



**S**olicitors ought to note that it rests on vendors to supply maps in a transfer of land.

### SUPPLY OF MAPS

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**T**here appears to be amongst the profession generally some misunderstanding regarding the above and, accordingly, the Conveyancing Committee has deemed it necessary to issue a practice note covering the position which arises in relation to apartments/flats/commercial properties where the title consists of a lease carved out of a folio. The folio may be freehold or leasehold.

### LEASES CARVED OUT OF FOLIOS

1. If one opts to have the lease registered as a burden on the folio (the lease should contain a consent by the lessor to the registration of the lease as a burden) there must then be opened in the Land Registry a new leasehold folio. (See Section 70 Registration of Title Act, 1964).

Registration is not mandatory under the Act but is advisable.

2. In order to have the new leasehold folio opened it is necessary to lodge the following documents in the Land Registry:-

- (a) lease and counterpart or a certified copy. (If the counterpart or certified copy is not lodged the Land Registry will retain the original);
- (b) affidavit of discovery;
- (c) verified hand search in the Registry of Deeds against the purchaser/borrower from the date of the lease. The property searched against must include the description “ ..... and being part of the lands comprised in folio ..... ”;
- (d) a judgement search against the borrowers;
- (e) if there is a loan, a mortgage and counterpart or certified copy;
- (f) the usual statutory declarations re the Family Home Protection Act, The Family Law Act, etc.;
- (g) Land Registry fee to cover the registration of the lease and mortgage of £30.00 (first registration).

**UPDATE (1998):** The operative date of the Registration of Title Act, 1964 was 1st January 1967. Prior to this the position was that if the lease was registered as a burden on the head folio all subsequent assignments were registered in the Registry of Deeds. The lease itself was not registered in the Registry of Deeds. It is now the universal practice that the lease is registered as a burden on the head folio and a new leasehold folio is opened for the new lease. This applies to all leasehold interests for more than 21 years.

Lenders are now requesting that the Land Certificate and a Certificate of Charge under Rule 156 be taken up and the requests for same (together with appropriate fees) should be included in the Form 17 when lodging the dealing to have the new folio opened. Where a Certificate under Rule 156 issues it is usually endorsed on the mortgage on completion of the registration. The original mortgage is returned and the certified copy or counterpart is retained in the Land Registry. This facilitates the stamping up of the original mortgage. If the Rule 156 Certificate is not requested the original mortgage is retained in the Land Registry.

**UPDATE (2006):** The Registration of Deeds and Title Act 2006 has introduced new provisions that may affect the registration of leasehold title and new Rules to be drawn up by the new Property Registration Authority are anticipated in due course.

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