

LAND REGISTRATION ACT, 1981

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Fifth Session First Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 24 of 1981

AN ACT relating to registration of land.

[Assented to 30th July, 1981]

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

1. (1) This Act may be cited as the Land Registration **Short title and**
Act, 1981. **commencement**

(2) This Act shall come into operation on a date to be fixed by the President by Proclamation published in the *Gazette*.

PART I

INTERPRETATION

Interpretation

2. In this Act—

1981 No. 27

“Administrator General” has the meaning assigned by section 2(1) of the Succession Act, 1981;

“bankruptcy” includes liquidation by arrangement and, in relation to a corporation, means the winding up thereof;

“building” includes the stratum of airspace occupied or encompassed by it and subdivided part of a building has a corresponding meaning;

“certificate of title” means a certificate issued under section 40, and includes a State or former Crown grant, and duplicate certificate of title has a corresponding meaning;

“Commissioner of State Lands” has the meaning assigned by section 5 of the State Lands Ordinance;

Ch. 27. No. 2

“conveyance” includes any instrument, other than a will, consisting of or comprising a transfer, mortgage or other charge, lease, assent, vesting declaration, disclaimer, release or other assurance of property or of an interest therein; and “convey” has a corresponding meaning;

“Court” means the High Court;

“covenant”, when used as a noun in reference to a lease, includes a promise in a written lease which is not a deed, but not so as to affect the law relating to limitation of actions; and the verb “covenant” has a corresponding meaning;

“endorsement” in relation to any instrument, includes any writing which, owing to want of space on the back of such instrument or otherwise, has been written on a paper attached thereto, and “endorsed” has a corresponding meaning;

- “Examiner” means a person appointed under section 6;
- “fee simple absolute” has the meaning assigned by section 4 of the Land Law and Conveyancing Act, 1981; ^{1981 No. 20}
- “incumbrance” includes a legal or equitable mortgage, a trust for securing money, a lien and a charge of a portion, annuity or other capital or annual sum; and “incumbrancer” has a corresponding meaning and includes every person entitled to the benefit of an incumbrance or entitled to require payment or discharge thereof;
- “instrument” does not include a statute, unless the statute creates a settlement;
- “land” means the surface of the earth, the airspace above it and the things, other than chattels, below it, and includes—
- (a) buildings on land and parts of buildings whether the division is vertical, horizontal, or made in any other way;
 - (b) mines and minerals, whether or not held apart from the surface;
 - (c) land covered by water;
 - (d) legal estates in land, whether or not they give a right to possession of the soil;
 - (d) equitable interests in land;
- “Land Commission” means the body established under Part III of this Act;
- “Land Registrar” means the person appointed under section 4;
- “Land Registry” means the department established by section 3 and includes all branches and offices relating thereto;
- “lease” means an instrument, including a sublease, by which a leasehold term is created;
- “leasehold term” has the meaning assigned by section 5 of the Land Law and Conveyancing Act, 1981; ^{1981 No. 20}

- “lessee” means a person, including a sub-lessee, in whom a leasehold term is vested by a lease or conveyance thereof;
- “lessor” means a person, including a sub-lessor, entitled to the reversion expectant upon the determination of a leasehold term created by a lease;
- “memorial” means the endorsement on a certificate of title and on the duplicate thereof of the particulars of any instrument registered under this Act;
- “mines and minerals” include any strata or seam of minerals or substances in or under any land and powers of working or getting the same;
- “mortgage” includes any charge or lien on any property for securing money or money’s worth;
- “mortgagee” includes a person from time to time deriving title under the original mortgage; and “mortgagee in possession” means a mortgagee who, in right of the mortgage, has entered into and is in possession of the mortgaged property;
- “mortgage money” means money or money’s worth secured by a mortgage;
- “mortgagor” includes any person from time to time deriving title under the original mortgagor or entitled to redeem a mortgage according to his estate, interest or right in the mortgaged property;
- “notice” includes constructive notice;
- “personal representative” has the meaning assigned by section 2(1) of the Succession Act, 1981;
- “possession” includes receipt of rents and profits or the right to receive the same, if any;
- “proprietor” means any person registered as the owner of any present or future estate or interest in registered land;

“purchaser” means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person, who for valuable consideration, acquires an interest in property, and in reference to a legal estate, “purchaser” includes a chargee by way of a legal mortgage; and, where the context so requires, “purchaser” includes an intending purchaser; and “purchase” has a meaning corresponding with that of “purchaser”;

“qualified functionary” means a Judge of the Supreme Court, a Justice, a barrister, a solicitor, or the Registrar of the Supreme Court;

“Register” means the register kept under section 49(1);

“registered land” means land registered under Part V of this Act or deemed to be so registered under section 125;

“settlement” means an instrument by which, or by virtue of which, land is settled upon the statutory trusts or upon trusts for sale;

“statutory trusts” has the meaning assigned by section 17 of the Land Law and Conveyancing Act, 1981;

1981 No. 20

“transfer” includes transfer without valuable consideration;

“trust”, except where expressly provided otherwise, does not include the duties of a mortgagee; but, subject to that provision, “trust” includes an implied or constructive trust and the duties incident to the office of a personal representative, and extends to cases where the trustee has a beneficial interest in the property held on trust;

“trustee” means a person who holds property on trust, and includes a personal representative;

“unregistered land” means land not registered under Part V of this Act nor deemed to be so registered under section 125;

“valuable consideration” includes marriage but does not include nominal consideration in money.

PART II

ADMINISTRATION OF THE LAND REGISTRY

Land Registry

3. (1) There shall be established for the purposes of this Act a department to be called the “Land Registry”.

(2) All registration of deeds and registration of titles under this Act shall take place in the Land Registry.

(3) Such registration shall be recorded in the principal office (to be called the “Central Office”) of the Land Registry, which shall be situated in Port-of-Spain and shall be under the control and management of the Land Registrar.

(4) Subject to subsection (3), the Minister may, by regulation, provide for the establishment of one or more branches or local offices of the Land Registry in other part of the State to facilitate the execution of the purposes of this Act, and any such regulations shall determine the functions of any such branch or local office.

Land Registrar
and other officers

4. (1) There shall be a Land Registrar, one or more Deputy Land Registrars and one or more Assistant Land Registrars.

(2) The offices of the Land Registrar, a Deputy Land Registrar and an Assistant Land Registrar are public offices within the meaning of section 3 of the Judicial and Legal Services Act, 1977, and the provisions of the said Act apply accordingly.

1977 No. 22

(3) The Land Registrar shall have an official embossing seal with the words “Land Registrar, Trinidad and Tobago” upon the same.

Execution of
functions of
Land Registrar

5. (1) Whenever by any law for the time being in force in the State anything is appointed to be done by the Land Registrar, it may, in the absence of express provision to the contrary, be lawfully and for all

purposes effectually done by a Deputy Land Registrar or by an Assistant Land Registrar.

(2) The Land Registrar, and every Deputy Land Registrar and every Assistant Land Registrar are *ex officio* Commissioners of Affidavits under the Commissioners of Affidavits Ordinance. Ch. 7. No. 6

(3) The Land Registrar, in the instrument whereby authority is given under sub-section (1) to any officer, may—

- (a) require that such authority be exercised in accordance with the general or specific directions of the Land Registrar;
- (b) specify the period for which such authority is valid, so, however, that any such period may be extended from time to time and any authority given under this section may be revoked or amended at any time.

(4) Any thing signed by an officer to whom authority is given under this section is as valid and effectual as if it were signed by the Land Registrar.

(5) Notice of every authority given under this section and of every extension, revocation or amendment thereof shall be published in the *Gazette*, but failure so to publish such notice does not affect the validity of the authority conferred or of any extension, revocation or amendment thereof, as the case may be.

6. The Minister may appoint one or more persons, being barristers or solicitors, to be, in addition to the Land Registrar, Examiners of Title Examiners of Title (hereinafter called "Examiners") to advise and assist in the carrying out of the provisions of this Act.

PART III

LAND COMMISSION

7. (1) A Land Commission is hereby established for the purpose of exercising the jurisdiction conferred upon it by this Act or any other enactment. Establishment and Jurisdiction of Land Commission

(2) The Land Commission shall consist of a Chairman and such other commissioner or commissioners as may be appointed from time to time under section 8.

(3) The Land Commission shall be a superior court of record and have an official seal which shall be judicially noticed.

1962 No. 12

(4) Subject to this Act, the provisions of the Supreme Court of Judicature Act, 1962, shall apply to the Land Commission in the exercise of the jurisdiction vested in it by, or pursuant to this Act or any other written law and to the process, procedure and practice of the Land Commission (whether before, during or after any hearing) in like manner as the said provisions apply to the High Court in the exercise of the jurisdiction vested in that Court by the Supreme Court of Judicature Act, 1962 and to the process, procedure and practice of such Court.

1962 No. 12

(5) A Registrar to the Land Commission and such other officers, clerks and employees as may be required to carry out the business of the Land Commission shall be appointed in manner authorised by law.

Constitution

8. (1) The Chairman of the Land Commission and any other commissioner or commissioners are the Puisne Judges of the High Court designated as such by the Chief Justice.

1977 No. 22

(2) The office of Registrar of the Land Commission is a legal office within the meaning of section 2 of the Judicial and Legal Service Act, 1977, and the provisions of the said Act apply accordingly.

Conditions of service

9. (1) During his tenure of office, the Chairman of the Land Commission and any other commissioner shall continue, without loss of security, to be subject to the conditions of service of a Judge of the High Court, but shall, where appropriate, be entitled to such additional allowances as may be determined by Order of the President.

1977 No. 22

(2) The provisions of Part III of the Judicial and Legal Services Act, 1977, apply to the office of Registrar of the Land Commission.

(3) The allowances mentioned in subsection (1) are a charge on the Consolidated Fund.

Practice and procedure

10. (1) The jurisdiction and powers of the Land Commission shall be exercised by the Chairman or any other commissioner designated by the Chairman for the purpose sitting alone.

(2) Subject to rules made under this section, the Land Commission may sit in more than one division at such times and in such places in any part of the State as may be most convenient for the determination of proceedings before it.

(3) Parties to proceedings before the Land Commission may appear in person or by counsel or solicitor.

(4) The Land Commission has all the powers, rights and privileges vested in the High Court on the occasion of an action in respect of—

- (a) attendance and examination of witnesses;
- (b) production and inspection of documents;
- (c) entry on and inspection of property;
- (d) enforcement of its orders;
- (e) any other matter necessary or proper for the due exercise of its jurisdiction.

(5) Without prejudice to the generality of subsection (4), the Land Commission may—

- (a) seek the advice of any suitably qualified person on matters relating to the valuation or surveying of land or any other material which it considers to be relevant to any issue or proceedings before it, provided that such advice shall be disclosed to the parties to the proceedings and that the Land Commission shall not be obliged to accept such advice or to act upon it;
- (b) make, subject to such rules or regulations which may be made, an order for the payment of such remuneration and the reimbursement of such expenses as it thinks appropriate to any such person giving advice.

(6) A summons signed by the Registrar of the Land Commission has the same force as any formal process capable of being issued in any action taken in the High Court for enforcing the attendance of witnesses and compelling the production of documents.

(7) With the consent of the parties to the proceedings in question, the Land Commission may order that written submissions be filed in addition to or in place of an oral hearing.

1962 No. 12

(8) The Rules Committee may, under section 76 of the Supreme Court of Judicature Act, 1962, make rules, not inconsistent with this Act, governing—

- (a) initiation of proceedings before the Land Commission;
- (b) notices of such proceedings, or of the hearing thereof;
- (c) the sittings of the Land Commission;
- (d) the hearings or proceedings of the Land Commission;
- (e) the costs of such proceedings;
- (f) appeals from decisions of the Land Commission;
- (g) forms prescribed for use in connection with any proceedings of the Land Commission or appeals therefrom;
- (h) any other matter concerning the practice and procedure of the Land Commission.

(9) Subject to such rules, the presiding commissioner may determine the procedure to be followed in any particular proceedings of the Land Commission.

Appeals

11. (1) The decision of the Land Commission in any proceedings on a question of fact is final and binding on all parties to such proceedings.

(2) Subject to subsection (1), any party to proceedings before the Land Commission, who is dissatisfied with any decision thereof as being erroneous in point of law, may, within twenty-one days or such other time as may be prescribed by rules made under section 10(8), appeal against such decision by—

- (a) filing with the Registrar of the Land Commission a notice in writing, in the prescribed form, requesting the Land Commission to state and sign a case for the opinion of the Court of Appeal;
- (b) serving a copy of the said notice on the other party to the said proceedings.

(3) A notice so filed shall be accompanied by such fee as may be prescribed.

PART IV

REGISTRATION OF DEEDS AND OTHER DOCUMENTS

12. (1) Any deed affecting land which satisfies the requirements for registration laid down by section 13 may be registered in the Land Registry by any party to such deed. Registration of deeds and other documents

(2) Such registration shall be made in accordance with the provisions of this Part and of any rules made under section 117.

(3) Other documents affecting land may be registered as may be provided for by any other Act or prescribed from time to time.

(4) This Part does not apply to any deed or other document relating to registered land.

13. (1) No deed shall be registered under this Part unless— Requirements for registration

(a) it is in the English language;

(b) it is executed in accordance with section 99 of the Land Law and Conveyancing Act, 1981; 1981 No. 20

(c) such execution is proved as required by section 14 or section 15, as the case may be;

(d) so far as it affects land, or any interest therein, any map, plan or diagram of the said land which is attached to it is certified by a licensed surveyor within the meaning of the Land Surveyors Ordinance. Ch. 27. No. 2

(2) Where a deed is executed by a person signing his name in foreign characters or by making his mark, the Land Registrar may refuse to register the deed unless it contains, or has attached or annexed to it, or endorsed upon it, a certificate in such form as may be prescribed, by a barrister, solicitor, Justice or duly licensed interpreter, that he has explained or caused to be explained to such person the true purport of the deed and that he is satisfied that such person understands the same.

(3) In subsection (2), the "licensed interpreter" means a person licensed under section 4 of the Interpreters Ordinance. Ch. 7. No. 8

Proof of
execution within
the State

14. (1) For the purposes of registration, execution of a deed within the State by any party shall be proved in the following manner, that is to say—

(a) the deed shall be executed in the presence of—

(i) one witness at least not being a party thereto; and

(ii) a qualified functionary;

(b) the signing and delivery thereof shall be attested by—

(i) one such witness at least subscribing his name with the addition of his place of abode or business and his profession, occupation or condition in life; and

(ii) the said qualified functionary subscribing his name with the addition of his qualification;

(c) such witness shall make an affidavit or solemn declaration proving such execution before a judge of the Supreme Court, a Notary Public or a Commissioner of Affidavits.

(2) A qualified functionary shall not subscribe a deed under subsection (1) unless it bears the signature of some barrister or solicitor as having prepared such deed.

(3) The affidavit or declaration under subsection (1)(c) shall be in such form as may be prescribed, and may be endorsed upon, or written at the foot or in the margin of the deed, or may be separate and refer to the deed as an exhibit.

Proof of
execution outside
the State

15. (1) For the purposes of registration, execution of a deed outside the State by any party shall be proved in the following manner, that is to say—

(a) the deed shall be executed in the presence of one witness at least not being a party thereto;

(b) the signing and delivery thereof shall be attested by one such witness at least subscribing his name with the addition of

his place of abode or business and his profession, occupation or condition in life;

- (c) such witness shall make an oath or solemn declaration proving such execution before—
- (i) in the State, a Judge of the Supreme Court, the Land Registrar, a Notary Public or a Commissioner of Affidavits;
 - (ii) in any place within the Commonwealth, or within the United States of America, a Trinidad and Tobago diplomatic agent or consular officer, a judge of a court of record, the mayor of any city, town or borough, or a Notary Public;
 - (iii) in any place outside the Commonwealth other than the United States of America, a Trinidad and Tobago diplomatic agent or consular officer or a Notary Public, if the fact that he is a Notary Public in the place is certified or purports to be certified under the hand and seal of a Trinidad and Tobago diplomatic agent or consular officer.

(2) The making of an oath or solemn declaration under subsection (1)(c) shall be certified under the hand and seal, if any, of the person before whom it is made, and judicial notice shall be taken of such signature and seal.

(3) The Minister may—

- (a) prescribe fees, and the manner of payment thereof, for the making under this section of an oath or solemn declaration before a Trinidad and Tobago diplomatic agent or consular officer;

(b) where there is no Trinidad and Tobago diplomatic agent or consular officer, make such arrangements with foreign consulates for the proof of execution of deeds outside the State as he considers necessary from time to time and such arrangements shall be promulgated by a Government Notice published in the *Gazette*.

(4) Any oath or solemn declaration of a witness proving the execution of a deed outside the State made before a Trinidad and Tobago diplomatic agent or consular officer before 24th December, 1976, shall be deemed to be and always to have been as valid and effectual as if at the time of the said making this section had been in operation.

(5) In this section—

“the Commonwealth” means any country to which section 18 of the Constitution for the time being applies and any dependency of any such country;

“Trinidad and Tobago diplomatic agent or consular officer” shall be construed in accordance with section 2 of the Diplomatic Agents and Consular Officers (Oaths and Notarial Acts) Act, 1971;

“Minister” means the member of the Cabinet to whom responsibility for External Affairs is assigned.

1971 No. 5

Bonds

16. Any deed under which any person, with or without a surety or sureties becomes accountable to the State or responsible to the State for the due discharge of any duties, may be registered if the execution thereof, whether within or outside the State, is made and attested in the following manner, that is to say—

(a) the deed shall be executed in the presence of one witness at least not being a party thereto;

(b) the signing and delivery thereof shall be attested by one such witness at least subscribing his name with the addition of his place of abode or business and his profession, occupation or condition in life.

17. (1) All deeds registered in each year shall be numbered consecutively in order of time of being presented for registration. ^{Process of registration}

(2) The year, month, day, hour and minute when a deed is presented for registration shall be endorsed thereon, and this time shall be taken to be the time of registration for all purposes.

(3) Upon registration of a deed, the Land Registrar shall cause—

(a) to be endorsed upon or annexed to it a certificate in such form as may be prescribed;

(b) every page in the deed to be stamped with a stamp bearing the word "Registered"; and he shall cause it to be entered in all the appropriate indexes kept in accordance with section 18.

(4) A certificate endorsed upon or annexed to a deed under subsection (3)(a) is admissible as *prima facie* evidence of the matters therein certified.

(5) On accepting a deed or any other document for registration, the Land Registrar shall cause to be delivered to the person lodging the same a receipt stating the names of the parties, the date of the registration of, the fees paid in respect of and the number assigned to such deed or other document.

(6) Subject to subsection (7) and any rules or regulations made under section 117, all deeds registered in each year shall, as soon as conveniently may be, be bound up in convenient volumes marked on the back thereof with the year in which the same shall be registered, and numbered in regular series according to the order of such volumes.

(7) Where any deed, by reason of its form, or of the material on which the same is written or engrossed, cannot conveniently be so bound up, the Land Registrar shall, subject to any rules or regulations made under section 117, cause a true and correct transcript of the same, certified under his hand, to be inserted in lieu thereof in the proper volume, and in its proper order according to its distinguishing number, and shall retain and keep in his custody the original deed whereof such transcript is so made.

Indexes

18. (1) The Land Registrar shall keep four separate and distinct indexes of—

- (a) deeds;
- (b) probates of will and letters of administration;
- (c) judgments, decrees, orders and rules; and
- (d) memoranda of *lis pendens*.

(2) The Land Registrar shall cause—

- (a) every deed registered with him to be entered in the Index of Deeds under the letter of the alphabet corresponding with the initial letter of the surname of each person named as a party to such deed, with the christian or given names and surnames at full length of all persons named as parties to such deed;
- (b) every will and grant of probate in respect thereof registered with him to be entered in the Index of Probate of Wills and Letters of Administration under the letter of the alphabet corresponding to the initial letter of the surname of the testator, together with the christian or given names and the surname at full length of such testator;
- (c) every grant of letters of administration registered with him to be entered in the Index of Probates and Letters of Administration under the letter of the alphabet corresponding with the initial letter of the surname of the intestate, together with the christian or given names and surnames at full length of such intestate;
- (d) every judgment, decree, order and rule registered with him to be entered in the Index of Judgments, Decrees, Orders and Rules under the letter of the alphabet corresponding with the initial letter of the surname of every person whose estate or interest is intended to be affected by such judgment, decree, order

or rule, together with the christian or given names and surname at full length of every such person;

- (e) every memorandum of a *lis pendens* registered with him to be entered in the Index of Memoranda of *lis pendens* under the letter of the alphabet corresponding with the initial letter of the surname of every person whose estate or interest is intended to be affected by such *lis pendens*, together with the christian or given names and surname at full length of every such person and a description of the property thereby affected.

(3) The Land Registrar shall, in addition, keep—

- (a) separate indexes, to be known as “Town Books” and “Country Books”, or by such other name or names as may be prescribed, in which he shall enter the address or location of lands affected by any registered deeds or other documents, together with a cross-reference to the entries in other indexes relating to such deeds or other documents;
- (b) an index of duplicate certificates of search in such a manner as may be prescribed;
- (c) such other books, indexes, photographic film reproductions and other records in the Land Registry for the purposes of registration of deeds as may be prescribed under section 117.

(4) There shall be registered with deeds in respect of unregistered land—

- (a) every adjudication of bankruptcy affecting such land in the State belonging to the bankrupt;
- (b) a copy of every court order made under, and required to be registered by, the Trustee Act, 1981;
- (c) a copy of every order of the Land Commission required to be registered by this or any other Act;

and such registrations shall be made in the Index of Deeds under the letter of the alphabet corresponding with the initial letter of the surname of every such bankrupt or trustee or other person named in such order, as the case may be, together with the christian or given names and surname at full length of every such bankrupt, trustee or other person, as the case may be.

Effect of
registration

19. (1) Subject to subsection (3) and section 23(4), every deed affecting any land in the State which is registered under this Part is good and effectual both at law and in equity, according to the priority of time of the deed's registration (as specified in section 17(2)), as against any other deed or other document relating to, or disposition of, the same land, or any part thereof, and as against all judgment creditors of the grantor of such deed.

(2) Any deed affecting any land in the State which was not registered under this Part is void, to the extent of any inconsistency therein, as against any other deed or other document affecting the same land, or any part thereof, which is so registered by a purchaser.

(3) Any deed or other document duly registered under this Part, or a copy thereof certified under the hand of the Land Registrar, is admissible in evidence without any further proof of its execution or registration.

Settlements

20. (1) All settlements and articles for a settlement made in consideration of any marriage and registered under this Part take effect according to the priority of time registering them, notwithstanding that they are not registered before the celebration of such marriage.

(2) Subject to subsection (3), every deed of gift and every settlement executed after 29th March, 1933 shall be registered within a period of twelve months from the date of the execution thereof, and may be so registered notwithstanding the death of the donor or settlor in the intervening period between execution and registration.

(3) No such deed of gift or settlement is effectual to pass any estate or interest in any land intended to be affected thereby, or to render such land liable as security for the payment of money, until it is so registered.

(4) In this section, "deed of gift" means any deed or other instrument whereby land is transferred from one person to another gratuitously.

(5) Subject to section 92(4), subsection (2) does not apply to a deed of gift or settlement executed after the commencement of this Act which affects registered land, but such deed or settlement shall be registered under Part X or Part XVI, as the case requires, and the remaining provisions of this section apply subject to such registration.

21. (1) From the commencement of this Act, the Commissioner of State Lands, or such other person as may be prescribed, shall lodge with the Land Registrar a copy of any notification published in respect of any unregistered land under section 3 or section 4 of the Land Acquisition Ordinance.

Compulsory
acquisition of
land

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(2) Upon receipt of such notification, the Land Registrar shall—

- (a) in every case, register it in the appropriate Town or Country Book with a cross-reference to the file or other place where a copy may be obtained and, where appropriate, to entries in any other indexes relating to the notification;
- (b) where the notification names the person or persons interested or believed to be interested in the said land, register it in the Index of Deeds under the letter of the alphabet corresponding with the initial letter of the surname of every such person, together with the christian or given names and surname at full length of every such person.

**Inspection and
examination of
records**

22. (1) Subject to sub-section (3), all deeds and other documents registered under this Part, and all indexes, books and other records relating thereto, which are lodged or kept in the Land Registry are to be preserved as matters of public record and may be inspected or examined personally only by those persons or officials, and subject to such conditions, as may be prescribed.

(2) Upon the written request of any person in the prescribed form, the Land Registrar shall cause to be made and delivered to him a true and correct copy certified under this hand of any deed or other document registered under this Part.

(3) In order to facilitate the inspection or examination of deeds and other documents, and indexes, books and other records relating thereto, lodged or kept in the Land Registry by persons or officials other than those prescribed under sub-section (1), the Minister shall make regulations providing for—

- (a) reproduction of such items by photocopying, microfilming or any other process which produces a complete and accurate copy of the items in question;
- (b) certification of the accuracy of such reproduction;
- (c) the making of such reproductions available for such inspection or examination.

Searches

23. (1) Personal searches may be made in indexes, books and other records relating to deeds or other documents registered under this Part, and notes or extracts may be taken personally from such deeds or other documents, only by those persons or officials, and subject to such conditions, as may be prescribed, but nothing in this section restricts the right of any other person or official to search the reproductions provided for under section 22(3) and the regulations made thereunder shall provide for the making of such reproductions available for such searches.

(2) Upon the written request of any person in the prescribed form, the Land Registrar shall cause to be made such search of the indexes, books and other records relating to deeds or other documents,

registered under this Part, and such taking of notes or extracts from such deeds or other documents, as is specified in the request or is necessary to trace, as specified in the request, the title to any land, and shall then deliver, within such time as may be prescribed, to such person a certificate of search in the prescribed form.

(3) Subject to what may be prescribed, such a certificate of search may include, or have annexed or attached thereto, an abstract of title and such notes or extracts from registered deeds or other documents as were specified in the request for the search or are necessary or convenient to indicate the result of the search.

(4) A certificate of search delivered to any person under this section—

(a) is conclusive, in favour of that person and any other person acting in reliance upon it, as to the information and particulars contained therein and is admissible in evidence accordingly;

(b) confers priority, in favour of such person, on any deed or other document lodged by him for registration before the expiry of four weeks, or such other period as may be prescribed, from the date of issue of the certificate, over any deed or other document registered during that time.

(5) Any person who suffers loss or damage as a result of—

(a) any omission, mistake or misfeasance of the Land Registrar, or any other officer or clerk of the Land Registry, in making a search or taking notes or extracts under this section; or

(b) any error or omission in a certificate of search delivered under this section;

may bring an action for recovery of damages under section 104.

(6) A duplicate, in such form as may be prescribed, of all certificates of search delivered under this section shall be filed and kept by the Land Registrar in such manner as may be prescribed.

(7) Upon the written request of any person in the prescribed form, the Land Registrar shall deliver, within such time as may be prescribed, to such person a copy certified under his hand of such duplicate certificate of search.

(8) Subsections (4)(a) and (5) apply to such a copy of a duplicate certificate of search as they apply to the original certificate of search.

Function of
branch or local
offices

24. Without prejudice to the generality of section 3(4), any regulations made by the Minister under the said subsection may provide for lodgment of—

- (a) deeds or other documents in a branch or local office of the Land Registry for transmission to and registration in the Central Office;
- (b) requests for certified copies of deeds or other documents under section 22(2) in such a branch or local office;
- (c) requests for searches or copies of duplicate certificates of searches under section 23 in such a branch or local office.

PART V

REGISTRATION OF TITLES

Registration
under this Part

25. (1) Any land not brought under the Real Property Ordinance shall be registered under this Part where such land is—

- (a) the subject of a State grant, in accordance with section 26;
- (b) acquired under the Land Acquisition Ordinance or under any other statutory powers of compulsory acquisition, in accordance with section 27;
- (c) within a compulsory registration area, in accordance with sections 28 to 32.

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(2) Any land not brought under the Real Property Ordinance may be registered under this Part in accordance with section 33 to 36, but this does not affect the operation of Part III of the Remedies of Creditors Ordinance, as amended by this Act, or of any other statutory provision for voluntary registration.

(3) In this section, "compulsory registration area" means an area designated as such under section 28.

26. (1) Where any State Land is granted for—

State Land

(a) an estate in fee simple absolute in possession; or
 (b) a leasehold term of which not less than twenty-one years remain outstanding;
 the said estate or term does not vest in the grantee until his title is registered in accordance with section 40.

(2) Every such grant shall—

- (a) be in duplicate;
 (b) contain, or have attached or annexed thereto, in addition to a proper description of the land granted a map or plan of the land, prepared and certified as may be prescribed;
 (c) be lodged with the Land Registrar together with an application for registration in such form as may be prescribed.

(3) Upon receipt of such application, the Land Registrar shall register the grantee's title in accordance with section 40.

27. (1) Where any land is acquired under the Land Acquisition Ordinance, the Commissioner of State Lands, or such other person as may be prescribed, shall lodge with the Land Registrar a copy certified under his hand of the notification published under section 5 of the said Ordinance, together with an application for registration in such form as may be prescribed.

Compulsory
 acquisition of
 land
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(2) Where any land is acquired under any other statutory powers, the acquiring authority or such other person or body as may be prescribed shall lodge with the Land Registrar, in such form as may be prescribed, notification of the said acquisition describing the land acquired and the estate or interest vested in the acquiring authority, together with an application for registration in such form as may be prescribed.

(3) A notification lodged under this section shall contain, or have attached or annexed thereto, a map or plan of the land acquired, prepared and certified as may be prescribed.

(4) Upon receipt of such notification, the Land Registrar shall register the title to the land acquired in accordance with section 40 and cancel any entries relating to the same land made under section 21.

**Compulsory
registration
areas**

28. (1) The Minister may by order designate any area of land within the State as a compulsory registration area (hereinafter referred to as the "area").

(2) Such an order shall—

(a) define clearly the boundaries of the area by such description or reference to such map or maps attached or annexed thereto or by such other means as the Minister thinks necessary;

(b) be published in the *Gazette* and a notice of such publication shall be published in successive issues, for a period of at least six days, or at least one daily newspaper circulating in the State.

(3) The notice of publication of the order referred to in subsection (2)(b) shall indicate the place or places where a copy of the order may be inspected by members of the public.

(4) A copy of any order made under subsection (1) shall be lodged with—

(a) the Land Registrar;

(b) the Registrar of the Land Commission;

(c) the Director of Lands and Surveys.

(5) Upon the making of an order under subsection (1), a conveyance of any land or any part of land within the area is not effective to transfer the estate or interest purported to be conveyed until the whole title to such land is registered, to the extent permitted under this Part, in accordance with section 32.

(6) Subsection (5) does not apply where the conveyance relates only to an estate or interest in respect of which an application could not be made under section 33 for voluntary registration.

(7) The Minister may, in any order made under subsection (1), or by any subsequent order, make such supplemental or consequential provisions as he may think necessary or convenient for giving full effect to the order or for carrying it into effect.

(8) Without prejudice to the generality of subsection (7) the Minister may cause such survey or surveys to be made in respect of the area designated by an order made under subsection (1) as he may think necessary or convenient for giving full effect to the order or for carrying it into effect.

29. Upon receipt of a copy of an order made under section 28(1), the Land Registrar shall— Duties of Land Registrar

- (a) cause copies thereof to be displayed or available for inspection by members of the public at or in the Central Office of the Land Registry, any branch or local office situated in the area and any other place designated by the order;
- (b) investigate so far as is possible, by reference to books, indexes and other records kept in the Land Registry, what land within the area designated by the order is still unregistered land;
- (c) make a written report of such investigation to the Land Commission;
- (d) make an entry, as to the making of the order, in such form as may be prescribed, in the appropriate Town or Country Book with respect to the land to which the order relates.

30. (1) Upon receipt of a copy of an order made under section 28(1) and of the report of the Land Registrar made under section 29(c), the Land Commission shall issue a notice, in such form as the Minister may prescribe— Duties of Land Commission

- (a) requiring every person who claims to be entitled to any estate or interest capable of registration under this Part in any unregistered land within the area designated by the order to apply to the Land Registrar for adjudication of his title;

(b) specifying the period within which all such applications shall be submitted.

(2) Such a notice shall be—

(a) served on all persons who appear from the Land Registrar's said report to have an interest in any such unregistered land;

(b) published in successive issues, for a period of at least six days, of at least one daily newspaper circulating in the State;

(c) displayed at or in the Central Office of the Land Registry and any branch or local office situated in the said area, the office or offices of the Land Commission and such other public places as may be prescribed or the Land Commission may think necessary or convenient fully to advertise the notice.

(3) An application for adjudication of title shall be in such form as may be prescribed and shall be made by those persons and accompanied by submission of all documents, maps, statutory declarations and other evidence of title specified hereafter in this Part for the case of an application for voluntary registration.

(4) The Land Commission may by order permit any person to make such an application out of time in such circumstances and upon such conditions as it thinks fit.

Adjudication
of title

31. (1) Upon receipt of an application for adjudication of title, the Land Registrar shall—

(a) make such adjudication, after, if he considers it appropriate, causing the title of the applicant to be examined and reported upon by an Examiner;

(b) cause such notice or notices to be served, posted or advertised, according to the circumstances of the case;

(c) give such directions as to lodgment of caveats;

as specified hereafter in this Part for the case of an application for voluntary registration.

(2) Upon making such adjudication or receipt of such Examiner's report, the Land Registrar shall issue a declaration of title in such form as may be prescribed,

(3) The Land Registrar may, in any case where he considers it appropriate, and shall, where requested in writing by any interested person in such form as may be prescribed, refer the application to the Land Commission for adjudication.

(4) Subject to sub-section (1), upon such reference, the Land Commission may, in adjudication of the title—

- (a) adjust the boundaries of any land or partition or reallocate the same to ensure the more beneficial occupation thereof or to effect a more suitable subdivision thereof;
- (b) make such order as to compensation for any loss suffered as a result of such adjustment, partition or reallocation, and as to payment of costs and expenses incurred in respect thereof, as it thinks fit;
- (c) exercise the jurisdiction conferred by sections 166 and 167 of the Land Law and Conveyancing Act, 1981.

(5) Upon adjudication of the title, the Land Commission shall—

- (a) issue a declaration of the title;
- (b) lodge such declaration with the Land Registrar;

as is required hereinafter in this Part in the case of an application for voluntary registration.

(6) A declaration issued or lodged under this section shall contain, or have attached or annexed thereto, a map or plan of the land to which the declaration relates, prepared and certified as may be prescribed.

(7) Where no application for adjudication of title is made in respect of any land, the Land Registrar shall refer the matter to the Land Commission which shall thereupon—

- (a) subject to such regulations as may be made, require such enquiries and publication of notices to be made and such further steps to be taken as may be necessary to facilitate such adjudication of title; and

(b) where, as a result of the steps taken under paragraph (a), it proves to be impossible to make such adjudication, because the land appears to be abandoned or otherwise ownerless, the Land Commission may make a declaration to this effect, in such form as may be prescribed, and thereupon the land shall vest in the State as *bona vacantia*.

(8) Where it appears to the Land Commission that any person has knowingly refused or failed, without reasonable cause, to make an application for adjudication, it may make an order requiring such person to pay the costs and expenses of carrying out the steps taken under subsection (7)(a) and any other costs or expenses consequential upon such refusal or failure.

Registration
of title

32. Upon the issue or receipt of a declaration made under section 31, the Land Registrar shall register the title in accordance with section 40.

Voluntary
registration

33. (1) Any person who claims, in respect of unregistered land to which section 25(1) does not apply, to be the person in whom—

(a) an estate in fee simple absolute in possession; or

(b) a leasehold term of which not less than twenty-one years remain outstanding;

is vested may apply to the Land Registrar for registration of his title.

(2) Subject to subsection (3), an applicant under subsection (1) shall lodge with the Land Registrar—

(a) an application in such form as may be prescribed containing such particulars and information as may be prescribed;

(b) all instruments, or copies thereof, in his possession or under his control which constitute or affect his title in any way, together with, if required by the Land Registrar, an abstract of title;

(c) a schedule of such instruments;

(d) a map or plan of the land, prepared and certified as may be prescribed;
and shall make and subscribe a statutory declaration as to the truth of any matters stated in the application or as to the completeness or accuracy of the instruments, copies, abstract or schedule lodged.

(3) Where an applicant claims title on the basis of possession only and has no instruments, or copies thereof, in his possession or under his control which constitute or affect his title in any way, or such instruments are lost and cannot be found after reasonable search, he shall lodge with the Land Registrar an application in such form as may be prescribed, containing such particulars and information as may be prescribed, and shall make and subscribe a statutory declaration as to the truth of any matters stated in the application and of the lack or loss of such instruments.

(4) Where an application—

- (a) is made by a lessee, the Land Registrar shall cause notice of such application to be served on the lessor;
 - (b) relates to land which appears to be held on trust, it shall be made by all the trustees jointly and the Land Registrar shall cause notice of such application to be served on all persons appearing to be beneficially entitled under the trust;
 - (c) relates to land subject to a mortgage, charge or other incumbrance, the Land Registrar shall cause notice of such application to be served on the mortgagee, chargee or incumbrancer;
 - (d) relates to land subject to the lien of a judgment creditor, the Land Registrar shall cause notice of such application to be served on the judgment creditor;
 - (e) relates to land vested in a person subject to a disability, it shall be made by his committee, guardian or other person responsible in law for the administration of his property;
-

(f) relates to land in respect of which a *lis pendens* has been registered, the Land Registrar shall cause notice of such application to be served on the person who lodged the *lis pendens*.

(5) An applicant may, if he thinks fit, in his application require the Land Registrar, at the expense of such applicant, to cause notice of his application to be served on any person not coming within the provisions of subsection (4), whose name and address shall for that purpose be stated therein.

(6) In addition to service of notices required under sub-sections (4) and (5), the Land Registrar shall cause notice of the application to be—

(a) displayed at or in the Central Office of the Land Registry and any branch or local office situated in the locality of the land to which the application relates, and such other public places as may be prescribed;

(b) published by advertisements in daily newspapers or otherwise in accordance with such provisions as may be prescribed or such directions as may be given by the Land Commission under section 35(3)(c);

(c) where it relates to a case within subsection (3), displayed at or on the land to which it relates for such period as may be prescribed.

(7) Any notice to be served, displayed or published under this section shall be in such form as may be prescribed, and all costs and expenses relating thereto shall be borne by the applicant for registration.

(8) Where the person on whom such a notice is to be served is subject to a disability or otherwise cannot conveniently be served, the notice may be served on that person's committee, guardian or other representative responsible for administration of his property, and such service is as effectual and the notice is as binding as if the said person was not subject to a disability and had been duly served with the notice.

34. (1) Any person having or claiming any interest ^{Caveats} in land in respect of which a notice has been served, displayed or published under section 33 may, within such time as may be prescribed, lodge with the Land Registrar a caveat in such form as may be prescribed and containing such information and particulars as may be prescribed.

(2) If so required by the Land Registrar, the person lodging such a caveat (hereinafter referred to as the "caveator") shall deliver an abstract of title in support of his claim or such other evidence of title as may be so required.

(3) Upon receipt of such a caveat, the Land Registrar shall—

- (a) cause notice of its receipt to be served on the applicant for registration;
- (b) suspend further action in respect of such registration until such caveat—
 - (i) is withdrawn; or
 - (ii) lapses in accordance with subsection (4); or
 - (iii) becomes subject to an order of the Land Commission under subsection (5).

(4) After the expiration of one month from such receipt of a caveat, it shall lapse unless the caveator—

- (a) makes any application to the Land Commission to establish his title to the land to which the notice of application for registration relates and gives the Land Registrar written notice thereof within that time; or
- (b) obtains an order from the Land Commission within that time restraining the Land Registrar from taking further action in respect of the said application for registration.

(5) Where, in an application made under subsection (4)(a), the caveator fails to establish his title to the land to which the notice of application for registration relates, the Land Commission shall, subject to such conditions as it may think fit to impose, make an order directing the Land Registrar to proceed with the said application.

Adjudication
of title

35. (1) Upon receipt of an application for registration made under section 33, the Land Registrar shall make an adjudication of the title, after, if he considers it appropriate, causing the title of the applicant to be examined and reported upon by an Examiner.

(2) Upon making such adjudication or receipt of such Examiner's report, the Land Registrar shall issue a declaration of title in such form as may be prescribed.

(3) The Land Registrar may, in any case where he considers it appropriate, and shall, where requested in writing by any interested person in such form as may be prescribed, refer the application to the Land Commission for adjudication.

(4) In an adjudication of a title, the Land Commission shall—

- (a) satisfy itself that the provisions as to notices to be served, displayed or published under section 33 have been complied with;
- (b) suspend its proceedings, where any caveat is lodged or application is made by a caveator under section 34, until such caveat is withdrawn, elapses under subsection (4) of the said section or becomes subject to an order under subsection (5) of the said section.

(5) In an adjudication of a title, the Land Commissioner may, in any case of doubt as to the title or evidence relating thereto or in any other circumstances where it thinks it necessary or convenient—

- (a) refer the case back to the Land Registrar for such further examination or investigation of the title as the Commission thinks fit to direct;
 - (b) refuse to make a declaration of title under subsection (4) until the applicant for registration complies with such conditions as the Commission thinks fit to impose;
 - (c) require such further service, display or publication of notices or service, display or publication of such further notices as the Commission thinks necessary.
-

(6) Upon adjudication of a title, the Land Commission shall—

- (a) issue a declaration of the title;
- (b) lodge such declaration with the Land Registrar.

(7) In such a declaration of title, the Land Commission may, subject to any provisions which may be prescribed—

- (a) indicate a period which the Land Registrar shall allow to elapse before registering the title under section 36;
- (b) direct the Land Registrar to serve, display or publish such notices as to such declaration as the Commission thinks fit to require.

(8) A declaration issued or lodged under this section shall contain, or have attached or annexed thereto, a map or plan of the land to which the declaration relates, prepared and certified as may be prescribed.

36. Upon issue or receipt of a declaration of title made under section 35 the Land Registrar shall register the title in accordance with section 40. Registration
of title

37. (1) An applicant under section 33 may withdraw his application for registration by lodging a notice in such form as may be prescribed with the Land Registrar at any time prior to registration of the title under section 36. Withdrawal of
application

(2) Upon receipt of such notice the Land Registrar shall return to the applicant, or such other person appearing to be entitled to their possession, such instruments, copies, abstract of title, map or plan lodged under section 33(2).

(3) Where any caveator under section 34 or any other person suffers, without reasonable cause, any costs or expenses in respect of an application so withdrawn, he is entitled to be paid such compensation by the applicant as is fair in all the circumstances of the case.

(4) Any dispute as to the amount of compensation payable under subsection (3) shall be determined by the Land Commission.

Report on title
privileged

38. Any report on title furnished under section 31(1)(a) or section 35(1)(a) is privileged and is not liable to inspection by or production to any persons other than those who may be prescribed.

Bodies corporate

39. Where any application or declaration to be made, or any other matter to be performed, under this Part is to be made or performed by a body corporate, it shall be made or performed in the name of the body corporate and, where necessary, under its seal, by such directors or other officers or servants of the body corporate as are authorised by law to act for and on behalf of the body corporate.

PART VI

CERTIFICATES OF TITLE

Issue of certificate
of title

40. (1) The Land Registrar shall register a title by—

(a) issuing a certificate of title which conforms with, as the case requires—

(i) the State grant lodged under section 26(2)(c); or

(ii) the notification lodged under section 27(2); or

(iii) the declaration of title issued or lodged under section 31(2) and (5)(b) or section 35(2) and (6)(b);

(b) entering the original of such certificate in the Register in accordance with section 49;

(c) delivering a duplicate of such certificate to the proprietor named therein or such other person as the said proprietor directs.

(2) No registration shall be made under subsection (1), in a case within sub-paragraphs (iii) of paragraph (a) of the said subsection—

(a) until such time has elapsed since the making of the declaration and such other prior notices have been served, displayed or published as may be prescribed;

- (b) where, during such time, a caveat is lodged under section 34 or the application for registration is withdrawn under section 37.
- (3) Upon registration under subsection (1)(a)(ii) and (iii), the Land Registrar shall—
- (a) make an entry in the prescribed form in—
- (i) the Index of Deeds kept under section 18(1) under the name of the person whose land has been compulsorily acquired or applicant for registration and such other person as may be prescribed;
 - (ii) the appropriate Town or Country Book kept under section 18(3)(b) with reference to the land to which the certificate of title relates;
- (b) subject to paragraph (c), stamp as cancelled any instrument of title relating to the said land deposited by the applicant and thereafter he shall keep every such instrument in the Land Registry and no person shall be entitled to production of any such instrument without the written consent of the application, or some person claiming through him, or an order of the court;
- (c) where any instrument of title so deposited relates also to other land, instead endorse on it a memorial of a memorandum in such form as may be prescribed cancelling it so far only as it relates to the land to which the certificate of title relates and return the same so endorsed to the applicant.
- (4) An entry made under subsection (3)(a) shall, for all purposes for which registration of a deed is notice, be deemed to be notice that the land has been registered under Part V.

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(5) Where an instrument of title is registered under the Registration of Deeds Ordinance or the Tobago Deeds Ordinance, or under Part IV, the stamp or endorsement for the purposes of subsection (3)(b) shall be made on the deed so registered and on any transcript of such a deed.

(6) Where the applicant, or any other person in whose name the duplicate certificate is to be issued, dies or becomes subject to some incapacity in the interval between the date of application for registration and the date of issue of the certificate of title, the said certificate shall be issued in the name of the applicant or such other person as if such death or incapacity had occurred after the said issue and the said duplicate certificate shall be delivered to the personal representative or other person entitled by law to administer the property of the deceased or incapacitated person, and the land shall devolve or be transmitted accordingly.

(7) Subsection (6) takes effect subject to any order or direction on the matter which may be made or given by the Land Commission or Court, as the case may require.

(8) Where there are joint proprietors or proprietors holding as tenants in common, only one certificate of title relating to the land held jointly or in common shall be issued and entered in the Register, and the duplicate of such certificate shall be delivered to the first proprietor named therein, unless all the proprietors together in writing instruct the Land Registrar otherwise.

Form and
contents of
certificate

41. (1) Subject to section 40(1)(a), a certificate of title shall—

- (a) be in the English language;
- (b) be in duplicate;
- (c) specify the registered proprietor, the nature of his estate or interest in or the extent of his title to the land to which the certificate relates;
- (d) give particulars, so as to indicate the order of priority, of any mortgages, charges, incumbrances or other interests on or in the said land;

- (e) give particulars of any easements, profits, privileges or other rights appurtenant to the said land or to which it is subject;
- (f) contain or have attached or annexed thereto, or refer to the map or plan referred to in sections 26(2)(b), 27(3), 31(6) and 35(8);
- (g) subject to paragraphs (a) to (f), be in such form and have such contents as may be prescribed.

(2) Subject to subsection (1), in the case of a State grant the certificate of title shall be in the form of the grant.

(3) Subsection (1)(e) does not apply to statutory easements coming within section 157 of the Land Law and Conveyancing Act, 1981, or implied easements and profits coming within section 158 of the said Act. 1981 No. 20

42. (1) Subject to the provisions of this Act, a certificate of title duly authenticated under the hand and seal of the Land Registrar shall, so long as it remains uncancelled in the Register— Effect of certificate

- (a) be taken to be conclusive evidence—
 - (i) that the proprietor named therein is seised of the estate or interest specified according to the class of title specified therein;
 - (ii) of all other matters or particulars contained therein or endorsed thereon;
 - (iii) that the land to which the certificate relates is registered land;
- (b) be received as such conclusive evidence in any proceedings;
- (c) not be impeached or defeasible on the ground of want of notice or insufficient notice of an application for registration made under Part V or on account of any error, omission or informality in such an application or in any proceedings pursuant thereto.

(2) Subsection (1) applies to any duplicate certificate of title which has been—

- (a) lodged with the Land Registrar, together with an application in the prescribed form; in order that it may be made to conform with the original certificate of title entered in the Register and otherwise rendered up-to-date;
- (b) duly authenticated by the Land Registrar, in such manner as may be prescribed, as being so in conformity and up-to-date; but only in relation to the date specified in the authentication under paragraph (b).

Leasehold land

43. (1) The Land Registrar shall, upon request, issue a certificate of title to the proprietor of any lease for a term of which not less than twenty-one years remain unexpired and such certificate shall refer to the reversion expectant upon such lease.

(2) Where a certificate of title is to be issued for the first time 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 remain outstanding, and a certificate of title has already been issued in respect of such lease and entered in the Register, the Land Registrar shall, without prejudice to the said certificate already issued, endorse a memorial of the said lease on the certificate of title issued in respect of the said reversion and enter the same in the Register.

Mines and minerals

44. (1) The Land Registrar may issue a certificate of title in respect of mines, minerals or quarries in or underlying registered land (hereinafter referred to as "surface land") and enter it in the Register.

(2) In issuing such a certificate, the Land Registrar may dispense with production of the duplicate certificates of title relating to the surface land.

(3) Where any estate or interest in such mines, minerals or quarries is transferred apart from the surface land, the Land Registrar may refuse to register the transfer except by issue of a separate certificate of title under subsection (1).

(4) A memorandum, in such form as may be prescribed, of the issue of a certificate of title relating to mines, minerals or quarries under this section shall be endorsed on the certificate of title and on the duplicate certificate of title relating to the surface land.

(5) If production of the said duplicate certificate has been dispensed with under subsection (2), the said memorandum shall be endorsed upon it when it is next produced to the Land Registrar.

(6) No certificate of title shall be issued under this section unless a map or plan, prepared and certified as may be prescribed, indicating the mines, minerals or quarries to which the certificate is to relate is lodged with the Land Registrar.

(7) Such map or plan shall be attached or annexed to, or referred to in, the certificate of title issued under this section.

45. The Land Registrar shall issue separate certificates of title in respect of each of the units and the common property designated by a condominium scheme in accordance with the provisions of the Condominiums Act, 1981.

Condominiums
1981 No. 23

46. (1) Upon the application, in such form as may be prescribed, of the proprietor of land in respect of which more than one certificate of title has been issued, the Land Registrar may, upon production of the duplicates of such certificates, issue one certificate of title in respect of the whole of the said land and enter it in the Register.

Consolidation
and division

(2) Upon the application, in such form as may be prescribed, of the proprietor of land in respect of which only one certificate of title has been issued, the Land Registrar may, upon production of the said certificate, issue more than one certificate of title, each relating to a separate part of the said land, so as to conform with the division of the land specified in the application and enter them in the Register.

(3) Subsection (2) does not apply to land to be comprised in a condominium scheme coming within the Condominiums Act, 1981.

1981 No. 23

(4) An application under subsection (2) shall be accompanied by—

- (a) such evidence of compliance with any laws or regulations governing sub-division of land as may be prescribed;
- (b) such maps or plans, prepared and certified as may be prescribed, showing the land subject to the sub-division.

(5) Where the Land Registrar issues—

- (a) one certificate of title under subsection (1), he shall cancel the previous certificates of title, and their duplicates, relating to the land in question and shall endorse thereon, in such form as may be prescribed, a memorandum of such cancellation referring to the new certificate of title issued;
- (b) more than one certificate of title under subsection (2), he shall cancel the previous certificate of title, and its duplicate, relating to the land in question and shall endorse thereon, in such form as may be prescribed, a memorandum of such cancellation referring to the new certificates of title issued.

(6) This section applies only—

- (a) where more than one certificate of title has been issued, to lands which are contiguous;
- (b) where one certificate of title has been issued, to sub-divided parts of land which are contiguous.

**Production of
duplicates**

47. (1) In order to facilitate registration of any dealing with or transmission of registered land, the Land Registrar may, subject to such regulations as may be made, dispense with production of any duplicate certificate in any case where such production, or the endorsement of a memorandum or memorial on such duplicate, is required by this Act.

(2) Before the Land Registrar so dispenses with such production, he shall—

- (a) require proof by statutory declaration that the said duplicate certificate of title is not deposited or held as security or a lien;
- (b) serve, display or publish such notices as may be prescribed.

(3) Where the Land Registrar so dispenses with such production, he shall—

- (a) note in the memorandum or memorial of the said dealing or transmission endorsed on the certificate of title entered in the Register the fact that no such memorandum or memorial has been endorsed on the duplicate certificate of title;
- (b) endorse such memorandum or memorial on the said duplicate when it is next produced to him.

(4) Subject to the above provisions, the dealing or transmission is as valid and effective as if the memorandum or memorial had been endorsed on the duplicate certificate of title.

(5) Without prejudice to the generality of subsection (1), the Land Registrar shall dispense with production of a duplicate certificate of title in accordance with the foregoing provisions of this section where it is proved, by statutory declaration or such other proof as the Land Registrar deems sufficient, that—

- (a) the said duplicate is not in the possession nor under the control of the person required to produce it or his mortgagee;
 - (b) it is impossible or impractical for the said person to produce it within a reasonable time;
 - (c) the failure or inability of the said person to produce it is due to no wilful default on his or his agent's part;
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(d) refusal so to dispense with production of the duplicate will prejudice the said person or persons claiming through him or cause unreasonable delay in registering the dealing or transmission in question.

(6) Where a duplicate certificate of title has been lodged with the Land Registrar, he shall not release or deliver the same to any person other than the person entitled to delivery in accordance with the provisions of this Act, or his solicitor or barrister, or such other person as may be prescribed.

Lost duplicates

48. (1) Where a duplicate certificate of title has been lost or destroyed, the Land Registrar may, upon application, in such form as may be prescribed, by the proprietor of the land to which the said duplicate relates, cancel the certificate of title entered in the Register of which it is the duplicate and issue a new certificate of title, and a duplicate thereof, and enter the said certificate in the Register.

(2) Before the Land Registrar shall so issue a new certificate of title and duplicate, he shall—

- (a) require proof by statutory declaration that the said duplicate has been lost or destroyed;
- (b) cause to be served, displayed or published such notices as may be prescribed.

PART VII

THE REGISTER

The Register

49. (1) The Land Registrar shall keep a register (in this Act referred to as the "Register") in which there shall be entered—

- (a) all certificates of title issued in respect of registered land;
- (b) memorials, memoranda or such other records, as may be specified by this Act or may be prescribed, of all dealings with registered land required to be registered or entered in the Register under this Act;

(c) any other matter required to be registered or entered in the Register by this or any other Act.

(2) The Register shall be in such form and all entries, endorsements, notes and other matters required to be registered or entered therein by this or any other Act shall be made in such manner as may be prescribed.

(3) Subject to subsection (2), the Register may comprise several parts or divisions so as to facilitate registration of—

- (a) resumed or acquired land within the meaning of section 69;
- (b) charges to be registered under the Co-operative Societies Act, 1971;
- (c) any other matter for which specific provision may be made by any other Act or regulation made under this or any other Act.

1971 No. 22

50. (1) The Land Registrar shall keep a map or series of maps (to be known as the "Map Index") showing the boundaries of all registered land.

(2) The Map Index shall be in such form as may be prescribed.

(3) Subject to subsection (2), the Land Registrar shall—

- (a) ensure that the map attached or annexed to each certificate of title issued and entered in the Register conforms with the Map Index;
- (b) enter or endorse, in such manner as may be prescribed, an appropriate cross-reference on the said map to the Map Index and vice versa.

51. (1) Subject to subsection (4), every certificate of title shall be taken to be registered as soon as it is entered in the Register.

Entries in Register

(2) Subject to subsection (4), every memorandum of transfer or other instrument affecting registered land shall be taken to be registered as soon as a memorial thereof is endorsed on the certificate of title in the Register.

(3) The person named in such certificate or memorial as the proprietor of any estate or interest in the registered land shall, subject to the provisions of Part IX, be taken to be such proprietor.

(4) For the purposes of priority, but subject to section 111(4), the registration of any certificate of title or memorandum of transfer or other instrument affecting registered land relates back to and takes effect from the date of lodgment of the application for registration or date of presentation of such memorandum of transfer or other instrument, as the case may be.

(5) For the purposes of subsection (4), the time of lodgment of an application for registration or the time of presentation of an instrument means the year, month, day, hour and minute of such lodgment or presentation and this time shall be endorsed on the application or instrument when it is lodged or presented, as the case may be.

**Instruments and
their priority**

52. A memorandum of transfer or other instrument affecting registered land which is presented for registration shall—

- (a) comply with the requirements for such an instrument laid down in Part VIII;
- (b) be registered in the order of time in which it is so presented;
- (c) notwithstanding any notice, take effect, subject to section 111(4), in order of priority according to the time of its presentation in accordance with section 51(4).

Memorials

53. (1) A memorial of a memorandum of transfer or other instrument affecting registered land which is to be entered in the Register shall—

- (a) state the nature of the instrument to which it relates;

- (b) state the time of presentation of such instrument for registration;
- (c) state the names of the parties to such instrument;
- (d) contain a cross-reference to such instrument;
- (e) be signed by the Land Registrar;
- (f) subject to paragraph (a) to (e), be in such form and contain such other particulars as may be prescribed.

(2) Where such a memorial is so entered in the Register the Land Registrar shall—

- (a) except where the dealing in question is effected or evidenced only by endorsement on the certificate of title or other instrument, record the like memorial on the duplicate certificate of title or other instrument evidencing title to the estate or interest intended to be dealt with or in any way affected, whether such duplicate is already in his possession or was deposited along with the instrument for registration, unless production of such duplicate is dispensed with under section 47;
- (b) endorse on every instrument so registered a certificate in such form as may be prescribed, of the date and hour on which the said memorial was entered in the Register;
- (c) authenticate such certificate in such manner as may be prescribed.

(3) A duly authenticated certificate endorsed on an instrument under subsection (2) is conclusive evidence, in any proceedings, that such instrument has been duly registered.

54. (1) Where a transfer or other dealing with Endorsements respect to registered land is effected or evidenced only by endorsement on the certificate of title entered in the Register, the endorsement shall consist of a memorial conforming with the requirements set out in section 53(1).

(2) Such a memorial is as valid and effectual as if the certificate of title on which it is endorsed had been cancelled and a new certificate of title had been issued to give effect to the transfer or other dealing in question.

Correction of errors

55. (1) Upon discovery or receipt of such evidence as appears to him to be sufficient, the Land Registrar may correct any errors in or supply any necessary entries omitted from—

- (a) a certificate of title or any map attached or annexed thereto;
- (b) the Register;
- (c) the Map Index;
- (d) any other document or record kept in the Land Registry.

(2) Where any error or omission is, in the opinion of the Registrar, not merely of a clerical or administrative nature, he shall not take any action under subsection (1) unless the person alleging that there is an error or omission has referred the matter to the Land Commission for directions and, if in any case the Land Registrar is doubtful as to the nature of the error or omission, the matter shall first be referred by him to the Land Commission and, after any such reference, any action to be taken under subsection (1) shall be subject to such directions as the Commission gives.

(3) Any corrections made or entries supplied under subsection (1) shall, subject to any directions given by the Land Commission under subsection (2), be made or entered in such form and manner as may be prescribed.

(4) Where a correction or entry is made under this section, the certificate of title, map, register, map index or other document or record in or on which it is made has the same validity and effect as if the error or omission had never been made, but without prejudice to any other entry made prior to the making of the said correction or entry.

56. (1) Subject to such regulations as may be made, ^{Reconstruction of records} the Land Registrar may reconstruct or reinstate in such manner as may be expedient the Register, the Map Index, any certificate of title or any map or plan attached or annexed thereto, or contained therein, or any other document or record kept in the Land Registry, or any part thereof, which has been destroyed or damaged in any way or from any cause whatsoever.

(2) Before taking action under subsection (1), the Land Registrar may refer the matter to the Land Commission for guidance and, upon such reference, the Commission may give such directions as it thinks fit.

PART VIII

INSTRUMENTS

57. (1) No instrument purporting to transfer or ^{Requirements for registration} otherwise deal with or affect registered land shall be registered unless—

- (a) it is in the English language;
- (b) such execution is proved as required for a deed by section 14 or section 15, as the case may be.

(2) In the application of the said section 14 to an instrument coming within subsection (1), there shall be substituted for the reference to the form as may be prescribed for the purposes of subsection (1)(c) of the said section, a reference to such form as may be prescribed for the purposes of this section.

(3) Section 13(2) applies to an instrument coming within subsection (1) as it applies to a deed.

(4) Sections 101 and 102 of the Land Law and Conveyancing Act, 1981, apply to an instrument ^{1981 No.} coming within subsection (1) as they apply to a deed.

(5) An instrument executed in accordance with this section has, when registered, the same force and effect as a deed made by the parties executing it.

(6) A warrant of forfeiture under the Lands and Buildings Taxes Ordinance is not an instrument for ^{Ch. 33. No. 7} the purposes of this Part.

Effect of
Instruments

58. (1) No instrument is effectual to transfer any estate or interest in or otherwise affect registered land until it is registered in accordance with the provisions of this Act.

(2) Upon such registration, the instrument transfers the estate or interest or otherwise affects the registered land as specified therein, subject to such covenants, conditions or provisions specified therein or declared by this Act to be implied in instruments of like nature.

(3) Where—

- (a) two or more instruments are executed by the same proprietor purporting to transfer or otherwise affect the same estate or interest in registered land; and
- (b) such instruments are lodged at the same time with the Land Registrar for registration;

the Land Registrar may either—

- (i) register the instrument lodged by the person who produces the duplicate certificate of title; or
- (ii) refuse to register any of the instruments until an order of the Land Commission is made determining the relative rights of the claimants under the said instruments.

Incorporation of
provisions of deed

59. (1) Where an instrument coming within section 57 relating to one part of land and a deed registered under Part IV relating to another part of the same land together give effect to a sale, gift, settlement, partition, mortgage or lease of, or other dealing with, the said land, whereof one part is registered land and the other part is unregistered land, the said instrument and deed shall be read and construed together and the instrument may incorporate by reference any of the provisions of the deed.

(2) No provision in such a deed shall be deemed to affect any purchaser from a proprietor with notice of any trust affecting the registered land.

(3) On registration of an instrument to which subsection (1) applies, the Land Registrar shall be furnished with the number of or other appropriate reference to the deed registered under Part IV.

60. In every instrument creating or transferring any estate or interest in registered land there is an implied covenant by the party creating or transferring such estate or interest that he will do such acts and execute such instruments as, in accordance with the provisions of this Act, may be necessary to give effect to all covenants, conditions and purposes expressly set forth in such instrument or implied under this Act against such party in instruments of like nature. Covenant implied

61. The provisions of any instrument dealing with or affecting registered land and duly registered may be varied by a memorandum of variation in such form as may be prescribed or in such other form as may be approved by the Land Registrar duly executed by the necessary parties and registered under this Act. Variation

62. (1) Where it appears to the satisfaction of the Land Registrar that— Delivery up of instruments

- (a) it is necessary to correct any errors or supply any entries under section 55; or
 - (b) any certificate of title, instrument, entry or endorsement relating to registered land has been fraudulently or wrongfully obtained; or
 - (c) any duplicate certificate of title or instrument relating to registered land has been fraudulently or wrongfully retained;
- he may require the person to whom the certificate of title or such duplicate, or such instrument has been issued, obtained or retained to deliver up the same.

(2) Where such person refuses or fails so to deliver up such certificate of title, duplicate or instrument, the Land Registrar may, or any interested person may by application, refer the matters to the Land Commission and thereupon the Commission may—

- (a) make such order for delivery up of the certificate, duplicate or instrument, for appearance of parties before it or for any other matter which it considers relevant;

(b) where it appears that, despite any order made under paragraph (a), the certificate, duplicate or instrument will not be delivered up, order the Land Registrar to cancel the certificate of title and issue a new certificate of title as if the case came within section 48 and to take such other action as the Commission thinks appropriate.

(3) This section operates without prejudice to section 114.

PART IX

EFFECT OF REGISTRATION

Conclusiveness
of Register

63. (1) Subject to sub-section (2), the title of every proprietor of registered land 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.

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

- (a) any estates, interests, mortgages, charges or other incumbrances noted on the certificate of title entered in the Register relating to such land;
- (b) any statutory charges on such land registered under Part XVIII;
- (c) the estate or interest of any proprietor claiming the same land under a prior certificate of title entered in the Register;
- (d) the rights of any tenant of such land holding a leasehold term not exceeding three years;
- (e) any rights subsisting under any adverse possession of such land;
- (f) any statutory easements arising under section 157 of the Land Law and Conveyancing Act, 1981;
- (g) any implied easements and profits arising under section 158 of the said 1981 Act;

- (h) any easement or other interest in such land which has been omitted from or misdescribed in the certificate of title relating thereto, unless the said proprietor is a purchaser of such land or derived title from or through such a purchaser;
- (i) any portion of land erroneously included, by description of parcels or boundaries, in the certificate of title or other instrument evidencing the title of the said proprietor or shown on any map attached or annexed thereto, unless the said proprietor is a purchaser of such land or derived title from or through such a purchaser;
- (j) in the case of land originally granted by the Crown or State pursuant to regulations respecting the sale or disposal of waste lands—
 - (i) the reservations, exceptions, conditions and powers, if any, contained in such grant;
 - (ii) any resumption made of such land or any part thereof in pursuance of such reservations or powers;
 - (iii) any taking of such land or any part thereof effected under any statutory power;
 - (iv) any public rights of way and any unpaid public land charge, rates, taxes and assessments, and estate duty, notwithstanding that the same respectively may not be specially noted as incumbrances on the certificate of title or any instrument relating to the registered land;

but free from all other estates, interests or incumbrances.

Protection of
persons dealing
with proprietor

64. (1) Subject to subsections (2) and (3), a person contracting or dealing with or taking or proposing to take a transfer from a proprietor of registered land is not required or in any manner concerned to—

- (a) enquire of or ascertain the circumstances under which or the consideration for which the said proprietor or any previous proprietor is or was registered;
- (b) see to the application of the purchase money or any part thereof;
- (c) give effect to, nor is such person affected in any way by, any notice of any trust or other unregistered interest, or interest unprotected by a caveat, any rule of law or equity to the contrary notwithstanding.

(2) Sub-section (1) does not apply where a person is party or privy to any fraud connected with the said contract, dealing or transfer, but knowledge of any trust or other interest referred to in paragraph (c) of the said subsection is not, of itself, to be imputed as fraud.

(3) Paragraph (b) of subsection (1) does not prejudice the operation of any statutory provision requiring purchase or other capital money to be paid to trustees or other specified persons or in some other specified manner.

(4) In paragraph (c) of subsection (1), “unregistered interest” includes an interest dealt with or contained in any deed or other document registered under Part IV.

Actions for
recovery of land

65. (1) No action of ejectment or other action for the recovery of registered land lies or may be sustained against the proprietor thereof, except as specified by subsection (3), and production of the original certificate of title or other instrument evidencing his title is an absolute bar and estoppel to any such action against the proprietor named in such certificate, any rule of law or equity to the contrary notwithstanding.

(2) Nothing in subsection (1) prevents—

- (a) a plaintiff from obtaining a decree of specific performance of a contract for the sale or other disposition of registered land;

(b) a beneficiary entitled to call for the transfer from a trustee of the legal estate in registered land from obtaining a court order under section 56 of the Trustee Act, 1981.

1981 No. 21

(3) An action of ejectment or for the recovery of registered land may be brought against the registered proprietor thereof by—

(a) any person entitled to enforce any lease, mortgage, charge, incumbrance or other interest affecting the said land;

(b) a proprietor claiming the same land under a prior certificate of title entered in the Register;

(c) any person deprived of any part of the registered land by fraud to which the proprietor thereof or any prior proprietor from or through whom he derived title otherwise than as a purchaser was a party or privy;

(d) any person deprived of or claiming any land erroneously included, by description of parcels or boundaries, in the proprietor's certificate of title or other instrument evidencing his title or shown on any map attached or annexed thereto, unless the said proprietor is a purchaser of such land or derived title from or through such a purchaser.

(4) An action by a person coming within subsection (3)(b) or (d) is subject to the proprietor's right to claim compensation under section 106.

(5) A person deprived of land in the circumstances described in subsection (3)(b), (c) or (d) may bring an action for damages under section 105.

PART X

TRANSFERS AND OTHER DEALINGS

66. (1) Where the proprietor wishes to transfer the registered land, or any estate or interest therein, he may execute a memorandum of transfer in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title.

Memorandum
of transfer

- (2) The memorandum of transfer shall—
- (a) for the description of the land intended to be transferred, refer to the certificate of title relating thereto;
 - (b) contain an accurate statement of the estate or interest intended to be transferred and a note of any leases, mortgages or other incumbrances to which it may be subject.
- (3) Upon receipt of such memorandum of transfer, the Land Registrar shall register the transfer in accordance with the provisions of this Part.

Registration of
transfer

67. (1) Where the memorandum of transfer purports to transfer the freehold estate in the whole of the registered land, the Land Registrar shall cancel, in such manner as may be prescribed, the certificate of title entered in the Register relating thereto and its duplicate and—

- (a) issue a new certificate of title in accordance with the said memorandum of transfer and enter it in the Register;
- (b) deliver the duplicate of such new certificate of title to the transferee.

(2) Where the memorandum of transfer purports to transfer the freehold estate in part only of the registered land, the Land Registrar shall—

- (a) partially cancel, in such manner as may be prescribed, the certificate of title entered in the Register relating thereto and its duplicate and—

- (i) issue a new certificate of title in respect of the land transferred in accordance with the said memorandum of transfer and enter it in the Register;

- ((ii) deliver the duplicate of such new certificate of title to the said transferee.

- (b) deliver to the transferor—

- (i) the partially cancelled certificate of title relating to the land retained by him; or

(ii) if the transferor so requests, issue a new certificate of title in respect of the said retained land and enter it in the Register and deliver the duplicate of such new certificate of title to the said transferor.

(3) Where the memorandum of transfer purports to transfer the leasehold estate in the whole or part of the registered land, the Land Registrar shall—

(a) where a certificate of title is entered in the Register relating to such leasehold estate, cancel or partially cancel, as the case requires, the said certificate and its duplicate and issue a new certificate of title in accordance with the said memorandum of transfer and enter it in the Register and deliver the duplicate thereof;

(b) where no such certificate of title is entered in the Register and a memorial of the lease is endorsed on the certificate of title relating to the reversion in accordance with section 43(2)(b), endorse a memorial of the memorandum of transfer on the said certificate of title and on its duplicate and deliver the said duplicate to the reversioner or other person entitled thereto.

(4) Where a transfer creates an easement or other incorporeal hereditament over or upon or affecting registered land, a memorial thereof may be endorsed on the certificate of title relating to the said land entered in the Register and its duplicate in addition to any other entry concerning such transfer required by this Act.

(5) Any new certificate of title issued under this section shall refer to—

(a) the original certificate of title relating to the registered land which the memorandum of transfer concerns;

(b) the said memorandum of transfer.

(6) The Land Registrar shall retain and dispose of, as may be prescribed—

- (a) any cancelled and, where a new certificate of title is issued under subsection 2(b)(ii), partially cancelled duplicate certificate of title;
- (b) any memorandum of transfer lodged under this section.

**Transfers under
statutory or
other powers**

68. (1) Where registered land is sold or otherwise dealt with under any statutory or other power, by a person or body other than the registered proprietor, a memorandum in such form as may be prescribed shall be executed by the person or body exercising the said power, or such other person or body as may be prescribed, and this shall be lodged with the Registrar, together with the duplicate certificate of title.

(2) Upon receipt of such memorandum, the Land Registrar shall register the sale or other dealing in accordance with the foregoing provisions of this Part.

**Land acquired
by the State**

Ch. 27. No. 10

69. (1) Where any registered land is wholly or partly—

- (a) resumed by the State under a power contained in the grant;
- (b) acquired compulsorily under the Land Acquisition Ordinance or any other statutory powers;
- (c) acquired by the State by gift, purchase, devolution or otherwise;

the Commissioner of State Lands, or such other person or body as may be prescribed, shall execute a memorandum in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title.

(2) Upon receipt of such memorandum, the Land Registrar shall—

- (a) register the said resumption or acquisition in accordance with the foregoing provisions of this part;
- (b) take such other steps as may be prescribed.

70. Where, by reason of the fact that part only of the ^{Map or plan} registered land is transferred, acquired or otherwise dealt with, or an easement or other incorporeal hereditament is created over neighbouring land, or for any other reason, the map of the said land contained in or attached or annexed to the certificate of title entered in the Register is insufficient to show clearly the land to which the memorandum executed under sections 66(1), 68(1) or 69(1) relates, such memorandum shall contain or have attached or annexed thereto such map or plan as may be prescribed.

71. (1) Subject to the provisions of this Act, upon ^{Effect of transfer} registration of a transfer under this Part, the estate or interest of the transferor, together with all rights, powers and privileges (including the right to sue upon and recover any debt or other money, or interest thereon, under a mortgage or charge or other instrument) relates thereto, passes to the transferee, subject to all conditions and liabilities (including any trusts affecting money arising under a mortgage or charge or other instrument) to which the said transferor, as proprietor of such estate or interest, was subject immediately prior to such transfer.

(2) Subject to subsection (1), a transfer registered under this Part has the same operation as a conveyance by deed of unregistered land and, so far as is appropriate, the Land Law and Conveyancing Act, ^{1981 No. 20} 1981, applies accordingly.

(3) Where a transfer under this Part results in two or more estates or interests vesting in the same person, no merger takes effect unless the said person lodges a request for such merger in such form as may be prescribed with the Land Registrar.

(4) Upon receipt of such request, the Land Registrar shall endorse a memorial of merger on the relevant certificate of title.

PART XI

MORTGAGES AND CHARGES

Memorandum of
mortgage or
charge

72. (1) Where the proprietor wishes to—
- (a) mortgage the registered land, he may execute a memorandum of charge in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title;
 - (b) charge the said land with payment of a rentcharge, annuity or other periodical sum of money, he may execute a memorandum of charge in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title.
- (2) Where a mortgagee of registered land wishes to create a sub-mortgage of his interest in the said land, he may execute a memorandum of sub-charge in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title.
- (3) Upon receipt of a memorandum executed under this section, the Land Registrar shall—
- (a) endorse a memorial of such memorandum on the certificate of title relating to the said land entered in the Register and on its duplicate;
 - (b) deliver the said duplicate, so endorsed, to the mortgagor, chargor or such other person who may be entitled to such delivery, whether by agreement or otherwise.
- (4) Where the mortgage or charge relates to part only of the registered land, the memorandum of charge lodged with the Land Registrar shall contain, or have attached or annexed thereto, such map or plan as may be prescribed sufficient to show clearly the land mortgaged or charged.
- (5) The proprietor may create an equitable mortgage of registered land by deposit of the duplicate certificate of title relating thereto with the intended mortgagee.

(6) Such an equitable mortgagee may lodge a caveat under section 101.

73. (1) Subject to the provisions of this Act, upon registration of a charge on registered land under this Part, the mortgagee or chargee, in relation to the said land, has all the interest, rights, powers and privileges and is subject to all the conditions and liabilities which a mortgagee or chargee by deed has or is subject to in relation to unregistered land and, so far as is appropriate, the Land Law and Conveyancing Act, 1981, applies accordingly.

Effect of mortgage
or charge

1981 No. 20

(2) Where unregistered land which is already mortgaged or charged is registered under Part V subject to the mortgage or charge, and the mortgagee or chargee or any other person claiming through him applies to be registered as proprietor by virtue of foreclosure or a purchase under the power of sale contained in the mortgage or charge, the mortgage or charge shall be deemed to have conferred upon such applicant the right to be registered as proprietor of the same estate or interest in the land as that in respect of which the mortgage or charge was registered, and no caveat which might have been or was lodged against the original application for registration shall be lodged or received in respect of the said estate or interest against the application of the said mortgagee or chargee or other person claiming through him.

(3) Mortgages and charges registered under this Part take effect in priority according to the date of their presentation for registration.

(4) Where the proprietor of registered land subject to an existing mortgage transfers or otherwise deals with the said land, the mortgagee shall produce to the Land Registrar the duplicate certificate of title, if he holds it, but at the expense of the person requesting such production, in order to facilitate registration of such transfer or dealing.

Ch. 31. No. 1

(5) For the avoidance of doubt, it is hereby declared that a charge on registered land of a company which is registered under the Companies Ordinance binds, and always has bound, the said land as if a memorandum of charge were endorsed on the certificate of title relating to such land under section 72, whether or not such memorandum is so endorsed.

Foreclosure

74. (1) Where a final order for foreclosure is made in respect of registered land, the said order shall be lodged with the Land Registrar, together with the duplicate certificate of title.

(2) Upon receipt of such order, the Land Registrar shall issue a new certificate of title to the mortgagee and take such other steps as are necessary for registration of a transfer under Part X, in order to give effect to the order.

Discharge of mortgages, charges or incumbrances

75. (1) Where it is desired to discharge registered land, or any part thereof, from any moneys due under any mortgage, charge or other incumbrance to which it is subject, the mortgagee, chargee or incumbrancer shall execute a memorandum of discharge in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title.

(2) Upon receipt of such memorandum, the Land Registrar shall—

- (a) endorse a memorial of such memorandum on the certificate of title relating to the said land entered in the Register and on its duplicate;
- (b) deliver the said duplicate, so endorsed, to the mortgagor, chargor or other person entitled to its delivery.

(3) Such endorsement operates to discharge wholly or partly, as the case may be, the registered land, or part thereof, as the case may be, from the mortgage, charge or incumbrance and the said land, or part thereof, ceases to be subject to or liable for payment of any moneys or interest due under such mortgage, charge or incumbrance.

(4) Where—

- (a) the mortgagee, chargee or other incumbrancer is subject to any disability, absent from the State, cannot be found or for any other reason is unable to execute a memorandum or discharge under subsection (1); and
- (b) there is no other person authorised to execute such memorandum or to give a receipt for discharge money;

such money, together with all arrears of interest, may be paid to the Public Trustee or into court, under section 156 of the Land Law and Conveyancing Act, 1981, and a receipt in such form as may be prescribed shall be given accordingly. 1981 No. 20

(5) A receipt given under subsection (4) has the same effect as a memorandum of discharge executed under subsection (1) and shall be lodged with and registered by the Land Registrar accordingly.

(6) Where the discharge relates to part only of the registered land, the memorandum of discharge lodged with the Land Registrar shall contain, or have attached or annexed thereto, such map or plan as may be prescribed sufficient to show clearly the land mortgaged or charged.

76. (1) Where, by reason of the death of any person, the expiration of a period of years or otherwise, a charge or other incumbrance on registered land has, by the terms of the instrument creating it, ceased to affect the said land, or would so cease but for its registration, the proprietor or any other interested person may execute a memorandum of cesser in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title. Determination
of incumbrances

(2) Upon receipt of such memorandum and proof to the satisfaction of the Land Registrar of the occurrence of the said event and payment of any arrears accrued due under such charge or incumbrance, and any costs occasioned by non-payment thereof, the Land Registrar shall—

- (a) endorse a memorial of such memorandum on the certificate of title relating to the said land entered in the Register and on its duplicate;
- (b) deliver the said duplicate, so endorsed, to the proprietor or other person entitled to its delivery.

(3) Upon such endorsement the registered land ceases to be subject to or liable for payment of any moneys or interest due under such charge or incumbrance.

PART XII

LEASES

Memorandum of
lease

77. (1) Where the proprietor wishes to lease the registered land for a term exceeding three years he shall and, where the term does not exceed three years, he may, with the consent of the intended lessee, execute a memorandum of lease in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title.

(2) Where the proprietor of a registered lease wishes to sub-lease the registered land for a term exceeding three years he shall and, where the term does not exceed three years, he may, with the consent of the intended sub-lessee, and subject to any provisions in his lease affecting his right to do so, execute a memorandum of sub-lease in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title.

(3) Upon receipt of a memorandum executed under subsection (1) or (2), the Land Registrar shall—

- (a) where the lease or sub-lease is for a term of twenty-one years or more—

- (i) issue, subject to section 43(1), a new certificate of title in respect of the lease or sub-lease and a duplicate thereof;
 - (ii) deliver the said duplicate to the lessor or sub-lessor;
- (b) where the lease or sub-lease is for a term of less than twenty-one years—
- (i) endorse a memorial of such memorandum on the certificate of title relating to the said land entered in the Register and on its duplicate;
 - (ii) deliver the said duplicate, so endorsed, to the lessor or sub-lessor or other person entitled to such delivery.

(4) Where the lease or sub-lease relates to part only of the registered land, the memorandum of lease or sub-lease lodged with the Land Registrar under this section shall contain or have attached or annexed thereto such map or plan as may be prescribed sufficient to show clearly the land leased or sub-leased.

(5) Subject to the provisions of the Land Law and Conveyancing Act, 1981, no lease or sub-lease of registered land subject to a mortgage, charge or other incumbrance is valid unless the mortgagee, chargee or incumbrancer consents to it and, on its registration, the Land Registrar shall include a note of such consent in the memorial endorsed on the certificate of title. 1981 No. 20

(6) A lease registered under this section may contain a right for or a covenant by the lessee to purchase the land therein described and in such case, if the lessee pays the purchase money stipulated, and otherwise observes the covenants expressed and implied in such instrument, the lessor is bound to execute a memorandum of transfer to such lessee of the said land in accordance with section 78(2).

(7) Where a lease or sub-lease is to be registered under this section, it is not valid as against any registered transferee, mortgagee, incumbrancer or lessee unless so registered.

Effect of lease

78. (1) Subject to the provisions of this Act, upon registration of a lease or sub-lease of registered land under this Part, the lessor or sub-lessor and the lessee or sub-lessee, in relation to the said land, have all the interests, rights, powers and privileges and are subject to all the conditions and liabilities which a lessor or sub-lessor and lessee or sub-lessee have or are subject to in relation to unregistered land and the Land Law and Conveyancing Act, 1981, and Landlord and Tenant Act, 1981, apply accordingly.

1981 No. 19
1981 No. 20

(2) Where a lease of registered land contains an option to purchase the freehold or confers on the lessee the right to acquire the reversion, it shall be construed as imposing an overriding obligation on the lessor, where the said option or right is validly exercised, to execute a memorandum of transfer under Part X and to take such other steps as are necessary to complete the purchase or acquisition.

(3) In subsection (2), "overriding obligation" has the meaning assigned by section 9(1)(a) of the Landlord and Tenant Act, 1981.

1981 No. 19

Determination of lease

79. (1) Where any lease or sub-lease of registered land would have been terminated if it related to unregistered land, a memorandum of termination in such form as may be prescribed shall be executed by the lessor or other interested person and lodged or, in the case of termination by court order, the said order shall be lodged with the Land Registrar, together with the duplicate certificate of title delivered under section 77(3)(a) or (b).

(2) Upon receipt of such memorandum or order, the Land Registrar shall—

(a) where a separate certificate of title was issued in respect of such lease or sub-lease, cancel the said certificate and its duplicate;

(b) where no such separate certificate was issued,—

(i) endorse a memorial of such memorandum on the certificate of title upon which the lease or sub-lease was endorsed and on its duplicate;

(ii) deliver the said duplicate, so endorsed, to the lessor, sub-lessor or other person entitled to such delivery.

(3) Upon such cancellation or endorsement the registered land ceases to be subject to the lease or sub-lease.

PART XIII

TRANSMISSIONS

80. (1) Where, upon the death of the proprietor, the registered land or any mortgage, incumbrance or lease affecting such land—^{Transmission on death}

(a) becomes vested in the Administrator General; or

(b) devolves to and becomes vested in the deceased's personal representatives;

the Administrator General or personal representatives may make an application in such form as may be prescribed to be registered as proprietor or proprietors thereof, as the case may be, and this shall be lodged with the Land Registrar, together with the duplicate certificate of title.

(2) An application by the personal representatives under subsection (1) shall be accompanied by the grant of probate or letters of administration, or a certified copy thereof, to them.

(3) Upon receipt of such application, the Land Registrar shall—

(a) endorse a memorial of the transmission on the certificate of title relating to the said land entered in the Register and on its duplicate;

(b) deliver the said duplicate, so endorsed, to the Administrator General or personal representatives, as the case may be.

(4) Nothing in this section prevents the Administrator General or personal representatives from administering and distributing the deceased proprietor's estate in accordance with the provisions of the Succession Act, 1981, without first being registered^{1981 No} as proprietor or proprietors of the deceased's land.

(5) Upon registration of the Administrator General or personal representatives under this section, he or they remain subject to the provisions of the said Act, which applies, subject to the provisions of this Act, as if they were not so registered.

(6) Nothing in this Act exempts land from estate duty.

Charges created
by will

81. (1) Where the deceased proprietor's will creates a charge on the registered land, the Administrator General or personal representatives shall execute a memorandum of charge in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title.

(2) Upon receipt of such memorandum, the Land Registrar shall register the charge in accordance with the provisions of Part XI.

(3) Until so registered, a charge created by a will does not affect the registered land.

(4) Where the charge relates to part only of the deceased proprietor's registered land, the memorandum of charge lodged with the Land Registrar under this section shall contain or have attached or annexed thereto such map or plan as may be prescribed sufficient to show clearly the land charged.

Assents and
transfers

82. (1) Where the Administrator General or personal representatives wish to transfer the registered land to the devisee entitled under the deceased proprietor's will or to the other person or persons entitled thereto, he or they may execute an assent in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title.

(2) Such an assent—

(a) has the effect laid down by, and is subject to the provisions of, section 80 of the Succession Act, 1981.

(b) authorises the Land Registrar to register the said devisee or other person or persons as proprietor or proprietors, as the case may require.

1981 No.

(3) An assent may be executed under subsection (1), with the effect and authority specified in subsection (2), where the Administrator General is not registered as proprietor, or the personal representatives are not registered as proprietors prior to such execution, but in the case of personal representatives the assent lodged with the Land Registrar shall be accompanied by the grant of probate or letters of administration, or a certified copy thereof, to them.

(4) Nothing in this section prevents the Administrator General or personal representatives, provided he or they have been registered as proprietor or proprietors in accordance with section 80, from executing a transfer of the registered land under Part X in favour of the said devisee or other person or persons.

(5) No fee is payable on any transfer of registered land by the Administrator General or personal representatives registered as proprietor or proprietors, as the case may be, unless the transfer is for valuable consideration.

83. (1) Upon the bankruptcy or liquidation of the proprietor, the trustee in bankruptcy, liquidator or other person or body appointed to administer the assets or in whom the registered land is to vest shall execute a memorandum of insolvency in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title. Bankruptcy or liquidation

(2) Upon receipt of such memorandum, the Land Registrar shall—

- (a) endorse a memorial of such memorandum on the certificate of title relating to the said land entered in the Register, and on its duplicate;
- (b) deliver the said duplicate, so endorsed, to the said trustee, liquidator, or other person or body.

(3) Upon such endorsement, the said trustee, liquidator or other person or body remains subject to the general law of insolvency, which applies, subject to the provisions of this Act, as if he were not registered as proprietor under this section.

Disclaimer

84. (1) Subject to section 83(3), where the insolvent registered proprietor's land or any interest therein is properly disclaimed, the person or body so disclaiming shall execute a memorandum of disclaimer in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title.

(2) Upon receipt of such memorandum, the Land Registrar shall—

- (a) endorse a memorial of such memorandum on the certificate of title relating to the said land entered in the Register, and on its duplicate;
- (b) deliver the said duplicate, so endorsed, to the person entitled to such delivery.

(3) Upon such endorsement, the person entitled to the registered land upon determination of the estate or interest therein of the insolvent proprietor, or any person claiming under or through such person may, subject to subsection (4), apply to be registered as proprietor.

(4) Where the disclaimed property is a lease subject to a mortgage, the mortgagee is the only person entitled to be registered as proprietor of the lease unless he consents or the court orders that some other person be registered.

Mental incapacity

85. (1) Where the proprietor becomes subject to any mental incapacity, the person responsible for or appointed to administer the registered land shall execute a memorandum of incapacity in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title.

(2) Upon receipt of such memorandum, the Land Registrar shall—

- (a) endorse a memorial of such memorandum on the certificate of title relating to the said land entered in the Register, and on its duplicate;
- (b) deliver the said duplicate, so endorsed, to the said person.

(3) Upon such endorsement, the said person remains subject to the general law relating to administration of the property of a person subject to mental incapacity, which applies, subject to the provisions of this Act, as if he were not registered as proprietor under this section.

PART XIV

ADVERSE POSSESSION

86. (1) In the case of registered land, at the expiration of the period prescribed by the Limitation Act, 1981, for any person to bring an action to recover land, the proprietor holds his estate or interest in the said land on trust for the person who is then in adverse possession of the land within meaning of section 20 of the said Act. Application to registered land. 1981 No.

(2) Where the registered land is held under a lease, the proprietor and the person in adverse possession (or anyone claiming through him) may agree to an apportionment of costs under section 22(2) of the said Act, to take effect in equity until a vesting order is registered under section 88 of this Act.

(3) Until any vesting order is registered under the said section 88, the registered land is subject to Part XVI, but without prejudice to the right of any person, who claims that the said land is held on trust for him under subsection (1) or that an apportionment has been agreed under subsection (2), to lodge a caveat under Part XIX.

87. (1) Any person who claims that registered land is held by the proprietor on trust for him under section 86(1) may apply to the Land Registrar for registration of himself as proprietor. Application for registration

(2) An applicant under subsection (1) shall—

- (a) lodge with the Land Registrar an application in such form as may be prescribed, containing such particulars and information as may be prescribed;
- (b) subscribe a statutory declaration as to the truth of any matters stated in such application;

(c) where, by reason of the fact that part only of the registered land is so held on trust, the map of the said land contained in or attached or annexed to the certificate of title entered in the Register is insufficient to show clearly the land held on trust, attach or annex to the said application such map or plan as may be prescribed.

(3) The provisions as to—

(a) notices, contained in section 33(5) to (8);

(b) caveats, contained in section 34;

(c) adjudication of title, contained in section 35(1) to (5);

apply, so far as appropriate, but, in the case of notices, so as to ensure that notice is served on the proprietor and any lessee, mortgagee and any other incumbrancers whose interest in the land is registered, to an application under this section as they apply to an application for voluntary registration by a person claiming title on the basis of possession.

(4) Where, upon adjudication of the title, the Land Commission is satisfied that the applicant has established that the proprietor is holding his estate or interest in the registered land on trust for the applicant, it shall—

(a) make an order vesting the said estate or interest in the applicant;

(b) lodge such order with the Land Registrar.

(5) Where the Land Commission is not so satisfied, it may dismiss the application or make such other order as it thinks fit in all the circumstances of the case.

Registration

88. Subject to any directions of the Land Commission, upon issue of a declaration of title or receipt of a vesting order made under section 87, the Land Registrar shall register the applicant for registration as proprietor as if the said order were a transfer executed by the proprietor under Part X in favour of the said applicant, and the provisions of the said Part, as appropriate, apply accordingly.

PART XV

OBLIGATIONS AND RESTRICTIONS

89. (1) Where any person claims that an easement or profit has arisen under section 160(1) of the Land Law and Conveyancing Act, 1981, he may apply to the Land Registrar for registration of the easement or profit in respect of the dominant or servient land, or both, as appropriate under section 160(5) of the said 1981 Act.

Acquisition of easements and profits by prescription

1981 No. 20

- (2) An applicant under subsection (1) shall—
- (a) lodge with the Land Registrar an application in such form as may be prescribed, containing such particulars and information as may be prescribed, together with the duplicate certificate of title relating to the land in question;
 - (b) subscribe a statutory declaration as to the truth of any matters stated in his application.
- (3) The provisions as to—
- (a) notices, contained in section 33(5) to (8);
 - (b) caveats, contained in section 34;
 - (c) adjudication of title, contained in section 35(1) to (5);

apply, so far as appropriate, to an application under this section as they apply to an application for voluntary registration.

(4) Where, upon adjudication of the title, the Land Commission is satisfied that the easement or profit has arisen, it shall—

- (a) issue a declaration to this effect;
- (b) lodge such declaration with the Land Registrar.

(5) Where the Land Commission is not so satisfied, it may dismiss the application or make such other order as it thinks fit in all the circumstances of the case.

(6) Subject to any directions of the Land Commission, upon issue or receipt of a declaration that the easement or profit has arisen, the Land Registrar shall—

- (a) endorse a memorial of such declaration on the certificate of title relating to the dominant land or servient land, or both, as appropriate, and on their respective duplicates;
- (b) deliver the said duplicates, so endorsed to the owners of the dominant and servient lands, as appropriate, or to such other persons as may be entitled to such delivery.

(7) Upon receipt of an application in such form as may be prescribed to register a notice of interruption in respect of registered land lodged under section 164 of the Land Law and Conveyancing Act, 1981, the Land Registrar shall—

- (a) endorse a memorial of such notice on the certificate of title relating to the servient land or dominant land, or both, as appropriate, and on their respective duplicates;
- (b) deliver the said duplicates, so endorsed, to the owners of the dominant and servient lands, as appropriate, or to such other persons as may be entitled to such delivery.

1980 No. 20

Application for
removal of
obligation and
restrictions from
Register

90. (1) A proprietor who claims that any obligation or restriction relating to registered land entered in the Register has been abandoned or extinguished may apply to the Land Registrar for removal of the said obligation or restriction from the Register.

(2) An applicant under subsection (1) shall—

- (a) lodge with the Land Registrar an application in such form as may be prescribed, containing such particulars and information as may be prescribed, together with the duplicate certificate of title;
- (b) lodge with his application any instrument proving or substantiating his claim;

- (c) subscribe a statutory declaration as to the truth of any matters stated in his application.
- (3) The provisions as to—
- (a) notices, contained in section 33(5) to (8);
 - (b) caveats, contained in section 34;
 - (c) adjudication of title by the Land Commission, contained in section 35(3) to (5);
- apply, so far as appropriate, to an application under this section as they apply to an application for voluntary registration.
- (4) Where, upon adjudication of the title, the Land Commission is satisfied that the applicant has established his claim, it shall—
- (a) make an order directing the Land Registrar to remove the obligation or restriction from the Register;
 - (b) lodge such order with the Land Registrar.
- (5) Where the Land Commission is not so satisfied, it may dismiss the application or make such other order as it thinks fit in all the circumstances of the case.
- (6) Subject to any directions of the Land Commission, upon receipt of an order made under section 90, the Land Registrar shall—
- (a) endorse a memorial thereof on the certificate of title relating to the registered land affected by it entered in the Register and on its duplicate;
 - (b) deliver the said duplicate, so endorsed, to the proprietor.
- (7) Upon such endorsement the registered land ceases to be subject to the obligation or restriction to which the said order related.
- (8) This section applies to obligations and restrictions to which section 166 of the Land Law and Conveyancing Act, 1981, applies, but it does not apply where an application is made under the said section 166.

Discharge,
modification and
imposition of
obligations and
restrictions
1981 No. 20

91. (1) Upon receipt of an order of the Land Commission made under section 166 or section 167 of the Land Law and Conveyancing Act, 1981, the Land Registrar shall—

- (a) endorse a memorial of such order on the certificate of title relating to the dominant land or servient land, or both, as appropriate, and on their respective duplicates;
- (b) deliver the said duplicates, so endorsed, to the owners of the dominant and servient lands, as appropriate, or to such other persons as may be entitled to such delivery.

(2) Upon such endorsement the servient land, as the case may be—

- (a) ceases to be subject to the obligation or restriction to which the order relates; or
- (b) becomes subject to the obligation or restriction modified as the order specifies;
or
- (c) becomes subject to the obligation or restriction imposed by the order.

PART XVI

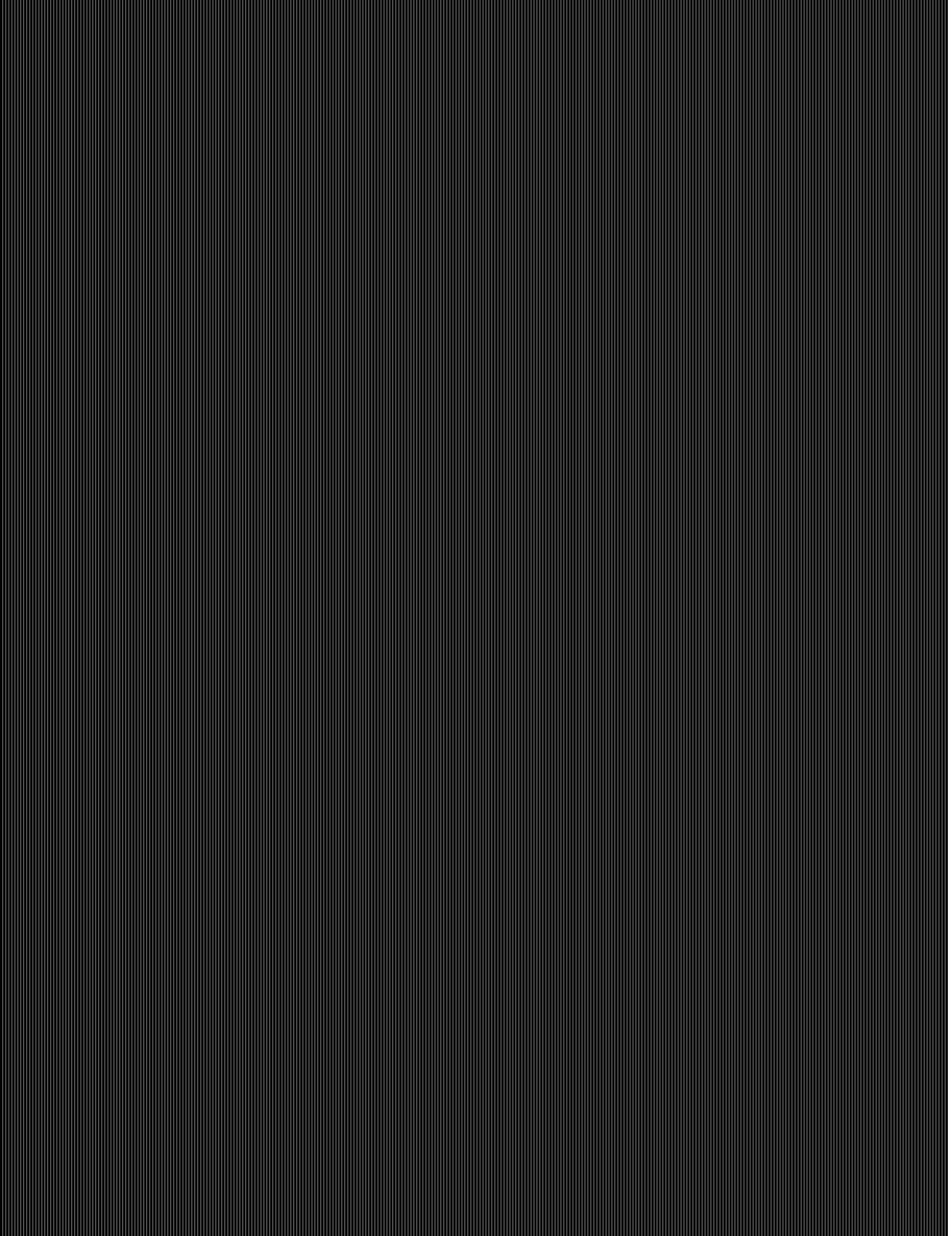
TRUSTS

No Entry as to
terms of trust

92. (1) Where a person holds the registered land as a trustee or in any other fiduciary capacity, he shall be regarded as proprietor of the said land.

(2) Subject to the provisions of this and any other Act, a trustee so registered may transfer or otherwise deal with the registered land as proprietor and any purchaser or other person dealing with him is not concerned with any trusts affecting the registered land to the same extent that he is not concerned with trusts affecting unregistered land.

(3) No entry shall be made in the Register of any notice of the terms of a trust, whether express, implied or constructive, affecting the registered land.



(4) Any two or more persons registered as joint proprietors may, by writing under their hand, authorise the Land Registrar to enter the words "no survivorship" on their certificate of title entered in the Register and on its duplicate.

(5) Where an inclusion or entry has been made under subsection (3) or (4), no number less than the number of joint proprietors then registered may transfer or otherwise deal with the land without an order of the Land Commission authorising the dealing.

(6) Before making an order under subsection (5), the Land Commission may, if it thinks fit—

(a) cause notice of its intention to do so to be advertised three times at least in a daily newspaper circulating in the State;

(b) specify a period of time within which any interested person may show cause why such order should not be made;

and, in making such order, the Land Commission may—

(i) give directions for the transfer of the land to any new proprietor or proprietors solely or jointly with or in place of any existing proprietor;

(ii) make such order as it thinks just for the protection of the persons beneficially interested in the land, or in the proceeds thereof.

(7) An order made under subsection (6) shall be lodged with the Land Registrar and, upon its receipt, the Land Registrar shall make such entries and perform such acts as are necessary under the provisions of this Act to give effect to such order.

**Rights of
beneficiary**

94. (1) Where a beneficiary of registered land would, if it were unregistered land, be entitled to require the legal estate to be vested in him, he may apply to the court for an order that the registered land should be vested in him as proprietor.

(2) Upon receipt of such an order, the Land Registrar shall register the beneficiary under Part X as if the said order were a transfer of the said land to the beneficiary executed by the proprietor.

(3) Where a trustee registered as proprietor would be entitled to bring or defend any action in his own name for recovering possession of or enforcing security on the registered land, he shall allow his name to be used as plaintiff or defendant in such action by any beneficiary or other person claiming an estate or interest in the said land or security thereon who would, if the land were unregistered land, be entitled to bring such action either in his own name or that of the trustee.

(4) Where a trustee so allows his name to be used, he is entitled to an indemnity from the beneficiary.

PART XVII

POWERS OF ATTORNEY

95. (1) The proprietor may create a power of attorney in respect of the registered land by executing a memorandum of power of attorney in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title. ^{Memorandum of power of attorney}

(2) Upon receipt of such memorandum, the Land Registrar shall—

- (a) endorse a memorial thereof on the certificate of title relating to the said land entered in the Register and on its duplicate;
- (b) deliver the said duplicate, so endorsed, to the donor or the donee of the power of attorney.

(3) Subject to the provisions of this Act, upon such endorsement, the power has the effect laid down by Part XII of the Land Law and Conveyancing Act, 1981 No. 20 1981.

(4) Nothing in this section prevents a person from executing a general power of attorney under section 170 of the Land Law and Conveyancing Act, 1981 No. 20 1981, relating to both registered and unregistered land and in such case the power—

- (a) shall be registered in accordance with section 168 of the said Act under Part IV of this Act;

- (b) does not authorise any dealing with the registered land until, upon application to the Land Registrar in such form as may be prescribed and lodgment of the duplicate certificate of title relating to the said land, a memorial containing the particulars of the said power is endorsed on the certificate of title relating to the said land entered in the Register and on its duplicate.

**Revocation of
power of attorney**

96. (1) Where the proprietor wishes to revoke any power of attorney registered under section 95(1) and (2), he shall execute a memorandum of revocation in such form as may be prescribed, which shall be lodged with the Land Registrar, together with the duplicate certificate of title.

(2) Upon receipt of such memorandum, the Land Registrar shall—

- (a) endorse a memorial thereof on the certificate of title relating to the land in question entered in the Register and its duplicate;
- (b) deliver the said duplicate, so endorsed, to the said proprietor.

(3) Where a power of attorney is revoked by the death, incapacity or bankruptcy of the donor, or, if the donor is a corporation, its winding-up or dissolution, the Land Registrar shall, upon production of such evidence as may be prescribed—

- (a) endorse a memorial of this fact on the certificate of title relating to the land in question entered in the Register and on its duplicate;
- (b) deliver the said duplicate, so endorsed, to the person entitled to such delivery.

(4) Where a person wishes to revoke any general power of attorney registered under section 95(4), he shall do so in accordance with the provisions of section 174 of the Land Law and Conveyancing Act, 1981, but after receipt by the Land Registrar of a notice, in such form as may be prescribed, of such revocation, the

Land Registrar shall not give effect to any memorandum of transfer or other instrument affecting registered land purported to be executed under such power of attorney.

PART XVIII

JUDGMENTS AND EXECUTION

97. (1) Where any memorandum of judgment or *lis pendens* is registered against a proprietor under the Remedies of Creditors Ordinance, the Land Registrar shall upon request made in such form as may be prescribed, endorse a caveat in accordance with the provisions of Part XIX on the certificate of title relating to the said proprietor's land entered in the Register and on its duplicate.

Caveat on registration of judgment or *lis pendens*
Ch. No. 2

(2) The Land Registrar shall, upon request made in such form as may be prescribed, endorse a similar caveat on re-registration of such memorandum under the said Ordinance.

(3) For the avoidance of doubt, it is hereby declared that registration of a judgment or *lis pendens* against the name of a proprietor in the Index of Judgments, Decrees, Orders and Rules or, as the case may be, in the Index of Memoranda of *Lis Pendens*, in accordance with section 18(2)(d) and (e), binds, and always has bound, the proprietor's registered land as if a caveat were endorsed on the certificate of title relating thereto under subsection (1), whether or not such a caveat is so endorsed.

98. (1) Where any registered land or any estate or interest therein is to be seized or sold under any writ, direction, decree or order of the court, an office copy of such writ, direction, decree or order shall be lodged with the Land Registrar.

Execution

(2) Upon receipt of such copy, the Land Registrar shall—

(a) endorse a memorial thereof on the certificate of title relating to the said land entered in the Register and on its duplicate, if it is produced for that purpose;

(b) deliver the said duplicate, if so produced, to the Registrar of the Court or other officer entitled to such delivery.

(3) Subject to section 97, until such endorsement is made, no such writ, direction, decree or order binds or affects the registered land and no sale of or other dealings with such land thereunder is valid as against a purchaser of such land, notwithstanding that he may have had notice of the issue of such writ, direction, decree or order.

(4) Upon such endorsement, the Registrar of the Court or other duly authorised officer shall execute such instruments and do such other acts and things as are necessary or proper, under the provisions of this Act, to transfer or otherwise deal with the registered land in accordance with the writ, direction, decree or order, and the said transfer or other dealing shall accordingly be registered under Part X.

(5) Every such writ, direction, decree or order shall be deemed to have lapsed unless executed and put into force within three months of endorsement of the memorial under subsection (2).

(6) Upon production of sufficient evidence of the satisfaction of any writ, direction, decree or order endorsed under subsection (2), the Land Registrar shall endorse a memorial of such satisfaction on the certificate of title endorsed under subsection (2) and its duplicate, if also so endorsed.

Forfeiture by State
Ch. 33. No. 7

99. (1) Where a warrant of forfeiture of State Land is issued under the Lands and Buildings Taxes Ordinance in respect of registered land, the Commissioner of State Lands shall lodge the same, or a duplicate or certified copy thereof, with the Land Registrar, together with such information as may be prescribed.

(2) Upon receipt of such warrant, or duplicate or copy, the Land Registrar shall cancel the certificate of title relating to the said land entered in the Register and its duplicate, which the Land Registrar may require the proprietor to produce for that purpose.

(3) Until such cancellation is made, no registered land is to be deemed to be forfeited.

(4) Where an acquittance is given by the Commissioner of State Lands in respect of registered land so forfeited, he shall lodge a notification thereof in such form as may be prescribed with the Land Registrar, together with such information as may be prescribed.

(5) Upon receipt of such notification, the Land Registrar shall endorse a memorial thereof on the certificate of title relating to the land in question entered in the Register and on its duplicate, if produced for that purpose and thereupon the cancellation of such certificate and duplicate is to be deemed to be annulled.

(6) Where any registered land so forfeited is regranted, the Commissioner of State Lands shall lodge the regrant with the Land Registrar, together with such information as may be prescribed.

(7) Upon receipt of such regrant, the Land Registrar shall—

- (a) issue a certificate of title which conforms with the regrant;
- (b) enter the original of such certificate in the Register in accordance with section 49;
- (c) deliver the duplicate of such certificate to the proprietor named therein or such other person as the proprietor directs.

100. (1) Where a warrant for sale is issued under the Rates and Charges Recovery Ordinance in respect of registered land, the Chairman shall lodge the same, or a duplicate or certified copy thereof, with the Land Registrar, together with such information as may be prescribed.

Sale by public
authority

Ch. 33. No. 8

(2) Upon receipt of such warrant, the Land Registrar shall—

- (a) endorse a memorial thereof on the certificate of title relating to the said land entered in the Register and on its duplicate, if it is produced for that purpose;

(b) deliver the said duplicate to the Chairman, the officer of the public authority or other person entitled to such delivery.

(3) Until such endorsement is made, no such warrant binds or affects the registered land and no sale or other dealing with such land thereunder is valid as against a purchaser of such land, notwithstanding that he may have had notice of the issue of such warrant.

Ch. 33. No. 8

(4) Upon such endorsement, the duly authorised officer shall carry out the sale or other dealing with the land in accordance with the warrant and the provisions of the Rates and Charges Recovery Ordinance, and such instruments shall be executed and such other acts and things shall be done as are necessary or proper, under the provisions of this Act, to transfer or otherwise deal with registered land and the said transfer or other dealing shall accordingly be registered under Part X.

(5) In this section—

Ch. 33. No. 8

- (a) “Chairman” has the meaning given by section 2 of the Rates and Charges Recovery Ordinance;
- (b) “public authority” means a body or person coming within section 3 of the said Ordinance.

PART XIX

CAVEATS

Lodgment of
caveat

101. (1) Any beneficiary or any other person claiming an estate or interest in registered land or under any unregistered instrument relating to such land may lodge a caveat with the Land Registrar forbidding the registration of any person as proprietor or transferee of the said land or of any instrument affecting such land either—

- (a) absolutely; or
- (b) until after notice of the intended registration is given to the person lodging the caveat or on whose behalf it is lodged (hereinafter called the “caveator”); or

- (c) unless the intended registration or the said instrument is expressed to be subject to the claim of the caveator as required in the caveat; or
 - (d) unless the caveator consents in writing to the intended registration.
- (2) Such a caveat shall—
- (a) be in such form as may be prescribed, and shall contain such particulars and information as may be prescribed;
 - (b) contain, if required by the Land Registrar, a statutory declaration as to the truth of the said particulars and information;
 - (c) be signed by the caveator or by his solicitor or counsel.
- (3) Such a caveat may be lodged on behalf of any person by order of the Land Commission or by decision of the Land Registrar in order to—
- (a) prohibit the transfer of or any other dealing with any land belonging to or supposed to belong to a person who is or is believed to be absent from the State or subject to any incapacity; or
 - (b) prohibit the transfer of or any other dealing with land in respect of which it appears that an error has been made in its description in the certificate of title or any other instrument relating to such land or that such land has been forfeited under the Lands and Building Taxes Ordinance or a warrant for sale has been issued under the Rates and Charges Recovery Ordinance in respect of it; or Ch. 33. No. 7
Ch. 33. No. 8
 - (c) prevent any fraud or other improper dealing with registered land;
 - (d) prohibit any dealing in any other case where it is considered by the Land Commission or the Land Registrar that such action is appropriate.
-

(4) Subject to section 109, any person lodging a caveat under this section or section 34 without reasonable cause is liable to make to any person who sustains damage thereby such compensation as may be just, and such compensation is recoverable by action in court as a debt due to the person sustaining the said damage.

(5) Subject to subsection (4), this Part does not apply to a caveat lodged under section 34.

Effect of caveat

102. (1) Upon receipt of a caveat lodged under section 101, the Land Registrar shall—

- (a) cause notice of its receipt to be served on the intended proprietor or transferee against whose registration it has been lodged or, as the case may be, on the proprietor against whose future dealings it has been lodged;
- (b) suspend further action in respect of such registration or, as the case may be, but subject to subsection (6), refuse to register any transfer or other instrument purporting to deal in any way with the estate of interest in respect of which the caveat is lodged, until such caveat—
 - (i) is withdrawn; or
 - (ii) lapses in accordance with subsection (2); or
 - (iii) becomes subject to an order of the Land Commission under subsection (4) or subsection (5).

but any person given notice under paragraph (a) or any person claiming under him or under any transfer or other instrument executed by him may apply to the Land Commission to compel the caveator or the person on whose behalf the caveat was lodged to show cause why it should not be removed and, on such application, the Land Commission may make such order, *ex parte* or otherwise, as it thinks appropriate.

(2) Except where the caveat is lodged under section 101(3), after the expiration of fourteen days from service of notice of an application to the Land Commission made under subsection (1), the caveat

lapses unless the caveator obtains, upon giving such security or indemnity as to damage which might result from delays in registration or in dealing with the registered land, an order of the Land Commission restraining the Land Registrar from taking further action in respect of such registration or registering such dealings for such period and on such conditions as the Commission may think fit to impose.

(3) On application, the Land Commission may extend the period of fourteen days specified in subsection (2).

(4) Where a caveator's application for an order of the Land Commission under subsection (2) is dismissed, the Commission shall, subject to such conditions as it may think fit to impose, make an order directing the Land Registrar to proceed with the registration against which the caveat is lodged.

(5) Without prejudice to the foregoing provisions, the intended proprietor or transferee against whom the caveat was lodged may apply to the Land Commission for an order compelling the caveator or the person responsible for the administration of his property to show cause why the caveat should not be removed, and in such case the Commission may make such order, upon such terms, as it thinks fit.

(6) Where a caveat has been lodged by or on behalf of a beneficiary claiming under a will or settlement, a change of proprietorship or a transfer or other dealing with or affecting the land, estate or interest in respect of which the caveat was lodged may, notwithstanding the provisions of subsection (1), be registered without the caveat being withdrawn or its operation being determined, provided the Land Registrar is satisfied that—

- (a) such change or transfer or other dealing is authorised by the will or settlement; and
 - (b) the caveator either consents in writing to such registration or fails to lodge an objection in writing against such registration within fourteen days after being served with notice as such caveator.
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PART XX

INSURANCE FUND AND COMPENSATION

Insurance Fund

103. (1) There shall be established a fund (hereinafter referred to as the "Insurance Fund") for the purposes stated in this Part.

(2) There shall be paid into the Insurance Fund such contributions and fees received by the Land Registrar and such other sums as may be prescribed.

(3) The Insurance Fund shall be kept, managed and invested by the Accountant General in such manner as the Minister for Finance may direct.

(4) If at any time the Insurance Fund is insufficient to meet any claim to be satisfied out of it under this Act, the deficiency is a charge on the Consolidated Fund, but any such amount shall be repaid as soon as the Insurance Fund is sufficient to repay it.

Claims against
Insurance Fund

104. (1) Subject to the remaining provisions of this Part, any person who—

(a) suffers loss or damage by reason of—

(i) any omission, mistake or misfeasance of the Land Registrar or any of his officers or clerks in the execution of their respective duties under this Act; or

(ii) registration of any other person as proprietor; or

(iii) any error, omission or misdescription in any certificate of title or any entry or memorial in the Register; and

(b) is barred from bringing an action of ejectment or for recovery of land by section 65;

may bring an action for recovery of damages against the Land Registrar as nominal defendant.

(2) Where the plaintiff succeeds in such action, the court shall issue a certificate, in such form as may be prescribed, certifying the amount of damages and costs awarded to the plaintiff.

(3) On production of such certificate, the plaintiff is entitled to payment of the amount certified out of the Insurance Fund.

(4) Where the defendant in any action is entitled to claim an indemnity against the Insurance Fund, the Land Registrar shall be joined as a co-defendant and he may defend the action jointly or severally or leave the defence to his co-defendant, as he sees fit.

(5) In no case is the Insurance Fund liable to the principal defendant for any greater damages than are actually awarded against him in the action, after he has used all reasonable diligence in the defence thereof.

105. (1) Any person deprived of land, who comes within section 65(3)(b), (c) and (d), may bring an action ^{Actions for damages} for damages against—

- (a) the person upon whose application the land was registered by fraud or misdescription, or erroneous registration was made, or who acquired title through such fraud, error or misdescription; or
- (b) where the fraud, error or misdescription occurred on a transfer for value, the transferor.

(2) Except where such fraud or error was occasioned by any omission, misrepresentation or misdescription in his application for registration or any instrument executed by him, a person who would otherwise be liable in damages under subsection (1), ceases to be so liable, upon a bona fide transfer for value of the registered land.

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

- (a) ceases to be liable under subsection (2); or
- (b) is dead; or
- (c) becomes bankrupt or insolvent; or

(d) cannot be found within the jurisdiction; the action may be brought against the Land Registrar as nominal defendant and any damages and costs awarded to the plaintiff shall be paid out of the Insurance Fund in accordance with the provisions of section 104(2) and (3).

(4) Where any damages or costs have been so paid out of the Insurance Fund, the amount paid on account of a person who—

(a) is dead may be recovered from his estate by action against his personal representatives in the name of the Land Registrar;

(b) has become bankrupt or insolvent shall be considered to be a debt due from his estate and a certificate signed by the Accountant General certifying the fact of such payment and delivered to the Official Receiver is sufficient proof of such debt;

(c) may have absconded or who cannot be found within the jurisdiction may—

(i) if such person left any real or personal property within the State, on the application of the Land Registrar to the Court and production of a certificate signed by the Accountant General certifying that the amount has been paid in satisfaction of a judgment against the State, be the subject of a judgment against such person for the amount so paid, together with the costs of the application and such judgment shall be taken to be a final judgment in respect of which execution may issue immediately;

(ii) if such person left no real or personal property within the State sufficient to satisfy the amount for which execution may have been so issued, be recovered by the Land Registrar, by action against such person at any time thereafter when he may be found within the jurisdiction.

(5) In the assessment of damages under this section, the value of all buildings and other improvements erected on or made to the land subsequently to the plaintiff's deprivation thereof shall be disregarded.

106. (1) In an action of ejectment or for recovery of land by a person coming within section 65(3)(b) and (c), the defendant may claim compensation for improvements to the said land made by him or any person through whom he claims since the certificate of title under which he holds was issued.

(2) Where the plaintiff succeeds in such action, the court—

- (a) may, if it thinks justice so requires, assess the value of such improvements and the value of the land without them;
- (b) upon the making of such assessment, shall require the plaintiff to pay into court, to be held for the defendant, a sum, less his costs (if any) in the action, equal to the value of the improvements;
- (c) shall not make any order for possession in the plaintiff's favour unless he makes such payment.

(3) If the plaintiff fails to make such payment within three months of the judgment in the plaintiff's favour, or such other time as the court may require, the defendant may return the land and improvements upon payment into court of a sum equal to the value of the land without the said improvements, plus the plaintiff's costs in the action.

(4) Upon such payment by the defendant, the plaintiff ceases to have any claim against the said land or improvements and has only a claim against the sum paid into court.

Limitation of
actions
1981 No.

107. (1) For the purpose of the Limitation Act, 1981, the limitation period for an action for damages under this Part is six years and, where, under section 31 of the said Act, that period is extended in the case of a disability, no action may be brought in such case after the expiration of thirty years from the date on which the right of action accrued.

(2) Where, in any action of ejection or for recovery of land under section 65 or for damages under this Part, based on the deprivation of land occasioned by its registration under Part V, it appears to the satisfaction of the court that the plaintiff, or any person through or under whom he claims, had notice or was aware of the application for such registration and wilfully, collusively or negligently omitted to lodge a caveat against such registration, or allowed such caveat to lapse, the court shall dismiss the action.

Cases where
Insurance Fund
not liable

108. (1) Subject to subsection (2), the Insurance Fund is not liable under any circumstances for compensation for any loss, damage or deprivation of land occasioned by—

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

(2) Subsection (1)(c) does not apply where the person liable for the compensation—

- (a) is dead;
- (b) has absconded;
- (c) has become bankrupt or insolvent;
- (d) is certified by the Marshal as unable to pay the full amount of any compensation or damages awarded in any action against him.

109. (1) The Land Registrar is not in his personal capacity, nor is any of his officers or other person acting under his authority, liable to any action, suit or proceeding for or in respect of any act or thing bona fide done or omitted to be done under this Act. Personal liability of Land Registrar

(2) Nothing in this section prejudices the liability of the State under the State Liability and Proceedings Act, 1966 in respect of any act or thing done or omitted to be done under this Act. 1966 No. 17

PART XXI

MISCELLANEOUS

110. (1) The Register, Map Index and any instrument or other document relating to registered land lodged or kept in the Land Registry may be inspected or examined personally only by those persons or officials, and subject to such conditions, as may be prescribed. Inspection and examination

(2) Upon the written request of any person in the prescribed form, the Land Registrar shall cause to be made and delivered to him a true and correct copy certified under his hand of any entry in the Register, Map Index or other document relating to registered land, but, subject to section 48, not a copy of any certificate of title.

111. (1) Personal searches may be made in the Register, Map Index and other records relating to registered land, and notes and extracts may be taken personally therefrom, only by those persons or officials, and subject to such conditions, as may be prescribed. Searches

(2) Upon the written request of any person in the prescribed form, the Land Registrar shall cause to be made such search of the Register, Map Index or other records relating to registered land as is specified in the request and shall then deliver, within such time as may be prescribed, to such person a certificate of search in the prescribed form.

(3) Subject to what may be prescribed, such a certificate of search may include, or have annexed or attached thereto, such copies of entries in the Register or Map Index or of any instrument or other document relating to registered land lodged or kept in the Land Registry as were specified in the request for the search or are necessary or convenient to indicate the result of the search.

(4) A certificate of search delivered to any person under this section—

(a) is conclusive, in favour of that person and any other person acting in reliance upon it, as to the information and particulars contained therein and is admissible in evidence accordingly;

(b) confers priority, in favour of such person, on any instrument transferring or otherwise dealing with the registered land lodged by him for registration before the expiry of four weeks, or such other period as may be prescribed, from the date of issue of the certificate, over any other such instrument registered or lodged for registration during that time.

(5) Any person who suffers loss or damage as a result of—

(a) any omission, mistake or misfeasance of the Land Registrar, or any other officer or clerk of the Land Registry, in making a search or copies of entries under this section; or

(b) any error or omission in a certificate of search delivered under this section;

may bring an action for recovery of damages under section 104.

(6) The Land Registrar shall file and keep duplicates in such form as may be prescribed of all certificates of search delivered under this section and shall also keep an index of such duplicates in such manner as may be prescribed.

(7) Upon the written request of any person in the prescribed form, the Land Registrar shall deliver to such person a copy certified under his hand of such duplicate certificate of search.

(8) Subsections (4)(a) and (5) apply to such a copy of a duplicate certificate of search as they apply to the original certificate of search.

112. Subject to the provisions of this Act and any rules or regulations made thereunder and without prejudice to any power specifically provided for by this Act, the Land Registrar may, in order to give full effect to the provisions of this Act relating to registered land—

- (a) required production of deeds, instruments and other documents relating to—
 - (i) land intended to be registered under Part V;
 - (ii) registered land;
 - (iii) any transfer of or other dealing with or transmission of registered land;and the furnishing of particulars and information relating thereto;
- (b) require appearance of any person having any estate or interest in registered land or land intended to be registered under Part V, or making, or concurring in the making of, any application in respect of such land, before him to give an explanation about any matter relating to such land or the said estate or interest or application;
- (c) administer oaths or take statutory declarations in lieu thereof;
- (d) refuse to accept any instrument or other document relating to land intended to be registered under Part V or registered land which does not conform substantially with the prescribed form or, in his opinion, is not suitable for registration purposes, but subject to a power to alter or vary the form or terms of such an instrument or document so as to secure such conformity and to facilitate speedy registration;

- (e) refuse to proceed with an application for registration under section 33 or for registration of a transfer or other dealing with registered land where the applicant withholds an instrument or information which the Land Registrar considers to be material;
- (f) provide facilities for giving advice or information to any interested person or the general public concerning the functioning of the Land Registry and the operation of this Act;
- (g) exercise all powers necessary or incidental to the proper exercise of any power vested in him;
- (h) exercise any other power conferred, or do any other thing prescribed by regulations made under section 117 which is necessary or convenient to facilitate the operation of this Act.

**Powers of Land
Commission**

113. Subject to the provisions of this Act and any rules or regulations made thereunder and without prejudice to any power specifically provided for by this Act, the Land Commission may—

- (a) in making an order concerning registered land, direct the Land Registrar to cancel any certificate of title, instrument, memorial or entry and to substitute such certificate of title or entry or to make such other entry as the circumstances of the case require and to take any other steps necessary to correct frauds, errors and omissions or to facilitate first registration of land or any transfer of or other dealing with or transmissions of registered land;
- (b) direct the Land Registrar to suspend any registration or the taking of any steps in relation to registered land pending any appeal or other reference to the Land Commission;

- (c) give the Land Registrar any other directions necessary or convenient to further the operation of this Act.

114. (1) Any person who—

Offences

- (a) fraudulently procures, assists in such procuring of, or is privy thereto, any certificate of title, entry in the Register or any erasure or alteration in any such entry or in any instrument or form issued by the Land Registrar;
- (b) fraudulently uses, assists in such use of, or is privy thereto, any form purporting to be issued or sanctioned by the Land Registrar;

is guilty of an offence and is liable on conviction to a fine of twenty thousand dollars, or to imprisonment for three years, or both.

(2) Any person who, upon written request, refuses or wilfully neglects to produce any deed, instrument or other document relating to land intended to be registered under Part V or registered land, or knowingly misleads or deceives any person authorised to require the production of information or the giving of explanations relating to land intended to be registered or any transfer or other dealing or transmission of registered land is guilty of an offence and is liable on conviction to a fine of five thousand dollars, or to imprisonment for six months, or both.

(3) Such an offence may be prosecuted in the name of the Land Registrar.

(4) Any certificate of title, entry, erasure or alteration so procured or made by fraud is void as against all persons who are parties or privy to the fraud.

(5) Nothing in this section prejudices any remedy which any aggrieved party may have at law or in equity against the person convicted of an offence thereunder.

PART XXII

GENERAL PROVISIONS

Fees

115. (1) The Minister may by order, subject to affirmative resolution of the House of Representatives, prescribe fees to be charged by the Land Registrar for the following matters, that is to say—

- (a) registration of deeds or other documents under Part IV;
- (b) registration of titles under Part V;
- (c) issue of certificates of title and duplicate certificates of title in accordance with Part VI;
- (d) the making of entries in the Register in accordance with Part VII and giving effect to any instrument concerning registered land and any transfer or other matter relating to registered land referred to in Parts X to XVIII;
- (e) lodgment of caveats under Part XIX;
- (f) inspection and examination of records and other matters, and delivery of copies thereof, under sections 22 and 110;
- (g) searches and issue of certificates of search under sections 23 and 111.

(2) In addition to such fees, the Land Registrar shall charge the cost of any notices or advertisements required to be served, published or displayed under this Act.

(3) Subject to such regulations as may be made, the Land Registrar shall keep a book (to be known as the "Fee Book") in his office in which he shall enter or cause to be entered, from day to day, all fees and other sums received by him under this Act, the names of the persons from whom, and the service or duty for which, such fees or other sums respectively have been received.

(4) On the expiration of each month, the Land Registrar shall sign his name at the end of the entries made during the month in proof of the correctness of such entries.

(5) Subsections (3) and (4) take effect subject to any regulations which may be made with respect to the Fee Book.

(6) Any fees or other sums to be paid, or declared to be due or owing, under this Act may be recovered in the manner provided in the State Suits Ordinance. Ch. 5. No. 1

116. (1) Subject to subsection (2), the Land Registry shall be kept open for the transaction of business by the public during such hours as may be prescribed. Office hours

(2) The Land Registry shall be kept closed to the public on Saturdays, Sundays, all public holidays and such other days as may be prescribed.

117. (1) The Minister may make rules or regulations governing any matter to be prescribed under this Act or respecting any matter necessary or convenient to carry out effectively the intent and purposes of this Act. Rules or regulations

(2) Without prejudice to the generality of subsection (1), the Minister may make rules or regulations—

- (a) for the management and administration of the Land Registry, including all registers, indexes, plans, instruments, books, documents and records to be kept therein;
- (b) prescribing the minimum and maximum dimensions of any instrument lodged for registration;
- (c) respecting the quality of writing and material used in such instruments;
- (d) prescribing forms and providing for their use;
- (e) governing the making and keeping of registers and indexes, the making of entries therein and the taking of copies or extracts therefrom;
- (f) prescribing methods and standards of recording by photographic film, microfilm or use of other recording technology and providing for storage thereof;

- (g) respecting admission of the public or officials to the use of records, the conduct of searches and the making and certifying of searches, copies and extracts;
- (h) respecting the costs and expenses of complying with the provisions of Part V;
- (i) prescribing the nature and type of map or plan necessary for any purpose concerning registered land or land to become registered land.

(2) Such rules or regulations may provide that any person contravening any provision thereof is liable on summary conviction to a fine of five thousand dollars.

Notices

1981 No. 20

118. Subject to any order of the Land Commission or court, the provisions of section 186 of the Land Law and Conveyancing Act, 1981, apply to notices to be served or given under this Act as they apply to notices to be served or given under that Act.

Rules of court

1962 No. 12

119. Rules of court may be made by the Rules Committee under section 76 of the Supreme Court of Judicature Act, 1962, for regulating the practice and procedure in respect of proceedings of any kind under this Act.

Professional charges

120. Provision may be made under section 117 as to the fees which may be charged by barristers and solicitors for professional work done in respect of matters relating to this Act.

Saving as to Registrar General's functions

121. Nothing in this Act affects the functions of the Registrar General under any enactment not repealed or amended by this Act, but the Minister may make rules or regulations under section 117 governing the continued discharge or exercise of those functions.

Repeals and amendments First Schedule

122. (1) The enactments specified in the first column of the First Schedule are repealed to the extent specified in the second column thereof.

Second Schedule

(2) The enactments specified in the first column of the Second Schedule are amended in the manner specified in the second column thereof.

(3) All statutes of general application of the Imperial Parliament relating to the subject-matter of this Act and still in force in the State by virtue of section 12 of the Supreme Court of Judicature Act, 1962 No. 12 1962, are repealed to the extent that they so relate.

123. References in any document to any provision repealed by this Act shall be construed as references to the corresponding provision of this Act. Adaptation of references

124. Subject to section 194(2) of the Land Law and Conveyancing Act, 1981, which applies to this Act as it applies to that Act, this Act binds the State. Application to the State 1980 No. 20

125. (1) Subject to such regulations as may be made— Transitional provisions

- (a) all registers, indexes, maps, plans, instruments, books, documents and records relating to land brought under the Real Property Ordinance or land in respect of which deeds or other documents have been registered under the Registration of Deeds Ordinance or the Tobago Deeds Ordinance and kept at the commencement of this Act in the office of the Registrar General shall be deemed to belong to the Land Registry and shall be preserved and continued in operation; Ch. 27. No. 11 Ch. 28. Nos. 2 and 3
- (b) all moneys belonging to the Assurance Fund kept under the Real Property Ordinance shall be deemed to belong to the Insurance Fund established under this Act; Ch. 27. No. 11

and the provisions of this Act apply thereto accordingly.

(2) Nothing in subsection (1) restricts the power of the Minister to make regulations in order to secure the transfer of the items referred to in that subsection to the Land Registry and to make such adaptations and modifications as may be necessary to ensure that the provisions of this Act are complied with.

FIRST SCHEDULE

REPEALS

[Section 122(1)]

FIRST COLUMN	SECOND COLUMN
<i>Enactment</i>	<i>Extent of Repeal</i>
Real Property Ordinance, Ch. 27. No. 11	The whole Ordinance.
Registrar General Ordinance, Ch. 28. No. 1	Section 4 and, so far as they relate to registration of deeds or other documents affecting unregistered land, sections 5 to 10 and the Schedule.
Registration of Deeds Ordinance, Ch. 28. No. 2	The whole Ordinance so far as it relates to registration of deeds or other documents affecting unregistered land.
Tobago Deeds Ordinance, Ch. 28. No. 3	The whole Ordinance so far as it relates to registration of deeds or other documents affecting unregistered land.
Registration of Deeds (Amendment) Ordinance, No. 20 of 1952	The whole Ordinance.
Registration of Deeds (Amendment) Ordinance, No. 22 of 1955	The whole Ordinance so far as it relates to registration of deeds or other documents affecting unregistered land.
Real Property (Amendment) Ordinance, No. 25 of 1955	The whole Ordinance.
Law Reform (Property) Act, No. 51 of 1976	Section 5 so far as it relates to registration of deeds or other documents affecting unregistered land.
Registration of Deeds (Amendment) Act, No. 7 of 1977	The whole Act so far as it relates to registration of deeds or other documents affecting unregistered land.

SECOND SCHEDULE

[Section 122(2)]

AMENDMENTS

FIRST COLUMN

SECOND COLUMN

*Enactment**Extent of Amendment*

Forgery Ordinance,
Ch. 4. No. 12

In section 5(3)(m) insert the words "or Land Registrar" after the words "Registrar General".

In section 8(2) insert after paragraph (a) a new paragraph (aa) as follows:
"(aa) the seal of the Land Registrar;"

Remedies of Creditors
Ordinance,
Ch. 6. No. 2

In sections 7, 9, 10, and 65 substitute the words "Land Registrar" for the words "Registrar General" wherever they appear.

In sections 38 and 49 substitute the words "subject as to registered land to the provisions of the Land Registration Act, 1981" for the words in brackets.

In section 55 substitute the words "Land Registration Act, 1981" for the words "Real Property Ordinance".

In section 66 substitute—

- (i) the words "under section 33 of the Land Registration Act, 1981, for registration of the title to such land" for the words "under sections 8 and 9 of the Real Property Ordinance, for such land to be brought under the provisions of the said Ordinance";
- (ii) the words "such form as is prescribed under such Act" for the words "Form A of the First Schedule to such Ordinance";
- (iii) the words "the said section 33" for the words "section 10 of the said Ordinance";

In section 67 substitute—

- (i) the words "Land Registrar" for the words "Registrar General" wherever they appear;

SECOND SCHEDULE—CONTINUED

FIRST COLUMN	SECOND COLUMN
<i>Enactment</i>	<i>Extent of Amendment</i>
	<ul style="list-style-type: none"> (ii) the words “section 33(1) of the Land Registration Act, 1981” for the words “paragraphs (a) and (b) of section 8 of the Real Property Ordinance respectively”; (iii) the words “sections 35 and 112(a) and (b) of the said Act” for the words “section 12 of the said Ordinance”; (iv) the words “section 101(3)” for the words “paragraph (e) of the said section 6”.
	<p>In section 68 substitute—</p> <ul style="list-style-type: none"> (i) the words “to elapse under section 36(2)(a) of the Land Registration Act, 1981” for the words “appointed under sections 14 and 15 of the Real Property Ordinance”; (ii) the words “Land Registrar” for the words “Registrar General”.
	<p>In section 70 substitute—</p> <ul style="list-style-type: none"> (i) the words “under section 34 of the Land Registration Act, 1981” for the words “as in section 22 of the Real Property Ordinance prescribed”; (ii) the words “the said section 34” for the words “section 24 of the said Ordinance”; (iii) the words “under the said section 34” for the words “as in section 22 of the said Ordinance prescribed”.
<p>Bankruptcy Ordinance, Ch. 6. No. 6</p>	<p>In section 56(4) substitute the words “registered land” for the words “land registered under the Real Property Ordinance”. In sections 123 to 125 substitute the words “Land Registrar” for the words “Registrar General” wherever they appear. In section 124 substitute the words “Land Registration Act, 1981” for the words “Real Property Ordinance”.</p>
<p>Solicitors Ordinance, Ch. 7. No. 4</p>	<p>In section 41 substitute the words “Land Registration Act, 1981” for the words “Real Property Ordinance” and the word “Act” for the word “Ordinance” where it next appears.</p>

SECOND SCHEDULE—CONTINUED

FIRST COLUMN	SECOND COLUMN
<i>Enactment</i>	<i>Extent of Amendment</i>
Evidence Ordinance, Ch. 7. No. 9	<p>In section 28 insert the words “or the Land Registry” after the words “Registrar General’s Department”. In the Second Schedule insert—</p> <p>(i) in the first column the words “Land Registry” after the words “(Registrar General Department)”;</p> <p>(ii) in the second column the words “Land Registrar, Deputy Land Registrar, Assistant Land Registrar” after the words “Delegate of the Registrar General (Tobago)”.</p>
Waterworks and Water Conservation Ordinance, Ch. 15. No. 2	<p>In section 56 substitute—</p> <p>(i) in subsections (5), (7), and (8) the words “Land Registrar” for the words “Registrar General” wherever they appear;</p> <p>(ii) in sub-section (7) the words “registered land” for the words “held under the Real Property Ordinance”.</p>
Aliens (Landholding) Ordinance, Ch. 21. No. 3	<p>In sections 4(1) and 4A(1) substitute the words “Land Registrar” for the words “Registrar General”.</p>
Agricultural Contracts Ordinance, Ch. 23. No. 6	<p>In section 4(1) substitute the words “registered land” for the words “subject to the provisions of the Real Property Ordinance”.</p> <p>In section 18(2), 19, 20(1), 21 and 24(2) substitute the words “Land Registrar” for the words “Registrar General” wherever they appear.</p> <p>In sections 21 and 33 substitute the words “Land Registry” for the words “office of the Registrar General” wherever they appear.</p>
Farmers Advances Ordinance, Ch. 23. No. 10	<p>In section 7 substitute the words “under the Land Registration Act, 1981” for the words “in the office of the Registrar General or under the Real Property Ordinance”.</p>

SECOND SCHEDULE—CONTINUED

FIRST COLUMN	SECOND COLUMN
<i>Enactment</i>	<i>Extent of Amendment</i>
Pipe-lines Ordinance, Ch. 26, No. 9	<p>In section 8(5) and (6) substitute—</p> <ul style="list-style-type: none"> (i) the words “Land Registrar” for the words “Registrar General” wherever they appear; (ii) the words “registered land” for the words “lands under the Real Property Ordinance” wherever they appear; (iii) the words “Land Registration Act, 1981” for the words “Real Property Ordinance” where they appear for the second time in subsection (5); <p>and delete the word “Book” wherever it appears.</p> <p>In section 10 substitute—</p> <ul style="list-style-type: none"> (i) in subsection (4) the words “Land Registrar” for the words “Registrar General” wherever they appear; (ii) in subsection (6) the words “Land is registered land, the Land Registrar” for the words “Lands are held by title under the Real Property Ordinance, the Registrar General”; (iii) in subsection (7) substitute the words “Land Registrar” for the words “Registrar General” wherever they appear, and the words “land is registered land” for the words “lands are under the Real Property Ordinance”. <p>In sections 12 and 13 substitute the words “Land Registration Act, 1981” for the word “Real Property Ordinance” wherever they appear.</p> <p>In the Note to Form B in the Schedule substitute the words “land is registered land” for the words “lands are under the Real Property Ordinance”.</p> <p>In the Form C in the Schedule substitute the words “<i>where registered land state reference to the Register</i>” for the words “<i>under the Real Property Ordinance state reference to the Real Property Register</i>” which appear in square brackets,</p>

SECOND SCHEDULE—CONTINUED

FIRST COLUMN	SECOND COLUMN
<i>Enactment</i>	<i>Extent of Amendment</i>
<p>Land Surveyors Ordinance, Ch. 27. No. 2</p>	<p>In section 14(2)(g) substitute the words "registered under the Real Property Ordinance or are intended to be registered under the Land Registration Act, 1981" for the words "or are intended to be registered under the Real Property Ordinance" and "Act No. 24 of 1981" for the marginal note.</p> <p>In the Second Schedule substitute—</p> <p>(i) a new heading to Part VII of the Land Surveyors Rules as follows:— "Survey of Unregistered Land";</p> <p>(ii) a new heading to Part VIII of the Land Surveyors Rules as follows:— "survey of Registered Land or Land to become Registered Land" and delete the marginal note;</p> <p>(iii) in rule 68 substitute the words "register the title to land under Part V of the Land Registration Act, 1981" for the words "have land brought under the provisions of the Real Property Ordinance";</p> <p>(iv) in rule 70 (b) substitute the words "the title to which is registered under Part V of the Land Registration Act, 1981" for the words "brought under the provisions of the Real Property Ordinance";</p> <p>in rule 70 (c) substitute—</p> <p>(a) the words "the title to which is registered under the said Part" for the words "brought under the provisions of the said Ordinance" where they first appear;</p> <p>the words "the title to a portion only of any land as first alienated by the State is registered under the said Part" for the words "only a portion of any land as first alienated by the Crown is brought under the provisions of the said Ordinance";</p>

SECOND SCHEDULE—CONTINUED

FIRST COLUMN	SECOND COLUMN
<i>Enactment</i>	<i>Extent of Amendment</i>
	(vi) in rules 72, 74, 75, 78 and 79 substitute the words "Land Registrar" for the words "Registrar General" wherever they appear;
	(vii) in rule 78 substitute—
	(a) the words "registered land" for the words "land previously brought under the provisions of the Real Property Ordinance" and delete the marginal note;
	(b) the words "the boundaries as shown when the land was originally registered" for the words "the original boundaries as brought under the provisions of the Real Property Ordinance";
	(viii) in rule 82 substitute the words "registered land" for the words "lands placed under the provisions of the Real Property Ordinance" and delete the marginal note.
State Lands Ordinance, Ch. 27. No. 5	In section 10 substitute—
	(i) the words "Land Registrar" for the words "Registrar General" wherever they appear;
	(ii) in subsection (1) the words "Land Registration Act, 1981" for the words "Real Property Ordinance".
State Grants and Leases (Re-issue) Ordinance, Ch. 27. No. 6	In section 2(3) substitute the words "Land Registry" for the words "office of the Registrar General".
Income Tax Ordinance, Ch. 33. No. 1	In section 61(2) substitute—
	(i) in paragraph (a) the words "registered land" for the words "land under the Real Property Ordinance" and the words "Land Registration Act, 1981" for the words "said Ordinance";
	(ii) in paragraph (b) the words "Land Registrar" for the words "Registrar General".

SECOND SCHEDULE—CONTINUED

FIRST COLUMN	SECOND COLUMN
<i>Enactment</i>	<i>Extent of Amendment</i>
Stamp Duty Ordinance, Ch. 33. No. 4	<p>In section 25(2) substitute—</p> <ul style="list-style-type: none"> (i) the words “registered land and partly to unregistered land” for the words “lands subject to the provisions of the Real Property Ordinance and partly to lands not subject to the provisions of the said Ordinance”; (ii) the words “Land Registration Act, 1981” for the words “Real Property Ordinance” where they next appear; (iii) the word “Act” for the word “Ordinance” where it next appears; (iv) the words “Land Registration Act, 1981” for the words “Real Property Ordinance” where they next appear; <p>and substitute in the marginal note the words “registered land” for the words “under the Real Property Ordinance”.</p> <p>In section 64(3) substitute the words “Land Registrar” for the words “Registrar General”.</p> <p>In section 72 substitute the words “Land Registry” for the words “office of the Registrar General”.</p>
Lands and Buildings Taxes Ordinance, Ch. 33. No. 7	<p>In section 8 substitute—</p> <ul style="list-style-type: none"> (i) the words “Land Registrar under the Land Registration Act, 1981” for the words “Registrar General under the Real Property Ordinance”; (ii) in paragraph (b) the words “Register kept by the Land Registrar where the land is registered land” for the words “Real Property Register kept by the Registrar General, where such lands are under the provisions of the Real Property Ordinance”. <p>In section 28 substitute the words “Land Registry, where no fee is payable” for the words “office of the Registrar General, who shall receive no fee”.</p> <p>In section 29 substitute the words “Land Registry” for the words “office of the Registrar General”.</p>