

CHAPTER 296

LAND REGISTRATION ACT

To establish a Land Registry to regulate the registration of title to land, and to make provision for matters incidental thereto or connected therewith.

1st March, 1982;
15th November, 1982

ACT XXXV of 1981, as amended by Acts VIII of 1982, XI and XIII of 1983, IV of 1985, XII of 1989, VIII of 1990, XXI of 1993, VII and XXIV of 1995, VI of 1996 and XIII of 2004; Legal Notice 423 of 2007 and Act XXXVIII of 2021.

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PART I

PRELIMINARY

Short title.

Interpretation.

Amended by:

VIII. 1982.2;

XII. 1989.2;

VII. 1995.2.

1. The short title of this Act is the Land Registration Act.

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

"charge" means a special privilege over immovables and a special hypothec, including a special hypothec derived from a general hypothec whether legal, judicial or conventional;

"compulsory registration area" means any area in Malta declared by the Minister to be a registration area under article 10 and includes any area declared or deemed to be a registration area by or under any other law;

"declaratory registration area" means any area in Malta declared as such by the Minister in virtue of articles 15 or 16;

"land" includes building and any other construction or works;

"land situated in a registration area" includes land to which this Act applies as if it were so situated;

"Land Registrar" means the public officer in charge of the Land Registry in accordance with article 4;

"Minister" means the Minister responsible for Land Registry;

"overriding interests" means the interests described as such in article 43;

"person" includes a physical or legal person, whether such person is corporate or unincorporate;

"prescribed" means prescribed by rules under this Act;

"register" includes the day-book containing the progressive number of applications submitted, the register of titles or the register of charges, and any other document on which annotations are to be made in virtue of this Act, and "registered" shall be construed accordingly;

"registrar" means the Land Registrar and any assistant registrar or other officer of the Land Registry authorized in that behalf by the Land Registrar;

"registration area" means a compulsory registration area or a declaratory registration area as the case may be;

"transfer", when used in relation to a charge, includes the subrogation in the right of the proprietor of the charge.

PART II

ADMINISTRATIVE PROVISIONS

Land Registry.

3. (1) There shall be an office in Malta to be called the Land Registry for the purposes of registration of titles to land.

(2) The Land Registry shall consist of two branches, one in the

Island of Malta where the titles to land in that island shall be registered, and the other in Gozo where the titles to land in Gozo and Comino shall be registered.

4. (1) The business of the registry shall be conducted by a public officer who shall be appointed for that purpose and shall be known as the Land Registrar, with such officers (namely, assistant registrars, clerks and other employees) as may from time to time be deemed to be required.

Land Registrar and
other officers.
Amended by:
VII. 1995.3.

(2) A person shall not be qualified to be appointed Land Registrar unless he is an advocate or a notary public of not less than seven years' standing.

(3) A person shall not be qualified to be appointed assistant registrar unless he is an advocate or a notary public or a legal procurator of not less than three years' standing.

(4) During any vacancy in the office of the Land Registrar, all the functions, powers and authorities by this Act or by any other law assigned to or conferred on the Land Registrar shall be exercised by an assistant registrar designated by the Minister to act as Land Registrar and all acts done by an assistant registrar so designated shall have the same effect in all respects as if they had been done by the Land Registrar.

Conduct of
business of
registration.

5. (1) Subject to the provisions of this Act, the Land Registrar shall conduct the whole business of registration under this Act and shall frame and cause to be printed or otherwise reproduced and circulated or otherwise promulgated such forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act.

(2) The Land Registrar may delegate to any assistant registrar all or any of his functions, powers or authorities assigned to or conferred on him by this Act or any other law, and may at any time revoke or vary such delegation:

Provided that no such delegation shall be deemed to divest the Land Registrar of any of his functions, powers or authorities and he may, if he thinks fit, exercise such functions, powers or authorities collaterally with the assistant registrar so delegated.

Power of registrars
to summon
witnesses and
production of
maps, etc.
Amended by:
XIII. 1983.5;
VIII. 1990.3;
L.N. 423 of 2007.

6. (1) The registrar may administer an oath or take a sworn declaration in pursuance of this Act for any of the purposes of this Act and may also, by summons under his signature, require the attendance of all such persons as he may think proper in relation to the registration of any title; he may also, by like summons, require any person having the possession or custody of any map, survey, book or other document relating to land to produce such map, survey, book or other document for his inspection; and he may examine upon oath any person appearing before him and administer an oath accordingly.

(2) If any person, after the delivery to him of such summons as aforesaid, or of a copy thereof, wilfully neglects or refuses to attend in pursuance of such summons, or to produce such maps,

surveys, books or other documents as he may be required to produce under the provisions of this Act, or to answer upon oath or otherwise such questions as may be lawfully put to him by a registrar under the powers of this Act, he shall be guilty of an offence and shall be liable, on conviction by the Court of Magistrates, to a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (232.94).

Departments may furnish information to registrar.

*Amended by:
VII. 1995.4.*

Exclusion of liability for acts done in good faith by registrar.

7. Notwithstanding the provisions of any law enjoining secrecy, a government department shall, within the prescribed time, furnish to the Land Registrar on his request such particulars and information in regard to land and charges as he is by law entitled to require owners of property to furnish to him direct.

8. (1) The Land Registrar shall not, nor shall an assistant registrar nor any person acting under the authority of the Land Registrar or an assistant registrar, or under any order or general rule made in pursuance of this Act, be liable, in damages or otherwise, to any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith and with ordinary diligence in the exercise or supposed exercise of the powers of this Act, or any order or general rule made in pursuance of this Act.

(2) The Government shall not be liable, in damages or otherwise, for anything done or omitted to be done under this Act; without prejudice to the provisions of this Act relating to indemnity payable thereunder.

Seal of Land Registry.

9. There shall be a seal of the Land Registry and any documents purporting to be sealed with that seal shall be admissible in evidence and, unless the contrary is shown, shall be deemed, without further evidence, to be issued by or under the direction of the Land Registrar.

PART III

REGISTRATION OF LAND

Compulsory Registration

Registration areas.
*Amended by:
VII. 1995.5.*

10. (1) The Minister shall, from time to time, by order in the Gazette, declare areas in Malta to be registration areas, and shall define such areas by reference to a map included in the order and in such other manner as he may deem appropriate, and such areas shall be known as compulsory registration areas.

(2) Where land is registered under the provisions of article 12(2), article 14(2), articles 15, 16, 16A or 17 that land shall henceforth be deemed to be a compulsory registration area.

(3) The Minister may also declare an area to be partly a compulsory registration area and partly a declaratory registration area, and moreover the same area may be declared to be such a registration area for giving effect to all or any of the purposes and

provisions of this Act.

11. The provisions of article 996 of the Civil Code and of article 239 of the Code of Organization and Civil Procedure, as well as any other provision of those Codes or of any other law relative to the registration of certain transfers in the Public Registry, and which is inconsistent with this Act, shall cease to be operative in respect of land situated in any registration area, and in respect of land that has been registered:

Provided that the provisions of article 22 of the Land Acquisition (Public Purposes) Ordinance, shall have effect notwithstanding any provision of this Act, and this Act shall apply and be construed so as to give full effect to the provisions of the Ordinance aforesaid.

12. (1) In any registration area -

- (a) every contract conveying the ownership of immovable property, or any real right over such property including transactions relating to immovable property under trusts, or whereby any act having the effect of conveying the ownership of immovable property or any real right over such property, is dissolved, rescinded or revoked, and every contract creating or varying such right or whereby any such right is converted into any other of such rights or is waived, and every contract whereby immovable property is partitioned, and every act having a declaratory effect as to the ownership of, or any real right over, immovable property (including a deed made for a purpose of the Duty on Documents and Transfers Act, and an inventory drawn by a trustee accepting a testamentary trust and a unilateral declaration of trust with regard to additional trust property, but excluding any other deed of inventory), and every contract of antichresis; and
- (b) every judgment whereby any act having the effect of conveying the ownership of immovable property, or any real right over such property, is dissolved, rescinded or revoked, or which directly adjudges the transfer of the ownership of immovable property, or of any real right over such property, or which has the effect of creating a hypothec, and every hypothec arising by operation of law; and
- (c) every conveyance of immovable property by judicial sale, and every redemption of groundrent effected in accordance with article 1501 of the Civil Code,

in so far as the land comprised in the contract, judgment, judicial sale or in the schedule of redemption or affected by the hypothec is situated within a registration area, shall, in no case, commence to be operative, with regard to third parties, until and unless the title to the land conveyed or affected, whether beneficially or adversely, by any contract, judgement, judicial sale, redemption or hypothec

Inapplicability of other laws to registration areas.

Amended by:

IV. 1985.2;

XII. 1989.3.

Cap. 16.

Cap. 12.

Cap. 88.

Conveyance of land in registration area must be registered to become operative.

Amended by:

VII. 1995.7;

XIII. 2004.65;

XXXVIII.2021.2.

Cap. 364.

Cap. 16.

as aforesaid, is registered in the day-book in the manner prescribed.

(2) Without prejudice to the provisions of article 17(3), the registrar may, in his discretion, likewise register the title to land situated outside a registration area and comprised in any contract, judgment, judicial sale or redemption as aforesaid or affected by any such hypothec as aforesaid and in any such case he shall make such entries in the register as are appropriate; and where land is so registered this Act shall apply thereto as if it were situated in a registration area.

Duties of notaries public receiving acts affecting land in registration areas.

*Amended by:
XIII. 1983.5;
VII. 1995.8;
XXIV. 1995.362;
VI. 1996.2;
L.N. 423 of 2007.*

13. (1) A notary public receiving any of the contracts referred to in article 12(1)(a), and to which that article applies, shall, within fifteen days from the date of the deed, apply, in the manner prescribed, for the registration of the title to the land affected and for the appropriate entries to be made in the register.

(2) If a notary public fails to comply with the requirements of this article, he shall, in addition to his liability for any damage that may have been sustained in consequence of his default, be liable, on conviction by the Court of Revision of Notarial Acts, to a fine (*ammenda*) not exceeding forty-six euro and fifty-nine cents (46.59):

Provided that a notary public shall be deemed to have complied with the requirements of this article if, in the meantime, an application for registration as aforesaid shall have been filed in the registry by any party interested or by a notary or an advocate or legal procurator on behalf of any such party.

(3) Where under article 12 the title to land is to be registered and any entries in the register are to be made following a judgment or a judicial sale or redemption or a hypothec created by operation of law, application therefor shall be made, in the manner prescribed, by any party interested or by an advocate, or a notary public or a legal procurator, on behalf of any such party:

Provided that no such application shall be entertained until it is certified by the Registrar of Courts that the judgment has become *res judicata* or that the adjudication is final.

Registration of title to land comprised in a succession.

*Amended by:
VII. 1995.9;
VI. 1996.3;
Amended by:
XXXVIII.2021.3.*

Cap.12.

14. (1) On the opening of the succession of any person, the title to land comprised in the transmission and situated in any registration area shall, unless it is already so registrable in virtue of article 12, be registered in the name of the persons in whose favour such land may have passed, on an application made in the prescribed manner, and any disposal or partition of such land or any dealing therewith shall not be entered into before the title thereto has been registered, and in the case of a declaration of the opening of a succession in virtue of article 536 of the Code of Organization and Civil Procedure, the court shall order the applicant to make such registration within fifteen days from the declaration, and appoint a curator, so that in the absence of such registration by the applicant, such registration shall be made by the curator so appointed at the expense of the applicant.

(2) Without prejudice to the provisions of article 17(3), the

registrar may, in his discretion, extend the provisions of sub-article (1) to any land situated outside the aforesaid registration area and comprised in a transmission which includes land situated in the aforesaid registration area; and where that sub-article is so extended the registrar shall register such land and this Act shall apply thereto as if it were situated in a registration area.

15. (1) The Minister may from time to time, by order in the Gazette direct that any title to land shall be registered whether such land is or is not in a registration area.

(2) The Minister may make such order either:

- (a) with reference to particular areas which shall be defined by reference to a map or maps included in the order or in such other manner as he may deem appropriate; or
- (b) with reference to any person or group of persons; or
- (c) with reference to the nature of the right in or over the land.

(3) The Minister may in any such order direct that such registration shall be made within a period to be fixed in the order, which period shall in no case be of less than three months.

(4) Where land is registered by virtue of this article, this Act shall apply thereto as if it were situated in a registration area.

(5) Any person who -

- (a) fails to comply with an order made by the Minister in virtue of sub-article (1); or
- (b) in the course of any proceedings before the registrar or a court in pursuance of this Act, and in relation to any land which is to be registered pursuant to an order made by the Minister in virtue of sub-article (1), with intent to conceal the title or claim of any person, or to substantiate a false claim, suppresses, attempts to suppress, or is privy to the suppression of, any document or fact; or
- (c) in relation to any land which is to be registered pursuant to an order made by the Minister in virtue of sub-article (1), fraudulently procures, or attempts fraudulently to procure, or is privy to the fraudulent procurement of, any entry on, erasure from or alteration of, the register or any certificate or document,

shall be guilty of an offence against this Act and, on conviction, shall be liable to the penalties established under sub-article (6).

(6) The Minister may in any order made in virtue of sub-article (1) establish the penalties to which a person guilty of an offence in accordance with sub-article (5) in relation to such order shall be liable; such penalty shall not be more severe than those established in article 58.

The Minister may order that certain lands be registered.

*Added by:
XI. 1983.2.*

*Amended by:
VII. 1995.10;
VI. 1996.4.*

(7) The provisions of this article shall be deemed to have been complied with if the application is submitted by any interested party.

Registration of certain rights.

Added by:

XI. 1983.2.

Amended by:

VII. 1995.11.

16. (1) The Minister may, from time to time, by order in the Gazette, direct that the rights referred to in any of the paragraphs of article 43(1)(a) to (l) shall be declared to the registrar, whether the land subject to such rights is or is not in a registration area and whether such land is registered or not.

(2) The Minister may make such order either:

- (a) with reference to particular areas which shall be defined by reference to a map or maps included in the order or in such other manner as he may deem appropriate; or
- (b) with reference to any person or group of persons whose land is subject to any right referred to in sub-article (1); or
- (c) with reference to any person or group of persons in whose favour or in favour of whose land any right referred to in sub-article (1) exists.

(3) The Minister may in any such order direct that such declaration shall be made within a period to be fixed in the order, which period shall in no case be less than three months.

(4) The declaration referred to in sub-article (1) shall be made on such form issued by the registrar as is provided in article 5(1) and shall be accompanied by such information and documents as the registrar may require.

(5) The registrar shall keep a roll of, or otherwise enter in the register, the declarations made in pursuance of sub-article (1).

(6) The Minister may in any such order provide that any person in whose favour any right declared to the registrar has been transferred shall, within fifteen days from such transfer, give notice thereof to the registrar on such form issued by the registrar as is provided in article 5(1); and the registrar shall note such transfer in the manner provided in sub-article (5).

(7) The provisions of article 15(5), (6) and (7) shall *mutatis mutandis* apply to an order made by the Minister under this article.

Registration of property of unknown owners.

Added by:

VII. 1995.12.

16A. (1) Where land or a share in such land, or any rights in or over it are registerable or declarable in virtue of the provisions of article 15 or 16, and the owner or presumed owner is unable or unwilling to apply for its registration within the time prescribed, the registrar shall, without prejudice to any liability incumbent on any person under the said articles, register such land or make the appropriate declaration on behalf of unknown owners and such land shall be administered by the Government on behalf of such unknown owners. The Commissioner of Land shall each year publish a list of such property in the Gazette.

(2) Where land is registered or declared on behalf of unknown owners by the registrar, he shall also register any charges, cautions,

servitudes or other overriding interests, or any other right registerable in accordance with this Act as may affect such land and of which he may be aware.

(3) The provisions of article 23 shall apply to any registration or declaration made in virtue of sub-articles (1) and (2).

(4) Upon the lapse of thirty years, unless the registration shall have been successfully challenged in terms of sub-article (3), such land shall be registered with guaranteed title in favour of and in the name of the Government of Malta, free and unencumbered except for such charges, cautions, servitude or other overriding interests or other rights that were duly registered in accordance with sub-article (2):

Provided that if the charge, caution, servitude, other overriding interest or any other registerable right is in favour of land which is itself registered on behalf of unknown owners, but with reference to such land, the period of thirty years mentioned in this sub-article has not yet elapsed, then the servient land shall be registered as subject to such charge, caution, servitude, other overriding interest or other right, which shall be extinguished only when the period of thirty years as established in this sub-article elapses also in respect of the dominant land.

(5) Rights registered on behalf of unknown owners shall in like manner pass in favour of the Government upon the lapse of thirty years from their declaration.

16B. (1) In addition to any other powers that the Minister has under articles 10, 15 and 16, as well as under any provision of this Act, the Minister shall have the power to cancel an order which has been given under articles 10, 15 and 16 of this Act, with effect from the date on which the order for cancellation is published in the Gazette.

Power of
deregistration.
Added by:
XXXVIII.2021.4.

(2) Where an order for cancellation is made as provided in sub-article (1), all such registrations made by virtue of the cancelled order shall be deemed cancelled and ineffective, except for those registrations that led to a guaranteed title in accordance with articles 21 to 25 of this Act, both articles included.

(3) Any caution, hypothec, privilege or other right in connection with a registration cancelled in accordance with sub-article (2) shall also be deemed to be cancelled and ineffective.

Voluntary Registration

17. (1) Subject to such conditions and procedures as may be prescribed and without prejudice to the provisions of article 12(2) and of article 14(2), the registrar may, in his discretion, and either on his own initiative or on an application in that behalf, register the title to any land, whether such land is or is not in a registration area; and in any such case he shall make such entries as may be appropriate.

Voluntary
registration title to
land.
Amended by:
XXXVIII.2021.5.

(2) Where land is registered by virtue of this article, this Act

shall apply thereto as if it were situated in a registration area.

(3) No land may be registered under this article if such land is subject to a cancellation order issued in accordance with article 16B.

Preliminaries to Registration

Duties of registrar.

18. The examination by the registrar of any title under this Act shall be conducted in the manner prescribed:

Provided that -

- (a) due notice shall be given, where the giving of such notice is prescribed, and sufficient opportunity shall be afforded to any persons desirous of objecting to state their objections to the registrar; and
- (b) the registrar shall have jurisdiction to hear and determine any such objections subject to an appeal to the Court of Appeal in the prescribed manner and on the prescribed conditions; and
- (c) if the registrar, upon the examination of any title, is of the opinion that the title is open to objection, but is nevertheless a title the holding under which will not be disturbed, he may approve of such title, or may require the applicant to apply to the court, upon a statement signed by the registrar, for its sanction to the registration.

Duties of applicant
for registration.

*Amended by:
VII. 1995.13.*

19. (1) Before the completion of the registration of any title to land in respect of which an examination is required, the applicant for registration and his legal advisor shall each, if required by the registrar, make a sworn declaration that, to the best of his knowledge and belief, all deeds, wills and other documents and all charges and encumbrances affecting the title which is the subject of the application, and all facts material to such title, have been disclosed in the course of the investigation of title made by the registrar, and he may further be required by the registrar to state what means he has had of becoming acquainted with the several matters referred to in this article.

(2) Where an application for registration is incompatible with a title which is already registered in the registry in such manner that the registration cannot be effected, the applicant may lodge a caution and the provisions of Part V of this Act shall apply thereto, unless the land is registered with a guaranteed title, in which case the applicant may only seek the rectification of the register.

Taxing of costs of
registration.

*Amended by:
XXIV. 1995.362.*

20. (1) All costs, charges and expenses that are incurred by any party in or about any proceedings for registration shall be taxed by the registrar who shall also, in his discretion, unless the parties agree otherwise, determine by order in writing the persons by whom and the proportions in which such costs, charges and expenses are to be paid, regard being had to the following provision, namely, that any applicant under this Act is liable *prima*

facie to pay all costs, charges and expenses incurred by or in consequence of his application, except -

- (a) in a case where the rights of the parties who object are sufficiently secured without their appearance; and
- (b) where any costs, charges or expenses are incurred unnecessarily or improperly.

(2) Any order made by the registrar under this article shall have the same effect as if the costs, charges or expenses had been taxed by the Registrar of Courts and shall likewise be subject to revision by the court.

Effects of Registration

21. (1) On the application for first registration of land, charge or other registerable right, whatever the title under which such land, charge or right has passed to the person applying for registration, the Registrar shall issue to that effect a certificate for the title to that land, charge or other registerable right, according to the title under which the land, charge or right has passed to that person.

How land may be registered.
Substituted by:
VII. 1995.14.

(2) Where land is according to any other law to be registered with a guaranteed title, or where land is to be registered in favour of the Government of Malta, or where registration is sought pursuant to a transfer by the Government of Malta, it shall be registered with a guaranteed title.

(3) Where land is registered, it shall be deemed to have been so registered with effect from the date on which the application for registration has been entered in the daybook.

22. The registration of any person as proprietor of land with a guaranteed title shall confer on the person so registered an indefeasible title thereto, that is to say, a title not liable to be defeated except as provided in this Act, together with all rights, privileges and appurtenances belonging or appurtenant to the land, subject to the following rights and interests, that is to say -

- (a) subject to the encumbrances and other interests, if any, appearing on the register; and
- (b) unless the contrary is expressed on the register, subject to such overriding interests, if any, as affect the registered land; and
- (c) with regard to land held on emphyteusis, subject to all implied and express covenants, obligations and liabilities incident to the registered land,

Effects of
registration with
guaranteed title.
Amended by:
VII. 1995.15;
VI. 1996.5.

but free from all other rights and interests whatsoever:

Provided that if the Minister, in virtue of the provisions of article 16, directs that any or all of such rights or overriding interests shall be registered, the provisions of this article shall not apply with regard to those rights or interests which have to be registered but are not so registered.

Effects of registration with a title which is not a guaranteed title.
Amended by:
VII. 1995.16;
VI. 1996.6.

23. (1) The registration of any person as proprietor of land with a title which is not a guaranteed title shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered proprietor and subsisting or capable of arising at the time of the first registration of the land; but, save as aforesaid, shall have the same effect as registration with an absolute title.

(2) Without prejudice to articles 16A and 46, the registrar shall, unless an application for the interruption of prescription or other caution having the same effect has been lodged, convert the title into a guaranteed title on the lapse of ten years from first registration.

Registration with a qualification.
Amended by:
VII. 1995.17;
XIII. 2004.66.

24. (1) Where on the examination of the title it appears to the registrar that the title can be established only for a limited period, or is owned under trusts or is subject to a condition or to certain reservations, the registrar may, by an entry made in the register, except from the effect of registration any right or interest arising before a specified date or under a specified instrument or otherwise particularly described in the register.

(2) The registration of a person as proprietor of land with a title qualified in terms of this article shall have the same effect as the registration of such person with a title, or a guaranteed title, as the case may be, save that such registration shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted.

Persons entitled to be registered as proprietors of land.
Amended by:
XIII. 2004.67.

25. The following persons only may be registered as proprietors of land, that is to say -

- (a) the owner, a trustee, the *dominus*, the emphyteuta, the bare owner, the usufructuary;
- (b) the person in whom the absolute possession of the property of an absentee and the absolute exercise of the rights depending upon his death have been granted by a judgment or order of the court; and
- (c) the competent authority holding land in use and possession or on public tenure, or any assignee of such rights, and the person entitled to the acquisition rent or the recognition rent:

Provided that the holder of a legal usufruct may not be registered as proprietor, but may have his interest protected on the register.

PART IV

DEALINGS WITH REGISTERED LAND

Dispositions of Land

26. (1) The proprietor may, subject to any entry in the register to the contrary, transfer the registered land or any part thereof, and upon such transfer an application shall be submitted within fifteen days from the date of deed of transfer, the notary publishing the deed shall make a reference therein to the certificate of title number whereby the transferred land is registered; and where a notary fails to make such reference, an extra fee for the registration of such transfer as may be prescribed, shall be due by such notary.

Transfer of
registered land.
Amended by:
IV. 1985.5;
VII. 1995.18.

(2) The transfer of registered rights over the land or part thereof shall be completed by the registrar entering, on the certificate, the transferee as the proprietor of the rights transferred on application made in virtue of sub-article (1); and where part only of the land is transferred, this shall also be noted, and separate certificates showing the different parts owned shall be issued: and the provisions of article 21(3) shall apply *mutatis mutandis* to the registration of such transfers.

(3) All interests transferred or created by dispositions by the proprietor, other than a transfer of the registered rights over the land or part thereof, shall, subject to the provisions relating to charges, be completed by registration in the same manner and with the same effect as provided by this Act with respect to transfers of registered rights; and notice thereof shall also be noted on the register:

Provided that nothing in this sub-article shall authorise the registration of a lease or shall render necessary the registration of any easement except as appurtenant to registered land, or the entry of notice thereof except as against the registered title of the servient land.

27. (1) A disposition of land registered with a guaranteed title, or of any right thereon in respect of which the holder may be registered as proprietor, shall, when registered, confer on the person in whose favour the disposition is made an indefeasible title thereto, that is to say, a title not liable to be defeated except as provided in this Act, together with all rights, privileges and appurtenances belonging or appurtenant to the land, subject -

Disposition of
registered land.
Amended by:
VII. 1995.19.

- (a) to the encumbrances and other interests, if any, appearing on the register; and
- (b) unless the contrary is expressed on the register, to the overriding interests, if any, affecting the land or right transferred or created; and
- (c) with regard to land held on emphyteusis, to all implied and express covenants, obligations and liabilities incident to the land or right transferred or created,

but free from all other interests whatsoever.

(2) A disposition of land registered with a guaranteed title qualified in terms of article 24, or of any right thereon in respect of which the holder may be registered as proprietor, shall, when registered, have the same effect as it would have had if the land had been registered with a guaranteed title, save that such disposition shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted.

(3) A disposition of land registered with a title which is not a guaranteed title, or of any right thereof in respect of which the holder may be registered as proprietor, shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered proprietor and subsisting or capable of arising at the time of the registration of such proprietor; but, save as aforesaid, shall, when registered, have the same effect as it would have had if the land had been registered with a guaranteed title:

Provided that where the land was registered with a title, which is not a guaranteed title, qualified in terms of article 24, such dispositions shall not affect or prejudice the enforcement of any right or interest appearing in the register to be excepted.

Charges on Land

Charges on registered land.

28. (1) The proprietor of registered land may, subject to any entry in the register to the contrary, charge the registered land in the same manner and to the same extent as if the land had not been registered; and registered land may be charged by operation of law or of a judgment in the same manner and to the same extent as if the land had not been registered:

Provided that a charge shall not be registered unless the land comprised in the charge is, in the deed or other document creating the charge or required for the registration of a charge created by operation of law or of the judgment, described by reference to the register or in any other manner sufficient to enable the registrar to identify the same without reference to any other document.

(2) Any provision contained in a charge which purports to -

- (a) take away from the proprietor thereof the power of transferring it by registered disposition or of requiring the cessation thereof to be noted on the register; or
- (b) affect any registered land other than that in respect of which the charge is to be expressly registered,

shall be void.

Charges on land situate in a registration area but not registered.
Added by:
VII. 1995.20.

28A. (1) Land situate in a registration area, but which has not been registered, may, subject to the following provisions of this article, be charged by agreement, by operation of law or by judgment to the same extent and in the manner as if that land had been registered.

(2) A charge registered in accordance with sub-article (1) shall be subject to the condition that on the date of the application for its registration, the debtor was an owner of the land subject to such

charge and was not in any way incapacitated from charging the land, and shall affect the land subject to it only to the extent that the debtor is the owner of, or has an interest in, such land.

(3) Subject to the provisions of sub-article (2), a charge registered in accordance with sub-article (1) shall affect any person acquiring the land to the same extent and in the same manner as if such land had been registered and that charge had been a charge in respect of that registered land.

(4) When the registrar receives an application for the registration of the land subject to the charge registered in accordance with sub-article (1), he shall, if the person applying for the registration is the debtor referred to in the charge or derives title from such a debtor who was the owner of such land and to the extent of such ownership, register the charge as a charge on the title to the land so registered.

(5) Without prejudice to the foregoing provisions of this article, a charge registered in accordance with sub-article (1) shall have the same effect as a caution lodged with the registrar to the effect that the land subject to the charge shall not be registered for the first time in favour of any person until notice has been served upon the proprietor of the charge; and article 35(3) and article 37 shall apply to a proprietor of a charge registered in accordance with sub-article (1) as they apply to a cautioner.

29. (1) The charge shall be completed by the registrar entering on the register the person in whose favour the charge is to subsist as the proprietor of such charge, and the particulars of the charge.

Registration of charges.
Amended by:
VI. 1996.8.

(2) When the land in respect of which a charge is registered, is registered with a title which is not a guaranteed title or with a title qualified in terms of the provisions of this Act, the charge shall take effect subject to the provisions of this Act with respect to land registered with such a title.

30. A charge shall not affect a person acquiring any registered land or right thereon unless the charge is protected by an entry on the register. Where such entry is made it shall be deemed to have been made on the date on which the application therefor has been entered in the day-book.

Charge effective only if registered.
Amended by:
IV. 1985.6.
Substituted by:
VII. 1995.21.

31. Subject to the provisions established by law and to any entry to the contrary on the register, registered charges on the same land shall, as between charges of the same kind and not enjoying any intrinsic priority, rank according to the order of the progressive number relative thereto in the day-book.

Ranking of charges.
Amended by:
VII. 1995.22.

32. (1) A registered charge may be transferred in the same manner and to the same extent as if it were a charge registered under the provisions of the Public Registry Act, and the provisions of article 12 shall also apply to such transfers.

Transfer of charges.
Amended by:
VII. 1995.23.
Cap. 56.

(2) The transfer shall be completed by the registrar entering on the register the transferee as proprietor of the charge transferred, or of so much of the charge as is transferred, and the Registrar shall issue a charge certificate specifying the details relative to such

charge in the prescribed manner, and he shall also annotate the charge number on the certificate of title when this is completed.

(3) The provisions of article 26 shall, *mutatis mutandis*, apply to transfers of charges under this article.

Extinction of charges.

*Amended by:
VII. 1995.24.*

Cap.16.

33. (1) The registrar shall, on the requisition of the proprietor of any charge, or on due proof of the satisfaction or extinction, whole or partial, thereof, notify on the register in the prescribed manner, by cancelling or varying the original entry or otherwise, the cessation, whole or partial, of the charge, and thereupon the charge shall be deemed to have ceased, in whole or in part, accordingly.

(2) Charges shall be extinguished in the same manner as is provided in the Civil Code for the extinction of hypothecs and privileges.

Transmission of Registered Land and Charges

Transmission of registered land and charges.

*Amended by:
VII. 1995.25.*

34. (1) On the opening of succession of the sole proprietor or of anyone of the proprietors, the successor or successors shall be entitled to be registered as proprietor or proprietors in his place.

(2) The fact of any person having become entitled to any registered land or charge in consequence of the opening of succession of any proprietor shall be proved in such manner as the registrar may determine.

(3) The registration of a successor in place of the proprietor under this article may be qualified in the same manner as is provided in article 24 even if the land is registered without such qualification.

(4) Subject as aforesaid, provision may be made by rules for the manner in which effect is to be given to transmissions on death or on the taking of religious vows.

PART V

CAUTIONS

Cautions against first registrations.

*Amended by:
VII. 1995.26.*

35. (1) Any person having or claiming such an interest in land which is not already registered or in respect of which no application for first registration has yet been made, as entitles him to object to the registration of a right over the land affecting the interest of the cautioner may lodge a caution with the registrar to the effect that no registration of such right is to be made until notice has been served upon the cautioner.

(2) The caution shall be supported by a sworn declaration stating the nature of the interest of the cautioner, the land and right thereon to be affected by such caution, and such other matter as may be prescribed.

(3) After any such caution against registration has been lodged in respect of land not already registered, registration shall not be

made of such right until notice has been served on the cautioner to appear and oppose, if he thinks fit, such registration, and the prescribed time has elapsed since the date of the service of such notice, or the cautioner has entered an appearance, whichever may first happen.

36. (1) Any person -

- (a) having or claiming an unregistered real right over land registered in the name of any other person; or
- (b) who has lodged a demand for the declaration of bankruptcy of a registered proprietor of land or of a charge; or
- (c) who has lodged a demand for the interdiction or incapacitation of a registered proprietor of land or of a charge; or
- (d) who, being the spouse of a registered proprietor of land or a charge, requires to protect any right over the registered land or charge, arising in virtue of any law regulating matrimonial relationship; or
- (e) who, having entered into a written promise of sale or emphyteusis with the registered proprietor regarding any such land,

Cautions against
dealing in land.
Amended by:
XXI. 1993.88.

may lodge a caution with the registrar to the effect that no disposition of such land or charge on the part of the proprietor is to be registered until notice has been served upon the cautioner.

(2) The caution shall be supported by a sworn declaration stating the nature of the interest of the cautioner, the land to be affected by such caution, and such other matters as may be prescribed.

(3) After any such caution against dealings has been lodged in respect of any registered land or charge, the registrar shall not, without the consent of the cautioner, register any disposition or make any entry on the register for protecting the rights acquired under any dealing by the proprietor with such land or charge until he has served notice on the cautioner, warning him that his caution will cease to have any effect after the expiration of the prescribed number of days next following the date at which such notice is served; and after the expiration of such time as aforesaid the caution shall cease unless an order to the contrary is made by the registrar, and upon the caution so ceasing the registered land or charge may be dealt with in the same manner as if no caution had been lodged.

(4) If, before the expiration of the said period, the cautioner, or some other person on his behalf, appears before the registrar, and, where so required by the registrar, gives sufficient security to indemnify every party against any damage that may be sustained by reason of any dealing with the registered land or charge, or the making of such entry as aforesaid, being delayed, the registrar may thereupon, if he thinks fit to do so and after giving any directions he may deem necessary or expedient, delay registering any dealing

with the land or charge or making any such entry for such period as he thinks just.

Appeal from
registrar's
decision.

Amended by:
VII. 1995.28.

37. (1) Any person aggrieved by any act done by the registrar in relation to a caution under this Act may appeal to the Court of Appeal in the prescribed manner.

(2) A caution lodged in pursuance of this Act shall not prejudice the claim or title of any person and shall have no effect whatever except as in this Act mentioned.

(3) If any person lodges a caution with the registrar without reasonable cause, he shall be liable to make to any person who may have sustained damage by the lodging of the caution such compensation as may be just.

(4) Saving the provisions of the last foregoing sub-article, a cautioner may apply to withdraw a caution at any time.

(5) A person shall not be deemed to have registered a caution without reasonable cause for the purposes of sub-article (3), in so far as and to the extent that, in the plans lodged with the caution, in good faith and without negligence, he may have included land which ought not to have been so included.

(6) The lodgement of a caution is not an application for the registration of the claim or title in protection of which the caution is lodged and shall not exempt the person lodging the caution from the filing of the relevant applications, if any, for the registration of any title or claim.

PART VA^{*}

PART VI[†]

PART VII

GENERAL PROVISIONS CONCERNING REGISTRATION

43. (1) All registered land shall, unless under the provisions of this Act the contrary is expressed on the register, be deemed to be subject to such of the following overriding interests as may be for the time being subsisting in reference thereto, that is to say -

- (a) easements;
- (b) tithes and other burdens;
- (c) rights acquired or in the course of being acquired by prescription, or through forfeiture or as *bona vacantia*;
- (d) the rights of every person in actual occupation of the land, save where enquiry by means of a judicial act is made of such person and the rights are not disclosed;

Overriding
interests.
*Amended by:
VII. 1995.30.*

*Part VA (articles 37A to 37F) was added by Act IV of 1985 and repealed by article 29 of Act VII of 1995.

See also transitory provisions hereunder (article 38 of Act VII of 1995):

38. (1) On the coming into force of the repeal of Parts VA and VI of this Act (30 June 1995), no applications for a cautionary charge shall be entertained and any cautionary charge entered in the Land Registry prior to the coming into force of the said repeal shall be deemed to be a charge entered in accordance with article 28A of this Act.

(2) All Land and Charge Certificates issued prior to the 30 June 1995 shall be admissible in evidence only as proof of their contents as on their date of issue.

(3) Where prior to the coming into force of sub-article (1) of article 14 of this Act (30 June 1995), on the opening of succession of any person, the title to the land comprised in the transmission and situated in any registration area has not been registered in the name of the persons in whose favour such land may have passed, it shall be deemed that the provisions of article 14 of the principal Act, as in force prior to the coming into force of the said sub-article (1) of article 14, did not apply to any such land:

Provided that the Land Registrar may, after giving such notice as he may deem fit, register such land in the name of the persons in whose favour such land may have passed or in the name of their successors in title, in accordance with the provisions of the Land Registration Act (Cap.296.) as amended by Act VII of 1995, and the provisions of the Land Registration Act (Cap.296.) empowering the said registrar to require any person to produce any document or information shall apply also for the purposes of this proviso.

(4) The titles to the land registered in virtue of Legal Notice Number 37 of 1983, and listed in the following sub-article of this article shall be deemed to have been duly and regularly registered in accordance with the provisions of the Land Registration Act (Cap.296.) and any dealing with such land after the coming into force of this sub-article (30 June 1995) shall be registerable in the Land Registry as if such land were situated in a registration area:

Provided that any transfer or charge in relation to such land registered in the Public Registry after the issue of the said Legal Notice and before the 30 June 1995 shall be deemed to be an overriding interest and the provisions of article 43 of the Land Registration Act (Cap.296.) shall apply thereto.

(5) The titles to the land to which sub-article (4) hereof applies are the following: Certificates of Title numbers 547200001, 547200002, 546900003, 567300008, and from 547400004 to 547400007 (both numbers inclusive).

(6) Where before the 30 June 1995, a qualified title has been issued by the registrar in accordance with the provisions of the Land Registration Act (Cap.296.) as in force prior to the 30 June 1995, it shall be deemed to be a title registered in accordance with the corresponding provisions of the Land Registration Act (Cap.296.) as amended by the provisions of Act VII of 1995, qualified in accordance with article 24 of the Land Registration Act (Cap.296.) as amended by the provisions of Act VII of 1995.

(7) Any absolute title or possessory title registered before the 30 June 1995 shall be deemed to be a guaranteed title and a title which is not a guaranteed title respectively and any reference in any other law to registration with a possessory title and registration with an absolute title shall be construed as a reference to a registration with a title which is not a guaranteed title and registration with a guaranteed title, respectively.

†Part VI (articles 38 to 42) was repealed by article 29 of Act VII of 1995.

- (e) in the case of any title even if qualified in terms of article 24, all rights, interests and powers excepted from the effect of registration;
- (f) the rights of the Government to and over minerals established or protected by law;
- (g) leases;
- (h) general privileges, general hypothecs and the benefit of separation of estates duly registered under the laws in force at the time such rights may have arisen;
- (hh) special privileges and special hypothecs encumbering the land and registered in the Public Registry before the land encumbered became comprised in a registration area;
- (i) the rights of the competent authority acquired under the Land Acquisition (Public Purposes) Ordinance unless and until registered or protected on the register in the prescribed manner;
- (j) shooting and similar rights;
- (k) legal usufructs unless and until they are protected on the register in the prescribed manner;
- (l) the rights of the heirs of a predeceased spouse over property comprised in the community of acquests and registered in the name of the other spouse:

Cap. 88.

Provided that, where it is proved to the satisfaction of the registrar that any land registered or about to be registered is free from easements or free from tithes and other burdens, the registrar may notify the fact on the register in the prescribed manner.

(2) Where at the time of first registration any easement or other real right or any tithes or burdens created by a public deed or by a will and duly registered under the laws in force at the time such rights may have arisen, adversely affect the land, the registrar shall enter a note thereof on the register.

(3) Where the existence of an overriding interest mentioned in this article is proved to the satisfaction of the registrar or admitted, he may (subject to any prescribed exceptions) enter notice of the same, or a claim thereto on the register, but no claim to an easement not created by a public deed shall be noted against the title to the servient land if the proprietor of such land (after the prescribed notice is given to him) shows sufficient cause to the contrary.

Disposition by virtue of overriding interests.

44. Where by virtue of any interest or power which is an overriding interest a person disposes or causes the disposal of any right over registered land, and the disposition is capable of being registered, or has such an interest in land as is capable of being registered, the registrar shall, if so required, give effect to the disposition or the interest on the register.

Appurtenances.
Amended by:
VII. 1995.31.

45. If before the registration of any interest in land with a guaranteed title any easement or other right has been acquired for the benefit thereof, then, on such registration, the easement or right

shall, subject to an entry to the contrary on the register, become appurtenant to the registered land in like manner as if it had been granted to the proprietor who is registered as aforesaid.

46. (1) Any person claiming to have acquired by prescription a title to land registered in the name of another person may apply to be registered as proprietor thereof.

Acquisition of land
by prescription.
Amended by:
VII. 1995.32.

(2) The registrar shall, on being satisfied as to applicant's title, enter the applicant as proprietor with a guaranteed or other title, including any qualification, as the case may require, but without prejudice to any right or interest protected by an entry on the register which may have not been extinguished by prescription; and such registration shall, subject as aforesaid, have the same effect as the registration of a first proprietor; but the proprietor or the applicant or any other person interested may apply to the competent court for the determination of any question arising under this article.

(3) The provisions of this article may be applied, subject to the necessary modifications, to cases where an easement or other real right has been acquired by prescription.

(4) The provisions of this article may also be applied with the necessary modifications to cases where a title to land is acquired by the Government through forfeiture or as *bona vacantia*.

47. Any act capable of interrupting the running of prescription in relation to registered land, or to a registered charge, or to a debt protected by a registered charge or by a right which is an overriding interest in registered land, shall not affect an acquirer of any interest in such land unless and until notice thereof is noted on the register on an application made in the prescribed manner.

Interruptions of
prescription to be
noted on register.

48. Registered land may be described -

- (a) by means of a verbal description and a filed plan or general map, based on the official map of the land registry; or
- (b) by reference to a deed or other documents, a copy or extract whereof is filed at the registry, containing a sufficient description and a plan or map thereof; or
- (c) otherwise as the applicant for registration may desire, and the registrar may approve,

Description of
registered land.
Amended by:
IV. 1985.14.

regard being had to ready identification of parcels, correct description of boundaries, and, so far as may be, uniformity of practice; but the boundaries of all land and all requisite details in relation to the same shall, whenever practicable, be entered on the register or filed plan, or general map; and the filed plan, if any, or general map shall be used for assisting the identification of land.

49.(1)(a) Upon the lapse of the time referred to in article 23(2), the registrar shall, subject to the following sub-article after giving such notice, if any, as may be prescribed, register such title as a guaranteed title whether the proprietor consents to such registration or not.

Conversion of title
into a guaranteed
title.
Amended by:
VII. 1995.33;
VI. 1996.9.

(b) Where the registrar is satisfied that either as a result of the additional evidence produced to him or otherwise in his possession, or as a result of time, or as a result of both, he may, subject to the following provisions of this article and any other provision of this Act, after giving such notices, if any, as may be prescribed, remove any qualification entered in the register in terms of this Act, whether the proprietor consents to such removal or not.

(2) If any claim adverse to the title of the proprietor has been made, an entry shall not be made on the register under this article unless and until the claim has been disposed of.

(3) Any person, other than the proprietor, who suffers loss by reason of any entry on the register made by virtue of this article shall be entitled to be indemnified under this Act as if a mistake had been made in the register.

Addresses for service and notices.

50. (1) Every person whose name is entered on the register as proprietor of any registered land or charge, or as cautioner or as entitled to receive any notice, or in any other character, shall furnish to the registrar a place of address in Malta.

(2) Every notice by this Act required to be given to any person shall be served personally, or sent through the post in a registered letter marked outside "Land Registry", and directed to such person at the address furnished to the registrar and, unless returned, shall be deemed to have been received by the person addressed within such period, not less than three days, exclusive of the day of posting, as may be prescribed.

(3) The Postmaster-General shall give directions for the immediate return to the registrar of all letters marked as aforesaid, and addressed to any person who cannot be found and on the return of any letter containing any notice, the registrar shall act, in the matter requiring such notice to be given, in such manner as may be prescribed.

(4) An acquirer of an interest in registered land shall not be affected by the omission to send any notice by this Act directed to be given or by the non-receipt thereof.

PART VIII

RECTIFICATION OF REGISTER AND INDEMNITY

Rectification of the register.
Amended by:
VII. 1995.34.

51. (1) The register may be rectified pursuant to an order of a court of competent jurisdiction or by the registrar, subject to an appeal to the Court of Appeal, in any of the following cases, but subject to the provisions of this article:

(a) subject to any express provision of this Act to the contrary, where a court of competent jurisdiction has adjudged that any person is entitled to any right or

interest in or to any registered land or charge, and as a consequence of such decision such court is of opinion that a rectification of the register is required, and makes an order to that effect;

- (b) subject to any express provision in this Act to the contrary, where the Court of Appeal, on the application in the prescribed manner of any person who is aggrieved by an entry made in, or by the omission of an entry from, the register, or by any default being made, or unnecessary delay taking place, in the making of an entry in the register, makes an order for the rectification of the register;
- (c) in any case and at any time with the consent of all persons interested;
- (d) where a court of competent jurisdiction or the registrar is satisfied that an entry in the register has been obtained by fraud or violence and in the case of the court, an order is made for the rectification of the register;
- (e) where two or more persons, not being jointly entitled thereto, are, by mistake, registered as proprietors of the same right over registered land or of the same charge;
- (f) in any other case where, by reason of any error or omission in the register, or by reason of any entry made under a mistake, it may be deemed just to rectify the register.

(2) The register may be rectified under this article notwithstanding that the rectification may affect any rights, charges or interests acquired or protected by registration, or by any entry on the register, or otherwise.

(3) The register shall not be rectified, except for the purpose of giving effect to an overriding interest, so as to affect the title of the proprietor who is in possession -

- (a) unless such proprietor is a party or privy or has caused or substantially contributed, by his act, neglect or default, to the fraud, violence, mistake or omission in consequence of which such rectification is sought; or
- (b) unless the immediate disposition to him was void, or the disposition to any person through whom he claims otherwise than under an onerous title was void; or
- (c) unless for any other reason, in any particular case, it is considered that it would be unjust not to rectify the register against him.

(4) The registrar shall obey the order of any court of competent jurisdiction in relation to any registered land on being served with the judgment or an official copy thereof accompanied by a statement by the Registrar of the Court certifying that the judgment has become *res judicata*.

(5) A court shall not make an order for the rectification of the register unless the Land Registrar is a party to the proceedings in respect of which the order is made.

(6) Except for the purpose of giving effect to an overriding interest, no entry in the register shall be rectified after the lapse of ten years from the date on which it is made:

Provided that nothing in this sub-article shall be construed as affecting the right of any person to claim damages from any person liable thereto.

(7) On every rectification of the register any certificate or document which may be affected shall be produced to the registrar unless an order to the contrary is made by him.

*Added by:
XXXVIII.2021.6.*

51A. (1) Notwithstanding any other provision of this Act, the State Advocate shall have the right and interest to bring an action for the purpose of impugning any registration made under any provision of this Act, and which has not been made under or has given rise to a guaranteed title, where:

- (a) such registration has been made in violation of any requirement of this Act, or of any other law;
- (b) such registration has been made in accordance with an application containing incorrect information or information which should not have led to the registration of the title;
- (c) it results that the person in whose favour the registration was made kept hidden from the registrar facts or information which were relevant to the examination to be conducted by the registrar in accordance with article 18 of this Act.

(2) The fact that the application which gave rise to the registration has been received and accepted by the registrar shall not hinder this action.

(3) The State Advocate may exercise this action by means of a sworn application to be filed in the Civil Court, First Hall, at any time after the registration to be impugned has been made, which sworn application shall be filed against the registrar and the person in whose favour the impugned registration has been made.

Cap. 12.

(4) An action filed under this provision shall be heard and decided in accordance with the applicable provisions of the Code of Organization and Civil Procedure.

(5) Where the court decides that the registration shall be revoked, the registrar shall cancel such registration by not later than twenty (20) days from the date on which the decision becomes final.

(6) The right of action granted to the State Advocate under this provision shall be without prejudice to any other right which third

parties may have, both under this Act as well as under any other law, to protect their rights against any registration made in accordance with the provisions of this Act.

(1) Subject to the provisions of this Act to the contrary, any person suffering loss by reason of any rectification of the register under this Act shall be entitled to be indemnified under this Act.

Right to indemnity
in certain cases.

(2) Where an error or omission has occurred in the register, but the register is not rectified, any person suffering loss by reason of such error or omission, shall, subject to the provisions of this Act, be entitled to be indemnified under this Act.

(3) Where any person suffers loss by reason of the loss or destruction of any document lodged at the registry for inspection or safe custody or by reason of an error in any official search, he shall be entitled to be indemnified under this Act.

(4) Subject as hereinafter provided, a proprietor of any registered land or charge claiming in good faith under a forged disposition shall, where the register is rectified, be deemed to have suffered loss by reason of such rectification and shall be entitled to be indemnified under this Act.

(5) No indemnity shall be payable under this Act in any of the following cases:

(a) where the applicant has himself caused or substantially contributed to the loss by his fraud or violence, or derives title (otherwise than under a disposition under an onerous title which is registered or protected on the register) from a person so committing fraud or violence;

(b) where the register is not rectified in accordance with article 51(6);

(c) where the register is rectified to give effect to an overriding interest;

(d) on account of costs incurred in taking or defending any legal proceedings without the consent of the registrar.

(6) Where an indemnity is paid in respect of the loss of a right over or an interest in or a charge on land, the amount so paid shall not exceed -

(a) where the register is not rectified, the value of the right, interest or charge at the time when the error or omission which caused the loss was made;

(b) where the register is rectified, the value (if there had been no rectification) of the right, interest or charge, immediately before the time of rectification.

(7) The registrar may, if the applicant desires it, and subject to an appeal to the Court of Appeal, determine whether a right to indemnity has arisen under this article, and, if so, award indemnity. In the event of an appeal to the court the applicant shall not be required to pay any costs except his own, even if unsuccessful,

unless the court considers that the appeal is unreasonable.

(8) In granting any indemnity the registrar may have regard to any costs and expenses properly incurred in relation to the matter, and may add the same to the amount of the indemnity money which would otherwise be payable.

(9) Where indemnity is paid for a loss, the registrar, on behalf of the Government, shall be entitled to recover the amount paid from any person who has caused or substantially contributed to the loss by his fraud, violence, negligence or default, and shall be entitled to enforce any express or implied covenant, warranty or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which indemnity has been paid.

(10) Any claim to indemnity under this Act shall be enforceable only if made within five years from the date on which the right to indemnity arises, and such period shall run against all persons:

Provided that where the person entitled to indemnity is a minor the claim by him may be made within two years from the time he attains majority or within five years from the date on which the right to indemnity arises, whichever may be the later date.

(11) This article applies to the Government in like manner as it applies to a private person.

Insurance fund.

53. (1) There shall be an insurance fund to meet claims for indemnity payable under this Act.

(2) There shall be set aside and paid into the said fund at the end of each financial year such portion of the receipts from the fees taken in the registry under this Act as the Minister responsible for finance may by order determine.

(3) The insurance fund shall be invested in such names and manner as the said Minister may from time to time direct.

(4) If the insurance fund is at any time insufficient to pay indemnity for any loss chargeable thereon, the deficiency shall, by virtue of this Act and without further assurance, be charged on and paid out of the Consolidated Fund; but any sum so paid out of the Consolidated Fund shall be repaid out of the money subsequently standing to the credit of the insurance fund.

(5) Accounts of the fund shall be kept and be audited as public accounts, in accordance with such regulations as the Minister responsible for finance may from time to time make.

PART IX

MISCELLANEOUS PROVISIONS

Inspection of register and copies.

54. (1) Any person may, on payment of the prescribed fee, inspect any register or document in the custody of the registrar relating to any registered land or charge.

(2) Any person may, on payment of the prescribed fee, require the registrar to make copies of and extracts from any register or document in the custody of the registrar relating to any registered land or charge.

55. Office copies of and extracts from the register, and of and from documents and plans filed in the registry, shall be admissible in evidence in all actions and matters, and between all persons and parties, to the same extent as the originals would be admissible, but any person suffering loss by reason of the inaccuracy of any such copy or extract shall be entitled to be indemnified under this Act, and no person shall be answerable in respect of any loss occasioned by relying on any such copy or extract.

Admissibility in evidence of office copies, etc.

56. If in the course of any proceedings before the registrar or a court in pursuance of this Act any person, with intent to conceal the title or claim of any person, or to substantiate a false claim, suppresses, attempts to suppress, or is privy to the suppression of, any document or fact, the person so suppressing, attempting to suppress, or privy to suppression, shall be guilty of an offence.

Suppression of documents or facts.

57. (1) If any person fraudulently procures, or attempts fraudulently to procure, or is privy to the fraudulent procurement of, any entry on, erasure from or alteration of the register, or any other document held at or issued by the Land Registry shall be guilty of an offence.

Fraudulent entries.
Amended by:
VII. 1995.35.

(2) Any entry, erasure, or alteration so made by fraud shall be void as between all persons who are parties or privy to the fraud.

58. A person guilty of an offence under this Act shall, on conviction, be liable to imprisonment for a term not exceeding four years or to a fine (*multa*) not exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87), or to both such imprisonment and fine.

Penalty.
Amended by:
XIII. 1983.5;
L.N. 423 of 2007.

PART X

RULES AND FEES ORDERS

59. (1) Subject to the provisions of this Act, the Minister may make general rules for the purpose of regulating the manner, procedure or conditions in which or under which the provisions of this Act are to be carried out, for the purpose of regulating such matters as are by this Act required or authorized to be prescribed or in respect of which provision is to be made by rules, and generally for the purpose of regulating any matter connected with the establishment and management of a land registry and the registration of title to land.

Rules.
Amended by:
IV. 1985.15;
VII. 1995.36;
VI. 1996.10.

(2) Without prejudice to the generality of the provisions of sub-article (1), rules made under this article may also be made for all or any one or more of the following purposes:

(a) for regulating the mode in which the register is to be

- made and kept;
- (b) for prescribing the forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be adduced in all proceedings before the registrar or in connection with registration;
 - (c) for regulating the procedure on application for first registration;
 - (d) empowering the registrar to order or conduct the survey of any land in connection with its registration under this Act;
 - (e) for regulating the custody of any documents from time to time coming into the hands of the registrar, with power to direct the destruction of any such documents where they have become altogether superseded by entries in the register, or have ceased to have any effect;
 - (f) for carrying out the provisions of this Act with respect to compulsory registration;
 - (g) for the conduct of official searches against cautions, inhibitions, and such matters of a like nature as may be prescribed;
 - (h) for allowing the insertion in the register, and in certificates, of the price paid or value declared on first registrations, transfers, and transmissions of land;
 - (i) for prescribing the way any notices required by this Act, are to be given;
 - (j) for the registration, by way of notice, on the first registration of the land, of any easement, right, or privilege, created by an instrument and operating at law, which appears to affect adversely the land, and so far as practicable by reference to the instrument creating the same;
 - (k) for enabling any person who acquires any such easement, right, or privilege, after the date of first registration of the land, to require (subject to notice being given to the owner of the servient land) entry to be made in the register of notice of the same, and so far as practicable by reference to the instrument creating the right;
 - (l) for enabling the first or any subsequent proprietor to require that notice of his title to any such right or interest, whether acquired under an instrument or by prescription or otherwise, be entered in the register, and, so far as practicable, by reference to the instrument (if any) creating the right or interest, and for prescribing the effect of any such entry;
 - (m) for regulating the issue and forms of certificates, and, if deemed desirable, for prescribing any special

notification on the certificate to be given by way of warning when encumbrances, notices, and other adverse entries appear on the register;

- (n) for providing for the cases in which the registrar may grant a certificate that an intended disposition is authorised and will be registered if presented;
- (o) for prescribing the effect of priority notices and of priority cautions and inhibitions;
- (p) for providing for any matter ancillary to or consequential to the computerisation of the Land Registry;
- (q) for adapting the provisions of this Act relating to transfers of registered land to other dispositions authorised to be made by a proprietor;
- (r) for enabling entries to be made in the register on the surrender, extinguishment or discharge of any subsisting interest without previously registering the title to the interest which is merged or extinguished.

60. (1) The Minister may, with the concurrence of the Minister responsible for finance, make orders with respect to the amount of fees payable for anything done or service rendered under this Act. Fees.

(2) The fee orders relating and incidental to registration of title shall be changed from time to time so as to produce, as far as practicable, an amount sufficient to discharge the salaries and other expenses (including the annual contributions to the insurance fund) incidental to the working of this Act.
