

The Interrelationship of the Property Law Act 2007 and the Land Transfer Act 2017

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Land that is subject to the Land Transfer Act 2017 (i.e. which is described in a record of title¹) is also property under the Property Law Act 1952. Once a record of title has been created for a parcel of land all interests claimed in that land are also subject to the Land Transfer Act 2017.

In relation to leases and mortgages the Land Transfer Act 2017 deals with the register and potentially affects people not parties to the lease or mortgage while the Property Law Act 2007 deals with the relations between the parties to the lease or mortgage and subsequent dealings with the lease or mortgage. Other aspects of the Property Law Act 2007 relate to the Land Transfer Act 2017, and land subject to it in different ways.

This paper will discuss the impact of various provisions of the Property Law Act 2007 on land under the Land Transfer Act 2017 and some changes made by the Land Transfer Act 2017.

It will also discuss the new discretion to set aside registered instruments in ss 54 to 57 of the Land Transfer Act 2017 on the grounds of manifest injustice is likely to be of particular relevance in relation to void or voidable mortgages.

The concept of something being noted (under the Land Transfer Act 2017, previously notified under the Land Transfer Act 2007) on the register relates to covenants under the Property Law Act 2007 and other statutes. The Land Transfer Act 2017 extends the provisions of the Property Law Act 2007 to covenants in gross. The significance of something being noted rather than registered will be discussed.

¹ 'Record of Title' is defined in s 5 by reference to s 12 of the Land Transfer Act 2017 and replaces the expression Certificate of Title under the Land Transfer Act 1952. Land subject to his Act is defined in s 4 of the Land Transfer Act 2017.