

THE REGISTRATION OF TITLES TO LAND ACT 2000

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Fifth Session Fifth Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 16 of 2000

[L.S.]

AN ACT to provide for a register of land titles, and to
provide for the registration of estates and
interests in land, in that register.

[Assented to 13th July, 2000]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:—

PART I

PRELIMINARY

Short title
and commencement

1. This Act may be cited as the Registration of Titles to Land Act, 2000 and shall come into operation on a date to be fixed by the President by Proclamation published in the *Gazette*.

Application and
purpose

2. (1) This Act applies to every parcel of land for which a folio of the Register is established under this Act.

(2) The purposes of this Act are to—

- (a) provide certainty of ownership of interests in land and to simplify proof of ownership;
- (b) facilitate the economic and efficient execution of transactions with respect to interests in land; and
- (c) provide compensation for persons who sustain loss in circumstances prescribed.

(3) In order to carry out the purposes mentioned in subsection (2), the Act provides for—

- (a) establishment of a parcel based register for land brought under this Act;
- (b) use of a Unique Parcel Reference Number to identify each parcel of land;
- (c) establishing the ownership of interests in land by registration;
- (d) establishment of priority for enforcement of interests by time and date of registration;
- (e) establishing procedures to manage the land registration process;

- (f) the maintenance of records in prescribed format; and
- (g) establishing procedures for compensating persons who sustain loss subject to the satisfaction of criteria prescribed by this Act.

(4) Except as otherwise provided in this Act, no law, practice or procedure relating to land shall apply to land registered under this Act in so far as it is inconsistent with this Act:

Provided that except where a contrary intention appears nothing contained in this Act shall be construed as permitting any dealing which is forbidden by express provisions of any other law or as over-riding any provisions of any other law requiring the consent or approval of any authority to any dealing.

3. In this Act—

Interpretation

“adjudicated” means adjudicated in accordance with the provisions of the Land Adjudication Act;

Act No. 14 of 2000

“Adjudication Officer” means the Adjudication Officer appointed under the Land Adjudication Act;

“Assistant Registrar” means an Assistant Registrar appointed under section 5;

“Assurance Fund” means the Assurance Fund established under section 65;

“Cadastral Survey” shall have the meaning assigned to it under the Land Surveyors Act;

Act No. 33 of 1996

“Certificate of Title” means a certificate of title issued under section 24 and includes a certificate of lease;

- “Certified” means certified by the Registrar of Land;
- “Charge” means security for payment of a debt or performance of an obligation attaching to property of the debtor;
- “Consolidate” means the combining of separate land parcels into one land parcel;
- “Court” means the Court of Appeal;
- “Deputy Registrar” means a Deputy Registrar appointed under section 5;
- “document” means a writing, a plan, a map, or any information in a form which can be converted into a writing, a plan, or a map by a machine or a device, and includes information:
- (i) on microfilm;
 - (ii) in electronic, mechanical or magnetic storage; or
 - (iii) in electronic data transmission signals;
- “encumbrance” means a proprietary right held by one person over the property of another that limits the ways in which the owner may use or deal with the property;
- “folio” means a component of the Register as provided for in section 13;
- “indefeasible” means not subject to any prior interest or estate;
- “Land” means land, messuages, tenements and hereditaments, corporeal and incorporeal, of every kind and description, or any estate therein together with all parts, passages, ways, watercourses, liberties, privileges, easements, plantations, gardens, mines, minerals and quarries and all trees and timber thereon or thereunder lying or being;

- “Land Registry” means the Land Registry established under section 4;
- “memorial” means an entry in the Register;
- “mines and minerals” include any stratum or seam of minerals or substances in or under the land;
- “Minister” means the Minister to whom responsibility for registration of title to land is assigned;
- “mortgagee” means the person recorded in the register as the owner of a mortgage;
- “mortgage” means any charge on land created merely for securing the payment of a debt or performance of some other obligation;
- “notice” includes constructive notice;
- “parcel identification map” means the parcel identification map prepared under the Land Adjudication Act;
- “Plan of Consolidation” means a plan accepted for registration by the Registrar of Land that defines the boundaries of a new land parcel created by consolidating former parcels of land;
- “plan of subdivision” means a plan accepted for registration by the Registrar of Land that defines the boundaries of the new land parcels of any subdivided former parcel or parcels of land;
- “public right of way” means a right for the public to travel along the site of the right of way;
- “Registrar’s Caveat” means entry made by the Registrar of Land on a folio in accordance with section 33;

“Registrar” means the Registrar of Land appointed under section 5;

“Register” means the Register kept under section 13;

“Regulations” means Regulations made under this Act;

“restriction” means a restriction on the way land may be used or dealt with;

“seal” means the official seal of the Land Registry of Trinidad and Tobago;

“statutory easement” means an easement created under an Act;

Act No. 15 of 2000

“Tribunal” means the Land Tribunal established under the Land Tribunal Act;

Act No. 23 of 1981

“Unit”, “Common Property” and “Condominium Scheme” have the meanings assigned to them in the Condominiums Act, 1981;

“Unique Parcel Reference Number” means an identifying number within the meaning of section 13(3) of the Land Adjudication Act.

PART II

ADMINISTRATION OF THE LAND REGISTRY

Land Registry

4. (1) A Land Registry shall be established for the purpose of receiving, creating and managing the records described in Part III in accordance with the procedures prescribed.

(2) For the purposes of this Act, all registration of title to land and the registration of all instruments and other documents relating to land shall be effected in the office of the Land Registry.

(3) Registration referred to in subsection (2), shall be recorded in the Registers and Indices maintained for that purpose by electronic or other means in the office of the Land Registry in such manner as may be prescribed.

(4) Registration of a document shall not be valid and effectual unless it is validated under the hand of the Registrar.

(5) The Minister may by Regulations provide for the establishment of one or more offices of the Land Registry to facilitate administration of this Act.

5. (1) There shall be a Registrar of Land and one or more Deputy Registrars of Land and one or more Assistant Registrars of Land. Registrar of Land
Chap. 19:03

(2) Until a Registrar is appointed under this Act, the Registrar General shall perform the duties and exercise the powers of the Registrar of Land.

6. (1) No person shall be appointed as Registrar unless he is an Attorney-at-law of at least seven years experience in Land Law. Qualification for
certain appointments

(2) No person shall be appointed as a Deputy Registrar unless he is an Attorney-at-law of at least five years experience in Land Law.

(3) No person shall be appointed as an Assistant Registrar unless he is an Attorney-at-law.

7. The offices of the Registrar, Deputy Registrar and Assistant Registrar are public offices within the meaning of section 3 of the Judicial and Legal Service Act. Offices are public
offices
Chap. 6:01

8. The Registrar shall have an official seal with the words "Land Registry, Trinidad and Tobago" embossed thereon. Seal of the Land
Registry

9. Where by any law in force in Trinidad and Tobago anything is appointed to be done by the Registrar it may, in the absence of express provision to the contrary, be lawfully and effectually be done by a Deputy Registrar or an Assistant Registrar. Functions of the
Registrar may be
performed by a
Deputy Registrar or
an Assistant
Registrar

Registrar, Deputy
Registrar and
Assistant Registrar
are Commissioners
of Affidavit
Chap. 6:52

10. The Registrar, Deputy Registrars and Assistant Registrars are *ex officio* Commissioners of Affidavits within the meaning of the Commissioner of Affidavits Act.

Authority to officers
in writing

11. The Registrar may, by authority in writing given to officers of the Land Registry—

- (a) require that such authority be exercised in accordance with any general or specific direction of the Registrar;
- (b) specify the period for which such authority is valid;
- (c) direct and manage the operation of the officers and offices of the Land Registry;
- (d) provide for inspection of any record of the Land Registry; and
- (e) direct such other officers to perform such duties as may be required to give effect to the purposes and provisions of this Act.

Validity of document
under seal

12. Any document signed by an officer of the Land Registry under seal and in accordance with any authorization or direction given pursuant to section 9 shall be valid and effectual.

PART III

THE REGISTER

The Land Register

13. (1) A Register shall be kept and maintained by the Registrar for all land in Trinidad and Tobago brought under this Act.

(2) The Register shall be comprised of—

- (a) a folio for every parcel which has been adjudicated in accordance with the Land Adjudication Act;
- (b) a lease folio in respect of every lease for which a separate folio is required to be maintained under this Act; and

(c) every interest folio created in accordance with sections 17, 19 and 20.

(3) Each folio shall bear a Unique Parcel Reference Number linking it to the Parcel Identification Map.

(4) For the purposes of this Act Unique Parcel Reference Number shall be the legal description of the parcel.

(5) The Registrar shall indicate in the folio whether the land is State land or private land and, in the case of private land, whether the title of the owner is absolute or provisional.

(6) Each folio shall contain such description as may be prescribed.

(7) Each folio may be maintained in loose leaf or in electronic form.

14. (1) Whenever an adjudication record has become final under section 23 of the Land Adjudication Act and the Adjudication Officer has delivered the adjudication record to the Registrar, the Registrar shall prepare a folio for each parcel shown in the adjudication record and for any lease for which a separate folio is required to be maintained, and shall register therein any of the particulars in the adjudication record which require registration and thereupon, the Real Property Ordinance and the Registration of Deeds Act shall cease to apply to such parcel and this Act shall apply thereto.

Compilation of the
Register

Chap. 27. No. 11

[1950 Rev.]

Chap. 19. No. 6

[1950 Rev.]

(2) The first registration of any parcel shall be effected by the preparation of a folio in accordance with the provisions of section 13 and the signing, thereof by the Registrar.

(3) Every subsequent registration shall be effected by an entry made by the Registrar in the folio in such form as may be prescribed and any cancellation of an entry, shall be recorded in the folio in the like manner.

- State owned land **15.** Where land is adjudicated as State land the Registrar shall in compiling the Register, record as encumbrances the particulars of all leases granted by the State under the State Land Act including any other estate or interest granted by the State.
- Chap. 57:01
- Contents of parcel folio **16.** The Registrar shall record against the parcel folio all relevant matters as are prescribed.
- Interest folio **17.** (1) For the purposes of this Act the Registrar may create an interest folio for any registered interest.
- (2) Where the interests are owned by the same proprietor and are related in purpose or are substantially the same under the law the Registrar may create a consolidated interest folio.
- (3) The Registrar shall, upon request of the proprietor of the lease, create a folio for any lease for a term which is not less than twenty-one years and remains unexpired and such folio shall refer to the reversion expectant upon such lease.
- Endorsement of a memorial in respect of certain leases **18.** Where a folio is created in respect of the freehold reversion expectant upon a lease granted for a term of not less than twenty-one years, or for a term of which not less than twenty-one years remains outstanding, and a folio was previously created in respect of such lease, the Registrar shall, without prejudice to the said folio previously created, endorse a memorial of the said lease on the folio created in respect of the said reversion.
- Mines and minerals **19.** (1) The Registrar may create an interest folio in respect of mines or minerals in or underlying any land registered under this Act in this section referred to as surface land.
- (2) Where any estate or interest in mines or minerals is transferred separate from the surface land, the Registrar may create a separate folio or interest folio in respect of such estate or interest.

(3) A memorial in such form as may be prescribed of the creation of an interest folio relating to mines or minerals under this section shall be endorsed on the folio of the parcel.

(4) No interest folio shall be created under this section unless a map or plan, of the land duly certified by the Director of Surveys indicating the mines or minerals to which the interest folio relates is lodged with the Registrar.

20. The Registrar shall create a separate folio in respect of each unit and the common property designated by a condominium scheme in accordance with the provisions of the Condominiums Act when it comes into operation or any Act which may repeal and replace it.

Condominiums

Act No. 23 of 1981

21. Where an application in the prescribed form is made by the registered subdivision proprietor of one or more parcels of land to the Registrar to subdivide or consolidate land, the Registrar shall require a plan of subdivision or consolidation approved and certified by the Director of Surveys to be lodged with any document or instrument intended to effect such consolidation or subdivision.

Consolidation and subdivision

22. Before any document containing a plan of subdivision or consolidation is registered, the Director of Surveys shall provide to the Registrar a New Unique Parcel Reference Number for each parcel of land shown in such plan of subdivision or consolidation and the Registrar shall create a new folio in respect of each such parcel.

Parcel subdivided or consolidated to have new parcel reference number and a new folio

23. (1) An application under section 21 shall be accompanied by—

Application for subdivision or consolidation

(a) such evidence of compliance with this Act or Regulations made under this Act or any other written law governing subdivision or consolidation of land;

- (b) such maps or plans, prepared and certified as may be prescribed showing the land subject to the subdivision or consolidation.

(2) Where the Registrar creates a new folio pursuant to an application under section 21, the former folio shall be cancelled and a notation placed on the cancelled folio referring to the new folio created.

Issue of Certificate
of Title

24. (1) The Registrar shall, if requested by any proprietor of land registered under this Act or the holder of a lease of such land issue to him a Certificate of Title or a Certificate of Lease, as the case may be, in the prescribed form showing all entries in the Register affecting that land or lease subsisting at the date of issue of the Certificate.

(2) A Certificate issued under this section shall be evidence of the matters shown therein as at the date of issue of such certificate.

Contents of
Certificate of Title

25. A Certificate of Title issued under section 24 shall contain—

- (a) a Unique Parcel Reference Number and property address;
- (b) reference to the parent folio;
- (c) the date of its issue;
- (d) the name of the registered proprietor and the nature of the estate or interest in or the extent of title to land to which the Certificate relates;
- (e) a schedule of and the order of priority of all current encumbrances, charges, restrictions, conditions and other interests whether benefiting or burdening the land to which the Certificate of Title relates; and
- (f) any other relevant information necessary.

PART IV

INSTRUMENTS AND DEALINGS WITH LAND

26. (1) No interest in land subject to this Act, can be created or disposed of except by writing signed by the person creating or conveying same or by his agent thereunto lawfully authorised in writing, or by will or by operation of law.

Interest in land to be created or disposed of in writing

(2) A declaration of trust respecting land or any interest therein must be manifested and proved by some writing signed by the person who is able to declare such trust or will.

(3) No instrument or document shall be registered under the provisions of this Act unless it is in writing in such form as may be prescribed.

27. An instrument or other document affecting land that is presented for registration shall—

Priority

- (a) conform to such requirements as are prescribed;
- (b) be registered in the order of time in which it is so presented; and
- (c) notwithstanding any notice, take effect in the order of priority according to the time of its registration.

28. (1) An instrument or document that is incomplete or otherwise materially defective, shall not be considered to be in proper order for registration and may be rejected by the Registrar.

Circumstances in which an instrument may be rejected by the Registrar

(2) Where the Registrar rejects an instrument or document he shall return the instrument or document and give notice of the rejection and reasons for such rejection in such form as may be prescribed.

(3) Where the Registrar rejects an instrument or document and gives notice of rejection under subsection (2), the instrument or document may be resubmitted with the necessary amendment.

(4) Any person who is aggrieved by the rejection may appeal to the Tribunal.

Effect of registration
of instrument or
document

29. An instrument or document when registered by the Registrar, has legal effect, and passes an estate or interest in land when a memorial is endorsed on the instrument or document under the signature of the Registrar.

Registrar to cancel
registration when
instruments
registered are found
to be defective

30. (1) Where any instrument that has been lodged and registered in accordance with the provisions of this Act is subsequently found to—

- (a) contain material defects; or
- (b) be inadequate to give effect to the intention of the parties to the transaction,

the Registrar may on application—

- (i) cancel the registration of the instrument or document and restore the folio to its former state;
- (ii) place on the folio a memorial amending and correcting the said folio on the written request of the parties to the transaction and upon production of such evidence as may be required by the Registrar; or
- (iii) give effect to any order of the Court or Tribunal to correct or amend a folio.

(2) The Registrar may cancel any entry in the Register where he is satisfied that the entry has ceased to have effect.

Rectification of
error or omission

31. (1) Where an error or omission is, in the opinion of the Registrar, clerical or administrative in nature, he shall make such amendment or alteration to the folio of the Register as is necessary.

(2) Where a correction is made in accordance with subsection (1), the folio shall have the same

validity and effect as if an error or omission had never been made, but without prejudice to any other entry made prior to making of the said correction or entry.

32. (1) Whenever any question arises with regard to the exercise of any power or the performance of any duty conferred or imposed on him by this Act, the Registrar may, and shall if required to do so by an aggrieved party, state a case for the opinion of the Court; and thereupon the Court shall give its opinion which shall be binding upon the Registrar.

Power of Registrar to state a case to Court

(2) Where an aggrieved party requires the Registrar to state a case for the opinion of the Court, such party shall deposit with the Registrar such sum or such security as the Registrar shall consider sufficient to meet the costs of such proceedings.

(3) An aggrieved party may appeal to the Tribunal from the decision of the Registrar as to the quantum of the sum or such security to be deposited under subsection (2).

33. Where an instrument that has been registered is alleged to have been obtained fraudulently the Registrar shall, on the application of a party to such and instrument or on the application of any person who satisfies the Registrar of his interest in the land enters a caveat and where the Registrar enters a caveat, the provisions of sections 74, 75, 76, 77 and 78 shall apply with such modifications as are necessary.

Registrar's Caveat

34. (1) Subject to subsection (2), the title of every proprietor of land subject to this Act is, except in the case of fraud, absolute and indefeasible and accordingly shall not be impeached or affected in any way by the existence in any other person of any estate or interest, whether derived by grant from the State or otherwise, which but for this Act might be held to be paramount or to have priority.

Conclusiveness of the Register

(2) The proprietor of any estate or interest in land subject to this Act holds the same subject to—

- (a) any estates, interests, mortgages, charges, restrictions or encumbrances entered on the folio to which the land relates;
- (b) any statutory charge over such land registered in accordance with Regulations;
- (c) the estate or interest of any proprietor claiming the same land under a prior folio of the Register;
- (d) the rights of any tenant of any such land holding a periodic tenancy or a leasehold term not exceeding three years or rights under an agreement for a lease for a term less than three years;
- (e) any statutory easement;
- (f) any implied easement or profit;
- (g) any easement or other interest in such land which has been omitted from or misdescribed in the folio;
- (h) any portion of land erroneously included by misdescription of parcels or boundaries in any folio or other instrument evidencing title;
- (i) rights of compulsory acquisition, entry, search, user or limitation of user conferred or imposed under any other written law;
- (j) the rights of a person in actual occupation or in receipt of rents and profits except where inquiry is made and the rights are not disclosed;
- (k) in the case of land granted by the State—
 - (i) reservations and conditions contained in the grant;

- (ii) any resumption of such land pursuant to such reservations and powers; or
- (iii) resumption of land under statutory powers;
- (l) natural rights of light, air, water and support;
- (m) any unpaid money which, without reference to registration under this Act, is expressly declared by any law to be charged upon land;
- (n) rights acquired or in the process of being acquired by virtue of any law relating to limitation or prescription; or
- (o) any public right of way and any unpaid taxes, charges, rates, assessments and duties,

but free from all other estates, interests and encumbrances.

(3) The Registrar may direct registration of any liabilities, rights or interests referred to in subsection (2) (and not otherwise required to be registered under this Act) in such manner as he thinks fit.

35. A person contracting with the registered proprietor in good faith and for valuable consideration is not required to—

Protection of persons
dealing with the
registered proprietor

- (a) enquire or ascertain the circumstances under which the registered proprietor or any previous proprietor was registered; or
- (b) give effect to, nor is he to be affected by any trust or unregistered interest unless that interest is protected by the entry of the particulars by a caveat on the relevant folio.

Action for recovery of
land

36. An action for recovery of land subject to this Act may be brought against the registered proprietor by—

- (a) any person entitled to enforce a lease, mortgage, charge or encumbrance or other interest affecting the said land;
- (b) a proprietor claiming the same land under a prior folio;
- (c) any person deprived of any land subject to this Act except where the land has been transferred to a *bona fide* purchaser for value without notice of any fraud; or
- (d) any person deprived of or claiming any land erroneously included by description in the proprietor's folio unless the registered proprietor is a *bona fide* purchaser for value without notice.

Registrar to create
or modify forms

37. Subject to the approval by the Minister, the Registrar may create, or modify such forms as are required to be registered under this Act to give effect to transactions affecting land.

Prescribed forms and
fees

38. The Registrar shall make available to the public prescribed forms at such fees as are prescribed.

Registrar to register
instruments duly
completed

39. On lodgment of instruments in the prescribed form duly completed by the parties, witnessed in accordance with section 41, and subject to the payment of any prescribed fees, the Registrar shall register the instrument in accordance with this Act.

Execution of
instruments

40. (1) Every instrument evidencing a disposition shall be executed by all persons shown by the Register to be owners of the interest affected and by all other parties to the instrument, but the Registrar may dispense with execution by a particular party, other than the proprietors of the interests affected by a disposition where he considers that such execution is unnecessary.

(2) An instrument shall be deemed to have been executed only by—

(a) a natural person, if signed by him;

(b) by a corporation—

(i) if sealed with the common seal of the corporation affixed thereto in the presence of and attested by its clerk, secretary or other permanent officer and by a member of the board of directors, council or other governing body of the corporation; or

(ii) in the case of a corporation not required by law to have a common seal, if signed by such persons as are authorised in that behalf by any law or by statute or charter of the corporation or by the person duly appointed in writing in the absence of any express provision, by the corporation evidence of which appointment has been produced to the satisfaction of the Registrar.

41. (1) Where a party executes an instrument in Trinidad and Tobago it shall be executed in the presence of at least one witness not being a party thereto and a qualified functionary but the signing of the instrument shall be attested to by at least one witness subscribing his name, address, business, profession, occupation or condition of life and the qualified functionary subscribing his name, address and qualification.

Mode of execution of
instruments and
verification

(2) Where a party executes an instrument out of Trinidad and Tobago the instrument shall be executed in the presence of at least one witness not being a party

thereto and the signing thereof shall be attested by at least one such witness subscribing his name, address or business, profession, occupation or condition in life.

(3) Where a company or corporation executes the same, the instrument shall be executed and attested in manner prescribed by any written law.

(4) A qualified functionary shall not subscribe an instrument under this section unless it bears the signature of an attorney-at-law as having prepared such instrument.

(5) Every instrument so executed shall when registered have the force and effect of a deed made by the parties signing the same.

(6) In all cases in which any instrument is executed by any person within Trinidad and Tobago, an affidavit or solemn declaration in the prescribed form proving such execution shall be made before a Judge, or a Commissioner of Affidavits.

(7) In all cases in which any instrument is executed out of Trinidad and Tobago, an affidavit or solemn declaration of the witness proving such execution shall be made and the making of the same may be certified in the like manner to that prescribed for deeds executed out of Trinidad and Tobago by section 10 of the Registration of Deeds Act or any amendments thereof.

(8) The Registrar may dispense with verification under this section—

(a) if he considers that it cannot be obtained or can be obtained only with difficulty and he is otherwise satisfied that the instrument has been properly executed; or

(b) in cases in which to his knowledge the instrument has been properly executed,

and shall record on the instrument his reason for dispensing with such verification.

(9) Where an instrument presented to the Registrar is in a language other than the English Language that instrument shall be presented together with a translation into the English Language certified by a sworn translator.

(10) In this section “qualified functionary” means a judge, an attorney-at-law or the Registrar of the Supreme Court.

42. Notwithstanding any other written law the fees Stamp Duty payable under this Act shall be paid to the Registrar in such manner as may be prescribed and the Registrar shall issue a receipt for the payment.

43. (1) Subject to subsection (2) all instruments Registrar to retain instruments accepted accepted by the Registrar shall be retained in the Land Registry.

(2) When a lease or charge is registered, particulars of registration shall be noted on the duplicate and the triplicate thereof, and the duplicate and triplicate shall be returned to the person who presented them.

44. (1) For the avoidance of doubt, it is hereby Minors declared that the name of any minor may be entered in the Register either on first registration or as a transferee or on transmission.

(2) Nothing in this section enables any such person to deal with land or any interest in land by virtue of such registration, and where to his knowledge a minor is registered, the Registrar shall enter a restriction accordingly.

(3) A minor or any person representing a minor, who applies to register any disposition of land or any interest in land made by the minor shall state in such application particulars of the age and date of birth of the minor.

(4) Where a disposition by a minor whose infancy has not been disclosed to the Registrar has been registered, such disposition may not be set aside only on the grounds of minority.

(5) Where a minor or any person representing a minor makes a false statement as to the age or date of birth of the minor in any application to register any disposition of land or any interest in land by the said minor, he is guilty of an offence under this Act and liable on summary conviction to a fine of ten thousand dollars or to imprisonment for two years.

Agents and persons
under disabilities

45. (1) Except as provided in subsection (3) no instrument executed by any person as agent for any other person shall be accepted by the Registrar unless the person executing it was authorised in that behalf by a power of attorney executed and verified in accordance with section 41.

(2) The original of such power of attorney or, with the consent of the Registrar, a copy thereof certified by the Registrar shall be filed.

(3) Where any person who, if not under a disability, might have made any application, done any act or been a party to any proceeding under this Act or under any Regulations made hereunder is a minor, a person of unsound mind or a person under any other disability, the guardian of such person, or if there is no such guardian, a person appointed under any law to represent that person, may make any application, do any act and be party to any proceedings on behalf of that person, and shall generally represent that person for the purposes of this Act.

(4) Before accepting any document executed by a guardian or a person so appointed to represent a person under disability, the Registrar shall satisfy himself that the person claiming to be the guardian is

entitled to execute the document or require the production of the appointment of the person so appointed, and shall file a note of the explanation which satisfied him or a copy of the appointment, as the case may be.

46. A person under a disability who has been registered as proprietor of a land, lease or charge, acquired by him by way of gift may, within six months after he ceases to be under a disability repudiate the gift if he has not already disposed of the subject matter thereof, but no such repudiation shall be effective until—

- (a) he has transferred the land, lease or charge to the donor who shall be bound to accept it; and
- (b) the transfer has been registered.

47. (1) Upon the application of the grantor or the grantee of a power of attorney which contains any power to dispose of any interest in land, such power of attorney shall be entered in the register of powers of attorney and the original, or with the consent of the Registrar a copy thereof certified by the Registrar, shall be filed in the file of powers of attorney.

(2) Every such power of attorney shall be in the prescribed form or such other form as the Registrar may in any particular case approve and shall be executed and verified in accordance with section 41.

(3) The grantor of a power of attorney filed in accordance with subsection (1) may at any time give notice to the Registrar in the prescribed form that the power has been revoked, and thereupon the revocation shall be entered in the register of powers of attorney and noted upon the power of attorney, and the notice shall be filed in the file of powers of attorney.

(4) Any interested person may give notice in writing to the Registrar that a power of attorney which

has been registered under subsection (1) has been revoked by death, bankruptcy or disability of the grantor or the death or disability of the grantee accompanied by such evidence as the Registrar requires.

(5) Subsections (3) and (4) do not apply to a power of attorney given for valuable consideration during any time which it is by virtue of the terms thereof, irrevocable.

(6) Where, after five years since the execution of the power of attorney or where for any other reason the Registrar considers it desirable, he may require evidence that the power has not been revoked, and may refuse to register any disposition by the grantee of the power of attorney until satisfactory evidence of its subsistence is produced.

Effect of registered
power of
attorney

48. (1) A power of attorney which has been entered under section 47 and of which no notice of revocation has been entered under that section shall be deemed to be subsisting as regards any person acquiring any interest in land affected by the exercise of the power, for valuable consideration and without notice of revocation and in good faith, or any person deriving title under such a person.

(2) Any person making any payment or doing any act in good faith in pursuance of a power of attorney entered under section 47 shall not be liable in respect of the payment or act by reason only that before the payment or act the grantor of the power of attorney had died or become subject to a disability or become bankrupt, or had revoked the power, if the fact of death, disability, bankruptcy or revocation was not at the time of the payment or act known to the person making or doing the payment or act.

49. Where one or more joint proprietor of any land, ^{Death of joint proprietor} lease or charge dies, the Registrar, on proof to his satisfaction of death, shall delete the name of the deceased from the Register.

PART V

TRANSMISSIONS, LIQUIDATION AND TRUST

50. (1) Where a registered proprietor or a tenant in ^{Transmission on death of sole proprietor} common dies, his legal personal representative shall on application under subsection (2) be entitled to be registered as proprietor in the place of the deceased.

(2) Where an application is made to the Registrar by the legal personal representative with a copy of the grant, the Registrar shall enter the name of such applicant in the register followed by the words:

“as executor of the will of.....deceased”,
or
“as administrator of the estate of
.....deceased”.

(3) Upon production of a grant the Registrar may without requiring the legal personal representative to be registered, register by transmission—

- (a) any transfer by a legal personal representative; or
- (b) any surrender of a lease or discharge of a charge by a legal personal representative.

(4) In this section, “grant” means the grant of probate of the will or the grant of letters of administration of the estate of the deceased proprietor.

51. (1) The legal personal representative, subject to ^{Effect of transmission on death} any restriction on his power of disposing of the land, lease or charge contained in his appointment, or the person beneficially entitled on the death of the

deceased proprietor, as the case may be, shall hold the land, lease or charge subject to any liabilities, rights or interests which are unregistered but are nevertheless enforceable and subject to which the deceased proprietor held the same, but for the purpose of any dealing he shall be deemed to have been registered as proprietor thereof with all the rights conferred by this Act on a proprietor who has acquired land, a lease or a charge, as the case may be, for valuable consideration.

(2) The registration of any person as aforesaid shall relate back to and take effect from the date of the death of the proprietor.

Transmission on
bankruptcy

52. (1) A trustee in bankruptcy shall, upon production to the Registrar of a certified copy of the order of Court adjudging a proprietor bankrupt, or directing that the estate of a deceased proprietor shall be administered according to the law of bankruptcy, be registered as proprietor of any land, lease or charge of which the bankrupt or deceased proprietor is proprietor, in his place, and a copy of the order shall be filed in the Registry.

(2) A trustee in bankruptcy shall be described in the Register as “trustee of the property of a bankrupt”.

(3) A trustee in bankruptcy shall hold any land, lease or charge of which he is registered as a proprietor subject to any restrictions contained in any law relating to bankruptcy or in any order of Court and subject to any liabilities, rights or interests which are unregistered but are nevertheless enforceable and subject to which the bankrupt or the deceased proprietor held the same, but for the purpose of any dealing with such land, lease or charge the trustee in bankruptcy shall have all the rights and be subject to all the limitations conferred or imposed by this or any other written law on a proprietor who has acquired land, a lease or a charge for valuable consideration.

53. (1) Where a company which is the registered Liquidation owner of any land, or the holder of a lease or charge in respect of such land is being wound up, the liquidator shall produce to the Registrar either a resolution or order of Court appointing him liquidator, and the Registrar shall enter the particulars of his appointment in the appropriate folder and shall file a copy of the resolution or order.

(2) An instrument executed by or on behalf of a company in liquidation delivered for registration after the appointment of the liquidator has been entered under subsection (1) shall be sealed with the common seal of the company and attested by the liquidator, or in the case of a company not required by law to have a common seal, shall be signed by the liquidator whose signature shall be verified in accordance with section 41.

54. Where the State or any person has become Transmission by compulsory acquisition or judgment of court entitled to any land, lease or charge under any law or by virtue of any order or certificate of sale made or issued under any law, the Registrar shall, on the application of any interested person supported by such evidence, as he may require, register the State or the person entitled as the proprietor.

55. (1) A person acquiring land or a lease or charge Trusts in a fiduciary capacity may be described by that capacity in the instrument of acquisition and, if so described, shall be registered with the addition of the words “as trustee”, but the Registrar shall not enter particulars of any trust in the Register.

(2) Any instrument which declares or is deemed to declare any trust, or certified copy thereof, may be deposited with the Registrar for safe custody; but such instrument or copy shall not form part of the Register or be deemed to be registered.

(3) Where the proprietor of land, lease or charge is a trustee, he shall, hold the same subject to any unregistered liabilities, rights or interests to which it is subject by virtue of the instrument creating the trusts, but for the purpose of any registered dealing he shall be deemed to be absolute proprietor thereof and no person dealing in good faith for valuable consideration shall be deemed to have notice of the trust, nor shall any breach of the trust create any right to indemnity under this Act.

Survivor of Trustees

56. Whenever two or more proprietors are registered jointly as trustees, and the survivor of such trustees would not be entitled to exercise alone the powers which are vested in them, the Registrar shall enter a restriction to that effect.

Power of Court to make restraining order

57. (1) The Court may make a restraining order for a particular time, or until the occurrence of a particular event or generally until further order restraining the registration of any dealing with any land, lease or charge.

(2) A copy of the restraining order under the seal of the Court with particulars of the land, lease or charge affected thereby, shall be sent to the Registrar, who shall register it in the appropriate folio and no restraining order shall bind or affect the land, lease or charge until it has been registered.

Effect of registration of restraining order

58. An instrument which is inconsistent with a registered restraining order shall so long as the restraining order remains in effect not be registered.

Cancellation of restraining order

59. The registration of a restraining order shall be cancelled in the following cases and in no others:

- (a) on the expiration of the time limited by the restraining order;
- (b) on proof to the satisfaction of the Registrar of the occurrence of the event specified in the restraining order;

- (c) on the land, lease or charge being sold by a chargee, unless such sale is itself restrained; or
- (d) by order of the Court.

60. Every proprietor who has acquired land, lease or charge by transfer without valuable consideration shall hold it subject to any unregistered rights or interests subject to which the transferor held it and subject also to the provisions of any law relating to bankruptcy and to the winding-up provisions of the Companies Act, but except as aforesaid such transfer when registered shall in all respects have the same effect as a transfer for valuable consideration.

Voluntary transfer

Act No. 35 of 1995

PART VI

EFFECT OF REGISTRATION

61. Subject to section 60, the registration of any person as proprietor with absolute title to a parcel shall vest in that person the absolute ownership of that parcel together with all rights and privileges belonging or appurtenant thereto, free from all other interests and claims whatever, but subject—

Effect of registration
with absolute title

- (a) to the leases, charges and other encumbrances and to the conditions and restrictions, if any, shown in the Register; and
- (b) unless the contrary is expressed in the Register, to such liabilities, rights and interests as affect the same and are declared by section 34 and not requiring noting on the register: Provided that—
 - (i) nothing in this section shall be taken to relieve a proprietor from any duty or obligation to which he is subject as a trustee; and

- (ii) the registration of any person as the proprietor under this Act shall not confer on him any right to any minerals unless the same are expressly referred to in the folio.

Effect of
registration with
provisional title

62. Subject to section 34, the registration of any person as proprietor with a provisional title to a parcel shall not affect or prejudice the enforcement of any estate, right or interest adverse to or in derogation of the title of that proprietor arising before such date or under such instrument or in such manner as is specified in the register of that parcel; but except as aforesaid, such registration shall have the same effect as the registration of a person with absolute title.

Effect of registration
of a lease

63. Subject to section 34, the registration of a person as proprietor of a lease shall vest in that person the leasehold interest described in the lease, together with all implied and expressed rights and privileges belonging or appurtenant thereto and subject to all implied and expressed agreements, liabilities and incidents of the lease but if the title of the lessor is a provisional title the enforcement of any estate, right or interest affecting or in derogation of the right of the lessor to grant the lease shall not be prejudiced.

Entries to constitute
notice

64. Every proprietor acquiring any land, lease or charge shall be deemed to have notice of every entry in the folio relating to the land, lease or charge.

PART VII

ASSURANCE FUND AND COMPENSATION

Assurance Fund and
compensation

65. (1) There is hereby established for the purposes of this Act a fund to be known as the “Assurance Fund”.

(2) There shall be paid into the Assurance Fund such fees received by the Registrar as may be prescribed.

(3) The Assurance Fund shall be kept, managed and invested in such manner as the Minister of Finance may determine by Order subject to negative resolution of Parliament.

(4) Where the Assurance Fund is insufficient to satisfy any claims arising under this Act, the deficiency shall be charged against the Consolidated Fund, but any such amount shall be repaid as soon as the Assurance Fund is sufficient to effect reimbursement.

66. (1) Subject to the provisions of this Part, and of any written law relating to the limitation of actions any person who suffers loss or damage by reason of—

- (a) any error, omission, mistake or misfeasance by the Registrar or any staff of the Land Registry in execution of their duties under this Act; or
- (b) being barred from bringing an action for ejectment,

may apply to the Tribunal for compensation and the Tribunal having regard to all the circumstances of the case may decide on the compensation to be paid and inform the claimant accordingly.

(2) Where the person who had suffered loss accepts the decision of the Tribunal, the Registrar shall enter into an agreement with that person for the payment of the compensation.

(3) Where an agreement is entered into under subsection (2), the Registrar shall issue a certificate to the Comptroller of Accounts certifying that the person is entitled to compensation, expenses and interest as set forth in the agreement.

(4) On production of such certificate, the applicant shall be entitled to payment of the amount certified from the Assurance Fund.

(5) Where the defendant in any action is entitled to claim indemnity against the Assurance Fund, the Registrar shall be joined as a co-defendant.

(6) In no case is the Assurance Fund liable to the principal defendant for any greater damages than are actually awarded against him in the action.

(7) A person aggrieved by the decision of the Tribunal under subsection (1) may appeal to the Court of Appeal.

Persons deprived of
land may bring
action for damages

67. (1) Any person deprived of land by reason of the circumstances referred to in section 66(1) may bring an action for damages against—

(a) the person on whose application the land was registered by fraud, misdescription or error or who acquired title through such fraud, error or misdescription; or

(b) the transferor, where the fraud, error or misdescription occurred on a transfer for value.

(2) Where the person against whom an action for damages may be brought under subsection (1)—

(a) ceases to be liable;

(b) is dead;

(c) becomes bankrupt or insolvent;

(d) has a writ of execution returned *nulla bona* by the Marshal of the Supreme Court in respect of damages and costs awarded under subsection (1); or

(e) cannot be found within the jurisdiction,

the action may be brought against the Registrar as nominal defendant and any damages or costs awarded shall be paid from the Assurance Fund.

68. Where any damages or costs have been so paid Recovery of damages and costs paid in accordance with section 66 the amount paid out may be recovered—

- (a) from the estate of the person primarily liable by action against his legal personal representatives;
- (b) through bankruptcy proceedings; or
- (c) by way of judgment against such person for any amount so paid out together with costs.

69. An action or claim for compensation under the Assurance Fund is not maintainable if the person Failure to lodge caveat deprives right to claim damages lodging any claim had actual knowledge of any competing interest in the land concerned and had failed to lodge a caveat to protect his interest.

70. Notwithstanding any written law with regard to Action for damages to be brought within six years limitation of actions the period of limitation for an action for damages under this Part is six years.

71. (1) The Assurance Fund is not liable for Assurance Fund not liable in certain circumstances to pay compensation compensation for any loss, damage or deprivation of land occasioned by—

- (a) the breach of any trust, express, implied or constructive by a registered proprietor; or
- (b) inclusion of the same portion of the land in two or more certificates of title through misdescription of land parcels.

(2) Subsection (1)(b) does not apply where any person liable to pay compensation for the loss—

- (a) is dead;
- (b) has absconded;
- (c) has become bankrupt; or
- (d) is certified under section 67(2)(d) by the Marshal of the Supreme Court as unable to pay any compensation or damages awarded against him.

No personal liability
for act done in good
faith

72. The Registrar or any officer or employee of the Land Registry is not personally liable in any action or proceeding in respect of any act done or omitted to be done in good faith under this Act.

Inspection searches
and copies

73. Any person may, on making an application in the prescribed form and on paying the prescribed fee—

- (a) inspect any folio or any sheet of the parcel index map or any instrument or plan filed during such hours as may be prescribed;
- (b) be entitled to a certified copy of any folio or part of the parcel index map or any plan or instrument filed in the Registry; or
- (c) require an official search in respect of any parcel and the Registrar shall issue a certificate of official search setting forth particulars of the subsisting entries in the folio for the parcel.

PART VIII

MISCELLANEOUS

Lodging of caveats

74. (1) Any person who—

- (a) claims any unregistrable interest in land, lease or charge;
- (b) is entitled to a licence;
- (c) has presented a bankruptcy petition against the proprietor of any registered land, lease or charge;
- (d) is a judgement creditor; or
- (e) has obtained a *lis pendens*,

may lodge a caveat with the Registrar forbidding the registration of disposition of the land, lease or charge concerned and the making of entries affecting the same.

(2) A caveat may either—

- (a) forbid the registration of dispositions and the making of entries altogether; or
- (b) forbid the registration of dispositions and the making of entries to the extent therein expressed.

(3) A caveat shall be in the prescribed form and shall state the interest claimed by the caveator and the Registrar may require the caveator to support it by a statutory declaration.

(4) The Registrar may refuse to register a caveat which he considers unnecessary or whose purpose he considers can be affected by the registration of an instrument under this Act.

(5) Subject to the provisions of this section, the caveat shall be registered in the appropriate folio.

75. (1) The Registrar shall give notice in writing of a caveat to the proprietor whose land, lease or charge is affected by it. Notice and effect of caveat

(2) So long as a caveat remains registered, no disposition which is inconsistent with it shall be registered except with the consent of the caveator or by order of the Court or Tribunal.

76. (1) A caveat may be withdrawn by the caveator or removed by order of the Court or Tribunal or subject to subsection (2), by order of the Registrar. Withdrawal and removal of caveat

(2) The Registrar may—

- (a) on the application of any person interested, serve notice on the caveator warning him that his caveat will be removed at the expiration of the time stated in the notice;
- (b) remove the caveat if at the expiration of the time stated the caveator has not objected; or

(c) where the caveator objects to the removal of the caveat, he shall notify the Registrar in writing of his objection within the time specified in the notice, and the Registrar, after giving the parties an opportunity of being heard, shall make such order as he thinks fit, and may in the order make provision for the payment of costs.

(3) On the withdrawal or removal of a caveat, its registration shall be cancelled but any liability of the caveat previously incurred under section 78 shall not be affected by the cancellation.

Second caveat in respect of same matter

77. The Registrar may refuse to accept a further caveat by the same person or anyone on his behalf in relation to the same matter as a previous caveat.

Wrongful caveat

78. Any person who lodges or maintains a caveat wrongfully and without reasonable cause shall be liable in an action for damages at the suit of any person who thereby sustains damages.

Effect of caveat

79. Where a trust or unregistered interest is not protected by caveat, a person dealing with the registered proprietor in good faith is not affected by any trust or interest.

Certified copies admissible in evidence

80. (1) A certified copy of a folio or any instrument, map, plan or other document filed in the Land Registry shall be admissible in evidence in all actions and matters between all persons or parties to the same extent as the original, and a signature on any such certified copy purporting to be the signature of the Registrar shall be presumed to be the signature of the Registrar unless the contrary is proved.

(2) No process for compelling the production of any folio, or any instrument, map, plan or other

document filed in the Land Registry shall issue from any Court except with the leave of the Court, which leave shall not be granted where a certified copy would suffice, and any such process, where issued, shall state that it is issued with the leave of the Court.

81. Any person who—

Offences

- (a) fraudulently procures, assist in such procurement, is privy to any destruction, alteration, or attempt at destruction or alteration of any record, instrument or document lawfully recorded in the Land Registry;
- (b) fraudulently uses, assist in, or is privy to such use of any form purporting to be issued by the Land Registry,

is guilty of an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for two years and on conviction on indictment is liable to a fine of one hundred thousand dollars and to imprisonment for five years.

82. (1) The Minister may make Regulations Regulations generally to give effect to the purposes and provisions of this Act and in particular and without prejudice to the generality of the foregoing, for prescribing the forms to be used and the fees payable for anything to be done under this Act and for prescribing anything which under this Act may be prescribed.

(2) Regulations made under this section shall be subject to negative resolution of Parliament.

83. Nothing in this Act shall affect the rights, Savings liabilities and remedies of the parties under any mortgage, charge, memorandum of equitable mortgage, memorandum of charge by deposit of title or lease of

the lands which, immediately before bringing such lands under this Act, was registered under the Registration of Deeds Act or the Real Property Ordinance, and—

- (a) such rights, liabilities and remedies shall be exercisable and enforceable in accordance with the law which was applicable thereto immediately before the first registration of the land under this Act; and
- (b) any such mortgage, charge, memorandum of equitable mortgage or memorandum of charge by deposit of title may be discharged by the execution of a discharge in the form prescribed under the Act under which such mortgage, charge or memorandum was first registered.

Repeal of
Act No 24 of 1981

84. The Land Registration Act, 1981 is hereby repealed.

Passed in the House of Representatives this 15th day of November, 1999.

J. SAMPSON-JACENT

Clerk of the House

Passed in the Senate this 4th day of April, 2000.

N. COX

Clerk of the Senate

Senate amendments agreed to by the House of Representatives this 4th day of May, 2000.

J. SAMPSON-JACENT

Clerk of the House