

Bill No. 3 of 1959

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BILL No. 3 OF 1959.

LAND REGISTRY BILL, 1959.

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A BILL

Intituled

AN ORDINANCE TO PROVIDE FOR THE REGISTRATION OF
LAND AND FOR MATTERS CONNECTED THEREWITH.

Enacted by the Legislature of British Guiana:—

PART 1. PRELIMINARY

Short title
and
commence-
ment

1. (1) This Ordinance may be cited as the Land Registry Ordinance, 1959.

(2) The Governor in council shall appoint the day or days on which this Ordinance or any parts or provisions thereof shall come into force in British Guiana or any portion thereof and may restrict or extend the application of any parts or provisions of this Ordinance to any portion of British Guiana in such manner as he thinks fit.

Interpre-
tation.

2. (1) In this Ordinance unless the context otherwise requires—

“approved plan” means a recorded plan which has been approved by the Commissioner of Lands and Mines in accordance with the provisions of section 63;

“Commissioner” means a Commissioner of Title appointed under this Ordinance, and in relation to any land “the Commissioner” means the Commissioner of Title within whose jurisdiction the land lies;

“Court” means the Supreme Court;

“dealing” means any transaction of whatever nature by which the rights of persons in or over land are affected;

“district” means a land registration district under this Ordinance;

“document of title” means any document which evidences the title of any prson to unregistered land and which is registered in the Deeds Registry or in the Department of Lands and Mines;

“endorsement” includes anything written upon or in the margin or at the foot of any document;

“instrument” includes any deed, judgment, degree, order or other document in writing which requires or is capable of registration under this Ordinance;

“interest” in relation to land includes any mortgage, charge, lease, easement or any other right, liability, or burden, on, in or over land;

“land” includes all things growing thereon or permanently affixed thereto and except as otherwise provided in any Ordinance, all buildings thereon;

“memorial” means an entry made in the Register and signed by the Registrar of any instrument presented for registration;

“parcel” means any separate lot or other area into which land is divided or sub-divided;

“Part,” “section,” “schedule” mean Part, section or schedule of this Ordinance as the case may be;

“recorded plan” means a plan of a survey made by a sworn land surveyor and recorded with the Commissioner of Lands and Mines in accordance with and pursuant to the laws for the time being in force relating to surveys by sworn land surveyors and includes any other plan authorised by and recorded with the Commissioner of Lands and Mines;

“register” means the register kept under the provisions of this Ordinance;

“to register” means to register under the provisions of this Ordinance, and the words “registered,” “unregistered,” and “registration” bear a corresponding meaning;

“Registrar” means the Registrar of Lands appointed under this Ordinance and includes the Deputy Registrar and an assistant registrar;

“transfer” means the passing of land by act of the parties and not by operation of law and also the instrument by which such passing is effected;

“transmission” means the vesting of land by operation of law on the death or insolvency of a registered proprietor or otherwise;

(2) For the purposes of this Ordinance the description of any person as proprietor, transferor, transferee, mortgagor, mortgagee, lessor or lessee shall unless the context otherwise requires include the executors, administrators, successors, transferees and assigns of that person.

(3) Unless the context otherwise requires, reference in any ordinance to a transport or to the passing of a transport in respect of any land shall, if the land is registered land, be deemed to be a reference to a transfer or to the execution and registration of an instrument of transfer as the case may be.

(4) References in this Ordinance to land shall where the context so admits include references to interests in land.

3. (1) Except as otherwise provided in this Ordinance, no other ordinance and no regulations, rules, laws, practice or procedure relating to land shall apply to registered land so far as they are inconsistent with the provisions of this Ordinance, and in particular but without prejudice to the generality of the foregoing the law and practice relating to conventional mortgages or hypothecs of immovable property and to easements profits **a prendre** or real servitudes and to oppositions shall not apply to registered land, but unless a contrary intention appears nothing contained in this Ordinance shall be construed as permitting any dealing or other act which is forbidden under the express provisions of any other ordinance or as overriding any provision of any other ordinance requiring the consent or approval of any authority or person to any dealing or other act.

Application
of other
ordinances.

(2) Except as otherwise provided in this Ordinance, the provisions of the Deeds Registry Ordinance shall not apply to registered land and, unless the context otherwise requires, reference in any ordinance or in any regulations, rules or other laws to the Deeds Registry Ordinance or to the Deeds Registry or to the Registrar of Deeds in relation to any land or in relation to any dealing or instrument affecting any land shall, if the land is registered land, be deemed to be a reference to this Ordinance or to the land registry or to the Registrar of Lands as the case may be.

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4 (1) The objects of this Ordinance are to simplify the title to land and facilitate dealing therewith and to secure indefeasibility of title to all registered proprietors, except in certain cases specified in this Ordinance.

Objects of
Ordinance.

(2) Any rule of law or equity to the contrary notwithstanding, this Ordinance shall be construed in such manner as shall best give effect to the objects hereinbefore declared.

5. No land once subject to the provisions of this Ordinance shall be withdrawn therefrom.

Land not to
be withdrawn,

PART II. — ADMINISTRATION

6. (1) For the purposes of this Ordinance the Governor in Council may by order—

Land regis-
tration
districts.

- (a) divide British Guiana or any portion thereof into land registration districts;
- (b) constitute in any part of British Guiana a land registration district or districts;
- (c) distinguish the districts by the name or number he thinks proper; and
- (d) vary the limits of any district.

(2) Every such order shall be published in the Gazette, and shall take effect on the publication thereof or at any other time mentioned therein.

7. (1) There shall be a Registrar of Lands and a Deputy Registrar of Lands, who shall be the persons for the time being holding the offices of Registrar of Deeds and Deputy Registrar of Deeds respectively.

Registrar
of Lands and
other officers.

(2) The Governor shall appoint such assistant registrars and other officers as he may consider necessary for the purposes of this Ordinance.

(3) The Deputy Registrar shall, subject to the general or special directions of the Registrar, assist the Registrar in the performance of his duties under this Ordinance and shall in the exercise of his office have all the powers and may exercise all the functions of the Registrar.

(4) An assistant registrar shall act under and conform to the directions of the Registrar and subject thereto shall when in charge of a land registry have all the powers and may exercise all the functions of the Registrar in such land registry except such as may be expressly required to be exercised by the Registrar.

Establishment
of land
registries.

8. (1) There shall be established and maintained in each district a land registry, and the land registry in Georgetown shall be the Principal Land Registry.

(2) The Registrar shall maintain in each land registry a register for the registration of the title to land in the district in respect of which such land registry has been established and for the recording of dealings under this Ordinance.

(3) Every land registry shall have a seal for the sealing of documents.

Oath of
office.

9. The following oath shall be taken before the Chief Justice by every Registrar, Deputy Registrar and assistant registrar who may hereafter be appointed, before entering upon the duties of his office—

“I, A.B., swear by Almighty God that I will faithfully and to the best of my ability execute and perform the office and duties of Registrar of Lands (or Deputy Registrar, or assistant registrar as the case may be) pursuant to the Land Registry Ordinance, 1959.”

Appointment
and oath
of valuers.

10. (1) The Registrar may appoint persons to be sworn valuers and may annul the appointment of any such person.

(2) Every such person shall on appointment take the following oath before the Registrar who is hereby authorised to administer the same—

“I, A.B., swear by Almighty God that in making any valuation I will act faithfully and honestly and to the best of my skill and ability.”

PART III.—COMMISSIONERS OF TITLE

Appointment
of Commis-
sioners of
Title

11. The Governor shall for the purposes of this Ordinance appoint such number of Commissioners of Title as he may consider necessary.

Qualification
for appoint-
ment of Com-
missioners.

12. No person shall be appointed a Commissioner unless he has been a barrister or solicitor, or has been qualified to be admitted as a barrister or solicitor, for a period of not less than five years, and no person so appointed shall during tenure of office practise either directly or indirectly as a barrister or solicitor, or be in partnership with any person so practising.

Commis-
sioner's oath.

13. A Commissioner shall before entering upon the duties of his office take the oath of allegiance and the judicial oath prescribed by the Promissory Oaths Ordinance.

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Land Court.

14. (1) There shall be established a court of special jurisdiction subordinate to the Court to be styled “the Land Court” whereof a Commissioner shall be the presiding judge.

(2) A Land Court may be established for any district or districts.

(3) Every Land Court shall have a seal for the sealing of documents.

Jurisdiction
and powers
of Commis-
sioners.

15. (1) A Commissioner shall have jurisdiction in all claims made under this Ordinance relating to land situated in the district or districts for which a Land Court is established with powers to determine any questions that may need determination in connection with such claims.

(2) A Commissioner shall have all the powers of a judge of the Court in respect of procedure in a Land Court, and the summoning of and administering of oaths to witnesses, assessors, land valuers, appraisers and other persons whose advice, assistance or evidence shall seem to him to be necessary, and the production of instruments and records and the due and proper administration of justice and order in the said court.

Practice
and pro-
cedure of
the Land
Court.

16. (1) Practice and procedure in the Land Court shall be regulated by this Ordinance, and by rules of court made as hereinafter provided.

(2) The Governor may appoint a committee consisting of one or more Commissioners, a practising barrister and a practising solicitor to make rules of court.

(3) Rules of court shall be subject to the approval of the Governor in Council who may amend them, and such rules shall not come into operation until they have been so approved and published in the Gazette.

(4) Until rules are made under the provisions of subsections

(i) and (2) of this section, the Summary Jurisdiction (Civil Procedure) Rules shall apply with such adaptations as may be necessary and so far as the same can be applied to proceedings in the Land Court.

PART IV.—FIRST REGISTRATION

A. Registration Areas

17. (1) The Governor in Council may by order designate any area of land defined in the order (hereinafter in this Part referred to as 'the area') as a registration area.

Designation
of registration
area by order.

(2) The Governor in Council may by any order made under subsection (1) of this section or by subsequent order—

- (a) make such supplemental and consequential provisions as he may consider necessary for giving full effect to the order or for carrying it into effect;
- (b) prescribe the fees to be paid in respect of the first registration of any land in the area.

(3) The Governor in Council may amend or revoke any order made under this section.

(4) Every order made under this section shall be published once in each of three successive weeks in the Gazette and in a daily newspaper circulating in British Guiana and upon such publication shall have the same effect as if it were contained in the Ordinance.

(5) A copy of any order made under this section shall be forwarded to the Commissioner, the Registrar of the Court, the Registrar and the Commissioner of Lands and Mines.

18. (1) Upon receipt of the copy of the order the Commissioner shall forthwith prepare and publish a notice (hereafter in this Part referred to as 'the notice')—

Commissioner
to give notice
of the order.

- (a) requiring every person who claims title to any unregistered land in the area under a document of title to apply to the Commissioner to record the said document; and
- (b) requiring every person who claims to have acquired title by inheritance, devise, purchase, adverse possession or in any other manner to any unregistered land in the area but who holds no document of title therefor to apply to the Commissioner for a declaration of title thereto under this Ordinance; and
- (c) requiring every person who claims title or to have acquired title as aforesaid to any share in any land in the area or to be the mortgagee of any such share and who desires the partition of such land to apply to the Commissioner for such partition; and
- (d) specifying the period within which all such applications shall be submitted.

(2) The Commissioner shall forthwith cause copies of the notice to be posted in conspicuous places in all land registries and in the office of the District Commissioner of the administrative district within which the area is situate and in every post office and police station within such district, and shall also cause not less than ten copies of the notice to be posted at conspicuous places within the area, and shall take such other steps as he considers necessary to advertise the notice and shall forward a copy of the notice to the Registrar of the Court, the Registrar and the Commissioner of Lands and Mines.

19. (1) Where after the expiration of the specified period any proceedings in the Court for a declaration of title to land in the area are commenced or are pending, the Court shall remit the matter to the Commissioner for determination as if it were an application made under section 22.

Actions
pending
in Court.

(2) The provisions of this section shall cease to apply after the publication of the list referred to in section 31.

20. Upon receipt of the copy of the order the Registrar shall forthwith investigate what titles if any are registered in the land registry or in the Deeds Registry or in the Department of Lands and Mines in respect of land in the area, and after such investigation shall submit to the Commissioner a report on the titles to land in the area and shall endorse or cause to be endorsed on every such title a reference to the order.

Registrar's
report on
titles in
the area.

21. The Commissioner of Lands and Mines shall cause such surveys and plans of the area to be made or supplied as may be prescribed or as may be directed by the Commissioner.

Surveys and
plans of the
area.

Applications
for declarations
or
recording of
title.

22. (1) Upon publication of the notice —
- (a) the Commissioner of Lands and Mines shall apply for the registration of Crown or Colony land in the name of the Crown or Colony;
 - (b) every person who claims title to any unregistered land in the area under a document of title shall apply to have the document recorded;
 - (c) every person who claims title to any unregistered land in the area but who holds no document of title therefor shall apply for a declaration of title thereto;
 - (d) every person who claims title to a share in any land in the area or to be the mortgagee of any such share may apply to have the land partitioned.

(2) Every such application shall be lodged with the commissioner within the period specified in the notice together with the documents or other evidence relied on in support of the application.

(3) The Commissioner may permit any person to make an application out of time upon such conditions as he thinks fit.

Hearing of
applications.

23. (1) Upon the expiration of the specified period the Commissioner shall fix the day and place for hearing applications and shall cause not less than thirty days notice thereof to be given by registered post to every applicant and by publication in the Gazette and in one daily newspaper circulating in British Guiana.

(2) The Commissioner shall proceed to hear and determine the applications upon the day appointed or upon any other day to which he may have adjourned the hearing.

Adjudication
by Com-
missioner.

24. The Commissioner shall determine who is entitled to each and every parcel of unregistered land in the area and shall —

- (a) record all documents of title to unregistered land in respect of which he is satisfied —
 - (i) that the person claiming ownership under any such document is the person or derives title under or through the person named in the document;
 - (ii) that no other person is able to establish title to the land by possession adverse to the title of the claimant.
- (b) make a declaration of title to each parcel of unregistered land in respect of which he is satisfied that no person is the owner and entitled to possession thereof under a document of title, subject to such interests as may have been admitted or proved to subsist therein or thereover;
- (c) partition in conformity with the manner in which it is being occupied by the persons entitled thereto or in any other manner he considers expedient to ensure its more beneficial occupation any land in respect of which an application for partition has been received under section 22: Provided that he shall so far as possible divide such land between the persons entitled thereto in proportion to their respective shares;
- (d) make a declaration of title in favour of the Crown to any land in respect of which no person is able to establish title to his satisfaction and he is unable after due enquiry to indentify any person as being entitled thereto.

Further
powers
of the Com-
missioner.

25. (1) The Commissioner may—
- (a) adjust the boundaries of any land in the area or re-allot the same to ensure the more beneficial occupation thereof or to effect a more suitable subdivision thereof;
 - (b) make any reservations he considers necessary for the purpose of laying out roads and paths or for the better drainage of any land or for any other purposes connected with the improvement thereof;
 - (c) make a declaration of such right of way of necessity over any land in the area in favour of any other land in the area as may to him seem necessary and just and may direct the manner which the right of way is to be exercised and in such case he shall direct that a memorial of the right of way be entered in the land registry or in the Deeds Registry or in both in respect of the dominant land and of the servient land.

- (d) award such compensation as may to him appear just to any person who has suffered loss of land as the result of any adjustment of boundaries or the partition or re-allotment of any land or the creation of any right of way and may make an order directing by whom such compensation shall be paid;
- (e) determine the proportion in which the expenses of any partition shall be borne by the persons interested therein and make an order accordingly;
- (f) may make an order as to costs not exceeding fifty dollars.

(2) Any order for the payment of compensation expenses or costs made against the proprietor of any land shall create a lien on such land which shall be preferent over all debts whatever except debts due to the Crown and shall be enforceable in the same manner as a judgment of the Court.

(3) On re-alloting land or adjusting the boundaries thereof or on making any reservation the Commissioner—

- (a) may cancel or amend any document of title to give effect thereto; and
- (b) shall in the case of a partition cancel all documents of title in respect of the land partitioned and issue declarations of title therefor.

26. If the Commissioner is satisfied that any person who has not made an application is entitled to any unregistered land in the area he may proceed as if that person had duly made an application, and if in such case the person is entitled to the land under a document of title the Commissioner may call upon the Registrar of Deeds or the Commissioner of Lands and Mines to supply him with a certified copy of such document of title.

Rights of absent persons safeguarded.

27. The Commissioner shall give effect to the following provisions—

- (a) all waste, forest and unoccupied land shall be deemed to be the property of the Crown until the contrary is proved;
- (b) the exercise by any person of rights in or over one or more portions or pieces of land shall not be taken as a presumption in his favour of ownership of any rights in or over any greater extent of land than that in or over which such rights were exercised.

Provisions as to occupation of land.

28. If the Commissioner is satisfied that a claimant is in possession of the land the subject of the application or any part thereof by himself or by any person holding under him and that he would be entitled to maintain and defend such possession against any other person claiming the same or any part thereof, his declaration shall be a declaration of absolute title.

Declaration of absolute title.

29. If the Commissioner is satisfied that a claimant or any person through whom he claims has been in possession of the land for not less than five years but is not satisfied that the claimant would be entitled to maintain and defend his possession against any person claiming a right or interest arising before a specified date or under a specified instrument or which can be otherwise particularly described, the Commissioner having regard to the history of the title to the land and to the possibility of any other person being able to establish title thereto and to recover possession thereof may nevertheless make a declaration of title, but such declaration shall be a declaration of provisional title, and the Commissioner shall specify therein the nature of the qualification to which the title is to be subject.

Declaration of provisional title.

30. The Commissioner shall record each document of title by endorsing thereon a reference to the parcel-number of the land referred to therein and preparing a statement showing —

- (a) the reference number and date of the document as filed in the Deeds Registry;
- (b) the parcel-number of the land referred to therein; and
- (c) the name and address of the person entitled under the document.

Recording of documents of title by the Commissioner.

31. (1) The Commissioner shall cause a list of all declarations and records of title made by him to be published in the Gazette and in one daily newspaper circulating in British Guiana and to be otherwise advertised in such manner as may be prescribed.

Publication of declarations and records of title.

(2) The Commissioner shall thereupon transmit to the Registrar all declarations and records of title made by him together with the documents of title produced to him.

Registration of declarations of title.

32. Subject as hereinafter provided, upon receipt of any declaration of title the Registrar shall register the title of the person named in the declaration as proprietor of the land in accordance therewith.

Recording of documents of title by the Registrar.

33. (1) Subject as hereinafter provided, upon receipt of any record and document of title the Registrar shall record the same by opening in the register a folio in respect of the parcel and entering therein a reference to the document as filed in the Deeds Registry and endorsing thereon the words "not registered" and notwithstanding any provision of this Ordinance such land shall for all purposes be unregistered land.

(2) Whereunder the provisions of section 25 the Commissioner has amended any document of title the Registrar shall record the amendment upon the document filed in the Deeds Registry and the document shall thereafter have full force and effect as amended.

(3) The Registrar shall thereupon return the document of title to the person entitled thereto.

(4) Where a folio has been opened in respect of any parcel with the endorsement "not registered", a reference to the parcel-number shall be entered on every subsisting document of title and on every subsequent document of title affecting the parcel and registered and filed as of record in the Deeds Registry, and notice of every such subsequent document of title shall be given to the Registrar who shall enter in the folio of the parcel a reference thereto.

(5) Nothing in this section shall operate to prevent any land in respect of which a document of title has been recorded under this section from being subsequently brought under the operation of this Ordinance under any other provision thereof.

Appeals.

34. (1) Any person aggrieved or affected by a decision of the Commissioner may appeal therefrom to the Full Court within twenty-eight days from the date of the Gazette in which the list of declarations and records of title appear.

(2) The Full Court shall have all the powers and duties of the Commissioner together with the power to receive further evidence on any question of fact.

No registration or record of title pending appeal.

35. No declaration or document of title shall be registered or recorded by the Registrar until the expiration of twenty-eight days as aforesaid, or, in cases where an appeal has been brought, until such appeal has been withdrawn, abandoned or dismissed.

Order where appeal allowed.

36. If an appeal is allowed, the appellate court shall make such declaration or record of title or such other order as the case may require, and the Registrar of such Court shall transmit a copy of the judgment to the Registrar who shall thereupon register or record the declaration or document of title as the case may be.

B. Areas other than Registration Areas

First registration of Crown and Colony lands and of Crown grants.

37. (1) The Commissioner of Lands and Mines may apply to the Registrar for the registration of any land in the name of the Crown or of the Colony.

(2) The Governor may in lieu of making a grant of any unregistered Crown land issue directions to the Commissioner of Lands and Mines to apply for the registration of the title of the proposed grantee as proprietor of the land.

(3) In applying to the Registrar for the registration of any such land, the Commissioner of Lands and Mines shall furnish to the Registrar—

- (a) a statement that the land is the property of the Crown or of the Colony together with any existing title thereto;
- (b) a statement of any interests known to subsist in or over the land or which it is desired to show upon the register;
- (c) a recorded plan of the land.

(4) On receiving any such application the Registrar shall cause a notice thereof to be published in the Gazette and in one daily newspaper circulating in British Guiana.

(5) Any person claiming title to or interest in any land, or claiming to be in possession of any land, in respect of which such application has been made may within three months of the date of the

Gazette in which the advertisement first appears lodge with the Registrar a notice of objection.

(6) If on the expiration of the said period of three months no notice of objection has been received, the Registrar shall register the Crown or the Colony or the proposed grantee as proprietor of the land subject to any interests as aforesaid.

(7) If any notice of objection is received, the Registrar shall unless the application is withdrawn transmit the application, statements and plan together with the notice of objection to the Commissioner who shall thereupon proceed as if an application has been transmitted to him by the Registrar under the next following section.

38. (1) Any person who claims to be the owner or in possession of any unregistered land but who holds no document of title therefor may apply to the Commissioner for a declaration of title to the said land.

Application
for declara-
tion of title.

(2) Such application shall be lodged with the Registrar together with—

- (a) the documents or other evidence relied on in support of the application;
- (b) an affidavit containing such particulars as may be prescribed; and
- (c) a diagram or plan of the land.

(3) No such application shall be accepted from any person claiming ownership of an undivided share of any land, unless the person or persons claiming ownership of the remaining undivided share or shares therein join in the application and apply to have the entirety of the land included in the declaration of title.

(4) The Registrar shall investigate whether title to the land has at any time been registered in the land registry or in the Deeds Registry or in the Department of Lands and Mines and after such investigation shall transmit to the Commissioner the application, documents, affidavit and plan together with a report on the title.

39. (1) Upon receipt of an application the Commissioner shall fix a day for hearing and shall cause not less than thirty days notice thereof to be given by publication in the Gazette and in a daily newspaper circulating in British Guiana and shall also give notice by registered post to the applicant, to any person named in the report of the Registrar as the holder of a document of title to the land, to the occupants if any of the land and to the proprietors of adjoining lands.

Hearing of
applications.

(2) Any person claiming to be the owner or to be in possession of any land in respect of which a declaration of title is sought under this section or claiming any interest therein may, not less than seven days before the date fixed for hearing the application, submit to the Commissioner a counter-application or notice of objection.

(3) A counter-application or notice of objection may, with the leave of the Commissioner given in such circumstances and on such terms as the Commissioner may determine, be submitted at any time before the determination of the application.

(4) The provisions of subsection (3) of the last preceding section shall apply to counter-applications.

(5) The Commissioner shall proceed to hear the application and counter-application if any upon the day appointed or upon any other day to which he may have adjourned the hearing.

(6) An application or counter-application may be withdrawn at any time before the Commissioner has delivered his decision. Where any application has been withdrawn, the Commissioner shall decide any counter-application as if it were an application made under subsection (1) of the last preceding section.

(7) The Commissioner may adjourn the hearing for further investigation, evidence or advertisement or for a plan to be made or to allow further time to elapse in favour of any party.

40. (1) Upon the conclusion of the hearing the Commissioner may —

Decision of
Commis-
sioner.

- (a) issue a declaration of title in favour of the applicant or of any counter-applicant in respect of the land or of any part thereof subject to such interests as may have been admitted or proved to subsist thereover;
- (b) dismiss the application or any counter-application;
- (c) make any order as to costs not exceeding fifty dollars.

(2) Subject to the provisions of the next succeeding section a declaration made under this section may be of absolute or of provisional title in accordance with the provisions of sections 28 and 29.

Declaration
of absolute
title in the
case of
doubtful titles

41. (1) Subject as hereinafter provided, in any case in which the Commissioner would be required under section 29 to make a declaration of provisional title, he may make a declaration of absolute title.

(2) Before making such a declaration the Commissioner shall give notice by advertisement in the Gazette and in at least one daily newspaper circulating in British Guiana, and by service on such persons as he may consider necessary, of his intention to make a declaration of absolute title unless an objection is submitted within such time as may be appointed, being not less than one month nor more than twelve months from the date of such advertisement.

(3) If thereafter the Commissioner makes a declaration of absolute title, he may direct that the person in whose favour it is made shall as a condition of registration with an absolute title pay to the Assurance Fund such additional contribution as he may consider necessary and just.

Publication
of declara-
tions of
title and
procedure
thereafter.

42. (1) On the making of any declaration of title, the Commissioner shall cause a notice thereof to be published in the Gazette and in one daily newspaper circulating in British Guiana.

(2) The Commissioner shall thereupon transmit the declaration of title to the Registrar, and thereafter the provisions of sections 32 to 36, so far as they are applicable to declarations of title, shall apply, and the period referred to in subsection (1) of section 34 shall commence from the date of the Gazette in which the aforesaid notice appears.

First regis-
tration by
transport.

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43. (1) Subject to the provisions of the Deeds Registry Ordinance land held under a document of title may be brought under the operation of this Ordinance by passing transport thereof to any person as registered proprietor.

(2) Where an agreement has been made for the sale and purchase of any unregistered land by transport, the purchaser may require the vendor to pass transport to him as registered proprietor and the vendor shall thereupon pass transport accordingly.

(3) Any person may pass transport of any land to himself as registered proprietor.

(4) Any transport passed in accordance with the provisions of this section shall be passed in the same manner and subject to the same conditions as transports passed under the Deeds Registry Ordinance save and except—

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- (a) that in the vendors instructions to advertise and in every advertisement and in the transport the transferee shall be described by the addition of the words "as registered proprietor under the provisions of the Land Registry Ordinance, 1959"; and
- (b) that upon being passed the transport shall be registered in accordance with the provisions of this Ordinance and not of the Deeds Registry Ordinance.

(5) No transport shall be passed under the provisions of this section unless the Registrar has certified in the certificate which he is required to sign under the provisions of the Deeds Registry Rules that the land is not already registered under the provisions of this Ordinance.

First regis-
tration upon
order of
Court.

44. Where by any judgment or order the Court, whether on appeal or otherwise, has awarded to any person title to any unregistered land or has declared that any person is entitled to such land, the Registrar of the Court shall transmit to the Registrar a copy of the said judgment or order, and the Registrar shall thereupon register the title of such person as the proprietor thereof.

First regis-
tration in
lieu of
judicial
sale trans-
port.

45. Upon the sale in execution of any unregistered land, the marshal shall deduct from the proceeds of sale the costs of registering the title of the purchaser as the proprietor of the land. So soon as the purchase money has been paid in full, the marshal in lieu of passing a judicial sale transport shall execute an application for the registration of the title of the purchaser as proprietor of the land. Such application, together with the costs of registration shall be lodged by the marshal with the Registrar who shall thereupon register the title of the purchaser accordingly.

First regis-
tration upon
vesting under
an ordinance.

46. Where in accordance with the provisions of any ordinance any unregistered land hereafter becomes vested in the Crown or in the Colony or in any person, the plans of such land and any certificate or other document required by any such ordinance to be deposited shall be deposited with the Registrar who shall thereupon register the title of the Crown, Colony or person as the proprietor of the land so vested.

47. Where any unregistered land has been partitioned or re-allotted under the provisions of the District Lands Partition and Re-allotment Ordinance, the officer appointed by the Governor in Council under that Ordinance shall apply to the Registrar for registration of the titles of the persons to whom the land has been allotted, and the Registrar shall thereupon register the titles accordingly.

First registration upon partition or re-allotment. Cap. 173

C. General

48. Upon the first registration of any land —

- (a) any subsisting documents of title filed as of record in the Deeds Registry or in the Department of Lands and Mines and referring to the land shall be endorsed with a statement that the land has been registered under the provisions of this Ordinance and with a reference to the parcel-number under which the land has been registered; and
- (b) all documents produced to the Commissioner or to the Registrar as evidence of title to the land to which they refer shall be marked "cancelled" and retained in the land registry.

Endorsement of documents filed as of record.

49. (1) Any person claiming ownership of any land under any title subject to which the land was registered, or the existence or possible existence of which is referred to in a declaration of provisional title, may apply to the Commissioner for a declaration of absolute title in accordance with the provisions of this Ordinance, but shall serve a copy of such application on the registered proprietor.

First registration with absolute title adverse to provisional title.

(2) If on the hearing of the application the Commissioner is satisfied that the applicant is the owner of the land under the aforesaid title and that, but for the certificate of provisional title, he would be entitled to recover possession thereof from the registered proprietor, the Commissioner shall make a declaration of absolute title in favour of the applicant and an order that the provisional title be cancelled or rectified and that the certificate of provisional title be called in for cancellation or rectification.

PART V — THE REGISTER

50. The register shall be in such form as may be prescribed.

Form of register.

51. (1) An index map shall be kept showing the boundaries of all registered land.

Index plan and blocks.

(2) For the purposes of the index map British Guiana shall be divided into areas to be known as "blocks" and every block shall be given a reference number.

(3) The parcels in each block shall be numbered consecutively and the numbers of the block and parcel shall together be the parcel-number and shall be a sufficient reference to any parcel.

52. Upon the first registration of any parcel of land under this Ordinance, the Registrar shall open in the register a folio which shall be the register in respect of that parcel and shall enter thereon a memorial of the title of the proprietor and the parcel-number and the land comprised in that parcel shall thereupon become subject to the operation of this Ordinance.

First entry in register.

53. The Registrar shall not bring under the provisions of this Ordinance any land whether pursuant to a declaration of title or an order of the Court or of the Commissioner or otherwise nor shall he register any interest, sub-division or partition in or of registered land, unless it is delineated on and defined or identified by a recorded plan:

No registration except by plan.

Provided that if such land, interest, sub-division or partition is delineated on and defined or identified by a diagram or plan other than a recorded plan which in the opinion of the Registrar sufficiently defines or identifies the same to enable it to be located by survey, the Registrar may register the same in accordance with such diagram or plan subject to such conditions as may be prescribed.

54. (1) The Registrar shall enter upon the register of each parcel a memorial of —

Entry of memorials in register.

- (a) all subsisting interests to which that parcel is subject at the time when it is brought under the operation of this Ordinance in such manner as to preserve the priorities thereof;
- (b) every instrument dealing or other matter affecting that parcel which is required by this Ordinance to be registered.

(2) Every memorial entered in the register shall be in such form as may be prescribed.

Provisions
as to
instruments.

55. (1) Every instrument presented for registration —

- (a) shall be in such form as may be prescribed;
- (b) shall be executed by every person who is a party thereto unless the Registrar considers that execution by any particular party is unnecessary; and
- (c) shall except in the case of an instrument of transfer of land be in duplicate,

and the signature or mark of every person executing the instrument shall be attested in the prescribed manner.

(2) An instrument may affect more than one parcel of land, but, subject to the provisions of section 150, no instrument shall be registered if it affects unregistered as well as registered land.

(3) Where an instrument affects land in more than one district, the registrar of each district to whom the instrument is presented for registration may require the presentation for filing in his office of a copy of the instrument certified as a true copy by the registrar in whose district an executed copy has already been filed.

Endorsement
of instru-
ments.

56. Every instrument presented for registration shall be endorsed in such manner as to record the order in which instruments are presented for registration.

Registration
of instru-
ments.

57. (1) Every instrument, dealing or other matter affecting any registered land shall when registered be deemed to have been registered so soon as it was presented for registration, notwithstanding that the entering of the memorial may have been delayed.

(2) Instruments registered with respect to the same interest shall, notwithstanding any rule of law or equity to the contrary, be entitled in priority the one over the other according to the order in which they are presented for registration and not according to the date of each instrument itself.

(3) Where an infant or a person under any other disability is registered as the proprietor of any land the Registrar shall endorse on the register the age of such infant or the nature of the disability so far as is known to him.

Filing of
instruments.

58. (1) On registration of any instrument the Registrar shall file the same or if in duplicate one part thereof and shall deliver the other if any to the person presenting the same for registration.

(2) Where there is any conflict between the part of any instrument filed in the registry and the part delivered as aforesaid to the person presenting the instrument for registration, the first mentioned part shall prevail.

Instruments
not to be
registered.

59. The Registrar shall not register any instrument —

- (a) except in the manner herein provided;
- (b) unless the instrument is in accordance with the provisions hereof;
- (c) unless the prescribed fee if any has been paid or, in cases where the instrument is liable to duty or to stamp duty, the duty has been paid or the instrument purports to have been duly stamped; but no registration shall be invalidated by reason of any error in this respect;
- (d) unless the instrument is presented for registration by a party thereto or by his attorney or by a barrister or solicitor.

Rectification
of register
by Registrar.

60. (1) In formal matters and in the case of errors or omissions not materially affecting the interest of proprietors and in any case with the consent of all persons interested, the Registrar or in his absence the Deputy Registrar shall have power to rectify the register, but in any such case he shall not erase or render illegible the original entry and shall affix the date on which such correction or entry was made.

(2) Every correction or entry under this section shall have the like validity and effect as if the error or omission had not occurred, but without prejudicing any rights accrued from any entry made in the Register before the actual time of correcting the error or supplying the omitted entry.

Rectification
of register
by Court.

61. Rectification of the register may be ordered by the Court in such manner as the Court thinks fit —

- (a) where the Court is satisfied that the registration of any person as proprietor of land has been obtained through any error or omission or by reason of any entry procured by fraud or made under a mistake;

- (b) in any other case where by reason of any error or omission in the register or by reason of any entry procured by fraud or made under a mistake the Court deems it just to rectify the register:

Provided that as against a proprietor who has acquired the land or any interest therein *bona fide* for value the Court shall not rectify the register unless such proprietor is a party or privy to the fraud or mistake or has caused or substantially contributed thereto by his act, neglect or default.

62. Except in accordance with the provisions of this Ordinance no title to registered land shall be cancelled or rectified. Titles not to be cancelled.

63. Subject to the payment of such fees as may be prescribed, the proprietor of any land may at any time apply to the Commissioner of Lands and Mines to approve any plan of a survey as defining the precise position of the boundaries of the land. The Commissioner of Lands and Mines may, after the survey and plan have been checked, approve such plan and certify accordingly, and the Registrar shall upon the application of the proprietor enter in the register a memorial thereof. Approved plans.

PART VI — TITLE OF REGISTERED PROPRIETORS

64. (1) No unregistered instrument shall be effectual to pass any interest in registered land, but upon registration of an instrument the interest therein specified shall pass, or the land shall become liable as security for the payment of money, as the case may be, subject to such terms and conditions as are set forth in the instrument and are capable of taking effect and subject to such terms and conditions as are by law declared to be implied in instruments of a like nature. Instruments ineffectual until registered.

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

65. (1) Subject as hereinafter provided, the title of every registered proprietor shall be absolute and indefeasible and accordingly shall not be impeached or affected in any way by the existence in any other person of any interest (whether derived by grant from the Crown or otherwise) which but for this Ordinance might be held to be paramount or to have priority or by reason or on account of any informality or irregularity in the application or proceedings for registration except — Nature of title.

- (a) in the case of fraud;
- (b) as regards any portion of land erroneously included in any parcel by misdescription of boundaries, unless such proprietor is a *bona fide* purchaser for value or derived title from or through such a purchaser;
- (c) as otherwise specified in the register or provided in this Ordinance.

(2) In this Part "prior title" means the title of the person, or the title of any registered proprietor which is derived under or through the person, who was registered as the proprietor of any land upon that land being first brought under the operation of this Ordinance, and "conflicting title" means any title which was registered after the first registration of any prior title and in conflict therewith.

(3) A prior title shall prevail over a conflicting title except—

- (a) where the conflicting title was registered pursuant to a declaration of title made by the Court or by the Commissioner; or
- (b) where the holder of the conflicting title or any person under or through whom he derived that title has been in actual possession of the land adverse to the holder of the prior title for twelve years or more; or
- (c) where any holder of the prior title is proved to have had actual notice of the intended or actual registration of the conflicting title and to have taken no steps either to prevent the registration thereof or within one year of such notice to have the registration thereof cancelled; or
- (d) where the Court is of opinion that it would be inequitable for the registration of the prior title to prevail,

and in all such cases the conflicting title shall prevail.

66. Every proprietor registered with an absolute title shall hold the registered land subject to — Absolute title.

- (a) any interests registered or entered in the register;
- (b) any public right of way or easement;

- (c) any charge on or over land created by the express provisions of any other ordinance without reference to registration under this Ordinance to secure any unpaid rates, taxes, assessments or other moneys due and owing to the Crown or to the Colony or to any statutory authority;
- (d) such interests as may under the provisions of this Ordinance subsist over registered land without being entered in the register,

but with all rights, privileges and appurtenances belonging or appurtenant to such land and free from all other rights and interests whatsoever including rights and interests of Her Majesty, her heirs and successors.

Provisional title.

67. Every proprietor registered with a provisional title shall hold the registered land except as against any person claiming any right or interest therein arising before a specified date or under a specified instrument or otherwise particularly described in the register, and the registration of a proprietor with a provisional title shall have the same effect as the registration of a proprietor with an absolute title save that registration with a provisional title shall not affect or prejudice the enforcement of any right or interest stated in the register to be excepted.

Conversion of provisional into absolute title.

68. (1) Any proprietor registered with a provisional title or any interested person may at any time apply to the Commissioner to be registered or to have the proprietor registered with an absolute title and all the provisions of this Ordinance relating to an application for a declaration of title in the case of first registration in an area other than a registration area shall apply except that it shall not be obligatory on the Commissioner to cause the application to be advertised.

(2) If at the hearing of any such application the Commissioner is satisfied that the qualification to which the provisional title is subject has ceased to be of effect or that it is a case in which a declaration of absolute title may be made in accordance with the provisions of section 41, the Commissioner shall make an order for the registration of the applicant with absolute title after such advertisement as he may think fit or as is required by that section.

(3) On the making of any such order or upon the expiration of twelve years from the date of first registration with a provisional title, the Registrar shall on the application of any interested party strike the words "provisional title" from the Register and the title of the registered proprietor shall thereupon become an absolute title.

Protection of person dealing in registered land.

69. (1) A person contracting or dealing or taking or proposing to take a transfer in respect of registered land shall neither be required nor be concerned in any manner to —

- (a) inquire or ascertain the circumstances in or under which or the consideration for which the registered proprietor or any previous registered proprietor of the land in question is or was registered;
- (b) see to the application of the purchase money or any part thereof;
- (c) give effect to, nor be affected in any way by, any notice of any instrument, fact or thing, whether registered or not under the Deeds Registry Ordinance or under any other ordinance, or of any trust, right or interest, unregistered or unprotected by caveat, any rule of law or equity to the contrary notwithstanding.

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(2) The protection granted by this section shall not apply to a person who is privy to or has notice of any fraud relating to the transfer to such person, but knowledge of the existence of any instrument, fact or thing, trust, right or interest, unregistered or unprotected as aforesaid, or omission to search a register not kept under this Ordinance or investigate any of the matters hereinbefore mentioned, shall not of itself be imputed as fraud.

Actions of ejectment.

70. (1) Save as hereinafter provided no action of ejectment in respect of registered land or other action suit or proceeding for the recovery of such land shall lie or be sustained against the registered proprietor except in relation to the enforcement of mortgages, charges, leases or other interests registered under the provisions of this Ordinance or of an order of the Commissioner made under section 49, and the production of the certificate of title shall be held in every court of law to be an absolute bar and estoppel to any such action, any rule of law or equity to the contrary notwithstanding.

(2) An action may be brought against a registered proprietor not being a *bona fide* transferee for value nor deriving title from or through such a transferee by —

- (a) a person deprived of any land by or through the fraud of the registered proprietor or of any prior registered proprietor from or through whom he derived title otherwise than as a *bona fide* transferee for value;
- (b) a person deprived of or claiming any land erroneously included in any parcel by misdescription of boundaries;

Provided that the claim of such person is not then barred by any law relating to limitation.

(3) Subject to the provisions of section 65, an action may be brought against the registered proprietor of any prior or conflicting title.

PART VII — CERTIFICATE OF TITLE

71. The Registrar shall if requested issue to the registered proprietor of any land a certificate of title in form A(1) or A(2) of the first schedule as the case may require, and except as otherwise provided in this Ordinance or in any rules made thereunder a second certificate shall not be issued in respect of the same land.

Certificate of title. First schedule.

72. Unless the Registrar dispenses with its production, a certificate of title shall be produced to the Registrar on the registration of any dealing with the land to which it relates and an endorsement of such registration shall be made thereon.

Production of certificate.

73. If a certificate of title is lost or destroyed, the registered proprietor may apply to the Registrar for the issue of a new certificate and shall produce evidence to satisfy the Registrar of such loss or destruction. The Registrar may require the applicant to make a statutory declaration that the certificate has been lost or destroyed and that it has not been deposited with any person by way of security for a loan or for any other purpose. The Registrar, if satisfied with the evidence of the loss or destruction of the certificate, and after the publication of such notice as he thinks fit, may issue a new certificate.

Lost or destroyed certificates.

74. Where any certificate of title has been mutilated or is soiled or damaged or otherwise rendered illegible, or there is no space for further endorsements thereon, the Registrar may in his absolute discretion and at the expense of the registered proprietor issue a new certificate of title in lieu thereof and shall destroy the certificate of title so replaced.

Replacement of certificates.

75. Every certificate of title and every certificate issued under the provisions of section 141 shall be conclusive evidence of the several matters therein contained.

Admissibility of certificates.

PART VIII — TRANSFERS

76. (1) The proprietor of any registered land may transfer the same by an instrument of transfer in Form B of the first schedule, and upon registration of such instrument the interest of the transferor as therein set forth together with all his rights, powers and remedies shall pass to and be vested in the transferee as proprietor thereof.

Form and effect of transfer. First schedule.

(2) Every transfer shall be signed by the transferee or, where the transferee is an infant or person of unsound mind, by his guardian or committee, or shall be accompanied by a statement signed as aforesaid to the effect that the transferee accepts the transfer:

Provided that, except in the case of an infant or person of unsound mind, the Registrar may accept and register a transfer without such statement if he is satisfied that the transferee has accepted the transfer.

77. (1) A transfer of land subject to a registered mortgage shall not be registered unless it is executed by the transferee and the consent thereto of the mortgagee has been filed in the land registry.

Transfer of mortgaged or charged land.

(2) On registration of a transfer of land subject to a mortgage or charge the transferee shall become liable to pay the moneys and to perform the obligations secured by the mortgage or charge and to perform and observe the terms and conditions thereof and to indemnify and keep harmless the mortgagor or grantor of the charge in respect of such moneys, obligations, terms and conditions.

78. Registered land may be transferred subject to a life-interest, by an instrument of transfer in Form B of the first schedule modified as the circumstances may require.

interests. Life

79. (1) If it is claimed —

- (a) that land has been sold by the registered proprietor and the whole of the purchase money paid; and
- (b) that the purchaser or any person claiming under him has entered and taken possession under such

Proof of purchase before Commissioner.

purchase and such entry and possession have been acquiesced in by the said proprietor or his representatives; but

- (c) that a transfer cannot be obtained as the said proprietor is dead or under a disability or not in British Guiana or cannot be found or that for any reason it is impracticable to obtain his signature within a reasonable time,

then the person claiming to be the purchaser or any person claiming under him may apply to the Commissioner to be registered as the proprietor of the land.

(2) Where an application has been made under this section, the provisions of sections 39, 40 and 42 shall apply so far as they are applicable and with such adaptations as may be necessary.

(3) Upon the registration of the title of the claimant, the title of the previous proprietor shall pass in the same manner as if he had executed a transfer thereof to the claimant.

PART IX — MORTGAGES AND CHARGES

Form of mortgage and charge. First schedule.

First schedule.

Conditions implied in mortgages.

80. (1) The proprietor of any registered land may —
- (a) mortgage the same by an instrument of mortgage in Form C of the first schedule; or
 - (b) charge the same to secure the payment of a rent-charge, annuity or other periodical sum by an instrument of charge in Form D of the first schedule.
- (2) There may be included in any instrument of mortgage or charge such terms and conditions as the parties think fit.

81. Save as otherwise expressly provided in the instrument of mortgage, there shall be implied in every mortgage registered under this Ordinance the following terms and conditions —

- (a) that the mortgagor will pay the principal money therein mentioned on the day therein appointed and will so long as the principal money or any part thereof remains unpaid pay interest thereon or on so much thereof as for the time being remains unpaid at the rate and on the days and in the manner therein specified;
- (b) that the mortgagor will not remove or demolish any building on the land, save with the consent in writing of the mortgagee;
- (c) that the mortgagor will repair and keep in repair all buildings or other improvements which have been or are erected or made upon the land;
- (d) that the mortgagee with or without surveyors or other persons may at all reasonable times until the mortgage is discharged enter upon the land to view the state of repair of such buildings or improvements;
- (e) that the mortgagor will insure and keep insured all buildings upon the land against loss or damage by fire with insurers approved by the mortgagee to the full value thereof and such insurance shall be assigned to the mortgagee by way of security for the mortgage;
- (f) that the mortgagor will pay all rates and taxes levied upon the land;
- (g) that the mortgagor will not sell or lease the land or create any easement thereover without the consent in writing of the mortgagee.

Variation of mortgages and charges.

82. The terms and conditions of any mortgage or charge may be varied by the registration of a memorandum of variation executed by the parties thereto, but no such variation shall affect the rights of the holder of any subsequent mortgage or charge unless he has consented thereto in writing on the memorandum of variation.

Postponement of prior mortgages and charges.

83. A mortgage or charge may be postponed to any mortgage or charge registered subsequently thereto by the registration of a memorandum of postponement executed by the prior mortgagee or holder of the prior charge.

Discharge of mortgages and charges.

84. Upon the production of a memorandum signed by the mortgagee or holder of the charge discharging the land or part thereof from the whole or part of the moneys secured, the Registrar shall enter a memorial to that effect and thereupon the land or the portion of land described in such memorandum shall cease to be subject to or liable for such moneys or such part thereof.

85. (1) Where a mortgagee is dead or under a disability or not in British Guiana or cannot be found and there is no person authorised to give a receipt for any sum due under the mortgage, the Registrar may, upon the application of the mortgagor supported by such proof as the Registrar may require, authorise the mortgagor to pay into Court the said sum, and upon such payment any interest payable under the mortgage on the said sum shall cease to run or accrue.

Payment to credit of absent mortgagee.

(2) Any sum paid as aforesaid shall be held to the credit of the mortgagee, and the Registrar of the Court shall pay the same together with any interest accrued thereon to the mortgagee or other person for the time being entitled thereto.

86. Upon proof to the satisfaction of the Registrar —

- (a) that all moneys due under any mortgage have been paid to the mortgagee or to his credit; or
- (b) that there has occurred the event or circumstance upon which in accordance with the provisions of any charge the moneys thereby secured cease to be payable, and that no moneys are owing in respect of the charge,

Discharge of mortgage or charge by Registrar on proof.

the Registrar shall enter a memorial discharging the land from such mortgage or charge, and the land shall thereupon cease to be subject to such mortgage or charge.

87. (1) Any person with whom the certificate of title of any registered land has been deposited with the intention of creating a lien thereover may give to the Registrar notice of such deposit in Form E of the first schedule, and thereupon the Registrar shall enter a memorial of the same and shall make a corresponding endorsement upon the certificate of title.

Creation of lien by deposit of certificate. First schedule.

(2) Any person who has given notice of deposit may at any time withdraw the same by notice in writing and the Registrar shall thereupon cancel the memorial and endorsement thereof.

(3) Where a memorial of a notice of deposit has been entered, no dealing in the land to which the certificate of title relates shall be registered until such memorial has been cancelled unless the consent in writing of the person who gave the notice is produced to the registrar.

88. The provisions of any ordinance or rule of court or of practice relating to the enforcement of any mortgage or charge shall apply *mutatis mutandis* to the enforcement of a mortgage or charge on registered land.

Enforcement of mortgages and charges.

PART X — LEASES

89. (1) The proprietor of registered land may lease the same for any term exceeding three years by an instrument of lease in Form F of the first schedule.

Leases. First schedule.

(2) A lease for a term of three years or less executed in the prescribed form may be registered, but such lease shall be of full force and effect notwithstanding that it has not been registered.

90. (1) Save as otherwise expressly provided in the instrument of lease, there shall be implied in every lease registered under this Ordinance the following terms and conditions —

Conditions implied in leases.

- (a) that the lessee will pay the rent reserved by the lease at the times therein mentioned;
- (b) that the lessor will pay all rates and taxes which may be payable in respect of the premises during the continuance of the lease;
- (c) that save in the case of premises leased as dwellings for human habitation the lessee will keep and yield up the premises in good and tenantable repair, accidents and damage from storm and tempest and reasonable wear and tear excepted;
- (d) that the lessor may by himself or his agents during the term at any reasonable time of the day, upon giving the lessee two days previous notice, enter upon the premises and view the state of repair thereof and may serve on the lessee a notice in writing of any defect requiring him within a reasonable time to repair the same in accordance with any terms or conditions in that behalf expressed or implied in the lease;
- (e) that in default of the lessee repairing any defect according to notice the lessor may from time to time enter the premises and effect the required repairs;

- (f) that the lessor may by himself or his agents at all reasonable times during the term, with workmen and other persons and all necessary materials and appliances, enter upon the premises or any part thereof for the purpose of complying with the provisions of any legislation affecting the premises and of any notices served on the lessor or the lessee by any public authority involving the carrying out of repairs or the doing of any work or other act which the lessee may not be bound or if bound may neglect to do, and also for the purpose of exercising any right of the lessor under the lease:

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

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

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

Variation
and extension
of
leases.

91. The terms and conditions contained or implied in any lease may be varied, negatived or added to, and the term of any lease may from time to time be extended, by a memorandum signed by the lessor and the lessee for the time being and registered before the expiration of the then current term of the lease.

Renewal
and substitution
of leases.

92. (1) Where upon the registration of a lease the Registrar is satisfied that —

- (a) it is in renewal of or in substitution for a lease previously registered; and
(b) the lessee is the person registered as the proprietor of the prior lease at the time of the registration of the new lease or at the time of the expiration or surrender of the prior lease, whichever is the earlier,

he shall, if the lessee so requests and if the new lease is registered not later than eighteen months after the expiration or surrender of the prior lease, state in the memorial of the new lease that it is in renewal of the prior lease or in substitution for the prior lease as the case may be.

(2) In every such case the new lease shall be deemed to be subject to all interests to which the prior lease is subject at the time of the registration of the new lease or at the time of the expiration or surrender of the prior lease, whichever is the earlier.

(3) For the purposes of this section all references in any ordinance or in any agreement, deed, instrument, notice or other document whatsoever to the prior lease or to the interest of the lessee thereunder shall, unless inconsistent with the context or with the provisions of this section, be deemed to be references to the new lease or to the interest of the lessee thereunder as the case may be.

Leases of
mortgaged or
charged land.

93. No lease of registered land subject to a mortgage or charge nor any memorandum varying or extending any such lease shall be binding on the mortgagee or holder of the charge except so far as he has consented thereto in writing.

Sub-leases.

94. (1) Subject to any provision in his lease affecting his right so to do, the proprietor of any registered lease may sublet for any period less than the remainder of his term by an instrument of sub-lease.

(2) Save as otherwise expressly provided, the provisions of this Ordinance affecting leases, lessors and lessees shall apply to sub-leases, sub-lessors and sub-lessees, with such adaptations as are necessary.

(3) If a lease is determined by operation of law or by surrender under any ordinance relating to insolvency such determination shall determine the sub-lease.

(4) In addition to the terms and conditions specified by this Ordinance to be implied in leases, there shall be implied in every sub-lease under this Ordinance a term that the sub-lessor will during the continuance of the sub-lease pay the rent reserved by the original lease and observe the terms and conditions thereof.

(5) Where any sub-lessee has paid to the original lessor of the land the rent or any part of the rent payable by his sub-lessor in respect of the original lease, the sub-lessee shall be entitled to set off any sum so paid against the rent payable by him to his sub-lessor in respect of his sub-lease.

95. A lease of registered land may be surrendered by an instrument of surrender executed by the lessee and by any sub-lessee thereof and by any mortgagee or holder of a charge thereon.

Surrender
of leases.

96. (1) Where a lease has been determined by effluxion of time or by the happening of an event upon which the lease is expressed to determine or by lawful re-entry and recovery of possession or otherwise, the lessor may apply in writing to the Registrar to register the determination of the lease.

Determination
of leases.

(2) An application under this section shall be supported by such evidence of the happening of the event or of the lawful re-entry as the Registrar may require, and the Registrar on being satisfied of the matters set forth in the application shall enter a memorial determining the lease, and the land shall thereupon cease to be subject to the lease.

PART XI — TRANSMISSION

97. (1) The executor or administrator of the deceased proprietor of any registered land may apply to be registered as proprietor thereof by transmission, and the Registrar upon proof to his satisfaction of such transmission shall register the applicant as proprietor in accordance with the provisions of section 116.

Transmission
on death.

(2) If the executor or administrator of a deceased proprietor has been registered as the proprietor of the land, no person claiming under the will or intestacy or otherwise shall be registered as proprietor thereof unless and until a transfer thereof under the provisions of section 76 has been executed and registered.

(3) If the executor or administrator of a deceased proprietor has not been registered as the proprietor of the land, any other person claiming to have acquired the same under a will or intestacy may apply to be registered as proprietor thereof by transmission, but no such person shall be registered unless he produces the consent in writing of the executor or administrator to the registration or satisfies the Registrar that a transfer to him by the executor or administrator cannot be obtained.

98. Upon production of a grant of probate or letters of administration, the Registrar may without requiring the executor or administrator to be registered register —

Dealings
where trans-
mission not
registered.

- (a) any transfer by the executor or administrator in pursuance of the will or by way of distribution under intestacy or in pursuance of an agreement between the persons entitled thereto or of a contract entered into by the proprietor in his lifetime;
- (b) any discharge or cancellation of a mortgage or charge of which the deceased person was the proprietor;
- (c) any surrender of a lease of which the deceased person was the proprietor.

99. (1) If the executor or administrator of a deceased proprietor fails or neglects to transfer any land to the person entitled thereto, or if such land is not for any reason registered in the name of the person entitled thereto, such person or any judgment or execution creditor of such person or any person claiming an interest in such land may, at any time after the expiration of one year from the date of the grant of probate or administration, apply to the Commissioner to order the registration of the land in the name of the person entitled thereto.

Application
to register
persons
entitled.

(2) Upon such application the Commissioner, if satisfied that the executor or administrator has had notice of the application and that the estate has been fully administered, may grant the application and direct the Registrar to register the land accordingly.

100. (1) On the adjudication of insolvency of any registered proprietor or on the making of an order for the administration in insolv-

Transmission
on insolvency.

ency of the estate of a deceased registered proprietor, the Official Receiver or assignee in insolvency claiming any land of the insolvent may apply to be registered as proprietor thereof by transmission, and upon proof of such adjudication or order and that the applicant is entitled thereto the Registrar shall register the applicant as proprietor in accordance with the provisions of section 116.

(2) Notwithstanding the provisions of any ordinance affecting insolvency, the vesting of any registered land thereunder shall be subject to the registration of the transmission of the land under this section.

Effect of disclaimer, discharge and annulment.

101. Notwithstanding the provisions of any ordinance relating to insolvency, no disclaimer and no order for the discharge of an insolvent and no order for the annulment of an adjudication in insolvency shall operate to divest an assignee of any registered land of which he is the proprietor until he has executed and caused to be registered such transfers or other instruments as may be necessary to give effect to any such disclaimer or order as aforesaid.

Receiving winding-up and other orders.

102. (1) Where a receiving order or winding-up order against the proprietor of any registered land or an order of the Court appointing any person as receiver or manager of the property of any such proprietor is made, and such order does not operate to vest such land in any person, the order shall not be registered, but the Official Receiver, liquidator, receiver or manager may lodge a caveat under the provisions of section 125.

(2) Any such caveat shall be cancelled by the Registrar on proof to his satisfaction that the order has been annulled or revoked or has ceased to have effect or on the registration of a transmission under section 100.

Transmission by operation of law.

103. Where the Crown or the Colony or any person has become entitled to any registered land under the provisions of any ordinance or by virtue of any order or writ of execution made or issued under the provisions of any ordinance or rules of court or otherwise by act or operation of law not otherwise herein provided for, the Registrar may, on the application of any interested person supported by such evidence as he may require, register the Crown, Colony or person as the proprietor thereof.

Transmission on death of joint proprietor or holder for life.

104. Upon the death of a joint proprietor or of the proprietor of a life holding or interest in registered land, the Registrar shall, on the application of any interested person accompanied by proof of the death of such proprietor, make such entries in the register as may be necessary in relation thereto.

Effect of transmission.

105. On registration of the transmission of any registered land, the title of the person registered as proprietor shall relate back to and be deemed to have arisen upon the happening of the event upon which such transmission took place, as if there had been no interval of time between the happening of such event and such registration.

PART XII—ACQUISITION OF TITLE BY ADVERSE POSSESSION

Acquisition of title by adverse possession.

106. Notwithstanding the provisions of any other ordinance, no title to registered land may be obtained by adverse possession against the registered proprietor thereof except in accordance with the provisions of this Part.

Application for declaration of title and procedure thereon.

107. (1) Any person who would have obtained title by adverse possession to any registered land if that land had not been registered may submit to the Commissioner an application for a declaration of title to the said land.

(2) Such application shall be lodged with the Registrar together with —

- (a) the documents or other evidence relied on in support of the application;
- (b) an affidavit containing such particulars as may be prescribed;
- (c) a plan of the land.

(3) The Registrar shall transmit to the Commissioner the application, documents, affidavit and plan, together with a statement of the title to the land as it appears in the Register.

(4) Upon receipt of an application the Commissioner shall investigate it and, if he considers it to be without merit, may dismiss it.

(5) If the Commissioner does not dismiss an application, he shall —

- (a) cause notice of the application to be published in the Gazette and in one daily newspaper circulating in British Guiana; and

(b) serve notice of the application upon every person shown in the register as proprietor of the land.

(6) A counter-application or notice of objection may be submitted in such manner as may be prescribed.

(7) If, upon the expiration of the period of one year from the date of the Gazette in which the notice appeared, the application has not been withdrawn by the applicant or dismissed under the provisions of the next following section, the Commissioner shall fix a day for hearing and shall summon the applicant and any counter-applicants or objectors to appear before him and shall serve final notice of the application and of the day of hearing upon every person shown in the Register as proprietor of the land.

(8) Where an application has been made under this section, the provisions of sections 39, 40 and 42 shall apply so far as they are applicable and with such adaptations as may be necessary.

(9) Neither the submission of an application under this section nor the lodging of a caveat to protect a claim to registered land by adverse possession shall operate to prevent any person claiming under or through the registered proprietor from being registered as proprietor of the land.

108. If at any time before the making of a declaration of title any person lodges with the Commissioner an affidavit to the effect that he is the person registered as the proprietor of the land claimed, the Commissioner shall stay any proceedings on the claim that may be pending before him and shall investigate the identity of the person lodging the affidavit. If he is satisfied that such person is the registered proprietor, he shall dismiss the application and notify the applicant accordingly, but otherwise he shall proceed to hear the application and any counter applications as if the affidavit had not been lodged:

Title of registered proprietor to prevail.

Provided that the Commissioner shall not dismiss an application solely on the ground that any person is the registered proprietor of an easement in or over the land, but in such case the declaration of title shall be made subject to such easement.

109. Upon the registration of the title of any person as provided in this Part the title of the previous proprietor together with all interests in the land arising thereunder shall cease and determine.

Extinction of previous title.

110. The registered proprietor of any land, or any person claiming title thereto under him, may bring an action to recover possession of such land notwithstanding that any period of limitation laid down in any ordinance may have expired.

No limitation against registered proprietor.

PART XIII — EASEMENTS, RESTRICTIVE COVENANTS AND OTHER RIGHTS AND INTERESTS

111. (1) Subject as hereinafter provided, the proprietor of any registered land may by instrument create an easement thereover or subject the land to the burden of a restrictive covenant.

Registration of easements and restrictive covenants.

(2) An easement or restrictive covenant the benefit of which is appurtenant to any land shall not be registered unless the dominant land is either registered under the provisions of this Ordinance or is held under a document of title. Upon registration of such an easement or covenant, the Registrar shall enter a memorial thereof in the register of the servient land, and the Registrar or Registrar of Deeds as the case may be shall enter a memorial thereof in the register of the dominant land or upon the relevant document of title.

(3) The Registrar may, upon the application of any interested person, enter upon the register of any dominant land a memorial of any easement or restrictive covenant registered under the provisions of the Deeds Registry Ordinance, notwithstanding that the servient land is unregistered.

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(4) Subject as hereinafter provided, no easement hereafter created and no restrictive covenant hereafter entered into shall be binding on any registered proprietor who subsequently acquires the land *bona fide* for value, unless such easement or covenant has been registered.

112. (1) The proprietor of any registered land may apply to the Commissioner for the removal in whole or in part from the register of any easement or restrictive covenant which has been abandoned or extinguished.

Removal from the register of easements and restrictive covenants.

(2) When an application has been made under the last preceding subsection, the Commissioner shall give notice thereof to every person who appears by the register to have any interest in the land to

which the benefit of the easement or restrictive covenant is appurtenant, and thereafter the provisions of sections 39, 40 and 42 shall apply so far as they are applicable and with such adaptations as may be necessary.

(3) Where it is proved to the satisfaction of the Commissioner that any such easement or restrictive covenant has been abandoned or waived or has not been enjoyed or enforced in whole or in part for a period of twelve years or more, the Commissioner shall make an order cancelling the easement or restrictive covenant in whole or in part as the case may be.

(4) Upon the registration of the Commissioner's order, the easement or restrictive covenant shall become extinguished in whole or in part as the case may be, but without releasing any person from any liability to which he may be subject at the time of the entry.

Easements
enjoyed by
the public.

113. Easements now or hereafter acquired or enjoyed by the public over any servient land shall not require registration under this Ordinance, and nothing herein contained shall derogate from any such easements or be deemed to confer on the registered proprietor of such land a right to interfere with or obstruct the public use of any easement so acquired or enjoyed as aforesaid.

Provisions
as to build-
ings.

114. (1) If upon the first registration of any land the person to be registered as proprietor acknowledges that any building standing upon the land is the property of some other person, or if the proprietor of any registered land lodges with the Registrar a similar acknowledgment, the Registrar shall enter in the register an endorsement recording the existence of the building and the name of the owner and his address, if known.

(2) Such endorsement shall not operate as a registration of the building, but so long as the endorsement remains upon the register the building shall be excepted from any dealing affecting the land upon which it stands, and the fact of such exception shall be expressed in every instrument that gives effect to such dealing.

(3) Any endorsement made as aforesaid may be removed from the register in like manner and subject to the like conditions as a caveat may be removed, and for the purposes of this section service of any notice upon the person named as the owner of any building protected by an endorsement may also be effected by serving the notice on any adult inmate of the said building or by affixing a copy of the notice thereto.

(4) Nothing in this section shall operate to prevent any person claiming ownership of a building from protecting his interest therein by lodging a caveat.

Rights of way
of necessity.

115. Upon the application of the proprietor of any registered land, the Commissioner may make a declaration of title of such right of way of necessity over any other registered land as may to him seem necessary and just and may direct the manner in which the right of way is to be exercised and the compensation, if any, to be made by the proprietor of the land which enjoys the benefit thereof, and in such case shall direct that a memorial of the right of way be entered in the register both of the dominant land and of the servient land.

PART XIV — TRUSTS

Registration
of proprietor
in a fiduciary
capacity.

116. (1) Any person acquiring by transmission any registered land in the capacity of executor, administrator, assignee in insolvency or in any other representative capacity shall be registered as the proprietor thereof in that capacity.

(2) Any person acquiring in any other way any registered land in a fiduciary capacity may be described by that capacity in the instrument of acquisition and if so described shall be registered as proprietor with the addition of the words "as legal owner".

Restriction
may be
entered but
no trusts.

117. (1) On the registration of a proprietor with the addition of the words "as legal owner", the Registrar shall if requested by such proprietor enter in the register a restriction prescribing the person to whom the proceeds of any dealing with the land shall be paid.

(2) The Registrar shall not enter in the register particulars of any will, trust or purpose.

(3) Nothing in this section shall operate to prevent any person from protecting his beneficial or other interest in any registered land by lodging a caveat.

Removal of
restrictions.

118. A restriction may be removed from the register with the consent of the person named therein or by order of the Court.

119. Subject to the provisions of any restriction entered under section 117 or of any caveat or prohibition, a person dealing with any registered land which is held in a fiduciary capacity shall not be concerned to inquire whether the dealing is within the powers of the proprietor, but he shall be entitled to assume that the proprietor has all the powers of disposition of an owner of the interest in question.

Exoneration
of persons
dealing.

PART XV — JUDGMENTS AND WRITS

120. The provisions of any ordinance or rule of court or of practice relating to the execution of writs shall apply *mutatis mutandis*, to registered land, but no judgment or writ of execution shall bind or affect any registered land until a memorial thereof has been entered.

Effect of
judgments
and writs.

121. A judgment or execution creditor may lodge with the Registrar —

Registration
of judgments
and writs.

- (a) a copy of his judgment or writ of execution or a certificate signed by a solicitor giving full particulars of such judgment or writ;
- (b) a statutory declaration proving the amount owing under the judgment or writ and identifying to the satisfaction of the Registrar the judgment or execution debtor as the proprietor of any registered land, and the Registrar shall thereupon enter a memorial of the judgment or writ and shall give notice thereof to the registered proprietor:

Provided that on registration of a writ issued pursuant to a registered judgment —

- (a) it shall not be necessary for the execution creditor to make a statutory declaration, but a statement of the amount owing shall be lodged with the Registrar; and
- (b) the registration of the writ shall have the same priority as the registration of the judgment.

122. A memorial of a judgment or writ shall be removed from the register —

Removal from
register of
memorials of
judgments
and writs.

- (a) at the request of the judgment or execution creditor;
- (b) on proof to the satisfaction of the Registrar that the judgment or writ has been satisfied;
- (c) in the case of a judgment, upon registration of a writ of execution issued pursuant to that judgment;
- (d) in the case of a writ, upon proof to the satisfaction of the Registrar that the writ has lapsed in accordance with any rules of court for the time being in force.

123. (1) If an instrument is presented for registration which purports or appears to affect any registered land against which there subsists the memorial of a judgment, the Registrar shall give notice thereof to the judgment creditor and shall suspend registration of the instrument for six weeks from the date of service of such notice.

Lapsing of
memorials
of judgments.

(2) At the expiration of such period, unless the said creditor has registered a writ of execution issued pursuant to the judgment, the memorial of the judgment shall lapse and the instrument shall be registered as at the date of presentation.

(3) Nothing in this section shall operate to prevent the immediate registration of such instrument if the memorial of the judgment is removed from the register before the period of suspension has expired.

124. Upon the sale in execution of any registered land, the marshal shall deduct from the proceeds of sale the costs of registering the transfer to the purchaser. So soon as the purchase money has been paid in full, the marshal shall execute a transfer and shall lodge the same together with the costs of registration with the Registrar.

Sales in
execution.

PART XVI — CAVEATS AND PROHIBITIONS

125. (1) Any person claiming any interest in any registered land whether under an unregistered instrument or otherwise may lodge with the Registrar a caveat in Form G of the first schedule, and the statements therein shall be verified by a statutory declaration.

Caveats.
First schedule.

(2) No caveat shall be accepted by the Registrar unless there

is therein specified an address for service in the district in which the land registry is situate.

(3) Upon lodgment of any caveat, the Registrar shall enter a memorial and give notice thereof to the registered proprietor of the land affected thereby.

(4) A caveat may be removed from the register with the consent of the caveator or by order of the Court.

(5) Upon the application of the proprietor of any registered land affected by a caveat, the Court may summon the caveator to attend before the Court to show cause why the caveat should not be removed from the register and the Court may thereupon make such order including an order as to costs as the Court thinks fit.

(6) If an instrument is presented for registration which purports or appears to affect any registered interest which is protected by a caveat, the Registrar shall give notice thereof to the caveator and shall suspend registration of such instrument for six weeks from the date of such notice. At the expiration of such period, unless the caveator has registered the instrument, if any, under which he claims or has commenced proceedings before the Court to enforce his claim, the caveat shall lapse and the instrument first mentioned shall be registered as at the date of presentation.

(7) Nothing in this section shall operate to prevent the immediate registration of an instrument if the memorial of the caveat is removed from the register before the period of suspension has expired.

(8) No land or interest affected by a caveat may be made the subject of any further caveat so as to defeat the provisions of subsection (6) of this section.

(9) If any person lodges a caveat without reasonable cause, he shall be liable in damages to any person who may have suffered loss thereby.

Prohibitions.

126. (1) For the prevention of any fraud or improper dealing or for any other sufficient cause, the Registrar may enter in the register a prohibition to the effect that no dealing with any land nor any entry affecting the same be registered except upon the fulfilment of such condition as may be expressed in the prohibition.

(2) Upon the entry of a prohibition the Registrar shall give notice thereof to the registered proprietor affected thereby.

(3) A prohibition shall operate to prevent any disposition of the land affected thereby until such conditions as may be expressed therein have been satisfied or the prohibition has been withdrawn by the Registrar or the Court otherwise direct.

(4) Upon the application of any registered proprietor affected by a prohibition, the Court may summon the Registrar to attend before the Court to show cause why the prohibition should not be removed from the register and the Court may thereupon make such order including an order as to costs as the Court thinks fit.

PART XVII — ASSURANCE FUND AND COMPENSATION

Establishment
of Assurance
Fund.

127. (1) There shall be established an Assurance Fund (hereafter in this Part referred to as "the Fund") for the purposes hereinafter mentioned.

(2) There shall be paid into the Fund —

(a) the contributions thereto payable to the Registrar under this Ordinance; and

(b) until the Fund reaches the sum of one hundred thousand dollars, such proportion of the fees payable to the Registrar under this Ordinance as the Governor in Council may from time to time direct.

(3) All sums received by the Registrar as contributions to the Fund shall be paid to the Accountant General who shall place such sums to the credit of the Fund and shall from time to time invest the same, together with all dividends and profits accruing thereon, in such manner as the Governor in Council may direct.

(4) All compensation including costs payable under this Ordinance shall be paid out of the Fund, but if the amount at the credit of the Fund is insufficient to meet any claim the deficiency shall be provided out of general revenue. Any amount so paid shall be repaid out of the Fund so soon as the Fund shall be sufficient to repay it.

(5) The Governor in Council may from time to time authorise that such sums as may be approved by resolution of the Legislative Council be transferred from the Fund into general revenue, and money transferred as aforesaid shall be used for the purpose of cadastral surveys and plans and for such other purposes as may be required for the advancement of the objects of this Ordinance:

Provided that at no time shall the Fund by any such transfer be reduced to an amount less than one hundred thousand dollars.

128. Subject to the provisions of this Ordinance any person suffering loss or damage (whether by deprivation of land or otherwise) by reason of — Claims against the Fund.

- (a) the bringing of any land under the operation of this Ordinance;
- (b) the registration of any other person as proprietor or any rectification of the register;
- (c) any error, omission or mis-description in the register or in a certified copy thereof or of any registered document or in any other certificate of the Registrar, howsoever caused;
- (d) any payment or consideration given to any other person on the faith of any entry in the register;
- (e) the loss or destruction of any instrument or document lodged at a land registry for inspection or safe custody or otherwise;
- (f) any error, omission or misfeasance of the Registrar or of any officer in the execution of his duties;
- (g) the exercise by the Court, the Commissioner or the Registrar of any power conferred by this Ordinance,

shall be entitled to recover compensation out of the Fund.

129. The Fund shall not be liable for any loss, damage or deprivation occasioned by — Fund not liable in certain cases.

- (a) the breach by a registered proprietor of any trust, whether expressed implied or constructive;
- (b) any error in a diagram or a plan not being an approved plan;
- (c) the acquisition of title to any registered land by adverse possession in accordance with the provisions of this Ordinance;
- (d) the exercise of any power conferred by this Ordinance where the person suffering loss, damage or deprivation has been a party or privy to the application or dealing in connexion with which such power was exercised or derives title otherwise than for value under or through a person who has been a party or privy as aforesaid.

130. No person shall be entitled to compensation out of the Persons not entitled to compensation.

Fund —

- (a) where such person or his agent caused or substantially contributed to the loss, damage or deprivation by fraud, neglect or wilful default or derives title otherwise than for value from a person who or whose agent has been guilty of such fraud, neglect or wilful default;
- (b) in respect of costs incurred in taking or defending any legal proceedings without the consent in writing of the Registrar, other than in proceedings against the Registrar.

131. Where compensation is payable out of the Fund in respect of any loss, damage or deprivation, it shall not exceed — Amount of compensation.

- (a) where the register is rectified, the value of the land immediately before the time of rectification;
- (b) where the register is not rectified, the value of the land at the time when the entry, error, omission or misfeasance which caused the loss was made.

132. (1) Any person claiming to be entitled to recover compensation (hereafter in this Part referred to as "the claimant") shall, not less than six weeks before the commencement of any legal proceedings, serve notice of his claim on the Registrar stating the grounds on which such claim is made and the amount claimed together with a statutory declaration verifying the same. Notice of action.

(2) On receipt of such notice, the Registrar with the concurrence of the Attorney General may within six weeks thereafter —

- (a) admit the claim in full or offer an amount in settlement thereof; or
- (b) admit liability but not the extent thereof; or
- (c) with or without an admission of liability request the claimant to join any person as a co-defendant in any action that he may bring.

133. If the Registrar admits the claim or the claimant accepts the amount offered in settlement as aforesaid and the Registrar certifies Admission or compromise of claim.

accordingly to the Accountant General the amount so certified shall be paid forthwith out of the Fund.

Summary determination of compensation.

134. If the Registrar admits liability but does not request the claimant to join any person as a co-defendant, the claimant shall apply to the Court by originating summons to determine the amount of the compensation to be paid, and the Accountant General shall pay out of the Fund the amount so determined together with costs as certified by the Registrar of the Court.

Action for recovery of compensation.

135. (1) Subject to the provisions of sections 132 and 134, the claimant may bring an action in the Court for the recovery of compensation against the Registrar without joining any person as a co-defendant.

(2) In any such action, the Registrar may at any time apply to join any person as a co-defendant or third party.

(3) If in any such action the claimant discontinues the action without the consent of the Registrar or the leave of the Court or allows the action to become deserted or abandoned or does not recover compensation exceeding the amount, if any, offered to him before action or judgment is given in favour of the Registrar, the claimant shall be liable to pay the full costs of the Registrar in the action, but save as aforesaid the Court may make such order as to costs as it thinks fit.

(4) If in any such action judgment is given in favour of the claimant, a certified copy of the judgment together with a certificate of the amount payable in respect of costs shall be transmitted by the Registrar of the Court to the Accountant General who shall forthwith pay the same out of the Fund.

Right of Registrar to enforce judgment.

136. On payment and satisfaction out of the Fund of any judgment in an action brought under the last preceding section, the Registrar shall be subrogated to the rights of the claimant and shall be entitled to enforce such judgment against any co-defendant against whom judgment has been given.

Right of Registrar to recover compensation payable or paid.

137. Where compensation is payable or has been paid out of the Fund, the Registrar shall be entitled to recover by or in an action or otherwise the amount so payable or so paid from any person who has caused or substantially contributed to the loss, damage or deprivation by his fraud, neglect or wilful default or from his estate.

Costs against the Fund.

138. Any costs incurred by or awarded against the Registrar in any legal proceedings under this Ordinance shall be paid out of the Fund.

PART XVIII — GENERAL PROVISIONS

Inspection of register.

139. Any person may on application to the Registrar inspect the register during the hours of business.

Certified copies.

140. The Registrar shall furnish to any person applying for the same a certified copy of the register of any parcel or of any caveat, prohibition or registered instrument affecting registered land.

Official search.

141. (1) Any person may apply to the Registrar to make an official search of the register and to issue a certificate of the result, and the Registrar shall thereupon make the search and issue a certificate accordingly.

(2) Every search certificate shall show the state of the register at the time of the issue of the certificate together with a note of every caveat, prohibition, judgment, writ, application, instrument presented for registration or other matter affecting the power of the registered proprietor to deal with the land.

(3) Every search certificate shall be signed by the Registrar and sealed with the seal of the land registry and shall record the day, hour and minute at which the application for it was made and at which the seal was affixed.

Stay of registration.

142. (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 Registrar shall make an order staying registration of any instrument affecting the land to be comprised in the proposed dealing for fourteen days from the time at which application for the certificate was made, and shall enter a memorial thereof and endorse a copy on the search certificate.

(2) If within the said period of fourteen days a properly executed instrument effecting the proposed dealing be presented for registration, such instrument shall have priority over any other instrument which may be presented for registration after the time of application for the search certificate, and the same shall be registered notwithstanding.

standing any caveat, prohibition, judgment, writ, or application which may have been presented for registration or lodged with the Registrar during the said period.

(3) Subject to the presentation of such properly executed instrument within such period, any other instrument and any caveat or application received in the land registry during such period, 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.

143. (1) The Registrar or in his absence the Deputy Registrar in addition to the powers hereinbefore vested in him may—

Powers of
the Registrar

- (a) by notice in writing require the proprietor or other person making or concurring in any application under this Ordinance to produce any document or instrument in his possession or control relating to the land the subject of the application and if necessary to attend and give any information or explanation concerning any such document or instrument;
- (b) by notice in writing require any person having in his possession or control any certificate or other instrument upon which any endorsement is required to be made for the purposes of this Ordinance to produce that instrument within a reasonable time to be fixed by the notice and to deposit the instrument in the land registry for such time as may be necessary for the making of that endorsement;
- (c) require proof by statutory declaration of any material fact which he considers necessary to be established in connection with any matter or thing sought to be done.

(2) If any person wilfully without just cause or excuse neglects or refuses to attend in pursuance of such notice as aforesaid or to produce or deposit such document, instrument or certificate as he may have been required by such notice to produce or deposit, he shall be liable on summary conviction to a fine not exceeding five hundred dollars.

144. The Registrar or in his absence the Deputy Registrar may by special case submit for the decision of a judge any question arising under this Ordinance which appears to him to require such a decision, and the judge shall give his decision thereon.

Registrar
may state
case.

145. (1) If upon the application of any person the Registrar refuses to register or issue any instrument or document or to do or perform any act or duty which by this Ordinance is required to be registered, issued, done or performed by the Registrar, such person may require the Registrar to state in writing the reasons for his decision, and the Registrar shall thereupon state his reasons accordingly and shall serve a copy thereof upon the applicant and thereafter the applicant may appeal by summons to a judge against the decision of the Registrar.

Appeal
against
decision of
Registrar. deci-

(2) Any such summons shall state the grounds of appeal and shall be served on the Registrar within fourteen days of the service on the applicant of the reasons for the decision of the Registrar and shall not be returnable less than six days after service.

(3) The judge shall, after receiving any evidence that may be tendered, make such order in the matter as the circumstances of the case require, including an order as to costs.

146. (1) If any person is aggrieved by any decision of the Commissioner and no right of appeal is specifically conferred by this Ordinance, such person may appeal to the Full Court within twenty-one days from the date of the decision or if the decision is required to be published in the Gazette from the date of publication.

Appeal
against
decision of
Commissioner. deci-

(2) All appeals from a decision of the Commissioner to the Full Court shall be brought in the same manner as if such decision were an interlocutory order of the Court.

147. In any proceedings in the Court to establish title to any land or to recover possession of any land, the plaintiff or applicant shall produce to the Court a certificate from the Registrar stating whether or not the land is registered and if so in whose name and with what title.

Court pro-
ceedings
affecting
land.

PART XIX—MISCELLANEOUS PROVISIONS

148. Every person who under the provisions of this Ordinance

Addresses.

- (a) applies for the first registration of any land or joins in such application; or
- (b) submits or joins in the submission of any counter-application, objection or caveat; or

- (c) submits any instrument for registration; or
- (d) appears on the register as the proprietor of any land,

shall furnish to the Registrar in writing a postal address for service within British Guiana and shall notify the Registrar in writing of any change in the said address.

Service of notices.

149. A notice under this Ordinance may be properly served on any person by serving it on him personally, or by leaving it for him or sending it by registered post addressed to him at the address for service furnished by him to the Registrar as provided in the last preceding section.

Instruments deposited in Deeds Registry.

150. If under the provisions of this Ordinance, any instrument or a certified copy of any instrument is required or permitted to be deposited with the Registrar for any purpose and if such instrument or a certified copy thereof is already deposited in the Deeds Registry, the Registrar may, if he thinks fit, make in the records of the land registry a reference to the instrument or copy deposited in the Deeds Registry and such instrument or copy shall be deemed to have been deposited in the land registry.

Special powers of attorney. Cap 32.

151. The provisions of the Deeds Registry Ordinance in relation to special powers of attorney shall apply to registered land with such adaptations as may be necessary.

Execution of instruments.

152. (1) Every instrument shall be executed in the presence of two witnesses and attested under their hands.

(2) The execution of every instrument shall be verified by the endorsement thereon of a certificate under the hand and seal of one of the officers hereinafter mentioned to the effect either—

- (a) that the person executing the instrument executed the same in his presence and in such case the said officer may himself be one of the witnesses; or
- (b) that the person executing the instrument appeared before him and by oath or statutory declaration acknowledged that the signature to the instrument was his and that he had freely and voluntarily signed the same in the presence of the witnesses; or
- (c) that one of the attesting witnesses appeared before him and by oath or statutory declaration declared that the person executing the instrument was personally known to him and that such person had freely and voluntarily signed the instrument in the presence of him and of the other attesting witness and that he and such witness had thereupon themselves signed the instrument as witnesses.

(3) The officers mentioned in the last preceding subsection shall be, where the instrument is attested or its execution is verified in any place—

- (a) within British Guiana—
 - (i) the Registrar, Deputy Registrar or any assistant registrar; or
 - (ii) a District Commissioner, magistrate, justice of the peace, notary public or commissioner for oaths;
- (b) without British Guiana but within the British Commonwealth —
 - (i) the mayor or other chief officer of any city or corporate town within the United Kingdom; or
 - (ii) the Governor or other officer administering the government or any judge of any court of record in any territory within the British Commonwealth; or
 - (iii) a notary public;
- (c) without the British Commonwealth—
 - (i) any ambassador, minister or consular officer appointed by Her Majesty at that place; or
 - (ii) a notary public provided that the fact that he is a notary public in that place is authenticated by an instrument under the hand and seal of an ambassador, minister or consular officer as aforesaid.

Protection of Registrar against actions.

153. Except as otherwise provided in this Ordinance, neither the Registrar nor any person acting under his authority shall be liable to any action, suit or proceeding for or in respect of any matter *bona fide* done or omitted to be done in the exercise or supposed exercise of the powers conferred by this Ordinance.

154. Where by this or any other ordinance or instrument any person is not concerned to inquire as to any matter or fact relating to a title to or to a power of dealing with any registered land or is protected from the effect of notice of any such matter or fact, then in registering any instrument relating to that land the Registrar shall not be concerned to make any inquiry or search in relation thereto which such person need not have made nor shall the Registrar be affected by any notice with which such person need not have been affected.

Exoneration
of the
Registrar.

155. (1) Every person who—

Offences

- (a) wilfully makes any false statement or declaration in any application under this Ordinance;
- (b) wilfully suppresses, withholds or conceals or assists or joins in or is privy to suppressing, withholding or concealing from the Registrar any material document, fact or matter of information;
- (c) wilfully makes any false declaration or statement for the purposes of or in relation to any dealing with land under this Ordinance;
- (d) fraudulently procures, assists in fraudulently procuring or is privy to the fraudulent procurement of any certificate of title or instrument or of any entry, erasure or alteration in the register; or
- (e) knowingly misleads or deceives any person authorised under this Ordinance to require explanation or information in respect of any land,

shall be guilty of a misdemeanour.

(2) A person guilty of a misdemeanour under this Ordinance shall—

- (a) on conviction on indictment, be liable to imprisonment for a term not exceeding two years or to a penalty not exceeding two thousand five hundred dollars;
- (b) on summary conviction, be liable to imprisonment for a term not exceeding three months or to a penalty not exceeding five hundred dollars.

156. Every person who not being a barrister, solicitor or notary public either directly or indirectly for or in expectation of any fee, gain or reward draws or prepares any instrument of transfer, mortgage, charge or lease or makes any application or lodges any instrument for registration shall on summary conviction be liable to a penalty not exceeding two hundred and fifty dollars :

Unqualified
practitioners.

Provided that this section shall not extend to —

- (a) any public officer drawing or preparing instruments and applications in the course of his duty; or
- (b) any person employed merely to engross any instrument or application.

157. (1) No proceeding or conviction for any act declared by this Ordinance to be a misdemeanour shall affect any remedy to which any person aggrieved by such act may be entitled at law or in equity.

Other
remedies.

(2) Nothing in this Ordinance shall entitle any person to refuse to make a complete discovery by answer in any legal proceeding or to answer any question or interrogatory in any civil proceeding in any court of law, but no answer to any such question or interrogatory shall be admissible in evidence against such person in any criminal proceeding under this Ordinance.

158. No prosecution under this Ordinance shall be brought without the fiat of the Attorney General.

Fiat of
Attorney
General.

PART XX — RULES, FORMS, FEES, ETC.

159. (1) The Governor in Council may from time to time make rules for regulating practice and procedure under this Ordinance and in respect of such matters other than practice and procedure as he may think expedient for carrying out the purposes and objects of this Ordinance and for prescribing such matters as are by this Ordinance required to be prescribed.

Power of
Governor in
Council to
make rules.

(2) No rule made under this section shall be of any force or effect unless and until it has been approved by the Legislative Council and published in the Gazette.

160. (1) The forms set out in the first schedule and the forms for the time being in force under this Ordinance with such additions or variations as the circumstances may require or as the Registrar may permit shall be used in all matters to which such forms relate.

Forms.

(2) The Governor in Council may from time to time add to or amend the forms set out in the first schedule.

(3) A new form or a form when amended shall be published in the Gazette and thenceforth shall have the same force as if it were included in the first schedule.

Fees. 161. (1) Subject to any order made under subsection (2) of this section, there shall be paid to the Registrar the fees and contributions set out in the second schedule in respect of the matters specified therein. In case of first registration by transport, such fee shall be payable in lieu of any fee payable under the Deeds Registry Ordinance.

Cap. 32

(2) The Governor in Council may by order amend, or add to the fees set out in the second schedule.

(3) For the purpose of determining any fees payable under this Ordinance, the Registrar may if he thinks fit accept the amount of the consideration as the value of any land, but he may in any case require a certificate of valuation made by a sworn valuer under this Ordinance.

Declaration as to consideration.

162. (1) The full and true consideration payable in respect of any dealing shall be stated in the instrument and shall be verified by the statutory declaration of the parties or of their attorneys.

(2) If in any case the consideration is untrue or fraudulently stated, the parties shall in addition to any other penalty each forfeit and pay the sum of two hundred and fifty dollars and shall also be chargeable with and be liable for the payment of five times the amount of the excess duty which would have been paid if the consideration had been truly stated.

(3) All such sums may be sued for and recovered in the Court in the name of the Registrar.

Remuneration of legal practitioners.

163. (1) The remuneration payable to legal practitioners for services rendered in respect of dealings in registered land shall be regulated by order made by the Chief Justice and at least one judge.

(2) Until such an order is made the remuneration allowed to legal practitioners under the Legal Practitioners and Registry Fees Order shall apply *mutatis mutandis*.

Accounts.

164. (1) The Registrar shall keep a correct account of all sums of money received by him under the provisions of this Ordinance and shall pay the same to the Accountant General at such times and shall render accounts of the same to such persons and in such manner as may be directed by any ordinance or regulations for the time being in force relating to the collection and payment of public moneys and the audit of public accounts.

(2) All penalties and fees received under the provisions of this Ordinance (except sums received as contributions to the Assurance Fund) shall be carried to and form part of general revenue.

FIRST SCHEDULE

FORMS OF DOCUMENTS (Section 160)

FORM A (1)

CERTIFICATE OF TITLE TO LAND (Section 71)

Block: Parcel:

Description and location of land:

THIS IS TO CERTIFY that A. B. of (*address*) is now the registered proprietor under the Land Registry Ordinance, 1959, of all that parcel of land registered as (*parcel-number*) and comprising (*area*), subject to the interests endorsed hereon.

IN WITNESS WHEREOF I have hereto subscribed my name and affixed the seal of the Land Registry this (*date*).

(Seal)

Registrar of Lands.

FORM A (2)

CERTIFICATE OF PROVISIONAL TITLE TO LAND (Section 71)

Block: Parcel:

Description and location of land:

THIS IS TO CERTIFY that A. B. of (*address*) is now the registered proprietor under the Land Registry Ordinance, 1959, of all that parcel of land registered as (*parcel-number*) and comprising (*area*), subject to the qualification stated hereunder and to the interests endorsed hereon.

This title is held subject to (*state qualification as recorded in declaration of title*).

IN WITNESS WHEREOF I have hereto subscribed my name and affixed the seal of the Land Registry this (*date*).

(Seal)

Registrar of Lands.

FORM B
TRANSFER (Section 76)

Block : Parcel:
Description and location of land:

I, A.B., of (address), being the registered proprietor under the Land Registry Ordinance, 1959, of (the above parcel), in consideration of the sum of (dollars) paid to me by C.D. of (address), receipt of which I hereby acknowledge, do hereby transfer to the said C.D. (all my interest in the said parcel).

(Here state any special terms or conditions)

And I, C.D., do hereby accept this transfer (subject to the above terms and conditions).

As witness our hands, etc.

(See notes below).

FORM C
MORTGAGE (Section 80)

Block : Parcel:
Description and location of land:

I, A.B., of (address), being the registered proprietor under the Land Registry Ordinance, 1959, of (the above parcel), do hereby mortgage (all my interest in the said parcel) to C.D. of (address) to secure the principal sum of (dollars) repayable on (date) with interest at (percentage) payable on (dates of payment) in each year.

(Here state any special terms or conditions and any modification of the terms and condition implied by the Ordinance).

As witness my hand, etc.

(See notes below).

FORM D
CHARGE (Section 80)

Block : Parcel:
Description and location of land:

I, A.B., of (address), being the registered proprietor under the Land Registry Ordinance, 1959, of (the above parcel), do hereby charge (all my interest in the said parcel) with the payment of the sum of (dollars) per annum payable on (dates of payment) in each year to C.D. of (address).

(Here state the event or circumstance on which sums shall become and cease to be payable and any special terms or conditions).

As witness my hand, etc.

(See notes below).

FORM E
NOTICE OF DEPOSIT OF CERTIFICATE OF TITLE (Section 87)

To the Registrar of Lands :

I, A.B., of (address) hereby give notice that the certificate of title of parcel (number) has been deposited with me with the intention of creating a lien thereover to secure the sum of (dollars).

FORM F
LEASE (Section 89)

Block : Parcel :
Description and location of land :

I, A.B., of (address) being the registered proprietor under the Land Registry Ordinance, 1959, of (the above parcel), do hereby lease to C.D. of (address) (all my interest in the said parcel) for a period of (years) from (date) at a yearly rent of (dollars) payable on (date or dates) in each year.

(Here state any special terms or conditions and any modification of the terms and conditions implied by the Ordinance).

And I, C.D., do hereby accept this lease (subject to the above terms and conditions).

As witness our hands, etc.

(See notes below).

FORM G
CAVEAT (Section 125)

Block : Parcel :

To the Registrar of Lands :

Take notice that I, A.B., of (address) claim an interest in the above parcel (now standing in the register in the name of E.F.) and I forbid the registration of any instrument of transfer or other instrument affecting the said interest until after notice of the intended registration has been given to me (or unless such dealing is expressed to be subject to my claim).

Nature of the interest claimed and grounds upon which such claim is founded :

(State nature and grounds).

My address for service is (address).

*(Signature of caveator, solicitor,
or attorney).*

I, the above named A.B., (or C.D. solicitor or attorney for the said A.B.) do solemnly and sincerely declare that the statements in the above caveat are true in substance and in fact (as I have been informed by the above named A.B. and verily believe).

Cap. 36.

I make this declaration etc.

NOTES TO FORMS B, C, D, AND F.

(1) *If the person executing the instrument is not himself the proprietor of the land but of an interest therein, he should be described as proprietor of the interest and a reference to the instrument creating the same should be included.*

(2) *Where the interest affected by the instrument is less than the interest of the person executing it, the words "all my interest in the said parcel" should be modified accordingly.*

SECOND SCHEDULE.

FEEES (Section 161)

	\$	c.
1. On first registration—		
for the first \$500 or part thereof	5.00	
for every \$500 or part thereof—		
in excess of \$500 up to \$2,500	2.50	
in excess of \$2,500 up to \$5,000	1.00	
in excess of \$5,00050	
provided that—		
(a) on first registration in the name of the Crown or of the Colony or any statutory body, no fee shall be payable;		
(b) on first registration with an absolute title under section 68, or by any person passing a transport to himself under section 43, or following an order or judgment of the Court under section 44, or following a sale in execution under 45, there shall be payable one half of the prescribed fee;		
(c) where a fee on first registration has been prescribed in the order designating any registration area, such fee shall be payable in lieu of the prescribed fee;		
(d) on first registration pursuant to the District Lands Partition and Re-allotment Ordinance, the fee prescribed in that Ordinance shall be payable in lieu of the prescribed fee.		
2. By way of contribution of the Assurance Fund—		
(a) on first registration of land under this Ordinance—		
one-fifth of one per cent of the value of the land together with such additional contribution as the Commissioner may under the provisions of section 41 direct;		
(b) on registration of any transfer for value of land held under an absolute title—		
one-tenth of one per cent of the value of land or consideration;		
(c) on registration of a transfer for value, or any mortgage, charge, lease, or transmission of any land held under a provisional title—		
one-fifth of one per cent of the value of the land:		
provided that where a contribution has been paid upon transmission to any person in a fiduciary capacity, no contribution shall be payable upon a transfer by the fiduciary to any person beneficially entitled.		
3. On presentation for registration of—		
(a) a transfer of land on sale—		
for the first \$500 or part thereof of the value of the land ..	5.00	
for every \$500 or part thereof in excess of \$500	1.00	
provided that where such transfer is registered pursuant to any agreement protected by a registered caveat, the above fee shall be reduced by the amount of the fee paid in respect of the caveat.		
(b) any other transfer or a transmission	5.00	
(c) a mortgage or charge—		
for the first \$500 or part thereof of the amount secured or the value of the charge as the case may be	5.00	
for every \$500 or part thereof in excess of \$500 up to \$5,000 ..	.50	
for every \$500 or part thereof in excess of \$5,00025	
provided that where such mortgage or charge is registered pursuant to an agreement protected by a registered caveat or by the registered deposit of a certificate of title, the above fee shall be reduced by the amount of the fee paid in respect of the caveat or notice of deposit.		
(d) a lease—		
where the lease is not required to be registered	1.00	
where the term of the lease does not exceed twenty years ..	2.00	
in any other case	5.00	
(e) a judgment	3.00	
(f) a writ of execution—		
if issued in pursuance of a registered judgment	2.00	
in any other case	5.00	
(g) a caveat—		
if entered to protect an agreement for sale or an agreement to mortgage or charge any land—		
one half of the fee payable on the transaction protected;		
in any other case	5.00	

- (h) a notice of deposit of a certificate of title—
one half of the fee payable on a mortgage equal in value to the sum secured.
- (i) an easement or restrictive covenant—
if entered in the register of one dominant and one servient parcel .. 5.00
for every further parcel .. 1.00
- (j) any other instrument or document capable of registration for which no fee is provided .. 1.00
4. Upon the discharge of a mortgage or charge, the surrender or determination of a lease, the withdrawal of a caveat or notice of deposit or the removal from the register at the request of the person presenting the same of the memorial of any judgment, writ or other matter .. 2.50
5. Upon registration of a declaration of title by adverse possession—
as upon first registration.
6. Upon presentation of any application, counter application, objection, notice or request for which no fee is provided, and for the withdrawal of the same .. 1.00
7. Upon the issue of—
(a) a certificate of title—
where the value of the land does not exceed \$5,000 .. 5.00
in every other case .. 10.00
(b) a search certificate—
where a stay of registration is made .. 5.90
in every other case .. 2.50
(c) a certificate as required by section 147 .. 2.50
(a) For every rectification of the register .. 5.00
provided that no fee shall be payable where the rectification is necessitated by any error or omission of the Registrar.
(b) on an inspection of the register, for each parcel .. 2.50
(c) for copies of documents (exclusive of plans)—
certified, per folio of 100 words .. .25
uncertified, per folio of 100 words .. .10
9. On appointment as sworn value .. 10.00

OBJECTS AND REASONS

This Bill seeks to implement the recommendations of the Land Registration Committee appointed by the Governor in Council to consider and report on the desirability of the introduction of a modern land registration system in British Guiana and the form which such system should take. The recommendations of the Committee were tabled in a preliminary report dated 30th April, 1957, and in a second report dated 24th April, 1958.

2. The system of land registration sought to be introduced by this Bill is based on the Torrens system of land registration with suitable modifications to meet local conditions. The Bill is divided into twenty parts.

3. Part I of the Bill deals with preliminary matters such as the short title and interpretation, the application of other ordinances and the objects of the Land Registration Ordinance. An important provision in this part is to the effect that land once brought under the provisions of the Ordinance may not be withdrawn therefrom.

4. Part II seeks to provide for the division of British Guiana into land registration districts, for the establishment and maintenance of land registers in each registration district and for the appointment of officers.

5. Part III seeks to make provision for the appointment of Commissioners of Title. This part also seeks to establish land courts over which Commissioners of Title will preside and the practice and procedure to be observed in these courts.

6. Part IV of the Bill seeks to provide for the first registration of land under the Ordinance. This part seeks to vest in the Governor in Council the power to designate any area of land to be a registration area whereupon such land will be governed by the provisions of the Ordinance. These provisions deal with the various steps which must be observed and which lead to the determination by the Commissioner as to the ownership of each parcel of land in that area. They also empower the Commissioner to partition land in accordance with the manner in which it is being occupied or in order to secure its more beneficial occupation, to adjust boundaries, make reservations and grant rights of way of necessity, and to award such compensation as may to him appear just. It is sought to make provision for the transfer from the Supreme Court of any proceedings pending in that Court for a declaration of title to the Commissioner. It is sought also to make provision for the publication of all declarations and records of title made by the Commissioner and for the registration of such declarations of title by the Registrar. Provision is also made for appeals from the Commissioner to the Full Court and appeals will be from the Full Court

to the Federal Supreme Court with leave on points of law. The effect of all these provisions will be that there will exist a record of title in respect of every parcel of land in a registration area.

7. Part IV also seeks to make provision for the registration of land in areas other than registration areas, by providing for the first registration of Crown and Colony lands upon application by the Commissioner of Lands and Mines, and of private lands upon the application of individuals. It is also sought to make provision for registration under the Ordinance of land held under transport at the option of the person so holding, and also for registration upon an order of court upon a judicial sale transport and upon a partition and re-allotment under the District Lands Partition and Re-allotment Ordinance.

8. Part V seeks to provide for a register to be kept under the Ordinance and for the particulars to be entered in the register. It is also sought to make provision for the entering in the register of particulars contained in any instruments presented for registration and for the priority of the registration of such instruments. It is sought also to make provision for the rectification of the register by the Registrar or upon an order of court.

9. Part VI seeks to deal with the nature of the title of registered land which may be either a provisional or absolute title, for the conversion of a provisional title into an absolute title and for the protection of any person dealing in registered land.

10. Part VII seeks to make provision for the issue by the Registrar of a certificate of title of land registered under the Ordinance and for the admissibility in evidence of such certificates.

11. Part VIII seeks to provide for transfers and for the registration of instruments of transfer.

12. Part IX seeks to prescribe the form of mortgages and charges, the conditions to be implied in all mortgages, the satisfaction of mortgages and charges, and the discharge of property mortgaged or charged. This Part also seeks to make provision for the creation of a lien by deposit of a certificate of title.

13. Part X seeks to make provision for the creation of leases of registered land, the conditions to be implied in all leases, and for the variation and extension of such conditions. It is also sought to make provision for the creation of sub-leases and the surrender and determination of such leases.

14. Part XI seeks to make provision for the registration of titles of persons entitled to land upon transmission.

15. PART XII seeks to make provision for the acquisition of title by adverse possession and for the procedure to be followed upon an application for a declaration of title.

16. Part XIII seeks to provide for the creation of easements, restrictive covenants and interests over registered land and for the registration of all such interests. Public easements are not required to be registered. This part also seeks to make special provisions with respect to buildings where a building is not the property of the registered proprietor of the land upon which the building stands.

17. Part XIV seeks to make provision for the registration of any person who acquires any registered land or interest in a fiduciary capacity, but prohibits the registration of any will, trust or purpose. This part also seeks to protect persons dealing with registered land held in a fiduciary capacity.

18. Part XV seeks to make provision for the registration of judgments and writs affecting registered land, and for the effect of such registration. It is also sought to make provision for the removal from the register of memorials of judgments, writs and for the lapsing of memorials of judgments.

19. Part XVI seeks to provide for the lodging with the Registrar of caveats and prohibitions and for the effect of such lodgment.

20. Part XVII seeks to establish an assurance fund for the payment of compensation in certain cases and seeks to prescribe the conditions under which compensation will be paid. This part also seeks to fix the amount of compensation payable and the procedure to be observed upon a claim of compensation being made.

21. Part XVIII seeks to make certain general provisions which include provision for search and inspection of the register, the issue of certified copies of the register, stay of registration and the powers of the Registrar. This part also seeks to enable the Registrar to approach a judge for the determination of any question arising under the Ordinance and for the appeal against any decision of the Registrar or of the Commissioner of Title.

22. Part XIX seeks to make provision for certain miscellaneous matters such as the method of the execution of instruments, the protection of the Registrar or other persons acting under his authority and for certain offences. This part also seeks to prohibit the drawing up or preparation of any instrument or the lodging of any instrument for registration by any person other than a qualified legal practitioner. It also seeks to provide that no prosecution for a breach of the Ordinance shall be brought without the fiat of the Attorney General.

23. Part XX seeks to authorise the Governor in Council to make rules for the purposes of the Ordinance. This part also seeks to prescribe certain forms and to fix certain fees payable to the Registrar.

A. M. I. AUSTIN,
Attorney General.

(M.P.L. 11/11/1).
(Leg Bill 3/1959).