



BELIZE

**REGISTERED LAND ACT
CHAPTER 194**

REVISED EDITION 2000
SHOWING THE LAW AS AT 31ST DECEMBER, 2000

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Laws of Belize, Revised Edition 1980 - 1990.

This edition contains a consolidation of the following laws-	Page
ARRANGEMENT OF SECTIONS	3
REGISTERED LAND ACT	15
Amendments in force as at 31st December, 2000.	



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CHAPTER 194

REGISTERED LAND

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CHAPTER 194

REGISTERED LAND

[10th December, 1977]

CAP. 157,
R.E. 1980-1990.
2 of 1977.
22 of 1987.
30 of 1988.
6 of 1992.

PART I

Preliminary

1. This Act may be cited as the Registered Land Act and shall apply to any area declared by the Minister under section 4 to be a compulsory registration area. Short title.

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

“application book” means the application book kept under section 5 (d);

“charge” means an interest in land securing the payment of money or money’s worth or the fulfilment of any condition, and includes a subcharge and the instrument creating a charge;

“chargee” means the proprietor of a charge;

“chargor” means the proprietor of charged land or of a charged lease or of a charged charge;

“Commissioner” means the Commissioner of Lands and Surveys;

“compulsory registration area” means an area declared as such by the Minister by Order made under section 4;

“court”, except as is otherwise expressly provided, means the Supreme Court;

“dealing” includes disposition and transmission;

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

“easement” means a right attached to a land which allows the proprietor of the land either to use the land of another in a particular manner or to restrict its use to a particular extent, but does not include a profit;

“file” means to place in the file relating to the parcel of land affected;

“foreshore” means the part of a shore between high-water and low-water marks;

“guardian” means a person responsible for protecting the interests of any person who is under a disability, whether by reason of age, unsoundness of mind or any other cause;

CAP. 173. “infant” has the same meaning as “child” in the Families and Children Act;

“instrument” includes any deed, judgment, decree, order or other document required to be registered or registrable under this Act;

“land” includes land covered with water, all things growing on land and buildings and other things permanently affixed to land;

“Land Register” means the Land Register compiled and maintained under Part II;

“lease” means the grant, with or without consideration, by the proprietor of land of the right to exclusive possession of his land, and includes the right so granted and the instrument granting it, and also includes a sublease by the proprietor of a lease but does not include an agreement to lease;

“lessee” means the holder of a lease;

“lessor” means the proprietor of leased land, and includes, in respect of a sublease, the proprietor of the lease;

“licence” means a permission given by the proprietor of land or a lease which allows the licensee to do some act in relation to the land or the land comprised in the lease which would otherwise be a trespass, but does not include an easement or a profit;

“Minister” means the Minister responsible for land;

“national lands” means all lands defined as “national lands” in the National Lands Act; CAP. 191.

“parcel” means an area of land separately delineated on the registry map and given a number;

“periodic tenancy” means a tenancy from year to year, half year to half year, quarter to quarter, month to month, week to week or the like;

“personal representative” means the executor of the will or the administrator of the estate of a deceased person;

“profit” means the right to go on the land of another and take a particular substance from that land, whether the soil or products of the soil;

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

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

“to register” means to make an entry, note or record in the register under this Act;

“registered, unregistered and registration” bear a corresponding meaning;

“Registrar” means-

- (a) the Registrar of Lands appointed under section 6; or
- (b) where an assistant registrar of lands has been authorised under section 6 (3) to exercise or perform any particular power or duty, that assistant registrar of lands so far as concerns that power or duty;

“registration section” means a registration section established under section 10;

“Registry” means the Land Registry established under section 5;

“Registry Map” means the map or series of maps referred to in section 18;

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

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

“trustee” includes personal representative;

“valuable consideration” includes marriage, but does not include a nominal consideration.

3. Except as otherwise provided in this Act, but subject to section 38 of National Lands Act, no law, practice or procedure relating to land shall apply to land registered under this Act so far as it is inconsistent with this Act: Reconciliation with other laws. CAP. 191.

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

4. The Minister may by Order declare any area to be a compulsory registration area from such date as may be specified in that Order and may at any time by a subsequent Order vary the limits of any such area. Compulsory registration area.

PART II

Organisation and Administration

Land Registry and Officers

5. For the purposes of this Act, there shall be established and maintained a Land Registry in which there shall be kept- Land Registry.
- (a) a register, to be known as the Land Register, in accordance with sections 10 to 17;
 - (b) a map to be known as the Registry Map, in accordance with sections 18 to 25;
 - (c) parcel files containing the instruments which support subsisting entries in the Land Register and any filed plans and documents;
 - (d) a book, to be known as the application book, in which

shall be kept a record of all applications numbered consecutively in the order in which they are received at the Registry;

- (e) an index in alphabetical order of the names of proprietors of land, leases and charges and showing the numbers of the parcels in which they are interested; and
- (f) a register and a file of powers of attorney.

Appointment of officers.

6.-(1) The Commissioner of Lands and Surveys shall be responsible for overseeing the administration of the Land Registry in accordance with the provisions of this Act.

(2) There shall be a Registrar of Lands responsible for administering the Land Registry, a deputy registrar of lands and as many assistant registrars of lands as may be necessary for carrying out the provisions of this Act. In the absence for whatever reason of the Registrar, the deputy registrar may exercise any of the powers vested in the Registrar by this Act.

(3) The Registrar may in writing authorise the deputy registrar or any assistant registrar to exercise or to perform all or any of the powers or duties conferred on the Registrar by this Act or by any regulations made thereunder, and may at any time revoke or vary any such authorisation.

(4) No authorisation by the Registrar pursuant to subsection (3) shall be deemed to divest the Registrar of any of his powers or duties, and he may, if he thinks fit, exercise and perform all his powers or duties notwithstanding any such authorisation.

General powers of the Registrar.

7. The Registrar may exercise the following powers in addition to any other powers conferred on him by this Act, that is to say-

- (a) he may require any person to produce any instrument, certificate or other document or plan relating to the land, lease or charge in question, and that person shall produce it;
- (b) he may summon any person to appear and give any information or explanation respecting land, a lease or a charge, or any instrument, certificate or other document or plan relating to the land, lease or charge in question, and such person shall appear and give such information or explanation;
- (c) he may refuse to proceed with any registration if any instrument, certificate, or other document, plan, information or explanation required to be produced or given is withheld or any act required to be performed under this Act is not performed;
- (d) he may administer oaths or take a declaration *in lieu* thereof, and may require that any proceedings, information or explanation shall be verified on oath or by statutory declaration;
- (e) he may order that the costs, charges and expenses incurred by him or by any person in connection with any investigation or hearing held by him or on his orders for the purposes of this Act shall be borne and paid by such person in such manner and in such proportions as he, the Registrar, thinks fit, and the amount of such costs, charges and expenses shall be deemed to be a fee to which sections 152 and 153 shall apply.

8. The Registrar shall not, nor shall any other officer of the Registry, be

Indemnity of
officers.

liable to any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith in the exercise or supposed exercise of the powers and duties under this Act or any regulations made thereunder.

Seal of Registry.

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

The Land Register

The Land Register.

10.-(1) The Land Register shall comprise a register in respect of every parcel for which a register is prepared under sections 12, 13 and 14 and a register in respect of each lease required by this Act to be registered.

(2) Each register shall show whether the land is private land or national land and, in respect of private land, whether the title is absolute or provisional, and shall be divided into three sections as follows-

- (a) property section, containing a brief description of the land or lease, together with particulars of its appurtenances and, where the title is provisional, of the information in the record made by the Registrar under section 13 (4), and a reference to the Registry Map and filed plan, if any;
- (b) the proprietorship section, containing the name, and, where possible, address of the proprietor and a note of any inhibition, caution or restriction affecting his right of disposition;
- (c) the encumbrances section, containing a note of every encumbrance and every right adversely affecting the land or lease.

(3) No entry shall be required in the proprietorship section of the register relating to land which is described as national land.

11. From the date of any Order made by the Minister under section 4, all dealings relating to any land in the compulsory registration area named in that Order shall be made in accordance with this Act, and no dealing made otherwise than in accordance with this Act shall have any validity or effect. Dealings in land in compulsory registration area.

12.-(1) On the declaration by the Minister of a compulsory registration area under section 4 the Registrar shall, in relation to every parcel of land situated in that area the title to which is already registered under the General Registry Act, prepare a register in the prescribed form showing all the subsisting particulars registered under that Act. Compilation of register of lands registered under General Registry Act. CAP. 327.

(2) Any person having an interest in any parcel of land registered under the General Registry Act shall be given notice in writing by the Registrar that the particulars of the said registration have been transferred to the Land Register compiled under this Act and thereupon the General Registry Act shall cease to apply to such parcel and this Act shall apply thereto. CAP. 327. CAP. 327.

(3) On receipt of notice issued under subsection (2), the proprietor of land or of a lease registered under the General Registry Act shall within thirty days of the date of such notice surrender his certificate of title to the Registrar and shall, if he so requests, be given a land certificate or certificate of lease under this Act without payment of any fee therefor. CAP. 327.

(4) Any person who after due notice and without reasonable cause fails to surrender his certificate of title commits an offence.

(5) Every certificate of title surrendered under subsection (3) shall be filed.

Compilation of
land not
registered under
General Registry
Act.
CAP. 327.

13.-(1) Where a person having an interest in land which is not registered under the General Registry Act and which is situated in a compulsory registration area wishes to deal in such interest, he shall, prior to such dealing, submit to the Registrar an application for first registration in the prescribed form and shall attach to such application all documents in his possession relating to that interest.

(2) On receipt of an application for the first registration, the Registrar shall-

(a) publish in the *Gazette* and in at least one newspaper, a notice of his intention to register the land for the purpose of bringing it to the attention of persons who may be affected thereby;

(b) serve a notice on the owner of the land, if the owner is not the applicant, to submit an application for first registration in the prescribed form within such period as is stated in the notice, but the Registrar in his discretion may dispense with the submission of such application;

CAP. 327.

(c) examine the title and for that purpose may examine any deed recorded under the General Registry Act or summon any person to give evidence, if he considers such evidence likely to be relevant to the application.

(3) If, as a result of such examination, the Registrar is satisfied that a person-

(a) is in peaceful, open and uninterrupted possession of a parcel in accordance with the principles contained in section 139 and has been in such possession by himself or by his predecessors in title for an uninterrupted period of twelve years or more; or

- (b) has a good documentary title to the land and that no other person has acquired a title thereto under any law relating to prescription or limitation, and that he would succeed in maintaining or defending such possession or title against any other person claiming the land or part thereof,

the Registrar shall record that person as the owner of the parcel and declare his title to be absolute.

(4) If the Registrar is satisfied that a person is in possession of, or has a right to, a parcel but is not satisfied that such person is entitled to be recorded as the owner of the parcel with absolute title, he may nevertheless record that person as the owner of the parcel and declare his title to be provisional and in such case shall record-

- (a) the date on which the possession of that person shall be considered to have begun;
- (b) particulars of any deed, instrument or other document by virtue of which some estate, right or interest adverse to or in derogation of the title of that person may exist; or
- (c) any other qualification which affects the title.

(5) If the Registrar is satisfied that any land is subject to any interest which is registrable as a lease, charge, easement, profit or restrictive agreement, he shall record particulars of the interest and the name of the person entitled to the benefit thereof.

(6) The Registrar shall by notice inform the owner and any other persons having an interest in the parcel of the particulars contained in any

record made under subsections (3) to (5) and shall require them to state objections, if any, in writing within such period as is stated in the notice.

(7) After expiry of the period stated in the notice given under subsection (6), if no objection is received or, if any objections have been received, after giving any person objecting an opportunity of being heard, the Registrar shall confirm or amend the record and record the date of such confirmation or amendment and shall forthwith open a register for the parcel and for any lease required to be registered under this Act and shall file the record.

(8) Any person who is aggrieved by any decision made by the Registrar under this section may appeal to the court within thirty days from the date of confirmation or amendment of the record or within such extended time as the court may, on good cause being shown, allow.

(9) Nothing in this section shall be held to preclude any person having an interest in land within a compulsory registration area from applying for first registration notwithstanding the fact that he does not intend to deal in such interest.

(10) The Registrar may, of his own motion, register any land or lease within a compulsory registration area and for this purpose he may, notwithstanding the fact that no application for first registration has been submitted, publish a notice of his intention to register and may serve a notice on the owner of the land and any person having any interest in the land to submit an application for first registration or, in his discretion, may dispense with submission of such application, and may thereafter examine the title under the provisions of this section.

(11) Any person on whom a notice has been served under subsection (2) or (10), who after due notice and without reasonable cause fails to comply with such notice within the period stated in the notice, commits an offence.

14.-(1) On the declaration by the Minister of a compulsory registration area under section 4, the Commissioner shall notify the Registrar in writing of the particulars of all parcels of national land within such area, whether or not such land is available for disposition, and the Registrar shall-

Compilation of land register-national lands.

- (a) prepare a register for every parcel of national land contained in the notification and for each lease required to be registered under this Act;
- (b) by notice inform each lessee of national land that his lease has been registered under this Act and, if any lessee so requests, issue a certificate of lease under this Act without payment of any fee therefor; and
- (c) file the notification.

(2) On the declaration by the Minister of a compulsory registration area under section 4, sections 14 to 22 of the National Lands Act shall cease to apply to national land in such area.

CAP. 191.

15.-(1) The first registration of any parcel shall be effected by the preparation of a register in accordance with the provisions of section 10 and the signing by the Registrar of the register of the particulars of encumbrances, if any, appearing thereon.

Manner of registration.

(2) Every subsequent registration shall be effected by an entry in the register in such form as the Registrar may from time to time direct, and by the cancellation of the entry, if any, which it replaces.

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

Cancellation of obsolete entries.

17. The Registrar may at any time open a new edition of a register

New editions of register.

showing only subsisting entries and omitting therefrom all entries that have ceased to have any effect.

Maps, Parcels and Boundaries

Registry Map.

18.-(1) The Commissioner shall prepare and thereafter maintain a map or series of maps, to be called the Registry Map.

(2) The Registry Map shall be divided into registration sections, which shall be identified by distinctive names, and the registration sections may be further divided into blocks which shall be given distinct numbers or letters or combinations of numbers and letters.

(3) The parcels in each registration section or block shall be numbered consecutively, and the name of the registration section and the number and letter of the block, if any, and the number of the parcel shall together be a sufficient reference to any parcel.

(4) The Registrar may, at any time, cause registration sections or blocks to be combined or divided, or cause their boundaries to be varied.

(5) A plan may be filed in respect of a particular parcel to augment the information available from the Registry Map, and the filing of the plan shall be noted in the register.

(6) The survey of any land for the purposes of this Act shall be carried out under and in accordance with the directions of the Commissioner.

Alteration of the Registry Map and new editions.

19.-(1) The Registrar may request the Commissioner to alter the line or position of any boundary shown on the Registry Map with the agreement of every person shown by the Registrar to be affected by the alteration, but no such alteration shall be effected except at the request of the Registrar in writing in the prescribed form, to be known as a mutation form, and the mutation form shall be filed.

(2) The Commissioner may correct any error in the Registry Map which does not affect the interest of any person.

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

(4) The Registrar may, at any time, request the Commissioner to prepare a new edition of the Registry Map or any part thereof and to omit from the new map any matter which he considers obsolete.

20.-(1) Except where under section 21, it is noted in the register that the boundaries of a parcel have been fixed, the Registry Map and any filed plan shall be deemed to indicate the approximate boundaries and the approximate situation only of the parcel.

General boundaries.

(2) Where any uncertainty or dispute arises as to the position of any boundary, the Registrar, on the application of any interested party, shall, on such evidence as the Registrar considers relevant, determine and indicate the position of the boundary.

(3) Where the Registrar exercises the power conferred by subsection (2), he shall make a note to that effect on the Registry Map and in the register and shall file such plan or description as may be necessary to record his decision.

(4) No court shall entertain any action or other proceedings relating to a dispute as to the boundaries of registered land unless the boundaries have been determined as provided in this section.

(5) Except where, as aforesaid, it is noted in the register that the boundaries of a parcel have been fixed, the court or the Registrar may, in proceedings concerning the parcel, receive such evidence as to its

boundaries and situation as it or he thinks fit.

Fixed boundaries. 21.-(1) Where the Registrar in his discretion considers it desirable to indicate on a filed plan, or otherwise to define in the register, the precise position of the boundaries of a parcel or any parts thereof, or where any interested person makes application to the Registrar therefor, the Registrar shall give notice to the owners, lessees or chargees and to the occupiers of the land adjoining the boundaries in question of the intention to ascertain and fix the boundaries.

(2) The Registrar shall, after giving all persons appearing by the register to be affected an opportunity of being heard, cause to be defined by survey the precise position of the necessary particulars and make a note in the register that the boundaries have been fixed, and thereupon the plan shall be deemed to define accurately the boundaries of the parcel.

(3) Where the dimensions and boundaries of a parcel are defined by reference to a plan verified by the Commissioner, a note shall be made in the register, and the parcel shall be deemed to have had its boundaries fixed under this section.

Maintenance of boundary features. 22.-(1) Every proprietor of land shall maintain in good order any features which demarcate the boundaries of his land, whether established pursuant to the requirements of any written law or pursuant to an order of the Registrar or of the proprietor's own accord.

(2) The Registrar may in writing order the demarcation within a specified time of any boundary in such permanent manner as he may direct, and any person who fails to comply with such an order commits an offence.

(3) The Registrar may in writing order which of adjoining proprietors shall be responsible for the care and maintenance of any feature demarcating a common boundary and any proprietor so ordered to be responsible who allows the boundary feature or any part of it to fall into

disrepair or to be destroyed or removed commits an offence.

23.-(1) Any person who wilfully defaces, removes, injures or otherwise impairs any boundary feature or any part of it unless authorised to do so by the Registrar, commits an offence.

Interference with boundary features.

(2) The magistrate convicting any person of an offence under subsection (1) shall, in addition to any penalty imposed by him, assess the cost of restoring the boundary feature.

(3) Any person convicted of an offence under this section, whether or not any penalty therefor is imposed upon him, shall be liable to pay the sum assessed as being the cost of restoring the boundary feature, and such sum shall be deemed to be a judgment debt and shall be recoverable as such by any person who is responsible under section 22 for the maintenance of the feature.

24.-(1) Where contiguous parcels are owned by the same proprietor and are subject in all respects to the same rights and obligations, the Registrar, on application by the proprietor, may combine those parcels by closing the registers relating to them and opening a new register or registers in respect of the parcel or parcels resulting from the combination.

Combinations and subdivisions.

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

Provided that-

(a) nothing shall be done under this section which would be inconsistent with this Act or any other law; and

- CAP. 187.
- (b) no parcel which is subject to a lease shall be subdivided so as to subdivide the land comprised in such lease; and
- (c) where a proprietor is subdividing his parcel for the purpose of building development, the Registrar may require him to submit a plan of the proposed subdivisions prepared by a surveyor licensed under the Land Surveyors' Act and certified by the appropriate authority as conforming with the requirements of any planning law for the time being in force.

Re-parcellation. 25.-(1) The Registrar may, on the application of the proprietors of contiguous parcels who are desirous of changing the layout of their parcels, and with the consent in writing of all other persons in whose names any right or interest in such parcels is registered, and of any cautioner, cancel the registers relating to such parcels and prepare new registers in accordance with the revised layout:

Provided that, where in the opinion of the Registrar, a proposed re-parcellation involves substantial changes of ownership which should be effected by transfers without involving this section, he may in his discretion refuse to effect such re-parcellation.

(2) Upon any such re-parcellation, the new parcels shall vest in the persons in whose names they are registered.

PART III

Effect of Registration

Effect of registration with absolute title. 26. Subject to section 30, the registration of any person as the proprietor with absolute title of a parcel shall vest in that person the absolute ownership of that parcel together with all rights and privileges belonging or appurtenant thereto, free from all other interests and claims whatever, but subject-

- (a) to the leases, charges and other encumbrances and to the conditions and restrictions, if any, shown in the register; and
- (b) unless the contrary is expressed in the register, to such liabilities, rights and interests as affect the same and are declared by section 31 not to require noting on the register:

Provided that-

- (i) nothing in this section shall be taken to relieve a proprietor from any duty or obligation to which he is subject as a trustee;
- (ii) the registration of any person as the proprietor under this Act shall not confer on him any right to any minerals or any mineral oils unless the same are expressly referred to in the register.

27. Subject to section 30, the registration of any person as the proprietor with a provisional title of a parcel shall not affect or prejudice the enforcement of any estate, right or interest adverse to or in derogation of the title of that proprietor arising before such date or under such instrument or in such manner as is specified in the register of that parcel; but except as aforesaid, such registration shall have the same effect as the registration of a person with absolute title.

Effect of registration with provisional title.

28. Subject to section 30, the registration of a person as proprietor of a lease shall vest in that person the leasehold interest described in the lease, together with all implied and expressed rights and privileges belonging or appurtenant thereto and subject to all implied and expressed agreements, liabilities and incidents of the lease, but if the title of the lessor is a

Effect of registration of a lease.

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

Effect of
registration as
national land.
CAP. 191.

29. The registration of land as national land shall, subject to any registered encumbrances, enable the Minister by a disposition registered under this Act to dispose of such land in accordance with the National Lands Act.

Voluntary transfer.

CAP. 250.

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

Over-riding
interests.

31.-(1) Subject to subsection (2), unless the contrary is expressed in the register, all registered land shall be subject to such of the following over-riding interests as may for the time being subsist and affect it, without their being noted on the register-

- (a) rights of way, rights of water and any easement or profit subsisting at the time of first registration under this Act;
- (b) natural rights of light, air, water and support;
- (c) rights of compulsory acquisition, resumption, entry, search, user or limitation of user conferred by any other law;
- (d) leases or agreements for leases for a term less than two years, and periodic tenancies within the meaning of section 2;

- (e) any unpaid moneys which, without reference to registration under this Act, are expressly declared by any law to be charged upon land;
- (f) rights acquired or in the process of being acquired by virtue of any law relating to limitation or prescription;
- (g) the rights of a person in actual occupation of land or in receipt of the rents and profits thereof except where inquiry is made of such person and the rights are not disclosed;
- (h) electric supply lines, telephone and telegraph lines or poles, pipelines, aqueducts, canals, weirs and dams erected, constructed or laid in pursuance or by virtue of any power conferred by any law.

(2) The Registrar may direct registration of any of the liabilities, rights and interests hereinbefore defined in such manner as he thinks fit.

32.-(1) Any proprietor registered with a provisional title or any interested person may at any time apply to the Registrar to be registered or to have the proprietor registered, as the case may be, with an absolute title.

Conversion of provisional into absolute title.

- (2) If the applicant satisfies the Registrar that-
 - (a) the qualification to which the provisional title was subject has ceased to be of effect; or
 - (b) a period of time has elapsed since the date of first registration with a provisional title, which when added to the period prior to first registration during which the proprietor shall be considered to have been in possession exceeds twelve years and there is no longer

any effective qualification to which the provisional title is subject,

the Registrar shall make an order for the registration of the proprietor with absolute title after such advertisement as the Registrar may think fit.

(3) On the making of any such order the Registrar shall substitute in the register, the words “absolute title” for the words “provisional title” and the title of the proprietor shall thereupon become absolute.

Entries to constitute actual notice.

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

PART IV

Certificates and Searches

Land certificates and certificates of lease.

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

Provided that-

- (a) only one such certificate shall be issued in respect of each parcel of land or lease;
- (b) no certificate or lease shall be issued unless the lease is for a certain period of or exceeding two years.

(2) A land certificate or certificate of lease shall be only *prima facie* evidence of the matters shown therein, and the land or lease shall be subject to all entries in the register whether they are shown on the certificate

or not.

(3) Where there are more proprietors than one, the proprietors shall agree among themselves as to who shall receive the certificate, and failing agreement the certificate shall be filed in the Registry.

(4) The date of issue of a land certificate or certificate of lease shall be noted in the register.

35.-(1) If a land certificate or a certificate of lease has been issued, then, unless it is filed in the Registry, or the Registrar dispenses with its production, it shall be produced on the registration of any dealing with the land or lease to which it relates, and a note of such registration shall be made on the certificate.

Production of certificates.

(2) If the disposition is a transfer, the certificate if produced shall be cancelled, and a new certificate shall be issued to the new proprietor.

(3) If the disposition is a charge, the certificate, if any, shall be filed in the Registry.

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

Disposition of leases and charges.

37.-(1) If a land certificate or certificate of lease is lost or destroyed, the proprietor may apply to the Registrar for the issue of a new certificate, and shall produce evidence to satisfy the Registrar of the loss or destruction of the previous certificate.

Lost or destroyed certificates.

(2) Where any application is made under subsection (1), the Registrar may require a statutory declaration that the certificate has been

lost or destroyed.

(3) The Registrar may, if he is satisfied with the evidence as to the loss or destruction of the certificate, and after the publication of such notice as he thinks fit, cancel the previous certificate and issue a new certificate in the name of the proprietor.

(4) If, after the issue of a new certificate the previous certificate is found, it shall be delivered to the Registrar for cancellation.

Searches and
copies.

38.-(1) Any person may, on making an application in the prescribed form and on paying the prescribed fee, inspect any register or any sheet of the Registry Map or any filed instrument or plan during such hours as may be prescribed by the Minister.

(2) Any person shall, on making an application in the prescribed form and on paying the prescribed fee, be entitled to a certified copy of any register or part of the Registry Map or any plan or instrument filed in the Registry.

(3) Any person may, on making an application in the prescribed form and on paying the prescribed fee, require an official search in respect of any parcel, and the Registrar shall issue a certificate of official search setting forth particulars of the subsisting entries in the register of that parcel.

Evidence.

39.-(1) A certified copy of the register or part of the Registry Map or any plan or instrument filed in the Registry shall be admissible in evidence in all actions and matters and between all persons or parties, to the same extent as the original, and a signature on any such certified copy purporting to be the signature of the Registrar shall be presumed to be the signature of the Registrar until the contrary is proved.

(2) No legal practitioner, trustee, personal representative or other person in a fiduciary position shall be held liable in respect of any loss

occasioned by the inaccuracy of any such certified copy as is referred to in subsection (1).

(3) No process for compelling the production of the register, or of the Registry Map, or of any filed instrument or plan, shall issue from any court except with the leave of that court, which leave shall not be granted if a certified copy will suffice, and any such process, if issued, shall bear thereon a statement that it is issued with the leave of the court.

PART V

Dispositions

General

40.-(1) No land, lease or charge registered under this Act shall be capable of being disposed of except in accordance with this Act, and every disposal of such land, lease or charge otherwise than in accordance with this Act shall be incapable of creating, extinguishing, transferring, varying or affecting any estate, right or interest in the land, lease or charge.

Subsequent dealings.

(2) Nothing in this section shall be construed as preventing any unregistered instrument from operating as a contract, but no action may be brought upon any contract for the disposition of land or any interest in land unless the contract upon which such action is brought, or some memorandum or note thereof, is in writing and is signed by the party to be charged or by some other person lawfully authorised by him:

Provided that such a contract shall not be unenforceable by reason only of the absence of writing, where an intending purchaser or lessee who has performed or is willing to perform his part of the contract-

- (a) has in part performance of the contract taken possession of the property or any part thereof; or

- (b) being already in possession, continues in possession in part performance of the contract and has done some other act in furtherance of the contract.

Protection of persons dealing in registered land.

41.-(1) No person dealing or proposing to deal for valuable consideration with a proprietor shall be required-

- (a) to inquire or ascertain the circumstances in or the consideration for which such proprietor or any previous proprietor was registered or the manner in which any such consideration or part thereof was utilised;

CAP. 327.

- (b) to search any register kept under the General Registry Act.

(2) Where the proprietor of a land, a lease or a charge is a trustee he shall, in dealing therewith, be deemed to be absolute proprietor thereof, and no disposition by such trustee to a *bona fide* purchaser for valuable consideration shall be defeasible by reason of the fact that such disposition amounted to a breach of trust.

Fees for delayed registration.

42.-(1) An instrument shall be presented for registration within three months from the date of execution thereof.

(2) Where an instrument is presented for registration later than three months from the date of the instrument, an additional fee equal to the registration fee shall be payable, for every period of three months or part thereof which has elapsed since the expiry of three months from the date of the instrument, but in no case shall the additional fee exceed five times the original registration fee payable.

Power to compel registration.

43.-(1) If the Registrar is satisfied that any person, through his wilful default, has failed to register any instrument which is registrable under this Act, he

may, by notice in writing, order such person to present such instrument for registration and thereupon the registration fee and any additional fee payable under section 42 shall become due and shall be payable whether the instrument is presented for registration or not.

(2) Any person who fails to comply with an order of the Registrar under subsection (1) within one month of the service of the notice commits an offence.

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

Priority of registered interests.

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

(3) Where several instruments are delivered or sent by post or under cover and are received during the hours of business on any day, they shall be deemed to have been presented simultaneously on that day.

(4) Where more than one instrument or application is presented on the same day, or on different days but at so short an interval from each other that in the opinion of the Registrar there is doubt as to their order of priority, the Registrar may refuse registration until he has heard and determined the rights of the parties interested thereunder.

45.-(1) Where any person proposing to deal with registered land has, with the consent in writing of the proprietor, applied for an official search and has stated in his application the particulars of the proposed dealing, the registration of any instrument affecting the land to be comprised in or affected by the proposed dealing shall be stayed for a period (hereinafter referred to as the suspension period) of fourteen days from the time at

Stay of registration.

which application for the search was made, and a note shall be made in the register accordingly.

(2) If, within the suspension period, a properly executed instrument affecting the proposed dealing is presented for registration, such instrument shall have priority over any other instrument which may be presented for registration, during the suspension period, and shall be registered notwithstanding any caution or other entry for which application for registration may have been made during the suspension period.

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

Merger of registered interests.

46. Where, upon the registration of a dealing, the interest of-

- (a) lessor and lessee; or
- (b) chargor and chargee; or
- (c) the proprietor of a parcel which is burdened with an easement, profit or restrictive agreement and the proprietor of a parcel which benefits therefrom,

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

Leases

Leases.

47. Subject to this Act and to any other law, the proprietor of land may lease the land or part of it to any person for a definite period or for the life of

the lessor or of the lessee or for a period which though indefinite may be terminated by the lessor or the lessee, and subject to such conditions as he thinks fit:

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

48.-(1) Where in any lease the term is not specified and no provision is made for the giving of notice to terminate the tenancy, the lease shall be deemed to have created a periodic tenancy.

Periodic
tenancies.

(2) Where the proprietor of land permits the exclusive occupation of the land or any part thereof by any other person at a rent but without any agreement in writing, that occupation shall be deemed to constitute a periodic tenancy.

(3) The period of a periodic tenancy created by this section shall be the period by reference to which the rent is payable, and the tenancy may be determined by either party giving to the other notice the length of which shall, subject to any other law, be not less than the period of the tenancy and shall expire on the last day of the period of any periodic tenancy.

49. A lease for a specified period of or exceeding two years, or for the life of the lessor or of the lessee, or a lease which contains an option whereby the lessee may require the lessor to grant him a further term or terms which, together with the original term, is or exceeds two years, shall be in the prescribed form, and shall be completed by-

Registration of
leases.

- (a) opening a register in respect of the lease in the name of the lessee;
- (b) filing the lease; and

- (c) noting the lease in the encumbrances section of the register of the lessor's land or lease.

- Lessors' consent to dealing with lease. 50. Upon the registration of a lease containing an agreement, express or implied, by the lessee that he will not transfer, sublet, charge or part with possession of the land leased or any part thereof without the written consent of the lessor, the agreement shall be noted in the register of the lease and no such dealing with the lease shall be registered until the consent of the lessor, verified in accordance with section 110, has been produced to the Registrar.
- Lease of charged land. 51. Where any land is subject to a charge, no lease of such land shall be registered without the previous consent in writing of the proprietor of the charge, verified in accordance with section 110, unless the charge expressly dispenses with the necessity for such consent.
- Computation of duration of leases. 52.-(1) Where the period of a lease is expressed as commencing on a particular day, that day is excluded in computing that period.
- (2) Where no day of commencement is named, the period commences on the day of execution of the lease, and that day is excluded in computing that period.
- (3) Where the period is a year or a number of years, in the absence of an express agreement to the contrary the lease shall last during the whole anniversary of the day on which such period commences.
- Future leases. 53.-(1) A lease may be made for a period to commence on a future date, not being later than twenty-one years from the date on which the lease is executed but shall be of no effect unless it is registered.
- (2) Any instrument purporting to create a lease to commence on a date more than twenty-one years after the date of the instrument, or to take effect on the fulfilment of any condition, is void.

54.-(1) Where a person, having lawfully entered into occupation of any land as lessee, continues to occupy that land with the consent of the lessor after the termination of the lease he shall, in the absence of any evidence to the contrary, be deemed to be a tenant holding the land on a periodic tenancy on the same conditions as those of the lease so far as those conditions are appropriate to a periodic tenancy. Holding over.

(2) For the purposes of this section, the acceptance of rent in respect of any period after the termination of the lease shall, if the former tenant is still in occupation, and subject to any agreement to the contrary, be taken as evidence of consent to the continued occupation of the land.

55. Except as otherwise expressly provided in the lease, the lessor shall be implied in every lease to have agreed- Agreements implied in leases on part of lessor.

- (a) that, so long as the lessee pays the rent and observes and performs the agreements and conditions contained or implied in the lease and on his part to be observed and performed, the lessee shall and may peaceably and quietly possess and enjoy the leased premises during the period of the lease without any interruption from or by the lessor or any person rightfully claiming through him;
- (b) not to use or permit to be used any adjoining or neighbouring land of which he is the proprietor or lessee in any way which would render the leased premises unfit, or materially less fit, for the purpose for which they are leased;
- (c) where part only of a building is leased, to keep the roof, main walls and main drains, and the common passages and common installations, in repair;

- (d) where any dwelling house, flat or room is leased furnished, that such house, flat or room is fit for habitation at the commencement of the tenancy; and
- (e) that, if at any time the leased premises or any part thereof is destroyed or damaged by fire, earthquake, hurricane, flood, civil commotion or accident not attributable to the negligence of the lessee, his servants or his licensees, so as to render the leased premises or any part thereof wholly or partially unfit for occupation or use, the rent or a just proportion thereof according to the nature and extent of the damage sustained shall be suspended and cease to be payable until the leased premises have again been rendered fit for occupation and use; but that if the leased premises have not been so rendered fit for occupation and use within six months of their destruction or damage as aforesaid, the lessee may at his option, and on giving one month's written notice of his intention to do so, terminate the lease.

Agreements implied in leases on the part of lessee.

56. Except as otherwise expressly provided in the lease, the lessee shall be implied in every lease, to have agreed-

- (a) to pay the rent reserved by the lease at the times and in the manner therein specified;
- (b) to pay all rates, taxes and other outgoings which are at any time payable in respect of the leased premises during the continuance of the lease, unless the same are payable exclusively by the lessor by virtue of any written law;
- (c) in the case of agricultural land, to farm the same in

accordance with the practice and any rules of good husbandry and to yield up the land at the end of the term;

- (d) except where part only of a building is leased, or where a dwelling house is leased furnished, to keep all buildings comprised in the lease and all boundary marks in repair;
- (e) where part only of a building is leased, or where a dwelling house is leased furnished, to keep the leased premises, except the roof, main walls and main drains and the common passages and common installations, in repair;
- (f) to permit the lessor or his agent with or without workmen or others at all convenient times and after reasonable notice to enter on the leased premises and examine its condition;
- (g) to repair or otherwise make good any defect or breach of agreement for which the lessee is responsible and of which notice has been given by the lessor to the lessee, within such reasonable period as may be specified in the notice; and
- (h) not to transfer, charge, sublease or otherwise part with the possession of the leased premises or any part thereof without the previous written consent of the lessor, but such consent shall not be unreasonably withheld.

57.-(1) Where an agreement is contained or implied in any lease to keep a building or a particular part of a building “in repair”, it shall, in the absence

Meaning of “in repair”.

of an express provision to the contrary, mean in such state of repair as that in which a prudent owner might reasonably be expected to keep his property, due allowance being made for the age, character and locality of the building at the commencement of the lease.

(2) There shall not be read into an agreement as mentioned in subsection (1) an undertaking to put any building into a better state of repair than that in which it was at the commencement of the lease.

Lessor's right of forfeiture and effect of forfeiture on sublease.

58.-(1) Subject to section 60 and to any provision to the contrary in the lease, the lessor shall have the right to forfeit the lease if the lessee-

- (a) commits any breach of, or omits to perform, any agreement or condition on his part expressed or implied in the lease; or
- (b) is adjudicated bankrupt; or
- (c) being a company, goes into liquidation.

(2) The right of forfeiture may be-

- (a) exercised, where neither the lessee nor any person claiming through or under him is in occupation of the land, by entering upon and remaining in possession of the land; or
- (b) enforced by action in a court of law.

(3) Subject to subsection (4), the right of forfeiture shall be taken to have been waived if-

- (a) the lessor accepts rent which has become due since the breach of the agreement or condition which entitled the

lessor to forfeit the lease or has by any other positive act shown an intention to treat the lease as subsisting; and

- (b) the lessor is, or should by reasonable diligence have become, aware of the commission of the breach, and has not exercised his right of forfeiture within a reasonable time thereafter.

(4) The acceptance of rent after the lessor has commenced an action in a court under subsection (2) shall not operate as a waiver.

(5) The forfeiture of a lease shall terminate every sublease and every other interest appearing in the register relating to that lease, but-

- (a) where the forfeiture is set aside by a court on the grounds that it was procured by the lessor in fraud of the sublessee; or
- (b) where a court grants relief against the forfeiture under section 60,

every such sublease and other interest shall be deemed not to have terminated.

59. Notwithstanding anything to the contrary in the lease, no lessor shall be entitled to exercise the right of forfeiture for the breach of any agreement or condition in the lease whether expressed or implied, until the lessor has served on the lessee, a notice-

Notice before forfeiture.

- (a) specifying the particular breach complained of;
- (b) if the breach is capable of remedy, requiring the lessee to remedy the breach within such reasonable period as is specified in the notice;

- (c) in any case other than non-payment of rent, requiring the lessee to make compensation in money for the breach,

and the lessee has failed to remedy the breach within a reasonable time thereafter, if it is capable of remedy, and to make reasonable compensation in money.

Relief against forfeiture.

60.-(1) A lessee upon whom a notice has been served under section 59, or against whom the lessor is proceeding by action or re-entry, to enforce his right of forfeiture, may apply to a court for relief; and the court may grant or refuse relief, as the court, having regard to the proceedings and the conduct of the parties and the circumstances of the case, thinks fit, and if it grants relief, may grant it on such terms as it thinks fit.

(2) Subject to subsection (3), the court, on application by any person claiming as sublessee or chargee any interest in the property or part of the property comprised in the lease forfeited or sought to be forfeited, may make an order vesting the property or such part of the property in such sublessee or chargee for the whole period of the lease or any less period, upon such conditions as the court, in the circumstances of the case, thinks fit.

(3) Nothing in subsection (2) shall apply in the case of a forfeiture arising from a breach to which the sublessee is a party or from the breach of an express agreement or condition against subleasing, parting with the possession of or disposing of the property leased.

(4) For the purpose of this section, a lease limited to continue as long only as the lessee abstains from committing a breach of the agreement or condition shall be and take effect as a lease to continue for any longer term for which it could subsist, but terminable by a provision for re-entry on such breach.

(5) This section shall have effect notwithstanding any stipulation or agreement to the contrary and whether the lease is registered or not.

61. Subject to section 59, the agreements and conditions contained or implied in any registered lease may be varied, negatived or added to, and the period of any registered lease may from time to time be extended by an instrument executed by the lessor and the lessee for the time being and registered before the expiration of the then current term of the lease.

Variation and extension of leases.

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

Substitution of leases.

63.-(1) Subject to any provision in his lease affecting his right to do so, the proprietor of a registered lease may, by a sublease in the prescribed form, sublease for any period which is less than the remainder of the period of his lease.

Sublease.

(2) Except as otherwise expressly provided in this Act, the provisions of this Act affecting leases, lessors and lessees shall apply to subleases, sublessors and sublessees, with such adaptations as are necessary for such application.

(3) If a lease is terminated by operation of law or under any law relating to bankruptcy or liquidation proceedings, such termination shall terminate the sublease.

(4) In addition to the agreements specified by this Act to be implied in leases, there shall be implied in every sublease under this Act an agreement by the sublessor that he will, during the continuance of the sublease, pay the rent reserved by the lease under which the sublessor holds, and observe and perform the agreements and conditions thereof.

(5) Where a sublessee has paid to the sublessor's lessor the rent

or any part of the rent payable by the sublessor under the lease under which the sublessor holds, the sublessee shall be entitled to set off any sum so paid against the rent payable by him to the sublessor in respect of the sublease.

Surrender of leases.

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

- (a) either an instrument shall be prepared in the prescribed form, or the word "surrendered" shall be inscribed on the lease or on the duplicate or triplicate thereof; and
- (b) the instrument or inscription shall then be executed by the lessor or lessee; and
- (c) the Registrar shall then cancel the registration of the lease; and
- (d) the instrument or inscribed lease shall then be filed,

and thereupon, or upon such earlier date as is expressed in the instrument or inscription, the interest of the lessee shall cease.

(2) No lease which is subject to a charge or a sublease shall be surrendered without the consent in writing of the proprietor of the charge or sublease.

Determination of leases.

65.-(1) Where-

- (a) the period of a lease has expired; or
- (b) an event upon which a lease is expressed to terminate has happened; or
- (c) a lessor has lawfully re-entered; or

- (d) a notice duly given to terminate the lease has expired, and the lessor has recovered possession of the land leased,

the lease and every other interest appearing on the register relating to the lease shall thereupon terminate, and the lessor may apply in writing to the Registrar to cancel the registration.

(2) An application under this section shall be supported by such evidence of the matters giving rise to the termination and the recovery of possession by the lessor as the Registrar may require, and the Registrar, on being satisfied on the matters set forth in the application, shall cancel the registration of the lease.

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

Voluntary registration of leases.

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

Charges

67.-(1) A proprietor may, by an instrument in the prescribed form, charge his land, lease or charge to secure the payment of an existing, a future or contingent debt or other money or money's worth or the fulfilment of a condition, and the instrument shall contain a special acknowledgement that the chargor understands the effect of section 75, and the acknowledgement

Form and effect of charges.

shall be signed by the chargor, or where the chargor is a corporation, by one of the persons attesting the affixation of the common seal.

(2) A date for the repayment of the money secured by a charge may be specified in the charge instrument, and where no such date is specified, or repayment is not demanded by the chargee on the date specified the money shall be deemed to be repayable three months after the service of a demand in writing by the chargee.

(3) The charge shall be completed by its registration as an encumbrance and registration of the person in whose favour it is created as its proprietor and by filing the instrument.

(4) A charge shall not operate as a transfer but shall have effect as a security only.

(5) There shall be included in an instrument of charge securing the fulfilment of a condition or the payment of an annuity or other periodical payment not of the nature of interest on a capital sum, such provisions as the parties think fit for disposing, subject to section 79, of the money 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 and investing it to make future periodical payments, or by payment to the chargee of such proceeds or part thereof to the extent of the estimated capital value of the chargee's interest, or otherwise.

Second or subsequent charges.

68. A proprietor whose land or lease or charge is subject to a charge may create a second or subsequent charge in the same manner as the first charge and the same provisions shall apply thereto, but any sale under the power expressed or implied in any such charge shall be expressed to be subject to all prior charges, unless all those charges have been discharged.

Presumption that money paid is interest.

69. If any question arises whether any payment made by the chargor is in respect of principal or interest, such payment shall be presumed to be in

respect of interest to the extent of all interest which is due and payable at the date of payment.

70. There shall be implied in every charge, unless the contrary is expressed therein, agreements by the chargor with the chargee binding the chargor-

Agreements
implied in
charges.

- (a) to pay the principal money on the day therein appointed and, so long as the principal sum or any part thereof remains unpaid, to pay interest thereon at the rate and on the days and in the manner therein specified;
- (b) to pay all rates, taxes and other outgoings which are at any time payable in respect of the charged property;
- (c) to repair and keep in repair all buildings and other improvements upon the charged land or comprised in the charged lease, and to permit the chargee or his agent, at all reasonable times and after reasonable notice to the chargor, to enter the land and examine the state and condition of such buildings and improvements;
- (d) to insure and keep insured all buildings upon the charged land or comprised in the charged lease against loss or damage by fire or hurricane in the joint names of the chargor and chargee with insurers approved by the chargee to the full value thereof;
- (e) in the case of a charge of agricultural land, to farm the land in accordance with the rules of good husbandry;
- (f) in the case of a charge of land or of a lease, not to lease the charged land or any part thereof, or sublease the whole or any part of the land comprised in the

- charged lease for any period longer than one year without the previous consent in writing of the chargee, but such consent shall not be unreasonably withheld;
- (g) not to transfer the land, lease or charge charged or any part thereof without the previous written consent of the chargee, but such consent shall not be unreasonably withheld;
- (h) in the case of a charge of a lease, during the continuance of the charge to pay the rent reserved by the lease and observe and perform the agreements and conditions thereof, and keep the chargee indemnified against all proceedings, expenses and claims on account of the non-payment of the said rent or any part thereof, or the breach or non-observance of the said agreements and conditions or any of them, and, if the lessee has an enforceable right to renew the lease, to renew it;
- (i) where the charge is a second or subsequent charge, to pay the interest from time to time accruing due on each prior charge when it becomes due, and at the proper time to repay the principal money due on each prior charge; and
- (j) that where the chargor fails to comply with any of the agreements implied by paragraphs (b), (c), (d), (e), (h) and (i) the chargee may spend such money as is necessary to remedy the breach, and may add the amount so spent to the principal money, and that thereupon the amount shall be deemed for all purposes to be part of the principal money secured by the charge.

Chargee's consent to transfer. 71. Where a charge contains an agreement, express or implied, by the

chargor with the chargee that he will not transfer the land, lease or charge or any part thereof without the written consent of the chargee, the agreement shall be noted in the register and no transfer by the chargor shall be registered until the written consent of the chargee, verified in accordance with section 110, has been produced to the Registrar.

72. The amount secured, the method of repayment, the rate of interest or the term of the charge may be varied by the registration of an instrument of variation executed by the parties to the charge, but no such variation shall affect the rights of the proprietor of any subsequent charge, unless he has consented to the variation in writing on the instrument of variation.

Variation of charges.

73.-(1) Subject to this section, a chargor, on payment of all money due and owing under the charge at the time of payment or on fulfilment of any condition secured thereby and on payment of any costs or expenses properly incurred by the chargee in exercising any power conferred on him by section 75, may redeem the charged land or lease or charge at any time before it has been sold under section 78, and any agreement or provision which purports to deprive the chargor of this right of redemption shall be void; and, for the purposes of this subsection, a lease or a charge shall be deemed to have been sold when a bid has been accepted at the auction sale.

Right of redemption.

(2) Where the chargor wishes to redeem the charged land or lease or charge before the date for repayment specified in the charge, he shall be entitled to do so on payment to the chargee, of all money due or owing under the charge at the date of redemption.

(3) Where no date for redemption is specified in the charge or where the chargor seeks to redeem the charged land or lease or charge after the date specified in the charge, he shall give the chargee three months' notice of his intention to redeem the charged land or lease or charge or shall pay him three months' interest *in lieu* thereof.

(4) If at any time the chargor is entitled and desires to repay the money secured by the charge, and the chargee is not in Belize or cannot be found, or the Registrar is satisfied that the charge cannot be discharged otherwise, the chargor may deposit the amount due with the Registrar in trust for the person entitled thereto, and thereupon the obligations of the chargor under the charge shall cease, and the Registrar shall cancel the registration of the charge and shall pay the amount deposited to the chargee if the chargee applies for it within six years of the date of deposit, and if the amount is not so paid it shall be paid into the Public Treasury and shall be appropriated to the Consolidated Revenue Fund.

(5) Prior to cancellation of the registration under subsection (4), the Registrar may require that the chargor shall publish, in at least three issues at intervals of one month of the *Gazette* and a newspaper, a notice of his intention to redeem the charge.

Right of third party to transfer of charge.

74. Any person-

- (a) other than the chargor, who has an interest in the land or lease or charge charged; or
- (b) who is a surety for the payment of the amount secured by the charge; or
- (c) who is a creditor of the chargor who has obtained an order of court for sale of the charged land, lease or charge,

may, on his tendering to the chargee such sums as would have been payable to the chargee if the chargor had sought to redeem the charge under section 73, require the chargee to transfer the charge to him.

Chargee's remedies.

75.-(1) If default is made in the payment of the principal sum or any interest or any other periodical payment or part thereof, or in the performance or

observance of any agreement, express or implied, in any charge, and such default continues for one month, the chargee may serve on the chargor a notice in writing to pay the money due or to perform and observe the agreement, as the case may be.

(2) If the chargor does not, within three months of the date of service of a notice served on him under subsection (1), comply therewith, the chargee may-

- (a) appoint a receiver of the income of the charged property; or
- (b) sell the charged property:

Provided that where a chargee has appointed a receiver he may not exercise the power of sale unless-

- (a) the chargee gives the chargor a further notice under subsection (1); and
- (b) the chargor fails to comply therewith within three months of the date of service thereof.

(3) The chargee shall be entitled to sue for the money secured by the charge in the following cases only-

- (a) where the chargor is bound to repay it; or
- (b) where, by any cause other than the wrongful act of the chargor or chargee, the charged property is wholly or partially destroyed or the security is rendered insufficient and the chargee has given the chargor a reasonable opportunity of providing further security which will render the whole security sufficient, and the

chargor has failed to provide such security; or

- (c) where the chargee is deprived of the whole or part of his security by, or in consequence of, the wrongful act or default of the chargor:

Provided that-

- (i) in the case specified in paragraph (a), a transferee from the chargor shall not be liable to be sued for the money unless he has agreed with the chargee to pay it; and no action shall be commenced until a notice served in accordance with subsection (1) has expired;
- (ii) the court may, at its discretion, stay a suit brought under paragraph (a) or paragraph (b), notwithstanding any agreement to the contrary, until the chargee has exhausted all his other remedies against the charged property.

Appointment,
powers,
remuneration and
duties of receiver.

76.-(1) The appointment of a receiver under the powers conferred by section 75 shall be in writing signed by the chargee and the filing of a copy thereof with the Registrar.

(2) A receiver may be removed at any time and a new receiver appointed in writing signed by the chargee and the filing of a copy thereof with the Registrar.

(3) A receiver appointed under this section shall be deemed to be the agent of the chargor for the purposes for which he is appointed, and the chargor shall be solely responsible for the receiver's acts and defaults unless the charge otherwise provides.

(4) The receiver shall have power to demand and recover all the income of which he is appointed receiver, by action or otherwise, in the name of the chargor, and to give effectual receipts accordingly for it.

(5) A person paying money to the receiver shall not inquire into the validity of the receiver's appointment.

(6) Subject to subsection (8), the receiver shall be entitled to retain out of any money received by him all costs, charges and expenses incurred by him as receiver, and, for his remuneration, a commission at such rate, not exceeding five per cent of the gross amount of all moneys received, as is specified in his appointment, or if no rate is specified, at the rate of five per cent of that gross amount or such other rate as the chargor and the chargee and other chargees, if any, agree or the court thinks fit to allow on application made by the receiver for that purpose.

(7) The receiver shall apply insurance money in making good the loss or damage in respect of which the money is received.

(8) Subject to subsection (7), the receiver shall apply all moneys received by him in the following order of priority-

- (a) in discharge of all rents, rates, taxes and outgoings whatever affecting the charged property; and
- (b) in keeping down all annual sums or other payments, and the interest on all principal sums, having priority to the charge in right whereof he is receiver; and
- (c) in payment of his commission, costs, charges and expenses and of the premiums of fire, life and other insurance, if any, properly payable under the charge instrument or under this Act and the cost of executing necessary or proper repairs directed in writing by the

chargee; and

- (d) in payment of the interest accruing due in respect of any principal money due under the charge; and
- (e) in or towards the discharge of the money secured by the charge, if so directed in writing by the chargee,

and shall pay the residue, if any, of the money received by him to the person who, but for the appointment of the receiver, would have been entitled to receive the income of which he is appointed receiver, or who is otherwise entitled to the charged property.

Chargee's powers of leasing.

77.-(1) The proprietor of a charge on land or a lease who has appointed a receiver under the powers conferred on him by section 75 shall, in the absence of any express provision to the contrary contained in the charge, have power, subject to this Act and any other law-

- (a) to grant leases in respect of the charged land or the land comprised in the charged lease or any part or parts thereof; and
- (b) to accept a surrender of any lease so granted and of any lease created by the chargor,

and may, for such purposes, execute in the place of the chargor any instrument required to effect such lease or surrender.

(2) Every lease granted by a chargee shall-

- (a) be made to take effect in possession not later than twelve months after its date;
- (b) reserve the best rent that can reasonably be obtained,

regard being had to the circumstances of the case, but without a fine or premium being obtained;

- (c) be for a term not exceeding twenty-one years; and
- (d) contain a declaration by the chargee that he has appointed a receiver and the date of such appointment.

78.-(1) A chargee exercising his power of sale shall act in good faith and have regard to the interests of the chargor, and may sell or concur with any person in selling the charged land, lease or charge, or any part thereof, together or in lots, by public auction for a sum payable in one amount or by instalments, subject to such reserve price and conditions of sale as the chargee thinks fit, with power to buy in at the auction.

Power of sale.

(2) Where the chargor is in possession of the charged land or the land comprised in the charged lease, the chargee shall become entitled to recover possession of the land upon a bid being accepted at the auction sale.

(3) A transfer by a chargee in exercise of his power of sale shall be made in the prescribed form, and the Registrar may accept it as sufficient evidence that the power has been duly exercised, and any person suffering damage by an irregular exercise of the power shall have his remedy in damages only against the person exercising the power.

(4) Upon registration of such transfer, the interest of the charger as described therein shall pass to and vest in the transferee freed and discharged from all liability on account of any other encumbrance to which the charge has priority (other than a lease, easement, restrictive agreement or profit subsisting at the time the charge was effected or to which the chargee has consented in writing).

(5) A chargee, in exercising his power of sale, shall have the

same powers and rights in regard to easements, restrictive agreements and profits as are conferred upon a proprietor by sections 95, 96 and 97.

Application of purchase money.

79. The purchase money received by the chargee who has exercised his power of sale, after discharge of any prior encumbrances to which the sale is not made subject or after payment into court of a sum sufficient to meet any such prior encumbrances, shall be applied-

- (a) firstly, in payment of all costs and expenses properly incurred and incidental to the sale or any attempted sale;
- (b) secondly, in accordance with any express provision in the charge (as required by section 67) for disposing of such money and, in the absence of any such express provision, in discharge of the money due to the chargee at the date of the sale; and
- (c) thirdly, in payment of any subsequent charges in the order of their priority,

and the residue of the money so received shall be paid to the person who immediately before the sale was entitled to redeem the charged land, lease or charge.

Variation of powers.

80.-(1) Subject to subsection (2), sections 73 (2) and (3), 75, 76, 77 and 78 may in their application to a charge be varied or added to by the charge.

(2) Any variation or addition as is mentioned in subsection (1), shall not be acted upon unless the court, having regard to the proceedings and conduct of the parties and to the circumstances of the case, so orders.

No right of entry into possession or foreclosure.

81. For the avoidance of doubts, it is hereby declared that the chargee shall not be entitled to foreclose, or to enter into possession of the charged land or the land comprised in a charged lease or to receive the rents and

profits thereof by reason only that default has been made in the payment of the principal sum or of any interest or other periodical payment or of any part thereof or in the performance or observance of any agreement, express or implied, in the charge.

82.-(1) A discharge, whether of the whole or of a part of a charge, shall be made by an instrument in the prescribed form, or in the case of the discharge of the whole, the word "Discharged" may be endorsed on the charge or the duplicate or triplicate and the endorsement executed by the chargee and dated. Discharge of charge.

(2) A discharge shall be completed by cancellation in the register of the charge, or part thereof as the case may require, and by filing the instrument of discharge, or the endorsed instrument of charge.

83. Upon proof to the satisfaction of the Registrar- Satisfaction of charges.

(a) that all money due under a charge has been paid to the chargee or by his direction; or

(b) that there has occurred the event or circumstances upon which, in accordance with the provision of any charge, the money thereby secured ceases to be payable and that no money is owing under the charge,

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

84.-(1) Provision may be made in the charge for a chargee to make further advances or give credit to the chargor on a current or continuing account, but unless that provision is noted in the register, further advances shall not rank in priority to any subsequent charge except with the consent in writing of the proprietor of the subsequent charge. Tacking and further advances.

(2) Except as provided in this section, there is no right to tack.

Consolidation. 85. A chargee has no right to consolidate his charge with any other charge unless the right is expressly reserved in the charges or in one of them and is noted in the register against all the charges so consolidated.

Transfers

Transfer. 86.-(1) A proprietor, by an instrument in the prescribed form, may transfer his land, lease or charge to any person with or without consideration.

(2) The transfer shall be completed by registration of the transferee as proprietor of the land, lease or charge and by filing the instrument.

(3) The transferee of a charge may require the chargor to execute the transfer for the purpose of acknowledging the amount due under the charge at the date of execution of the transfer.

Conditional transfers not registrable. 87. A transfer to take effect on the happening of any event or on the fulfilment of any condition or at any future time shall not be capable of registration.

Conditions repugnant to interest transferred. 88.-(1) Any condition or limitation purporting to restrain absolutely a transferee or any person claiming under him from disposing of the interest transferred shall be void.

(2) Any condition or limitation made in relation to a transfer which purports to determine the interest of the transfer on the happening of any future event or on the failure of any future event shall be void.

(3) Except as provided in sections 95 to 101, no transfer of land shall contain a direction that the land shall be used or enjoyed by the transferee in a particular manner.

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

90. On the transfer of a lease, unless the contrary is expressed in the transfer, there shall be implied- Transfers of leases.

(a) a warranty on the part of the transferor that the rent, agreements and conditions on the part of the lessee to be paid, performed and observed have been so paid, performed and observed up to the date specified in the transfer or, if no such date is specified, the date of the transfer; and

(b) an agreement on the part of the transferee to pay the said rent as from the day following the date specified in the transfer or the date of the transfer, as the case may be, and to perform and observe the said agreements and conditions.

91.-(1) A transferee from a lessor or from a lessee shall possess all the rights, and be subject to all the liabilities of the lessor or lessee, as the case may be, expressed or implied in the lease, or arising or which have arisen thereunder, and the transferor shall cease to be under any obligation or to be possessed of any rights in respect of the lease. Effect of transfer on agreements in leases.

(2) Nothing in subsection (1) shall affect rights or liabilities of the lessor or lessee, as the case may be, in respect of a breach of any of the agreements expressed or implied in the lease which occurred before transfer.

92. Except as otherwise expressly provided in the instrument, in every transfer of land or a lease subject to a charge, there shall be implied an agreement by the transferee with the transferor to pay the interest secured Transfer subject to charge.

by the charge at the rate and at the times and in the manner specified in the charge and to keep the transferor indemnified against the principal sum secured by the charge and from and against all liability in respect of any of the agreements on the part of the transferor therein contained or implied.

Transfer subject to lease.

93. A transfer of land which is subject to a lease shall be valid without the lessee acknowledging the transferee as lessor, but nothing in this section-

(a) shall affect the validity of any payment of rent made by the lessee to the transferor; or

(b) shall render the lessee liable, on account of his failure to pay the rent to the transferee, for any breach of agreement to pay rent,

before notice of the transfer is given to the lessee by the transferee or transferor.

Transfer of unregistered leases.

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

Easements, Restrictive Agreements, Profits and Licences

Easements.

95.-(1) The proprietor of land or of a lease may, by an instrument in the prescribed form, grant an easement over his land or the land comprised in his lease, to the proprietor or lessee of other land for the benefit of that other land.

(2) Any proprietor transferring or leasing land or a lease may in the transfer or lease grant an easement, for the benefit of the land transferred or leased, over land retained by him, or reserve an easement for the benefit

of land retained by him.

- (3) The instrument creating the easement shall specify clearly-
- (a) the nature of the easement, the period for which it is granted and any conditions, limitations or restrictions intended to affect its enjoyment; and
 - (b) the land burdened by the easement and, if required by the Registrar, the particular part thereof so burdened; and
 - (c) the land which enjoys the benefit of the easement,

and shall, if required by the Registrar, include a plan sufficient in the Registrar's estimation to define the easement.

(4) The grant or reservation of the easement shall be completed by its registration as an encumbrance in the register of the land burdened and in the property section of the land which benefits, and by filing the instrument.

(5) An easement granted by the proprietor of a lease shall be capable of subsisting only during the subsistence of the lease.

96.-(1) Where an instrument, other than a lease or charge, contains an agreement (hereinafter referred to as a restrictive agreement) by one proprietor restricting the building on or the use or other enjoyment of his land for the benefit of the proprietor of other land, and is presented to the Registrar, the Registrar shall note the restrictive agreement in the encumbrances section of the register of the land or lease burdened by the restrictive agreement, either by entering particulars of the agreement or by referring to the instrument containing the agreement, and shall file the instrument.

Restrictive
agreements.

(2) Unless it is noted in the register, a restrictive agreement is not binding on the proprietor of the land or lease burdened by it or on anybody acquiring that land or lease.

(3) The note of a restrictive agreement in the register does not give the restrictive agreement any greater force or validity than it would have had if it had not been registrable under this Act and had not been noted.

(4) In so far as the restrictive agreement is capable of taking effect, the proprietors and their respective successors in title shall be entitled to the benefit and shall be subject to the burden of it respectively, unless the instrument otherwise provides.

Profits.

97.-(1) The proprietor of land or of a lease may, by an instrument in the prescribed form, grant a profit.

(2) The instrument shall indicate clearly the nature of the profit, the period for which it is to be enjoyed and-

(a) whether it is to be enjoyed in gross, or as appurtenant to other land or a lease; and

(b) whether it is to be enjoyed by the grantee exclusively or in common with the grantor.

(3) The grant of a profit shall be completed-

(a) by its registration as an encumbrance in the register of the land or lease which it affects; and

(b) where it is appurtenant to other land or a lease, by its registration in the property section of the register of the land or lease to which it is appurtenant; and

(c) by filing the instrument.

(4) A profit which is not appurtenant to land may be dealt with as though it were land.

(5) A profit granted by the proprietor of a lease shall be capable of subsisting only during the subsistence of a lease.

98.-(1) Upon presentation of a duly executed release in the prescribed form, the registration of the easement, profit or restrictive agreement shall be cancelled, and the easement, profit or restrictive agreement shall thereupon be extinguished.

Release and extinguishment of easements, profits and restrictive agreements.

(2) On the application of any person affected thereby, the Registrar may, after such advertisements as he may direct, cancel the registration of an easement, profit or restrictive agreement upon proof to his satisfaction that-

- (a) the period of time for which it was intended to subsist has expired; or
- (b) the event upon which it was intended to terminate has occurred; or
- (c) it has been abandoned.

99. The court shall have power, on the application of any person interested in a land affected by an easement, restrictive agreement or by a grant of a profit, by order wholly or partially to extinguish or modify any such easement, restrictive agreement or profit, with or without payment by the applicant of compensation to any person suffering loss in consequence of the order, on being satisfied-

Discharge and modification of easements, profits and restrictive agreements.

- (a) that, by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the court thinks material, the easement, profit or restrictive agreement ought to be held to be obsolete; or
- (b) that the continued existence of the easement, restrictive agreement or profit impedes the reasonable user of the land for public or private purposes without securing practical benefits to other persons or, as the case may be, will, unless modified, so impede such user; or
- (c) that the proposed discharge or modification will not injure the person entitled to the benefit of the easement, restrictive agreement or profit.

Natural rights. 100. Nothing in this Act shall be construed as derogating from the natural right to support, light, air or access to a highway appurtenant to any land or from such ancillary rights as are necessary for the effective enjoyment of an easement.

Licences. 101.-(1) Without prejudice to section 130, a licence is not capable of registration.

(2) A licence relating to the use or enjoyment of land is ineffective against a *bona fide* purchaser for valuable consideration unless the licensee has protected his interest by lodging a caution under that section.

Co-Proprietorship

Co-ownership. 102.-(1) When any land or interest in land is disposed to two or more persons in their own right, such persons shall, for the purposes of this Act, be deemed to be the joint owners of such land or interest unless words of severance are used, but such disposition shall operate to pass only such

interests as are provided for in this sections to section 107.

(2) Except as provided by the Settled Land Act 1925, any land disposed to two or more persons shall be held on an expressed or implied trust for sale, whether such persons are joint owners or owners in common, and the trustees for sale shall be registered as the proprietors of the land. 1925, c. 18.

103.-(1) Where any land, lease or charge is owned jointly by two or more persons, no such person shall be entitled to any separate share in the legal estate in the land, and on the death of any such person, his interest shall vest in the surviving owner or the surviving owners jointly. Characteristics of joint ownership.

(2) Subsection (1) shall not affect the right of a joint owner to release his interest to the other owners, or the right to sever a joint ownership in a beneficial interest whether or not the legal estate is vested in the joint owners:

Provided that where a legal estate (not being settled land) is vested in joint owners beneficially, and any owner desires to sever the beneficial interest, he shall give to the other owners a notice in writing of such desire and do such other acts or things as would, in the case of personal estate, have been effectual to sever the beneficial interest, and thereupon under the trust for sale affecting the land, the net proceeds of sale, and the net rents and profits until sale, shall be held upon the trusts which would have been requisite for giving effect to the beneficial interests if there had been an actual severance.

(3) Any land, lease or charge owned jointly by two or more persons may not be disposed of except by all the joint owners acting together.

(4) For the avoidance of doubt, it is hereby declared that-

(a) the sole proprietor of any land, lease or charge may

transfer it to himself and to another person jointly; and

- (b) a joint owner of any land, lease or charge may transfer his interest therein to all the other owners.

Characteristics
of ownership in
common.

104.-(1) Where any land, lease or charge is owned by two or more persons in common, each such person is entitled to an undivided share in the whole, and on the death of any such person, his share shall be administered as part of his estate. An owner in common shall be entitled only to a share, corresponding to his undivided share in the land, of the net proceeds of sale of the whole and to any rents or profits until sale of the whole, but shall not be entitled to deal with his undivided share under this Act.

(2) Persons described in any instrument relating to any land, lease or charge as owners in common shall, in the absence of any expression to the contrary, be presumed to be entitled in equal shares.

Trusts for sale.

105.-(1) Any land held under a trust for sale shall be held by the trustees upon a trust to sell it and stand possessed of the net proceeds of sale after payment of costs and of the net rents and profits until sale and after payment of taxes, costs of insurance, repairs and other outgoings.

(2) Any trust for sale, express or implied, shall be deemed to subsist until the land has been transferred to or under the direction of the persons having an interest in the proceeds of sale.

(3) A power to postpone sale shall be implied in every trust for sale.

(4) Trustees for sale shall consult the persons of full age having an interest in the rents and profits of the land until sale, and shall, so far as is consistent with the general interest of the trust, give effect to the wishes of such persons, but a purchaser shall not be concerned to see that the provisions of this subsection have been complied with.

(5) A purchaser from trustees for sale of any land subject to a trust for sale shall not be concerned with the trust affecting the proceeds of such sale.

(6) Trustees for sale of any land subject to a trust for sale may divide that land amongst the beneficiaries under the trust, and on any such division the trustees may provide for the payment of equality money either in cash or by way of charge.

(7) Any beneficiary under the trust who objects to the exercise or the proposed exercise of the powers granted by subsection (6) may either before such exercise or within six months thereafter apply to the Registrar who may make such order as he thinks just and such order shall be binding on all parties concerned.

(8) The trusts and powers set out in this section shall be deemed to be incorporated in any instrument which operates expressly to vest any registered interest in land in any person upon trust for sale or whereby any person expressly declares that he holds upon trust for sale any registered interest in land already vested in him.

106.-(1) Subject to subsection (2), on receipt of an instrument disposing of any land, lease or charge to two or more joint owners, the Registrar shall enter in the proprietorship section of the register the names of the trustees for sale specified in the express trust, if any, or if the trust is implied, the names of the co-owners contained in the instrument, and shall add after their names the words "as trustees for sale".

Registration of
co-ownership.

(2) The names of not more than four such trustees for sale as mentioned in subsection (1) shall be entered and if the express trust or, if the trust is implied, the instrument contains more than four names, the Registrar shall enter as trustees the first four names shown in the trust or instrument.

(3) On receipt of an instrument disposing of any land, lease or charge to two or more owners in common the Registrar shall enter in the proprietorship section of the register the names of the trustees for sale specified in the express trust, if any, or if the trust is implied, the names of the owners in common contained in the instrument; and shall add after their names the words “as trustees for sale”, subject to subsection (2).

(4) The persons named in the register as trustees for sale shall have and may exercise all or any powers of disposition, subject to any entry on the register or on the parcel file in the Registry relating to the land.

(5) An express trust for sale, or a certified copy thereof, may be deposited with the Registrar for safe custody; but such trust or copy shall not form part of the register or be deemed to be registered.

Partition of land
owned in
common.

107.-(1) An application for partition of the land owned in common may be made in the prescribed form to the Registrar by the trustees for sale named on the register, and subject to this Act and to any other law by or under which minimum areas or frontages are prescribed or the consent of any authority to a partition, or a certificate of tax paid is required, the Registrar shall effect the partition of the land in accordance with such application.

(2) Where for any reason the land sought to be partitioned is incapable of partition or the partition would adversely affect the proper use of the land, and a demand is made by the applicant or one or more of the owners in common that the land or any share or shares in the land be sold, the Registrar shall, in default of any agreement between the owners in common, value the land and the shares of the owners in common and order the sale of the land or the separation and sale of such shares by public auction, or make such other order for the disposal of the application as he thinks fit.

(3) An owner in common shall be entitled to purchase the land or any share so offered for sale, either upon bid accepted at the auction or at

any time by private treaty.

(4) Where the land sought to be partitioned is capable of partition generally, but the resulting share of any particular owner in common would be less in area than any minimum prescribed by or under any written law and any consent permitting the avoidance of that law cannot be obtained, the Registrar shall add such share to the share of any other owner or distribute such share amongst two or more other owners in such manner and in such proportions as, in default of agreement, he thinks fit.

(5) Where the Registrar proceeds in accordance with subsection (4), he shall assess the value of the share added or distributed and shall order that there be paid to the owner of the share by each owner who has received an addition to his share the value of such addition.

(6) Where any sum is payable under subsection (5) by any owner in common to any other owner in common, the Registrar may order that such sum be secured by way of charge on the share of the person liable to pay it.

(7) Partition shall be completed by closing the register of the parcel partitioned and opening registers in respect of the new parcels created by the partition and filing the instrument.

PART VI

Instruments and Agents

Instruments

108.-(1) Every disposition of land, a lease or a charge shall be effected by an instrument in the prescribed form or in such other form as the Registrar may in any particular case approve, and every person shall use a printed form issued by the Registrar unless the Registrar otherwise permits.

Forms of
instruments.

(2) Leases and charges shall be presented for registration in triplicate.

(3) Instruments shall contain a true statement of the amount or value of the purchase price or loan or other consideration, if any, and an acknowledgement of the receipt of the consideration.

Execution of instruments.

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

(2) Subject to section 122 (2), an instrument shall be deemed to have been executed only-

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

(b) by a corporation-

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

(ii) in the case of a corporation not required by law to have a common seal, if signed by such persons as are authorised in that behalf by any law or by the statute or charter of the corporation or, in the absence of any express provision, by the person duly appointed in

writing for that purpose by the corporation, evidence of which appointment has been produced to the satisfaction of the Registrar.

110.-(1) Subject to subsection (3), a person who desires to execute an instrument shall appear before the Registrar or such public officer or other person as is prescribed and, unless he is known to the Registrar or such public officer or other person, shall be accompanied by a credible witness for the purpose of establishing his identity.

Verification of execution.

(2) The Registrar or public officer or other person shall satisfy himself as to the identity of the person appearing and executing before him and ascertain whether he freely and voluntarily executed the instrument, and shall complete thereon a certificate to that effect.

(3) An instrument which is required to be executed by or on behalf of the Government shall be deemed to be executed when it has been signed by the Minister.

(4) The Registrar may dispense with verification under this section-

- (a) if he considers that it cannot be obtained or can be obtained only with difficulty and he is otherwise satisfied that the document has been properly executed; or
- (b) in cases in which to his knowledge the document has been properly executed,

and shall record on the document his reason for dispensing with the appearance of the parties.

(5) No instrument executed out of Belize shall be registered

unless it has endorsed thereon or attached thereto a certificate in the prescribed form completed-

- (a) if the instrument was executed in the Commonwealth, by a judge, magistrate, justice of the peace, notary public, commissioner for oaths or administrative officer; or
- (b) if the instrument was executed in a foreign country, by a British consular officer or pro-consul, notary public or such person or class of person as the Minister may by Order published in the *Gazette* determine.

Stamps. 111.-(1) No instrument required by law to be stamped shall be accepted for the purposes of registration or filing unless it is duly stamped.

30 of 1988. (2) No instrument, which creates or transfers, or purports to create or transfer, any interest in land situate outside the boundaries of a town as defined in the Land Tax Act, shall be received for registration or for any other purpose unless it is accompanied by a certificate, from the Commissioner, showing that the tax payable under the said Act in respect of such land has been paid.

CAP. 58. (3) Where an instrument presented to the Registrar is in a language other than the English language, that instrument shall be presented together with a translation into the English language certified by a competent person approved by the Registrar for that purpose.

Disposal of instruments. 112.-(1) Subject to subsection (2) and to section 114 (2), all instruments accepted by the Registrar shall be retained in the Registry for as long as they support a current entry in the register and for six years thereafter.

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

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

113.-(1) For the avoidance of doubt, it is hereby declared that the name of any infant may be entered in the register either on first registration or as a transferee or on transmission.

Infants.

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

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

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

(5) Where an infant or any person representing an infant makes a false statement as to the age or date of birth of the infant in any application to register any disposition of land or any interest in land by the said infant, he commits an offence under this Act.

Agents

114.-(1) Except as provided in subsection (3), no instrument executed by any person as agent for any other person shall be accepted by the Registrar unless the person executing it was authorised in that behalf by a power of attorney executed and verified in accordance with sections 109 and 110.

Agents and persons under disability.

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

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

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

Gift to person
under disability.

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

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

Powers of
attorney.

116.-(1) Upon the application of the grantor or the grantee of a power of attorney which contains any power to dispose of any interest in land, such power of attorney shall be entered in the register of powers of attorney and

the original, or with the consent of the Registrar a copy thereof certified by the Registrar, shall be filed in the file of powers of attorney.

(2) Every such power of attorney shall be in the prescribed form or such other form as the Registrar may in any particular case approve, and shall be executed and verified in accordance with sections 109 and 110.

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

(4) Any interested person may give notice in writing to the Registrar that a power of attorney which has been registered under subsection (1) has been revoked by death, bankruptcy or disability of the grantor or the death or disability of the grantee accompanied by such evidence as the Registrar requires, and thereupon the revocation shall be entered in the register of powers of attorney and noted upon the power, and the notice shall be filed in the file of powers of attorney.

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

(6) If, owing to the length of time since the execution of a power of attorney or for any other reason, the Registrar considers it desirable, he may require evidence that the power has not been revoked, and may refuse to register any disposition by the grantee of the power of attorney until satisfactory evidence is produced.

117.-(1) A power of attorney which has been registered under section 116 and of which no notice of revocation has been registered under that section shall be deemed to be subsisting or, as regards any person acquiring any

Effect of registered power of attorney.

interest in land affected by the exercise of the power, for valuable consideration and without notice of revocation and in good faith, or any person deriving title under such a person.

(2) Any person making any payment or doing any act in good faith in pursuance of a power of attorney registered under section 116 shall not be liable in respect of the payment or act by reason only that before the payment or act the grantor of the power had died or become subject to a disability or become bankrupt, or had revoked the power, if the fact of death, disability, bankruptcy or revocation was not at the time of the payment or act known to the person making or doing the payment or act.

PART VII

Transmission and Trusts

Transmission on death of joint proprietors.

118. If one of two or more joint proprietors of any land, lease or charge dies, the Registrar, on proof to his satisfaction of death, shall delete the name of the deceased from the register.

Transmission on death-sole proprietor.

119.-(1) If a sole proprietor dies, his personal representative, on application to the Registrar in the prescribed form and on production to him of the grant, shall be entitled to be registered by transmission as proprietor in the place of the deceased with the addition after his name of the words “as executor of the will of..... deceased” or “as administrator of the estate of..... deceased”, as the case may be.

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

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

personal representative.

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

120.-(1) The personal representative, subject to any restriction on his power of disposing of the land, lease or charge contained in his appointment, or the person beneficially entitled on the death of the deceased proprietor, as the case may be, shall hold the land, lease or charge subject to any liabilities, rights or interests which are unregistered but are nevertheless enforceable and subject to which the deceased proprietor held the same, but for the purpose of any dealing he shall be deemed to have been registered as proprietor thereof with all the rights conferred by this Act on a proprietor who has acquired land, a lease or a charge, as the case may be, for valuable consideration.

Effect of transmission by death.

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

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

Transmission on bankruptcy.

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

(3) The trustee in bankruptcy shall hold any land, lease or charge of which he is registered as a proprietor subject to any restrictions contained in any law relating to bankruptcy or in any order of court and subject to any liabilities, rights or interests which are unregistered but are nevertheless

enforceable and subject to which the bankrupt or the deceased proprietor held the same, but for the purpose of any dealing with such land, lease or charge the trustee in bankruptcy shall have all the rights and be subject to all the limitations conferred or imposed by this or any other written law on a proprietor who has acquired land, a lease or a charge for valuable consideration.

Liquidation.

122.-(1) Where a company, which is the registered proprietor of any land, lease or charge, is being wound up, the liquidator shall produce to the Registrar any resolution or order appointing him liquidator, and the Registrar shall enter the appointment in respect of the land, lease or charge, and shall file the copy of the resolution or order.

(2) An instrument executed by or on behalf of a company in liquidation delivered for registration after the appointment of the liquidator has been entered under subsection (1) shall be sealed with the common seal of the company and attested by the liquidator or, in the case of a company not required by law to have a common seal, shall be signed by the liquidator whose signature shall be verified in accordance with section 110.

Transmission by compulsory acquisition or judgment of court.

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

Trusts.

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

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

deemed to be registered.

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

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

Survivor of trustees.

126.-(1) The Settled Land Act shall, with the necessary adaptations and modifications, apply to any land or lease registered under this Act and the person who is for the time being the tenant for life under a settlement may be registered as the proprietor of such land or lease.

Application of Settled Land Act 1925, c 18.

(2) An instrument creating a settlement, or a certified copy thereof, may be deposited with the Registrar for safe custody, but such instrument or copy shall not form part of the register or be deemed to be registered.

PART VIII

Restraints on Disposition

Inhibitions

127.-(1) The court may make an order, hereinafter referred to as an inhibition, inhibiting for a particular time, or until the occurrence of a particular event, or generally until further order, the registration of any

Power of court to inhibit registered dealings.

dealing with any land, lease or charge.

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

Effect of registration.

128. An instrument which is inconsistent with a registered inhibition shall, for so long as the inhibition remains registered, not be registered.

Cancellation of inhibitions.

129. The registration of an inhibition shall be cancelled in the following cases and in no others-

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

Cautions

Lodging of cautions.

130.-(1) Any person who-

- (a) claims any unregistrable interest whatever, in land or a lease or a charge; or
- (b) is entitled to a licence; or
- (c) has presented a bankruptcy petition against the proprietor of any registered land, lease or charge,

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

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

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

(4) The Registrar may refuse to register a caution which he considers unnecessary.

(5) Subject to this section, a caution shall be registered in the appropriate register.

131.-(1) The Registrar shall give notice in writing of a caution to the proprietor whose land, lease or charge is affected by it.

Notice and effect of caution.

(2) So long as a caution remains registered no disposition which is inconsistent with it shall be registered except with the consent of the cautioner or by order of the court.

132.-(1) A caution may be withdrawn by the cautioner or removed by order of the court or, subject to subsection (2), by order of the Registrar.

Withdrawal and removal of caution.

- (2) (a) The Registrar may, on the application of any

person interested, serve notice on the cautioner warning him that his caution will be removed at the expiration of the time stated in the notice.

- (b) If at the expiration of the time stated the cautioner has not objected, the Registrar may remove the caution.
- (c) If the cautioner objects to the removal of the caution, he shall notify the Registrar in writing of his objection within the time specified in the notice, and the Registrar, after giving the parties an opportunity of being heard, shall make such order as he thinks fit, and may in the order make provision for the payment of costs.

(3) On registration of a transfer by a chargee in exercise of his powers of sale under section 78, the Registrar shall remove any caution which purports to prohibit any dealing by the chargor and which was registered after the charge by virtue of which the transfer has been effected.

(4) On the withdrawal or removal of a caution, its registration shall be cancelled, but any liability of the caution previously incurred under section 134 shall not be affected by the cancellation.

Second caution
in respect of
same matter.

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

Wrongful
cautions.

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

Restrictions

135.-(1) For the prevention of any fraud or improper dealing or for any other sufficient cause, the Registrar may, either with or without the application of any person interested in the land, lease or charge, after directing such inquiries to be made and notices to be served and hearing such persons as he thinks fit, make an order, hereinafter referred to as a restriction, prohibiting or restricting dealings with any particular land, lease or charge.

Restrictions.

- (2) A restriction may be expressed to endure-
- (a) for a particular period; or
 - (b) until the occurrence of a particular event; or
 - (c) until the making of a further order,

and may prohibit or restrict all dealings or only such dealings as do not comply with specified conditions and the restriction shall be registered in the appropriate register.

(3) The Registrar shall order a restriction to be entered in any case where it appears to him that the power of the proprietor to deal with the land, lease or charge is restricted.

136.-(1) Upon the entry of a restriction, the Registrar shall give notice thereof in writing to the proprietor affected thereby.

Notice of and effect of restriction.

(2) So long as any restriction remains registered, no instrument which is inconsistent with it shall be registered except by order of the court or the Registrar.

Removal and
variation of
restrictions.

137.-(1) The Registrar may at any time, upon application by any person interested or of his own motion, and after giving the parties affected thereby an opportunity of being heard, order the removal or variation of a restriction.

(2) Upon the application of a proprietor affected by a restriction, and upon notice thereof to the Registrar, the court may order a restriction to be removed or varied, or make such other order as it thinks fit, and may make an order as to costs.

PART IX

Prescription

Acquisition of
land by
prescription.

138.-(1) Subject to subsection (2), the ownership of land may be acquired by open, peaceful and uninterrupted possession for a period of twelve years and without the permission of any person lawfully entitled to such possession.

(2) In the case of national land other than the foreshore, the period of such possession shall be 30 years. Prescription shall not lie with regard to the foreshore.

(3) Any person who claims to have acquired the ownership of land by virtue of subsection (1) may apply to the Registrar to be registered as proprietor thereof.

Principles of
possession.

139.-(1) Where it is shown that a person has been in possession of land, or in receipt of the rents or profits thereof, at a certain date and is still in possession or receipt thereof, it shall be presumed that he has, from that date been in uninterrupted possession of the land or in uninterrupted receipt of the rents or profits until the contrary be shown.

(2) Possession of land or receipt of the rents or profits thereof by any person through whom a claimant derives his possession shall be deemed to have the possession or receipt of the rents or profits by the claimant.

(3) Where, from the relationship of the parties or from other special cause, it appears that the person in possession of land is or was in possession on behalf of another, his possession shall be deemed to be or to have been the possession of that other.

(4) If a person whose possession of land is subject to conditions imposed by or on behalf of the proprietor continues in such possession after the expiry of the term during which such conditions subsist, without fulfilment or compliance with them by such person and without any exercise by the proprietor of his right to the land, such subsequent possession shall be deemed to be peaceful, open and uninterrupted possession within the meaning of section 138.

(5) For the purposes of subsection (4)-

- (a) a tenancy at will shall be deemed to have terminated at the expiration of a period of one year from the commencement thereof unless it has previously been determined;
- (b) a periodic tenancy shall be deemed to have terminated at the expiration of the period:

Provided that where any rent has subsequently been paid in respect of the tenancy it shall be deemed to have terminated at the expiration of the period for which the rent has been paid.

(6) Possession shall be interrupted-

- (a) by dispossession by a person claiming the land in opposition to the person in possession;
- (b) by the institution of legal proceedings by the proprietor

of the land to assert his right thereto; or

- (c) by any acknowledgement made by the person in possession of the land to any person claiming to be the proprietor thereof that such claim is admitted.

(7) No person possessing land in a judiciary capacity on behalf of another may acquire by prescription the ownership of the land as against such other.

Procedure on application.

140.-(1) On application by any person for registration as proprietor under section 138, the application shall be advertised by the Registrar at the expense of the applicant in such manner as the Registrar may direct.

(2) The Registrar shall give notice of any such application to the proprietor, if any, of the land affected and to any other persons who may, in his opinion, be affected thereby.

(3) After one month has elapsed from the date of giving notice under subsection (2) the Registrar, on being satisfied that the applicant has acquired the ownership of the land claimed, may allow the application and register him as proprietor of the land claimed, subject to any interests on the register which have not been extinguished by the possession.

Acquisition of easements and profits by prescription.
CAP. 192.

141.-(1) Subject to the Prescription Act, easements and profits may be acquired without registration by peaceful, open and uninterrupted enjoyment thereof for a period of twenty years, but no easement of profit shall be acquired unless the proprietor of the land burdened by such easement or profit is, or by reasonable diligence might have been, aware of such enjoyment and might by his own efforts have prevented it.

(2) Where any person claims to have acquired an easement or profit by virtue of subsection (1), he may apply to the Registrar for the registration thereof, and the Registrar, on being satisfied as to the claim and

subject to such notices, advertisements and conditions as the Registrar may direct, shall register the easement or profit as an encumbrance on the register of the land affected and, in the case of an easement, in the property section of the register of the land which benefits.

PART X

Rectification and Indemnity

142.-(1) The Registrar may rectify the register or any instrument presented for registration in the following cases-

Rectification by Registrar.

- (a) in formal matters and in the case of errors or omissions not materially affecting the interests of any proprietor;
- (b) where any person has acquired an interest in land by prescription under Part IX;
- (c) in any case at any time with the consent of all persons interested;
- (d) where, upon resurvey, a dimension or area shown in the register or Registry map is found to be incorrect, but in such case the Registrar shall first give notice to all persons appearing by the register to be interested or affected of his intention to rectify.

(2) Upon proof of the change of the name or address of any proprietor, the Registrar shall, on the written application of the proprietor, make an entry in the register to record the change.

143.-(1) Subject to subsection (2), the court may order rectification of the register by directing that any registration be made, cancelled or amended where it is satisfied that any registration, including a first registration, has

Rectification by court.

been obtained, made or omitted by fraud or mistake.

(2) The register shall not be rectified so as to affect the title of a proprietor who is in possession or is in receipt of the rents or profits and acquired the land, lease or charge for valuable consideration, unless such proprietor had knowledge of the omission, fraud or mistake in consequence of which the rectification is sought, or caused such omission, fraud or mistake or substantially contributed to it by his act, neglect or default.

PART XI

Decisions of Registrar and Appeals

Power of
Registrar to state
case.

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

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

Appeals.

145.-(1) The Minister or any person aggrieved by a decision, direction, order, determination or award of the Registrar may, within thirty days of the decision, direction, order, determination or award give notice to the Registrar in the prescribed form of his intention to appeal to the court against the decision, direction, order, determination or award.

(2) On receipt of a notice of appeal, the Registrar shall prepare and send to the court and to the appellant, and to any other person appearing to him from the register to be affected by the appeal, a brief statement of the question in issue.

(3) On the hearing of the appeal, the appellant and the Registrar and any other person who, in the opinion of the court, is affected by the appeal may, subject to any rules of court, appear and be heard in person or by a legal practitioner.

(4) The court may make such order on the appeal as the circumstances may require, and every such order shall be given effect to by the Registrar.

(5) The costs of the appeal shall be in the discretion of the court.

(6) The Minister or any person aggrieved by an order of the court, may appeal to the Court of Appeal within such time and in such manner as may be regulated by the laws and rules of court for the time being in force relating to appeals to that Court in civil cases.

146.-(1) An appeal to the Court of Appeal shall not affect a disposition for valuable consideration made in good faith and registered before delivery of the notice of the appeal to the Registrar.

Effect of appeal on disposition.

(2) A note that an appeal is pending shall be made in the register affected by the appeal and any disposition shall be subject to such notice.

147.-(1) The Chief Justice may make rules of court for regulating applications and appeals to the court under this Act, and for the fees of court and of legal practitioners.

Appeal rules.

(2) The President of the Court of Appeal may, subject to the Court of Appeal Act, make rules for regulating appeals under this Act to the Court of Appeal and the fees of the Court of Appeal and of legal practitioners.

CAP. 90.

PART XII

Miscellaneous

- Addresses. 148.-(1) Any person who under this Act submits a caution or any instrument for registration, or is the proprietor of any land, lease or charge, shall furnish to the Registrar in writing a postal address within Belize for service and shall notify him in writing of any change in that address.
- (2) The Registrar may in his discretion dispense with the requirement specified in subsection (1) in regard to any particular case.
- Service of notice. 149. A notice under this Act shall be deemed to have been served on or given to any person-
- (a) if served on him personally; or
 - (b) if served on an attorney holding a power of attorney whereunder such attorney is authorised to accept such service; or
 - (c) if sent by registered post to him at his last known postal address in Belize or elsewhere; or
 - (d) if service cannot be effected in one of the above-mentioned ways, by displaying it in a prominent place on the land affected and by publishing it in three consecutive issues of the *Gazette*.
- Meaning of "opportunity of being heard". 150.-(1) Where, by this Act, a thing is to be or may be done after giving a person an opportunity of being heard, that person shall be deemed to have been given such an opportunity-
- (a) if he attends before the Registrar personally or by a legal

practitioner or other agent, and is given such an opportunity; or

- (b) if he intimates, personally or by a legal practitioner or other agent, that he does not wish to be heard; or
- (c) if he fails to attend pursuant to a notice in writing indicating the nature of the thing to be done and appointing a day and time not less than thirty days after service of the notice at which he will, if he attends before the Registrar, be heard.

(2) Where a person or legal practitioner or other agent on his behalf attends before the Registrar concerning a matter on which he is entitled to an opportunity of being heard, or fails to attend pursuant to such notice as aforesaid, the Registrar may, if he thinks fit, adjourn the hearing from time to time and, notwithstanding a failure to attend, may, if he thinks fit, hear such person at any time.

(3) Where by this Act all persons interested are to be given an opportunity of being heard, it shall be sufficient if all persons who, according to any subsisting entry in the register, appear to be so interested or affected are given such opportunity.

151.-(1) Any person who-

Offences.

- (a) knowingly misleads or deceives any person authorised by or under this Act to require information in respect of any land or interest in land; or
- (b) fraudulently issues or makes, or fraudulently procures the issue or making of, any certificate or other document, or any registration, or any erasure or alteration in any certificate or other document or in any

register; or

- (c) fraudulently uses, assists in fraudulently using or is privy to the fraudulent use of any instrument or form purporting to be issued or authorised by the Registrar; or
- (d) causes any defacement, obliteration, mutilation or unauthorised entry or alteration to be made on or in any register or filed instrument, or other document,

commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three years, or to both such fine and term of imprisonment.

(2) If any person, after the delivery to him of a summons to attend before the Registrar or to produce any document, neglects or refuses without reasonable cause to attend in accordance with the summons, or to produce any document which he is required by the summons to produce, or to answer upon oath or otherwise any question which is lawfully put to him by the Registrar under the powers conferred by this Act, he commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty dollars.

(3) Where a specific penalty has not been prescribed for any offence under this Act, any person who commits any such offence shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and term of imprisonment.

Fees. 152. There shall be payable in respect of land certificates, certificates of leases, searches, survey plans, printed forms and all other matters connected with registration, such fees as shall from time to time be prescribed and the Registrar shall refuse registration until the fees are paid.

- 153. Any expenses incurred by the Registrar or on his behalf shall constitute a civil debt recoverable by the Registrar in the appropriate court.

Recovery of fees and expenses.
- 154. Any sum of money ordered by the Registrar to be paid in the exercise of any power conferred on him by this Act shall be deemed to be a judgment debt and be recoverable as such.

Enforcement of Registrar's orders for payment.
- 155. Subject to the provisions of any Act conferring jurisdiction on a district court, civil suits and proceedings relating to the ownership or the possession of land, or to a lease or charge, registered under this Act or to any interest in any such land, lease or charge, being an interest which is registered or registrable under this Act, or being an interest which is referred to in section 31, shall be tried by the Supreme Court.

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

Regulations.
- 157. Nothing in this Act shall prejudice any of the interests, rights, powers and privileges conferred on the Crown or the Government by any other law.

Saving of rights.
- 158. Subject to section 157, this Act shall bind the Crown and the Government.

Act to bind Crown and Government.
- 159. Without prejudice to anything done or established thereunder, the General Registry Act and the Law of Property Act shall, upon the first registration of any land under this Act, cease to apply to such land.

Cessor of application of certain laws.
CAP. 327.
CAP. 190.