

*To be construed with Ord. 44 of 1929; Ord. 2 of 1931, Ord 11 of 1934. 16 of 1932,*

**CHAPTER 177.** *4 of 1936.*

**DEEDS REGISTRY.**

[No. XVII of 1919.]

[1st January, 1920.]

1. This Ordinance may be cited as the Deeds Registry Ordinance. Short title.

2. In this Ordinance and in rules made under it, unless the context otherwise requires,— Interpretation.

“the Registrar” means the registrar of deeds;

“the registry” means the deeds registry;

“deed” includes, not only instruments so called according to the law of England, but also instruments known in the colony as Acts, and bonds given under the Customs Ordinance;

Chapter 33.

“the Court” means the Supreme Court or a judge thereof;

“statutory claims” means unpaid charges or liens imposed by the laws of the colony in favour of the Crown or colony, unpaid rates, taxes or assessments imposed by or levied under the authority of any Ordinance, and other liens or charges imposed by, or in pursuance of, or levied under any Ordinance;

“registered incumbrances” means all mortgages and charges registered under the provisions of this Ordinance;

“registered interests” means and includes all liabilities, rights, interests, and special conditions, imposed or attached to immovable property by agreement or otherwise which have been registered under the provisions of this Ordinance;

“registered leases” means all leases registered under the provisions of this Ordinance;

“judicial sale transport” means a transport passed by the officer of the Court under section twenty-six of this Ordinance.

Creation of deeds registry.

3. There shall be and there is hereby created and established in Georgetown, with any branches to the Governor appearing necessary, an office for the registration of transports and title deeds, other than original grants or leases of Crown lands executed under any Ordinance or regulation dealing with those lands, and for the notarial or conveyancing work now performed by the Registrar of British Guiana and any other work by the Governor in Council assigned to it, and that office shall be called the deeds registry.

Appointment of officers:

4.—(1) The Governor may appoint a registrar of deeds and the necessary number of notaries public, sworn clerks, assistant sworn clerks, and clerks, for the staff of the registry, and may also appoint an accountant:

Provided that no person shall hereafter be appointed a notary public or sworn clerk until he has been examined by and obtained a certificate of competency from an examining board, consisting of the Attorney General, the Registrar, and the Crown Solicitor or of any two of them, who are hereby empowered and required to hold an examination whenever necessary.

(2) The Registrar shall be deemed to be ex officio a notary public.

*Proviso . . . . .*

*Re Deputy Registrar and*

Duties of officers of staff generally.

5.—(1) Except where otherwise specially provided, each sworn clerk and notary public may lawfully do and perform, subject to the directions and instructions of the Registrar, all or any of the duties and services which the Registrar is authorised to do and perform by this Ordinance or by any other Ordinance now in force, and may lawfully demand and receive on behalf of the registry the fees in respect of those duties and services.

(2) Except where otherwise specially provided, each assistant sworn clerk may lawfully do and perform, subject to the directions and instructions of the Registrar, all and any of the duties and services mentioned in the first schedule hereto, in the same manner to all intents and purposes as if he were a sworn clerk and notary public, and may lawfully demand and receive on behalf of the registry the fees in respect of those duties and services.

(3) Each and every member of the staff shall likewise perform all duties, other than as sworn clerk or assistant sworn clerk, from time to time assigned to him by the Registrar.

*See Ord. 44 of 1929, S. 2.*

Proviso.

*See Ord. 44 of 1929, S. 3.*

First schedule.

6. The Governor may appoint an acting registrar, or acting notaries public, when and so often as occasion requires, in the event of the absence, sickness, or other disability of the Registrar <sup>the Deputy Registrar</sup> or the notaries public, and the acting officer shall have power and authority to do any act or thing which may lawfully be done by the Registrar or notaries public:

Appointment  
of acting  
officers:

See Ord. 44 of  
1929 S. 4.

*The Deputy Registrar*

Provided that no one shall be appointed to act as a notary public unless and until he has obtained the certificate of competency mentioned in section four of this Ordinance.

Proviso.

*Proviso*

7. The registry shall be under the charge of the Registrar, whose duties, subject to the special provisions of this Ordinance and the rules made under it or of any other law, shall be—

Duties of the  
Registrar.

- (a) to take charge of and preserve the records of the Registrar of British Guiana as constituted by Ordinance, including all the records of the conveyancing branch, but not the judicial records of the Court;
- (b) to examine, certify, and register conveyances or transports and leases of immovable property, and of any other property the transfer of which is required by the law of the colony to be made under the provisions of this Ordinance, and to register declarations of title granted by the Court;
- (c) to examine, certify, and register mortgage bonds hypothecating immovable or other property aforesaid, and any transfer or cancellation thereof;
- (d) to examine and check, and to satisfy himself as to the sufficiency of, all titles tendered in support of any conveyance or transport, transfer, mortgage, lease, or any other transaction provided for in this Ordinance;
- (e) to examine all descriptions of property dealt with (descriptions which shall be definitely and clearly set out, especially with regard to locality, boundaries, area, and conditions or limitations attached thereto, and have reference, if the Court or the Registrar so requires, to a diagram or chart thereof on record in the Lands and Mines department or in the registry), and to do everything necessary to obtain a full

- and complete identification of the property or rights therein forming the subject of the transaction;
- (f) to register or record contracts, notarial bonds, notarial or other deeds, donations, security bonds, substitutions, renunciations, deliberations, inventories, powers of attorney, protests, leases, and cessions and assignments thereof, charts, and diagrams, and all other documents which he accepts as proper for registration or record;
  - (g) on the consent of the parties concerned, to cancel, in whole or in part, any registered bond, deed, or document, other than a transport, lease, or mortgage, or to release from the operation of the bond the whole or any part of the property or things thereby specially hypothecated or bound;
  - (h) to register or record cessions or assignments of any mortgage bond;
  - (i) to register, annotate, or record against any property registered in the registry, any lease, servitude, or incumbrance contained in any Crown title, or in a transport, or other duly recorded deed, or authorised by order of the Court;
  - (j) to make all indorsements and annotations on any registered title or other deed or instrument filed as of record in the registry necessary to give the effect to registration thereof;
  - (k) to keep all registers, including land and mortgage registers, requisite for the due performance by him of any of his duties aforesaid and for the establishment of an efficient system of registration calculated to furnish security of title and an easy reference thereto;
  - (l) to keep a register of all orders of court served upon him affecting the transfer of rights registered in the registry;
  - (m) to make a weekly return to the Commissioner of Lands and Mines of all transports, mortgages, or leases, of lands held under title from the Crown, passed under the provisions of this Ordinance;
  - (n) to permit members of the public, upon payment of the prescribed fees to have any inspection of records and to obtain from the registry any

copies of and information concerning them allowed by law, or rule, or regulation under this Ordinance;

- (o) generally, to exercise all powers and discharge all duties, including the drawing of any instrument or document aforementioned or any other document, by law and custom exercised by and required of and from the Registrar of British Guiana.

8. The books of registers or records heretofore and at present existing in the office of the Registrar of British Guiana or any branch thereof shall be considered and taken to be, as they are hereby declared to be, valid and legal records, and all authenticated copies thereof, or extracts therefrom, shall be taken and received in the courts of the colony as *primâ facie* evidence, which, if not rebutted, shall be as good evidence as the originals of which those records purport to be records.

Validity of  
existing  
records.

9.—(1) The Governor <sup>in</sup> and ~~Legislative~~ Council may from time to time make rules and regulations for the good order and management of the registry, for the carrying into effect the object for which it is established, and generally for its working and the preservation of the records therein, and more especially to prescribe—

Ord 207/1931.  
Rules and  
regulations.

- (a) the method whereby transports, titles, transfers, and other deeds, diagrams, charts, and documents required to be registered or preserved of record, or used in the registry, shall be prepared, passed and executed;
- (b) the manner and form in which any information required by law to be furnished to the Registrar shall be recorded or noted in the registry;
- (c) the conditions under which copies of lost or damaged transports, deeds, bonds, or other documents may be issued;
- (d) the manner and form in which consent to the cancellation of bonds or other deeds shall be signified;

but no rules and regulations made under this section shall be of any force or effect unless and until they are published in the Gazette and in some newspaper circulating in the colony for three successive Saturdays.

Second  
schedule.

(2) Until those rules shall have been made, the rules contained in the second schedule hereto shall be in force and shall apply to all proceedings under this Ordinance.

Proof  
required  
under oath.

10.—(1) The Registrar may require, and any person may tender, proof under oath of any material fact which the Registrar considers necessary to be established in connection with any matter or thing sought to be done in the registry, and the oath may be administered and the fact sworn before any notary public, sworn clerk, or assistant sworn clerk.

(2) Anyone who makes the statement under oath or affirmation knowing it to be untrue in any material particular shall be deemed to be guilty of perjury, and shall, upon conviction, undergo the punishment by law provided therefor.

Allowance  
of access to  
records on  
payment  
of fees.

11.—(1) Anyone may, upon payment of the prescribed fees, ask for and obtain access to each and every register or record in the registry, and obtain copies thereof or of any part or portion thereof.

(2) No one shall be allowed access to any register or record except in the presence of the Registrar or some one belonging to the registry thereto duly authorised.

(3) The fees payable for any search or inspection or copies shall be paid in advance.

Transports  
and mort-  
gages to be  
executed  
before  
a judge.

12.—(1) No person in whom the title to any immovable property situate in this colony vests may transfer or mortgage that property except by passing and executing a transport or mortgage thereof before the Court.

(2) Movable property may be mortgaged in the same way as immovable property.

(3) All transports and mortgages passed after the commencement of this Ordinance shall be registered by the Registrar and filed as of record in the registry.

Leases :

13.—(1) No lease of immovable property expressed to be for a term of twenty-one years or more, or for any term renewable at the will of the lessee indefinitely, or for periods which, together with the first term thereof, amount in all to twenty-one years or more, (herein referred to as a "long lease"), and no surrender, transfer, or assignment

of a long lease having a term expressed to be of twenty-one years or more to run at the time of surrender, transfer, or assignment, shall, as against any bonâ fide transferee of the property for value, be good, valid, or effectual in law or pleadable in any court of justice in the colony unless passed and executed before the Court in like manner as a transport and filed as of record in the registry.

(2) No lease of any immovable property, or any surrender, transfer, or assignment thereof, shall, as against any bonâ fide transferee of the property for valuable consideration be good, valid, or effectual in law or pleadable in any court of justice in the colony unless filed as of record in the registry.

(3) Every long lease and every surrender, transfer, or assignment thereof, mentioned in sub-section (1) of this section, passed and executed before the Court and filed as of record in the registry as aforesaid shall be annotated by the Registrar against the property leased.

(4) Every lease, or surrender, transfer, or assignment thereof filed as of record in the registry in accordance with sub-section (2) of this section shall be annotated by the Registrar against the property affected as the circumstances require, and the Registrar shall without delay give notice in writing to the person filing the lease, surrender, transfer, or assignment, of the entry made by him in respect thereof :

Provided that this section shall not apply to leases by the Governor of Crown lands, and that no lease of any interest in Crown lands shall be required to be executed before the Court or to be filed as in this section aforementioned. Proviso.

14. Any transport, mortgage, lease, or other document, required to be passed and executed before the Court, shall be passed and executed at any place within the colony the Court sees fit : Execution and custody of transports :

Provided that the original of any transport, mortgage, lease, or other document relating to land or property situate in any county other than Demerara shall be kept and preserved in the branch (if any) of the registry established in that county. Proviso.

15. No cancellation of any mortgage shall be of any force or effect, or be in any way pleadable or be allowed to be pleaded in any court of justice in the colony, unless it is passed and executed before the Court and filed as of record Cancellation of mortgage.

in the registry, but the provisions of this section shall not affect any cancellation duly executed and passed in accordance with the requirements of the law in force when it is passed.

15A →

16.—(1) No transfer or assignment of any agreement, contract, instrument, or cause of action whatsoever, creating an interest in any immovable property in the colony, or whereby that immovable property may be in any way affected in law or in equity already entered into and executed in the colony by anyone whomsoever, to and in favour of anyone whomsoever, whether for valuable consideration or not, on and subsequent to the sixteenth day of February, eighteen hundred and forty-five or which is hereafter executed, and no donation inter vivos, act of division of an inheritance, or other instrument, whereby the interests of creditors or third parties may be affected, already or hereafter to be executed, shall be good, valid and effectual in law or be in any way pleadable or allowed to be pleaded in any court of justice in the colony, unless the instrument is signed and executed in the presence of two witnesses, and until the instrument as well as the mortgage, agreement, contract, or instrument evidencing the cause of action, is duly proved and filed as of record in the registry.

(2) No transfer or assignment of any mortgage shall be in any way pleadable or allowed to be pleaded in any court of justice in the colony unless it is filed as of record in the registry:

Proviso.

Provided that the provisions of this section shall not affect any instrument aforesaid duly executed and deposited or recorded in accordance with the requirements of any law or laws in force in the colony at the time of the execution thereof.

Effect of deposit or record of transfer of mortgage or other document.

17. As soon as any transfer or assignment of any mortgage, agreement, contract, instrument, or cause of action aforesaid is filed as of record as hereinbefore provided, it shall be held to be primâ facie valid and effectual as conveying to the transferee or assignee all right, title, and interest in and to the mortgage, agreement, contract, instrument, or cause of action theretofore possessed by the transferor or assignor and expressed to be thereby transferred or assigned, subject, nevertheless, to the right of any person interested disputing the validity of the transfer or assignment.

See Ord. 28  
1931

Mode of executing and depositing or recording transfer of mortgage or other document:



18.—(1) All powers of attorney, (except those in judicial proceedings called powers ad lites and those providing for the passing of transports, mortgages, leases, or cancellations only and for no other purpose), whether made within or beyond the limits of the colony, shall be proved and filed as of record, or proved and recorded in the registry, and, with the exception of a duly authenticated copy of any power of attorney aforesaid, no power of attorney except that which has been duly proved and recorded as aforesaid shall be admissible in evidence before any judicial tribunal in the colony.

Deposit or record of powers of attorney.

*Repealed and re-ensued by Ord. 169 1932. Sec. 12*

(2) A special power of attorney providing for the passing of a transport, mortgage, or lease, or for the cancellation of a mortgage only and for no other purpose shall be in the form and be executed in the manner prescribed by the rules made under this Ordinance.

19.—(1) Except as provided by any Ordinance, every instrument or document filed as of record or recorded in the registry, if it is executed in the colony, shall, before it is so filed or recorded, be verified and proved by the affidavit or declaration of one at least of the subscribing witnesses, to have been duly signed and executed.

Proof of execution of document.

(2) Whenever it appears to the Registrar that all the subscribing witnesses are either dead or absent from the colony, the person wishing to file or record the instrument or document may produce evidence by affidavit of the signature of any one or more of the subscribing or attesting witnesses, or of the party who has signed or executed the instrument, and the Registrar shall receive that affidavit in the place and stead of an affidavit by a subscribing or an attesting witness himself.

(3) The due execution of every instrument or document filed as of record or recorded in the registry, if executed beyond the limits of the colony shall, before it is filed or recorded, be proved in accordance with the provisions of the Evidence Ordinance dealing with the proof of public and private documents.

Chapter 25.

20. The Registrar may not cancel any title to immovable property or any transport except upon an order of the Court.

Cancellation of grant or transport.

21.—(1) From and after the first day of January, nineteen hundred and twenty, every transport of immovable property other than a judicial sale transport shall vest in

Absolute title by transport subject to certain claims and rights:

the transferee the full and absolute title to the immovable property or to the rights and interest therein described in that transport, subject to—

- (a) statutory claims;
- (b) registered incumbrances;
- (c) registered interests registered before the date of the last advertisement of the transport in the Gazette;
- (d) registered leases registered before the date of the last advertisement of the transport in the Gazette :

Proviso.

Provided that any transport, whether passed before or after the first day of January, nineteen hundred and twenty, obtained by fraud shall be liable in the hands of all parties or privies to the fraud to be declared void by the Court in any action brought within twelve months after the discovery of the fraud, or from the first day of October nineteen hundred and twenty-five, whichever is the more recent.

Chapter 7.

(2) A transport, letters of decree, or a declaration of title issued under the provisions of sub-section (1) of section four of the Civil Law of British Guiana Ordinance, passed or issued before the first day of January, nineteen hundred and twenty, and in force at that date shall, after the expiration of two years from that date if still in force, vest in the transferee or grantee thereof the full and absolute title to the immovable property or to the rights and interest therein described, subject to the provisions contained in paragraphs (a), (b), (c), and (d), of the preceding sub-section.

Amendment  
of errors in  
deeds :

**22.** Whenever, in consequence of an error or omission in any grant, transport, mortgage bond, or other deed, whether in the name or names of a person or persons therein mentioned or in the description of the property thereby granted, transported, or bound, it is found necessary to amend that grant, transport, bond, or deed, the Court may, upon consent in writing of the persons interested, amend the error :

Proviso.

Provided that—

- (a) where the error or omission is common to two or more interdependent documents one document shall not be amended without the other or others; and

- (b) if any interested person refuses to consent to the amendment, no alteration shall be made before that person has had an opportunity of being heard.

**23.**—(1) No erasure shall at any time for any reason whatsoever be permitted to be made in the registers or books of record, or in any document of title or other document affecting land. Mode of dealing with error in record.

(2) If any word or words is or are improperly or in error inserted in the recording of any original document or instrument in writing, then a line shall be drawn through the word or words improperly inserted so as to leave the original word or words legible, and any word or words erroneously omitted shall either be interlined or written in the margin, and always when practicable by the same hand as the rest of the record, and the Registrar or a sworn clerk shall, under the line or word or words written in the margin, or under a mark of reference to the interlineation or correction, legibly subscribe the initials of his name and surname.

**24.**—(1) If it happens in the case of the partition of immovable property held in undivided shares that the total share of any owner in the property is hypothecated under a mortgage bond, then, upon production of the bond and of the consent in writing of the legal holder thereof, which consent shall state that it is given under the provisions of this section, transport may be allowed to be passed to the owner of the divided share awarded to him on partition, notwithstanding that the bond remains uncanceled. Partition of mortgaged property.

(2) In that case the Registrar, at the time of the passing of the transport, shall—

- (a) indorse on the bond that the divided share is in terms of this section substituted for the undivided share previously held by that owner;
- (b) with the consent of the person obtaining the divided share, indorse on the transport thereof that in terms of this section it is mortgaged by the bond;
- (c) make any other indorsement the circumstances require.

(3) From and after the completion of the indorsements aforesaid the divided share of the immovable property so transported shall be deemed to be hypothecated as fully and effectually as if the divided share and not an undivided share had been originally hypothecated by the bond.

Payment by debtors to be written off.

25.—(1) Whenever it appears from the accounts of any insolvent estate and from the vouchers annexed thereto that a payment has been made to any creditor on account of a registered obligation of debt, the Official Receiver shall forthwith notify in writing that payment to the Registrar, who shall thereupon write it off by indorsement upon the obligation of debt.

Insolvents.

(2) The Official Receiver shall furnish the Registrar with returns of all insolvents who from time to time obtain their discharge, and the returns shall specify the immovable property and registered obligations of debt appearing in the insolvent's schedules, or in the liquidation accounts of his estate, and the Registrar shall, on receipt of the returns, write off all those debts registered against the insolvent prior to his insolvency by indorsement upon the obligation of debt.

Substitution of judicial sale transport for letters of decree and procedure to obtain :

26.—(1) From and after the commencement of this Ordinance no letters of decree shall be issued by any court of law in respect of any immovable property sold in execution of a judgement or an order of a competent court or judge, but that immovable property shall, without previous publication of notice of the transport, be transported before the Court after judicial sale to the purchaser at his expense by the officer of the Court carrying out the judgement or order.

(2) For the purpose of passing the transport, the officer of the Court shall produce and file in the registry a certified copy of the conditions of sale, of the statement of the documents or other facts constituting the title of the judgement debtor, of the affidavit in support thereof (if any), of the instructions to levy, and of the judgement or order (if any) whereby that immovable property was brought under execution :

Proviso :

Provided that in the case of a judicial sale transport passed by virtue of an execution sale under process for the recovery of rates, taxes, or assessments, imposed by or levied under the authority of any Ordinance, it shall be sufficient if there is filed a memorandum signed by the Registrar giving the dates and other particulars of the required documents.

*Repealed by sec. 83 Ord. 4 of 1936.*

~~(3) A judicial sale transport passed after the first day of January, nineteen hundred and twenty, shall vest in the transferee the full and absolute title to the immovable~~

property, or the rights and interest therein, described in the transport; subject to—

- (a) statutory claims;
- (b) registered incumbrances;
- (c) registered interests;
- (d) registered leases.

Provided that—

Proviso :

- (i) if the sale in execution is for the recovery or enforcement of any registered incumbrance, or the purchaser at that sale is the holder of any registered incumbrance, the title shall be free from any registered interest, registered lease, or registered incumbrance, of lower rank than, or registered after, the registered incumbrance in respect of which the sale is being held, or of which the purchaser is the holder;

- (ii) if, at a sale in execution for the recovery or enforcement of a statutory claim, the property is not sold, the property shall be re-advertised for sale, and at the re-sale, if the person entitled to the statutory claim becomes the purchaser of the property, the title to the property (transport for which shall not be passed before the expiration of thirty days from the date of sale) shall be free from all registered incumbrances, but any person may, within thirty days from the date of the sale, pay to the Registrar the amount of the statutory claim and costs, and thereupon the sale shall be annulled.

(4) The Registrar, after a sale in execution, shall satisfy claims out of the proceeds of sale in the following order :—

Distribution of proceeds of sale in execution.

- (a) the costs in execution of the execution creditor;
- (b) statutory claims of which he has had due notice in writing within fourteen days from the date of the sale;
- (c) the taxed costs incurred in enforcing any claim in respect of any registered incumbrance;
- (d) registered incumbrances in order of priority of rank;
- (e) the taxed costs of the execution creditor not hereinbefore provided for;
- (f) the execution creditor's claim.

27. No deed or instrument of hypothecation executed at any time after the date of this Ordinance shall be of any

Priority of payment of debts.

force or effect to give any preference or priority to the payment of any advances, debts, or demands made or accruing after the date of that deed or instrument unless it is therein expressed that it is meant or intended to cover or secure future advances, debts, or demands generally, or some proper description thereof is in the deed or instrument described, and unless also some certain sum is expressed in the deed or instrument as that beyond which those future advances, debts, or demands shall not be deemed to be covered or secured by the hypothecation made or created by the deed or instrument.

Registration of property acquired from deceased persons, or others.

28. Anyone who, by virtue of any contract or transaction or in any other manner has acquired the just and lawful right to the ownership of any immovable property in the colony, whether registered in the name of or as the property of any other person or not, and who is not able to procure the passing to him and registration in his name of that property by reason of the death, mental incapacity, insolvency, or absence unrepresented from the colony of the person who last obtained transport of the property, or of any person or persons through or from whom that right has been mediately or immediately derived, or owing to any other cause, may apply to the Court to order that the property be passed to him and be registered in his name, but that order, unless the Court otherwise directs, shall convey only the title held by the previous owner.

Review of refusal of judge to allow passing of transport.

29. Anyone who desires to obtain a review of the decision of a judge of the Court refusing on any ground to permit the passing of a transport, mortgage, or lease, may do so by filing in the Supreme Court registry an application therefor to the Full Court after giving notice thereof to the Registrar.

See Dad. 2 of 1931

Registration of property acquired by expropriation.

30. Anyone who acquires the right to immovable property by expropriation and is entitled to obtain transport thereof but cannot from any cause obtain the transport in the ordinary manner and according to the usual forms, may apply to the Court to order that the property be passed to him and registered in his name.

Application under section 28 or 30.

31.—(1) Upon hearing an application under section twenty-eight or thirty of this Ordinance, the Court may grant an order setting forth the description of the property

mentioned in the application and calling upon all persons having or claiming to have any right or title thereto to appear and establish their claims upon some day to be named in the order, or to be forever barred therefrom, and may direct the mode of service and publication of the order.

(2) If anyone appears to show cause against the order, the Court may, without the issue of any summons, require any question of fact to be tried with or without pleadings, or make such order as will in the most speedy and inexpensive manner determine the matter in controversy.

Showing  
cause.

(3) Upon consideration of the application, or upon the return of any order aforesaid, no good cause being shewn to the contrary, the Court may order the Registrar to pass and register the transport, mortgage, lease, or transfer, as the case may be, of the property mentioned in the order to and in the name of the person, and subject to the terms and conditions, mentioned therein :

Order for  
registration :

Provided that the Registrar shall not be liable for any costs incurred for anything in good faith by him done or refused to be done in the ordinary course of his duty.

Proviso.

32. Subject to the terms of any order aforesaid for the passing and registration of title, any registered mortgage over immovable property so registered in existence at the date of the passing and registration of title shall attach to and upon the property precisely as then existing, and all entries and indorsements required by law to be made upon or in regard to any transport passed in obedience to the order shall be forthwith made by the Registrar.

Registered  
mortgage to  
subsist,  
subject to  
terms of  
order.

33. When an order has been made under the provisions of sub-section (3) of section thirty-one of this Ordinance directing the Registrar to pass transport and register the title in any property in the name of any person, that person shall be liable to pay the fees, taxes, and duties in respect of the registration which he would have been liable to pay if the property had been transported to him directly from the person last holding title as proprietor thereof in due form of law.

Payment of  
fees on  
registration.

34. Upon filing with the Registrar any order granted under the provisions of sub-section (3) of section thirty-one of this Ordinance the Registrar shall certify, sign, and after the passing thereof, register the transport of the immovable property as by the order directed as nearly as

Form of  
registration.

possible in the form provided by the rules made under this Ordinance, subject to any conditions directed by the order.

When  
amount due  
payable in  
case of  
absence to  
Public  
Trustee.

**35.** Any sum of money which the Court making an order under sub-section (3) of the provisions of section thirty-one of this Ordinance finds to be due to anyone by the person in favour of whom the order is made shall, if the person to whom it is found due is absent from the colony, unknown, or a minor, be paid to the Public Trustee to the credit of the person found entitled to it or otherwise as ordered by the Court.

Concealment  
or suppression  
of documents  
or facts.

**36.—(1)** If, in the course of proceedings before the Registrar or the Court in pursuance of this Ordinance or of any rules made under it in connection with the passing of any transport, mortgage, or long lease of immovable property, any person concerned in the proceedings, as principal or agent, with intent to conceal the title of any person, or to substantiate a false claim to that property, suppresses, or attempts to suppress, or is privy to the suppression of, any document or fact, that person shall be guilty of a misdemeanour and, upon conviction on indictment, shall be liable to imprisonment for a term not exceeding two years, with or without hard labour, or to a fine not exceeding two thousand four hundred dollars.

(2) Anyone who fraudulently procures, or attempts fraudulently to procure, or is privy to fraudulently procuring any entry on any register kept in the registry, or any erasure from the register or alteration thereof shall be guilty of a misdemeanour and, upon conviction on indictment be liable to imprisonment for any term not exceeding two years, with or without hard labour, or to a fine not exceeding two thousand four hundred dollars; and any entry, erasure, or alteration so fraudulently procured shall be void as between all parties thereto.

(3) No proceeding or conviction for any act declared by this Ordinance to be a misdemeanour shall affect any remedy to which anyone aggrieved by the act may be entitled, either at law or in equity.

(4) Nothing in this section contained 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; but no answer to any question or interrogatory aforesaid shall be admissible in evidence against that person in any criminal proceedings under this Ordinance.



37. The fees payable to the Registrar shall be regulated by ~~rules of court made under the Supreme Court of Judicature Ordinance or any amendment thereof,~~ but the existing tariff under Rules of Court, 1900, shall remain in force and apply to all proceedings under this Ordinance until it is annulled or amended.

Fees.

Chapter 10.

*The Governor-in-Council.**Ord 287931.*

38.—(1) For the purpose of ascertaining the correct duty payable under any future Tax Ordinance which imposes a duty on any conveyances or transports of immovable property and on all transfers of rights over or interests in any Crown lands held under any lease, licence, or permission, the seller or his attorney and the purchaser or his attorney shall, before the passing of the transport or the completion of the transfer, make and file with the Registrar or the Commissioner of Lands and Mines, as the case may be, an affidavit in the case of transports and a declaration in the case of transfers, setting forth the full and true consideration paid or payable for the transport or transfer; but the affidavit or declaration shall not be required where immovable property or the rights or interests in Crown lands aforesaid is or are proved by affidavit, declaration, or in any other manner to the satisfaction of the Registrar or Commissioner, as the case may be, to have been sold by any auctioneer at public auction.

Affidavit or declaration as to consideration for conveyance.

(2) The forms contained in the third schedule hereto may, with the variations and additions the circumstances of the particular case require, be used on the occasions to which they respectively apply, and when so used shall be good and sufficient in law.

Forms.

### FIRST SCHEDULE.

(Section 5 (2).)

#### DUTIES OF ASSISTANT SWORN CLERKS.

1. Attending on behalf of the Registrar as clerk of court any session of the Supreme Court in its civil or criminal jurisdiction and performing any of the duties legally devolving upon the Registrar in the judicial department or registry of court.

2. Drawing and passing powers ad lites. Drawing and passing any inventory. Sealing when necessary any door, box, trunk, or package of a deceased person.

3. Drawing and passing any act of sealing.

4. Drawing and passing any act of breaking the seals and taking them off.
5. Sealing up when necessary any paper, parcel, box, trunk, or package deposited ad acta.
6. Attending execution sales.
7. Drawing acts of deposit of wills, and drawing and passing acts of deposit of other documents.
8. Registering any act, paper, or document and supplying certified copies of documents recorded or deposited in the registry.
9. Administering any oath, affidavit, or declaration under the provisions of this Ordinance.

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## SECOND SCHEDULE.

(Section 9.)

### RULES.

1. In these rules unless the context otherwise requires,—  
 “transport clerk” means the clerk assigned by the Registrar to take charge of the conveyancing branch of the registry and the person acting as that clerk.
2. If necessary, the charge of any branch registry may, with the approval of the Governor, be assigned by the Registrar to a notary public.
3. All deeds, powers, and other documents, other than wills or codicils, tendered for passing, registration, deposit, or record, must be neatly and plainly written, type-written, or printed on vellum or stout and durable paper, with a sufficient margin for binding. No carbon copy of any type-written document will be accepted for the purpose of being filed as of record in the registry. Alterations and interlineations should not be made, and, if unavoidable, they must be properly initialled by the parties to the document.
- 4.—(1) Deeds executed after these rules come into force by or in favour of women must state whether the women are single, married, or widows, and, in the case of a married woman, must contain the full name of her husband and set forth whether she is married to him with or without community of property or subsequent to the twentieth day of August, nineteen hundred and four.  
 (2) Women married by antenuptial contract prior to that date must be assisted by their husbands in executing deeds or powers except where, by antenuptial contract duly recorded or deposited, the wife has reserved to herself the right of managing her own property.
- 5.—(1) Any person desiring to pass a transport, mortgage, or lease, required by law to be passed before the Court, shall lodge with the Registrar (or if there is a branch registry in the county, other than the county of Demerara, where the property being dealt with is situate then with the clerk in charge thereof) written instructions setting out the description of the property in question and the name or names of the parties concerned and their several addresses and descriptions, together with the document or documents upon which the right, title, or authority to complete or enter into the transaction is founded, and, in the case of a transport of immovable property shall lodge at the same time the affidavits of purchaser and seller.

(2) Upon receipt of those written instructions the Registrar shall cause due notice of the transport, mortgage, or lease to be published in the Gazette for three successive Saturdays.

6. The instructions shall not be received from any person except the principal, his attorney, or a barrister or solicitor.

7. The instructions, duly completed and accompanied by all necessary supporting documents, shall be lodged before the hour of three in the afternoon on any day of the week (not being Sunday or a public holiday) other than Saturday with the transport clerk, who shall note on the former the day and hour of receipt, but no instructions lodged later than Thursday at mid-day in any week shall be advertised on the Saturday during that week.

8. Any person having a right to oppose the passing of a transport, mortgage, or lease shall do so in the manner and subject to the conditions now or hereafter prescribed by rules of court.

9.—(1) On receipt of the instructions, and on being satisfied that no opposition has been entered, that the instructions are complete and in order, with all necessary supporting affidavits and other documents, the transport clerk shall, as soon after the fourteenth day after the first notice referred to in rule five hereof as is possible, lay them before the Registrar who shall examine them.

(2) If the Registrar decides that the documents and title are in order for passing, he shall sign a certificate to that effect in the form annexed hereto, which certificate shall be affixed to the original transport, mortgage, or lease to which it relates ~~and thereafter the papers shall be laid before a judge of the Court, who shall, if satisfied that the documents and title are in order, intimate that fact to the Registrar for the information of the parties concerned, and thereafter the transaction shall be completed before the Court.~~

(3) ~~Immediately after execution the transport, mortgage, or lease shall be handed to the Registrar who shall file and register it in the registry, a grosse thereof being made for the use of the transportee, mortgagee, or lessee, as the case may be.~~

9a. 10. No transport, mortgage, or lease, or other transaction to which the afore-mentioned certificate relates shall be passed after the expiration of three months from the date of the certificate, but the instructions and proceedings shall be commenced afresh.

11. In order to facilitate business, whenever instructions are lodged in which any question of fact mentioned in the Ordinance or these rules arises, a short statement of the several facts and circumstances, together with a table of descent, shall be lodged, if required by the Court or Registrar, with the documents proving those facts and circumstances.

12. Any person wishing to pass any transport, lease, mortgage, or transfer, in which his title is founded upon a will or inheritance ab intestato, must produce satisfactory proof to the Registrar of the death of any person whose death it is necessary to prove, or of any other fact affecting the title, and a certified copy of the will shall also be lodged with the instructions.

13. Proof of marriage shall be by affidavit or other evidence to the satisfaction of the Court or Registrar.

14. Proof of marriage by contract shall be by production of the antenuptial contract if it has been duly recorded, or a certified copy thereof if it has been duly deposited, and proof of community of goods shall be by affidavit.

See Ord. 28  
1931

15. Proof of intestacy shall be by certificate of the Registrar that no will is on record in the registry and also by an affidavit of some person who would probably know of the existence of a will, like the intestate's wife or husband, or parents, or children, or other near relative.

16. Proof of a person having died unmarried shall be by affidavit of some one well acquainted with the deceased.

17. Proof of a person having died childless shall be by affidavit of some person well acquainted with the family.

18. Whenever, from the lapse of time since the original title was passed, or otherwise, the Court or Registrar considers proof of the identity of any person passing a transport or mortgage to be necessary, the parties may be required to supply that proof by affidavit.

19. Where land is acquired with special conditions attached, other than conditions in any Crown grant or lease limiting the right of the owner, those conditions must as long as they remain in force be embodied in every transport of the land, except as regards conditions contained in a Crown and colony title.

20. No transport or lease of land specially hypothecated under a mortgage bond shall be passed until the mortgage bond has been duly cancelled, but this rule shall not apply to cases in which such land is transported—

- (a) in execution of the judgement of any competent court by the officer appointed by law or by that court ;
- (b) by the trustee of the insolvent estate to which the land belongs ;
- (c) where the transferee specially accepts in writing the transport or transfer subject to the mortgage ;
- (d) under any special provision allowed by the Deeds Registry Ordinance, or any other Ordinance.

21.—(1) Every transport or lease must quote the date and number of the grant or transport by which the party transporting or leasing holds, and must also refer to the diagram (if any) of, the property being transported ; but no diagram shall be deposited or recorded in the registry until it has been certified by the Commissioner of Lands and Mines.

(2) The Registrar with the consent of the parties shall have power to substitute any diagram drawn or corrected by the Commissioner of Lands and Mines for the diagram originally presented.

(3) Where two or more distinct properties are to be conveyed by the same deed, each property must be described in a separate paragraph which shall set forth the particulars herein mentioned.

22. Any person seeking to pass a transport, lease, mortgage, or transfer, or to cancel a mortgage or lease, or to perform any act of a similar nature, on behalf of any other person, must lodge with the Registrar the power under which he claims to act at the time when he files his written instructions, but this rule shall not apply to any power which may at the time have been already deposited or recorded in the registry, and of which a certified copy is lodged.

23.—(1) A special power of attorney which provides only for the passing of a transport or lease, or the passing of a mortgage, or the cancelment of a mortgage or lease, and provides for no other purpose, shall be as nearly as possible in the form attached hereto and shall, subject to the provisions of the last preceding rule, be filed with the original transport, mortgage,

lease, or cancellation to which it relates, and, if executed within the colony, will not be accepted unless executed before a notary public, or attested by the signatures of two witnesses and by the certificate of a magistrate or justice of the peace that it was on the day and date thereof duly executed by the person therein named, who acknowledged himself to be perfectly acquainted with its true intent and object, and who, to the best of the knowledge and belief of the magistrate or justice was the person he or she purported to be.

(2) A special power of attorney aforesaid shall plainly set out in the body thereof the duties to be performed on behalf of the principal and fully describe the property to be transported, or mortgaged, or leased, and shall not be used except in respect of the one transport, mortgage, lease, or cancellation with which it is filed.

24. East Indian immigrants must in all deeds and documents be described by name, sex, number, the name of the ship in which he or she arrived, and the year of arrival, or other sufficient description, supported when required by the Court or Registrar by affidavit of identity.

25.—(1) Certified copies of transports, leases, and transfers of leases, passed under the provisions of the Deeds Registry Ordinance, or on record in the registry will be issued on application, if the grosse thereof has been lost or destroyed, on the following conditions:—

- (a) the person in whose name the property or right conveyed or secured by the deed stands registered shall make an affidavit describing the deed and stating that it has not been pledged, and is not being detained or held by anyone whomsoever, as security for any debt or otherwise, and that it has been actually lost or destroyed and cannot be found, though diligent search for it has been made, and further setting forth where possible the circumstances under which it was lost or destroyed, and if the deponent is unable to give the circumstances the fact should be stated in the affidavit;
- (b) if the person is absent from the colony, incompetent, deceased, or an insolvent, then an affidavit may be made by his legal representative or the legal representative of his estate;
- (c) the applicant shall also insert three times on three consecutive Saturdays in the Gazette and in a newspaper circulating in the county in which the property in question is situate, a notice, previously approved by the Registrar, to the following effect, with any alterations necessary in respect of each class of deed:—

#### LOST TRANSPORT.

Notice is hereby given that I intend applying for a certified copy of the deed of transport no. \_\_\_\_\_ passed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ by (here insert full name of transferor) in favour of (here insert full name of transferee) whereby certain (here insert full description of property) was conveyed. And all persons having objection to the issue of that copy are hereby required to lodge the objection in writing with the Registrar in Georgetown within six weeks from the publication of this notice.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ ;

(Applicant's signature.)

(d) the applicant shall lodge with the Registrar the affidavit aforesaid, the numbers and dates of issue of the Gazette in which the notice appeared, and one complete issue of the newspaper of each date on which the notice in question was published.

(2) After the expiration of the time mentioned in the notice the Registrar shall, if satisfied that no good reason to the contrary exists, grant the certified copy asked for to serve in place of the lost or destroyed grosse; but that copy shall not be issued until he has caused the registers to be searched by a sworn clerk, who shall certify in writing that, as far as can be ascertained from the records, the property has not been transported by the person by whom or by whose representative the application is made.

26.—(1) Certified copies of mortgage bonds passed before the coming into force of the Deeds Registry Ordinance, or passed and executed in accordance with the provisions of that Ordinance, or any cession of those mortgage bonds, will be issued, on application, if the grosse thereof has been lost or destroyed, on the following conditions:—

- (a) the person purporting to be the legal holder thereof shall make an affidavit giving a proper description of the bond and stating that it is lost or destroyed, as the case may be, and that at the time when it was so lost or destroyed he was the legal holder thereof, that it was not pledged or ceded to any other persons, that it cannot be found though diligent search for it has been made, and further setting forth where possible the circumstances under which it was lost or destroyed, and if the deponent is unable to give the circumstances the fact should be stated in the affidavit;
- (b) if the person who was or purports to be the legal holder of the bond or cession is incompetent, incapable, dead, or absent from the colony, the affidavit made by his curator, executor, or lawful representative, as the case may be;
- (c) the holder aforesaid shall also insert three times on three consecutive Saturdays in the Gazette and in a newspaper circulating in the county in which the property the subject of the mortgage is situate, a notice, previously approved by the Registrar, to the following effect with any alterations necessary in each case:

#### LOST MORTGAGE BOND.

Notice is hereby given that I intend applying for a certified copy of a mortgage bond for an amount of \_\_\_\_\_ passed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, no. \_\_\_\_\_ by [full name of mortgagor and address] in favour of [full name and address of mortgagee] by which [fully describing the property] was bonded. And all persons who may have any claim or right to the said mortgage bond or who may have any objection to the issue of that copy are hereby requested to lodge their objections in writing with the Registrar within six weeks from the publication of this notice.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; [Applicant's signature].

(d) the legal holder aforesaid shall lodge with the Registrar the affidavit, the numbers and dates of issue of the Gazette in which the notice appeared, and one complete copy of the newspaper of each date on which the notice was published.

(2) After the expiration of the time mentioned in the notice the Registrar shall, if satisfied that no good reason to the contrary exists, grant the certified copy asked for in the place of the lost or destroyed grosse of the mortgage bond or cession, as the case may be; but the copy shall not be issued until he has caused the registers to be searched by a sworn clerk who shall certify in writing that, as far as can be ascertained from the registers and records, the mortgage bond or cession has not been cancelled or ceded, as the case may be, by the person by whom or by whose representative the application is made.

27. No grosse of any transport, mortgage, lease, or other document, and no copy of any deed issued in place of the lost or destroyed grosse, or of any copy of any mortgage bond or cession thereof hereinbefore mentioned shall be delivered to the person entitled to receive it unless he, or his agent duly authorised in writing has previously granted on the original deed or instrument a receipt for that grosse or copy, or, in the case of persons residing at a distance from Georgetown or New Amsterdam, has transmitted to the Registrar a written receipt duly witnessed therefor, and in the latter case the grosse or copy shall thereupon be transmitted by post to the person granting the receipt at his risk.

28. Certified copies of deeds conveying or mortgaging immovable property required for judicial purposes will be issued only on receipt of a written application, signed by a duly admitted barrister or solicitor, or, if there is no counsel or solicitor employed in the case, then on the written application of the party, giving full particulars of the purpose for which the copy or copies is or are required and having the words "Issued for judicial purposes only in [naming the cause or matter]" plainly and legibly written in large letters across every page of every copy so issued. That copy shall on no account whatsoever be used for any purpose other than that for which it is issued.

29. Every power of attorney, declaration, or affidavit required or allowed by any of the foregoing rules shall state in the body thereof by whom it has been drawn, and any power of attorney, declaration, or affidavit drawn by anyone other than the person on whose behalf it is to be used, or by a barrister or a solicitor, shall not be received.

30. Every deed of transport of immovable property shall, subject to any necessary alterations, be as nearly as possible in one of the forms attached hereto.

31. These rules may be cited as the Deeds Registry Rules, 1920.

### CERTIFICATE OF REGISTRAR.

(Rule 9.)

(Nature of transaction is to be stated here.)

I hereby certify that I have examined, checked and satisfied myself as to the sufficiency of the title of [give name of transferor, mortgagor, or as the case may be] to pass the above-mentioned (transport, mortgage, or as the case may be) of [state property shortly] to and in favour of [state transferee, mortgagee, or as the case may be].

Dated at Georgetown, this                      day of                      , 19 .  
Registrar.

## TRANSPORT.

(Rule 30.)

BRITISH GUIANA.

County of

Before  
of British Guiana aforesaid.

Chief Justice or Puisne Judge

Be it known that on this day the

of  
hundred andin the year one thousand nine  
appeared whichappearer declared by these presents to cede, transport, and in full and free  
property to make over to and in favour ofhis heirs, executors, administrators and assigns [*here describe fully the property*]  
being of the value of

dollars of the current

money of British Guiana aforesaid, transported on the

the appearer acknowledging to be fully paid and satisfied for the same.

And appeared at the same time

who

declared to accept of the foregoing transport and to be satisfied therewith.

In testimony whereof the parties have hereunto set their hands  
and I, the said judge, together with the transport clerk,  
have counter-signed the same the day and year first above  
written, the seal of the Court being affixed hereto.

## TRANSPORT.

(Rule 30.)

BRITISH GUIANA.

County of

Be it known that in obedience to a judgement (or order) of the Supreme  
Court, (or of the honourablein chambers, *as the case may be*)

under the provisions of the Deeds Registry Ordinance, before

Chief Justice or Puisne Judge of British Guiana appeared

an officer of the Court, which appearer declared by these presents to cede,  
transport, and in full and free property to make over, to and in favour of

his heirs, executors, administrators and assigns

[*here describe fully the property*]

being the value of

dollars of the current money of British Guiana.

And appeared at the same time

who

declared to accept the foregoing transport and to be satisfied therewith.

In testimony whereof the parties have hereunto set their hands  
and I, the said judge, together with the transport clerk,  
have counter-signed the same the day and year first above  
written, the seal of the Court being affixed hereto.

## SPECIAL POWER OF ATTORNEY TO TRANSPORT OR MORTGAGE.

(Rule 23.)

I,

of

do hereby constitute and appoint

of

to be my true and lawful attorney and

agent for the special purpose hereinafter expressed, that is to say, in my



name and on my behalf to appear before a judge of the Supreme Court of British Guiana and then and there to give and pass transport of (*or as the case may be*) [*here describe the property*] sold by me to (*or mortgaged as the case may be, and the amount of the mortgage*) of to the said \_\_\_\_\_ in due and customary form, and generally for effecting the purpose aforesaid to do whatsoever shall be requisite as effectually to all intents and purposes as if I myself could do if present and acting in person, and all and whatsoever my said attorney shall lawfully do or cause to be done in the premises I agree to allow and confirm.

In witness whereof I have hereunto set my hand at  
 this \_\_\_\_\_ day of \_\_\_\_\_ one thousand  
 nine hundred and \_\_\_\_\_ before \_\_\_\_\_  
 and in the presence of the subscribing witnesses.

As Witnesses.

- 1.
- 2.

Signed before me, the \_\_\_\_\_ to the best of my  
 knowledge and belief being the person  $\frac{\text{he}}{\text{she}}$  purports to be  
 and appearing fully to understand the effect hereof.

*Magistrate or Justice of the Peace.*

### THIRD SCHEDULE.

(Section 38.)

#### FORM 1.

#### *Declaration of Seller.*

County of Demerara.

I, *A.B.* (*occupation and residence*) do solemnly and sincerely declare\*—

(1) that on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, I sold to *C.D.* the property herein described, that is to say (*here describe the property*) and that the full and true consideration passing to me for the sale is the sum of \_\_\_\_\_

And I further state that there is not any agreement, condition, or undertaking between me and the said *C.D.* whereby he is to pay or has paid to me or to any other person whomsoever for or in respect of or in connection with the purchase by him of the said property any sum of money over and above the said sum of \_\_\_\_\_ save and except certain charges under the heading of stamp duty or registrar's fees.

(2) And I further state in respect of the said sale that I have not received and that I am not to receive nor has any other person received nor is any other person to receive for my use or benefit or at my instance or request any valuable consideration besides the said sum of \_\_\_\_\_

(3) † All of which I declare to be the absolute truth without any reservation whatever, and according to the Statutory Declarations Ordinance.

Sworn  
 Declared before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\* *If for a transport, say "being duly sworn make oath and say as follows":—*  
 † Omit if for a transport.

## FORM 2.

*Declaration of Purchaser.*

County of Demerara.

I, *C.D.* (*occupation and address*) do solemnly and sincerely declare\*—

(1) That on the            day of            19            , I bought from *A.B.* the property herein described (*here describe the property*) and that the full and true consideration paid or to be paid by me for the property whether to the said *A.B.* or to any other person in connection with the sale is the sum of

(2) And I further state that I have not nor has any other person to my knowledge on my account paid nor is there by me or on my behalf to be paid any other valuable consideration for or in respect of or in connection with the alienation to me of the said property, save and except certain stamp duty and registrar's fees.

(3) † All of which I declare to be the absolute truth without any reservation whatsoever, and according to the Statutory Declarations Ordinance.

Sworn  
Declared before me at            this            day of            , 19            .

\* *If for a transport, say "being duly sworn make oath and say as follows" :—*

† Omit if for a transport.