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CHAPTER 185

LANDS AND DEEDS REGISTRY

An Act to provide for the registration of documents; to provide for the issue of Provisional Certificates of Title and Certificates of Title; to provide for the transfer and transmission of registered land; and to provide for matters incidental to or connected with the foregoing.

[Parts I (sections 1 and 2 (b), (c), (f), (j), (n), (o) and (p)) and II-1st November, 1914]

[Parts I (section 2 (a), (d), (e), (g), (h), (i), (k), (l), and (m)) and III-VII-1st May, 1944]

15 of 1914
1 of 1925
5 of 1926
7 of 1937
5 of 1943
53 of 1950
50 of 1951
17 of 1954
20 of 1957
31 of 1958
25 of 1959
9 of 1967
46 of 1969
47 of 1970
Government
Notice
274 of 1964
Statutory
Instrument
65 of 1965
Act No.
38 of 1994
13 of 1994

PART I PRELIMINARY

1. This Act may be cited as the Lands and Deeds Registry Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

(a) "Certificate of Title" means a certificate of title to land issued in accordance with the provisions of Parts III to VII;

"Common Leaseholds Register" means the register referred to in paragraph (b) of section 9;

"common leasehold scheme" has the same meaning as in the Common Leasehold Schemes Act;

Cap. 208

"Court" means the High Court;

"land" means land within Zambia, and includes units and remainders under common leasehold schemes, tenements and hereditaments, but

Cap. 213

does not include any mining right as defined in the Mines and Minerals Act in or under or in respect of any land;

"Lands Register" means the register referred to in paragraph (a) of section 9;

"lease" means any lease other than a State Lease;

"Miscellaneous Register" means the register referred to in paragraph (c) of section 9;

"mortgage" includes a deposit of title deeds or documents with the object of creating an equitable mortgage on the property comprised in such deeds or documents and any charge;

"probate of a will" includes letters of administration with or without will annexed;

"Provisional Certificate" means a provisional certificate of title to land issued in accordance with the provisions of Parts III to VII;

"Register" means the Township Lands Register or the Lands Register, as the context may require;

"Registered Proprietor" means a person to whom a Certificate of Title or a Provisional Certificate has been issued;

"Registrar" means a person appointed under section *three*;

"State Land" means land included within State Lands as defined in the Orders dealing with State Lands;

"State Lease" means a lease of State Land and includes any lease granted before the 24th October, 1964, by the Crown;

"sub-mortgage" means a mortgage by a mortgagee of rights held by him under a mortgage;

"Surveyor-General" includes a Deputy Surveyor-General and any Land Surveyor employed in the office of the Surveyor-General who may be deputed by the Surveyor-General to do any act or thing which may lawfully be done by the Surveyor-General under Part II;

"testator" includes a person dying intestate;

"will" includes codicil.

(As amended by No. 17 of 1954, No. 20 of 1957, S.I. No. 65 of 1965 and

Act No. 38 of 1994)

PART II

REGISTRATION OF DOCUMENTS

3. (1) For the registration of documents required or permitted by this Part or any other Act or by any law to be registered, there shall be an office styled the Registry of Deeds (hereinafter termed "the Registry") in Lusaka, and the Minister may from time to time direct, by Gazette notice, that there shall be a District Registry of Deeds (hereinafter termed a "District Registry") in such place as shall be in such notice mentioned for any district to be thereby defined.

Establishment and
constitution of
Registry of Deeds

(2) The registration of documents shall be performed by a Registrar appointed under this section.

(3) There shall be appointed to the Registry a Chief Registrar and to each District Registry a District Registrar or Provincial Registrar.

(4) There may be appointed to the Registry or a District Registry Principal Registrars, Senior Registrars, Senior Assistant Registrars, and Assistant Registrars.

(5) There may be appointed from time to time persons to discharge temporarily the functions and duties of a Registrar.

(6) Until such time as the duties mentioned in subsection (2) of any officer appointed thereunder shall require that the whole of his time shall be devoted to such duties, the Minister may assign to him duties other than those connected with the Registry or a District Registry.

(As amended by G.N. No. 274 of 1964, S.I. No. 65 of 1965 and Act No. 38 of 1994)

4. (1) Every document purporting to grant, convey or transfer land or any interest in land, or to be a lease or agreement for lease or permit of occupation of land for a longer term than one year, or to create any

Documents
required to be
registered

charge upon land, whether by way of mortgage or otherwise, or which evidences the satisfaction of any mortgage or charge, and all bills of sale of personal property whereof the grantor remains in apparent possession, unless already registered pursuant to the provisions of "The North-Eastern Rhodesia Lands and Deeds Registration Regulations, 1905" or "The North-Western Rhodesia Lands and Deeds Registry Proclamation, 1910", must be registered within the times hereinafter specified in the Registry or in a District Registry if eligible for registration in such District Registry:

Provided that if a document creating a floating charge upon land has been registered under the provisions of section *ninety nine* of the Companies Act or section *thirty-two* of the Co-operative Societies Act, it need not be registered under the provisions of this Part unless and until such charge has crystallised or become fixed.

Cap. 388
Cap. 397

(2) Any document required or permitted to be registered affecting land, persons, property or rights in any district for which a District Registry has been appointed may be registered either in such District Registry or in the Registry.

(3) Upon application to register any document affecting land required to be registered as aforesaid-

(a) The Registrar may order that any document necessary for deducing the title of the applicant for registration to the land thereby affected or any interest therein (hereinafter referred to as a "document necessary to deduce title"), although it may not be a document required to be registered as aforesaid, shall first be produced or its absence satisfactorily accounted for, and if such document necessary to deduce title, being a document required to be registered pursuant to the provisions of this Part or of "The North-Eastern Rhodesia Lands and Deeds Registration Regulations, 1905" or "The North-Western Rhodesia Lands and Deeds Registry Proclamation, 1910", shall not have been registered as so required by one or other of these laws, the Registrar may order that the same be first registered under this Part, unless such document necessary to deduce title is void in consequence of non-registration as hereinafter provided, in which case the Registrar shall not register the document tendered for registration unless ordered so to do by the Court.

- (b) If any person has in his possession or custody any document or evidence of title affecting the same land to the production of which the applicant or any trustee for him is entitled, the Registrar may order such person to produce the same within a time to be fixed by him at the expense of the applicant for registration and may at the expense of such applicant deal with the same as provided in paragraph *a*).
- (c) Any person aggrieved by any order of the Registrar under this subsection may appeal to the Court which may annul or confirm the order of the Registrar with or without modification.
- (d) If any person disobeys the order of the Registrar made in pursuance of paragraph *(b)*, the Registrar may certify such disobedience to the Court and thereupon such person, subject to such right of appeal as aforesaid, may be punished by the Court in the same manner in all respects as if the order made by the Registrar were the order of the Court.

(As amended by No. 5 of 1943, No. 50 of 1951, No. 25 of 1959 and Act No. 38 of 1994)

5. (1) All bills of sale must be registered within three months of the execution of the same.

Times within which registration must be effected

(2) All other documents, except probate of a will, required to be registered as aforesaid shall be registered-

- (a) in the case of a document executed at the place where it is registered, within thirty days from its date;
- (b) in the case of a document executed elsewhere in Zambia, within ninety days from its date;
- (c) in the case of a document executed out of Zambia, within one year from its date.

(3) Probate of a will affecting land or any interest in land shall be registered within twelve months of the grant thereof or the sealing thereof under the provisions of the Probates (Resealing) Act, as the case may be.

Cap. 61

(As amended by No. 5 of 1943, S.I. No. 65 of 1965 and No. 47 of 1970)

6. Any document required to be registered as aforesaid and not registered within the time specified in the last preceding section shall be null and void:

Documents to be void for want of registration

Provided that-

- (i) the Court may extend the time within which such document must be registered, or authorise its registration after the expiration of such period on such terms as to costs and otherwise as it shall think fit, if satisfied that the failure to register was unavoidable, or that there are any special circumstances which afford ground for giving relief from the results of such failure, and that no injustice will be caused by allowing registration;
- (ii) the probate of a will required to be registered as aforesaid, and not registered within the time specified in the last preceding section, shall be null and void so far only as such will affects land or any interest in land.

7. (1) All documents required to be registered as aforesaid shall have priority according to date of registration; notice of a prior unregistered document required to be registered as aforesaid shall be disregarded in the absence of actual fraud.

Priority of documents and date of registration

(2) The date of registration shall be the date upon which the document shall first be lodged for registration in the Registry or, where registration is permitted in a District Registry, in such District Registry.

8. At the option and upon the application of any person interested thereunder, any document affecting land which is not required to be registered pursuant to the provisions of subsection (1) of section *four* may nevertheless be registered in such manner as the Registrar may direct.

Optional registration of documents not required to be registered

9. The following registers shall be kept:

Registers to be kept

- (a) a register of documents relating to land not subject to customary title, other than documents referred to in paragraph (b), called the Lands Register;

- (b) a register of documents relating to common leasehold schemes, called the Common Leaseholds Register;
- (c) A register of other documents required or permitted to be registered under this Act, called the Miscellaneous Register.

(As amended by Act No. 38 of 1994)

10. In the Miscellaneous Register shall be registered any deed or instrument declaring a trust which it is desired to register and any document, other than relating to land, either required by any law to be registered and in respect of which no special registry office is indicated or which it is desirable and proper to register.

Miscellaneous
Register, contents
of

(As amended by No. 5 of 1943)

11. (1) Where any person alleges that any error or omission has been made in a Register or that any entry or omission therein has been made or procured by fraud or mistake, the Registrar shall, if he shall consider such allegation satisfactorily proved, correct such error, omission or entry as aforesaid.

Correction of
errors or omissions
in Registers

(2) Any person aggrieved by any entry or omission made in a Register after application to the Registrar under subsection (1) may apply to the Court for an order that the Register may be rectified, and the Court may either refuse such application with or without costs to be paid by the applicant or it may, if satisfied of the justice of the case, make an order for the rectification of the Register in such manner as it shall direct.

12. (1) In this section-

"diagram" means a diagram of a piece of land, as defined by the Land Survey Act, which has been approved by the Surveyor-General;

"plan" means a plan of a piece of land which has been approved by the Surveyor-General as sufficiently detailed, where the Surveyor-General is satisfied that an actual survey or the approval of a diagram is, for the time being, impractical;

"description" means a sketch plan of the land, showing with reasonable accuracy the position of the boundaries of the land in relation to the position of adjoining land, approved by the Surveyor-General for the purposes of this definition, but not as a plan.

Documents to refer
to diagram, plan or
description
Cap. 188

(2) Subject to this section, any document relating to land which is lodged for registration shall describe the land by reference to a diagram, plan or description of the land, quoting the year and Surveyor-General's number of the plan, diagram or description.

(3) The diagram, plan or description shall be annexed to the document unless it, or a document with it annexed, has already been registered in relation to the land and the document lodged refers to the document already registered.

(4) Where a diagram of a piece of land is registered, the Registrar may, on the application of any person interested, endorse all references in the register to a plan or description of the land with a reference to the diagram.

(5) Where a plan of a piece of land is registered, and no diagram of that piece has been registered, the Registrar may, on the application of any person interested, endorse all references in the register to a description of the land with a reference to the plan.

(6) Where a description of a piece of land has been registered, and no plan or diagram has been registered, the Registrar may, on the application of any person interested, and after considering objections from any other person interested, revise, modify or amend the description.

(7) Subsection (2) shall not apply to-

- (a) a contract for the sale or exchange of land or any interest in land;
- (b) a lease or agreement for a lease relating to a portion only of a building and creating a term not exceeding seven years.

(As amended by Acts No. 17 of 1954, No. 20 of 1957 and No. 38 of 1994)

13. The Registrar may, in any case in which he thinks fit so to do, insist that a document which it is desired to register shall be presented for registration either by a person executing or claiming an interest under the same or the representative or agent of such person, and the Registrar

Identity of person
presenting
document for
registration

may require to be satisfied as to the identity of the person by whom it is brought or, in the case of a representative or agent as to his authority, which authority may be proved by power of attorney, probate or other evidence appearing to the Registrar to be sufficient.

14. Before registering a document under this Part, the Registrar shall satisfy himself that it is an instrument to which this Part applies and that all duties, quit rent or other annual payments thereon have been duly paid.

Registrar to be satisfied that all duties have been paid

15. (1) If a document which it is desired to register is not in Zambia, a copy of such document duly authenticated as a true copy thereof by a notary public under his signature and seal of office may be registered in lieu of such document without further authentication.

Registration of notarially certified copies

(2) Every document presented for registration must be accompanied by a copy of the same and of any map or plan annexed to or comprised therein.

(As amended by S.I. No. 65 of 1965)

16. (1) Registration of a document shall consist of the filing of the document, or of a copy of the document certified by the Registrar as a true copy, and of the entry in a register of-

Details of registration

- (a) the names of the parties;
- (b) the date of the document;
- (c) the date of the registration; and
- (d) a brief description of the nature of the document.

(2) The entries in the registers may be made in a book or recorded by electronic or any other means by which the information can be safely stored and made readily available in writing.

(3) The registers, and the files relating to the several registers, shall be kept separately.

(As amended by Act No. 38 of 1994)

17. The Registrar shall, with respect to each Register, number every copy so filed consecutively, entering the day of the month and year when it is registered, and shall file the copies in the order in which the documents came into his hands.

Copies to be filed consecutively

18. A memorandum signed by the Registrar shall be endorsed on every document registered, containing a sufficient reference to the number and position of the document in the Register, which memorandum shall be proof of the due registration of the document in the absence of sufficient evidence to the contrary.

Memorandum of registration to be endorsed on original

19. If it shall appear to the Registrar that the value of any property has been understated for the purpose of evading the proper transfer duty or any other duty chargeable *ad valorem*, it shall be competent for the Registrar to refuse to register the document in question until he shall have been satisfied that the proper value is stated and that the proper duty has been paid, and for that purpose to take such evidence or to make such inquiry or to cause such valuation to be made as he shall think proper, and to make such order as to the costs of such proceedings as shall be just, subject to appeal to the Court.

Evasion of duty by understatement of consideration

(As amended by No. 7 of 1937)

20. If any document to be registered is not in the English language, it must be accompanied by a translation duly certified by some competent and authorised person.

Translations, if not in English language

21. Registration shall not cure any defect in any instrument registered or confer upon it any effect or validity other than that provided by this Part.

Registration not to cure defects

22. (1) Subject to such regulations as the Minister may make from time to time, the Register may during the usual office hours be searched and examined by anyone and certified copies of any entry may be obtained, if required, upon payment of such fees as may be prescribed.

Registry open for search

(2) Where a register or part of a register is kept other than in the form of a book, it shall be made available for search in a convenient written

form, as a printed document or by means of an electronic device.

(As amended by G.N. No. 274 of 1964 and Act No. 38 of 1994)

23. (1) Where any person requires search to be made at the Registry for entries of any matters or documents, whereof entries are required or allowed to be made in the Registry, he may, on payment of the prescribed fee, lodge at the Registry a requisition in that behalf.

Official certificates
of search
Requisition

(2) The Registrar shall thereupon make the search required, and shall issue a certificate setting forth the result thereof.

Certificate of result

(3) In favour of a purchaser or an intending purchaser, as against persons interested under or in respect of matters or documents whereof entries are required or allowed as aforesaid, the certificate, according to the tenor thereof, shall be conclusive, affirmatively or negatively, as the case may be.

Certificate
conclusive

(4) Every requisition under this section shall be in writing, signed by the person making the same, specifying the name against which he desires search to be made, or in relation to which he requires a certificate of result of search, and other sufficient particulars.

Form of requisition

(5) If any officer, clerk or person employed in the Registry commits, or is party or privy to, any act of fraud or collusion, or is wilfully negligent, in the making of or otherwise in relation to any certificate under this section, he shall be liable on conviction to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one thousand five hundred penalty units or to both.

Frauds by officers,
etc.

(6) Nothing in this section or in any regulation made under this Act shall affect any right which any person may have independently of this section to make any search in the Registry; and every such search may be made as if this section or any such regulation had not been enacted or made.

Saving for
independent right
of search

(7) Where a barrister or solicitor obtains or acts upon the faith of a certificate of result of search under this section or a Provisional Certificate or Certificate of Title, he shall not be answerable in respect

of any loss that may arise from any error in the certificate or in any entry therein or endorsement thereon.

(8) Where the barrister or solicitor is acting for trustees, executors, agents or other persons in a fiduciary position, those persons shall not be so answerable.

(9) Where such persons obtain a certificate without a barrister or solicitor, they shall also be protected in like manner.

(10) For the purposes of this section, "purchaser" means and includes any purchaser or mortgagee *bona fide* for valuable consideration.

(As amended by No. 5 of 1943 and Act No. 13 of 1994)

24. The Registrar shall not, nor shall an Assistant Registrar nor any person acting under the authority of the Registrar or an Assistant Registrar, or under any order or regulation made in pursuance of this Act, 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 of this Act or any order or regulation made thereunder.

Indemnity to
officers of Registry

25. In the event of the loss or destruction of any document registered under this Part, a copy certified to be a true copy under the hand of the Registrar shall be admissible in evidence of its contents in all courts of justice in Zambia, subject to all just exceptions as to its validity or upon other grounds.

Admissibility in
evidence of
certified copies

(As amended by S.I. No. 65 of 1965)

26. Every certified copy or extract of any registered document purporting to be signed by the Registrar shall be receivable in evidence in any civil or criminal case without further or other proof thereof unless it is proved to be a forgery. The party proposing to use it in evidence shall deliver a copy of such certified copy or extract to the opposite party, and such copy or extract shall be received in evidence if the Court is of opinion that the copy thereof was delivered in sufficient time before the hearing to enable the opposite party to inspect the original register from which the copy or extract has been taken.

Procedure to be
adopted when
certified copy is
tendered in
evidence

***27.** Except as in this Part provided, the provisions of the Bills of Sale Acts, 1878 to 1882, of the United Kingdom, shall apply to bills of sale.

Application of
Bills of Sale Acts

* See the Bills of sale (Registration) Act (Cap. 1991).

28. Nothing in this Part contained shall affect any concession or grant of land or any interest in land heretofore or hereafter made by any chief or any power of attorney or instrument or document of procuration heretofore or hereafter granted by any such chief.

Concessions by
chiefs unaffected

PART III

(No. 5 of 1943)

PROVISIONAL CERTIFICATES AND CERTIFICATES OF TITLE

29. As from the 1st May, 1944, no document purporting to grant, convey or transfer land or any interest in land, or to be a State Lease or agreement for a State Lease, or to be a lease or agreement for a lease for a term of not less than fourteen years, or to create any charge upon land, whether by way of mortgage or otherwise, shall be registered under the provisions of Part II unless, prior to such registration, a Certificate of Title or a Provisional Certificate in respect of the land comprised in such document has been issued to the person or persons entitled thereto.

Certificate of Title
required before
registration

*See the Bills of sale (Registration) Act (Cap. 1991).

30. A Provisional Certificate or a Certificate of Title may be issued only to a holder of land in fee simple or as absolute owner or to the original lessee or subsequent transferee of a State Lease.

Who may obtain
Provisional
Certificate or
Certificate of Title

(As amended by S.I. No. 65 of 1965)

31. (1) A grant of land for a life or lives shall, for the purposes of Parts III to VII, be deemed to be a leasehold held from the person entitled to the reversion or remainder immediately expectant upon the termination or expiration of the life estate created by such grant.

Tenants for life and
tenants in tail

(2) From the 1st May, 1944, an estate tail shall cease to exist in Zambia for all purposes, and all land held on an estate tail shall become land held in fee simple by the tenant in tail, and all words in any document after

such date purporting to create an estate tail shall be deemed to create an estate in fee simple.

(As amended by S.I. No. 65 of 1965)

32. The issue of a Provisional Certificate shall confer upon the Registered Proprietor of the land comprised in such Certificate all the rights, benefits and privileges under Parts III to VII of a Registered Proprietor holding a Certificate of Title except that the Court may, at any time upon good cause shown at the suit of any person who claims that he has a better title, cancel or amend a Provisional Certificate and in that event may order the rectification of the Register accordingly.

Effect of issue of
Provisional
Certificate

33. A Certificate of Title shall be conclusive as from the date of its issue and upon and after the issue thereof, notwithstanding the existence in any other person of any estate or interest, whether derived by grant from the President or otherwise, which but for Parts III to VII might be held to be paramount or to have priority; the Registered Proprietor of the land comprised in such Certificate shall, except in case of fraud, hold the same subject only to such encumbrances, liens, estates or interests as may be shown by such Certificate of Title and any encumbrances, liens, estates or interests created after the issue of such Certificate as may be notified on the folium of the Register relating to such land but absolutely free from all other encumbrances, liens, estates or interests whatsoever:

Effect of issue of
Certificate of Title

- (a) Except the estate or interest of a proprietor claiming the same land under a current prior Certificate of Title issued under the provisions of Parts III to VII; and
- (b) Except so far as regards the omission or misdescription of any right of way or other easement created in or existing upon any land; and
- (c) Except so far as regards any portion of land that may be erroneously included in the Certificate of Title, evidencing the title of such Registered Proprietor by wrong description of parcels or of boundaries.

(As amended by S.I. No. 65 of 1965)

34. (1) No action for possession, or other action for the recovery of any land, shall lie or be sustained against the Registered Proprietor holding a Certificate of Title for the estate or interest in respect to which he is registered, except in any of the following cases, that is to say:

Restriction on
ejectment after
issue of Certificate
of Title

- (a) the case of a mortgage as against a mortgagor in default;

- (b) the case of the President as against the holder of a State Lease in default;
- (c) the case of a person deprived of any land by fraud, as against the person registered as proprietor of such land through fraud, or against a person deriving otherwise than as a transferee *bona fide* for value from or through a person so registered through fraud;
- (d) the case of a person deprived of or claiming any land included in any Certificate of Title of other land by misdescription of such other land, or of its boundaries, as against the Registered Proprietor of such other land, not being a transferee, or deriving from or through a transferee, thereof *bona fide* for value;
- (e) the case of a Registered Proprietor claiming under a Certificate of Title prior in date in any case in which two or more Certificates of Title have been issued under the provisions of Parts III to VII in respect to the same land.

(2) In any case other than as aforesaid, the production of the Register or of a copy of an extract therefrom, certified under the hand and seal of the Registrar, shall be held in every court of law or equity to be an absolute bar and estoppel to any such action against the Registered Proprietor of land the subject of such action, and in respect of which a Certificate of Title has been issued, any rule of law or equity to the contrary notwithstanding.

35. After land has become the subject of a Certificate of Title, no title thereto, or to any right, privilege, or easement in, upon or over the same, shall be acquired by possession or user adversely to or in derogation of the title of the Registered Proprietor.

Protection against
adverse possession

36. Any person interested in any land may apply for the issue to the persons entitled thereto of a Provisional Certificate in respect of such land.

Application for
Provisional
Certificate

37. Every applicant, when making his application for a Provisional Certificate, shall produce to the Registrar all instruments in his possession or under his control or in any way affecting his title and shall furnish a schedule of such instruments and also, if required, an abstract

Formalities of
application

of his title, and shall make and subscribe a declaration of the truth of the statements in such application.

38. (1) Upon the receipt of such application, the Registrar shall examine the title of the applicant and make all proper investigations and inquiries into the title to the land specified therein.

Procedure upon application

(2) If it appears to the Registrar that any person interested is not a party to such application, he shall direct that such notices shall be served by the applicant upon such persons and in such form and manner as the Registrar deems necessary. Every such notice shall require the person to whom it is addressed, if he wishes to object to the issue of a Provisional Certificate as prayed in such application, to lodge his objection with the Registrar within such time as may be specified by the Registrar in such notice.

39. If, at the expiration of the time or times specified in the notices mentioned in the last preceding section, it appears to the Registrar that all necessary notices have been given and all necessary documents produced and that no notice of objection has been lodged, the Registrar shall issue a Provisional Certificate to the applicant in Form 3 in the Schedule, showing as the Registered Proprietor the person appearing to be entitled to the land:

Issue of Provisional Certificate

Provided that a Provisional Certificate shall not be issued until the Registrar has stamped or otherwise marked such documents of title, if any, as will, in the opinion of the Registrar, when stamped or otherwise marked, give notice to any purchaser or other person dealing with the land of the issue of a Provisional Certificate.

40. If, and so long as, the person holding the office of Registrar is not a barrister or solicitor, the Minister may, by statutory order, direct that the following procedure shall be substituted for the procedure prescribed in sections *thirty-seven*, *thirty-eight* and *thirty-nine*:

Minister may prescribe different procedure when Registrar is not a barrister or solicitor

- (a) An application for a Provisional Certificate shall be accompanied by-
 - (i) a certificate (hereinafter called a "practitioner's certificate") by a barrister or solicitor in Form 1 in the Schedule, and such certificate shall state that the barrister or solicitor signing the

- same has made all proper investigations and inquiries into the title to the land specified therein, and that in his opinion the legal and equitable estates and all other interests in such land are as set out in such certificate;
- (ii) a statement signed by the barrister or solicitor who signed the practitioner's certificate giving the names and addresses of all persons interested in the land in respect of which the application is made or any portion thereof, both as appearing in the latest registered document containing such names and as may be believed to be correct at the time of the application to the best of the signatory's knowledge, information and belief.
 - (b) Upon receipt of an application for a Provisional Certificate, the Registrar shall send notice of the application in Form 2 in the Schedule to each of the persons mentioned in the statement referred to in paragraph (a) (ii) at all the addresses for that person given in such statement. Every such notice shall be sent by registered post and shall require the addressee, if he wishes to object to the issue of a Provisional Certificate as prayed in such application, to lodge his objection with the Registrar within such time as may be specified by the Registrar in such notice.
 - (c) If, at the expiration of the time or times specified in the notices mentioned in paragraph (b), it appears to the Registrar that all necessary notices have been given and all necessary documents produced and that no notice of objection has been lodged, the Registrar shall issue a Provisional Certificate to the applicant in Form 3 in the Schedule, showing as the Registered Proprietor the person appearing to be so entitled to the land in accordance with the practitioner's certificate:

Provided that a Provisional Certificate shall not be issued until the Registrar has stamped or otherwise marked such documents of title, if any, as will, in the opinion of the Registrar, when stamped or otherwise marked, give notice to any purchaser or other person dealing with the land of the issue of a Provisional Certificate.

(As amended by G.N. No. 274 of 1964)

41. Any objection which may have been lodged with the Registrar against the issue of a Provisional Certificate and which has been so lodged within the time specified in the Registrar's notice calling for such objections shall be referred by the Registrar to the Court, and the Court after hearing all necessary parties may, according to the rights of the

Disposal of
objections to issue
of Provisional
Certificate

parties, either order that the Provisional Certificate shall issue as prayed or order that it shall issue in an amended form or shall be refused, and the Registrar shall act in accordance with such order.

42. The President upon an original grant of land, whether by way of fee simple or leasehold, shall instruct the Registrar to issue a Certificate of Title without any Provisional Certificate, and the Registrar shall in such event issue a Certificate of Title accordingly without any Provisional Certificate or any advertisement or other preliminary procedure as provided in Parts III to VII.

Certificate of Title to issue on original State Grant

(As amended by S.I. No. 65 of 1965)

43. After the expiration of six years from the issue of a first Provisional Certificate in respect of any land, the Registered Proprietor of such land for the time being may apply to the Registrar for a Certificate of Title to such land and, upon such application, the applicant shall deliver to the Registrar all documents in his possession or under his control constituting or in any way affecting his title.

Certificate of Title may be issued six years from Provisional Certificate

44. Upon receiving an application for the issue of a Certificate of Title, the Registrar shall cause notice of such application in Form 4 in the Schedule to be advertised in the *Gazette* and at least one newspaper published in Zambia or approved by the Minister, and shall in such advertisement appoint a time within which any objection to the issue of the Certificate of Title may be lodged with the Registrar.

Procedure on application for Certificate of Title

(As amended by G.N. No. 274 of 1964 and S.I. No. 65 of 1965)

45. If, at the expiration of the time specified in the advertisement referred to in the last preceding section, no objection shall have been lodged, the Registrar shall proceed to file and cancel all the documents of title delivered to him with such application, including the Provisional Certificate, and shall issue to the applicant a Certificate of Title in Form 5 in the Schedule.

Issue of Certificate of Title

46. Any objection which may have been lodged with the Registrar against the issue of a Certificate of Title and which shall have been so lodged within the time limited in the notice calling for such objections shall be referred by the Registrar to the Court, and the Court after hearing all necessary parties may, in accordance with the rights of such parties, order that a Certificate of Title shall issue as applied for, or may

Disposal of objections to issue of Certificate of Title

order that it shall issue in an amended form or shall be refused, and the Registrar shall act in accordance with such order.

47. Leases, mortgages, encumbrances or other estates or interests affecting the estate of the Registered Proprietor at the time of the issue of a Provisional Certificate or a Certificate of Title shall, so far as the same are disclosed upon the application or can otherwise be ascertained, be notified on the Register in such manner as to preserve their priority.

Interests
outstanding at time
of issue of
Certificate

48. The Registrar shall note upon every Provisional Certificate and every Certificate of Title, in such manner as to preserve their priority, the memorials of all unsatisfied mortgages, leases and other estates and interests, outstanding or otherwise, to which the land is subject at the time of issuing such Certificate, and any documents dealing with such mortgages, leases, other estates or interests; and in the case of a Provisional Certificate or Certificate of Title issued to a minor, or person under other legal disability, the Registrar shall, in such Certificate, state the particulars of such disability so far as he has notice or knowledge thereof.

Existing
encumbrances to
be noted on
Certificate

49. (1) Every Provisional Certificate or Certificate of Title issued pursuant to any dealing under Parts III to VII shall bear even date with the registration of such dealing.

Certificate: how to
be dated

(2) A Provisional Certificate or Certificate of Title issued in the name of a Registered Proprietor in lieu of a cancelled Certificate issued to the same Registered Proprietor in respect of the same estate or interest may be expressed to take effect as from the date of the Certificate originally issued to such Proprietor in respect of such estate or interest.

50. Whenever any easement or incorporeal right, other than an annuity or rent-charge, in or over any land comprised in a Provisional Certificate or a Certificate of Title, is created for the purpose of being annexed to, or used and enjoyed together with, other land, the Registrar shall enter a memorial of the instrument creating such easement or incorporeal right upon such Provisional Certificate or Certificate of Title and also upon any Provisional Certificate or Certificate of Title of such other land, and such memorial shall, as from the date of entry thereof, have the effect of including such easement in such Provisional Certificate or Certificate of Title of such other land as appurtenant to the land therein described.

How memorial of
easement to be
recorded

51. (1) Any two or more persons named in any instrument under Parts III to VII, or requiring to be registered under this Act as transferees, mortgages, lessees or proprietors of any land or estate or interest therein, shall, unless the contrary is expressed, be deemed to be entitled as joint tenants with right of survivorship, and such instrument, when registered, shall take effect accordingly.

Joint tenants and
tenants in common

(2) Any statement or reference contained in any document or instrument mentioned in subsection (1) which specifies the shares in which the property is to be held shall be deemed to express that a joint tenancy is not to be created.

(3) When two or more persons are entitled as tenants in common or joint tenants to undivided shares in any land, only one Provisional Certificate or Certificate of Title shall be issued in respect of that land, and the Certificate shall be handed or delivered to the person whose name first appears as a Registered Proprietor on such Certificate and, on any transfer of any undivided share or interest in such land, the Provisional Certificate or Certificate of Title, as the case may be, shall be cancelled and a new Certificate issued.

(As amended by S.I. No. 65 of 1965)

52. The Registrar shall not be bound to issue a Certificate of Title upon any application in respect of which notice is hereby required to be given by advertisement until after the expiration of fourteen days from the time limited in such advertisement.

Issue of Certificate
of Title may be
withheld for
fourteen days in
certain cases

53. If any Provisional Certificate or Certificate of Title is issued in the name of a person who has previously died, such Certificate shall not be void, but the land comprised therein shall devolve in like manner as if such Certificate had been issued immediately prior to such death.

Certificate not to
be void though
issued in name of
person deceased

54. Every Provisional Certificate and every Certificate of Title, duly authenticated under the hand and seal of the Registrar, shall be received in all courts of law and equity as evidence of the particulars therein set forth or endorsed thereon, and of their being entered in the Register, and shall, unless the contrary is proved by the production of the Register or a copy thereof certified under the hand and seal of the Registrar, or unless the rectification of a Provisional Certificate is ordered by the Court, be

Certificate to be
evidence of
proprietorship

conclusive evidence that the person named in such Provisional Certificate or Certificate of Title, or in any entry thereon, as seised of or as taking estate or interest in the land therein described is seised or possessed of such land for the estate or interest therein specified as from the date of such Certificate or as from the date from which the same is expressed to take effect, and that such Certificate has been duly issued.

55. (1) Upon the application of any Registered Proprietor of land held under separate Provisional Certificates or Certificates of Title, or under one Provisional Certificate or Certificate of Title, the Registrar may issue to such Proprietor a single Certificate for the whole of such land, or several Certificates, each containing a portion of such land, so far as the same may be done consistently with any regulations for the time being in force.

Proprietor may claim single Certificate in place of several

(2) Upon issuing any such Certificate, the Registrar shall cancel the previous Certificate, and shall note thereon a reference to the Certificate issued in lieu thereof.

56. (1) In the event of any Provisional Certificate or Certificate of Title being lost, mislaid or destroyed, the Registered Proprietor, together with other persons (if any) having knowledge of the circumstances, may make a statutory declaration stating the facts of the case, the names and descriptions of the Registered Proprietor, and the particulars of all mortgages, encumbrances or other matters affecting such land and the title thereto, to the best of the declarant's knowledge and belief.

Declaration may be made in case of loss of original Certificate

(2) The Registrar, if satisfied as to the truth of such declaration, may issue a duplicate Provisional Certificate or duplicate Certificate of Title, which duplicate Certificate shall contain an exact copy of the original Certificate and of every memorandum and endorsement thereon, and shall also contain a statement of the circumstances under which such duplicate Certificate is issued. If the Registrar shall not be satisfied as to the truth of such declaration, he may call for confirmatory evidence and, if no sufficient confirmatory evidence be produced, he shall refuse to issue such duplicate.

(3) The Registrar shall at the same time enter in the Register notice of the issue of such duplicate Certificate and the date thereof, and the circumstances under which it was issued.

(4) The Registrar, before issuing such duplicate Certificate, shall give at least fourteen days' notice of his intention so to do in the *Gazette* and in at least one newspaper published in Zambia, or approved by the Minister.

(5) Such duplicate Certificate shall be available for all purposes and uses for which the Provisional Certificate or Certificate of Title so lost or mislaid would have been available, and as valid to all intents as such Certificate.

(6) In the event of the loss of any other document registered under this Act, copies may be supplied and certified in accordance with and subject to such regulations as may be prescribed.

(As amended by G.N. No. 274 of 1964 and S.I. No. 65 of 1965)

57. Where a transfer has been lodged for registration without production of the outstanding Provisional Certificate or Certificate of Title, the Registrar may, if he is satisfied that such outstanding Certificate cannot be got in and cancelled, register the transfer and issue a new Certificate in the name of the purchaser without such cancellation.

(No. 9 of 1967)

Issue of Certificate on sale for non-payment of rates.

PART IV

TRANSFER AND TRANSMISSION OF REGISTERED LAND

58. Except in the case of fraud, no person contracting or dealing with or taking or proposing to take a transfer or mortgage from the Registered Proprietor of any estate or interest in land in respect of which a Certificate of Title has been issued shall be required or in any manner concerned to inquire into or ascertain the circumstances in or the consideration for which such Registered Proprietor or any previous Registered Proprietor of the estate or interest in question is or was registered, or to see to the application of the purchase money or of any part thereof, or shall be affected by notice, direct or constructive, of any trust or unregistered interest, any rule of law or equity to the contrary notwithstanding, and the knowledge that any such trust or unregistered

Purchaser from Registered Proprietor not to be affected by notice

interest is in existence shall not of itself be imputed as fraud.

59. Nothing in Parts III to VII shall be so interpreted as to render subject to action for recovery of damages, or for possession, or to deprivation of any land in respect to which a Certificate of Title has been issued, any purchaser or mortgagee *bona fide* for valuable consideration of such land on the ground that his vendor or mortgagor may have become a Registered Proprietor through fraud, or error, or under any void or voidable instrument, or may have derived from or through a Registered Proprietor through fraud or error, or under any void or voidable instrument, and this whether such fraud or error consists in wrong description of the boundaries or of the parcels of any land, or otherwise howsoever.

No liability on
bona fide
purchaser or
mortgagee

60. (1) The Registered Proprietor of land in respect of which a Provisional Certificate or a Certificate of Title has been issued may-

Creation of various
estates

- (a) make a transfer to himself jointly with any other person or persons; and
- (b) create or execute any powers of appointment, or limit any estates, whether by remainder or in reversion, and whether contingent or otherwise, and for that purpose may modify or alter any form of transfer hereby prescribed.

(2) In case of the limitation of successive interests as aforesaid, the Registrar shall cancel the Provisional Certificate or Certificate of Title evidencing the title of the transferor, and shall issue a Certificate in the name of the person ultimately entitled to the estate in remainder or reversion directly under the President (whether freehold or leasehold) for such estate as he is entitled to, and the persons immediately and subsequently successively entitled in possession shall be registered as leaseholders according to the limitations in their favour.

(As amended by S.I. No. 65 of 1965)

61. (1) When land in respect of which a Provisional Certificate or a Certificate of Title has been issued, or any estate or interest in such land, is intended to be transferred, or any right of way or other easement is intended to be created, the Registered Proprietor may execute for the purpose of registration a deed of transfer in Form 6 in the Schedule with such modifications as the circumstances may require.

Transfer by
Registered
Proprietor

(2) Where the Registered Proprietor or Registered Proprietors is or are the personal representatives of a deceased Registered Proprietor, an assent by such personal representative or personal representatives shall be deemed, for the purposes of subsection (4) of section 3 of the Land Transfer Act, 1897, of the United Kingdom, to be in the prescribed form if the same is in Form 7 in the Schedule.

(3) Upon presentation to the Registrar of a transfer or assent executed in accordance with this section and upon compliance with the law and any regulations relating to the registration of such document, the Registrar shall register the same:

Provided that, where the subject-matter of such transfer or assent is land in respect of which a Provisional Certificate or Certificate of Title has been issued, the Registrar shall call for and cancel such existing Certificate and issue a new Certificate and further, where a Certificate of Title has been issued, the Registrar, after registration of the deed of transfer or assent and issue of the new Certificate, shall cancel such deed of transfer or assent.

(4) Upon transfer of one or more subdivisions or portions of any land in respect of which a Provisional Certificate or Certificate of Title has been issued and upon cancellation of the existing Certificate, the Registrar shall issue a new Certificate in respect of each subdivision or portion to the transferee and a new Certificate in respect of the remaining extent to the transferor. With the consent of the Registrar, a block of subdivisions may be treated as a portion of land for the purposes of this subsection.

62. In every transfer of land subject to a mortgage, there shall be implied a covenant on the part of the transferee to and with the transferor to pay the interest or other payments thereafter to become due by virtue of such mortgage at the time and in manner therein specified for payment thereof, and to pay the principal sum when and as the same becomes due, and to keep harmless and indemnified the transferor in respect of such payments, and in respect of all liability on account of the future observance of the covenants and conditions on the part of the transferor in such mortgage expressed or implied.

Implied covenant
in transfer of equity
of redemption

63. Whenever any order is made by any court of competent jurisdiction

Memorandum of
order of court

vesting any estate or interest in land in any person, the Registrar, upon being served with an office copy of such order, shall enter a memorandum thereof in the Register and on the outstanding instrument of title and, until such entry is made, the said order shall have no effect in vesting or transferring the said estate or interest.

vesting estate or
interest to be
entered on Register

64. Notwithstanding anything contained in Parts III to VII, a charge on land or on any estate or interest in land may be contained in an assent under section 3 of the Land Transfer Act, 1897, of the United Kingdom.

Charge in assent

65. A mortgage of any estate or interest in land shall have effect as security and shall not operate as a transfer or lease of the estate or interest thereby mortgaged, but the mortgagee shall have and shall be deemed always to have had the same protection powers and remedies (including a power of sale, the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits or any of them and, in the case of land held in leasehold, the right to receive any notice relating to the land the subject of the mortgage which under any law or instrument the mortgagor is entitled to receive) as if the mortgage had so operated as a transfer or lease of the estate or interest mortgaged.

Mortgage to take
effect as security

(No. 31 of 1958)

66. (1) A power of sale of the whole or any part or parts of any property subject to a mortgage shall become exercisable by a mortgagee if the mortgage is made by deed and the mortgage money payable thereunder has become due and the mortgage is not redeemed before sale, and every such power of sale shall be with and subject to the powers and obligations and other provisions relating to sales by mortgagees contained in the Conveyancing and Law of Property Act, 1881, of the United Kingdom, or any statutory modification thereof applicable in Zambia, but neither the Registrar nor any person purchasing for value from such a mortgagee shall be bound or concerned to see whether all or any of the provisions of that Act have been complied with or whether any money remains due under the mortgage.

Power of sale

(2) A mortgagee exercising the said power of sale shall have power by deed to transfer to the purchaser the whole estate or interest of the mortgagor in the property the subject of the mortgage freed from the right of redemption by the mortgagor and freed from all estates, interests and rights to which the mortgage has priority, but subject to all estates, interests and rights which have priority to the mortgage.

(As amended by No. 31 of 1958 and S.I. No. 65 of 1965)

67. (1) Upon production of any memorandum by endorsement on the mortgage or otherwise, signed by the mortgagee and attested by a witness discharging the land, estate or interest from the whole or part of the principal sum or annuity secured, or discharging any part of the land comprised in such mortgage from the whole or any part of such principal sum or annuity, the Registrar shall make an entry in the Register and on the outstanding instrument of title, noting that such mortgage is discharged wholly or partially.

Discharge of mortgage how effected

(2) Upon such entry being made, the land, estate or interest mentioned or referred to in such memorandum shall cease to be subject to or liable for such principal sum or annuity, or for the part thereof noted in such entry as discharged.

(3) The outstanding document creating the mortgage so wholly or partially discharged as aforesaid shall be surrendered to the Registrar to be cancelled or part cancelled, as the case may be, unless the Registrar sees reasonable cause to dispense with such surrender.

(4) A mortgage subject to a sub-mortgage shall not be discharged, nor shall the terms thereof be varied, nor shall the power of sale contained or implied therein be exercised without the consent in writing of the sub-mortgagee.

(5) The consent of the sub-mortgagee to the variation of the terms of a mortgage shall render the instrument making the variation binding on him and on all persons who may subsequently derive from him interest in the mortgage.

68. (1) Any executor, administrator, trustee in bankruptcy or committee of a lunatic claiming to be entitled to any estate or interest in land by virtue of any transmission may make application in writing to the Registrar to have such transmission registered.

Persons claiming under transmission may apply to have same registered

(2) Such application shall be accompanied by the probate, letters of administration, appointment or other authority under which the applicant makes his claim and shall accurately define the estate or

Particulars to be stated in application

interest claimed by such applicant, and state that he verily believes himself to be entitled to the estate or interest in respect of which he applies to be registered as Proprietor, and, if so required by the Registrar, the statements in such application shall be verified by the oath or statutory declaration of the applicant.

69. (1) If, on such application and upon the evidence adduced in support thereof, it appears to the Registrar that the applicant is entitled to the estate or interest claimed, the Registrar shall note as a memorial or register such evidence and, if such applicant appears to be entitled to any land in respect of which a Provisional Certificate or Certificate of Title has been issued, the Registrar shall, upon registration of the said evidence and upon receiving such Certificate, issue to him a new Certificate in respect thereof and cancel the former Certificate.

Procedure on
application for
transmission

(2) Any person becoming a Registered Proprietor of any land under the provisions of subsection (1) shall hold the land transmitted subject to all equities affecting the same, but for the purpose of any dealing therewith shall be deemed to be the absolute Proprietor thereof with full powers to dispose of the same by way of transfer, sale, mortgage or otherwise without the consent of any other person and further with full powers to give receipts and discharges for all purchase or mortgage moneys or other moneys arising from any such disposition.

(3) Notwithstanding anything contained in section *fifty-five* of the Bankruptcy Act, no land within Zambia and no interest in any such land shall vest in an official receiver or trustee in bankruptcy until such official receiver or trustee in bankruptcy has been registered as Proprietor thereof or has been registered as Registered Proprietor thereof as provided in this section:

Cap. 83

Provided that, pending a decision of the Registrar under subsection (1), any receiving order and any appointment of a trustee in bankruptcy affecting any land or interest in land may be noted in the appropriate Register as an encumbrance or outstanding estate or as a document creating an encumbrance or outstanding estate upon production to the Registrar of a certificate of such order or appointment under the hand of the Registrar of the Court.

(As amended by S.I. No. 65 of 1965)

70. Upon the registration of a transmission under any will or letters of Caveat may be

administration, the Registrar may enter a caveat for the protection of the interests of persons appearing by such will or letters of administration to be beneficially interested in the estate or interest the subject of such transmission.

entered on behalf of beneficiaries under any will or settlement

71. Upon the bankruptcy of the lessee under any registered lease or State Lease of land, the Registrar, upon the application in writing of the trustee in bankruptcy of the bankrupt's estate, accompanied by a statement in writing signed by such trustee certifying his disclaimer of such lease or State Lease and upon delivery of an order of Court giving leave so to disclaim, shall enter in the Register the particulars of such disclaimer.

Disclaimer of lease on bankruptcy of lessee

(As amended by S.I. No. 65 of 1965)

72. Such entry or disclaimer as aforesaid shall operate as a transfer on sale or as a surrender as may be specified in the order of Court giving leave for the disclaimer.

Entry to operate as transfer on sale or surrender

73. (1) Notwithstanding anything contained in the Bankruptcy Act, or any rule made thereunder, no such entry of disclaimer as mentioned in the last two preceding sections shall be made without the leave of the Court.

No entry of disclaimer except with leave of Court.
Cap. 83

(2) Notwithstanding anything contained in the Bankruptcy Act, no land within Zambia held in fee simple by a person who has become bankrupt shall be disclaimed by the trustee in bankruptcy or any other person entitled thereto except with the consent of and by transfer to the President.

Cap. 83

(As amended by S.I. No. 65 of 1965)

PART V

TRUSTS

(As amended by No. 5 of 1943)

74. (1) Except as hereinafter provided in relation to public lands, no entry of any notice of any trust shall be made in the Township Lands Register, in the Lands Register, in any Provisional Certificate or in any Certificate of Title, and any such entry, if made, shall have no effect.

No entry of trusts to be made on Register except those specially authorised

(2) Trusts affecting land may be declared by any deed or instrument, and such deed or instrument may be registered in the Miscellaneous Register.

75. Section 12 of the Trustee Act, 1893, of the United Kingdom, shall not apply to land in respect of which a Provisional Certificate or a Certificate of Title has been issued, but whenever a new trustee is appointed to perform any trust in relation to such land, the person or persons in whom the legal estate of the land or the estate or interest therein comprised in such trust is vested shall forthwith transfer the same to the persons jointly who are the trustees as the result of such appointment.

Vesting in new trustees

PART VI

(No. 5 of 1943)

CAVEATS

76. Any person-

Caveat against dealing with land

- (a) claiming to be entitled to or to be beneficially interested in any land or any estate or interest therein by virtue of any unregistered agreement or other instrument or transmission, or of any trust expressed or implied, or otherwise howsoever; or
- (b) transferring any estate or interest in land to any other person to be held in trust; or
- (c) being an intending purchaser or mortgagee of any land; may at any time lodge with the Registrar a caveat in Form 8 in the Schedule.

77. (1) Every caveat shall be signed by the caveator or by his attorney or agent, and shall state with sufficient certainty the nature of the estate or interest claimed by the caveator, with such other information and evidence as may be required by any regulations under this Act, and shall appoint a place or give an address within 4.83 kilometres of the Registry at or to which notices and proceedings relating to such caveat may be served or addressed.

Particulars to be stated in caveat

(2) Every caveat shall be entered on the Register as of the day and hour

of the reception thereof by the Registrar.

78. Every notice relating to a caveat and any proceedings in respect thereof if served at the place appointed in the caveat, or forwarded through the Post Office by registered letter addressed as aforesaid, shall be deemed duly served.

Service of notices
as to caveats

79. So long as a caveat in Form 8 remains in force, the Registrar shall not make any entry on the Register having the effect of charging or transferring or otherwise affecting the estate or interest protected by such caveat:

Effect of caveat
against dealings

Provided that nothing herein shall prevent the completion of the registration of an instrument which has been accepted for registration before the receipt of the caveat.

80. Upon the receipt of any caveat, the Registrar shall notify the same to the Registered Proprietor or other person against whose title to deal with land or other interest such caveat has been lodged. Such notification may be sent by ordinary prepaid post addressed to the person to be notified at his address as shown in the Register or, if there be no such address, by posting it up in a conspicuous place outside the office of the Registry for not less than seven days.

Notice of caveat to
be given to persons
affected

81. (1) Such Registered Proprietor or other interested person may, if he thinks fit, summon the caveator, or the person on whose behalf such caveat has been lodged, to attend before the Court or a Judge thereof to show cause why such caveat should not be removed.

Procedure for
removal of caveat

(2) Such Court or Judge, upon proof that such person has been summoned, may make such order in the premises, either *ex parte* or otherwise, as to such Court or Judge seems meet.

82. (1) Any person lodging any caveat without reasonable cause shall be liable to make to any person who may have sustained damage thereby such compensation as may be just.

Person entering
caveat without
cause liable for
damages

(2) Such compensation shall be recoverable in an action at law by the

person who has sustained damage from the person who lodged the caveat.

83. Any caveat may be withdrawn by the caveator or by his attorney or agent under a written authority, and either as to the whole or any part of the land affected, or the consent of the caveator may be given for the registration of any particular dealing expressed to be made subject to the rights of the caveator.

Caveat may be withdrawn

PART VII

(No. 5 of 1943)

MISCELLANEOUS

84. Every Registrar, in addition to the powers hereinbefore vested in him, may exercise all or any of the powers following, that is to say:

Registrar may require production of instruments

(a) he may require the Proprietor or other person making or concurring in any application under Parts III to VII to produce any deed or instrument in his possession or control relating to the land the subject of such application, and, if necessary, to attend and give any information or explanation concerning the same;

For his information

(b) he may require any person having in his possession or control any Provisional Certificate, Certificate of Title, mortgage or other instrument upon which any memorial or entry is required to be endorsed for the purposes of Parts III to VII to produce such instrument within a reasonable time to be fixed by such notice, and to deposit the same with the Registrar for such time as may be necessary for the making of such endorsement or entry;

For endorsement

(c) he may, if in his opinion the number or nature of the entries on any folium of the Register renders it expedient to close the same, or if any document of title has become worn, defaced or mutilated so as to justify his so doing, require the holder of the outstanding document of title to surrender the same for cancellation; and upon such cancellation, a duplicate shall be issued to the person entitled thereto upon payment of the prescribed fee:

Cancellation

Provided that the Registrar may at his discretion remit such fee

- except in case of wilful defacement or mutilation of any instrument;
- (d) he may enter caveats for the protection of any person who is under the disability of infancy, lunacy, unsoundness of mind, or absence from Zambia, or, on behalf of the President, to prohibit the transfer or dealing with any land belonging or supposed to belong to any such persons as hereinbefore mentioned, and also to prohibit the dealing with any land in any case in which it appears to him that an error has been made by misdescription of such land or otherwise in any Provisional Certificate, Certificate of Title or other instrument, or for the prevention of any fraud or improper dealing; May enter caveats
 - (e) he may administer oaths, or may take a statutory declaration in lieu of administering an oath; May administer oaths
 - (f) he may, if satisfied that any State Lease, lease or other interest in land has been wholly surrendered, forfeited, merged or expired or that any mortgage has been wholly discharged, strike out from and cancel in the Register all entries relating to such State Lease, lease, interest or mortgage: May clear the Register from expired estates

Provided that, if upon any application to exercise this power or upon the Registrar being otherwise desirous of exercising the same, it shall seem doubtful to the Registrar whether such exercise might prejudice any person, then the Registrar shall obtain the consent of that person before proceeding to clear the Register as aforesaid.

(As amended by S.I. No. 65 of 1965)

- 85.** (1) If, upon requisition in writing made by the Registrar for any purpose mentioned in the last preceding section, any proprietor or other person without reasonable cause refuses or neglects- Penalty for failure to produce instruments when required by Registrar
- (a) to produce, surrender or deposit any instrument, or to allow the same to be inspected; or
 - (b) to give any explanation which he is hereinbefore required to give;
- he shall be liable to a fine not exceeding one hundred and fifty penalty units for each day during which such refusal or neglect

continues.

(2) Such fine may be recovered at the suit of the Registrar in any court of competent jurisdiction, and the offender shall, in addition thereto, be liable to make compensation to any person who has sustained loss or damage by reason of such refusal or neglect.

(As amended by Act No. 13 of 1994)

86. Where any land is held on trust to be kept open for use as a street or road or other right of way for the public, such trust may be noted on the Register.

Public rights of way

87. If the Registrar refuses to perform any act or duty which he is required or empowered by this Act to perform, or if a Registered Proprietor or other interested person is dissatisfied with the direction or decision of the Registrar in respect of any application, claim, matter or thing under this Act, the person deeming himself aggrieved may appeal to the Court.

Appeal to Court from decision of Registrar

88. The Registrar may, by special case, submit for the decision of the Court any question arising under this Act which appears to him to require such decision; and the Court shall give its judgment thereon as if such question had been raised in due form upon an appeal from the decision of a subordinate court

Registrar may submit special case

89. In the conduct of appeals from the Registrar to the Court, the same rules shall apply as are in force or exist for the time being in respect of ordinary appeals to the Court from a subordinate court.

Procedure on appeals

90. Any person who, not being a barrister or solicitor, transacts any business under this Act for and on behalf of any other person for fee or reward shall be guilty of an offence and liable to a fine not exceeding one thousand five hundred penalty units:

Penalty for unqualified person acting

Provided that nothing contained in this section shall apply to a Government officer acting in the performance of his duties as such.

(As amended by Act No. 13 of 1994)

91. The Registrar shall, subject to any regulations which may be prescribed, note in such manner as he may think fit in any folium of the Register and also upon any Certificates of Title or Provisional Certificates particulars of any rights granted or acquired under the Mines and Minerals Act which affect the land referred to or comprised in such folium of the Register or in such Certificates.

(As amended by No. 46 of 1969)

Mining rights
Cap. 213

92. The Minister may, by statutory instrument, make regulations and from time to time cancel, alter or amend the same-

Regulations

- (a) for the conduct of registration under this Act;
- (b) prescribing the form of application for search in the Registry and the official certificate to be issued thereon;
- (c) prescribing the times during which may Register in the Registry may be searched and examined;
- (d) prescribing the fees payable upon registration of documents and in respect of unofficial and official searches under this Act;
- (e) providing for the issue of a single Certificate of Title or Provisional Certificate for several pieces of land and for the issue of separate Certificates of Title or Provisional Certificates for different portions of the same piece of land;
- (f) providing for the issue of copies and certified copies of lost title deeds and the reception thereof as evidence by any courts in Zambia;
- (g) providing for the noting or registration of rights granted or acquired under the Mines and Minerals Act on the Register and on Certificates of Title and Provisional Certificates;
- (h) generally for more effectually carrying into effect the provisions of this Act.

Cap. 213

(As amended by G.N. No. 274 of 1964, S.I. No. 65 of 1965 and No. 46 of 1969)

NB. With the coming into force of this Act, the Bills of Sale Acts 1878-1882 of the United Kingdom ceased to have effect in Zambia.

SCHEDULE

PRESCRIBED FORMS

FORM 1

THE LANDS AND DEEDS REGISTRY ACT

(Section 40)

PRACTITIONER'S CERTIFICATE

I, the undersigned, hereby certify that I have made all proper investigations and inquiries into the title to the piece of land being ALL that (Insert description of land) and in my opinion the legal and equitable estates and all other interests in such land are as follows, that is to say:

(1) The legal estate in the fee simple in possession (*or* in the State Lease held directly from the President) is vested in (Insert name or names of persons entitled to be Registered Proprietors of the land and if more than one whether they hold as joint tenants or tenants in common).

(2), (3), (4), etc. (Insert in convenient numbered paragraphs particulars of leases, mortgages, easements, restrictive covenants and other estates and interests affecting the land).

.....
Solicitor (or Barrister-at-Law)

(As amended by S.I. No. 65 of 1965)

FORM 2

THE LANDS AND DEEDS REGISTRY ACT

(Section 40)

NOTICE OF APPLICATION FOR PROVISIONAL CERTIFICATE

To of
.....

.....
TAKE NOTICE that
of has made
application
to me praying for a Provisional Certificate to be issued in respect of ALL that (Insert
description of land) in accordance with the following particulars:

(1), (2), etc. (Repeat paragraphs specifying the legal and equitable estates and other
interests as set out in the Practitioner's Certificate).

IF YOU wish to object to the issue of a Provisional Certificate as prayed in the
above-mentioned application, you must lodge your objection with me the undersigned
within days from the date hereof.

DATED this day of 19 .. .

Registrar of Lands and Deeds

FORM 3

REPUBLIC OF ZAMBIA

THE LANDS AND DEEDS REGISTRY ACT

(Sections 39 and 40)

PROVISIONAL CERTIFICATE

THIS Certificate, dated the day of

.....
One thousand nine hundred and under the hand and seal of the Registrar of the Lands and Deeds Registry of Zambia WITNESSETH that of is seised for an estate in fee simple (subject to such reservations, restrictions, encumbrances, liens, estates and interests as are notified by memorial underwritten or endorsed hereon and subject also to the power of the High Court to cancel or amend this Certificate) of and in ALL that (Insert description of land).

.....
Registrar

(L.S.)

In the case of land held under a State Lease substitute: "is a tenant or lessee for the unexpired residue of a term of years from the day of 19..... "for" is seised for an estate in fee simple".

MEMORIALS

(Insert Particulars)

(As amended by S.I. No. 65 of 1965)

FORM 4

THE LANDS AND DEEDS REGISTRY ACT

(Section 44)

REGISTRATION OF TITLE TO LAND

NOTICE OF APPLICATION FOR CERTIFICATE OF TITLE

NOTICE is hereby given that of

.....

has applied to me for a Certificate of Title to the under-mentioned property and that I have appointed

days from the date of this notice as the time within which any objection to the issue of such Certificate of Title may be lodged with me.

The property referred to is (Describe property and state whether held in fee simple or on State Lease).

DATED the day of 19

Registrar of Lands and Deeds

(As amended by S.I. No. 65 of 1965)

FORM 5

REPUBLIC OF ZAMBIA

THE LANDS AND DEEDS REGISTRY ACT

(Section 45)

CERTIFICATE OF TITLE

THIS Certificate, dated the day of
.....

One thousand nine hundred and under the hand and seal of
the Registrar of the Lands and Deeds Registry of Zambia WITNESSETH
that of is seised for an
estate in fee simple (subject to such reservations, restrictions, encumbrances, liens, estates
and interests as are notified by memorial underwritten or endorsed hereon) of and in ALL
that (Insert description of land).

(L.S.)

.....
Registrar

In the case of land held under a State Lease substitute: "is a tenant or lessee for the
unexpired residue of a term of years from
the day of 19 "for" is seised for an
estate in fee simple".

MEMORIALS

(Insert Particulars)

(As amended by S.I. No. 65 of 1965)

FORM 6

THE LANDS AND DEEDS REGISTRY ACT

(Section 61)

DEED OF TRANSFER

(a) For fee simple title:

THIS INDENTURE made the day of
19 BETWEEN A. of (etc.) of the one part and B. of (etc.) of the other part (Insert any explanatory recitals which may be required) WITNESSETH that in consideration of the sum of paid to A. by B. (the receipt whereof A. hereby acknowledges) A. as beneficial owner hereby conveys to B. ALL that (etc.) TO HOLD unto and to the use of B. in fee simple (Insert a statement of any matters and things to which the land or estate or interest conveyed is to be subject) IN WITNESS whereof the said parties to these presents have hereunto set their hands and seals the day and year first before written.

(Signed) A. (L.S.)

(Signed) B. (L.S.)

SIGNED SEALED and DELIVERED by A. and B. in the presence of

(b) For State Leasehold title:

THIS INDENTURE made the day of
19 BETWEEN A. of (etc.) of the first part, THE PRESIDENT of the second part and B. of (etc.) of the third part.

WHEREAS by an Indenture of Lease (hereinafter called "the Head Lease") dated the day of and made between the President of the one part and (original lessee) of the other part ALL that (parcels in Head Lease) were demised by the President to the said (original lessee) for the term of years from the day of at the yearly rental of K..... subject to the payment of the said rent and the performance and observance of the covenants, conditions and stipulations in the Head Lease reserved and contained.

(AND WHEREAS by an Indenture dated the of and made between (parties) the said premises were assigned by the said (original lessee) to (or by virtue of divers mesne assurances and acts and operations of law and ultimately by etc. the said premises became and now are vested in) A. for the unexpired residue of the said term of years subject to the rent reserved by and the covenants, conditions and stipulations contained in the Head Lease.)

AND WHEREAS A. has agreed with B. for the sale to B. of the said leasehold premises at the price of

AND WHEREAS A. has agreed with B. to join in these presents in manner hereinafter

appearing (insert other recitals if required).

NOW THIS INDENTURE WITNESSETH:

1. IN consideration of the sum of paid to A. by B. (the receipt whereof A. hereby acknowledges) A. as beneficial owner hereby assigns to B. ALL that etc. TO HOLD to B. for all the residue now unexpired of the term granted by the Head Lease SUBJECT to the payment of the rent and the performance and observance of the covenants, conditions and stipulations in the Head Lease reserved and contained and henceforth on the part of the lessee to be paid, observed and performed.

2. (Covenants by B. to pay rent and observe covenants and conditions in Head Lease and to indemnify A.)

3. (Consent by the President to the assignment if required.)

4. (Release by President of A. from covenants in Head Lease if required.)

IN WITNESS etc.

SIGNED SEALED etc.

(As amended by S.I. No. 65 of 1965)

FORM 7

THE LANDS AND DEEDS REGISTRY ACT

(Section 61 (2))

ASSENT

WE (Executors or Administrators) of etc., being all the (proving) Executors (or Administrators) of the Will of late of etc. deceased dated the of and proved by us in hereby assent to the devise to A. therein contained of (describe the subject-matter of the devise). (Add if necessary:

Subject to a charge upon the said hereditaments comprised in the said devise for all moneys (if any) which we as personal representatives of the said Testator are liable to pay.)

DATED this day of
..... 19

.....
Executors or Administrators

WITNESS to the above signatures:

FORM 8

THE LANDS AND DEEDS REGISTRY ACT

(Sections 76 and 79)

CAVEAT

To the Registrar

Registry of Lands and Deeds

NOTICE is hereby given that I (Name of caveator) of (address) claiming an estate or interest namely: (Here state the nature of the estate or interest claimed and the ground on which claim is founded) in (Here describe land), forbid the registration of any transfer, or mortgage or other instrument whatsoever affecting the said land until this caveat is withdrawn by me or by order of the High Court or some Judge thereof.

AND I appoint (Here state an address within 4.827 kilometres of the Registry) as the place at which notices relating hereto may be served.

DATED this day
of 19

(Signature) A.B.

Signed by the above-named A.B. in the presence of:

(Signature) C.D.

(Occupation and address.)