



**SAINT LUCIA**

## **CHAPTER 5.01**

# **LAND REGISTRATION ACT**

### **Revised Edition**

Showing the law as at 31 December 2008

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

### **LAND REGISTRATION ACT**

Act 12 of 1984.. in force 15 July 1985 (S.I.36/1985)

Amended by Act 7 of 1986 .. in force 2 August 1986

Amended by Act 2 of 1987 .. in force 21 March 1987

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## CHAPTER 5.01

# LAND REGISTRATION ACT

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## CHAPTER 5.01

### LAND REGISTRATION ACT

(Acts 12 of 1984, 7 of 1986, 2 of 1987, 5 of 1987, 16 of 1989, 21 of 2 000 and 19 of 2006)

AN ACT to make provision for registration of land and for dealing in land so registered and for connected purposes.

Commencement [15 July 1985]

### PART 1 PRELIMINARY

#### 1. SHORT TITLE

This Act may be cited as the Land Registration Act.

#### 2. INTERPRETATION

In this Act, except where the context otherwise requires—

“**application book**” means the application book referred to under section 4(d);

“**consideration**” has the same meaning as in article 917A of the Civil Code;

“**Court**” save as is otherwise expressly provided, means the High Court of Saint Lucia;

“**creditor**” means the proprietor of a hypothec;

“**curator**” has the same meaning as explained in Chapter Third of Book Tenth, article 297 *et seq.* of the Civil Code;

“**dealing**” includes disposition and transmission;

“**debtor**” means the proprietor of hypothecated property;

“**disposition**” means any act *inter vivos* by a proprietor whereby his or her rights in or over his or her land, lease or hypothec are affected, but does not include an agreement to transfer, lease or hypothecate such land;

“**to file**” means to place in the relative parcel file;

“**hypothec**” has the same meaning as in article 1908 of the Civil Code;

“**income**” has the same meaning as in article 2141 of the Civil Code;

“**instrument**” includes any deed, judgment, decree, order or other document requiring or capable of registration under this Act;

“**interest in land**” includes ownership of land;

“**land**” means immovable property as defined in article 335 of the Civil Code;

“**Land Register**” means the Land Register compiled under Division 2 of Part 2;

“**lease**” has the same meaning as in article 1509 of the Civil Code;

“**legal practitioner**” means a person who has been admitted to practise under the Legal Profession Act and who is ordinarily resident in Saint Lucia and is entitled to practise at the bar;

“**lessee**” means the holder of a lease;

“**lessor**” means the proprietor of leased land;

“**Minister**” means the Minister having responsibility for Planning and Development; (*Amended by Act 7 of 1986*)

“**minor**” has the same meaning as in article 213 of the Civil Code;

“**parcel**” includes—

- (a) an area of land separately delineated on the Registry map and given a number;
- (b) an existing unit of a building declared to be a condominium in accordance with the Condominium Act and given a number; and
- (c) an existing unit of a building formed from the horizontal or vertical division of a building and given a number;

“**personal representative**” means executor of the will or administrator of the estate;

“**proprietor**” means the person registered under this Act as the owner of land or a lease or a hypothec;

“**proprietor in common**” means the owner of an undivided share in land or in any interest in land;

“**the register**” means the leaf of the Land Register kept in respect of a parcel of land or of a registered lease;

“**to register**” means to make an entry, note or record in the register under this Act, and “registered”, “unregistered” and “registration” bear corresponding meanings;

“**Registrar**” means the Registrar of Lands appointed under section 5;

“**registration section**” means a registration section established under section 14;

“**Registry**” means the land registry established under section 4;

“**Registry Map**” means the map or series of maps referred to in section 14;

“**servitude**” has the same meaning as in article 449 of the Civil Code;

“**transfer**” means the passing of land, a lease or a hypothec by act of the parties and not by operation of law, and also the instrument by which such passing is effected but does not include an agreement to transfer;

“**transmission**” means the passing of land, a lease or a hypothec from one person to another by operation of law on death or insolvency or otherwise and includes the compulsory acquisition of land under any written law;

“**trust for sale**” has the same meaning as in article 2141 of the Civil Code;

“**trustee**” includes a personal representative;

“**tutor**” has the same meaning as explained in Chapter Second of Book Ninth, article 217 *et seq.* of the Civil Code.

*(Amended by Act 19 of 2006)*

### 3. APPLICATION OF THIS ACT

The provisions of this Act shall apply only to land, interests in land, or dealings in land, registered under this Act.

However, except where a contrary intention appears, this Act shall not be construed as permitting any dealing which is forbidden by the express provisions of any other law or as overriding any provision of any other law requiring the consent or approval of any authority to any dealing. (*Substituted by Act 2 of 1987*)

## PART 2

### ORGANIZATION AND ADMINISTRATION

*Division 1 — Land Registries and Officers*

### 4. REGISTRATION DISTRICT

For the purposes of this Act there shall be established and maintained at Castries a land registry in which there shall be kept—

- (a) a register, to be known as the Land Register, in accordance with Division 2 of this Part;
- (b) a map to be known as the Registry Map, in accordance with Division 3 of this Part;
- (c) parcel files containing the instruments which support subsisting entries in the Land Register and any filed plans and documents;
- (d) a book to be known as the application book in which shall be kept a record of applications numbered consecutively in the order in which they are made at the registry;
- (e) an index, in alphabetical order, of the names of the proprietors of land, leases and hypothecs showing the numbers of the parcels in which they are interested; and
- (f) a register and file of powers of attorney.

### 5. ADMINISTRATION OF LAND REGISTRY

- (1) The Public Service Commission shall appoint—

[*The next page is page 10A*]

- (a) a Registrar of Lands who shall be responsible for administering the Land Registry in accordance with this Act;
  - (b) a Deputy Registrar of lands who shall, in the absence of the Registrar, be responsible for administering the Land Registry in accordance with this Act; and
  - (c) as many Assistant Registrars of Lands as may appear necessary.
- (2) The Registrar or, in the Registrar's absence, the Deputy Registrar may—

*[The next page is page 11]*



- (a) without divesting himself or herself of any of his or her powers or duties, authorise an Assistant Registrar to exercise and perform any such powers or duties; and
  - (b) at any time revoke an authorisation given under paragraph (a).
- (3) An authorisation or revocation made under subsection (2) shall be in writing.

*(Amended by Acts 5 of 1987, 2 of 1987, 7 of 1986 and 21 of 2000)*

## **6. GENERAL POWERS OF REGISTRAR**

The Registrar may exercise the following powers in addition to any other powers conferred on him or her by this Act, that is to say—

- (a) he or she may require any person to produce any instrument, certificate or other document or plan relating to the land, lease or hypothec in question, and that person shall produce the same;
- (b) he or she may summon any person to appear and give any information or explanation respecting land, a lease or a hypothec, or any instrument, certificate or other document or plan relating to the land, lease or hypothec in question, and such person shall appear and give such information or explanation;
- (c) he or she may refuse to proceed with any registration if any instrument, certificate or other document, plan, information or explanation required to be produced or given is withheld or any act required to be performed under this Act is not performed;
- (d) he or she may administer oaths or take a declaration in lieu thereof, and may require that any proceedings, information or explanation shall be verified on oath or by statutory declaration;
- (e) he or she may order that the costs, charges and expenses incurred by him or her or by any person in connection with any investigation or hearing held by him or her for the purpose of this Act shall be borne and paid by such person in such manner and in such proportions as he or she may think fit, and the amount of any such costs, charges and expenses as shall have been incurred by the

Registrar shall be deemed to be a fee to which the provisions of sections 112 and 113 shall apply.

## **7. INDEMNITY OF OFFICERS**

The Registrar shall not, nor shall any other officer of the Registry, be liable to any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith in the exercise or supposed exercise of the powers under this Act, or any regulations made thereunder.

## **8. SEAL OF REGISTRY**

The Registry shall have a seal, and every instrument purporting to bear the imprint of such seal shall be received in evidence and, unless the contrary is shown, shall be deemed without further proof to be issued by or under the direction of the Registrar.

### *Division 2 — The Land Register*

## **9. THE LAND REGISTER AND THE LAND ADJUDICATION ACT**

- (1) The Land Register shall comprise a register in respect of every parcel which has been adjudicated in accordance with the Land Adjudication Act and a register in respect of each lease required by this Act to be registered.
- (2) Each register shall show whether the land is private land or Crown Land and, in respect of private land, whether the title is absolute or provisional, and shall be divided into 3 sections as follows—
  - (a) the property section, containing a brief description of the land or lease, together with particulars of its appurtenances and, where the title is provisional, of the information recorded in the adjudication record under section 16(1)(d) of the Land Adjudication Act and a reference to the Registry Map and filed plan, if any;
  - (b) the proprietorship section, containing the name, and, where possible, address of the proprietor and a note of any inhibition, caution or restriction affecting his or her right of disposition;

- (c) the encumbrances section, containing a note of every encumbrance and every right adversely affecting the land or lease.
- (3) An entry not shall be required in the proprietorship section of land which is described as Crown Land.

## **10. COMPILATION OF THE LAND REGISTER**

Whenever an adjudication record has become final under section 23 of the Land Adjudication Act and the adjudication officer has delivered the adjudication record to the Registrar, the Registrar shall prepare a register for each parcel shown in the adjudication record and for any lease required to be registered, and shall register therein any of the particulars in the adjudication record which requires registration.

## **11. REGISTRATION**

- (1) The first registration of any parcel shall be effected by the preparation of a register in accordance with the provision of section 9 and the signing by the Registrar of the particulars of the ownership and the particulars of encumbrances, if any, appearing thereon.
- (2) Every subsequent registration shall be effected by an entry in the register in such form as the Registrar may direct, and by the cancellation of the entry, if any, which it replaces.

## **12. CANCELLATION OF OBSOLETE ENTRIES**

The Registrar may cancel any entry in the register which he or she is satisfied has ceased to have any effect.

## **13. NEW EDITIONS OF REGISTER**

The Registrar may at any time open a new edition of a register showing only subsisting entries and omitting therefrom all entries that have ceased to have any effect.

#### **14. REGISTRY MAP AND LAND ADJUDICATION**

- (1) The Registry Map shall be compiled from the demarcation maps made under the Land Adjudication Act and shall be divided into registration sections which, so far as is possible, shall have the same boundaries and names as the adjudication sections, and shall be divided into blocks which shall be given the same letters or numbers or combinations of letters and numbers as are given on the demarcation maps.
- (2) The parcels in each registration section or block shall be numbered consecutively following the numbering in the adjudication proceedings, and the name of the registration section and the number of the parcel shall together be a sufficient reference to any parcel.
- (3) The Registrar may, at any time, cause registration sections or blocks to be combined or divided, or cause their boundaries to be varied.
- (4) A plan may be filed in respect of a particular parcel to augment the information available from the registry map, and the filing of the plan shall be noted in the register.

#### **15. CORRECTION OF THE REGISTRY MAP AND NEW EDITIONS**

- (1) The Registrar may cause to be made a survey of any land for the purposes of this Act and, after informing every person affected thereby, may cause the Registry Map to be corrected as a result of such survey.
- (2) The Registrar may, at any time, direct the preparation of a new Registry Map or any part thereof, and there may be omitted therefrom any matter which the Registrar considers obsolete.

#### **16. MUTATION**

- (1) On the application of a proprietor of land, and subject to the agreement of all persons affected thereby, the Registrar may order alteration of the Registry Map, but no such alteration shall be effected except on the instructions of the Registrar in writing in the prescribed form, to be known as a mutation form and the mutation form shall be filed.

- (2) Whenever the boundary of a parcel is altered on the Registry Map, the parcel number shall be cancelled and the parcel shall be given a new number.

## **17. GENERAL BOUNDARIES**

- (1) Except where, under section 18, it is noted in the register that the boundaries of a parcel have been fixed, the Registry Map and any filed plan shall be deemed to indicate the approximate boundaries and the approximate situation only of the parcel.
- (2) Where any uncertainty or dispute arises as to the position of any boundary, the Registrar, on the application of any interested party, shall, on such evidence as the Registrar considers relevant, determine and indicate the position of the uncertain or disputed boundary.
- (3) Where the Registrar exercises the power conferred by subsection (2), he or she shall make a note to that effect on the Registry Map and in the register and shall file such plan or description as may be necessary to record his or her decision.
- (4) Except where, as aforesaid, it is noted in the register that the boundaries of a parcel have been fixed, the Court or the Registrar may, in proceedings concerning the parcel, receive such evidence as to its boundaries and situation as it or he or she thinks fit.

*(Amended by Act 2 of 1987)*

## **18. FIXED BOUNDARIES**

- (1) If the Registrar in his or her discretion considers it desirable to indicate on a filed plan, or otherwise to define in the register, the precise position of the boundaries of a parcel or any parts thereof, or if any interested person makes application to the Registrar, the Registrar shall give notice to the owners and occupiers of the land adjoining the boundaries in question of the intention to ascertain and fix the boundaries.
- (2) The Registrar shall, after giving all persons appearing by the register to be affected an opportunity of being heard, cause to be defined by a survey the precise position of the boundaries in question, file a plan containing the necessary particulars and make a note in the register that the boundaries have been fixed,

and thereupon the plan shall be deemed to define accurately the boundaries of the parcel.

## **19. MAINTENANCE OF BOUNDARY FEATURES**

- (1) Every proprietor of land shall maintain in good order any features which demarcate his or her boundaries, whether established under the requirements of any other law or under an order of the Registrar or of the proprietor's own accord.
- (2) The Registrar may in writing order the demarcation within a specified time of any boundary in such permanent manner as he or she may direct, and any person who fails to comply with such an order commits an offence and is liable on summary conviction to a fine of \$100.
- (3) The Registrar may in writing order which of adjoining proprietors shall be responsible for the care and maintenance of any feature demarcating a common boundary, and any proprietor so ordered to be responsible who allows the boundary feature or any part of it to fall into disrepair or to be destroyed or removed commits an offence and is liable on summary conviction to a fine of \$100.

## **20. INTERFERENCE WITH BOUNDARY FEATURES**

- (1) Any person who wilfully defaces, removes, with boundary injures or otherwise impairs any boundary feature or any part of it unless authorised to do so by the Registrar commits an offence and is liable on summary conviction to a fine of \$400 or to imprisonment for 3 months, or to both such fine and imprisonment.
- (2) Any person convicted of such an offence, whether or not any penalty therefor is imposed upon him or her, is liable to pay the cost of restoring the boundary feature, and such cost shall be recoverable as a civil debt by any person responsible under section 19 for the maintenance of the feature.

## **21. COMBINATIONS AND SUBDIVISIONS**

- (1) Where contiguous parcels are owned by the same proprietor and are subject in all respects to the same rights and obligations, the

Registrar, on application by the proprietor, may combine those parcels by closing the registers relating to them and opening a new register or registers in respect of the parcel or parcels resulting from the combination.

- (2) Upon the application of the proprietor of a parcel for division of his or her parcel into 2 or more parcels, the Registrar shall effect the division by closing the register relating to the parcel and opening new registers in respect of the new parcels resulting from the division, and recording in the new registers all subsisting entries appearing in the closed register.

However—

- (i) nothing shall be done under this section which would be inconsistent with this Act or any other law,
- (ii) no parcel which is subject to a lease shall be subdivided so as to subdivide the land comprised in such lease, and
- (iii) where a proprietor is subdividing his or her parcel for the purpose of building development, the Registrar may require him or her to submit a plan of the proposed subdivisions prepared by a surveyor licensed under the Land Surveyor's Act and certified by the appropriate authority as conforming with the requirements of any planning law in force.

## **22. REPARCELLATION**

- (1) The Registrar may, on the application of the proprietors of contiguous parcels who are desirous of changing the layout of their parcels, and with the consent in writing of all other persons in whose name any right or interest in such parcels is registered, and of any cautioner, cancel the registers relating to such parcels and prepare new registers in accordance with the revised layout.

However, where in the opinion of the Registrar a proposed reparation involves substantial changes of ownership which should be effected by transfers without invoking this section, he or she may in his or her discretion refuse to effect such reparation.

- (2) Upon any such reparation, the new parcels shall, despite section 37, vest in the persons in whose names they are registered.

### **PART 3**

#### **EFFECT ON REGISTRATION**

#### **23. EFFECT OF REGISTRATION WITH ABSOLUTE TITLE**

Subject to the provisions of sections 27 and 28 registration the registration of any person as the proprietor with absolute title of a parcel shall vest in that person the absolute ownership of that parcel together with all rights and privileges belonging or appurtenant thereto, free from all other interests and claims whatsoever, but subject—

- (a) to the leases, hypothecs and other encumbrances and to the conditions and restrictions, if any, shown in the register; and
- (b) unless the contrary is expressed in the register, to such liabilities, rights and interests as affect the same and are declared by section 28 not to require noting on the register.

However—

- (i) this section shall not be taken to relieve a proprietor from any duty or obligation to which he or she is subject as a trustee,
- (ii) the registration of any person under this Act shall not confer on him or her any right to any minerals or to any mineral oils unless the same are expressly referred to in the register.

#### **24. EFFECT OF REGISTRATION WITH PROVISIONAL TITLE**

Subject to the provisions of section 27, the registration of any person as the proprietor with a provisional title of a parcel shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of that proprietor arising before such date or under such instrument or in such other manner as is specified in the

register of that parcel; but save as aforesaid, such registration shall have the same effect as to registration of a person with absolute title.

## **25. EFFECT OF REGISTRATION OF A LEASE**

Subject to the provisions of section 27, the registration of a person as the proprietor of a lease shall vest in that person the leasehold interest described in the lease, together with all implied and expressed rights and privileges belonging or appurtenant thereto and subject to all implied and expressed agreements, liabilities and incidents of the lease.

However, if the title of the lessor is a provisional title the enforcement of any right or interest affecting or in derogation of the right of the lessor to grant the lease shall not be prejudiced.

## **26. EFFECT OF REGISTRATION OF CROWN LAND**

The registration of land as Crown Land shall, subject to any registered encumbrances, enable the Governor General to dispose of such land by a disposition registered under this Act.

## **27. VOLUNTARY TRANSFER**

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

## **28. OVERRIDING INTERESTS**

Unless the contrary is expressed in the register, all registered land shall be subject to such of the following overriding interests as may subsist and affect the same, without their being noted on the register—

- (a) servitudes subsisting at the time of first registration under this Act;
- (b) servitudes which arise from the situation of the property or which have been established by law;

- (c) rights of compulsory acquisition, user or limitation of user conferred by any other law;
- (d) leases or agreements for leases for a term not exceeding 2 years;
- (e) any unpaid money which, without reference to registration under this Act, are expressly declared by any law to be a charge upon land;
- (f) rights acquired or in process of being acquired by virtue of any law relating to the limitation of actions or by prescription;
- (g) the rights of a person in actual occupation of land or in receipt of the income thereof save where inquiry is made of such person and the rights are not disclosed;
- (h) electric supply lines, telephone and telegraph lines or poles, pipelines, aqueducts, canals, wires and dams erected, constructed or laid under any power conferred by any law;
- (i) community property as described in article 1188 et seq. of the Civil Code;

However, the Registrar may direct registration of any of the liabilities, rights and interests hereinbefore defined in such manner as he or she thinks fit.

*(Amended by Act 7 of 1986)*

## **29. CONVERSION OF PROVISIONAL INTO ABSOLUTE TITLE**

- (1) Any proprietor registered with a provisional title or any interested person may at any time apply to the Registrar to be registered or to have the proprietor registered, as the case may be, with an absolute title
- (2) If the applicant satisfies the Registrar that the qualification to which the provisional title is subject has ceased to be of effect, the Registrar shall make an order for the registration of the proprietor with absolute title after such advertisement as the Registrar may think fit.
- (3) On the making of any such order or on the application of any interested party after the expiration of 12 years from the date of first registration with a provisional title, the Registrar shall

substitute in the register the words “absolute title” for the words “provisional title” and the title of the proprietor shall thereupon become absolute.

### **30. ENTRIES TO CONSTITUTE ACTUAL NOTICE**

Every proprietor acquiring any land, lease or hypothec shall be deemed to have had notice of every entry in the register relating to the land, lease or hypothec.

## **PART 4 CERTIFICATE AND SEARCHES**

### **31. LAND CERTIFICATES AND CERTIFICATES OF LEASE**

- (1) The Registrar shall, if requested by a proprietor of land or a lease where no land certificate or certificate of lease has been issued, issue to him or her a land certificate or a certificate of lease, as the case may be, in the prescribed form showing all subsisting entries in the register affecting that land or lease;

However—

- (i) only one such certificate shall be issued in respect of each parcel of land or lease,
- (ii) no certificate of lease shall be issued unless the lease is for a certain period exceeding 25 years,
- (iii) no certificate shall be issued when an appeal has been made in writing against the decision of the Adjudication Officer in accordance with section 20(2) of the Land Adjudication Act, and
- (iv) no certificate shall be issued until a restriction entered on any land, lease or hypothec under section 91 has been removed.

*(Amended by Act 7 of 1986)*

- (2) A land certificate or certificate of lease shall be only *prima facie* evidence of the matters shown therein, and the land or lease shall be subject to all entries in the register whether they are shown on the certificate or not.

- (3) When there is more than one proprietor, the proprietors shall agree among themselves as to who shall receive the certificate, and failing agreement the certificate shall be filed in the Registry.
- (4) The date of issue of a land certificate or certificate of lease shall be noted in the register.

### **32. PRODUCTION OF CERTIFICATE**

- (1) If a land certificate or a certificate of lease has been issued, then, unless it is filed in the Registry, or the Registrar dispenses with its production, it shall be produced on the registration of any dealing with the land or lease to which it relates, and a note of such registration shall be made on the certificate.
- (2) If the dealing is a transfer, the certificate if produced shall be destroyed, and in such case a new certificate may be issued to the new proprietor.
- (3) If the dealing is a hypothec, the certificate, if any, shall be filed in the Registry.

*(Amended by Act 7 of 1986)*

### **33. DISPOSITIONS OF LEASES AND HYPOTHECS**

On the registration of any dealing of a lease or hypothec the duplicate and the triplicate of the lease or hypothec shall be produced to the Registrar, who shall note particulars of the dealing on the filed lease or hypothec and on the duplicate and triplicate thereof unless the Registrar is satisfied they cannot be produced.

### **34. LOST OR DESTROYED CERTIFICATES**

- (1) If a land certificate or certificate of lease is lost or destroyed, the proprietor may apply to the Registrar for the issue of a new certificate, and shall produce evidence to satisfy the Registrar of the loss or destruction of the previous certificate.
- (2) The Registrar shall require a statutory declaration that the certificate has been lost or destroyed.

- (3) The Registrar, if satisfied with the evidence as to the loss or destruction of the certificate, and after the publication of such notice as he or she may think fit, may issue a new certificate.
- (4) When a lost certificate is found, it shall be delivered to the Registrar for cancellation.

### **35. SEARCHES AND COPIES**

- (1) Any legal practitioner or his or her duly authorised agent, on application in the prescribed form and on payment of the prescribed fee, may inspect during official hours of business any register and any sheet of the Registry Map or any filed instrument or plan.
- (2) Any legal practitioner or his or her duly authorised agent, on application in the prescribed form and on payment of the prescribed fee, shall be entitled to a certificated copy of any register or part of the Registry Map or any plan or instrument filed in the Registry.
- (3) Any legal practitioner or his or her duly authorised agent, on application in the prescribed form and on payment of the prescribed fee, may require an official search in respect of any parcel, and the Registrar shall issue a certificate of official search setting forth particulars of the subsisting entries in the register of that parcel.

### **36. EVIDENCE**

- (1) A certificated copy of the register or part of the Registry Map or any plan or instrument filed in the registry shall be admissible in evidence in all actions and matters and between all persons or parties to the same extent as the original, and a signature on any such certified copy purporting to be the signature of the Registrar shall be presumed to be the signature of the Registrar until the contrary is proved.
- (2) A legal practitioner, trustee, personal representative or other person in a fiduciary position shall not be answerable in respect of any loss occasioned by the inaccuracy of any such certified copy as is referred to in subsection (1).
- (3) No process for compelling the production of the register or of the Registry Map, or of any filed instrument or plan shall issue

from any Court except with the leave of the Court, which leave shall not be granted if a certified copy will suffice, and any such process, if issued, shall bear thereon a statement that it is issued with the leave of the Court.

## **PART 5 DISPOSITIONS**

### *Division 1 — General*

#### **37. SUBSEQUENT DEALINGS**

- (1) No land, lease or hypothec registered under this Act shall be capable of being disposed of except in accordance with this Act, and every attempt to dispose of such land, lease or hypothec otherwise than in accordance with this Act shall be ineffectual to create, extinguish, transfer, vary or affect any right or interest in the land, lease or hypothec.
- (2) This section shall not be construed as preventing any unregistered instrument from operating as a contract, but no action may be brought upon any contract for the disposition of any interest in land unless the agreement upon which such action is brought, or some memorandum or note thereof, is in writing, and is signed by the party to be charged or by some other person thereunto by him or her lawfully authorised.

However, such an action shall not be prevented by reason only of the absence of writing, where an intending purchaser or lessee who has performed or is willing to perform his or her part of a contract—

- (i) has in part performance of the contract taken possession of the property or any part thereof; or
- (ii) being already in possession, continues in possession in part performance of the contract and has done some other act which is exclusively referable to and in furtherance of the contract.

#### **38. PROTECTION OF PERSONS DEALING IN REGISTERED LAND**

- (1) A person dealing or proposing to deal for consideration with a proprietor shall not be required or in any way concerned—

- (a) to inquire or ascertain the circumstances in or the consideration for which such proprietor or any previous proprietor was registered;
  - (b) to see to the application of any consideration or any part thereof; or
  - (c) to search any register kept under the provisions of Book Eighteenth of the Civil Code.
- (2) Where the proprietor of land, a lease or a hypothec is a trustee he or she shall in dealing therewith be deemed to be the proprietor thereof, and no disposition by such trustee to a purchaser in good faith and for consideration shall be defeasible by reason of the fact that such disposition amounted to a breach of trust.
- (3) Nothing contained in this section shall relieve a purchaser in good faith and for consideration of his or her obligation to search the Registry.

### **39. ADDITIONAL FEE FOR DELAYED REGISTRATION**

Where an instrument is presented for registration later than 3 months from the date of the instrument, then, in addition to the registration fee, an additional fee equal to the registration fee shall be payable for each 3 months which have elapsed since such date.

However, in no such case shall the additional fee exceed 5 times the original registration fee payable.

### **40. POWER TO COMPEL REGISTRATION**

- (1) If he or she is satisfied that any person, through his or her wilful default, has failed to register any instrument which is registrable under this Act, the Registrar may by notice in writing order such person to present such instrument for registration, and thereupon the registration fee and any additional fee payable under section 39 shall become due and shall be payable by such person whether the instrument is presented for registration or not.
- (2) Any person who fails to comply with an order of the Registrar under subsection (1) within one month of the service of the

notice commits an offence and is liable on summary conviction to a fine of \$100.

#### **41. PRIORITY OF REGISTERED INTERESTS**

- (1) Interests appearing in the register shall have priority according to the order in which the instruments which led to their registration were presented to the registry, irrespective of the dates of the instruments and although the actual entry in the register may be delayed.

However, where an instrument is prepared in the Registry it shall be deemed to have been presented on the date on which application for its preparation was made to the Registrar.

- (2) Instruments sent by post or under cover and received during the hours of business shall be deemed to be presented simultaneously immediately before the closing of the office for business on that day, and instruments so sent but received between the time of closing and the next opening of the office for business shall be deemed to be presented simultaneously immediately after such opening.
- (3) Where more than one instrument or application are presented on the same day, or on different days but at so short an interval from each other that in the opinion of the Registrar there is doubt as to their order of priority, the Registrar may refuse registration until he or she has heard and determined the rights of the parties interested thereunder.

#### **42. STAY OF REGISTRATION**

- (1) Where any person proposing to deal with registered land has, with the consent in writing of the proprietor, applied for an official search and has stated in his or her application the particulars of the proposed dealing, the registration of any instrument affecting the land to be comprised in or affected by the proposed dealing shall be stayed for a period (hereinafter referred to as the suspension period) of 90 days from the time at which application for the search was made, and a note shall be made in the register accordingly.
- (2) If within the suspension period a properly executed instrument affecting the proposed dealing is presented for registration, such

instrument shall have priority over any other instrument which may be presented for registration during the suspension period, and shall be registered despite any caution or other entry for which application for registration may have been made during the suspension period.

- (3) Subject to subsection (2) any instrument or document for which application for registration is made during the suspension period other than that effecting the proposed dealing shall be dealt with in the same manner, shall have the same priority and shall be as effectual as if no stay of registration has been obtained.

#### **43. MERGER OF REGISTERED INTERESTS**

Where, upon the registration of a dealing, the interest of—

- (a) lessor and lessee;
- (b) debtor and creditor; or
- (c) the proprietor of a parcel which is burdened with a servitude and the proprietor of a parcel which benefits therefrom,

vest in the same proprietor, such interests shall not merge unless a surrender or discharge is registered or the parcels are combined or there is a declaration of merger, which may be contained in the instrument evidencing the dealing.

#### *Division 2 — Leases*

#### **44. LEASES**

Subject to the provisions of this Act and of any other law, the proprietor of land may lease the land or part of it to any person for a definite period or for the life of the lessor or of the lessee or for a period which though indefinite may be terminated by the lessor or the lessee, and subject to such conditions as he or she may think fit.

However, if only part is leased, the lease shall be accompanied by a plan or other description which the Registrar, in his or her absolute discretion, deems adequate to identify the part leased.

#### **45. REGISTRATION OF LEASES**

- (1) A lease for a specified period exceeding 2 years, or for the life of the lessor or of the lessee, or a lease which contains an option whereby the lessee may require the lessor to grant him or her a further term or terms which, together with the original term, exceed 2 years, shall be in the prescribed form, and shall be completed by—
  - (a) opening a register in respect of the lease in the name of the lessee; and
  - (b) filing the lease; and
  - (c) noting the lease in the encumbrances section of the register of the lessor's land or lease.
- (2) Save as otherwise expressly provided in this Act, the provisions of this Act affecting leases, lessors and lessees shall apply to subleases, sublessors and sublessees, with such adaptations as are necessary.

#### **46. LESSOR'S CONSENT TO DEALING WITH LEASE**

Upon the registration of a lease containing an agreement, express or implied, by the lessee that he or she will not transfer, sublet, charge or part with possession of the land leased or any part thereof without the written consent of the lessor, the agreement shall be noted in the register of the lease, and no dealing with the lease shall be registered until the consent of the lessor, has been produced to the Registrar.

#### **47. SUBSTITUTION OF LEASES**

Where upon presentation of a lease for registration the Registrar is satisfied that the lessee is the person registered as the proprietor of a prior lease in respect of the same land, he or she shall cancel the registration of the prior lease and register the new lease subject to the encumbrances registered against the prior lease.

#### **48. SURRENDER OF LEASES**

- (1) Where the lessor and the lessee agree that lease shall be surrendered it shall be surrendered in the following manner—

- (a) an instrument shall be prepared in the prescribed form, or else the word “surrendered” shall be inscribed on the lease or on the duplicate or triplicate thereof;
  - (b) the instrument or inscription shall then be executed by the lessor and lessee;
  - (c) the Registrar shall then cancel the registration of the lease; and
  - (d) the instrument or inscribed lease shall then be filed;
- and thereupon, or upon such earlier date as is expressed in the instrument or inscription, the interest of the lessee shall cease.
- (2) A lease which is subject to a hypothec or a sublease shall not be surrendered without the consent in writing of the proprietor of the hypothec or sublease.

#### **49. DETERMINATION OF LEASES**

- (1) Where—
  - (a) the period of a lease has expired;
  - (b) an event upon which a lease is expressed to terminate has happened;
  - (c) a lessor has lawfully re-entered; or
  - (d) a notice duly given to terminate the lease has expired, and the lessor has recovered possession of the land leased,the lease and every other interest appearing on the register relating to the lease shall thereupon terminate, and the lessor may apply in writing to the Registrar to cancel the registration.
- (2) An application under this section shall be supported by such evidence of the matters giving rise to the termination and the recovery of possession by the lessor as the Registrar may require, and the Registrar on being satisfied of the matters set out in the application shall cancel the registration of the lease.

#### **50. VOLUNTARY REGISTRATION OF LEASES**

Where application is made to the Registrar to register any lease which is not compulsorily registrable under this Act but which is capable of registration, the Registrar shall not register such lease unless—

- (a) it is in the prescribed form, or in such form as the Registrar may approve; and
- (b) in the case of a sublease, every lease superior to that sublease complies with condition (a) and is registered in priority to the sublease.

### *Division 3 — Hypothecs*

## **51. FORM AND EFFECT OF HYPOTHECS**

- (1) A proprietor, may, by an instrument in notarial form, hypothecate his or her land or lease to secure the payment of an existing or a future or a contingent debt or any other money or the fulfilment of a condition.
- (2) The hypothec shall be completed by its registration as an encumbrance and the registration of the person in whose favour it is created as its proprietor and by filing the instrument.

*(Amended by Act 7 of 1986)*

## **52. CREDITOR'S CONSENT TO TRANSFER**

Where a hypothec contains an agreement, express or implied, by the debtor with the creditor that he or she will not transfer the land, lease or hypothec hypothecated or any part thereof without the written consent of the creditor, the agreement shall be noted in the register and no transfer by the debtor shall be registered until the written consent of the creditor satisfactory to the Registrar has been produced.

## **53. VARIATION OF HYPOTHECS**

- (1) Subject to subsection 2, the terms and conditions of any hypothec may be varied by the registration of an instrument of variation executed by the parties to the hypothec but no such variation shall affect the rights of the proprietor of any subsequent hypothec, unless that proprietor has consented to the variation in writing on the instrument of variation.
- (2) Subsection (1) does not affect the right of the creditor to vary the rate of interest if that right is stated in the instrument creating the first hypothec.

*(Substituted by Act 7 of 1986)*

#### **54. DISCHARGE OF HYPOTHEC**

- (1) A discharge whether of the whole or of a part of a hypothec, shall be made by an instrument in notarial form, and (if of the whole) the word “Discharged” may be endorsed on the hypothec or the duplicate or triplicate and the endorsement executed by the creditor and dated.
- (2) A discharge shall be completed by cancellation in the register of the hypothec, or part thereof as the case may require and filing the instrument of discharge or the endorsed hypothec.

#### **55. SATISFACTION OF HYPOTHECS**

Upon proof to the satisfaction of the Registrar—

- (a) that all money due under a hypothec has been paid to the creditor or by his or her direction; or
- (b) that there has occurred the event or circumstances upon which, in accordance with the provisions of any hypothec, the money thereby secured ceases to be payable and that no money is owing under the hypothec,

the Registrar shall order the hypothec to be cancelled in the register, and thereupon the land, lease or hypothec shall cease to be subject to the hypothec.

### *Division 4 — Transfers*

#### **56. TRANSFERS**

- (1) A proprietor, by an instrument in notarial form, may transfer his or her land, lease or hypothec to any person with or without consideration.
- (2) The transfer shall be completed by registration of the transferee as proprietor of the land, lease or hypothec and by filing the instrument.
- (3) The transferee of a hypothec may require the debtor to execute the transfer for the purpose of acknowledging the amount due under the hypothec at the date of execution of the transfer.

**57. CONDITIONAL TRANSFERS NOT REGISTRABLE**

A transfer to take effect on the happening of any event or on the fulfilment of any condition or at any future time is not capable of registration.

**58. TRANSFER OF PART**

No part of the land comprised in a register shall be transferred unless the proprietor has first subdivided the land and new registers have been opened in respect of each subdivision.

**59. TRANSFER OF UNREGISTERED LEASES**

A transfer of a lease of registered land which lease does not require registration, and is not registered, shall not itself require registration, but if application is made to the Registrar to register such transfer, he or she shall not do so unless the transfer is in the prescribed form and the lease and prior transfers or other dealings therewith have been registered.

*Division 5 — Servitudes***60. SERVITUDES**

- (1) The proprietor of land or a lease may, by an instrument in the prescribed form, grant a servitude over his or her land or the land comprised in his or her lease, to the proprietor or lessee of other land for the benefit of that other land.
- (2) The instrument creating the servitude shall specify clearly—
  - (a) the nature of the servitude, the period for which it is granted and any conditions, limitations or restrictions intended to affect its enjoyment; and
  - (b) the land burdened by the servitude and, if required by the Registrar, the particular part thereof so burdened; and
  - (c) the land which enjoys the benefits of the servitude,and shall, if so required by the Registrar, include a plan sufficient in the Registrar's estimation to define the servitude.
- (3) The grant or reservation of the servitude shall be completed by its registration as an encumbrance in the register of the land

burdened and in the property section of the land which benefits and by filing the instrument.

#### **61. RELEASE AND EXTINGUISHMENT OF SERVITUDE**

- (1) Upon presentation of a duly executed release in notarial form, the registration of the servitude shall be cancelled, and the servitude shall thereupon be extinguished.
- (2) On the application of any person affected thereby, the Registrar may cancel the registration of a servitude upon proof to his or her satisfaction that—
  - (a) the period of time for which it was intended to subsist has expired; or
  - (b) the event upon which it was intended to terminate has occurred; or
  - (c) it has been abandoned.

#### *Division 6 — Undivided Ownership*

#### **62. REGISTRATION OF MORE THAN ONE PROPRIETOR**

- (1) When any land is conveyed, transferred, devised, or devolves to 2 or more persons in their own right, such persons shall be deemed and taken to be proprietors in common.
- (2) When any land is conveyed, transferred, devised or devolves to 4 or more persons the first 4 named shall hold the property on trust for sale.

#### **63. CHARACTERISTICS OF PROPRIETORSHIP IN COMMON**

Where any land, lease or hypothec is held is undivided ownership, each proprietor shall be entitled to an undivided share in the whole, and on the death of a proprietor his or her share shall be administered as part of his or her estate. (*Amended by Act 16 of 1989*)

**64. PARTITION OF LAND OWNED BY PROPRIETORS IN COMMON**

- (1) If all the proprietors in common who are of full age agree, partition of land owned by them shall be effected in notarial form.

However, such partition shall not be effected without the written consent of the proprietor of the hypothec; which consent shall not be unreasonably withheld. (*Inserted by Act 7 of 1986*)

- (2) Subject to subsection (1), an application for the partition of land owned by proprietors in common may be made in the prescribed form to the Registrar by—
- (a) any one or more of the proprietors; or
  - (b) any person in whose favour an order has been made for the sale of an undivided share in the land in execution of a decree,

and subject to the provisions of this Act and of any written law by or under which minimum areas or frontages are prescribed or the consent of any authority to a partition is required, the Registrar shall effect the partition of the land, in such manner as the Registrar may order.

- (3) Partition shall be completed by closing the register of the parcel partitioned and opening registers in respect of the new parcels created by the partition and filing the notarial deed or order.

**65. WHEN REGISTRAR MAY ORDER SALE**

- (1) Where for any reason the land sought to be partitioned is incapable of partition or the partition would adversely affect the proper use of the land, and a demand is made by the applicant or one or more of the other proprietors in common that the land or any share or shares in the land be sold, the Registrar shall, in default of any agreement between the proprietors in common, value the land and the shares of the proprietors in common and order the sale of the land or the separation and sale of such shares by public auction or make such other order for the disposal of the application as he or she thinks fit.
- (2) A proprietor in common shall be entitled to purchase the land or any share so offered for sale, either at the auction or at any time by private treaty.

**66. PROCEDURE WHERE SHARE IS SMALL**

- (1) Where the land sought to be partitioned is capable of partition generally, but the resultant share of any particular proprietor in common would be so small that it would adversely affect the proper use of land, the Registrar shall add such share to the share of any other proprietor or distribute such share between 2 or more other proprietors in such manner and in such proportion as, in default of agreement, he or she thinks fit.
- (2) Where the Registrar proceeds in accordance with subsection (1) he or she shall assess the value of the share added or distributed and shall order that there be paid to the proprietor of the share by each proprietor who has received an addition to his or her share the value of such addition.
- (3) Where any sum is payable under subsection (2) by any proprietor in common to any other proprietor in common, the Registrar may order that such sum be secured by way of hypothec on the share of the person liable to pay it.

## **PART 6 INSTRUMENTS AND AGENTS**

**67. FORM OF INSTRUMENT**

- (1) Every disposition of land, every lease and every hypothec shall be effected by an instrument in notarial form. (*Amended by Act 2 of 1987*)
- (2) Leases and hypothecs shall be presented for registration in triplicate.
- (3) Instruments shall contain a true statement of the amount or value of the purchase price or loan or other consideration (if any). (*Amended by Act 7 of 1986*)

**68. EXECUTION OF INSTRUMENTS**

- (1) Every instrument evidencing a disposition shall be executed by all persons shown by the register to be proprietors of the interest affected and by all other parties to the instrument.

However, the Registrar may dispense with execution by any particular party (other than the donee under a disposition by way of gift) where he or she considers that such execution is unnecessary.

- (2) Subject to section 79(2) an instrument shall be deemed to have been executed—
- (a) by a natural person only if signed by him or her or if he or she is unable to sign only if executed in the manner required by the Civil Code or other law;
  - (b) by a corporation—
    - (i) if duly sealed with the common or corporate seal of the corporation or otherwise executed in the manner required or authorised by the statute, articles of Association or other instrument under which the corporation was incorporated or by which the corporation is governed;
    - (ii) in the case of a corporation not required by law to have a common seal, if signed by such persons as are authorised in that behalf by any law or by the statute or charter of the corporation or, in the absence of any express provision, by the persons duly appointed in writing for that purpose by the corporation, evidence of which appointment has been produced to the satisfaction of the Registrar.  
*(Amended by Act 2 of 1987)*

## 69. STAMPS

An instrument required by law to be stamped shall not be accepted for registration unless it is duly stamped.

## 70. DISPOSAL OF INSTRUMENTS

- (1) Subject to subsection (2) and to of section 72(2), all instruments accepted by the Registrar shall be retained in the Registry for as long as they support a current entry in the register and for 6 years thereafter.
- (2) When a lease or hypothec is registered, particulars of registration shall be noted on the duplicate, and the triplicate

thereof and the duplicate and the triplicate shall be returned to the person who presented them.

- (3) Six years or more after an entry in the register has been superseded or has ceased to have any effect the Registrar may destroy any instrument which supported the entry.

## **71. MINORS**

- (1) For the avoidance of doubt it is hereby declared that the name of a minor may be entered in the register either on first registration or as a transferee or on a succession.
- (2) This section does not enable any minor to deal with land or any interest in land by virtue of such registration and, where to his or her knowledge a minor is registered, the Registrar shall enter a restriction accordingly.
- (3) Where a disposition by a minor whose minority has not been disclosed to the Registrar has been registered, such disposition may not be set aside only on the grounds of minority.

## **72. AGENTS AND PERSONS UNDER DISABILITY**

- (1) Except as provided in subsection (3) an instrument executed by any person as agent for any other person for sale or hypothecation of any land shall not be accepted by the Registrar unless the person executing it was authorised in that behalf by a power of attorney executed in accordance with the Civil Code. *(Amended by Act 16 of 1989)*
- (2) The original of such power of attorney, or a notarial copy thereof shall be filed.
- (3) Where any person who, if not under a disability, might have made any application, done any act or been a party to any proceeding under this Act or under any rules made thereunder is a minor, a person of unsound mind or a person under any other disability, the curator or tutor of such person, or if there is no such curator or tutor a person appointed under some written law to represent that person, may make any application, do any act and be party to any proceeding on behalf of that person, and shall generally represent that person for the purpose of this Act.

- (4) Before accepting any document executed by a curator or tutor or a person so appointed to represent a person under a disability, the Registrar shall satisfy himself or herself that the person claiming to be the curator or tutor or person otherwise appointed to represent the person under disability is entitled to execute the document or require the production of the appointment of the person so appointed, and shall file a note of the explanation which satisfied him or her or a copy of the appointment, as the case may be.

### **73. GIFT TO PERSON UNDER DISABILITY**

A person under a disability who has been registered as proprietor of land, a lease or a hypothec acquired by him or her by way of gift may, within 6 months after he or she ceases to be under a disability, repudiate the gift if he or she has not already disposed of the subject-matter thereof, but no such repudiation shall be effective until—

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

### **74. POWERS OF ATTORNEY**

- (1) Upon the application of the donor or the donee of a power of attorney which contains any power to dispose of any interest in land, such power of attorney shall be entered in the register of powers of attorney and the original or with the consent of the Registrar a copy thereof certified by the Registrar, shall be filed in the file of powers of attorney.
- (2) Every such power of attorney shall be in notarial form or such other form as the Registrar may in any particular case approve and shall be executed and verified in accordance with the Civil Code.
- (3) The donor of a power of attorney filed in accordance with the provisions of subsection (1) may at any time give notice to the Registrar in the prescribed form that the power has been revoked, and thereupon the revocation shall be entered in the register of powers of attorney and noted upon the power, and the notice shall be filed in the file of powers of attorney.

- (4) Any interested person may give notice in writing to the Registrar that a power of attorney which has been registered under subsection (1) has been revoked by the death, bankruptcy or disability of the donor or the death or disability of the donee, accompanied by such evidence as the Registrar requires, and thereupon the revocation shall be entered in the register of powers of attorney and noted upon the power, and the notice shall be filed in the file of powers of attorney.
- (5) Subsections (3) and (4) do not apply to a power of attorney given for consideration during any time during which it is, by virtue of the terms thereof, irrevocable.
- (6) If owing to the length of time since the execution of a power of attorney or for any other reason the Registrar considers it desirable, he or she may require evidence that the power has not been revoked, and may refuse to register any disposition by the donee of the power of attorney until satisfactory evidence is produced.

## **75. EFFECT OF REGISTERED POWER OF ATTORNEY**

- (1) A power of attorney which has been registered under this Act and of which no notice of revocation has been registered under that section shall be deemed to be subsisting as regards any person acquiring any interest in land affected by the exercise of the power, for consideration and without notice of revocation and in good faith, or any person deriving under such a person.
- (2) Any person making any payment or doing any act in good faith under a power of attorney registered under this Act is not liable in respect of the payment or act by reason only that before the payment or act the donor of the power had died or become subject to a disability or become bankrupt, or had revoked the power, if the fact of death, disability, bankruptcy or revocation was not at the time of the payment or act known to the person making or doing the payment or act.

## **PART 7**

### **TRANSMISSIONS AND TRUSTS**

#### **76. TRANSMISSION ON DEATH OF SOLE PROPRIETOR OR PROPRIETOR IN COMMON**

- (1) If the sole proprietor or a proprietor in common dies, the personal representative, on application to the Registrar in the prescribed form and on production to him or her of the grant, shall be entitled to be registered by transmission as proprietor in the place of the deceased with the addition after his or her name of the words “as executor of the will of (here insert name of deceased) deceased” or “as administrator of the estate of (here insert name of the deceased) deceased”, as the case may be.
- (2) Upon production of a grant, the Registrar may, without requiring the personal representative to be registered, register by transmission—
  - (a) any transfer by the personal representative;
  - (b) any surrender of a lease or discharge of a hypothec by the personal representative.
- (3) In this section, “grant” means the grant of Probate of the will or the grant of Letters of Administration of the estate of the deceased proprietor.

#### **77. EFFECT OF TRANSMISSION BY DEATH**

- (1) Subject to any restriction of his or her power of disposing of the land, lease or hypothec contained in his or her appointment, the personal representative or the person beneficially entitled on the death of the deceased proprietor, as the case may be, shall hold the land, lease or hypothec subject to any liabilities rights or interest which are unregistered but are nevertheless enforceable and subject to which the deceased proprietor held the same, but for the purpose of any dealing he or she shall be deemed to have been registered as proprietor thereof with all the rights conferred by this Act on a proprietor who has acquired land, a lease or a hypothec, as the case may be, for consideration.
- (2) The registration of any person as aforesaid shall relate back to and take effect from the date of death of the proprietor.

**78. TRANSMISSION ON BANKRUPTCY**

- (1) A trustee in bankruptcy shall, upon production to the Registrar of a certified copy of the order of court adjudging a proprietor bankrupt, or directing that the estate of a deceased proprietor shall be administered according to the law of bankruptcy, be registered as proprietor of any land, lease or hypothec of which the bankrupt or deceased proprietor is proprietor in his or her place and a copy of the order shall be filed.
- (2) A trustee in bankruptcy shall be described in the register as “trustee of the property of .....  
.....  
(here insert name of bankrupt)  
a bankrupt”.
- (3) The trustee in bankruptcy shall hold the land, lease or hypothec of which he or she is registered as proprietor subject to any restrictions contained in any law relating to bankruptcy or in any order of court and subject to any liabilities, rights or interests which are unregistered but are nevertheless enforceable and subject to which the bankrupt or the deceased proprietor held the same, but for the purpose of dealing with such land, lease or hypothec the trustee in bankruptcy shall have all rights and be subject to all the limitations conferred or imposed by this or any other written law on a proprietor who has acquired land, a lease or a hypothec for consideration.

**79. LIQUIDATION**

- (1) Where a company is being wound up, the liquidator shall produce to the Registrar any resolution or order appointing him or her liquidator, and the Registrar shall enter the appointment in respect of any land, lease or hypothec of which the company is registered as proprietor and shall file the copy of the resolution or order.
- (2) An instrument executed by or on behalf of a company in liquidation delivered for registration after the appointment of the liquidator has been entered under subsection (1) shall be sealed with the common seal of the company and attested by the liquidator or, in the case of a company not required by law to have a common seal, shall be signed by the liquidator.

## **80. TRANSMISSION BY COMPULSORY ACQUISITION OR JUDGMENT OF COURT**

Where the Crown or any person has become entitled to any land, lease or hypothec under any law or by virtue of any order or certificate of sale made or issued under any law, the Registrar shall, on the application of any interested person supported by such evidence as he or she may require, register the Crown or the person entitled, as the proprietor.

## **81. TRUSTS**

- (1) A person acquiring land or a lease or a hypothec in a fiduciary capacity may be described by that capacity in the instrument of acquisition and, if so described, shall be registered with the addition of the words “as trustee”, but the Registrar shall not enter particulars of any trust in the register.
- (2) An instrument which declares or is deemed to declare any trust, or a certified copy thereof, may be deposited with the Registrar for safe custody; but such instrument or copy shall not form part of the register or be deemed to be registered.
- (3) Where the proprietor of land, a lease or a hypothec is a trustee, he or she shall hold the same subject to any unregistered liabilities, rights or interest to which it is subject by virtue of the instrument creating the trusts, but for the purpose of any registered dealings he or she shall be deemed to be the absolute proprietor thereof, and a person dealing in good faith for consideration shall not in breach of the trust create any right to indemnity under this Act.

## **82. SURVIVOR OF TRUSTEES**

Whenever 2 or more proprietors are registered as trustees, and the survivor of such proprietors would not be entitled to exercise alone the powers which are vested in them, the Registrar shall enter a restriction to that effect.

# **PART 8**

## **RESTRAINTS ON DISPOSITION**

### *Division 1 — Inhibition*

**83. POWER OF COURT TO INHIBIT REGISTERED DEALINGS**

- (1) The Court may make an order, in this Division referred to as an inhibition, inhibiting for a particular time, or until the occurrence of a particular event, or generally until further order, the registration of any dealing with any land, lease or hypothec.
- (2) A copy of the inhibition under the seal of the Court, with particulars of the land, lease or hypothec affected thereby, shall be sent to the Registrar who shall register it in the appropriate register, and no inhibition shall bind or affect the land, lease or hypothec until it has been registered.

**84. EFFECT OF INHIBITION**

So long as an inhibition remains registered, no instrument which is inconsistent with it shall be registered.

**85. CANCELLATION OF INHIBITION**

The registration of an inhibition shall be cancelled in the following cases and in no other—

- (a) on the expiration of the time limited by the inhibition;
- (b) on proof to the satisfaction of the Registrar of the occurrence of the event specified in the inhibition;
- (c) on the land, lease or hypothec being sold by a creditor, unless such sale is itself inhibited; or
- (d) by order of the Court.

*Division 2 — Cautions***86. LODGING OF CAUTIONS**

- (1) Any person who—
  - (a) claims any unregistrable interest whatsoever in land or a lease or a hypothec;
  - (b) is entitled to a right of use; or
  - (c) has presented a bankruptcy petition against the proprietor of any registered land, lease or hypothec,

may lodge a caution with the Registrar forbidding the registration of dispositions of the land, lease or hypothec concerned and the making of entries affecting the same.

- (2) A caution may either—
  - (a) forbid the registration of dispositions and making of entries altogether; or
  - (b) forbid the registration of dispositions and the making of entries to the extent therein expressed.
- (3) A caution shall be in the prescribed form and shall state the interest claimed by the cautioner and the Registrar may require the cautioner to support it by a statutory declaration.
- (4) The Registrar may reject a caution which he or she considers unnecessary.
- (5) Subject to the provisions of this section, the caution shall be registered in the appropriate register.

## **87. NOTICE AND EFFECT OF CAUTIONS**

- (1) The Registrar shall give notice in writing of a caution to the proprietor whose land, lease or hypothec is affected by it.
- (2) So long as a caution remains registered, no disposition which is inconsistent with it shall be registered except with the consent of a cautioner or by order of the Court.

## **88. WITHDRAWAL AND REMOVAL OF CAUTIONS**

- (1) A caution may be withdrawn by the cautioner or removed by order of the Court or, subject to the provisions of subsection (2), by order of the Registrar.
- (2)
  - (a) The Registrar may, on the application of any person interested, serve notice on the cautioner, warning him or her that his or her caution will be removed at the expiration of the time stated in the notice which shall not be less than 14 days.
  - (b) If at the expiration of the time stated the cautioner has not objected, the Registrar shall remove the caution.

- (c) If the cautioner objects to the removal of the caution, he or she shall notify the Registrar in writing of his or her objection within the time specified in the notice, and the Registrar after giving the parties an opportunity of being heard, shall make such order as he or she thinks fit, and may in the order make provision for the payment of costs.
- (3) On the withdrawal or removal of a caution, its registration shall be cancelled, but any liability of the cautioner previously incurred under section 90 shall not be affected by the cancellation.

## **89. SECOND CAUTION IN RESPECT OF THE SAME MATTER**

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

## **90. WRONGFUL CAUTIONS**

Any person who lodges or maintains a caution wrongfully and without reasonable cause is liable, in an action for damages at the suit of any person who has thereby sustained damage, to pay compensation to such person.

### *Division 3 — Restrictions*

## **91. RESTRICTIONS**

- (1) For the prevention of any fraud or improper dealing or for any other sufficient reason, the Registrar may, either with or without the application of any person interested in the land, lease or hypothec after directing such inquiries to be made and notices to be served and hearing such persons as he or she thinks fit, make an order (in this Division referred to as a restriction) prohibiting or restricting dealings with any particular land, lease or hypothec.
- (2) A restriction may be expressed to endure—
  - (a) for a particular period; or
  - (b) until the occurrence of a particular event; or

- (c) until the making of a further order, and may prohibit or restrict all dealings or only such dealings as do not comply with specified conditions, and the restriction shall be registered in the appropriate register.
- (3) The Registrar shall order a restriction to be entered in any case where it appears to him or her that the power of the proprietor to deal with the land, lease or hypothec is restricted.

## **92. NOTICE AND EFFECT OF RESTRICTIONS**

- (1) Upon the entry of a restriction the Registrar shall give notice thereof in writing to the proprietor affected thereby.
- (2) So long as any restriction remains registered, no instrument which is inconsistent with it shall be registered except by order of the Court or of the Registrar.

## **93. REMOVAL AND VARIATION OF RESTRICTIONS**

- (1) The Registrar may at any time, upon application by any person interested or of his or her own motion, and after giving the parties affected thereby an opportunity of being heard, order the removal or variation of a restriction.
- (2) Upon the application of a proprietor affected by a restriction, and upon notice thereof to the Registrar, the Court may order a restriction to be removed or varied, or make such order as it thinks fit, and may make an order as to costs.

# **PART 9 PRESCRIPTION**

## **94. ACQUISITION OF LAND BY PRESCRIPTION**

- (1) Any person who claims to have acquired the ownership of land by positive prescription may apply to the Registrar in accordance with rules of court for registration as proprietor thereof.
- (2) A person possessing land in a fiduciary capacity on behalf of another shall not acquire by prescription ownership of the land as against such other.

**95. PROCEDURE WHEN LAND ACQUIRED BY PRESCRIPTION**

- (1) On application by any person for registration as proprietor under section 94(1) the application shall be advertised by the Registrar at the expense of the applicant in such manner as the Registrar may direct.
- (2) The Registrar shall give notice of any such application to the proprietor of the land affected and to any other person who may, in his or her opinion, be affected thereby.
- (3) After one month has elapsed from the date of giving notice under subsection (2) the Registrar, on being satisfied that the applicant has acquired the ownership of the land claimed, may allow the application and register him or her as proprietor of the land claimed, subject to any interests on the register which have not been extinguished by the possession.

**96. REGISTRATION OF SERVITUDES ACQUIRED BY PRESCRIPTION**

Where any person claims to have acquired a servitude by prescription he or she may apply to the Registrar for registration thereof, and the Registrar, on being satisfied as to the claim and subject to such notices, advertisement and conditions as the Registrar may direct, shall register the servitude as an encumbrance on the register of the land affected and also in the property register of the land which benefits.

## **PART 10**

### **RECTIFICATION AND COMPENSATION**

**97. RECTIFICATION BY REGISTRAR**

- (1) The Registrar may rectify the register or any instrument presented for registration in the following cases—
  - (a) informal matters and in the case of omissions not materially affecting the interest of any proprietor;
  - (b) where any person has acquired an interest in land by prescription under Part 9;
  - (c) in any case and at any time with the consent of all persons interested;

- (d) where, upon resurvey, a dimension or area shown in the register or registry map is found to be incorrect, but in such case the Registrar shall first give notice to all persons appearing by the register to be interested or affected of his or her intention so to rectify.
  - (e) upon receipt of any decision of the Land Adjudication Tribunal made under section 20(3) of the Land Adjudication Act. (*Inserted by Act 7 of 1986*)
- (2) Upon proof of the change of the name or address of any proprietor, the Registrar shall, on the written application of the proprietor make an entry in the register to record the change.

## **98. RECTIFICATION BY COURT**

- (1) Subject to the provisions of subsection (2) the Court may order rectification of the register by directing that any registration be cancelled or amended where it is satisfied that any registration including a first registration has been obtained, made or omitted by fraud or mistake.
- (2) The register shall not be rectified so as to affect the title of a proprietor who is in possession or is in receipt of the rents and acquired the land, lease or hypothec for consideration, unless such proprietor had knowledge of the omission, fraud or mistake in consequence of which the rectification is sought, or caused such omission, fraud or mistake or substantially contributed to it by his or her act, neglect or default.

## **99. RIGHT TO COMPENSATION**

- (1) Subject to the provisions of this Act and of any written law relating to negative prescription, any person suffering damage by reason of—
  - (a) any rectification of the register under this Act;
  - (b) any mistake or omission in the register which cannot be rectified under this Act, other than a mistake or omission in a first registration; or
  - (c) any error in a certificate of official search issued by the Registrar or a copy of or extract from the register or in a copy of or extract from any document or plan, certified under the provision of this Act,

shall be entitled to be compensated by the Government out of money provided from the Consolidated Fund.

- (2) No compensation shall be payable under this Act to any person who has himself or herself caused or substantially contributed to the damage by his or her fraud or negligence, or who derives title (otherwise than under a registered disposition made in good faith and for consideration) from a person who so caused or substantially contributed to the damage.

#### **100. AMOUNT OF COMPENSATION**

Where compensation is awarded in respect of the loss of any interest in land, it shall not exceed—

- (a) where the register is not rectified, the value of the interest at the time when the mistake or omission which caused the damage was made; or
- (b) where the register is rectified, the value of the interest immediately before the time of rectification.

#### **101. PROCEDURE FOR CLAIMING COMPENSATION**

The Registrar may, on the application of any interested party, determine whether a right of compensation has arisen under this Part of this Act and, if so, award compensation and may add thereto any costs and expenses properly incurred in relation to the matter.

#### **102. RECOVERY OF COMPENSATION PAID**

Where any moneys are paid by way of compensation under this Part of this Act, the Governor General shall be entitled to recover by suit or otherwise the amount so paid from any person who has caused or substantially contributed to the loss by his or her fraud or negligence, and to enforce any expressed or implied agreement or other right which the person who is compensated would have been entitled to enforce in relation to the matter in respect of which the compensation has been paid.

#### **103. ERRORS IN SURVEY**

- (1) As between the Government and a proprietor, no claim or compensation shall arise and no suit shall be maintained on

account of any surplus or deficiency in the area or measurement of any land disclosed by a survey showing an area or measurement differing from the area or measurement disclosed on any subsequent survey or from the area or measurement shown in the register or on the Registry Map.

- (2) As between a proprietor and any person from or through whom he or she acquired the land, no claim to compensation shall be maintainable on account of any surplus or deficiency in the area or measurement above or below that shown in any other survey or above or below the area or measurement shown in the Register or on the Registry Map, after a period of 6 months from the date of registration of the instrument under which the proprietor acquired the land.

## **PART 11**

### **DECISIONS OF REGISTRAR AND APPEALS**

#### **104. POWER OF REGISTRAR TO STATE CASE**

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

#### **105. APPEALS**

- (1) The Minister or any person aggrieved by a decision, direction, order, determination or award of the Registrar or of an Assistant Registrar may, within 30 days of the decision, direction, order, determination or award, give notice to the Registrar in the prescribed form of his or her intention to appeal to the Court against the decision, direction, order, determination or award.  
*(Substituted by Act 2 of 1987)*
- (2) On receipt of a notice of appeal, the Registrar shall prepare and send to the Court and to the appellant, and to any other person appearing to him or her from the register to be affected by the appeal, a brief statement of the question in issue.

- (3) On the hearing of the appeal, the appellant and the Registrar and any other person who, in the opinion of the Court, is affected by the appeal may, subject to any rules of court, appear and be heard in person or by a legal practitioner.
- (4) The Court may make such order on the appeal as the circumstances may require, and every such order shall be given effect to by the Registrar.
- (5) The costs of the appeal shall be in the discretion of the Court.

#### **106. EFFECT OF APPEALS ON DISPOSITION**

- (1) An appeal to the Court shall not affect a disposition for consideration made in good faith and registered before delivery of notice of the appeal to the Registrar.
- (2) A note that an appeal is pending shall be made in the register affected by the appeal and any disposition shall be subject to such notice.

#### **107. APPEAL RULES**

The Chief Justice may make rules of court for regulating applications and appeals to the Court under the provisions of this Act, and for the fees to be paid in respect thereof.

### **PART 12 MISCELLANEOUS**

#### **108. ADDRESSES**

Any person who under this Act submits a caution or any instrument for registration or, is the proprietor of any land, lease or hypothec shall furnish to the Registrar in writing a postal address within the State for service, and shall notify him or her in writing of any change in that address.

However, the Registrar may in his or her discretion dispense with this requirement in regard to any particular registration or kind of registration.

**108A. IDENTIFICATION**

A person who under this Act submits a caution, document or any instrument for registration or who is the proprietor of any land, lease or hypothec shall furnish to the Registrar in writing or in the document or in the instrument his or her national identification card number, national insurance number, passport number, driver's licence number or company's registration number as the case may be.  
*(Inserted by Act 19 of 2006)*

**109. SERVICE OF NOTICES**

A notice under this Act shall be deemed to have been served on or given to any person—

- (a) if served on him or her personally;
- (b) if served on an attorney holding a power of attorney whereunder such attorney is authorised to accept service;
- (c) if sent by registered post to him or her at his or her last known postal address in the State or elsewhere and a receipt purporting to have been signed by him or her has been received in return; or
- (d) if service cannot be effected in one of the abovementioned ways, by displaying it in a prominent place on the land affected for a period of 3 weeks and by 2 publications in a local newspaper.

**110. MEANING OF “OPPORTUNITY OF BEING HEARD”**

- (1) Where by this Act a thing is to be or may be done after giving a person an opportunity of being heard, that person shall be deemed to have been given such an opportunity—
  - (a) if he or she attends before the Registrar personally or by a legal practitioner or other agent, and is given such an opportunity;
  - (b) if he or she intimates personally or by a legal practitioner or other agent, that he or she does not wish to be heard; or
  - (c) if he or she fails to attend under a notice in writing indicating the nature of the thing to be done and

*[The next page is page 52A]*

appointing a day and time not less than 30 days after service of the notice at which he or she will, if he or she attends before the Registrar, be heard.

- (2) Where a person or a legal practitioner or other agent on his or her behalf attends before the Registrar concerning a matter on which he or she is entitled to an opportunity of being heard, or fails to attend under such a notice as aforesaid, the Registrar may, if he or she thinks fit, adjourn the hearing, and, despite the failure to attend, may, if he or she thinks fit, hear such person at any time.
- (3) Where by this Act all persons interested are to be given an opportunity of being heard, it shall be sufficient if all persons

*[The next page is page 53]*



who, according to any subsisting entry in the register, appear to be so interested or affected are given such opportunity.

## **111. OFFENCES**

- (1) Any person who—
  - (a) knowingly misleads or deceives any person authorised by or under this Act to require information in respect of any land or interest in land;
  - (b) fraudulently issues or makes, or fraudulently procures the issue or making, of any certificate or other document, or any registration or any erasure or alteration in any certificate or other document or in any register;
  - (c) fraudulently uses, assists in fraudulently using or is privy to the fraudulent use of any instrument or form purporting to be issued or authorised by the Registrar; or
  - (d) causes any defacement, obliteration, mutilation or unauthorised entry or alteration to be made on or in any register or filed instrument,

commits an offence and is liable on summary conviction to a fine of \$5,000 or to imprisonment of one year.

- (2) If a person after the delivery to him or her of a summons to attend before the Registrar or to produce any document neglects or refuses without reasonable cause to attend in accordance with the summons, or to produce any document which he or she is required by the summons to produce, or to answer upon oath or otherwise any question which is lawfully put to him or her by the Registrar under the powers conferred by this Act, he or she commits an offence and is liable on summary conviction to a fine of \$100.

## **112. FEES**

- (1) There shall be payable in respect of land certificates, certificates of leases, searches, survey plans, printed forms and all other matters connected with registration such fees as shall be prescribed, and the Registrar may refuse registration until the fees are paid.

- (2) The Registrar may act although the prescribed fee or any part thereof has not been paid, but the unpaid fee or part of a fee shall be recorded in the register.
- (3) The Registrar may refuse to register a disposition of any land, lease or hypothec against which unpaid fees are recorded until such fees are paid.

### **113. RECOVERY OF FEES AND EXPENSES**

Unpaid fees or expenses incurred by the Registrar shall constitute a civil debt recoverable by the Registrar.

### **114. ENFORCEMENT OF REGISTRAR'S ORDERS FOR PAYMENT**

An order for the payment of a sum of money made by the Registrar under any power conferred by this Act shall be deemed to be an order of a district court and shall be enforceable as such.

### **115. JURISDICTION OF COURTS**

Civil suits and proceedings relating to the ownership or the possession of land, or to a lease or hypothec, registered under this Act or to any interest in any such land, lease or hypothec, being an interest which is registered or registerable under this Act, or being an interest which is referred to in section 28, shall be tried by the Court, or where the value of the subject matter in dispute does not exceed \$2,000 by a district court.

### **116. RULES**

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

### **117. SAVING OF RIGHTS**

This Act shall not prejudice any of the interests, rights, powers and privileges conferred on the Crown by any other written law.

**118. ACT TO BIND CROWN**

Subject to section 117, this Act binds the Crown.

**119. OTHER LAW**

Any matter not provided for in this Act or in any other written law in relation to land, leases and hypothecs registered under this Act and interests therein shall be decided in accordance with the principles of justice, equity and good conscience.



## **LAND REGISTRATION RULES – SECTION 16**

(Statutory Instruments 82/1986 and 175/2006)

Commencement [22 October 1986]

### **1. CITATION**

These Rules may be cited as the Land Registration Rules.

### **2. INTERPRETATION**

In these Rules “Act” means the Land Registration Act.

### **3. FORM OF REGISTERS**

Registers shall be in the appropriate form prescribed in Schedule 1.

### **4. FORM OF CERTIFICATE**

A land certificate and a certificate of lease shall be in the appropriate form prescribed in Schedule 2.

### **5. OTHER FORMS**

Other forms required to be used under the Act shall be as prescribed in Schedule 3.

### **6. FEES**

- (1) Subject to paragraph (2) the fees payable under section 112(1) of the Act are as prescribed in Schedule 4.
- (2) A fee shall not be charged for the preparation or registration of any instrument in respect of any dealing in favour of the Crown or in respect of any business transacted by or on behalf of the Crown for a public purpose.

**7. REFUND OF FEES**

Fees paid under these Rules shall not be refunded except by written order of the Registrar.

**8. REGISTRY HOURS OF BUSINESS FOR PUBLIC TRANSACTION**

The Registry shall be open for the transaction of business with the public at such times as the Registrar shall appoint by notice published in the Gazette.

## **SCHEDULE 1**

*[Insert page 1 of the Land Registration Act Landscape Pages]*

*[Insert page 2 of the Land Registration Act Landscape Pages]*

*[Insert page 3 of the Land Registration Act Landscape Pages]*

## SCHEDULE 2

### LAND REGISTRATION ACT

#### SECTION 31

#### LAND CERTIFICATE

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

THIS IS TO CERTIFY that

is/are now registered as proprietor(s) with TITLE ABSOLUTE/  
PROVISIONAL of the abovementioned land, subject to the entries in the  
register relating to the land and to such of the overriding interest set out in  
section 28 of the Land Registration Act as may subsist and affect the land.

At the date hereof the following entries appear in the register relating to  
the land:

PART A – Property Section (*servitudes*)

PART B – Proprietorship Section (*inhibitions, cautions and restrictions*)

PART C – Incumbrances Section (*leases, hypothecs etc.*)

Given under my hand and the seal of the Land Registry this                      day  
of                      20

.....  
*Registrar of Lands*

## LAND REGISTRATION ACT

## SECTION 31

**CERTIFICATE OF LEASE**

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

Lessor

Rent

Term

THIS IS TO CERTIFY that

of

is/are now registered as the proprietor(s) of the leasehold interest above referred to, subject to the agreements and other matters contained in the registered lease, to the entries in the register relating to the lease and to such of the overriding interests set out in section 28 of the Land Registration Act as may subsist and affect the land comprised in the lease.

At the date thereof the following entries appear in the register relating to the lease:

PART A – Property Section (*easements, etc.*)PART B – Proprietorship Section (*inhibitions, cautions and restrictions*)PART C – Incumbrances Section (*leases, charges, etc.*)

Given under my hand and the seal of the Land Registry this                      day  
of                      20

.....

*Registrar of Lands*

### SCHEDULE 3

#### PRESCRIBED FORMS

Form	L.R. 1	Transfer of Land
Form	L.R. 2	Transfer of Lease
Form	L.R. 3	Transfer of Hypothec
Form	L.R. 4	Withdrawal of Caution
Form	L.R. 5	Transfer of Undivided Share
Form	L.R. 6	Transfer by Personal Representative to person entitled under a Will or on an Intestacy
Form	L.R. 7	Lease/Sub-Lease
Form	L.R. 8	Hypothec
Form	L.R. 9	Discharge of Hypothec
Form	L.R. 10	Surrender of Lease
Form	L.R. 11	Grant of Servitude
Form	L.R. 12	Release of Servitude
Form	L.R. 13	Application for Partition
Form	L.R. 14	Power of Attorney
Form	L.R. 15	Notice of Revocation of a Power of Attorney
Form	L.R. 16	Application to be registered as Proprietor by Transmission
Form	L.R. 17	Caution
Form	L.R. 18	Notice of intention to appeal to the High Court
Form	L.R. 19	Application to inspect the Register
Form	L.R. 20	Application for Certified Copy
Form	L.R. 21	Application for Official Search
Form	L.R. 22	Certificate of Official Search
Form	L.R. 23	Mutation

Form L.R. 1

INSTRUMENT NO.

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## LAND REGISTRATION ACT

## SECTION 56

**TRANSFER OF LAND**

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I/WE

in consideration of

(the receipt whereof is hereby acknowledged) HEREBY TRANSFER

to

of

the land comprised in the above-mentioned title.

\* The transferees hereby declare that they hold the land as proprietors in common in the following undivided shares—

Dated this                      day of                      20

Signed by the Transferor in  
the presence of—

.....

.....

Signed by the Transferee  
in the presence of—

.....

.....

*\* Delete if not applicable*

---

FOR OFFICIAL USE ONLY

I, the Registrar of Lands in Saint Lucia hereby certify that this document was received by me for registration on the ..... day of ..... 20 ..... and that stamp duty assessed/adjudicated by Treasury at EC\$ ..... and Land Registry fees at EC\$ ..... relating thereto have been paid.

REGISTERED

This      day of      20

.....  
Registrar of Lands

.....  
Registrar of Lands,  
Saint Lucia.

Form L.R. 2 .

INSTRUMENT NO

## LAND REGISTRATION ACT

## TRANSFER OF LEASE

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I/WE

in consideration of

(the receipt whereof is hereby acknowledged) HEREBY TRANSFER

to

of

the leasehold interest comprised in the abovementioned title.

\*The transferees declare that they hold the leasehold interest as proprietors in the following undivided shares:

Dated this      day of      20

Signed by the Transferor in  
the presence of—

.....  
.....

Revision Date: 31 Dec 2008

Signed by the Transferee in  
the presence of—

.....  
.....

\* Delete as applicable

---

FOR OFFICIAL USE ONLY

I, the Registrar of Lands in Saint Lucia  
hereby certify that this document was  
received by me for registration on the .....  
day of ..... 20..... and that  
stamp duty assessed/adjudicated by  
Treasury at EC\$ ..... and Land  
Registry fees at EC\$ ..... relating  
thereto have been paid.

REGISTERED  
This                      day of                      20

.....  
*Registrar of Lands*

.....  
*Registrar of Lands,  
Saint Lucia*

Form L.R. 3

INSTRUMENT NO.

--

LAND REGISTRATION ACT

SECTION 56

**TRANSFER OF HYPOTHEC**

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I/WE

in consideration of

(the receipt whereof is hereby acknowledged) HEREBY TRANSFER

to

of

the hypothec shown as entry number ..... in the incumbrances of the register relating to the above-mentioned title.

The Transferor hereby declares that the amount of principal and interest owing by the Debtor at the date hereof is

(And the Debtor hereby acknowledges that, that is the amount due and owing by him or her).\*

Dated this                      day of    20

Signed by the Transferor in  
the presence of—

.....  
.....

Signed by the Transferee in  
the presence of—

.....  
.....

Signed by the Debtor in the  
presence of—

.....  
.....

*\*Delete these words if the Transferee does not require the Debtor to acknowledge.*

---

#### FOR OFFICIAL USE ONLY

I, the Registrar of Lands in Saint Lucia  
hereby certify that this document was  
received by me for registration on the  
..... day of .....  
20 ..... and that stamp duty  
assessed/adjudicated by Treasury at EC\$  
..... and Land Registry fees at EC\$  
..... relating thereto have been paid.

REGISTERED

This day of                      20

.....  
*Registrar of Lands*

.....  
*Registrar of Lands  
Saint Lucia*



LAND REGISTRATION ACT  
SECTION 88  
**WITHDRAWALS OF CAUTION**

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I/WE

hereby withdraw the caution lodged on my/our behalf against the  
abovementioned title

Dated this

day of

20

Signed by the Cautioner  
in the presence of—

.....

.....

FOR OFFICIAL USE ONLY

REGISTERED

I, the Registrar of Lands in Saint Lucia  
hereby certify that this document was  
received by me for registration on the  
..... day of .....  
20.....and that stamp duty  
assessed/adjudicated by Treasury at EC\$  
..... and Land Registry fees at EC\$.  
..... relating thereto have been  
paid.

This day of 20

.....

*Registrar of Lands*

.....

*Registrar of Lands  
Saint Lucia*

Form L.R. 5

INSTRUMENT NO.

--

LAND REGISTRATION ACT  
SECTION 62  
**TRANSFER OF UNDIVIDED SHARE**

## REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

LWE

in consideration of  
(the receipt whereof is hereby acknowledged) HEREBY TRANSFER  
to  
of  
my/our undivided ..... share(s) (respectively) in the  
above-mentioned title.

\*The Transferees declare that they hold the (combined) undivided share(s) as propreitors in common in the following undivided shares—

I/WE

the remaining proprietor(s) of the interest comprised in the above-mentioned title hereby consent to this transfer.

Dated this                      day of                      20

Signed by the Transferor in  
the presence of— .....

Signed by the Transferee in  
the presence of— .....

Signed by the remaining  
proprietor(s) in the presence  
of—

\* *Delete if not applicable*

## FOR OFFICIAL USE ONLY

I, the Registrar of Lands in Saint Lucia hereby certify that this document was REGISTERED received by me for registration on the This day of 20 ..... day of ..... 20..... and that stamp duty assessed/adjudicated by Treasury at EC\$..... and Land Registry fees at EC\$..... relating thereto have been paid.

.....  
*Registrar of Lands*

.....  
*Registrar of Lands  
 Saint Lucia*

Form L.R 6

INSTRUMENT NO

--

## LAND REGISTRATION ACT

## SECTION 76

**TRANSFER BY PERSONAL REPRESENTATIVE TO PERSON  
 ENTITLED UNDER A WILL OR ON AN INTESTACY**

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I/WE

as personal representative of  
 deceased HEREBY TRANSFER TO  
 of

(being the person entitled thereto under the will (or on the intestacy of the deceased) to the interest of the deceased comprised in the register relating to the above-mentioned title.

\*The Transferees declare that they hold that interest as proprietors in common in the following shares—

Dated this

day of

20

Signed by the Transferor in  
the presence of—

.....

.....

Signed by the Transferee in  
the presence of—

.....

.....

\* *Delete if not applicable*

### FOR OFFICIAL USE ONLY

I, the Registrar of Lands in Saint Lucia hereby certify that this document was received by me for registration on the ..... day of ..... 20..... and that stamp duty assessed/adjudicated by Treasury at EC\$..... and Land Registry fees at EC\$..... relating thereto have been paid.

REGISTERED

This day of 20

.....

*Registrar of Lands*

.....

*Registrar of Lands  
Saint Lucia.*

Form L.R.7

INSTRUMENT NO.

### LAND REGISTRATION ACT

#### SECTION 45

#### LEASE/SUB-LEASE

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

.....

.....

I/WE

HEREBY LEASE/SUB-LEASE to

of

Revision Date: 31 Dec 2008

the land comprised in the above-mentioned title (or) that portion of land comprised in the above-mentioned title which is shown on the Registry Map as Parcel Number ..... or on the filed plan as number ..... for the term of ..... from the ..... day of ..... at the rent of ..... payable ..... subject to the following conditions.

*(Here set forth any variation, or make reference to an attached document).*

\*The Lessees declare that they hold the lease as proprietors in common in the following undivided shares—

Dated this ..... day of ..... 20.....

Signed by the Lessor in  
the presence of— .....

.....

Signed by the Lessee in  
the presence of— .....

.....

\* *Delete if not applicable*

#### FOR OFFICIAL USE ONLY

I, the Registrar of Lands in Saint Lucia hereby certify that this document was received by me for registration on the ..... day of ..... 20..... and that stamp duty assessed/adjudicated by Treasury at EC\$..... and Land Registry fees at EC\$..... relating thereto have been paid.

REGISTERED

This ..... day of ..... 20.....

.....  
*Registrar of Lands*

.....  
*Registrar of Lands  
Saint Lucia*

Form L. R. 8

INSTRUMENT NO.

--

## LAND REGISTRATION ACT

## HYPOTHEC

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I/WE

HEREBY Hypothecate my/our interest in the above-mentioned title or the Hypothec shown as entry number ..... in the incumbrances section of the register relating to the above-mentioned title to secure the payment

to

of

of the principal sum of

with interest at the rate of ..... per cent per annum payable ..... , subject to the following conditions.

*(Here set forth any variation, or make reference to an attached document).*

The principal sum shall be repaid on the ..... day of ..... together with any interest then due.

Signed by the Debtor in the presence of—

.....

.....

Signed by the Creditor in the presence of—

.....

.....

## FOR OFFICIAL USE ONLY

I, the Registrar of Land in Saint Lucia hereby certify that this document was received by me for registration on the ..... day of ..... 20 ..... and that stamp duty assessed/adjudicated by Treasury at EC\$ ..... and Land Registry fees at EC\$ ..... relating thereto have been paid.

REGISTERED

This day of 20

.....  
*Registrar of Lands*

.....  
*Registrar of Lands  
 Saint Lucia*

Form L. R. 9

INSTRUMENT NO.

--

## LAND REGISTRATION ACT

## SECTION 54

**DISCHARGE OF HYPOTHEC**

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I/WE

HEREBY DISCHARGE the Hypothec shown as entry number ..... in  
 the incumbrances section of the register relating to the above-mentioned  
 title wholly (or in relation to)

Dated this ..... day of ..... 20.....

Signed by the Creditor  
 in the presence of— .....

.....

## FOR OFFICIAL USE ONLY

I, the Registrar of Lands in Saint Lucia  
 hereby certify that this document was  
 received by me for registration on the .....  
 day of ..... 20..... and that  
 stamp duty assessed/adjudicated by Treasury  
 at EC\$ ..... and Land Registry  
 fees at EC\$ ..... relating thereto have  
 been paid.

REGISTERED

This ..... day of ..... 20.....

.....

*Registrar of Lands**Registrar of Lands  
Saint Lucia*

Form L. R. 10

INSTRUMENT NO.

--

## LAND REGISTRATION ACT

## SECTION 48

**SURRENDER OF LEASE**

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I/We

in consideration of

(The receipt whereof is hereby acknowledged) \*HEREBY SURRENDER  
the lease comprised in the above-mentioned title and the Lessor HEREBY  
ACCEPTS the said surrender.

Dated this

day of

20

Signed by the Lessee in  
the presence of—

.....

.....

Signed by the Lessor in  
the presence of—

.....

.....

*\*Delete if not applicable*

## FOR OFFICIAL USE ONLY

I, the Registrar of Lands in Saint Lucia

REGISTERED

Revision Date: 31 Dec 2008

hereby certify that this document was received by me for registration on the ..... day of ..... 20..... and that stamp duty assessed/adjudicated by Treasury at EC\$ ..... and Land Registry fees at EC\$ ..... relating thereto have been paid.

This day of 20

.....  
Registrar of Lands

.....  
Registrar of Lands  
Saint Lucia

Form L. R. 11

INSTRUMENT NO.

--

## LAND REGISTRATION ACT

## SECTION 60

## GRANT OF SERVITUDE

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I/WE

in consideration of

(the receipt whereof is hereby acknowledged) HEREBY GRANT

to

of

the proprietor of the interest comprised in Parcel No ..... the following servitude :

Dated this day of 20

Signed by the Grantor in  
the presence of—

.....

.....

Signed by the Grantee in  
the presence of—

.....

---

FOR OFFICIAL USE ONLY

I, the Registrar of Lands in Saint Lucia hereby certify that this document was received by me for registration on the ..... day of ..... 20..... and that stamp duty assessed/adjudicated by Treasury at EC\$ ..... and Land Registry fees at EC\$ ..... relating thereto have been paid.

REGISTERED

This      day of      20

.....  
*Registrar of Lands*

.....  
*Registrar of Lands  
Saint Lucia*

Form L.R. 12.

INSTRUMENT NO.

LAND REGISTRATION ACT

SECTION 61

**RELEASE OF SERVITUDE**

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I/WE

being the person now entitled to the benefit of the servitude shown as entry number ..... in the incumbrances section of the register relating to the above mentioned title **HEREBY RELEASE** the servitude.

Dated this      day of      20

Signed in the presence  
of—

.....

.....

---

## FOR OFFICIAL USE ONLY

I, the Registrar of Land in Saint Lucia  
hereby certify that this document was  
received by me for registration on the ..... This REGISTERED  
day of ..... 20..... day of 20  
stamp duty assessed/adjudicated by Treasury  
at EC\$ ..... and Land Registry fees at  
EC\$ ..... relating thereto have been  
paid.

.....  
*Registrar of Lands*

.....  
*Registrar of Lands  
Saint Lucia*

Form L.R. 13

## LAND REGISTRATION ACT

## SECTION 64

## APPLICATION FOR PARTITION

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I/WE

of

HEREBY APPLY for the land comprised in the above-mentioned title to be  
partitioned in the following manner:

Dated this ..... day of ..... 20.....

Signed by the applicant in  
the presence of—

.....

.....

Form L.R. 14

INSTRUMENT NO.

--

## LAND REGISTRATION ACT

## SECTION 74

**POWER OF ATTORNEY**

REGISTRATION QUARTER

BLOCK

PARCEL(S)

I

HEREBY APPOINT

of

to be my Attorney and generally in relation to my interest in the land comprised in the abovementioned title to do anything and everything that I myself could do, and for me and in my name to execute all such instruments and to do all such acts, matters and things as may be necessary or expedient for carrying out the powers hereby given.

*(If the power is to be limited to particular acts only, delete everything after the word "Attorney" and set out below what powers are to be conferred).*

Dated this

day of

20

Signed by the Donor in  
the presence of—

.....

.....

**FOR OFFICIAL USE ONLY**

I, the Registrar of Land in Saint Lucia hereby certify that this document was received by me for registration on the ..... day of ..... 20..... and that stamp duty assessed/adjudicated by Treasury at EC\$..... and Land Registry fees at EC\$..... relating thereto have been paid.

REGISTERED

This

day of

20

.....  
*Registrar of Lands*

.....  
*Registrar of Lands  
Saint Lucia*

# NOTICE OF REVOCATION OF A POWER OF ATTORNEY

.....

Dated this            day of                                 20  
Signed in the presence of— .....

.....

.....

*Registrar of Lands*

.....

*Registrar of Lands*  
*Saint Lucia*

.....

*Registrar of Lands*

*Registrar of Lands  
Saint Lucia*

Form L.R. 17

INSTRUMENT NO.

--

# LAND REGISTRATION ACT

## SECTION 86

## CAUTION

## REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I/WE

of

claim an interest as in the land comprise in the above-mentioned title and forbid the registration of dealings and the making of entries in the register relating thereto (altogether) or to the following extent

without my/our consent, until this caution has been withdrawn by me/us or removed by order of the court or of the Registrar.

Dated this            day of            20

Signed by the Applicant .....

FOR OFFICIAL USE ONLY

I, the Registrar of Lands in Saint Lucia

REGISTERED

hereby certify that this document was received by me for registration on the ..... day of ..... 20..... and that stamp duty assessed by Treasury at EC\$ ..... and Land Registry fees at EC\$ ..... relating thereto have been paid.

This day of 20

.....  
*Registrar of Lands*

.....  
*Registrar of Lands  
Saint Lucia*

Form L.R. 18

## LAND REGISTRATION ACT

### SECTION 105

### NOTICE OF INTENTION TO APPEAL TO THE HIGH COURT

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....  
I/WE

HEREBY GIVE NOTICE that I/WE intend to appeal to the High Court in respect of the following matter—

*(Here set out briefly the decision, direction, order, determination or award of the Registrar in question.)*

My/our grounds of appeal are as follows—

Dated this day of 20

.....  
*Signature of Appellant*

---

### FOR OFFICIAL USE ONLY

I, the Registrar of Lands in Saint Lucia

REGISTERED

Revision Date: 31 Dec 2008

hereby certify that this document was This       day of       20  
 received by me for registration on the .....  
 day of ..... and that stamp duty  
 assessed by Treasury at EC\$ ..... and  
 Land Registry fees at EC\$ .....  
 relating thereto have been paid.

.....  
*Registrar of Lands*

.....  
*Registrar of Lands*  
*Saint Lucia*

Form L.R. 19

## LAND REGISTRATION ACT

## SECTION 35

**APPLICATION TO INSPECT THE REGISTER**

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I HEREBY APPLY to inspect the register relating to the above-mentioned  
 title

Signature .....

Address .....

.....

Date .....

**CONDITIONS**

1. Persons inspecting the register may take brief notes in pencil, but no document shall be copied.
2. In no circumstances may any note or mark be made on any register, document or file produced for inspection.
3. The counter clerk's duty does not extend to answering questions on matter of title, and no responsibility is accepted for any opinion which may be expressed by him or her.

Form L.R. 20

## LAND REGISTRATION ACT

## SECTION 35 (2)

**APPLICATION FOR CERTIFIED COPY**

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I HEREBY APPLY for ..... certified copy/copies of the following:

Signature .....

Address .....

.....

Date .....

Form L.R. 21

INSTRUMENT NO.

--

## LAND REGISTRATION ACT

## SECTION 35

**APPLICATION FOR OFFICIAL SEARCH**

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

I HEREBY APPLY for an official search of the register relating to the above-mentioned title.

\*I propose (or ..... proposes)

to

and application is hereby made for a stay of registration in accordance with section 42(1) of the Land Registration Act. The written consent of the proprietor accompanies this application.

Date ..... 20.....

Revision Date: 31 Dec 2008

Signature of applicant or his or her Legal Practitioner

.....

Address .....

.....

*\*Delete if not applicable*

To be submitted in duplicate

**FOR OFFICIAL USE ONLY**

I, the Registrar of Lands in Saint Lucia  
 hereby certify that this document was  
 received by me for registration on the day .....  
 of ..... 20..... and that stamp duty  
 assessed/adjudicated by Treasury at EC\$  
 ..... and Land Registry fees at EC\$  
 ..... relating thereto have been paid.

REGISTERED  
 This day of 20

.....

*Registrar of Lands*

.....

*Registrar of Lands  
Saint Lucia*

Form L.R. 22

**LAND REGISTRATION ACT****SECTION 35****CERTIFICATE OF OFFICIAL SEARCH**

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....

.....

.....

On the day of 20 the following  
 were subsisting entries on the register relating to the above-mentioned title:

**PART A – PROPERTY SECTION****PART B – PROPRIETORSHIP SECTION**

## PART C – INCUMBRANCES SECTION

The following applications are pending—

A stay of registration has been in the register, which expires on the       day  
of 20

.....  
*Registrar of Lands*

Form L.R. 23

## LAND REGISTRATION ACT

## SECTION 16

No.....

## MUTATION

REGISTRATION QUARTER

MAP SHEET

PARCEL(S)

.....  
Survey Reference

.....  
Area(s)

TO CHIEF SURVEYOR

State action required

Date .....

.....  
*Registrar of Lands*

(For use of Survey Office)

Number and area of parcels

State number and area of new  
parcels and (where required) of  
old parcels. Insert headings as

Old Parcel No.	New Parcel No.

---

Revision Date: 31 Dec 2008

---

necessary.

--	--

Area(s) calculated by:

Date .....

Registry Map amended by:

Date .....

---

TO REGISTRAR OF LANDS

I certify that the Registry Map ..... has been amended.

Date .....

.....

*Chief Surveyor*

---

(For use of Registrar of Lands)

Entered in Register(s) ..... Date .....

*Registrar of Lands*

## SCHEDULE 4

### Rule 6

#### *Fee*

\$      c

- |  |  |
|--|--|
| 1. On application for Land Certificate or a Certificate of Lease .....   | 20.00  |
| 2. On application for any instrument to be prepared in Registry except where item 3 applies .....  | 25.00  |
| 3. On application for any instrument to be prepared in the Registry which in the opinion of the Registrar, requires substantial addition to or variations from the prescribed forms..... | Such fee not exceeding \$100.00 as the Registrar may assess. |
| 4. On application for registration or filing of any instrument   | 20.00  |
| (a) For the first three copies of the instrument presented for filing affecting one register   | 20.00  |
| (b) For any additional copy of the instrument  | 10.00  |
| (c) For any additional register affected   | 20.00  |
| 5. For opening new registers consequent upon partition for each parcel resulting .....   | 10.00  |
| 6. For opening new registers consequent upon sub-division or combination for each parcel resulting.....  | 20.00  |
| 7. On application to inspect a register, for each register inspected .....   | 5.00   |
| 8. On application for an official search.....  | 30.00  |
| 9. On application for a copy of any register or instrument for every page copied—  |  |
| (a) if certified.....  | 15.00  |
| (b) if uncertified .....   | 10.00  |
| 10. On application for a copy of the Registry Map or for a copy of any filed plan, for every sheet   |  |

copied—

- |  |  |
|--|--|
| (a) if certified.....  | 25.00  |
| (b) if uncertified.....  | 15.00  |
| 11. On application by any person to fix boundary under section 18(1) of the Act.....   | \$50.00 for every hour or part of an hour of the time involved together with any expenses incurred by the Registrar. |
| 12. For any act, matter or thing not otherwise specifically hereinbefore provided..... | Such fee not exceeding \$100.00 as the Registrar may assess.   |

*(Amended by S.I. 175/2006)*