

THE STATUTES OF THE REPUBLIC OF SINGAPORE

LAND TITLES ACT
(CHAPTER 157)

1970 Ed. Cap. 276
Ordinance
21 of 1956

Amended by
31 of 1958
72 of 1959
4 of 1961
37 of 1970
39 of 1973
18 of 1976
23 of 1982
S223/59
S(NS) 177/59
S(NS) 179/59
Sp S47/63

REVISED EDITION 1985

Land Titles Act

ARRANGEMENT OF SECTIONS

PRELIMINARY

Section

1. Short title.
2. Division into Parts.
3. Reconciliation with existing laws.
4. Interpretation.

PART I

ESTABLISHMENT OF LAND TITLES REGISTRY

5. Officers.
6. Seal of office.
7. General powers of Registrar.

PART II

INITIAL REGISTRATION OF TITLES

Division 1 — Indefeasible titles

8. Alienation by State.
9. Effect of mortgage of right, title and interest in land surrendered and notified on land-register.
10. Surrender of title subject to mortgage registered in the Registry of Deeds.
11. Powers of Registrar of Deeds to refuse registration or cancel deeds registered.
12. Application of section 8 where land surrendered to Crown but no grant or lease had been issued.
13. Primary applications.
14. Action following issue of certificate of title.

Division 2 — Qualified titles

15. Issue of qualified certificate of title.
16. Special provisions for bringing unregistered land under the provisions of this Act.
17. Issue of qualified certificate of title prior to completion of survey for unregistered land.
18. Effect of issuing a qualified certificate of title under sections 16 and 17.

Section

19. Cautions.
20. Prior encumbrances to be notified.
21. Publicity.

PART III

REGISTRATION

22. Form of certificate of title.
23. A single certificate of title may be issued for lands that are not contiguous.
24. Single certificate of title for land forming the common property of a subdivided building.
25. Creation of land-register.
26. Registrar may open new edition of a folio of land-register showing only subsisting entries.
27. Land-register as evidence.
28. Registration of instruments.
29. Restrictions on Registrar's powers of registration.
30. Proprietors under disability.
31. Corporations.
32. Death of party.
33. Endorsements on duplicate instruments of title.
34. Issue of new certificates of title.
35. Contingent interests.
36. Substituted certificates.

PART IV

EFFECT OF REGISTRATION

Division 1 — Indefeasibility and priority

37. Instruments ineffectual until registered.
38. Estate of proprietor paramount.
39. Exoneration from effect of notice.
40. Priority determined by order of registration.
41. Priority of unregistered interests.

Division 2 — Title by adverse possession

42. Partial application of Limitation Act to registered land.
43. Applications for possessory titles: How dealt with.
44. Reassertion of ownership by proprietor.
45. Frivolous or vexatious claims.

PART V

INSTRUMENTS

46. Prescribed forms to be used.
47. Instruments in duplicate.
48. Description of parties.
49. Description of land.
50. Memorandum of prior encumbrances.
51. Proprietor must execute.
52. Attestation and proof of execution.
53. Execution of instruments by corporations.

Section

54. Certificate of correctness.
55. Address for service of notice.
56. Instruments take effect as deeds.
57. Covenants in instruments: Words of succession implied.

PART VI

TRANSFERS

58. Form and effect of transfers.
59. Transfers of land subject to mortgage or charge.
60. Estates for life and in remainder.
61. Merger of contract in transfer.
62. Merger of registered interests.

PART VII

MORTGAGES AND CHARGES

63. Form and effect of mortgages and charges.
64. Application of Conveyancing and Law of Property Act.
65. Submortgages.
66. Custody of instruments of title.
67. Transfers in exercise of power of sale.
68. Application of proceeds of sale.
69. Entry into possession.
70. Foreclosure of mortgages.
71. Right to a discharge.
72. Form and effect of a discharge.
73. Satisfaction of charges.
74. Tacking of further advances.

PART VIII

LEASES

75. Application of Part VIII.
76. Form and registration of leases.
77. Options for renewal and for purchase.
78. Leases of mortgaged land.
79. Covenants against assigning and subletting.
80. Surrender of leases.
81. Determination of leases.
82. Implied powers of lessors.

PART IX

EASEMENTS AND PROFITS

83. Construction.
84. Licences not to be registered.
85. Easements for installations.
86. Registration necessary for creation of easements.
87. Implied easements for passage of water, electricity, drainage, gas and sewerage for housing estate.

Section

- 88. Extinguishment by union of tenements.
- 89. Easements pass on transfer without express mention.
- 90. Contribution to repairs.
- 91. Grants of rights of way.
- 92. Party walls.
- 93. Release of easements.
- 94. Cancellation of easements.
- 95. Grant of profit.

PART X

TRANSMISSIONS

- 96. Transmission on death of proprietors in severalty.
- 97. Dealings without transmission.
- 98. Full number of personal representatives required.
- 99. Transmission on bankruptcy.
- 100. Caveats by Official Assignee.
- 101. Bankruptcy: Effect of disclaimer, discharge, and annulment.
- 102. Effect of transmission.
- 103. Notice of death or defeasance.

PART XI

CAVEATS

- 104. Caveats may be lodged.
- 105. Notification of caveats.
- 106. Caveats lodged before initial registration.
- 107. Effect of caveats.
- 108. Effect of lodgment of a conflicting instrument.
- 109. Lapsing of caveats.
- 110. Withdrawal of caveats.
- 111. Remedies of caveatee.
- 112. Caveator's liability for compensation.

PART XII

WRITS AND ORDERS OF COURT

- 113. Interpretation.
- 114. Writs and orders not binding unless registered.
- 115. Dealings by judgment debtors.
- 116. Lapsing of writs.
- 117. Land sold in pursuance of writs.
- 118. Duplicate instrument need not be produced.
- 119. Withdrawal and satisfaction of writs and orders.
- 120. Vesting orders.

PART XIII

RESTRICTIVE COVENANTS

- 121. Interpretation.
- 122. Notification of restrictions.
- 123. Release and variation of restrictions.
- 124. Duration of restrictions.

PART XIV

STATUTORY ACQUISITION AND SALE

Section

125. Statutory obligations.
126. Compulsory acquisition of registered land.
127. Sale of land for revenue or rates.
128. Statutory vesting not elsewhere provided for.

PART XV

POWERS OF ATTORNEY

129. Interpretation.
130. Registration of instruments executed by attorneys.
131. Exoneration of purchasers.
132. General attorneys.
133. Investigation and registration fees.

PART XVI

CIVIL RIGHTS AND REMEDIES

134. Assurance fund.
135. Registrar may be summoned for refusal to register.
136. Registrar may state a case.
137. Actions for recovery of land.
138. Actions for recovery of damages.
139. Procedure on actions against the assurance fund.
140. Protection of bona fide purchasers and of Registrar.
141. Limitation of actions for damages.
142. Correction of errors in land-register.
143. Rectification by Court.

PART XVII

SEARCHES AND CERTIFIED COPIES

144. Searches by public.
145. Official searches.
146. Priority affected by final official searches.
147. Certified copies: Value as evidence.

PART XVIII

MISCELLANEOUS

148. Subdivision of registered land.
 149. Trusts not to be entered.
 150. Exoneration of Registrar.
 151. Fees and accounts.
 152. Rules.
 153. Offences and penalties.
 154. Saving of rights.
- The Schedule — Rights of carriage way and footway.
-

An Act to provide a system of registration of titles to land.

[Part I: 24th March 1959; Parts II to XVIII,
except section 125: 1st December 1960;
section 125: 1st December 1970]

PRELIMINARY

Short title. **1. This Act may be cited as the Land Titles Act.**

Division into Parts. **2. This Act is divided into Parts, as follows:**

Preliminary	...	sections 1-4
Part I	...	sections 5-7
Part II		
Division 1	...	sections 8-14
Division 2	...	sections 15-21
Part III	...	sections 22-36
Part IV		
Division 1	...	sections 37-41
Division 2	...	sections 42-45
Part V	...	sections 46-57
Part VI	...	sections 58-62
Part VII	...	sections 63-74
Part VIII	...	sections 75-82
Part IX	...	sections 83-95
Part X	...	sections 96-103
Part XI	...	sections 104-112
Part XII	...	sections 113-120
Part XIII	...	sections 121-124
Part XIV	...	sections 125-128
Part XV	...	sections 129-133
Part XVI	...	sections 134-143
Part XVII	...	sections 144-147
Part XVIII	...	sections 148-154.

Reconciliation with existing laws. **3.—(1) Except as hereinafter provided, all Acts, regulations, rules, and other laws, and all practices, relating to estates and interests in land and operative at the commencement of this Act, so far as they are inconsistent with the provisions of this Act in their application to registered land, are hereby repealed.**

(2) Nothing in this Act affects the right of the Collector of Land Revenue, or of any other person or authority empowered by any written law, to enter on registered land pursuant to such a power.

(3) Except as otherwise expressly provided in this Act, the Registration of Deeds Act does not apply to registered land. Cap. 269.

(4) This Act binds the Government.

4. In the interpretation of this Act and of any rules or regulations made thereunder, unless the context or subject-matter otherwise indicates or requires — Inter-pretation.

“assurance fund” means the assurance fund constituted under section 134;

“caveatee” means the proprietor or other owner of land described in a caveat and to whom notice of the caveat is required to be given;

“caveator” means the person by whom or on whose behalf a caveat is lodged;

“Court” means the High Court;

“duplicate”, in relation to the land-register, includes any authorised form of duplication or reproduction;

“executor” means the executor to whom probate has been granted, and includes an executor by right of representation;

“interest”, in relation to land, means any interest in land recognised as such by law, and includes an estate in land;

“land” means the surface of any defined parcel of the earth, and all substances thereunder, and so much of the column of air above the surface as is reasonably necessary for the proprietor’s use and enjoyment, and includes any estate or interest in land and all vegetation growing thereon and structures affixed thereto. Subject to any provision to the contrary the proprietorship of land includes natural rights to air, light, water and support and the right of access to any highway on which the land abuts;

“purchaser” means a person who in good faith and for valuable consideration acquires an interest in land, and includes a mortgagee, chargee and lessee; “purchase” has a meaning corresponding with that of “purchaser”;

“registered land” means land which has been brought under the provisions of this Act by being included in a folio of the land-register;

“Registrar” means the Registrar of Titles appointed pursuant to this Act.

PART I

ESTABLISHMENT OF LAND TITLES REGISTRY

Officers.

5.—(1) This Act shall be administered by the Registrar of Titles who shall be appointed by the President and who shall carry into execution the provisions of this Act and be responsible for the general administration of the Land Titles Registry.

(2) The President may appoint an Inspector of Titles who, for the purpose of supervising the practice of the Land Titles Registry, shall visit it at such intervals of time and for such periods as the President may require, and who shall also counsel and advise the Registrar of Titles on such questions as are from time to time referred by him.

39/73.

(3) The President may also appoint such Examiners of Titles, Deputy Registrars of Titles, Assistant Registrars of Titles and other officers as may be necessary for the carrying out of the provisions of this Act.

39/73.

(4) Whenever by law anything is appointed or authorised to be done by the Registrar of Titles that thing may lawfully be done by a Deputy Registrar of Titles or an Assistant Registrar of Titles.

Seal of office.

6.—(1) The Registrar shall have and use a seal of office having inscribed in the margin thereof the words “Registrar of Titles, Singapore”.

39/73.

(2) Every instrument bearing the imprint of that seal and purporting to be signed or issued by the Registrar or by any Deputy or Assistant Registrar 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.

General powers of Registrar.

7.—(1) The Registrar may exercise the following powers:

(a) he may administer oaths and take statutory declarations; and

(b) he may enter caveats for the prevention of fraud or improper dealing whenever he has reason to think that fraud or improper dealing may occur,

or for the prevention of any dealing with land in a folio of the land-register which has been found to be erroneous.

(2) Knowledge of the fact that land has been acquired or will be held by a proprietor acting in a fiduciary capacity is not of itself a ground for the entry of a caveat by the Registrar.

PART II

INITIAL REGISTRATION OF TITLES

Division 1 — Indefeasible titles

8.—(1) When after the commencement of this Act any person has become entitled to land upon alienation by the Crown or the State for an estate in fee simple, or for an estate in perpetuity, or for a leasehold term of not less than 21 years, the Collector of Land Revenue shall furnish to the Registrar a certificate to that effect, and the Registrar shall thereupon bring the land under the provisions of this Act as hereinafter directed and shall deliver the duplicate certificate of title to the person entitled thereto.

Alienation
by State.

(2) A certificate of title issued pursuant to this section shall not be conclusive as to the boundaries or dimensions of the land therein comprised until the relevant Crown or State instrument has been formally issued and until any alterations have been made pursuant to subsection (5).

(3) The land in any certificate of title issued pursuant to this section shall be held subject to such exceptions, reservations, covenants, and conditions as may lawfully be included in the relevant Crown or State instrument.

(4) Upon the issue of a certificate of title pursuant to this section, the Registrar shall endorse on the relevant folio of the land-register a caution warning persons dealing with the proprietor of the extent, if any, to which that folio is inconclusive as to the boundaries or dimensions.

(5) Upon the issue of the relevant Crown or State instrument, the Collector of Land Revenue shall deliver it to the Registrar who shall thereupon make any alterations in the land-register necessary to conform to that instrument, and shall cancel any caution relating to inconclusiveness.

Effect of mortgage of right, title and interest in land surrendered and notified on land-register. Cap. 269. 39/73.

9.—(1) Where unregistered land has been surrendered to the State for the reissue of one or more fresh titles freed and discharged from any subsisting mortgage registered under the Registration of Deeds Act, the person entitled to be issued with the fresh title or titles in respect of the whole or part of the land surrendered may, with the written consent of the Collector of Land Revenue and the Registrar, create a mortgage in respect of his right, title and interest therein prior to the issue of a certificate by the Collector of Land Revenue or the issue of a State grant or lease by the President, as the case may be, with the intent that the said mortgage shall *pro tanto* be in substitution of a mortgage which was subsisting prior to the surrender of the unregistered land.

(2) The following provisions shall apply to any mortgage created in accordance with subsection (1):

- (a) notwithstanding any other provision of this Act the mortgage created in accordance with subsection (1) may be registered under the provisions of the Registration of Deeds Act;
- (b) where the mortgage has been registered (provisionally or otherwise) under the Registration of Deeds Act the person claiming as mortgagee under the mortgage may lodge an application with the Registrar for notification of that mortgage on the relevant folio (when created) of the land-register, and the Registrar shall, if satisfied that the application is in order, pending the creation of the folio of the land-register record the application in a provisional register-book, and thereupon the mortgage shall constitute a legal mortgage to the extent that the mortgagee of the mortgage may exercise the same powers as if he is a legal mortgagee; and
- (c) where the Registrar has recorded the application for the notification of the mortgage pursuant to paragraph (b), the Registrar shall notify the mortgage on the relevant folio (when created) of the land-register, and section 20 (5), (6) and (7) shall, *mutatis mutandis*, apply to that mortgage.

(3) Nothing in this section shall require the Registrar to notify any mortgage created in accordance with

subsection (1) on the folio (when created) of the land-register unless an application to notify the mortgage has been lodged with and accepted by the Registrar as being in order for notification, and except in the case of fraud a purchaser dealing with the whole or part of the land on or after the date when the said land has been brought under this Act pursuant to the reissue of a fresh title or titles subsequent to a surrender to the State shall not be deemed to have notice of any mortgage which has not been notified by the Registrar on the folio (when created) of the land-register.

(4) Subject to subsection (2), no assurance of any unregistered land surrendered to the President or any part thereof made by the person entitled to be issued with one or more fresh titles in respect of the surrendered land shall be capable of being registered under the provisions of the Registration of Deeds Act and the Registrar of Deeds shall have the power to refuse the registration of that assurance when presented for registration, or in the case where that assurance has been registered the Registrar of Deeds shall have the power to cancel the registration of that assurance and any entries relating thereto, except that before the Registrar issues a certificate of title pursuant to the receipt of a certificate issued by the Collector of Land Revenue or a State grant or lease issued for the unregistered land surrendered or any part thereof —

Cap. 269.

- (a) a mortgage created in accordance with subsection (1) and an assurance dealing with that mortgage made with the consent of the Collector of Land Revenue and the Registrar may be registered under the provisions of the Registration of Deeds Act; and
- (b) an assurance made in favour of a purchaser by the mortgagee exercising his power of sale under the mortgage created in accordance with subsection (1) may, with the consent of the Collector of Land Revenue, be registered under the provisions of the Registration of Deeds Act, and upon acceptance by the Registrar of Deeds of the assurance for registration —
 - (i) the purchaser from the mortgagee shall be deemed to be a successor in title of the right, title and interest in the land surrendered for a reissue of a new title

or titles to the extent of the whole or part of the land conveyed to the purchaser by the mortgagee under the assurance, and shall be bound by all the terms and obligations relating to the surrender of the whole or part of the land sold as if these terms and obligations have been made between the purchaser and the Collector of Land Revenue; and

- (ii) a certificate by the Collector of Land Revenue or a State grant or lease, as the case may be, shall be issued to the purchaser named in the assurance registered under the Registration of Deeds Act if the Collector of Land Revenue on behalf of the President is satisfied with the right, title or interest conveyed to the purchaser by the mortgagee under the assurance. [8A

Cap. 269.

Surrender of title subject to mortgage registered in the Registry of Deeds. 39/73.

10.—(1) Where the President agrees to accept the surrender of any unregistered land for the reissue of one or more fresh titles under any existing law or otherwise agreed upon between the President and the proprietor of the land, as the case may be, the President may accept a surrender of the land subject to any subsisting mortgage registered under the provisions of the Registration of Deeds Act and in lieu thereof issue a fresh title or titles for the land surrendered subject to such mortgage:

Provided that such surrender shall not be accepted unless —

- (a) the fresh title or titles to be issued will be of the same tenure as that of the title to the land to be surrendered;
- (b) the mortgagee claiming under the subsisting mortgage has given his consent in writing to the surrender and the reissue of the fresh title or titles; and
- (c) the Registrar has given his consent in writing to the surrender.

(2) Where the President has accepted a surrender of the unregistered land subject to any subsisting mortgage

registered under the provisions of the Registration of Deeds Act pursuant to subsection (1), a certificate may be issued by the Collector of Land Revenue or a State grant or lease may be issued by the President, as the case may be, and such certificate or State grant or lease shall be endorsed by the Collector of Land Revenue with a notification of the registered subsisting mortgage and forwarded by the Commissioner of Lands to the Registrar. Cap. 269.

(3) The Registrar after receipt of the certificate issued by the Collector of Land Revenue or the State grant or lease endorsed with the notification of the subsisting mortgage shall bring the land comprised therein under the provisions of this Act and have the endorsed subsisting mortgage notified on the relevant folio (when created) of the land-register, and thereafter deliver the relevant duplicate certificate of title to the person entitled thereto.

(4) Section 8 (2) to (5) shall apply to a certificate of title issued pursuant to a certificate issued by the Collector of Land Revenue under this section.

(5) Where the Registrar has entered a notification of the subsisting mortgage on the relevant folio of the land-register pursuant to subsection (3), section 20 (5), (6) and (7) shall, mutatis mutandis, apply to that mortgage.

(6) Subject to subsection (5), where any unregistered land or part thereof has been surrendered to the President and no certificate of title has yet been issued by the Registrar, section 9 (4) shall, mutatis mutandis, apply to that unregistered land or part thereof. [8B

11. Where an assurance which requires the prior written consent of both the Collector of Land Revenue and the Registrar or either of them, as the case may be, under section 9 or 10 has been made without the endorsement of the written consent thereon —

- (a) the Registrar of Deeds shall have the power to refuse to accept for registration that assurance when presented for registration, or in the case where that assurance has been registered under the provisions of the Registration of Deeds Act the Registrar of Deeds shall have the power to cancel the registration of that assurance and any entries relating thereto; and

Powers of Registrar of Deeds to refuse registration or cancel deeds registered. 39/73.

- (b) the Collector of Land Revenue shall disregard that assurance and may issue a fresh title or titles as if that assurance had not been made. [8c

Application of section 8 where land surrendered to Crown but no grant or lease has been issued. Cap. 314.

12. Where at the commencement of this Act, land has been surrendered to the Crown for subdivision, pursuant to section 13 of the State Lands Act, but no fresh grant or lease has yet been issued, section 8 applies, subject to the following provisions:

- (a) upon the issue of a certificate of title pursuant to section 8, the Registrar shall endorse on the relevant folio of the land-register a notification of any mortgage or other encumbrance to which the land is subject and of which he has notice at the time of issue of the certificate of title;
- (b) notice of any such subsisting mortgage or encumbrance shall be given in writing to the Registrar by any person claiming an interest in that mortgage or encumbrance, and the Registrar shall not be deemed to have notice of the mortgage or encumbrance unless so notified;
- (c) where the mortgagee under a mortgage notified pursuant to paragraph (b) has sold the land or part thereof in exercise of his power of sale, the Registrar may on application of the purchaser or his successors in title register the applicant as the proprietor of the land. [9

Primary applications.

13.—(1) Any person claiming to be the owner of land not under the provisions of this Act may lodge with the Registrar a primary application in the prescribed form.

(2) The Registrar may refer any primary application to an Examiner of Titles for investigation of and report upon the applicant's title, or he may act upon the report of such other legally qualified person as he thinks fit and, having regard to —

- (a) the report of the Examiner of Titles or other person; and
- (b) the evidence of identity and location of the land, the Registrar shall bring the land under the provisions of this Act by issuing a certificate of title as hereinafter directed, or he shall reject the application.

(3) When a certificate of title has been issued pursuant to subsection (2), the Registrar shall notify thereon, in such a manner as to preserve their priority, particulars of all unsatisfied mortgages or other encumbrances to which the land is subject at the time of issuing the certificate of title.

(4) Where, in an application under this section, the evidence of title does not justify the issue of an unqualified certificate of title, the Registrar may nevertheless with the consent of the applicant issue a qualified certificate of title, to which section 19 applies.

(5) A certificate of title, qualified or unqualified, issued pursuant to this section on, before or after 15th September 1973 may, if the circumstances so require, be qualified as to boundaries and dimensions, and section 148 (3) and (4) shall, *mutatis mutandis*, apply thereto. ^{39/73.}

(6) For the purposes of this section, “owner of land” shall be taken to mean the person entitled whether at law or in equity —

- (a) to an estate in fee simple;
- (b) to a leasehold or other estate in perpetuity; or
- (c) to a lease for a term of years having not less than 21 years unexpired at the date of lodgment of the application:

Provided that the Registrar shall not receive an application made by —

- (i) a mortgagor, unless the mortgagee has consented thereto;
- (ii) a mortgagee, unless he has exercised a power of sale and nominates the purchaser as the person in whose name the certificate of title shall issue;
- (iii) a co-owner, unless all other co-owners join in the application; or
- (iv) a trustee, unless he has power to sell the land, or unless the application is consented to by a majority in number of such of the beneficiaries as are *sui juris* at the date of the application.

(7) Unless expressly prohibited by the terms of its memorandum of association, charter or other constitution,

any corporation, whether sole or aggregate, shall be deemed to have power to bring land under the provisions of this Act, and the application may be made on behalf of the corporation by its managing director, manager, secretary or by an attorney appointed in that behalf by the corporation under its common seal.

(8) An application by a mortgagor may be accompanied by an instrument of mortgage in the prescribed form expressed to be in substitution for the existing mortgage, and when the land is brought under the provisions of this Act the Registrar shall enter on the folio of the land-register a memorial of registration of the instrument of mortgage.

(9) A substituted mortgage lodged pursuant to subsection (8) shall not be liable to stamp duty or registration fee.

(10) This section applies only to such districts or areas as the Minister may from time to time proclaim by notice in the *Gazette*. [10]

Action following issue of certificate of title.

Cap. 269.

14. When land has been brought under the provisions of this Act pursuant to a primary application, the Registrar shall —

- (a) cause to be made in the register kept under the Registration of Deeds Act an appropriate entry or endorsement of that fact; and
- (b) cancel all assurances lodged to support the primary application in so far as they relate to registered land, and retain in his possession or under his control such assurances as have been wholly cancelled. [11]

Division 2 — Qualified titles

Issue of qualified certificate of title.

15.—(1) Upon the endorsement on any conveyance registered under the Registration of Deeds Act of the certificate required by section 8 (2) of that Act, the original conveyance shall be forwarded to the Registrar who may deliver it to the person entitled thereto, or he may elect to bring the land comprised therein under the provisions of this Act by issuing a qualified certificate of title as hereinafter directed.

(2) The Registrar shall not bring that land under the provisions of this Act except where the conveyance has been made for value and where it purports to convey —

- (a) an estate in fee simple (whether at law or in equity);
- (b) the tenure created by a statutory land grant; or
- (c) the interest held under a lease from the Crown or the State having an unexpired term of not less than 21 years.

(3) Subject to the provisions of this Division, the land in a qualified certificate of title shall be held and may be dealt with by the proprietor therein named in the same manner and subject to the same exceptions as similar tenures comprised in certificates of title which are not qualified.

(4) When a qualified certificate of title has been issued, then, except as provided in subsection (5), the Registration of Deeds Act ceases to apply to the land therein comprised and the Registrar shall cause an appropriate entry or endorsement to that effect to be made in the register kept under that Act. Cap. 269.

(5) The Registration of Deeds Act continues to apply to any disposition of an interest (other than the interest of the proprietor) which was subsisting in the land comprised in a qualified certificate of title at the date of issue of that certificate of title.

(6) The Registrar shall cancel any conveyance pursuant to which he issues a qualified certificate of title and shall deliver the duplicate certificate of title and the conveyance to the person who, but for this Act, would have been entitled to the custody of the conveyance. [12

16.—(1) Where permission has been granted under the Planning Act, or any Ordinance repealed by that Act, or under any written law, on, before or after 1st December 1970, to develop or subdivide unregistered land, the proprietor thereof, for the purpose of dealing with the unregistered land, or any part thereof, shall be required to produce to the Registrar all the title deeds necessary for deducing a good title to the land. Special provisions for bringing unregistered land under the provisions of this Act. Cap. 232.

(2) The Registrar on receipt of the title deeds may —

- (a) direct, in writing, the proprietor to surrender the title to that land to the President free from

encumbrances, and where the land has been surrendered the President, if satisfied with the title of the proprietor and on payment by the proprietor of all costs and expenses of, or consequent on, the surrender, shall issue a new title in lieu thereof;

- (b) bring the land under the provisions of this Act by issuing a qualified certificate of title and upon such issue the Registrar shall cancel any conveyance pursuant to which he issues a qualified certificate of title and shall deliver the duplicate certificate of title and the title deeds to the proprietor or the person entitled to the custody thereof as the case may be; or
- (c) issue to the proprietor a certificate to the effect that this section does not apply to the title held by the proprietor, and, on production of such a certificate to the Registrar of Deeds, the proprietor may present for registration an assurance of the whole or any part of his unregistered land to be dealt with subject to the provisions of the Registration of Deeds Act.

Cap. 269.

39/73.

(3) Subject to subsection (1) where the unregistered land comprises any subdivided building or where the proprietor has notified the Registrar in writing that any building to be erected on the unregistered land is intended to be dealt with in parts after subdivision approval thereof has been granted under the Planning Act, the Registrar shall —

Cap. 232.

- (a) proceed under subsection (2) (a);
- (b) proceed under subsection (2) (b); or
- (c) direct the proprietor to lodge a primary application pursuant to section 13,

except that in any case where the Registrar is unable to proceed under any of the provisions of paragraph (a), (b) or (c) he may, in his discretion, proceed under subsection (2) (c).

(4) Where the unregistered land has been surrendered pursuant to subsection (2) (a), a certificate issued by the Collector of Land Revenue or a grant or lease issued by the President, as the case may be, shall be forwarded by the Commissioner of Lands to the Registrar who shall thereupon bring the land comprised therein under the

provisions of this Act and deliver the relevant duplicate certificate of title to the person entitled thereto.

(5) Section 8, other than subsection (1) thereof, applies to a certificate of title issued pursuant to a Collector's certificate under this section.

(6) A qualified certificate of title issued pursuant to subsection (2) (b) on, before or after 15th September 1973 may, if the circumstances so require, be qualified as to boundaries and dimensions, and section 148 (3) and (4) shall, *mutatis mutandis*, apply thereto. ^{39/73.}

(7) This section does not apply to —

(a) a leasehold title having less than an unexpired term of 30 years as at the date of the production of the title deeds to the Registrar required under subsection (1); or

(b) unregistered land where permission for the subdivision of any building erected thereon was granted by the authority for the time being charged with the duty of controlling or supervising the subdivision of land and an assurance of part of that subdivided building was registered or provisionally registered under the provisions of the Registration of Deeds Act before 15th May 1968, the date on which the Land Titles (Strata) Act came into operation: ^{Cap. 269.} ^{Cap. 158.}

Provided that where the whole of the estate in the unregistered land, comprising the subdivided building, has subsequently become vested in the same proprietor on or after that date this section applies to that unregistered land.

(8) Subject to subsections (2) (c) and (7) —

(a) no assurance of any unregistered land, or part thereof, to which subsection (1) applies, is capable of being registered under the provisions of the Registration of Deeds Act; and

(b) upon receipt from the competent authority under the Planning Act of a notice in writing or of an ^{Cap. 232.}

approved plan relating to the granting of permission to develop or subdivide any unregistered land or building, the whole or part of which is dealt with under any assurance, the Registrar of Deeds has the power to refuse to register that assurance when presented for registration.

39/73.

(9) In this section —

Cap. 269.

“assurance” has the same meaning as in the Registration of Deeds Act;

“proprietor” means the proprietor of unregistered land approved for development or subdivision under any written law;

“Registrar of Deeds” means the Registrar appointed under the Registration of Deeds Act;

Cap. 158.

“subdivided building” has the same meaning as in the Land Titles (Strata) Act;

“unregistered land” means land, or any subdivided building thereon, which has not been brought under the provisions of this Act. [13

Issue of qualified certificate of title prior to completion of survey for unregistered land.

17.—(1) Notwithstanding section 15 (1), where the Registrar of Deeds has accepted a conveyance for registration under the Registration of Deeds Act but has not endorsed on the conveyance the certificate required by section 8 (2) of that Act, the Registrar of Deeds, upon being satisfied that the requirements of that Act have been complied with, other than the requirement in section 14 (1) (c) of that Act (dealing with survey) may forward the original conveyance to the Registrar who may elect to bring the land comprised therein under the provisions of this Act by issuing a qualified certificate of title.

(2) Where the Registrar elects not to issue a qualified certificate of title, he shall return the conveyance to the Registrar of Deeds.

(3) Where a qualified certificate of title is issued under this section —

(a) the Registrar shall return the conveyance to the Registrar of Deeds endorsed with a certificate of the Registrar that the land comprised therein has been brought under the provisions of this

Act but the Registrar of Deeds shall not complete registration of the conveyance until the survey mentioned in section 14 (1) (c) of the Registration of Deeds Act has been completed; and

Cap. 269.

- (b) the Registrar shall deliver the duplicate certificate of title issued to the person who, but for this Act, would have been entitled to the custody of the conveyance.

(4) A qualified certificate of title issued pursuant to this section is not conclusive as to the boundaries or dimensions of the land therein comprised, and section 148, *mutatis mutandis*, applies thereto. [14

18. Upon the issue of a qualified certificate of title pursuant to sections 16 and 17, the following provisions have effect:

Effect of issuing a qualified certificate of title under sections 16 and 17.

- (a) the proprietor of the registered land may deal with any part thereof subject to the provisions of this Act; and
- (b) except as provided by section 17 (3) and (4), section 15 other than subsections (1) and (6) thereof, as well as the other provisions of this Act relating to a qualified certificate of title, apply thereto. [15

19.—(1) Upon the issue of a qualified certificate of title the Registrar shall endorse on the relevant folio of the land-register a caution warning persons dealing with the proprietor that the land therein comprised is held subject to any interest which affected it at the date of issue of the qualified certificate of title, and so long as the caution remains on the folio the land shall be so held.

Cautions.

(2) In favour of any purchaser from the proprietor, a caution lapses at the expiration of 5 years from the date of issue of the qualified certificate of title, and the purchaser may request the Registrar to enter on the folio of the land-register a notification of the lapsing.

(3) When the lapsing of a caution has been notified on the folio of the land-register, the certificate of title ceases to be qualified, and the land therein comprised is thenceforth held subject only to such interests as are registered or

notified on the folio of the land-register and to such interests as are otherwise excepted by section 38.

(4) Any person deprived of land by the operation of subsection (3) does not by reason of that deprivation have any claim against the assurance fund.

(5) The proprietor of land comprised in a qualified certificate of title may at any time apply to the Registrar for cancellation of the caution endorsed thereon, and upon proof to his satisfaction that there are no outstanding interests which are not notified on the folio of the land-register the Registrar shall enter thereon a notification cancelling the caution.

(6) For the purposes of section 138, the person upon whose application a caution is cancelled shall be deemed to be the person upon whose application the land was brought under the provisions of this Act. [16

Prior
encum-
brances to
be notified.

20.—(1) The Registrar shall endorse on the folio of the land-register constituted by a qualified certificate of title a notification of any caveat or other subsisting encumbrance —

- (a) which is apparent to him (whether by search in the caveat index or otherwise) at the time of issuing that certificate of title; or
- (b) which is subsequently brought to his attention as in this section provided.

(2) Any person claiming an interest in land which was subsisting at the date of issue of a qualified certificate of title for that land may, so long as a caution remains on the folio of the land-register, protect that interest by a caveat pursuant to section 104, and the Registrar shall enter a notification of such a caveat in the land-register.

(3) The proprietor in whose name a qualified certificate of title is issued may lodge with the Registrar a statement setting out particulars of any subsisting interest affecting the land therein comprised which is known to him and which is not already notified as aforesaid, and the Registrar shall enter a notification of that interest on the relevant folio of the land-register.

(4) The proprietor named in a qualified certificate of title who has knowledge of an encumbrance or interest affecting

the land therein comprised which is not notified on the relevant folio of the land-register, and who disposes of or otherwise deals with or creates any interest in that land without having lodged a statement as in subsection (3) provided, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$3,000 or to imprisonment for a term not exceeding 3 years or to both.

(5) An interest notified on the folio of the land-register pursuant to this section is an interest within the meaning of section 38, but its notification does not give the interest to which it relates any greater operation or effect than it has under the instrument creating it.

(6) Where the mortgagee under a mortgage notified pursuant to this section has sold the land or part thereof in exercise of his power of sale, the Registrar may on the application of the purchaser or his successors in title register the applicant as the proprietor of the land.

(7) Any interest notified on the folio of the land-register pursuant to this section does not, by reason of any provision of this Act, lose any priority which that interest would otherwise have had. [17

21.—(1) During the first week in every calendar month, the Registrar shall compile a list of all qualified certificates of title issued by him during the preceding month, and shall make that list available for inspection in his office by any person, free of charge. Publicity.

(2) During the first week of the months of January, April, July and October, the Registrar shall compile a list of all qualified certificates of title issued by him during the preceding quarter and shall make a copy of that list available for purchase by any person at a cost not exceeding \$1.

(3) The Registrar shall also cause to be charted in a conspicuous colour on the appropriate map or plan in the Land Office and the Survey Department, the boundaries of land from time to time comprised in qualified certificates of title.

(4) The Registrar shall also cause to be given to the issuing of qualified certificates of title such other forms of notice or publicity as may to him seem necessary or desirable. [18

PART III

REGISTRATION

Form of certificate of title.

22. Every certificate of title shall be in the prescribed form and shall illustrate by a diagram or plan endorsed thereon or annexed thereto the boundaries and dimensions of the land to which the certificate of title relates. [19

A single certificate of title may be issued for lands that are not contiguous.

23. The Registrar may issue a single certificate of title in respect of several parcels of land that are not contiguous if, in his opinion, the relative positions of those parcels can be sufficiently and conveniently shown upon the plan endorsed on the certificate or annexed thereto. [20

Single certificate of title for land forming the common property of a subdivided building. 23/82.

24. Where two or more parcels of registered lands are intended to form the common property of one or more subdivided buildings, the Registrar may, notwithstanding sections 8, 9, 10, 13, 15, 16 and 17, on the application made to him by the proprietor of those adjoining parcels of land, issue a single certificate of title, qualified or unqualified, as the case may be, for those parcels of land even though they may be of different tenure. [20A

Creation of land-register.

25.—(1) The Registrar shall keep a series of records to be called the land-register in which he shall bind or otherwise embody all certificates of title issued pursuant to this Act.

(2) Each certificate of title so embodied shall constitute a separate folio of the land-register and shall be deemed to be registered under the provisions and for the purposes of this Act when it has been signed and sealed by the Registrar and has been marked with the serial number of the folio of the land-register, and the land comprised in any instrument so registered thereupon becomes registered land.

(3) The Registrar shall deliver a duplicate or photographic copy (or other prescribed form of reproduction) of the folio of the land-register to the person named therein as proprietor, or other person entitled to custody thereof.

(4) For the purposes of this Act (unless the context otherwise requires or indicates) any instrument other than a certificate of title shall, when duly registered, be deemed to be embodied in and to become part of the land-register, but shall not constitute a folio thereof. [21

26. The Registrar may at any time open a new edition of a folio of the land-register showing only subsisting entries and omitting therefrom all entries that have been determined or have ceased to have any effect.

Registrar may open new edition of a folio of land-register showing only subsisting entries. [22]

27.—(1) Every folio of the land-register duly authenticated under the hand and seal of the Registrar shall be received in all courts as evidence of the particulars therein set forth and that the land therein comprised has been duly brought under the provisions of this Act and that the person named as proprietor therein or in any memorial thereon is, or was at the relevant time, entitled to the estate or interest in the land therein specified and described.

Land-register as evidence.

(2) Where a duplicate folio of the land-register is before the Court in any action or suit, it has the same value in evidence as the original folio if the parties thereto are prepared so to admit, and any party who requires production in court of an original folio when the duplicate thereof is available shall bear the cost of such production unless the Court, being satisfied that the production was justified, makes an order to the contrary.

[23]

28.—(1) The Registrar shall register any instrument which is in order for registration by endorsing a memorial thereof on the folio of the land-register, or, in the case of an instrument affecting only a registered mortgage, charge or lease, by endorsing a memorial thereof on the mortgage, charge or lease.

Registration of instruments.

(2) Two or more instruments which affect the same land and which are awaiting registration shall be registered in the order which will give effect to the intentions of the parties as expressed in or apparent from the instruments:

Provided that where the intentions of the parties under the instruments appear to the Registrar to conflict the instruments shall be registered in the order in which they were lodged in registrable form, or were made registrable, as the case may be.

(3) For the purposes of subsection (2), an instrument is not registrable if any material correction, alteration or addition is necessary, nor, except as provided in section 33,

if the person acquiring title under it has not custody or control of the duplicate instrument of title.

(4) A memorial of registration shall contain the serial number or symbol of the instrument, a description of its nature and effect and of the person acquiring title under it, and the day and time of its registration, and shall be signed by the Registrar and sealed.

(5) When a memorial of registration has been signed by the Registrar and sealed, the person named therein as taking an estate or interest becomes the proprietor of that estate or interest.

(6) The Registrar, on being satisfied that any entry in the land-register has ceased to affect the land to which it purports to relate, may of his own motion cancel that entry.

[24

Restrictions
on
Registrar's
powers of
registration.

29.—(1) The Registrar shall not register any instrument purporting to transfer or otherwise to deal with or affect registered land except in the manner herein provided, nor unless the instrument is substantially in accordance with the provisions of this Act.

(2) The Registrar shall not enter in the register a notification of any transaction the legal effect of which is personal only or which does not create a recognised interest in land.

(3) The Registrar shall not register as proprietor any person or body other than a natural person, or a corporation, or a foreign state in the name of that state, or a body expressly empowered by statute to hold land.

(4) The Registrar is not bound to register any instrument unless the fees prescribed in respect thereof have been paid.

[25

Proprietors
under
disability.

30.—(1) Where it appears to the Registrar that a person acquiring title under any instrument is an infant, or is suffering from any other legal disability, he shall notify the disability in the memorial of registration and in any new folio of the land-register which may be created in favour of that person.

(2) Where a disability has been so notified, the Registrar shall not register any instrument executed by the person under disability unless the instrument gives effect to a

transaction approved of by the Court, or otherwise proved to the satisfaction of the Registrar to be within the capacity of that person. [26]

31.—(1) In favour of any purchaser of registered land, a corporation shall be deemed to have the same powers of acquisition and disposition as a natural person of full age and legal capacity. Corporations.

(2) This section applies to all corporations whether sole or aggregate; whether created directly by Act or otherwise; and notwithstanding any stipulation, restriction, or qualification, imposed in the constitution of the corporation or elsewhere.

(3) Nothing in this section shall be held to diminish the personal liability of any individual or group of individuals controlling or responsible for the management of a corporation for acting in excess of its corporate powers.

(4) Where a corporation holds land in a fiduciary capacity, this section shall not be held to extend the powers of the corporation in respect of that land, nor otherwise to affect the liability of the corporation to the beneficiaries for acting in excess of those powers. [27]

32. Where a party entitled to registration under an instrument dies before registration of the instrument, the Registrar may nevertheless register the instrument in the name of that party. Death of party. [28]

33.—(1) Whenever a memorial or notification of any instrument is entered in the land-register then, except as is hereinafter provided, the Registrar shall record the like memorial or notification on the duplicate instrument of title which shall be produced to him for that purpose. Endorsements on duplicate instruments of title.

(2) The Registrar may dispense with production of the duplicate instrument for any of the purposes or in any of the following cases:

- (a) for the entry of a caveat;
- (b) for the registration of a writ of execution or order of court;
- (c) for the issue of a certificate of title in consequence of a claim to adverse possession pursuant to Division 2 of Part IV;

- (d) in any case where express provision to do so is made by this or any other Act; or
- (e) where satisfactory evidence has been furnished to show that the duplicate has been lost, mislaid or destroyed, or is being improperly or wrongfully withheld.

(3) In any case under subsection (2) (e), the Registrar may require the person seeking registration to furnish evidence that the duplicate instrument has not been deposited as security for a loan, and to advertise (in such manner as the Registrar may direct) the application to dispense with production. [29

Issue
of new
certificates
of title.

34.—(1) The Registrar may create a new folio of the land-register by preparing and registering a new certificate of title in the following cases:

- (a) where, in the opinion of the Registrar, it is impracticable to make further endorsements on an existing folio;
- (b) where the duplicate of an existing folio has been mutilated or defaced or is in such condition that, in the opinion of the Registrar, it should not be delivered;
- (c) where, upon registration of a transfer or transmission, the transferee or applicant has become the proprietor of part of the land in an existing folio, or of an undivided share as tenant in common of the whole of the land in an existing folio;
- (d) where two or more parcels comprised in one or more folios have been amalgamated and allotted with a survey lot number by the Chief Surveyor;
- (e) where the proprietor of an existing folio has lodged the duplicate thereof and has requested the Registrar —
 - (i) to create a new folio for the land therein comprised;
 - (ii) to create new folios for separate parts of the land therein comprised in accordance with lots in any lawful subdivision or layout; or

(iii) to create a new folio comprising contiguous parcels in substitution for two or more existing folios;

(f) in any other case where the Registrar is authorised to issue a new certificate of title.

(2) Upon the creation of a new folio, the Registrar shall cancel the previous folio either wholly or partially as the circumstances may require, and shall indicate thereon the serial number of the new folio or folios and the reason for its cancellation.

(3) Subject to any agreement to the contrary, the proprietor in whose name a new folio is to issue shall, as between him and any person with whom he has dealt, be liable for the cost of creating that folio.

(4) A new folio created pursuant to this section may, if the circumstances so require, be qualified as to boundaries and dimensions, and section 148 shall, *mutatis mutandis*, apply thereto.

(5) Section 13 of the State Lands Act, and the covenants or conditions pursuant to that Act prohibiting or restricting the division or partition of land, do not apply to registered land. Cap. 314.
[30]

35.—(1) A new folio of the land-register shall not be created in favour of — Contingent interests.

(a) a person entitled to a bare power of appointment over land; or

(b) a person or class of persons entitled only to a contingent interest in land.

(2) Any instrument creating an interest mentioned in subsection (1) shall be registered by entering a memorial thereof on the current folio of the land-register evidencing the title to the land in question.

(3) For the purposes of this section, persons entitled in default of execution of a power of appointment, or who are unascertained at the date of entry of such a memorial, shall be deemed to have contingent interests. [31]

36.—(1) The Registrar may issue a substituted certificate of title to replace any duplicate certificate of title which has Substituted certificates.

been lost or destroyed or which is being improperly or wrongfully withheld.

(2) Any substituted certificate of title shall be an exact copy of the relevant folio of the land-register, and shall be as valid as the certificate which is lost, destroyed or withheld, and shall be usable for any purpose for which that certificate might have been used.

(3) Application for a substituted certificate of title may be made by the proprietor of the land therein comprised, or by any person claiming through him, and shall be supported by evidence of the loss or destruction and, in the case of loss, by such evidence of search for the instrument as the Registrar may require.

(4) The Registrar, before issuing a substituted certificate of title, may give 14 days' notice of his intention to do so in one or more daily newspapers.

(5) The Registrar shall enter in the relevant folio of the land-register a notification of the issuing of any substituted certificate of title, and that notification shall operate to cancel the lost or withheld certificate for all purposes, notwithstanding the fact that the certificate might subsequently be recovered. [32

PART IV

EFFECT OF REGISTRATION

Division 1 — Indefeasibility and priority

Instruments
ineffectual
until
registered.

37.—(1) No instrument until registered as in this Act provided is effectual to pass any estate or interest in land under the provisions of this Act, but upon registration of an instrument the estate or interest therein specified shall pass, or the land shall become liable as security for the payment of money (as the case may be), subject to such covenants and conditions as are set forth in the instrument and are capable of taking effect, and subject to such covenants and conditions as are by law declared to be implied in instruments of a like nature.

(2) Nothing in this section shall be construed as preventing any unregistered instrument from operating as a contract.

(3) This section applies notwithstanding the provisions of any written law which enables or provides for the compulsory acquisition or other statutory vesting of land.

[33

38.—(1) Notwithstanding the existence in any other person of any estate or interest, whether derived by grant from the Crown or the State or otherwise, which but for this Act might be held to be paramount or to have priority, and notwithstanding any failure to observe the procedural requirements of this Act, any person who becomes the proprietor of registered land, whether or not he dealt with a proprietor, and notwithstanding any lack of good faith on the part of the person through whom he claims, holds that land free from all encumbrances, liens, estates and interests whatsoever, except such as may be registered or notified in the land-register, but subject to —

Estate of
proprietor
paramount.
37/70
18/76.

- (a) any subsisting exceptions, reservations, covenants, and conditions, contained or implied in the Crown grant, State grant, Crown lease or State lease thereof;
- (b) any subsisting easement or public right of way which was in existence at the date on which the land was brought under the provisions of this Act and any statutory easement implied under section 87;
- (c) any statutory obligation as defined in section 125;
- (d) the power to correct errors conferred on the Registrar by section 142;
- (e) the power to rectify the land-register conferred upon the Court by section 143;
- (f) the rights of any person in occupation of the land under a tenancy when the proprietor became registered as such, provided that the term of the tenancy when created did not exceed 3 years and could not have been extended by exercise of an option of renewal to exceed in the aggregate 3 years; and
- (g) the power conferred on the Court to make a declaration in respect of any transfer or an order to rectify the land-register and the power conferred on the Registrar to suspend or cancel

Cap. 274.

the registration of the transfer and any relating instrument by section 24 of the Residential Property Act in respect of any residential property (the expressions “transfer” and “residential property” being within the meaning of that Act).

(2) Nothing in this section shall be held to prejudice the rights and remedies of any person —

- (a) to have the registered title of a proprietor defeated on the ground of fraud or forgery to which that proprietor or his agent was a party, or in which he or his agent colluded;
- (b) to enforce against a proprietor any contract to which that proprietor was a party;
- (c) to enforce against a proprietor who is a trustee the provisions of the trust;
- (d) to recover from a proprietor land acquired by him from a person under a legal disability which was known to the proprietor at the time of dealing; or
- (e) to recover from a proprietor land which has been unlawfully acquired by him in purported exercise of a statutory power or authority.

(3) Nothing in this section confers on a proprietor claiming otherwise than as a purchaser any better title than was held by his immediate predecessor. [34

Exoneration
from effect
of notice.

39.—(1) Except in the case of fraud, no person dealing with a proprietor or with a person who is entitled to become a proprietor is required or in any manner concerned to inquire or ascertain the circumstances in or the consideration for which the current proprietor or any previous proprietor is or was registered, or to see to the application of the purchase money or any part thereof, or is affected by notice of any bankruptcy proceeding, trust or other unregistered interest whatsoever, any rule of law or equity to the contrary notwithstanding; and the knowledge that any unregistered interest is in existence shall not of itself be imputed as fraud.

(2) The protection afforded by this section commences at the date of the contract or other instrument evidencing such dealing.

(3) Section 18 (2) and (3) of the Trustees Act does not apply to any dealing by a proprietor of registered land. Cap. 337.

[35]

40.—(1) Except as provided in section 20 (7), interests appearing in the land-register have priority according to the order of their registration or notification, irrespective of the dates of the instruments by which those interests were created or are evidenced. Priority determined by order of registration.

(2) Any interest registered or notified in the land-register may, by an instrument of postponement in the prescribed form, be postponed to any other interest so registered or notified.

(3) Upon registration of an instrument of postponement, the interests of the parties concerned rank in priority in the order therein expressed:

Provided that no person holding any registered or notified interest is bound by such postponement unless he is a party or has consented thereto.

(4) An instrument of postponement shall be registered by entering a memorial thereof on the appropriate folio of the land-register and upon all other registered instruments affected thereby.

(5) An instrument of postponement may relate to the whole or any part of the land affected by the interest postponed. [36]

41.—(1) Except in the case of fraud, the entry of a caveat protecting an unregistered interest in land under the provisions of this Act gives that interest priority over any other unregistered interest not so protected at the time when the caveat was entered. Priority of unregistered interests.

(2) Knowledge of the existence of an unregistered interest which has not been protected by a caveat shall not of itself be imputed as fraud.

(3) For the purposes of this section, the lodgment of an instrument for registration under the provisions of this Act has the same effect as the entry, on the date of such lodgment, of a caveat protecting the interest claimed under that instrument; but nothing in this section otherwise gives

to any unregistered interest any greater effect than it may have under the instrument by which it was created.

(4) Any priority conferred by this section is lost if the caveat or other instrument in respect of which it is claimed lapses, or is withdrawn, or is otherwise disposed of. [37

Division 2 — Title by adverse possession

Partial application of Limitation Act to registered land.

42.—(1) Any person in adverse possession of registered land who, if that land had not been brought under the provisions of this Act would have become entitled thereto by virtue of that adverse possession, may apply to the Registrar for a certificate of title to that land, provided that not less than 12 years have elapsed since the land was brought under the provisions of this Act, or since the entry in the land-register of the most recent memorial of registration or notification of an instrument (other than an instrument of statutory obligation) affecting that land.

Cap. 163.

(2) Except as in this Division provided, no title to land adverse to or in derogation of the title of a proprietor shall be acquired by any length of possession by virtue of the Limitation Act or otherwise, nor shall the title of any proprietor be extinguished by the operation of that Act.

(3) Nothing in this Act affects the operation of the Limitation Act with respect to the right of a person in adverse possession of land comprised in a qualified certificate of title where the possession commenced before the land was brought under the provisions of this Act and that right has been protected by caveat. [38

Applications for possessory titles: How dealt with.

43.—(1) An application for a possessory title pursuant to section 42 shall be made in the prescribed form and shall be accompanied by such plan of survey and other evidence as the Registrar may require.

(2) The Registrar may refer any application to an Examiner of Titles or to such other legally qualified person as the Registrar thinks fit, and, having regard to the provisions of the Limitation Act and to the evidence of possession lodged in support of the applicant's claim, the Examiner of Titles or other person shall advise the Registrar whether or not in his opinion a certificate of title should be issued, and what notices, advertisements, or other publicity should be given to the application.

(3) If the Registrar is satisfied that a title by adverse possession has been acquired, he shall issue a certificate of title to the applicant or to his nominee, freed and discharged from such encumbrances and interests appearing on the folio of the land-register as may have been extinguished by the adverse possession.

(4) When a certificate of title is issued pursuant to this section, the Registrar shall cancel the existing folio of the land-register and any entries therein to the extent necessary to give effect to the application.

(5) The Registrar may require any applicant for a possessory title to contribute to the assurance fund such fee by way of indemnity (not being greater than 5% of the value of the land) as, in the judgment of the Registrar, is commensurate with the risk to which the fund may be exposed by granting the application.

(6) Any person becoming a proprietor pursuant to this section shall, for the purposes of this Act, be deemed to be a purchaser. [39]

44.—(1) A proprietor of an interest in registered land who believes or fears that that land is in adverse possession may lodge with the Registrar a reassertion of his ownership of that interest, and the Registrar shall enter in the land-register a notification of the reassertion. Reassertion of ownership by proprietor.

(2) An entry pursuant to this section is a notification within the meaning of section 42.

(3) Such a notification shall not be entered while there is pending in the Land Titles Registry an application for a possessory title to that land. [40]

45.—(1) Any person who without reasonable cause lodges an application based on a claim to adverse possession of registered land shall be liable to make to any person who may have sustained damage or incurred costs thereby such compensation as may be just. Frivolous or vexatious claims.

(2) Compensation under this section may be recovered in an action at law, by the person who has sustained damage or incurred costs, from the person who lodged the application. [41]

PART V

INSTRUMENTS

Prescribed forms to be used.

46.—(1) The forms from time to time prescribed by rules under this Act shall be used for all instruments intended to affect registered land.

(2) Any variation from a prescribed form, not being in matter of substance, does not affect its validity or regularity, but it may be used with such alterations as the character of the parties or the circumstances of the case may render necessary.

(3) To relieve any case of extreme hardship, the Registrar may, in his discretion, register an instrument which departs substantially from a prescribed form.

(4) The Registrar may make available for sale at a reasonable cost printed forms bearing his seal of office, and may charge such fee as may be prescribed for sealing any instrument lodged for registration without his seal, or for sealing unengrossed forms lodged in bulk.

(5) The Registrar may add to any forms supplied by him as aforesaid such notes and directions as he may think fit for the guidance of persons using the forms.

(6) The Registrar may, in his discretion, vary any prescribed form and may approve forms from time to time in addition to the prescribed forms and this section shall apply to such approved forms. [42]

Instruments in duplicate.

47.—(1) Every mortgage, charge or lease lodged for registration shall be accompanied by a copy thereof which shall be plainly marked “duplicate” and shall contain a certificate by a credible person that it has been carefully compared with the original and found to be a true copy thereof.

(2) Upon registration of the mortgage, charge or lease, the Registrar shall endorse upon the duplicate so certified a statement that the original has been registered, but such a statement shall not be taken to involve the Registrar in liability for any inaccuracy which may exist in any such duplicate.

(3) In the absence of any express agreement to the contrary, the mortgagee, the chargee and the lessee shall

be entitled to custody of the duplicate of a registered mortgage, charge or lease, respectively. [43]

48.—(1) Instruments affecting registered land shall disclose the full name, the address and the occupation or conjugal status of each person claiming thereunder, and, in the case of co-tenants, the manner in which they intend to hold. Description of parties.

(2) Persons described as tenants in common shall, in the absence of any expression to the contrary, be presumed to be entitled in equal shares.

(3) For the purpose of this section, the name of any person is that by which he is for the time being registered under the provisions of the National Registration Act or any regulations made thereunder. Cap. 201. [44]

49. Every instrument lodged for registration shall refer to the folio of the land-register intended to be dealt with and, in the case of an instrument affecting part only of the land in a folio, shall be accompanied by a plan or shall contain such description by reference to a plan in the Survey Department as will enable the land to be identified with certainty: Description of land.

Provided that, so far as any such instrument affects only a registered mortgage, charge or lease, it shall be sufficient if the instrument refers to the serial number of the mortgage, charge or lease. [45]

50.—(1) Instruments intended to dispose of or to create any interest in registered land shall contain in a memorandum of prior encumbrances a brief description of any interest affecting that land which has been registered or notified in the land-register. Memo-randum of prior encum-brances.

(2) Failure to comply with subsection (1) does not prevent registration of the instrument unless, in the opinion of the Registrar, completion of the memorandum is necessary to indicate the order of registration of two or more instruments.

(3) Any error in or omission from the memorandum of prior encumbrances does not operate to invalidate the registration of an instrument. [46]

51.—(1) In order to be registrable, any instrument purporting to dispose of or to create an interest in registered Proprietor must execute.

land shall be executed by the proprietor or proprietors thereof named in the land-register at the time of registration of the instrument.

39/73.

(2) This section does not prevent the registration of any instrument executed by —

- (a) the survivor or survivors of joint proprietors;
- (b) the personal representative of a deceased proprietor in severalty;
- (c) the attorney or other agent authorised in accordance with Part XV;
- (d) the sheriff or other officer of the Court acting under a writ, order or decree, of a court of competent jurisdiction;
- (e) the proprietor under his lawfully altered name where such name is different from that registered in the land-register; or
- (f) any person empowered in that behalf directly or indirectly by this or any other written law.

(3) Before registering any instrument executed by a person other than the proprietor named in the land-register, the Registrar may require production of the instrument, authority or evidence, empowering or enabling that person to execute. [47]

Attestation
and proof
of execution.

52.—(1) Every execution of an instrument lodged for registration under this Act shall be attested by a witness who is not a party to the instrument.

(2) The Registrar may, in any case in which he has reason to suspect impropriety, or where the duplicate instrument of title is not produced with the instrument, or where the instrument is executed by a marksman or by a person who appears to be illiterate, require any of the parties to the instrument or their respective witnesses to appear before him, or before any person nominated by him, for the purpose of proving the due execution of the instrument. [48]

Execution of
instruments
by
corporations.

53.—(1) In favour of purchasers, an instrument dealing with registered land shall be deemed to have been duly executed by a corporation aggregate if the seal of the corporation is affixed thereto in the presence of and attested

by its clerk, secretary or other permanent officer or his deputy, and by a member of the board of directors, council, or other governing body of the corporation.

(2) Where a seal purporting to be the seal of a corporation appears to have been affixed to an instrument in accordance with subsection (1), the instrument shall be deemed to have been executed in accordance with the requirements of this section.

(3) Any mode of execution or attestation authorised by law or by practice, or by the Act, Ordinance, charter, memorandum or articles, deed of settlement, or other instrument, constituting the corporation or regulating the affairs thereof, shall, in addition to the modes authorised by this section, be as effectual as if this section had not been passed. [49

54.—(1) The Registrar may reject any application to bring land under the provisions of this Act, or any other instrument purporting to deal with or to affect registered land, unless there is endorsed thereon a certificate by the person acquiring title and a certificate by the person divesting title under this Act that it is correct for the purposes of this Act. Certificate of correctness.

(2) The certificate by the person acquiring title shall imply representations that, to the best of the signatory's knowledge and belief, and in so far as he has any reasonable means of ascertaining —

- (a) the instrument is made in good faith;
- (b) the matters set forth therein are substantially correct; and
- (c) the person acquiring title thereunder accepts proprietorship and (unless otherwise expressed in the instrument) is of full age and legal capacity.

(3) The certificate by the person divesting title shall imply representations that to the best of the signatory's knowledge and belief, and in so far as he has any reasonable means of ascertaining —

- (a) the instrument is made in good faith;
- (b) the matters set forth therein are substantially correct; and

(c) the person divesting title thereunder is the party entitled to divest the interest under the instrument and is of full age and legal capacity.

(4) The certificate by the person acquiring title shall be signed by the solicitor employed by the party acquiring title under the instrument and the certificate by the person divesting title shall be signed by the solicitor employed by the party divesting title under the instrument:

Provided that if a solicitor is not so employed, the certificate shall be signed by the party himself or, in the case of a corporation, by a responsible officer of the corporation.

(5) Each certificate shall indicate in legible characters the name and capacity of the signatory.

(6) The provisions of this section relating to the certificate to be given by the person divesting title only apply to instruments that are lodged with the Registrar after 1st December 1970.

39/73.

(7) Where the certificate is signed by any party or by an officer of any corporation, divesting or acquiring title, the Registrar may in order to satisfy himself as to the identity and capacity of the signatory require such person to appear before him. [50

Address
for service
of notice.
39/73.

55.—(1) Every instrument by which a person becomes a proprietor of registered land, and every caveat relating to dealings with registered land, shall contain an address within Singapore to which may be sent any notice concerning the land authorised or required by this Act.

(2) The proprietor or caveator may from time to time notify the Registrar in writing of any change of address, and the Registrar shall make an appropriate record of the change.

(3) Any notice sent by registered post to the last recorded address of a proprietor or caveator shall be deemed to be duly served on the person to whom it is addressed at the time when the letter would in the ordinary course be delivered, and notwithstanding the fact that the letter may be returned through the post office undelivered.

Cap. 61.

(4) Section 72 of the Conveyancing and Law of Property Act does not apply to the service on a proprietor or on a caveator of any notice authorised or required by this Act.

[51

56.—(1) Upon registration any instrument disposing of or creating an interest in registered land has the effect of a deed. Instruments take effect as deeds.

(2) Nothing in this Act prevents a party to an instrument affixing his seal thereto, or giving to the instrument any additional form of solemnity not inconsistent with the provisions of this Act. [52]

57.—(1) In instruments registered under the provisions of this Act, unless a contrary intention is expressed, covenants relating to land shall be deemed to be made by the covenantor and his successors in title with the covenantee and his successors in title and shall have effect as if such successors were expressly referred to therein. Covenants in instruments: Words of succession implied.

(2) Nothing in this section enlarges or extends the power of a covenantor to burden land in the hands of his successors in title. [53]

PART VI

TRANSFERS

58.—(1) The proprietor of freehold land, or of a lease, mortgage or charge, may transfer the same by an instrument of transfer in the prescribed form, and upon registration of such instrument the estate or interest of the transferor as therein set forth, together with all easements, rights and powers, thereto belonging or appertaining, shall pass to and be vested in the transferee thereof as proprietor. Form and effect of transfers.

(2) On registration of any transfer of a mortgage or charge, the transferee shall become entitled to all of the rights, powers and remedies of the mortgagee or chargee expressed or implied in the mortgage or charge, including the right to recover any debt, sum of money, annuity or damages (notwithstanding that the same may be deemed or held to constitute a chose in action), and all interest in any such debt, sum of money, annuity or damages shall vest at law as well as in equity in that person. [54]

59.—(1) On registration of a transfer of land subject to a mortgage or charge, and whether the transfer is executed by the transferee or not, there shall be implied a covenant by the transferee to pay the moneys and to perform the obligations secured by the mortgage or charge, and to Transfers of land subject to mortgage or charge.

perform and observe the covenants and provisions thereof, and to indemnify and keep harmless the mortgagor or chargor in respect of those moneys, obligations, covenants and provisions.

(2) The covenant implied by this section may be negatived by an express statement in the transfer. [55]

Estates for life and in remainder.

60.—(1) Registered land may be transferred for an estate for a life or lives (either with or without a power of appointment over the reversion or remainder), or for an estate in remainder expectant upon the determination of a life or lives, by an instrument of transfer in the prescribed form, modified as the circumstances may require.

(2) Upon registration of such a transfer, the Registrar shall create a folio of the land-register for the particular estate, or for the estate in reversion or remainder, or for both, as the transferee may require. [56]

Merger of contract in transfer.

61. All obligations created by a contract for the sale of registered land shall, upon registration of the transfer giving effect to the contract, be deemed to have merged in that transfer unless express provision in writing is made to the contrary. [57]

Merger of registered interests.

62. Where upon the registration of a transfer or other instrument the interests of —

- (a) lessor and lessee;
- (b) mortgagor and mortgagee; or
- (c) chargor and chargee,

vest in the same proprietor, any intention to merge such interests shall be evidenced by a surrender of lease, or by a discharge of mortgage or of charge, as the case may be. [58]

PART VII

MORTGAGES AND CHARGES

Form and effect of mortgages and charges.

63.—(1) Registered land may be mortgaged to secure payment of a debt by an instrument of mortgage in the prescribed form.

(2) Registered land may be charged to secure payment of a rentcharge, annuity, or other periodical sum, or of any

money other than a debt, by an instrument of charge in the prescribed form.

(3) A mortgage shall not operate as a transfer of the land mortgaged, but shall have effect as a security only.

(4) There may be included in an instrument of charge such covenants or provisions as the parties think fit for disposing of the moneys which may arise on the exercise by the chargee of his power of sale, either by setting aside the proceeds of sale or part thereof on investment to meet future periodical payments, or by payment to the chargee of such proceeds or part thereof being the estimated capital value of the chargee's interest, or otherwise. [59]

64.—(1) The provisions of Part IV of the Conveyancing and Law of Property Act apply mutatis mutandis to mortgages and charges registered under the provisions of this Act.

Application of Conveyancing and Law of Property Act. Cap. 61.

(2) In every mortgage of registered land (unless a contrary intention is expressed) there shall be deemed to be included the covenant and proviso implied by section 31 of the Conveyancing and Law of Property Act.

(3) For the purposes of this section, and without in any way limiting its generality, unless the context or subject-matter otherwise indicates or requires, where used in the Conveyancing and Law of Property Act —

“conveyance” includes an instrument of transfer of registered land;

“deed” includes any instrument registered under this Act;

“mortgage” includes mortgages and charges registered under this Act, and “mortgagor” and “mortgagee” have corresponding meanings; and

“reconveyance” includes a discharge in the form prescribed by this Act.

(4) To the extent to which any provision of the Conveyancing and Law of Property Act is inconsistent with a provision of this Act the latter prevails. [60]

65.—(1) In this section, “submortgage” means the mortgage of a mortgage and the mortgage of a charge.

Sub-mortgages.

(2) Upon the registration of a submortgage, all acts, powers and rights, which might previously have been done or exercised by the mortgagor or chargor thereunder in relation to the land, may thereafter be done or exercised by the registered proprietor of the submortgage, and shall not be done or exercised by the mortgagor or chargor thereunder during the currency of the submortgage.

(3) A submortgage shall not affect the rights or liabilities of a proprietor of the land who has not been given notice thereof. [61

Custody of instruments of title.

66. A first mortgagee shall, as between himself and the mortgagor, be entitled to custody of the instruments of title to the mortgaged land so long as any liability under the mortgage subsists, but upon a request by the mortgagor, and upon payment of his proper costs and expenses, the mortgagee shall produce such instruments at the Land Titles Registry to allow the registration of any subsequent mortgage, or of any other authorised dealing by the mortgagor. [62

Transfers in exercise of power of sale.

67.—(1) The Registrar shall register in the manner prescribed by section 28 any transfer in the prescribed form by a mortgagee or chargee made in exercise of a power of sale, without being concerned to inquire whether default has occurred, or whether notice has been given, or whether the power was otherwise properly or regularly exercised.

(2) Upon registration of such a transfer, the interest of the mortgagor or chargor as described therein shall pass to and vest in the transferee freed and discharged from all liability on account of that mortgage or charge, or on account of any mortgage or charge registered subsequently thereto, and from any lease or other interest registered subsequently thereto which is not binding on the transferor. [63

Application of proceeds of sale.

Cap. 61.

68.—(1) The money received by a mortgagee who has exercised his power of sale, after discharge of prior encumbrances to which the sale is not made subject (if any), or after payment into court under the Conveyancing and Law of Property Act of a sum to meet any prior encumbrances, shall be held by him in trust to be applied, firstly in payment of all costs and expenses properly incurred as incident to the sale or any attempted sale, or otherwise; secondly in

discharge of the mortgage money, interest and costs, and other money (if any) due under the mortgage; thirdly in payment of subsequent mortgages and charges (if any) in the order of their priority; and the residue of the money so received shall be paid to the person who appears from the land-register to be entitled to the mortgaged property or to be authorised to give receipts for the proceeds of the sale thereof.

(2) The money received by a chargee who has exercised his power of sale, after discharge of prior encumbrances to which the sale is not made subject (if any), shall be held by him in trust to be applied, firstly in payment of all costs and expenses properly incurred by him as incident to the sale or any attempted sale, or otherwise; secondly in accordance with any express provision in the instrument of charge (as authorised by section 63 (4)) for disposing of such money and, in the absence of any express provision, in discharge of the money due to the chargee at the date of the sale; thirdly in payment of subsequent mortgages and charges (if any) in the order of their priority; and the residue of the money so received shall be paid to the person who appears from the land-register to be entitled to the charged property, or to be authorised to give receipts for the proceeds of the sale thereof.

(3) Where by this section a mortgagee or chargee is required to account to a subsequent chargee for money arising on a sale, such money shall be paid or applied in accordance with the express provision (if any) in the instrument of charge for disposing of such money, and, in the absence of express provision, in discharge of the money due to the chargee at the date of the sale. [64

69.—(1) If default is made in payment of the interest, principal or other money, secured by a mortgage or charge, or in payment of any part thereof, the mortgagee or chargee shall, as against the mortgagor or chargor and those claiming through or under him, be entitled to enter into possession of the mortgaged or charged land and to receive the rents and profits thereof.

Entry into
possession.

(2) The power of entry into possession conferred by this section shall not be exercised until one month's notice has been given to the mortgagor or chargor.

(3) Subject to this section, a mortgagee or chargee has the like remedies for obtaining possession of the mortgaged or charged land as are by law given to a landlord against a lessee or tenant whose term is expired or whose rent is in arrear.

(4) Whenever a mortgagee or chargee has given notice of his intention to enter into receipt of the rents and profits of the mortgaged or charged land to the tenant or other person liable to pay or account for them, the receipt in writing of the mortgagee or chargee shall be a sufficient discharge for any rents and profits therein expressed to be received, and any person paying them shall not be bound or concerned to inquire as to any default or other circumstance affecting the right of the person to give such notice beyond the fact of his being duly registered as mortgagee or chargee of the land.

[65]

Foreclosure
of mortgages.

70.—(1) In the interpretation of any law relating to foreclosure of mortgage, unless repugnant to the context, a mortgagor of registered land who is in default shall be deemed to have an equity of redemption, and a mortgagee of registered land shall have the same right to apply to the Court for an order for foreclosure as if the land were not under the provisions of this Act and the mortgagee held a legal estate therein.

(2) The Court, upon any such application, may make an order for foreclosure, and the order when entered in the land-register shall have the effect of vesting in the applicant mortgagee all the estate and interest of the mortgagor in the land mentioned in the order freed from all right and equity of redemption on the part of the mortgagor, and freed and discharged from all liability on account of any mortgage, charge or other interest, registered subsequently thereto except such leases or other interests as may be binding on the applicant mortgagee.

[66]

Right to
a discharge.

Cap. 61.

71.—(1) Upon fulfilling his obligations under a registered mortgage or charge, a mortgagor or chargor is entitled, subject to section 22 of the Conveyancing and Law of Property Act, to obtain from the proprietor of the mortgage or charge a registrable discharge.

(2) A mortgagor or chargor is not bound to account to any person who has acquired an interest in the mortgage or

charge unless the transfer or other instrument whereby that person became entitled has been registered and the mortgagor or chargor has been notified in writing of its registration.

(3) For the purpose of enforcing the right to obtain a discharge conferred by this section, the mortgagor shall be deemed to have an equity of redemption. [67

72.—(1) A discharge in the prescribed form may be endorsed on an instrument of mortgage or charge, or may be executed as a separate instrument. Form and effect of a discharge.

(2) Where the parties intend —

- (a) to discharge the whole of the mortgaged or charged land from a specified part of the principal sum or other money thereby secured;
- (b) to discharge a part of the mortgaged or charged land from the whole of the principal sum or other money thereby secured; or
- (c) to discharge the whole of the mortgaged or charged land from the whole of the principal sum or other money thereby secured, but without discharging the mortgagor or chargor from any personal obligation to pay that money,

the prescribed form may be varied or altered accordingly.

(3) A discharge of mortgage or charge shall be registered by endorsing a memorial thereof on the relevant folio of the land-register or other instrument of title to the mortgaged or charged land, whereupon the land is freed from the mortgage or charge and from all rights and powers of the mortgagee or chargee, either absolutely or to any lesser extent as expressed in the discharge.

(4) For the purpose of registration of a discharge executed as a separate instrument, the Registrar may dispense with the production of the duplicate instrument of mortgage or charge. [68

73.—(1) Upon proof of the death of the annuitant, or of the occurrence of any other event or circumstance upon which the annuity or other money secured by a charge ceases to be payable, and upon proof that there are no substantial arrears of the annuity or other money, the Satisfaction of charges.

Registrar shall enter in the land-register a notification of satisfaction and the land is thereupon freed from the charge and from all rights and powers of the chargee, but without discharging the chargor from personal liability for any money for the payment of which he has omitted to account.

(2) The Registrar may, in his discretion, accept a statutory declaration of the chargor, or other person having knowledge of the facts, in proof of the state of accounts between chargor and chargee.

(3) The Registrar shall not enter a memorial of satisfaction of a charge under this section where the money unaccounted for exceeds the sum of \$500. [69

Tacking of further advances.

74.—(1) Notwithstanding any other provision of this Act, a prior mortgagee of registered land has the right to make further advances to rank in priority to subsequent mortgages and charges —

(a) if the prior mortgage expressly provides for the making of further advances, or for the giving of credit to the mortgagor on a current or continuing account; or

(b) if the subsequent mortgagee or chargee agrees to such further advances being made or credit given.

(2) A subsequent mortgagee or chargee shall be deemed to have agreed to any further advances made or credit given before the date (if any) on which the prior mortgagee receives notice in writing of the execution of the subsequent mortgage.

(3) Subject to this section, the right to tack does not apply to mortgages or charges of registered land. [70

PART VIII

LEASES

Application of Part VIII.

75.—(1) In the interpretation of this Part, unless the context otherwise indicates or requires, “lease” includes a sublease; but nothing in this Part shall be taken to authorise the breach of a covenant against subletting.

Cap. 61.

(2) Part III of the Conveyancing and Law of Property Act applies, mutatis mutandis, to leases of registered land;

but this Part does not apply to leases of land made before that land has been brought under the provisions of this Act.

(3) Nothing in this Act affects any rule or principle of law relating to the quiet enjoyment of land by a lessee. [71

76.—(1) Registered land may be leased for any term of years exceeding 3 years by an instrument of lease in the prescribed form. Form and registration of leases.

(2) The Registrar shall not register any lease unless —

- (a) the term is expressed to exceed 3 years;
- (b) the date of commencement of the term and its maximum duration are certain; and
- (c) the lease purports to confer on the lessee exclusive possession of land.

(3) For the purpose of registration under this Act —

- (a) the fact that the term of a lease could be extended in pursuance of an option; and
- (b) the fact that a lease for a specified period of time is determinable on the happening of an event within that time,

shall not be taken into consideration in determining whether the term of the lease exceeds 3 or any other specified number of years.

(4) A lease is not unregistrable by reason only of the fact that the possession of the lessee is expressed to be non-continuous.

(5) Nothing in this Part affects the law relating to tenancies for terms not exceeding 3 years.

(6) Upon registration of such a lease, the Registrar shall create a folio of the land-register for the leasehold estate, as the lessee may require. [72

77.—(1) Registration of a lease containing an option for renewal or for purchase does not give the option (whether in the form of a covenant or otherwise) any greater effect than it would have had without such registration. Options for renewal and for purchase.

(2) The memorial of registration of a lease containing an option shall not refer to the option.

(3) After the determination of a lease containing an option, and whether or not the determination has been

registered or notified on the land-register, a purchaser of land affected by the lease shall not be concerned to inquire whether any unregistered interest has been created in pursuance of the option.

(4) In registering or notifying the determination of a lease containing an option, the Registrar shall not be concerned to inquire whether the option has been exercised. [73]

Leases of mortgaged land.

78.—(1) A lease of registered land which is subject to a mortgage is not binding on the mortgagee unless —

- (a) the lease is expressly or impliedly authorised, either by the mortgagee or by law; or
- (b) the mortgagee consents to the lease.

(2) This section does not entitle a mortgagee to refuse to produce the duplicate instrument of title (if in his custody) to enable a lease by the mortgagor to be registered, but the production by a mortgagee of the duplicate instrument shall not imply a consent to the lease.

(3) When evidence is furnished to the Registrar that a mortgagee has consented to a lease by the mortgagor the Registrar shall refer to that consent in the memorial of registration of the lease.

(4) This section applies, *mutatis mutandis*, to leases by chargors of registered land. [74]

Covenants against assigning and subletting.

79. The Registrar shall not be concerned to consider whether or not any dealing by a lessee is made in breach of a covenant against assigning or subletting; but if evidence is furnished to the Registrar that a lessor has consented to a dealing by the lessee the Registrar shall refer to that consent in the memorial of registration of the dealing. [75]

Surrender of leases.

80.—(1) A lease of registered land may be surrendered —

- (a) by an instrument of surrender in the prescribed form; or
- (b) by operation of law.

(2) A surrender shall be registered by endorsement of a memorial on the folio of the land-register or any instrument of title for the reversion.

(3) Registration of the surrender (whether consequent upon merger or otherwise) of a lease which is subject to a sublease does not extinguish the sublease, but the Registrar shall endorse a memorial of registration of the sublease on the folio of the land-register or other instrument of title for the reversion on which he registers the surrender, and the estate evidenced by that folio or other instrument shall, to the extent and for the purpose of preserving such incidents and obligations as would otherwise have subsisted, be deemed to be the reversion expectant on the sublease.

(4) An instrument of surrender shall be executed by the lessee and by any mortgagee or chargee of the term and shall be accepted by the proprietor and by any mortgagee or chargee of the reversion.

(5) A proprietor seeking registration of a surrender by operation of law shall apply in writing to the Registrar, and shall support his application by such evidence as the Registrar may reasonably require. [76]

81.—(1) Where a lease has been determined —

(a) by effluxion of time;

(b) by the happening of an event upon which the lease is expressed to determine; or

(c) by lawful re-entry and recovery of possession,

the lessor may apply in writing to the Registrar to have a notification of the determination entered on the folio of the land-register or any instrument evidencing title to the reversion.

(2) An application under this section shall be supported by evidence of the happening of the event, or of the lawful re-entry.

(3) The Registrar may of his own motion enter a notification of the determination of a lease which has expired by effluxion of time. [77]

82.—(1) In every lease of registered land made pursuant to this Act, there shall be implied the following powers in the lessor: Implied powers of lessors.

(a) that he may by himself or his agents twice in every year during the term at a reasonable time of the day, upon giving the lessee two days' previous

Deter-
mination
of leases.

notice, enter upon the leased premises and view the state of repair thereof, and may serve on the lessee a notice in writing of any defect, requiring him within a reasonable time to repair the same in accordance with any covenant in that behalf expressed or implied in the lease;

- (b) that, in default of the lessee repairing any defect according to notice, the lessor may from time to time enter the premises and effect the required repairs;
- (c) that he may by himself or his agents at all reasonable times during the term, with workmen and others and all necessary materials and appliances, enter upon the leased premises or any part thereof for the purpose of complying with the terms of any legislation affecting the premises and of any notices served on the lessor or the lessee by any public authority involving the carrying out of repairs or the doing of any work or other act which the lessee may not be bound, or, if bound, may neglect to do, and also for the purpose of exercising the powers and authorities of the lessor under the lease:

Provided that such repairs, work or other acts shall be carried out or done without undue interference with the occupation and use of the premises by the lessee;

- (d) that in case the rent or any part thereof is in arrear for the space of 30 days (although no formal demand therefor has been made), or in case default is made in the fulfilment of any covenant, condition or stipulation, whether expressed or implied in the lease, and on the part of the lessee to be performed or observed, and such default is continued for the space of 30 days, or in case the repairs required by such notice as aforesaid are not completed within the time therein specified, the lessor may re-enter on the leased premises (or on any part thereof in the name of the whole) and thereby determine the estate of the lessee therein, but without releasing him from liability in respect of the

breach or non-observance of any such covenant, condition or stipulation.

(2) The powers implied by this section may be varied or negated by express provision in the lease.

(3) This section shall be read subject to any Act imposing restrictions or conditions on re-entry or forfeiture or on ejection of tenants.

(4) Section 10 of the Conveyancing and Law of Property Act applies to a lease of registered land as if the powers implied by this section had been set forth or contained in the lease. Cap. 61.

[78]

PART IX

EASEMENTS AND PROFITS

83.—(1) In this Part, “dominant tenement” and “servient tenement” mean respectively the land to which the benefit of an easement has been made appurtenant, and the land which is subject to the burden of an easement. Construction...

(2) Nothing in this Act shall be construed as altering the law relating to the natural rights to support, light, air, water, or to access to a highway, nor as altering any rule or principle of law which implies in the grant of an easement such ancillary rights as may be necessary for the effective enjoyment of the easement. [79]

84.—(1) The Registrar shall not register as an easement any instrument purporting to create an interest — Licences
not to be
registered.

(a) of a kind which has not been recognised by law as an easement; or

(b) which is not expressed to be appurtenant to land (whether registered land or otherwise) of a person other than the proprietor or owner of the site of the easement.

(2) The Registrar shall not notify any licence in the land-register, but, in any case where a licence relating to the use or enjoyment of land is by law binding on assigns of the licensor, the licensee thereunder shall be deemed to have an interest in the land for the purposes of section 104.

(3) An inadvertent contravention of this section does not give to any interest a greater operation or effect than the interest would have had without registration or notification.

[80]

Easements
for
installations.

85. For the purposes of this Act the fact that a right to lay or maintain pipes or other installations through the land of a proprietor confers on the person or authority entitled to that right the exclusive possession or occupation of the soil, or of the space occupied by the pipes or other installations, does not of itself prevent the right of passage of matter or energy through the pipes or other installations being registrable as an easement.

[81]

Registration
necessary
for creation
of easements.

86.—(1) An easement shall not be acquired over registered land by long-continued user adverse to a proprietor, nor by prescription, nor by any presumption of a lost grant, nor by any implication of law except as may be provided in this Act; but where an easement is intended to be created the proprietor may execute an instrument of grant in the prescribed form, or, if the easement is being created incidentally to a transfer or lease, by appropriate words in the transfer or lease.

(2) An instrument of transfer which reserves out of the land transferred an easement appurtenant to other land of the transferor is, upon registration, effective as a regrant of the easement to the transferor without execution of the instrument by the transferee.

(3) The instrument creating an easement shall indicate clearly —

- (a) the nature of the easement and the extent of the land burdened by the easement;
- (b) the dominant tenement; and
- (c) the conditions, limitations and restrictions, if any, intended to affect the enjoyment of the easement.

(4) The servient tenement shall be described in accordance with section 49:

Provided that where an easement relates to the passage of matter or energy through underground pipes, cables or other installations, which cannot conveniently be located,

the Registrar may accept for registration an instrument in which the servient land is described approximately only.

(5) An easement shall be registered by endorsing a memorial thereof on the folio of the land-register for the servient tenement, and by an appropriate illustration in the diagram on that folio.

(6) A notification of the easement shall be entered on the folio of the land-register for the dominant tenement unless the proprietor thereof agrees to dispense with any notification.

(7) Where a grant of easement over registered land is expressed to be appurtenant to land which is not under the provisions of this Act, the Registrar shall not be concerned to consider whether the person described therein as grantee is entitled to the land described as the dominant tenement if that person is expressed to be the owner for the time being of that land. [82

87.—(1) There shall be implied in respect of each lot of land which forms part of the same housing estate (referred to hereinafter as the lot) —

Implied easements for passage of water, electricity, drainage, gas and sewerage for housing estate.

(a) in favour of the proprietor of the lot, and as appurtenant thereto, easements for the passage or provision of water, electricity, drainage, gas and sewerage through or by means of any sewers, pipes, wires, cables or ducts to the extent to which those sewers, pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of the lot;

(b) as against the proprietor of the lot, and to which the lot shall be subject, easements for the passage or provision of water, electricity, drainage, gas and sewerage through or by means of any sewers, pipes, wires, cables or ducts, as appurtenant to every other lot capable of enjoying such easements.

(2) All ancillary rights and obligations reasonably necessary to make the foregoing easements effective shall be implied.

(3) The easements implied by this section entitle the proprietor of the dominant tenement to enter on the

servient tenement at all reasonable times to repair, renew or restore any sewers, pipes, cables, wires or ducts as shall appear necessary but the proprietor of the dominant tenement shall make good any damage caused to the servient tenement.

(4) (a) In respect of all the easements implied by this section, there shall also be implied a covenant, binding all parties enjoying the benefit of such easements, to contribute to the cost of construction, maintenance or repair of the sewers, pipes, cables, wires or ducts — the subject of the easements — as if the easements and the covenant to contribute had been created by an instrument registered under this Act and so long as such easements subsist the covenant to contribute binds any successors in title enjoying the benefit of the easements:

Provided that such a covenant shall not be implied where the proprietor of any lot is able to show that he is entitled to enjoy the easements free from the liability to contribute.

(b) Paragraph (a) does not render any person liable to contribute to expenditure incurred at a time before he became or after he ceased to be a proprietor of the tenement to which the liability attached.

(c) Unity of seisin of two or more lots does not destroy the easements implied by this section but on the cessation of such unity they continue in full force and effect as if the seisin had never been united.

(5) (a) The easements implied by this section apply to each lot comprised in any housing estate registered under the provisions of this Act on, before or after 1st December 1970.

(b) The easements implied by this section are enforceable without any memorial or notification on the folios of the land-register, and accordingly section 86 (5) and (6) does not apply thereto.

(6) In this section —

“lot” means a parcel of land, forming part of a housing estate, to which the Chief Surveyor has allotted a Government survey lot number;

“housing estate” means land subdivided into 4 or more lots pursuant to section 9 (3) of the Planning Act where those lots are affected by common

easements for the passage or provision of water, electricity, drainage, gas or sewerage that are capable of being created as cross easements by an instrument and enjoyed as such by those lots.

[83]

88.—(1) Where, upon the registration of a transfer or other instrument, the same person becomes the proprietor for the same estate and in the same interest of both dominant and servient tenements, it is the duty of that proprietor to indicate the fact of such union of tenements in the instrument by which it is effected, and, upon the registration of that instrument or so soon thereafter as he becomes aware of the union, the Registrar shall cancel the registration of the easement.

Extinguishment by union of tenements.

(2) This section applies notwithstanding any agreement, stipulation or expression of intention to the contrary.

(3) For the purposes of this section, parcels of land shall not be deemed to be held for the same estate and in the same interest while one of those parcels is subject to a registered mortgage, charge or lease.

[84]

89.—(1) Upon registration of a transfer or lease of land to which an easement is appurtenant, the easement shall pass to the transferee or lessee without any express mention in the transfer or lease.

Easements pass on transfer without express mention.

(2) Where a transfer of part of a dominant tenement contains an express agreement that the easement shall not pass to the transferee, registration of the transfer operates to release the easement to the extent to which it had been appurtenant to the part transferred.

(3) Except as provided in subsection (2), an easement, so long as it subsists, continues to be appurtenant to every part of the dominant tenement notwithstanding severance.

[85]

90.—(1) Where an instrument creating an easement contains a covenant binding either party to contribute to the cost of construction, maintenance or repair of any way, wall, drain, or other the subject of the easement, then, unless a contrary intention is expressed in the instrument, so long as the easement subsists the covenant binds any

Contribution to repairs.

successor in title to that party as if the successor had been a party to the original covenant.

(2) This section does not render any person liable to contribute to expenditure incurred at a time before he became, or after he ceased to be, a proprietor of the tenement to which the liability attached.

(3) For the purpose of subsection (2), any liability of a proprietor of an easement ceases from the time at which he delivers to the proprietor of the servient tenement a registrable release of the easement. [86

Grants of
rights of
way.

91.—(1) In an instrument purporting to create a right of way over registered land, the expressions “right of carriage way” and “right of footway” have the same effect as if there had been inserted in lieu thereof the words respectively contained in Part I and Part II of the Schedule.

(2) The expressions referred to in subsection (1) shall not have the meaning attributed to them by this section if any alteration is made in the expressions otherwise than by means of a proviso thereto. [87

Party walls.
Cap. 61.

92.—(1) In this section, “conveyance” has the same meaning as it has in section 2 of the Conveyancing and Law of Property Act, and it includes instruments of transfer taking effect under this Act.

(2) Where in a conveyance of land made by a person entitled to convey or to create easements in respect of a wall built on the common boundary of that land and adjoining land so that the boundary passes longitudinally through the wall (whether centrally or otherwise) the wall is described as a “party wall”, that expression means (unless a contrary intention appears) a wall severed vertically and longitudinally with separate ownership of the severed portions, and with cross easements entitling each of the persons entitled to a portion to have the whole wall continue in such a manner that each building supported thereby will have the support of the whole wall, and the conveyance operates to create such easements accordingly.

(3) This section applies —

(a) to all conveyances coming into operation after the commencement of this Act, whether they affect

land under the provisions of this Act or otherwise; and

- (b) to all conveyances which came into operation before such commencement, to the extent to which they affect land which subsequently is brought under the provisions of this Act.

(4) Where a conveyance describes land by reference to a plan in which a wall is shown as a party wall, for the purposes of this section the plan shall be deemed to be incorporated in the conveyance and, unless a contrary intention appears, the centre of the wall shall be deemed to be the boundary.

(5) The notation of the words “party wall” in a diagram on a folio of the land-register has the effect of a memorial of registration creating cross easements as described in subsection (2), and it is not necessary for the Registrar to enter any other memorial or notification relating to such easements.

(6) The words “party wall” shall not be noted on a folio unless —

- (a) cross easements have been created pursuant to subsection (2); and
- (b) the words have already been noted, or are about to be noted, on any folio in existence for the adjoining land affected by the cross easements.

[88

93.—(1) An easement over registered land may be released by an instrument of release in the prescribed form. Release of easements.

(2) An easement appurtenant to registered land over land which is not under the provisions of this Act may be released in any manner heretofore appropriate at law.

[89

94.—(1) The Registrar shall cancel the registration or notification of an easement upon proof to his satisfaction that — Cancellation of easements.

- (a) any period of time for which the easement was intended to subsist has expired;
- (b) any event upon which the easement was intended to determine has occurred; or

(c) the easement has been abandoned.

(2) Where evidence is furnished to the Registrar of non-user of an easement for a period exceeding 12 years, he may, without further evidence of abandonment, give notice to the proprietor of the dominant tenement and, in the absence of objection by that proprietor within one month from the service of the notice, treat the easement as abandoned.

[90

Grant of
profit.

95.—(1) For the purposes of this Act a right to go on land of another and to take substances from that land, whether of the soil, or products of the soil, or other natural products, or artificial structures affixed to the land, shall be an incorporeal hereditament and shall be called a “profit”.

(2) A grant of profit may be made by an instrument in the prescribed form.

(3) A grant of profit shall be lodged for registration in duplicate, and shall clearly indicate the period for which the grant is to be enjoyed, and whether it is to be enjoyed —

(a) in gross, or as appendant to other land; and

(b) by the grantee exclusively or concurrently with the grantor.

[91

PART X

TRANSMISSIONS

Transmission
on death of
proprietors
in severalty.

96.—(1) Personal representatives or any other persons claiming land of a deceased proprietor may apply in the prescribed form to become registered as proprietors by transmission of the land, and upon proof of their representation or claim the Registrar shall enter on the folio of the land-register, or on the instrument of mortgage, charge or lease, as the case may be, a memorial of registration as provided by section 28.

(2) An application under this section by a person claiming land of a deceased proprietor otherwise than as personal representative shall not be registered unless it can be established to the satisfaction of the Registrar that a transfer to that person by the personal representative is not reasonably practicable.

(3) The Registrar may at his discretion register a transmission application by a person claiming under a will or

intestacy in respect of which representation has not been taken out where he is satisfied that the value of the estate does not exceed \$3,000.

(4) For the purposes of this section, “personal representative” includes —

- (a) the administrator of an executor; and
- (b) the executor of an administrator,

in any case in which administration de bonis non administratis has not been granted. [92

97. Upon production of the grant of probate of the will or letters of administration of the estate of a deceased proprietor, the Registrar may, without requiring a transmission application, register —

Dealings
without
transmission.

- (a) any transfer by the personal representative expressed to be made —
 - (i) in pursuance of a devise in the will of the proprietor;
 - (ii) in exercise of a power of appropriation of the assets of the proprietor;
 - (iii) in pursuance of an appointment of new trustees of the proprietor;
 - (iv) by way of distribution under the intestacy of the proprietor; or
 - (v) in pursuance of a contract entered into by the proprietor in his lifetime;
- (b) a discharge of a mortgage or charge of which the deceased person was the proprietor; and
- (c) a surrender of a lease of which the deceased person was the proprietor. [93

98.—(1) Notwithstanding the existence of any law empowering less than the full number of personal representatives to deal with the estate of a deceased person, the Registrar shall not register any dealing pursuant to section 97 nor any transmission application made by less than the full number of personal representatives then living:

Full number
of personal
representatives
required.

Provided that, where in a grant of probate leave has been reserved to one or more executors to come in and prove, the Registrar shall not be concerned to inquire whether double probate has been granted.

(2) An executor who has neglected to become registered as proprietor after obtaining a grant of double probate may nevertheless join in or consent to instruments executed by his co-executors. [94]

Transmission
on
bankruptcy.

99.—(1) The Official Assignee claiming land under an adjudication of bankruptcy of a proprietor, or under an order for administration in bankruptcy of the estate of a deceased proprietor, may apply in the prescribed form to become registered as proprietor by transmission of the land so claimed, and upon proof of such adjudication or order the Registrar shall enter on the folio of the land-register, or on the instrument of mortgage, charge or lease, as the case may be, a memorial of registration as provided by section 28.

(2) Notwithstanding the provisions of any written law relating to bankruptcy for the time being in force, the vesting of registered land pursuant to proceedings thereunder is subject to the registration of a transmission application as provided in this section.

(3) For the purposes of this Act, any dealing with land of which the Official Assignee is the proprietor may be executed by the Official Assignee for the time being. [95]

Caveats by
Official
Assignee.

100. Where the Official Assignee is entitled to take possession of land of a proprietor under a receiving order, or under an appointment of an interim receiver, he may lodge a caveat pursuant to section 104. [96]

Bankruptcy:
Effect of
disclaimer,
discharge,
and
annulment.

101. Notwithstanding the provisions of any written law relating to bankruptcy for the time being in force, no disclaimer, nor order for the discharge of a bankrupt, nor order for the annulment of an adjudication in bankruptcy, operates to divest the Official Assignee of registered land of which he is the proprietor until he has executed and caused to be registered such transfers or other instruments as may be necessary to give effect to any such disclaimer or order as aforesaid. [97]

Effect of
transmission.

102. On registration of any transmission application in accordance with this Part —

(a) the estate and interest of the former proprietor, as set forth in the land-register, together with

all easements, rights and powers, thereto belonging or appertaining, shall pass to and be vested in the person so registered as proprietor; and

- (b) that person shall hold the land in trust for the persons and purposes for which it is applicable by law; but for the purpose of any dealing under the provisions of this Act, and notwithstanding the fact that his description may indicate a fiduciary capacity, he shall be deemed to be the absolute proprietor of the land. [98

103.—(1) Upon the death of a joint tenant or of a life tenant of registered land, the proprietor who has become entitled to that land consequent upon that death may apply in the prescribed form to have the death notified in the land-register. Notice of death or defeasance.

(2) Upon proof to his satisfaction of such a death, the Registrar shall make such entries in the land-register as may be necessary to indicate that the interest of the deceased proprietor has determined, and that the land has become vested in the survivor or other person entitled in reversion or remainder, as the case may be.

(3) Where a person has become entitled to registered land consequent upon defeasance of the interest of the proprietor of that land, and under circumstances in respect of which no express provision is made by this Act for registration of the interest of that person, he may apply for such registration in the form (suitably amended) prescribed for use under this section.

(4) Section 29 of the Estate Duty Act applies to registered land, and upon the death of a joint tenant or a life tenant of registered land the Commissioner of Estate Duties is not required to register any instrument of charge claiming an interest in the land for estate duty payable. Cap. 96. [99

PART XI

CAVEATS

104.—(1) Any person claiming an interest in land, or any person otherwise authorised by any Act to do so, may lodge with the Registrar a caveat in the prescribed form. Caveats may be lodged.

(2) A caveator may, according to the extent of his interest, forbid the registration under this Act of any instrument affecting the land against which the caveat is directed, either —

- (a) until the expiration of notice, in accordance with section 108, of the lodgment for registration of such an instrument;
- (b) unless the instrument is expressed to be subject to the interest claimed by the caveator; or
- (c) unless the caveator or some person nominated by him in the caveat has consented in writing to such registration.

(3) For the purposes of this Part, and without limiting its generality, an interest in the proceeds of sale of land shall be deemed to be an interest in that land.

(4) Every caveat shall be signed by the caveator or by his solicitor, and shall contain —

- (a) an accurate description of the interest claimed; and
- (b) such description as may be sufficient to identify the land intended to be affected.

(5) Nothing in this section enables a caveator or a person nominated by him in a caveat pursuant to subsection (2) (c) to withhold his consent to any instrument evidencing a dealing which a caveatee may lawfully make. [100

Notification
of caveats.

105.—(1) On lodgment of a caveat the Registrar shall immediately enter particulars thereof in a caveat index to be kept for that purpose, and shall give notice of such lodgment to the caveatee.

(2) If a caveat relates to registered land, and the requirements of this Act have been complied with, the Registrar shall in due course enter a notification of the caveat in the land-register.

(3) When a caveat has been notified in the land-register, the entry in the caveat index shall be cancelled.

(4) If upon investigation it is found that a caveat does not comply with the requirements of this Act, the Registrar shall give notice to the caveator of the matters in respect of which it is deficient, and if within such reasonable time as is specified in the notice the caveat is not rectified it shall be

deemed to have been withdrawn, and the entry in the caveat index shall be cancelled.

(5) Except as is provided in section 111, the Registrar shall not be concerned to consider whether or not a caveator's claim is justified. [101]

106.—(1) Before bringing land under the provisions of this Act, the Registrar shall cause a search to be made for caveats in the caveat index, and upon creating a folio of the land-register for that land shall notify thereon any caveat appearing from the search to affect it. Caveats lodged before initial registration.

(2) In the case of a primary application or of an application for cancellation of a caution, the Registrar may, before giving effect to the application, require the applicant to get in, or otherwise to dispose of, the interest claimed under any inconsistent caveat. [102]

107.—(1) A caveat against land which is not under the provisions of this Act does not operate to forbid the registration of instruments affecting that land until it becomes registered land. Effect of caveats.

(2) A caveat which is in order for entry in the land-register at the date of lodgment of the caveat takes effect from that date.

(3) A caveat which is not in order for entry in the land-register at the date of lodgment of the caveat shall not take effect until — 39/73.

(a) in the case where the caveat is amended at the office of the Registrar, the caveat is rectified in accordance with the requirements specified by the Registrar pursuant to section 105; or

(b) in the case where the caveat is returned to the caveator or his solicitor for amendment, the caveat is received by the Registrar duly rectified in accordance with the requirements specified by the Registrar pursuant to section 105.

(4) A caveat does not operate to prevent the registration of an instrument which was lodged for registration before, and is in order for registration at, the time when the caveat becomes effective, unless the instrument is subsequently withdrawn from registration.

(5) So long as a caveat remains effective, the Registrar shall not register any instrument which is inconsistent with the provisions of the caveat. [103]

Effect of lodgment of a conflicting instrument.

108.—(1) Upon lodgment for registration of an instrument the registration of which is prohibited by a caveat, the Registrar shall serve on the caveator a notice of his intention, at the expiration of 21 days from the date of the notice, to register the instrument, and he shall so register the instrument unless within that period of 21 days —

- (a) an order to the contrary has been made by the Court and served on the Registrar; or
- (b) the instrument has been uplifted or withdrawn or otherwise becomes incapable of registration.

(2) For the purpose of this section, an instrument shall not be deemed to have been lodged for registration until (except for the presence of a caveat) it is in order for registration.

(3) Where, after service of notice of intention to register as aforesaid, the instrument to which the notice relates is uplifted, or withdrawn, or otherwise becomes incapable of registration, the effect of the notice is cancelled, and the caveat is restored to its former efficacy. [104]

Lapsing of caveats.

109.—(1) A caveat lapses and ceases to affect land —

- (a) at the expiration of the period of 21 days (or of such further period as the Court may direct) from the date of notice given pursuant to section 108; or
- (b) at the expiration of 5 years from the date of lodgment of the caveat.

(2) Where, after notice given as in section 108 provided, the Registrar registers an instrument which does not exhaust the intended functions of a caveat, the caveat shall be deemed to have lapsed only to the extent necessary to permit such registration.

(3) Where a caveat has lapsed either wholly or partially, the Registrar shall enter in the land-register an appropriate notification of the lapsing.

(4) The lapsing of a caveat upon the expiration of 5 years as aforesaid does not prevent the lodgment of a fresh caveat in the same matter either during the currency of an existing caveat or otherwise. [105]

110. A caveat may be withdrawn, either wholly or as to part of the land thereby affected, by an instrument of withdrawal signed by the caveator or by his personal representative or, where the caveat was signed by a solicitor, by that solicitor. [106]

Withdrawal
of caveats.

111.—(1) At any time after the lodgment of a caveat, the caveatee may summon the caveator to attend before the Court to show cause why the caveat should not be withdrawn or otherwise removed, and the Court may make such order in the premises, either ex parte or otherwise, as seems just.

Remedies of
caveatee.

(2) A caveatee who contends that a caveat has been lodged, or is being allowed to remain, vexatiously or frivolously or not in good faith may lodge with the Registrar a statutory declaration to that effect, whereupon the Registrar shall give notice to the caveator that he intends to cancel the notification of the caveat, and he shall cancel it unless within 21 days from the date of the notice —

- (a) an order by the Court to the contrary is served on the Registrar; or
- (b) the caveator furnishes to the Registrar satisfactory evidence to show that the cancellation should be withheld or deferred.

(3) In any case in which the Registrar, after giving notice to the caveator as aforesaid, does not cancel the notification of a caveat pursuant to this section, he shall inform the caveatee that he has withdrawn, or extended the time of, the notice of intended cancellation, as the case may be.

(4) A caveator who has been given notice pursuant to subsection (2) may, at any time during the currency of the notice, apply to the Court for relief, and the Court may make such order in the premises as seems just.

(5) Subsections (2), (3) and (4) apply only to caveats affecting registered land. [107]

Caveator's liability for compensation.

112.—(1) Any person who has sustained damage, or who has incurred costs or expenses, by reason of a caveat having been lodged, or having been allowed to remain, wrongfully or vexatiously or without reasonable cause, may bring an action against the caveator or his personal representatives for compensation, or may claim compensation in any suit between the caveator and caveatee, and the Court may award such sum as seems just.

(2) In any action or suit in which the Court orders the withdrawal or removal of a caveat, or in which it declines to extend the currency of a caveat, it may also grant an injunction restraining the caveator or any party to the action or suit from lodging another caveat in the same matter.

(3) For the purposes of this section, a caveator shall be deemed to allow a caveat to remain without reasonable cause if he fails to withdraw it within 3 months of the day on which his right to the interest claimed terminates. [108

PART XII

WRITS AND ORDERS OF COURT

Inter-pretation.

113. For the purposes of this Part, unless inconsistent with the context or subject-matter —

“writ” means a writ of execution issued out of the High Court, or any other court having jurisdiction to levy execution against land, and, where the context admits, includes renewal of a writ and a second or subsequent writ on the same judgment;

“order” means an order of the Court, and includes a rule and a decree;

“Sheriff” includes any officer directed by a competent court to levy execution on land. [109

Writs and orders not binding unless registered.

114.—(1) A writ of execution, or an order of Court directing, appointing or empowering, some person other than the proprietor to sell or otherwise to deal with or dispose of registered land, does not bind or affect such land until particulars of the writ or order have been entered in the land-register. Such entry constitutes a memorial of registration within the meaning of section 28.

(2) The person seeking registration shall lodge with the Registrar the writ or order, or an office copy thereof,

together with an application indicating the titles in respect of which registration is required.

(3) The registration of a writ or order enables the Sheriff or other person therein named to execute instruments registrable in accordance with this Act.

(4) A writ shall not be registered unless it has been lodged for registration within 6 months of the date of its issue.

(5) Where a writ has been registered then, until its registration has been cancelled in accordance with this Act, a renewal of that writ, or a second or subsequent writ on the same judgment, shall not be registered. [110]

115.—(1) The registration of a writ does not prevent the lodgment of instruments executed by the judgment debtor, but any such instrument shall not be registered until registration of the writ has been cancelled as in this Act provided.

Dealings by
judgment
debtors.

(2) A renewal of a writ, or any second or subsequent writ on the same judgment, shall not be registered while any instrument executed by the judgment debtor is awaiting and is otherwise in order for registration. [111]

116.—(1) Registration of a writ lapses, and the power of the Sheriff to execute registrable instruments pursuant thereto is extinguished, at the expiration of one year from the date of registration of the writ, and the land thereupon ceases to be bound thereby. This subsection does not prevent the registration of a renewal of a writ, or of a second or subsequent writ issued on the same judgment:

Lapsing
of writs.

Provided that nothing in this Act enables a judgment creditor by a succession of writs on the same judgment to bind land for an uninterrupted period exceeding one year.

(2) Upon the lapsing of the registration of a writ, the Registrar shall at the request of the proprietor or of anyone claiming through him, or of his own motion, cancel the registration of the writ.

(3) Lapsing of the registration of a writ does not prevent the registration of any instrument executed pursuant thereto and lodged for registration prior to such cancellation. [112]

Land sold in pursuance of writs.

117.—(1) The interest in registered land which may be sold in execution under a writ is the interest which belongs to the judgment debtor at the date of registration of the writ.

(2) For the purpose of determining the interest in land which belongs to a judgment debtor —

(a) any interest in that land purported to be created subsequently to the date of registration of the writ; and

(b) any interest in that land created previously to the date of registration of the writ, and not notified in the land-register nor protected by caveat at least 3 clear days before the date of the sale, is void against a purchaser of the land at the sale in execution under the writ.

(3) Land shall not be sold in an execution under a writ until the expiration of 30 days from the date of registration of the writ. [113]

Duplicate instrument need not be produced.

118. The Registrar may register a transfer or other instrument pursuant to a writ or order of Court without requiring production of the duplicate instrument of title. [114]

Withdrawal and satisfaction of writs and orders.

119.—(1) A writ or order of Court may be withdrawn by the judgment creditor or other person for whose benefit it was issued, and the Registrar shall thereupon cancel the registration of that writ or order of Court.

(2) Upon production to him of sufficient evidence of the satisfaction of a writ, the Registrar shall cancel the registration thereof.

(3) Before registering a withdrawal or a satisfaction of a writ, the Registrar may require evidence that the writ has not been put in force. [115]

Vesting orders. Cap. 337.

120.—(1) In all cases where a vesting order affecting registered land would be made pursuant to the Trustees Act, the Court shall, in accordance with section 58 of that Act, make an order appointing a person to execute such transfers or other instruments as may be necessary to give effect to the vesting.

(2) After the registration of that order pursuant to section 114, any instrument so executed shall have effect as if it had been executed by such proprietors of the land intended to be dealt with thereunder as would be necessary to pass the registered title of the estate or interest in question. [116]

PART XIII

RESTRICTIVE COVENANTS

121. In this Part —

“restriction” means a restriction on the user of registered land created expressly by a covenant other than a covenant contained in a mortgage, charge or lease;

“dominant land” means the land to which the benefit of a restriction is annexed;

“servient land” means the land subject to the burden of a restriction. [117]

Inter-
pretation.

122.—(1) Any proprietor entitled to burden registered land with restrictions may do so by an instrument in the prescribed form and, subject to this section, the Registrar shall enter a notification of the restrictions on the folio of the land-register comprising the servient land. Unless so notified a restriction does not bind assigns of the land affected thereby.

Notification
of
restrictions.

(2) The Registrar shall not enter a notification of any such instrument unless —

(a) obligations which it purports to create are negative or restrictive; and

(b) the instrument clearly indicates the dominant and servient land.

(3) The Registrar may refuse to enter a notification of an instrument purporting to create a restriction if the obligations contained in the instrument are in part positive or affirmative.

(4) An instrument containing a restraint on the right of a proprietor to alienate or otherwise to dispose of land shall not be notified on the land-register pursuant to this section.

(5) The notification of an instrument containing a restriction which would not have been binding on assigns of the

servient land does not give the instrument any greater operation or effect than it would have had without that notification.

(6) The Registrar shall not enter on the folio of the land-register a notification of any restriction contained in an instrument executed before the servient land was brought under the provisions of this Act unless the restriction appears to be enforceable wholly or in part against assigns of that land.

(7) The Registrar may, upon the application of the proprietor of the servient land, or of his own motion, cancel the notification of an instrument creating a restriction which has become unenforceable against assigns of that land, or which for any reason should not have been notified. [118

Release and
variation of
restrictions.

123.—(1) The burden of a restriction may be released wholly or in part, and the obligation created by a restriction may be varied, by an instrument in the prescribed form executed by the proprietor for the time being of the dominant land and by any person having a registered interest in that land; and, upon application by the proprietor of the servient land, the Registrar shall enter a notification of that instrument on the relevant folio of the land-register.

(2) Where the dominant land is not under the provisions of this Act, the Registrar shall not be concerned to investigate the title to that land.

(3) The entry of a notification of an instrument of release or variation does not give the instrument any greater operation or effect than it would have had without such entry.

(4) Without prejudice to subsection (1), upon the application of any person interested in land affected by a restriction, the Court has power, by order, wholly or partially, to extinguish or vary the restriction, upon being satisfied —

(a) that by reason of a change of user of the land affected, as approved by the competent authority or the Minister, as the case may be, under the Planning Act or any rules made thereunder, the continued existence of the restriction will impede the development of the land for public or private purposes; or

(b) that the proposed extinguishment or variation will not materially injure the person entitled to the benefit of the restriction.

(5) An order extinguishing or varying a restriction under subsection (4) may direct the applicant to pay to any person entitled to the benefit of the restriction such sum by way of compensation as the Court may think it just to award under one, but not both, of the following heads, that is to say, either —

(a) a sum to make up for any loss or disadvantage suffered by that person in consequence of the extinguishment or variation; or

(b) a sum to make up for any effect which the restriction had at the time when it was imposed in reducing the consideration then received for the land affected by it.

(6) On an application to the Court under subsection (4), the Court shall give any necessary directions as to the persons who are or who are not to be admitted (as appearing to be entitled to the benefit of the restriction) to oppose the application.

(7) Any order made under subsection (4) is binding on all persons whether ascertained or of full age and capacity or not, then entitled, or thereafter capable of becoming entitled, to the benefit of any restriction which is extinguished, varied or dealt with, and whether those persons are parties to the proceedings or have been served with notice or not.

(8) An order may be made under subsection (4) notwithstanding that any instrument which is alleged to impose the restriction intended to be extinguished, varied or dealt with may not have been produced to the Court and the Court may act on such evidence as it may think sufficient.

(9) For the purposes of subsection (4), the Court may dispense with personal service and may order service to be effected by an advertisement in any one or more daily newspapers or in such other manner as the Court thinks fit.

(10) Subsection (4) applies both to restrictions subsisting on 1st December 1970 (when that subsection came into operation) and those imposed thereafter, but does not apply

to restrictions contained in State titles whether issued on, before or after that date.

(11) The Registrar shall enter on the relevant folio of the land-register a notification of any order of Court extinguishing wholly or in part a restriction already notified thereon, or varying the provisions of such a restriction, if the order or an office copy thereof is produced to him for that purpose and upon entry of the notification the restriction is extinguished or varied *pro tanto*. [119

Duration of
restrictions.

124.—(1) Unless extended in the manner provided by this section, a restriction ceases to be enforceable against assigns of the servient land at the expiration of 20 years from the date of entry of a notification thereof on the land-register, and the Registrar shall cancel that notification.

(2) A restriction which has not become unenforceable may from time to time be extended by an instrument in the prescribed form executed by any person having an interest in the dominant land and entitled to the benefit of the restriction, and the Registrar shall notify any such extension on each folio of the land-register on which the restriction is notified.

(3) Each instrument of extension may prolong the duration of a restriction for a period of 10 years from the date on which the instrument of extension has been notified in the land-register.

(4) Where for any reason (other than the expiration of the period referred to in subsection (1) and of any extension of that period) a restriction would have become unenforceable, an instrument of extension does not prolong the duration of the restriction beyond the time for which it would otherwise have enured.

(5) Where the dominant land is not under the provisions of this Act, the Registrar, for the purpose of entering a notification of any instrument of extension executed by a person claiming to have an interest in that land, shall not be concerned to investigate the title to that land; but such a notification does not prolong the duration of the restriction unless the person executing the instrument of extension was, at the relevant time, entitled to the interest which he claimed to have.

(6) Any restriction extended pursuant to this section enures for the benefit of every person who, during the period of the extension, is entitled to an interest in the dominant land. [120]

PART XIV

STATUTORY ACQUISITION AND SALE

125.—(1) For the purposes of this section, “statutory obligation” means — Statutory obligations.

(a) any charge on land; and

(b) any order, award, determination, notification, resolution, by-law or proclamation affecting the title to or restricting or otherwise affecting the user of land or prescribing or authorising any act or thing to be done on land,

under the provisions of any Act or regulations made thereunder, and which is intended to bind successive owners of the land.

(2) A statutory obligation intended to affect registered land may be notified by lodging with the Registrar an instrument of statutory obligation in the prescribed form, and the Registrar shall give effect thereto by entering a notification of the particulars thereof on the relevant folio of the land-register or other instrument of title claimed to be affected by the statutory obligation, and on the duplicate instrument of title if produced for that purpose.

(3) The notification of an instrument of statutory obligation does not give the statutory obligation any greater operation or effect than it would have had without such notification, nor any greater effect than is claimed for it in the instrument.

(4) Nothing in this section affects the personal liability of the proprietor of land affected by a statutory obligation at the time when the liability was first incurred or the statutory obligation first attached.

(5) A statutory obligation relating to a rate or tax may not be notified under this section unless the amount due exceeds the sum of \$100 or 10% of the value of the land on which it is charged.

(6) Where any money due under a statutory obligation is in arrear, there may be added to the amount due the costs of notification of an instrument of statutory obligation.

(7) This section does not apply to any statutory obligation or class of statutory obligations which may from time to time be exempted from its application by rules made pursuant to section 152. [121

Compulsory acquisition of registered land.

126.—(1) For the purposes of this section, “public authority” means the Government, the Collector of Land Revenue, the Housing and Development Board, and any other person, corporation or body, authorised or empowered by any written law to acquire land compulsorily.

(2) Where registered land has been acquired by any public authority otherwise than by purchase or agreement, an instrument of acquisition in the prescribed form, executed by that authority or by some proper officer appointed by the authority in that behalf, may be lodged with the Registrar.

(3) The Registrar shall not be concerned to inquire into the regularity or validity of the acquisition, but upon registration thereof the estate or interest acquired shall vest in the public authority according to the tenor of the instrument of acquisition.

(4) On registration of an instrument of acquisition, the Registrar shall cancel the registration of any mortgage, charge or lease thereby overreached and shall, if so requested, cancel the folio of the land-register (and the duplicate folio thereof if produced for that purpose) and shall create a new folio for the estate or interest thereby acquired.

(5) Whenever a public authority that has become proprietor of registered land so requests, the Registrar shall endorse on the relevant folio of the land-register a notification to the effect that the land has become vested in the Government as State land, and has ceased to be subject to the provisions of this Act. [122

Sale of land for revenue or rates.

Cap. 155.

Cap. 254.

Cap. 166.

127.—(1) Where registered land is sold pursuant to —

(a) Part I of the Land Revenue Collection Act;

(b) section 39 of the Property Tax Act; or

(c) section 67 of the Local Government Integration Act,

the Collector of Land Revenue, the Comptroller of Property Tax or the Director-General of Public Works, as the case may be, may execute a transfer in the prescribed form, and neither the purchaser of the land nor the Registrar shall be concerned to inquire whether the provisions of the relevant Act relating to the sale or transfer have been complied with, nor otherwise to inquire into the regularity or validity of the sale or transfer.

(2) Upon registration of that transfer, the land shall vest in the transferee for the estate therein set forth, freed and discharged from all trusts, obligations, estates, interests, charges and rates that have not been entered in the memorandum of prior encumbrances in the transfer, but subject to any exceptions and reservations in the Crown or State grant.

(3) Where the duplicate folio of the land-register is not presented with the transfer, the Registrar shall cancel the existing folio and shall create a new folio in favour of the transferee.

(4) Section 14 (1), (2) and (4) of the Land Revenue Collection Act does not apply to transfers in pursuance of this section. Cap. 155.
[123]

128.—(1) Whenever by the operation of any Act, either directly or by reason of anything done in pursuance thereof, registered land becomes vested in some person other than the proprietor, either alone or jointly or in common with the proprietor, the Registrar shall upon application by that person and upon such evidence as the Registrar considers sufficient, enter in the land-register a memorial of registration of the vesting. Statutory vesting not elsewhere provided for.

(2) This section does not apply to any vesting for the registration of which express provision is made by this Act. [124]

PART XV

POWERS OF ATTORNEY

129. In this Part, “attorney” means any person appointed by an instrument under seal to act as the agent for or on behalf of a principal in relation to transactions with registered land, whether the agent is called attorney, Inter-pretation.

receiver, broker, factor or otherwise, and, where the context admits, “power” means the instrument by which an attorney is appointed. [125]

Registration of instruments executed by attorneys.

130.—(1) On lodgment for registration of any instrument executed by an attorney, the Registrar may require the original power of attorney or an office copy thereof to be exhibited to him, and, in case of doubt, or where he suspects impropriety, may require the execution of the power to be proved.

(2) Where a power of attorney —

(a) has been executed before, and authenticated by, a person or court mentioned in section 11 of the Registration of Deeds Act; or

(b) has been deposited in the Registry of the Supreme Court pursuant to section 48 of the Conveyancing and Law of Property Act,

no further proof of execution shall be required by the Registrar.

(3) Before registering any instrument executed by an attorney, the Registrar may require either —

(a) that the power of attorney or a true copy thereof be deposited in the Registry of the Supreme Court as aforesaid; or

(b) that a copy of the power of attorney duly verified by two credible persons, or an office copy delivered out of the Supreme Court pursuant to section 48 of the Conveyancing and Law of Property Act, be lodged in the Land Titles Registry for permanent record.

(4) As between an attorney and any purchaser from him of registered land, and notwithstanding any agreement or stipulation to the contrary, there shall be implied an undertaking by the attorney to comply, at his own expense (or that of his principal), with all reasonable requirements of the Registrar made pursuant to this section. [126]

Exoneraton of purchasers.

131.—(1) In favour of a purchaser of registered land claiming through an instrument executed by an attorney, the power under which the attorney purports to act shall be presumed to be in full force and effect at the time of such execution unless the purchaser, prior to completion of the purchase, has received notice of the revocation of the

power, and the Registrar shall not be concerned to inquire as to whether or not any such notice was received.

(2) This section does not operate to prolong the duration of a power which is expressed to terminate on a specified day, nor does it validate any act of the attorney done after that day.

(3) An attorney who purports to act in exercise of a power after he has received notice of its revocation is liable to the same penalties as if he had made a statutory declaration that, at the time of so purporting to act, the power had not been revoked.

(4) Nothing in this section prejudices the right of a principal to recover damages from, or to institute other proceedings against, an agent who has exceeded his authority. [127]

132.—(1) Where in a power executed after the commencement of this Act, the attorney is described as the “general attorney” of the principal, the attorney shall be presumed by purchasers of registered land to have power to do all things the doing of which could lawfully be delegated by the principal.

General
attorneys.

(2) This section applies only —

(a) to powers executed within Singapore; and

(b) to powers executed outside Singapore which are expressed to be made in pursuance of this section.

(3) The generality of the authority of an attorney who has been appointed a “general attorney” is not restricted by reason of the fact that the instrument appointing him also confers specific powers.

(4) A general attorney may be appointed in relation to one or more specified items of property, and his authority as general attorney, and the exoneration conferred by this section, are restricted to those items. [128]

133.—(1) Any purchaser of registered land from an attorney who is not a “general attorney” within the meaning of section 132 is entitled to be paid by the attorney —

Investigation
and
registration
fees.

(a) the sum of \$15 towards the costs of investigating title; and

(b) any additional registration fee which may be prescribed for instruments executed by attorneys.

(2) Any agreement, condition or stipulation in contravention of this section is void.

(3) Where an attorney proves to the satisfaction of the Registrar that the power under which he acts is likely to be used in a series or course of similar transactions, and that complications are not likely to arise in the interpretation of the power, the Registrar may, by an endorsement on the power or a copy thereof, exempt all transactions or any particular kind or kinds of transaction from this section, and thereupon, for the duration and within the limits of that exemption, additional fees or costs as prescribed by this section are not payable. [129]

PART XVI

CIVIL RIGHTS AND REMEDIES

Assurance
fund.

134.—(1) From the fees which are collected by the Registrar pursuant to this Act, the Minister for Finance shall set apart the proportion prescribed from time to time by rules made under this Act to constitute an assurance fund, from which shall be paid —

(a) any sum necessary to compensate claimants under section 138; and

(b) such other disbursements as are directed or authorised to be paid, or expressed to be recoverable, from that fund.

(2) The Registrar may authorise payment from the assurance fund of any claim for compensation not exceeding \$1,000.

(3) A claim for compensation exceeding \$1,000 shall be paid from the assurance fund only on the authority in writing of the Minister, or on a determination by the Court.

(4) If the amount to the credit of the assurance fund is inadequate to meet any claim, the deficiency shall be charged on and paid out of the Consolidated Fund.

(5) The assurance fund is not liable to compensate any person suffering loss, damage or deprivation occasioned by the breach by a proprietor of any trust. [130]

135.—(1) If upon the application of any person to have land brought under the provisions of this Act, or to have any instrument registered or notified, or to have any certificate of title or other instrument issued, or to have performed or done by the Registrar any act or duty which by this Act is prescribed to be performed or done by him, the Registrar refuses to comply therewith, or if that person is dissatisfied with any requisition made or direction given by the Registrar which the Registrar refuses to withdraw, the person may require the Registrar to set forth in writing under his hand the grounds of his refusal and may, if he thinks fit, summon the Registrar to appear before the Court to substantiate and uphold the grounds of his refusal.

Registrar
may be
summoned
for refusal
to register.

(2) Such a summons shall be issued under the hand of a Judge of the Court and served upon the Registrar at least 6 clear days before the day appointed for hearing the complaint of that person, and at the hearing, counsel for the Registrar has the right of reply.

(3) The Court may, if any question of fact is involved, direct an issue to be tried to decide that fact, and the Court shall make such order in the circumstances as the case may require, and the Registrar shall obey that order.

(4) Upon any summons or proceeding under this section, the Court may make such order as to costs and expenses as it thinks just, and any costs or expenses to be paid by the Registrar shall be paid out of the assurance fund. [131

136.—(1) Whenever any question of difficulty arises with regard to the performance of the duties, or the exercise of the functions, of the Registrar, he may state a case for the opinion of the Court, and the Court may give its judgment thereon, and that judgment shall be binding on the Registrar.

Registrar
may state
a case.

(2) In order that a case stated under this section may be fully argued, the Court may, upon the application of the Registrar, or of any person interested in the subject-matter of the case, or of any other person or body to whom the Court may give leave, certify that a question of public importance is involved and that the costs of the suit, or of some of the persons appearing in the suit, shall be paid out of the assurance fund. [132

Actions for
recovery
of land.

137.—(1) No action of ejectment or other action for the recovery of registered land lies or may be sustained against the proprietor thereof except in the case of —

- (a) a mortgagee against a mortgagor in default;
- (b) a chargee against a chargor in default;
- (c) a lessor against a lessee in default;
- (d) a person deprived of land by fraud against the person who has become registered as proprietor of the land by fraud, or against any person claiming through that proprietor otherwise than as a purchaser; or
- (e) a re-entry or forfeiture upon breach of a covenant or condition contained or implied in a Crown grant, State grant, Crown lease or State lease.

(2) In any action pursuant to this section, the Court may make such order for the cancellation of any folio of the land-register or of any entry therein, or for the recovery of possession of the land, as the circumstances of the case may require.

(3) In any action based on fraudulent deprivation, the Court may make an order for payment of damages either in addition to or in substitution for an order for the recovery of land.

(4) On making an order pursuant to this section, the Court shall have regard to any improvements which may have been made to the land subsequently to the deprivation, and to the conduct of the parties, and may, if it sees fit, put the successful party on terms of paying compensation.

(5) For the purposes of this section, any unlawful acquisition of land, whether by a person purporting to act under statutory authority or otherwise, shall be deemed to be fraudulent. [133

Actions for
recovery of
damages.

138.—(1) Any person who is deprived of land or sustains loss or damage through any omission, mistake or misfeasance of the Registrar, or any member of his staff, in the bringing of the land under the provisions of this Act or in the registration of any instrument, and who is barred by this Act from bringing an action of ejectment or other action for the recovery of land, may bring an action for the recovery of damages against the assurance fund.

(2) In any action for the recovery of damages or compensation, whether for deprivation or for error or otherwise, the Court shall take into consideration the fact that the claimant's own neglect, default or incaution may have caused or contributed to the deprivation, loss or damage, and in any such case may withhold or abate damages or compensation accordingly.

(3) For the purposes of this section —

(a) a person who could bring an action for the recovery of land pursuant to section 137 shall be deemed not to have been deprived of that land; and

(b) any person who has obtained a certificate of title pursuant to section 8 shall be deemed to be the person by whom the land in that certificate of title was brought under the provisions of this Act and who derived benefit therefrom.

(4) The assurance fund is not liable to compensate a party to any action authorised by this Act unless the Registrar was a defendant therein, or was served with 14 days' notice thereof.

(5) On receipt of notice, the Registrar is entitled to appear in any such action and may offer to compensate any party to the action out of the assurance fund.

(6) On any such offer being made further action shall be limited to determination of the compensation to be paid.

(7) Except as provided by subsection (1), no action shall be brought against the assurance fund by any person deprived of land or sustaining loss or damage through —

(a) the bringing of the land under the provisions of this Act; or

(b) the registration of any wrongful or erroneous instrument,

whether the land was, or is, brought under the provisions of this Act or the instrument was or is registered on, before or after 1st December 1970 (when that subsection came into operation). [134

139.—(1) Any person intending to claim against the assurance fund shall, not less than 14 days before the commencement of the action, serve notice of his claim on the Registrar as nominal defendant, stating the grounds on which his claim is made and the amount claimed.

Procedure
on actions
against the
assurance
fund.

(2) The Registrar may tender in settlement of the claim the amount claimed or any lesser amount, and if the claimant rejects that tender and fails later to recover damages exceeding the amount tendered by 20% of that amount he shall pay, in addition to his own costs, the costs of the Registrar in defending the action.

(3) If in any such action the plaintiff recovers final judgment against the Registrar, then the Court shall certify the fact of the judgment and the amount of damages and costs recovered, and the amount of those damages and (except as provided in subsection (2)) those costs shall be paid to the person recovering them, and shall be charged to the account of the assurance fund. In all other cases the Registrar's costs shall be payable by the plaintiff.

(4) Notwithstanding anything to the contrary in section 138, any person deprived of land to a value of not more than \$1,000, or sustaining loss or damage of not more than that amount, may claim against the assurance fund in the first instance and the Registrar may settle or compound the claim. [135]

Protection
of bona fide
purchasers
and of
Registrar.

140.—(1) Notwithstanding anything in this Act, no purchaser who has become a proprietor is subject to action for the recovery of land or of money on the plea that his vendor, or any predecessor in title, may have acted in bad faith.

(2) Neither the Registrar nor any person acting under his authority is personally liable to any action, suit or proceeding in respect of any act or matter in good faith done or omitted to be done in the administration of this Act. [136]

Limitation
of actions
for damages.

141.—(1) No action pursuant to section 138 or 142 lies unless such action is commenced within 12 years from the date on which the deprivation occurred or the loss or damage was sustained:

Provided that, where an action for deprivation, loss or damage has been commenced against any person within that period of 12 years, an action against the assurance fund for the same cause may be commenced within one year after the discontinuance of the former action, notwithstanding the fact that that period of 12 years may have expired.

(2) Any person under the disability of infancy or mental incapacity may bring such an action within 12 years of the date on which the disability ceases.

(3) Notwithstanding this section, the Registrar may, with the approval of the Minister, waive any immunity of the assurance fund hereinbefore conferred. [137

142.—(1) The Registrar may of his own motion, or at the request of any aggrieved proprietor shall — Correction of errors in land-register. 39/73.

- (a) correct any folio of the land-register which is erroneous because of the entry of a mis-spelt name, or of the inclusion of land already included in a prior folio, or of the wrong description of parcels or of boundaries;
- (b) correct any erroneous entry or endorsement in the land-register; and
- (c) add to the land-register any matter which has been erroneously omitted.

(2) Any correction shall be made in such manner as to leave the erroneous matter legible, and shall be authenticated by the Registrar's signature or initials together with the date on which the correction was made.

(3) In any case in which the Registrar corrects the land-register, he shall have regard to any improvements to the land which may have been made since the occurrence of the error and, where two or more titles are involved, he may correct that folio, entry or endorsement which in his opinion involves the least loss to the assurance fund.

(4) Any person who, having dealt on the faith of an erroneous registration, has suffered loss or damage by the exercise of the power conferred on the Registrar by this section shall be entitled to be compensated from the assurance fund for the land of which he has been deprived and for any improvement erected thereon by him or by any predecessor in title, and may bring an action for the recovery of such compensation.

(5) Any person having custody of a duplicate instrument required for correction may be summoned by the Registrar to deliver that instrument to him, and upon that person refusing or neglecting to do so the Registrar may apply to the Court for an order requiring that person to show cause

why the instrument should not be so delivered, and the Court may make such order as the circumstances of the case require.

(6) When any person summoned as aforesaid neglects or refuses to show cause, or to deliver up the duplicate instrument, as directed by the Court, the Registrar may, if the circumstances of the case so require, issue a substituted instrument in the same manner, and having the same effect, as provided by section 36 in the case of instruments which have been lost or destroyed.

(7) In this section, “correction” includes cancellation and the addition of matter which has been omitted.

(8) For the purposes of section 141, time does not run against any person entitled to compensation for loss or damage by reason of a correction under this section until the Registrar has given him notice that the correction has been made. [138]

Rectification
by Court.
18/76.

143.—(1) Subject to subsection (2), the Court may order rectification of the land-register by directing that any registration be cancelled or amended in any of the following cases:

- (a) where two or more persons have, by mistake, been registered as proprietors of the same registered estate or interest in the land comprised in a folio of the land-register;
- (b) where the Court is satisfied that any registration or notification of an instrument has been obtained through fraud, omission or mistake; or
- (c) where the Court has declared that any instrument which purports to pass any estate or interest in any residential property within the meaning of the Residential Property Act is void pursuant to section 24 of that Act.

Cap. 274.

(2) The land-register shall not be rectified so as to affect the registered estate or interest of a proprietor who is in possession unless that proprietor is a party or privy to the omission, fraud or mistake in consequence of which the rectification is sought, or has caused that omission, fraud or mistake or substantially contributed thereto by his act, neglect or default.

(3) Subsection (2) shall not apply in the circumstances referred to in subsection (1) (c). 18/76.
[139]

PART XVII

SEARCHES AND CERTIFIED COPIES

144. Any person may, upon payment of the prescribed fee, have access to the land-register for the purpose of inspection and search upon such days and during such hours and subject to such conditions as may be prescribed. Searches
by public.
[140]

145.—(1) Any person may apply in the prescribed form for an official search in the land-register to be made on his behalf. Official
searches.

(2) Upon receipt of such an application, the Registrar shall cause a diligent search to be made, and shall issue under his hand and seal a certificate of the result of that search to the person requiring it.

(3) Any purchaser by whom or on whose behalf an official search is obtained, and who suffers loss or damage by reason of any error in, or omission from, that official search, may recover compensation from the assurance fund.

(4) A solicitor by whom or on whose behalf an official search has been obtained is not answerable for any loss or damage which may arise from any error in, or omission from, that official search.

(5) An official search shall be sent by registered post or delivered manually to the applicant as he may require. [141]

146.—(1) The Registrar may issue a final official search to any person who wishes to close the land-register, and who satisfies the Registrar (whether by production of an acknowledgment from the proprietor or otherwise) that he is a purchaser of the land in respect of which the search is required. Priority
affected by
final official
searches.

(2) The Registrar shall make an entry in the land-register of the day and hour of posting or delivery of a final official search, whereupon no instrument affecting the land to which the search relates (other than an instrument in favour of the applicant) which is lodged for registration within the period of 7 days next ensuing upon the entry aforesaid shall

be registered or notified until the expiration of that period, or until the registration of an instrument in favour of the applicant, whichever is the earlier.

(3) Upon the expiration of that period of 7 days, or upon registration of the instrument in favour of the applicant (whichever is the earlier), instruments affecting the land to which the official search relates shall be registered or notified in the manner directed by section 28.

(4) A person who has obtained a final official search is not entitled to obtain any further final official search relating to the same land until the expiration of 8 days from the time of posting or delivery of the final official search.

[142]

Certified
copies: Value
as evidence.

147.—(1) The Registrar, upon payment of the prescribed fee, shall furnish to any person applying for it a certified copy of any instrument registered under the provisions of this Act, or which is in his custody and is the subject of a notification on the land-register.

(2) Every such certified copy signed by the Registrar and sealed with his seal shall be received in evidence in any court, or before any person having by law or by consent of parties authority to receive evidence, as prima facie proof of all the matters contained in or endorsed on the original instrument.

[143]

PART XVIII

MISCELLANEOUS

Subdivision
of registered
land.

148.—(1) Except as provided in this section, the Registrar shall not register any instrument affecting part of the land in a folio of the land-register until he is satisfied that —

- (a) the authority for the time being charged with the duty of controlling or supervising the subdivision of the land has certified that the lawful requirements of that authority relating to subdivision have been complied with; and
- (b) the boundaries and dimensions of part of the land in a folio of the land-register shown in the plan annexed to any instrument are in accordance with the final boundaries and dimensions shown

in the plan lodged with and approved by the Chief Surveyor.

(2) Notwithstanding subsection (1) (b), the Registrar may register any instrument affecting part of the land in a folio of the land-register, but in that case the land-register shall not be conclusive as to the boundaries or dimensions of the land thereby affected until a plan of the part has been approved by the Chief Surveyor.

(3) Where the Registrar has created a new folio of the land-register pursuant to a registration which is not conclusive as to boundaries or dimensions, he shall endorse thereon a prominent caution to that effect, and he shall cancel that caution when he becomes satisfied that the boundaries and dimensions to which it relates accord with those shown on a plan lodged with and approved by the Chief Surveyor.

(4) The assurance fund is not liable for any claim based on inaccuracy of the boundaries and dimensions shown on a folio of the land-register which bears a caution as in subsection (3) provided.

(5) Nothing in this section prevents the entry of a caveat, nor the registration of —

- (a) an easement;
- (b) a mortgage or charge;
- (c) a lease for a term of less than 7 years which cannot, by the exercise of an option of renewal, be prolonged for a period exceeding 7 years; or
- (d) any other instrument or class of instruments which may from time to time be prescribed. [144

149.—(1) A person acquiring registered land in a fiduciary capacity may be described by that capacity in the instrument of acquisition, but the Registrar shall not enter particulars of any trust in the land-register. Trusts not to be entered.

(2) Subject to the provisions of any caveat affecting the land, purchasers of registered land which is held in a fiduciary capacity are not concerned to inquire whether a dealing with that land is within the powers of the proprietor, but they are entitled to assume that the proprietor has all the powers of disposition of a beneficial owner of the interest in question. [145

Exoneration
of Registrar.

150.—(1) Where by any Act or instrument or by law any person is exonerated from inquiring as to any matter or fact relating to a title to, or to a power of dealing with, land, or is protected from the effect of notice of any such matter or fact, then, in registering any instrument relating to that land, the Registrar is not concerned to make any inquiry or search in relation to that land which that person need not have made, nor is the Registrar affected by any notice with which that person need not have been affected.

(2) No action or claim shall be brought against the Registrar or against the assurance fund in respect of a deprivation or loss arising out of any matter into which the Registrar is exonerated from inquiring. [146]

Fees and
accounts.

151. The Registrar is responsible for collecting such fees as by this Act or by rules made thereunder are directed to be paid, and for accounting for them to the Minister for Finance, or as otherwise directed by rules. [147]

Rules.

152.—(1) The Minister may make rules not inconsistent with this Act prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and, in particular and without limiting the generality of the foregoing power, the Minister may make rules —

- (a) prescribing the form of instruments to be used under this Act;
- (b) regulating the practice of the Land Titles Registry and of any other Government office in relation to matters arising under this Act; and
- (c) prescribing the fees to be taken in the Land Titles Registry for any matter or thing done therein under this or any other Act, and when and by whom such fees may be dispensed with or remitted.

(2) All rules made under this Act shall be published in the *Gazette* and shall unless it is otherwise provided by the rules, come into force on the date of such publication.

(3) Such rules shall be presented to Parliament as soon as possible after publication and, if a resolution is passed pursuant to a motion notice whereof has been given for a

sitting day not later than the first available sitting day of Parliament next after the expiry of 3 months from the date when the rules are so presented disapproving the rules or any part thereof, the rules or such part thereof, as the case may be, shall thereupon become void but without prejudice to the validity of anything previously done thereunder or to the making of new rules. [148

153.—(1) Any person who —

- (a) fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procuring of any certificate of title or other instrument, or of any entry in the land-register, or any alteration or erasure of, or addition to, any entry in the land-register, or in any instrument or form issued by the Registrar;
- (b) fraudulently uses, assists in fraudulently using, or is privy to the fraudulent using of any instrument or form purporting to be issued or authorised by the Registrar;
- (c) knowingly misleads or deceives any person authorised by this Act to demand explanation or information with respect to any land, or the title to any land, which is the subject of a primary application or with respect to which any instrument is proposed to be registered or notified; or
- (d) fraudulently removes from the Land Titles Registry any part of the land-register or any instrument issued by the Registrar, or causes any defacement, obliteration, mutilation, or unauthorised entry or alteration to be made thereto,

Offences and penalties.

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$3,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) No proceeding or conviction for any act made punishable by subsection (1) affects any remedy which any person aggrieved or injured by that act may be entitled to against the person who committed the act or against his estate. [149

154. For the avoidance of doubts, it is hereby declared that nothing in this Act affects the rights conferred on the Public Utilities Board by section 15 of the Public Utilities

Saving of rights.
25/75.
Cap. 261.

Act, the Director-General of Public Works by sections 34
 and 35 of the Local Government Integration Act and the
 Director of Water Pollution Control and Drainage under
 section 16* of the Water Pollution Control and Drainage
 Act. [150

Section
 91 (1).

THE SCHEDULE

PART I

RIGHT OF CARRIAGE WAY

Full and free right for every person who is at any time entitled to an estate or interest in possession in the land herein indicated as the dominant tenement, and every person authorised by him, to go, pass, and repass, at all times and for all purposes, with or without animals or vehicles or both, to and from that dominant tenement.

PART II

RIGHT OF FOOTWAY

Full and free right for every person who is at any time entitled to an estate or interest in possession in the land herein indicated as the dominant tenement, and every person authorised by him, to go, pass, and repass, on foot, at all times and for all purposes, without animals or vehicles, to and from that dominant tenement.

*This section re-enacts repealed section 37 of the Local Government Integration Act.