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**MANX CONVEYANCING**

**Registered Land and Unregistered Land**

Conveyancing in the Isle of Man is subject to two differing systems.

In England a system of registering people's interests in land was introduced in a raft of fairly radical legislation in 1925. The process of conveyancing was accordingly dramatically altered and it remains the case that some land is registered (with a system to follow) and some land is not (and the old system would apply).

The Isle of Man did not follow a similar path and up until 2003 all land was unregistered.

In practice this meant, in simple terms, that if you obtained an interest in land you would record the deed proving the interest in the Deeds Registry and if you came to sell that land the potential purchaser would check at the Deeds Registry to see what relevant deeds were recorded. So the purchaser would look for the conveyance to you, and find a deed recording a mortgage or other relevant matter cross-referenced to the conveyance. The deed creating the title could be examined and the purchaser would make the decision about whether the seller's title was good based on the deed itself.

In 2003 legislation was enacted to create a Land Registry on the Isle of Man, but this does not duplicate the system for land registration in England.

Technology has moved on since 1925 and the Isle of Man land registration system has taken advantage of this.

Essentially the Land Registry could be described as a computerised mechanism whereby interests in land would be recorded against the land itself by using a sophisticated map of the entire Island.

Accordingly, in theory, a potential purchaser of registered land would examine the computerised map and see all the rights and titles which are connected to that portion of land, or indeed the surrounding areas.

The purchaser would not need to view the deeds creating the title and would rely on the fact that the interest is registered – as the registration process ought to guarantee the title is correct.

The transfer process ought to be much simpler and eventually – if all interests in land across the whole Island were fully registered – the conveyancing process could become streamlined.

Unfortunately, not all land is registered and the Island does continue to need to operate two conveyancing systems.

The Land Registry system also creates its own additional difficulties.

Firstly in terms of mapping the land, when an application for registration is made a surveyor will often be required to prepare a map depicting the land in question before it can be plotted to the computer system. This in itself is an extra cost to the Seller.

The boundaries are not agreed with neighbours and it is possible for one person to register land which in due course his neighbour will wish to lay claim to. Equally small areas of no-man's land between registered titles could be created.

The map is sophisticated, but no map can ever be 100% accurate, as it always provides only a scaled down version of reality.

Boundary features such as a fence will often not be shown in sufficient detail on the plan to identify whether they are owned by one neighbour, or another, or built on the boundary itself.

Boundaries can also change over time as land shifts, or new owners assume different responsibilities. These changes will not necessarily be registered.

Interests in land can also be confusing and complex, arising in different ways. For example a person may acquire a possessory title (acquired by long term use) or equitable interests based on indirect financial contributions to the purchase of the property.

Whilst registration of such an interest would protect it – the way the interest arises is not ordinarily conducive to taking such a step.

Accordingly it is still necessary to look beyond the registered title.

As the system is computerised it is also fairly inflexible and can create issues for those applying to register an unusual title or interest.

'Land' itself needs to be considered in a legal rather than common sense manner – rights can be acquired to parts of buildings or units of air space or mining rights.

Ensuring complex rights are registered correctly can be challenging.

Essentially, until all interests are registered, and the entire Island mapped to a definitive standard, conveyancing will remain a complex art and an Advocate's involvement will remain an essential component.

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