will are carried out
- physical possession** actual occupation or control of land
- positive covenant** a covenant that requires the covenantor to do something—particularly something that requires the spending of money
- postponement** when an interest in land is not binding on its new registered proprietor (cf priority)
- power of attorney** a formal instrument by which one person empowers another to act on his or her behalf
- power of sale** the right of a mortgagee to sell a mortgaged property under certain circumstances
- pre-action protocol** a statement of best practice about pre-action conduct which has been approved by the Head of Civil Justice
- premium (or fine)** a sum that is sometimes charged by a landlord as the 'price' of granting a lease, which is usually seen in commercial or long leases
- prescription** the acquisition of an easement by uninterrupted long use
- presumption of advancement** the presumption that, in certain types of relationship, a person who makes a transfer of or contribution to the purchase of a property held in the name of another is doing so for the benefit of that other
- prior adverse interests** interests that come before an estate in time and that are not for the present landowner's benefit
- priority** when an interest in land is binding on its new registered proprietor (cf postponement)
- privity of contract** the relationship that exists between parties to a contract that allows each to sue, or be sued, under the contract
- privity of estate** the relationship that exists between landlord and tenant under the same lease that allows each to enforce his or her obligations against the other
- profit à prendre** the right to take natural produce from another person's land

profit in common, or common a profit à prendre that is enjoyed by one person in common with others (cf several profit)

property register first part of the register of title, containing a description of the land by address and postcode, and including incorporeal hereditaments, such as easements over other land and restrictive covenants benefiting the land

proprietary estoppel a doctrine under which the courts can grant a remedy if a landowner has implicitly or explicitly led a claimant to act detrimentally under the belief that he or she would be granted rights in the land

proprietary rights rights that are not personal to the original parties, but which are binding on future owners

proprietorship register second part of the register of title giving the names of the registered proprietor, the type of title, and any restrictions to which the registered proprietor is subject when dealing with their title

quicquid plantatur solo, solo cedit 'whatever is fixed to the land becomes part of it'

real property, or realty this term refers to freehold land (cf personal property, or personalty)

receiver a person appointed by the court to protect and preserve property during the course of litigation

rectification a change to the register that is made to correct a mistake and which prejudicially affects the title of the registered proprietor

registered land land to which the title is registered with the Land Registry. Title to such land is guaranteed by the Land Registry and is proven by a search of the register (cf unregistered land).

registrable disposition a transfer of an estate or interest in registered land that is to be registered in the name of the new proprietor

registration gap the period of time between the date of the transfer of property and the date of land registration

relativity of title the doctrine that all rights to land are relative and that the person with the best title will be entitled to the land

rentcharge a charge for the payment of money that is held over freehold land

repayment mortgage a type of mortgage arrangement under which the mortgagor repays both interest and capital each month (cf interest-only mortgage)

repudiation an indication that a breach of contract will occur in the future, leading to the end of that contract

restriction a limitation on the right of a registered proprietor to deal with the land or charge in a registered title

restrictive covenant a covenant that is negative in nature—that is, it restricts the use of the burdened land

resulting and constructive trusts forms of implied trust that arise by operation of law (cf express trust)

reversion the interest that the landlord retains in the land after the lease has finished

right of re-entry a legal or equitable right to resume possession of land

satisfying the equity the fulfilment of the equitable right or claim

secured creditor someone who has lent money to the owner of the property, and has 'secured' the loan on the property itself, meaning that, if the owner fails to meet the payments on the loan, the creditor can recover the money that it has lent by (usually) repossessing and selling the property

servient owner the owner of the land that bears the burden of the easement (cf dominant owner)

servient tenement a piece of land that bears the burden of an easement (cf dominant tenement)

settlement a disposition of land under which a trust is created designating beneficiaries and the terms on which they are to take the land

settlor a person who creates a trust

several profit a profit à prendre that is enjoyed exclusively by one person (cf profit in common, or common)

severance the conversion of a joint tenancy in equity into a tenancy in common

sole owner a person registered as the sole legal proprietor of land, who may or may not be the sole equitable owner

solus tie a type of agreement that binds the mortgagor into buying products only from the mortgagee

specific performance a remedy for breach of contract that demands the fulfilment of obligations under the contract

squatter a person in adverse possession of land

subinfeudation the process of making new grants of land under the feudal system

subletting the granting of a sublease by someone who is himself or herself a tenant, for a period shorter than that of his or her own (head) lease

substitution the process of transferring estates in land under which one owner takes the place of another

successive interest one owner's interest in the land is followed by another owner's interest in the land (cf concurrent interest)

surrender the giving up of a tenant's interest in a property to his or her landlord, which might be in the form of a

deed (express) or as a consequence of the actions of both parties (implied)

tacking the adding of a further advance of money under an existing mortgage agreement, subject to certain conditions

tenancy at sufferance a lease or tenancy that arises when a tenant stays on in a property after a lease is ended, but to which occupation the landlord has not indicated agreement or otherwise

tenancy at will a lease or tenancy, which usually arises by implication, that can be terminated by the landlord or tenant at any time

tenancy by estoppel a lease or tenancy that exists despite the fact that the person who granted it had no right to do so

tenancy in common the equitable co-ownership of land by persons in equal or unequal shares (cf joint tenancy)

tenant or lessee the person to whom the lease is granted

tenant's covenants clauses in a lease specifying the obligations of the tenant under the lease (cf landlord's covenants)

tenant's fixtures fixtures attached to rented property by a tenant that the tenant is entitled to remove

tenure 1. *freehold tenure*—in the feudal system, the grant of an estate in land by a lord to a tenant. The tenant 'holds the land of the lord' for the period defined by the estate. 2. *leasehold tenure*—the relationship between a landlord and a tenant in leasehold land

term of years absolute this refers to the leasehold estate

title deeds the documentary evidence that shows how land came to its present owner

treasure trove under common law before 1997, items of gold and silver found in a concealed place, apparently having been hidden by their owner and not reclaimed, to which the Crown had the right of possession, now replaced by the Treasure Act 1996

trust an arrangement by which someone (called a 'settlor') transfers property to others (called 'trustees') on terms that the trustees will hold that property for the benefit of certain persons (called the 'beneficiaries')

trust for sale a trust under which the trustees were obliged to sell the property and hold the proceeds in trust for the beneficiaries

trust of land any trust of property that comprises or includes land

trustee in bankruptcy a person in whom the property of a bankrupt is vested for the benefit of the bankrupt's creditors

unconscionability gross unfairness or morally wrong behaviour that should go against the conscience of an honest person, stemming from the idea that a person's conscience must be affected for equity to intervene

undue influence influence exerted by another that prevents a person from exercising independent judgement in relation to any decision

unilateral notice a notice on registered land to which the proprietor will not agree, which consequently represents a disputed interest (cf agreed notice)

unity of seisin the ownership of two plots of land by the same (legal) person

unregistered land land to which the title has not yet been registered at the Land Registry. Title to such land has to be proven by documentary evidence, known as 'title deeds' (cf registered land).

vested remainder the present right to a future interest (cf contingent remainder)

voluntary waste waste that is caused by a voluntary action of the tenant (cf permissive waste)

waste any permanent alteration of tenanted property that is caused by the tenant's action or neglect