

THE PRINCIPLES OF LAND LAW

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Table of Definitions

Acquisition mortgage	A mortgage which is used to acquire title to land, and which will take priority over any interest created as part of that purchase, regardless of precise timings.
Actual occupation	The factual state of affairs characterised by the occupation of land, which, when appropriate conditions are met, will be sufficient to protect the priority of an interest following a disposition of registered land.
Adverse	Without the consent of the paper title-holder.
Alteration	The process by which the register is changed, to correct a mistake, or to keep the register up to date.
Annexation	The process by which the benefit and burden of rights becomes attached to the land and therefore passes regardless of the contractual position.
Article 1 of the first protocol	Right to property.
Article 8	Right to a private life, of relevance to property law as the right to one's home.
Article 10	Right to freedom of expression.
Article 11	Right to freedom of association.

This material links across the textbook.

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Assignment	The process by which the benefit and burden of rights is contractually assigned.
Assurance	The sufficiently clear promise made by the promisor to found an estoppel.
Bare licence	A mere permission to be on land.
Commonhold	The ownership structure which confers a freehold right over a unit in a larger structure, with membership of the management group of that structure.
Consideration	An obligation or performance undertaken in return for the imposition of a contractual obligation.
Constructive trust	A trust which arises in response to evidence of a common intention which is detrimentally relied upon.
Contract	An agreement between two or more parties with promises (consideration) arising on both sides.
Contractual licence	A permission to be on land for which consideration have been given and which forms part of a contractual relationship.
Covenant	A promise made by deed.
Covenantee	The person to whom a promise is made in a deed.
Covenantor	The person making a promise by deed.
Curtain principle	Principle holding that interests under trusts should not appear on the register; and that such interests should not affect purchasers of the land without a further justification being present in any particular case.
Declaration of incompatibility	The power of a court to declare that a statutory provision is in irresolvable conflict with human rights provisions.
Deed	A document which complies with section 1 Law of Property (Miscellaneous Provisions) Act 1989 by stating on its face that it is a deed, being signed by the parties and witnessed, and having been effectively delivered as a deed.
Detriment	The setback to interests or change of course suffered by the promisee.
Doctrine of notice	The doctrine ascribing knowledge of a right to a purchaser in unregistered land.
Dominant tenement	The land for the benefit of which an easement exists.

Easement	A limited right to use another's property, or (more rarely) to prevent that person from using their property in a particular way.
Equitable right	Property rights which are conditional in their effects on third parties.
Equitable right to redeem	This is a specific right which arises once the contractual date of redemption has passed, and forms part of the equity of redemption.
Equity arising by estoppel	The property right which arises in response to estoppel, and which is extinguished upon the crystallisation of the estoppel and the grant of any remedy.
Equity of redemption	The proprietary interest that consists of the 'residual' entitlement to property mortgaged. Developed against the background of mortgages involving the transfer of legal title, this term is now used to describe the totality of the mortgagor's interest in the land and the courts are wary of attempts to limit the scope of the equity of redemption.
Estate contract	Contracts for intended transfers of estates in land.
Estoppel by assurance	Estoppel which arises in response to a promise detrimentally relied upon where it would be unconscionable to revoke the promise.
Express easement	An easement created as a result of express dealings between parties and formalized using the appropriate documentation.
Express trust	A trust which arises through the express volition of the parties. It must be expressed in a written form to be enforceable under section 53 Law of Property Act 1925.
Extinction of title	The process by which a paper title is extinguished through limitation. To be contrasted with a process of acquisition of title.
Factual possession	The physical ability to exclude others from land.
First registration	The first time that title to an estate appears on the register.
Fixed term tenancy	A lease where the contractual term of the lease is for a single, fixed duration.
Flying freehold	A freehold interest extending above the freehold interest of another.
Forfeiture	The process by which a landlord goes into possession of tenanted land, so as to bring the lease to an end.

Freehold covenant (restrictive covenant)	A covenant which limits the use to which servient land can be put, and which does not require the covenantor to expend money.
Freehold estate	Estate in land of unlimited duration. Considered the 'highest' form of ownership in English law, save for that of the Crown.
Horizontal effect	The impact of human rights in an action between private citizens.
Implied easement	An easement which arises outside the expressed will of the parties, and which is implied into a document the result of which is to divide title to land. The methods for implication are: necessity; common intention; section 62; and the rule in <i>Wheeldon v Burrows</i> .
Implied trust	A trust which arises not from the express wishes of the parties in an appropriate form.
Indemnity	A payment from the land registry in cases of rectification or where rectification is possible but does not in fact take place.
Insurance principle	Principle holding that the register should be accurate, and where inaccurate, that compensation should be payable to those who lose out as a result.
Intention to possess	The intention to exclude others from land as far as reasonably possible.
Interest under a trust of land	A right relating to the freehold or leasehold estate which consists in the ability to hold the legal owner of the estate to account for the manner in which he manages his right, and which is itself a proprietary interest.
Interpretation obligation	The obligation resting on a court to interpret legislation in compliance with human rights as far as possible.
Land	The corporeal land and those objects on that land which have become part of the land, and the incorporeal rights in that land.
Land Charges Register	The register of certain rights relating to unregistered land.
Land registration	The process of creating a public record of titles to and rights in land.
Land registry	The public body responsible for managing the land register.
Leasehold covenant	An obligation contained in a lease.

Leasehold estate	A property right arising where there is a consensual grant of exclusive possession for a limited duration.
Legal right	Property rights which are universally binding on third parties.
Legal right to redeem	The is also known as the contractual date of redemption, and is a date specified in the contract after which as a matter of contract the mortgagor is able (and obliged) to pay back the sums due. The practical importance of this date relates more to the remedies of the lender than it does the rights of the borrower.
Licence	A permission to be on land which operates as a defence to an action in trespass.
Licence coupled with an interest	A permission to be on land intrinsically part of a proprietary interest.
Locality principle	The rule that any assessment of nuisance, where the allegation involves a claim of interference with comfort and enjoyment of land, must take account of the nature of the wider locality in considering the overall balance to be struck between competing uses of land.
Mirror principle	Principle holding that the register should be an accurate reflection of the rights that exist in relation to a piece of land.
Mistake	An error on the register (not clearly defined in case law or statute).
Mortgage	An interest arising as a security for a debt.
Mortgagee	The person in whom the security interest vests, ie the lender. Again, think lEndEr = mortgagEE.
Mortgagor	The person creating a mortgage, ie the borrower. This feels somewhat counterintuitive according to a lay understanding of how mortgages work, so useful rule of thumb is to think of bOrrOwer = mortgagOr.
Negotiated damages	An approach to assessment of damage which relies on a fictional negotiation between the parties, assuming reasonableness and a willingness to engage.
Nuisance	An unreasonable interference with the reasonable use of another's land.
Occupation	A physical presence on relevant land that has features of continuity and stability.
Option to purchase	An option to purchase is a right which entitles its holder to force the proprietor of an estate in land, be that freehold or leasehold, to transfer their estate in land. There is no requirement on the option-holder to purchase the land.

Overreaching	The process by which an interest loses priority on a disposition of an estate held on trust, and in cases of sale, is transferred into the proceeds of that sale.
Overriding interest	An interest in land which binds a purchaser of registered land despite not appearing on the register.
Periodic tenancy	A lease where the leasehold agreement 'rolls over' from period to period. This is usually calculated on the basis of the regularity with which rent is due.
Personal Right	A right which is not enforceable against third parties generally.
Positive covenant	A covenant which requires the coventantor to expend money.
Possession	The right to, or the fact of, control of land characterised by the ability to exclude others.
Postpone	The 'ranking behind' an estate in land of an interest which has lost priority to a registered on a disposition of that estate.
Premium/fine	A sum paid at the commencement of a lease.
Prescription	A method allowing for the creation of easements through long use.
Priority dispute	A dispute which involves a clash of property rights and which is usually resolved according to the order of creation, should an alternative priority rule not apply.
Profit	A right consisting in the ability to take from another's land— eg fishing, timber, hunting and grazing rights.
Property right	A right which is enforceable against third parties.
Proprietary estoppel	An equitable doctrine which generates a property right in response to an assurance which has been detrimentally relied upon, where it would be unconscionable for the promisor to go back on their promise.
Rectification	The process by which the register is altered following the presence of a mistake on the register whose correction would involve prejudice to the estate's proprietor.
Registered estate	An estate, title to which appears on the register.

Registrable estate	An estate which must be registered if a transfer or creation of that estate is to operate at law.
Registrable interest	An interest which must be registered if a transfer or creation of that interest is to operate at law.
Reliance	The causal link between the promise and the detriment suffered by the promisee.
Rent	Sums regularly due under a lease.
Rentcharge	A right to receive income from the owner of a freehold estate in land.
Resulting trust	A trust which arises to un-do an apparent gift in circumstances where a gift would be an inappropriate outcome and there is no evidence that one was intended.
Right of first refusal	A right which provides that the potential purchaser will have a first chance to buy the land, at a price to be agreed.
Right of pre-emption	A right which provides that if a vendor decides to sell their estate in the land, the purchaser must be able to buy that estate at a price previously or to be agreed.
Right to rectify a document	A right to rectify a document relating to the relevant land, eg rectification of a deed of conveyance (and possibly the right to rectify the register).
Right to set aside a transaction	A right to rescind a voidable transaction.
Rights of re-entry	A right of a landlord to terminate a lease/to bring about forfeiture of that lease.
Servient tenement	The land burdened by the existence of an easement.
Tenancy at will	An estate in land where the tenant has a right to possession but no tenure so that the lease may be brought to an end at any time.
Term	The duration of a lease.
Touches and concerns	The requirement that a covenant must benefit land, not persons only, and must do so from its inception.

Trespass to land	Trespass to land is the unlawful interference with or incursion on another's possession of land.
Unconscionability	The 'unfairness' that exists in going back upon a promise detrimentally relied upon where circumstances are such that the court cannot allow the promise to be revoked (not susceptible of a clear definition!).
Vertical effect	The impact of human rights in an action between citizen and a public authority alleging public authority breach.
Waiver	The consent given by a holder of a right to a loss of priority to a subsequently created right. These can be express or implied.
Written contract	A contract which complies with section 2 Law of Property (Miscellaneous Provisions) Act 1989 by being in writing, containing all the relevant terms, in a single document, signed by both parties.