



New 8th Edition CLLS Certificate of Title: What You Need to Know

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The City of London Law Society (“CLLS”) Certificate of Title is a standard form document that is used in real estate financings to provide lenders with an overview and certain certifications of the properties they are lending against, such as certifying title to property.

On 9th May 2023, CLLS published its new 8th edition of its Certificate of Title, replacing the previous edition that was originally launched back in 2012 and subsequently updated in 2016.

The new edition of the certificate reflects the changing landscape and current market practices by including a number of key changes. We look to explore some of these changes in this article.

Focus on sustainability

A significant aspect reflected in the new certificate is the growing importance of sustainability in real estate investments and lending. Borrowers are now required to confirm that they hold Energy Performance Certificates (“EPCs”) for the entire property, including stating the ratings and expiration dates of those EPCs.

This requirement will have increasing importance as regulations on minimum energy efficiency standards are expected to tighten up, with stricter penalties for non-compliance.

The new certificate assumes that letting documents will oblige tenants to share data with the landlord related to the environmental performance of the property. Furthermore, the updated certificate also assumes that borrowers will require their tenants not to undertake alterations that could adversely impact the property’s EPC. However, in practice, this may prove more challenging for borrowers and their advisors, particularly in multi-let properties. Moreover, the reference to “environmental performance” in the certificate is not defined, which may introduce some ambiguity regarding the extent of disclosure required.

Changing landscape of leases

A further notable change in the new certificate is the amendments to the assumed terms in occupational leases, which look to rebalance the dynamics in favour of the tenants. Unlike the previous version, the new certificate acknowledges the inclusion of provisions in letting documents that allow landlords to elect whether to reinstate a property damaged by uninsured risk, and that if reinstatement does not occur, termination rights are granted.

The new certificate also assumes that rent payments are to be suspended in the event of uninsured damage. The tenant’s repair obligation has also been updated to carve out damage caused by uninsured risk.

It is worth noting that while these provisions have been included with a view to align with emerging market trends, they are not universally present in leases, particularly in older agreements. It is therefore worth observing whether these changes will be adopted in new leases and whether they will become the new standard.

Closing thoughts

The 8th edition of the Certificate of Title is a significant development that reflects changing market practices. It is important for property-owning professionals to be aware of these changes and to understand how they will affect their businesses.