



CUMBERLAND ELLIS PEIRS  
INCORPORATING BARTH & PARTNERS AND ELLIS WOOD  
SOLICITORS

# NEWSLETTER

AUTUMN/WINTER 2003

## PROPERTY

# LAND REGISTRATION ACT 2002

### Introduction

Property solicitors are gearing up for the implementation of the Land Registration Act 2002 which is in force from 13th October 2003. As law students it was fairly easy to remember the fact that the majority of current substantive property legislation was enacted in 1925. This is a major change.

The underlying intent of the 2002 Act is to move towards the registration of title to all the land in the country. As the Register already is accessible to all, anyone will be able to inspect and obtain knowledge about any land. In theory, the days of poring over vast illegible conveyances and indentures should come to an end. The intention of H M Land Registry is to achieve 100% registration of title by 2013. The current percentage is approximately 82%. The new Act therefore introduces various new "triggers" so that previously unregistered land must be registered.

The most significant change that we believe we will encounter on a daily basis and one of which all property clients need to be aware, is the new requirement for leases of more than seven years to be registered. The current position is that only leases for a term of more than 21 years need to be registered. As many commercial leases currently subsist for 10 or 15 years, they remain unregistrable. This provision will have a huge impact on multi-let buildings such as offices or shopping centres where suddenly new leases of seven years or more will have to be registered. The more "open" register may cause a problem to landlords of such buildings. The tenant of one shop paying £25,000 per year in rent with a 3 month rent free period may decide to inspect the terms of the lease of his neighbour, only to discover that he was granted more favourable terms. While it will be possible for the landlord to apply to keep the terms of the leases confidential, whether or not this would be

permitted would be up to the Land Registry. If the Land Registry is satisfied that a claim for confidentiality is "not groundless", an expression which is not defined, it will declare the document an "Exempt Information Document". This would then not be accessible to the general public.

Even shorter leases become registrable where it is agreed that a lease will be granted with the term to commence more than 3 months in the future. An example of this would be a freehold owner of a building agreeing in July 2004 to grant a short term lease to a retail tenant to cover the Christmas trading season commencing in October 2004. Practitioners can immediately foresee the problem of titles becoming "cluttered" and if not managed properly (by solicitors and the Land Registry alike), a purchaser of that same freehold in 2006 may find that the 2004 Christmas let is still on the register!

Other property rights will become registrable under the new Act and will affect residential transactions as well as commercial. Take, for example, the case of two semi detached houses owned by one person who decides to grant a five year lease of one of the houses to a tenant. The houses share the same drive. The lease grants a right for the tenant to use that drive. The lease itself will not be registrable, but the new Act prescribes that the right to use the drive, which will be a legal easement, must be registered.

The main message of the Act is that more and more titles and property rights will become registrable. Failure to register title to, say, an eight year lease will mean that the tenant has no title and hence does not legally own the lease. Seek your solicitor's advice to ensure you don't find yourself caught out by the Act.

*If you require any further information please contact any member of our **Property Department**.*



## WE ARE SORRY

Many of you have been clients of ours or the constituent firms of CEP for years. Regrettably we are not able to avoid the requirements of new money laundering and proceeds of crime regulations which are coming into force in stages. This has required us in many instances to request you for proofs of identity etc. This has been a requirement for us when dealing with financial services in the past, but it now extends to clients receiving advice in a large number of other areas. We have to show to the authorities that we have taken such steps to confirm identities and we hope to keep the process as simple as possible. We can only apologise for this necessity forced upon us by enthusiastic legislators. If you are concerned about these aspects please complain to your MP!

### Inside

Asbestos at Work

CEP goes to Europe

Once Upon a Time in the West Country

The Trainee's Tale

# Liberty! Equality! Sisterhood!

## Summary

In the UK today there are not many topics that are politely ignored at the dinner table. With sexual equality as an entrée, racial diversity as a main course, and disability protection as dessert, one is bound to feel well and truly bloated! To add to your indigestion, the Government has now decided to legislate against discrimination on grounds of religion or belief, sexual orientation and age. This is in addition to the existing anti-discrimination laws that protect part time, fixed term, and flexible workers. Clearly the Government is aware of the very diverse workforce that exists in the UK today in terms of skills, gender, age, race, creed, disability, and social divides. A key reason for further anti-discrimination legislation is to attract, protect, and retain that workplace diversity so that employers and businesses have access to the maximum pool of talent.

Already entrenched in UK employment law are the Sex Discrimination Act 1975 and the Race Relations Act 1976 which cover virtually all employment practices and policies including recruitment, promotion, dismissal, and access to benefits. The Disability Discrimination Act 1995 came into force more recently in December 1996 and has also become a crucial part of the anti-discrimination legal framework. The legislation protecting part time workers, fixed term employees, and more recently, flexible workers from discrimination was an attempt by the Government to ensure that the British Economy benefits from a flexible labour market.

On the 2nd December 2003 Regulations will come into force in the UK making all discrimination at work on grounds of sexual orientation and religion or belief unlawful. The provisions relating to age discrimination must be implemented in the UK by December 2006.

To avoid falling foul of the pending anti-discrimination legislation, employers should be taking steps now to ensure that adequate policies are in place on equality issues and to ensure that awareness of diversity issues amongst its employees is increased through training and education. The full text of this article can be seen in its entirety on our website at [www.cep-law.co.uk](http://www.cep-law.co.uk).

*If you require any further information please contact **Farha Leadbetter** of our Employment Department.*

# Asbestos at Work Regulations 2002 (abridged version)

Asbestos related diseases are said to result in at least 3000 deaths in the UK each year and is likely to increase in the future. Over 3000 products found in the workplace or at home contain different forms of asbestos. More than 25% of people dying from asbestos related diseases have worked in building and maintenance operations that have involved contact with materials containing asbestos.

The Control of Asbestos at Work Regulations (CAWR) came into force in November 2002 and requires compliance by 21st May 2004.

The key requirements of the new regulations are:

- An assessment needed to identify asbestos-containing materials (ACMs) in the property (if any) and to determine the condition of the ACMs.
- Where there are a number of duty holders, the requirements of the regulations are implemented in full throughout all areas of the building.
- A presumption, unless strong evidence otherwise, that the materials contain asbestos.
- Provide a written record of the location and condition of the ACMs and to provide information to all those liable to come into contact with them.
- To produce a written plan detailing how the risk is to be managed and how the plan is to be implemented, whether to do nothing, manage the situation or remove it altogether.
- To keep the plan up to date and monitor the condition of the ACMs.

A “**duty holder**” for the purpose of the regulations are

- **The owner:** where the property is not held under any lease, the owner will be responsible for compliance.
- **Multi-let properties:** generally the owner will be liable as duty holder in respect of the common parts and other areas where it has responsibility.
- **Tenants:** depending on the leases, tenants will also be duty holders as usually responsible for internal maintenance.
- **Single occupiers:** if they have full repairing and insuring leases, they will be the duty holder.

Co – operation is required where there are a number of duty holders. The owner, or its managing agent, is best placed to take the lead on ensuring co-operation and that all relevant parties fulfill their obligations.

Most modern leases contain provisions requiring the tenant to comply with all statutory requirements, including these regulations, relevant to the area for which the tenant is responsible. Where the owner retains responsibility, subject to recovery of the cost via service charges, he has to be careful because complete removal of asbestos may not be a recoverable cost if a more appropriate and less expensive option exists.

Whether owner or tenant, you should be aware of your future responsibilities even if at the very least it merely involves identifying that your property does not have an asbestos problem.

*For further information contact **Richard Lester** of our Property Department*

## Monitoring e-mails in the Workplace

Email, a crucial tool in the workplace, has great potential for exposing both employers and employees to liability. There have been several examples of employees sending embarrassing, harassing or even defamatory emails with serious consequences for all concerned. Monitoring employees’ email is one possible response to this danger, but be warned, such monitoring may be unlawful. In order to guide

employers on all forms of monitoring in the workplace, the Information Commissioner’s Office has released the third part of its Employment Practices Data Protection Code.

***Raj Koria** of our Company Commercial department explains how the Code applies to monitoring emails of employees in an article to be found on our website at [www.cep-law.co.uk](http://www.cep-law.co.uk)*

# CEP GOES TO EUROPE

CEP family lawyer Emma Ries (being a quarter Scandinavian) returned to her Viking roots when she attended The European Woman Lawyers Association Conference in Helsinki last June.

The European Woman Lawyers Association, known as EWLA, seeks to improve understanding of European legislation, particularly as it affects women. But it also brings together women from across Europe to strengthen links, exchange information, undertake research and make sure women's interests are represented and defended in Europe.

Following an opening speech from Cherie Booth

QC, delegates from across Europe met to discuss and exchange ideas on topics as diverse as Men's Liberation, domestic violence, cross-border mergers and the European Constitution. These and other topics were discussed not just at conference but late into the night in the bars and restaurants of Helsinki. A very enjoyable and informative weekend.

*Emma Ries is a member of the EWLA family law working party and has advised many clients with European connections, she can be contacted at [emmaries@cep-law.co.uk](mailto:emmaries@cep-law.co.uk). For more information about EWLA see their website at [www.ewla.org](http://www.ewla.org).*



## THE TRAINEE'S TALE

WRITTEN BY LAURA COTTON  
NEE NICHOLSON

I was not as nervous as might be expected on my first day at CEP because prior to the big day itself I had been invited to (and bravely attended) a pool competition where I met the more competitive section of the firm. I performed so badly that no one was left in any doubt that my youth had been spent in an exemplary and virtuous way. I then competed in a softball competition against our neighbours CLB the following week. Again I was not particularly impressive, although I remember hitting the ball once or twice which was a definite improvement on the pool competition. At least I was memorable as the girl whom no-one would want on their team in future. My first day was improved dramatically by almost everyone I had met coming to see how I was doing.

The part of my training that I have most enjoyed (so far - must not prejudice the remaining year and 7 days) has been getting properly involved in family litigation cases, and luckily staying partially involved even though I have now left that department. I felt quite relieved that I could still be involved in these cases as the policy is to delegate work to the lowest (and hence cheapest) possible level of fee earner who can do the work under supervision to ensure that bills are kept to a minimum. This policy means that trainees get to do the most varied work of anyone in the office and are frequently borrowed by other departments.

From the experience of friends who work at other law firms in the area (one of whom was sent into the firm's photocopying room with a trolley full of files and told to come back when she had finished preparing 5 copies of everything - it took her over 2 days), I can definitely say that it has been a fun year and I have had the opportunity to get involved in the social life of the firm in a way that I had not expected, this is typified by the fact that at my wedding in August, there was a table full of friends from CEP.

# Once Upon a Time in the West Country

Roger Hollinshead, who retires at the end of October, remembers when it all began...

*It was the year before England's fabled World Cup win. I was accepted into Articles by a five partner practice in Cheltenham, in a building adjacent to the very grand Queens Hotel which stands at the top of the Promenade, that great retail therapy haven of the Cotswolds. Mind you, with earnings of £3.50 a week after deductions (and this was further eroded by my regular losses at our "friendly" card school) my outings had to be limited to window-shopping which did not really appeal.*

*My principal was a true gentleman, a delightful and charming lawyer of the old school who was immensely popular with his clients, mainly because he never got around to billing them. From time to time we would venture out to see a client in his Triumph 2000, which was a rather sedate vehicle until he decided to overtake, usually on a bend or the brow of a hill. He was never aware of any danger and never got flustered. I just closed my eyes.*

*During the summers I played quite a lot of midweek cricket. My principal was always accommodating, saying it was definitely time for me to go and "inspect another right of way". Back then this seemed perfectly normal behaviour.*

*We handled a fair amount of criminal work, and I recall spending long hours at Gloucester Quarter Sessions waiting for our cases which would sometimes turn out to be quite spicy, to come up.*

*Surprising for a town known principally for its spa waters, retired Major Generals and the Ladies College, for two years in succession in the late sixties, Cheltenham had the highest crime rate per capita of any urban district in the country. So we were always busy, and I even had a spell inside Gloucester Prison, though happily only a couple of hours to interview an ex-professional boxer who had taken his new job as a nightclub bouncer a little too seriously.*

*In 1969 I went to study for my Finals at Guildford College of Law. I lived on a pig farm where I found it difficult to concentrate on revision work when the wind was in the wrong direction, or my farmer landlord was recounting his cheerful war stories. I soon discovered that come the evening the local village hall could provide a snooker table, a couple of beers and a little light relief.*

*In spring 1971 I came up to London for an interview with Ellis Peirs & Young Jackson then in Albemarle Street, situated between Gucci and Cartier (no, they really were!). It lasted about an hour, of which the first five minutes were devoted to discussing the job vacancy and my application, and the remaining fifty-five to, well, cricket mainly. It had to be a good sign, didn't it?*

**Rod Forsyth** retired from the partnership at the end of April 2003 as did **Roger Hollinshead**. Roger continued as a consultant and finally retires from his position at the end of October. He has very kindly written a short description of how he came into the law and it is printed elsewhere.

We were particularly sad to see **Barbara Amos** retire in May although we are sure she felt she deserved a rest after an entire lifetime's work with Ellis Peirs & Young Jackson and then with Cumberland Ellis Peirs. Barbara joined Ellis Peirs when she was 15 and with very short periods of absence to have children she worked continuously for the firm ending as Tim Bartlett's secretary.

**Adam Edwards** and his wife Lucy had a baby girl named Eve on 29th July. **Karen Rix** also had a baby girl named Rebecca on 26th September. Congratulations to both couples.

**Madeleine James** was welcomed to our property department as an assistant solicitor in March. She is a keen choral singer and in June joined **Tim Bartlett** with EC4 Music in a performance of coronation music at St Bride's Church.

Our strong family law department was strengthened when **Margaret Kelly** joined as partner in July. A tennis player, she is keen on the theatre and travel.

In September 2003 we were pleased to announce the merger with **Ellis Wood**. **Simon Howell** with his partners **Roger**

**Pingram** and **Richard Collier-Wright**, their assistant solicitor **Eleri Jones** and their secretaries **Carol Norman**, **Susan Westgarth** and **Coral Morrison** came to join us. Ellis Wood is a very long established firm dealing with a large number of important charity clients as well as commercial and private client matters. They bring considerable expertise to our property and private client work. Simon as a partner and Eleri as an assistant are in the property department whilst Richard is an associate undertaking litigious matters. Roger as a consultant will look after private clients. We hope to include more about them in a future edition.

**William Hammon** who trained with us and was admitted in October is another recruit to the property department.

On the administration side, Karen Rix's brother **Martin Russell** joined the general office whilst **Nick Fowle** from Anthony Gold arrived to work in our accounts department in June 2003. Anna Hill's cousin **Michelle Karim** is in the Family department. All are very welcome.

The Editor is extremely sad that the sub-editor of this newsletter, **Lynne Wheeler**, departed from the firm in October after 17 years service

and any errors in the newsletter which may have been observed or spotted by clients and readers since she became involved are not her fault but those of the Editors of the newsletter. We also said goodbye to **Michael Jaques** who has returned to Nicholas Morris & Co and we bade farewell to **Sandra Tucker** who had to return to the Antipodes to look after her husband.

For a comparatively small firm there seems to have been a considerable amount of activity in the marriage stakes. We were delighted to see **Laura Nicholson**, **Paul Heatley** and **Matthew Sabey** tie the knot but not to each or any of the other !! **Raj Korla** is also on the blocks !

There have been a large number of events involving members of the firm, friends and clients. We had another very successful golf day at the West Surrey Golf Club and we are delighted to say that our guests swept the board of prizes. We played the annual softball match against our neighbours CLB and lost by a small margin. We are very sporting !

A number of clients, friends and members of the firm were invited to a unique Feng Shui event which was organised very successfully by **Angela Lucy**. Of particular interest were the various solutions/ideas to obtain complete harmony in one's home, working environment and lifestyle.

We welcome **Li Tan** and **Kate Ryan** as trainees. Li enjoys iceskating, swimming and musicals whilst Kate likes the gym, films, good food and wine and travel.



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**The views and recommendations in this publication are those of Cumberland Ellis Peirs and have been obtained from a variety of sources. Whilst we believe that our sources are reliable, we cannot guarantee that the information in this publication is accurate and it may be condensed or incomplete. No responsibility can be accepted for the accuracy of the information in this newsletter and no action should be taken in reliance on it without advice.**

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