

Consultation on Land Registry Legislation

Closing Date: 9th October 2023

Douglas City Council Response

Changes to the law relating to establishing Possessory Title relating to registered land

Do you agree with the overall intention of the amendments to make it more difficult to obtain possessory title to registered land?

Yes.

Do you agree that the period of possession required to establish adverse possession should remain at 21 years?

Yes.

Do you think that any element of public advertisement of possessory title applications is necessary?

Yes.

Do you have any further comments on this:

The owner and adjoining owners of the land in question should be notified of the possessory title application (all best efforts should be taken and if known).

When there is a contested application should there be statutory exceptions as in the English legislation, or would it be satisfactory that either the Registrar or Land Commissioner could have the power to make a decision to award possessory title in exceptional circumstances?

Power for the Registrar or Land Commissioner to decide.

Do you have any further comments on this:

Awarding of the possessory title should be in four stages:

- **Stage 1 Land Register considered the application and requests further information from the applicant as required and advertises the application of possessory title. Provides preliminary opinion and the Land Register can make a decision on the application. During this process the applicant may**

withdraw the application based on the information and discussion with the Land Register. (if either parties are not satisfied proceed to Stage 2);

- **Stage 2 Power for the Land Commission to decide on awarding the possessory title (if either parties are not satisfied proceed to Stage 3);**
- **Stage 3 Legislative Statutory Exemptions review and either agree with Stage 2 or over turn the awarding of the possessory title (if either parties are not satisfied proceed to Stage 4);**
- **Stage 4 Appeal at the high courts.**

Extension of the Triggers for compulsory first registration

Do you agree that it is advisable to widen triggers for first registration in order to increase the amount of land on the Isle of Man that is registered?

Yes.

Do you have any further comments on this:

There is a cost implication as each submission includes fees and duties and is based for each £1000 of value up to and including £3m' plus £20 duty. It would be beneficial for the Council to register all land as it could make it more difficult for possessory title to be awarded.

Do you agree that it is reasonable to add these additional triggers to registration in order to increase the amount of land registered on the Island?

Yes.

It is suggested that one solution is a form of Land Registry induced registration to create a provisional freehold title which can then be upgraded voluntarily by the Landlord. Do you think this would be desirable?

Yes.

Do you have any further comments on this:

The freeholder of the building should be registering the land as the use/occupation/selling may remain vacant or the units leased on a short term lease rather than as a leasehold.

It is proposed that an additional fee is charged when processing an application to register a lease or assignment out of an unregistered leasehold title. Do you think this alternative would be desirable?

Yes.

Do you have any further comments on this:

If the freehold is not registered this could delay the leasehold purchasing the premises, this would mainly relate to someone requiring a mortgage.

Do you think it would be advisable to reduce the length of lease triggering first registration to leases shorter than 7 years to follow the law in England & Wales? This would generally affect commercial property more than residential.

No.

Do you have any further comments on this:

Not shorter than 7 years as this would result in all leases for any length triggering registration. Understand that this question contains an error and should actually read that the length should be reduced from 21 years to 7 years. The Council would agree with 7 years.

Do you think it is desirable to trigger registration of farmland on receipt of Agricultural Payments? This would place the obligation on farmland owners to register any land which subsidies are claimed on.

Yes.

Should this obligation proposed in the question above also apply in the situation where a tenant farmer is receiving Agricultural Payments?

Yes.

The Registrar's inquisitorial process

Do you think it would be advisable to formalise the Land Registry's role in relation to disputes?

Yes.

How do you think disputes should be handled in the first instance by the Land Registry?

See staged process stated above under possessory title.

Do you think that it would be beneficial for the Land Registry to be able to offer a preliminary opinion in relation to a land registration dispute?

Yes.

Should parties be able to claim costs in Land Registry proceedings generally?

Yes.

Should costs in Land Registry disputes be limited?

Yes.

Do you have any further comments on this:

Proportionate to the size of the land in dispute.

Updates to the Land Registration Act 1982

Do you agree with the proposed amendment?

Yes.

Do you agree that this is a reasonable proposal?

Yes.

Do you have any further comments on this:

It will ensure the register is up to date and reduces the risk of fraud. There is already an allowance for extending the time period if there are extenuating circumstances and changing to 1 month could be unrealistic in certain circumstances.

Do you agree that this is a reasonable proposal?

Yes.

Do you have any further comments on this:

3 months' timescale should be kept.

Do you agree that the Land Registry should have the power to rectify a clear and obvious error on the Register without the consent of all interested parties?

Yes.

Do you have any further comments on this:

As long as it is about correcting a clear and obvious error such as something very trivial or of a clerical nature, such as misspelling a street name or a clerical omission. Interested parties should still have a route of appeal. However, if it is a fundamental error, all parties need to be made aware of the error and the reasoning for the amendment.

ANY OTHER COMMENTS HERE:

"T" marks – need to become statutory on new developments, at the current time when they are not marked on the deeds it causes major issues and a lot of disputes, this could be avoided.

Joint ownership of boundary walls and fences - the other area of concern is joint ownership of boundary walls and fences. As the Isle of Man does not have party wall legislation the current system doesn't work to have joint ownership of a wall or fence. Until such time as the Isle of Man introduce the legislation it would be better to avoid shared boundary wall responsibility for dividing walls and fences.