

so soon as it was presented for registration, notwithstanding that the entering of the memorial may have been delayed.

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

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

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

Filing of instruments.

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

59. The Registrar shall not register any instrument—

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

Instruments not to be registered.

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

Rectification of register by Registrar.

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

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Rectification
of register
by Court.

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

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

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

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

Titles not to
be cancelled.

62. Except in accordance with this Act no title to registered land shall be cancelled or rectified.

Approved
plans.

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

PART VI

TITLE OF REGISTERED PROPRIETORS

Instruments
ineffectual until
registered.

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

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

Nature of title.

65. (1) Subject as hereinafter provided, the title of every registered proprietor shall be absolute and indefeasible and accordingly shall not be impeached or affected in any way by the existence in any other person of any interest (whether derived by grant from the State or

otherwise) which but for this Act might be held to be paramount or to have priority or by reason or on account of any informality or irregularity in the application or proceedings for registration except—

(a) in the case of fraud;

(b) as regards any portion of land erroneously included in any parcel by misdescription of boundaries, unless such proprietor is a *bona fide* purchaser for value or derived title from or through such a purchaser;

(c) as otherwise specified in the register or provided in this Act.

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

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

(a) where the conflicting title was registered pursuant to a declaration of title made by the Court or by the Commissioner; or

(b) where the holder of the conflicting title or any person under or through whom he derived that title has been in actual possession of the land adverse to the holder of the prior title for twelve years or more; or

(c) where any holder of the prior title is proved to have had actual notice of the intended or actual registration of the conflicting title and to have taken no steps either to prevent the registration thereof or within one year of such notice to have the registration thereof cancelled; or

(d) where the Court is of opinion that it would cause undue hardship for the registration of the prior title to prevail,

and in all such cases the conflicting title shall prevail,

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

(a) any interests registered or entered in the register;

(b) any public right of way or easement;

(c) any charge on or over land created by the express provisions of any other Act without reference to registration under this Act to secure any unpaid rates, taxes, assessments or other moneys due and owing to the State or to any statutory authority;

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(d) such interests as may under the provisions of this Act subsist over registered land without being entered in the register, but with all rights, privileges and appurtenances belonging or appurtenant to such land and free from all other rights and interests whatsoever including rights and interests of the State.

Provisional title.

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

Conversion of provisional into absolute title.

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

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

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

Protection of person dealing in registered land.

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

(a) inquire or ascertain the circumstances in or under which or the consideration for which the registered proprietor or any previous registered proprietor of the land in question is or was registered;

(b) see to the application of the purchase money or any part thereof;

(c) give effect to, nor be affected in any way by, any notice of any instrument, fact or thing, whether registered or not under the Deeds Registry Act or under any other act, or of any trust, right or interest, unregistered or unprotected by caveat, any rule of law or equity to the contrary notwithstanding. c. 5:01

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

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

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

(a) a person deprived of any land by or through the fraud of the registered proprietor or of any prior registered proprietor from or through whom he derived title otherwise than as a *bona fide* transferee for value;

(b) a person deprived of or claiming any land erroneously included in any parcel by misdescription of boundaries:

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

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

PART VII

CERTIFICATE OF TITLE

71. The Registrar shall if requested issue to the registered proprietor of any land a certificate of title in Form A(1) or A(2) of the Certificate of title, First Schedule.

First Schedule as the case may require, and except as otherwise provided in or under this Act a second certificate shall not be issued in respect of the same land.

Production of certificate.

72. Where a certificate of title has been issued under the last preceding section it shall, unless the Registrar dispenses in writing with its production, be produced to the Registrar on the registration of any dealing with the land to which it relates and an endorsement of such registration shall be made thereon.

Lost or destroyed certificates.

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

Replacement of certificates.

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

Admissibility of certificates.

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

PART VIII

TRANSFERS

Form and effect of transfer. First Schedule.

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

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

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

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

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

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

79. (1) If it is claimed—

(a) that land has been sold by the registered proprietor and the whole of the purchase money paid; and Proof of purchase before Commissioner.

(b) that the purchaser or any person claiming under him has entered and taken possession under such purchase and such entry and possession have been acquiesced in by the said proprietor or his representatives; but

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

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

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

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

PART IX

MORTGAGES AND CHARGES

Form of mortgage and charge. First Schedule.

80. (1) The proprietor of any registered land may—

(a) mortgage the same by an instrument of mortgage in Form C of the First Schedule; or

(b) charge the same to secure the payment of a rent-charge, annuity or other periodical sum by an instrument of charge in Form D of the First Schedule.

First Schedule.

(2) There may be included in any instrument of mortgage or charge such terms and conditions as the parties think fit.

Conditions implied in mortgages.

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

(a) that the mortgagor will pay the principal money therein mentioned on the day therein appointed and will so long as the principal money or any part thereof remains unpaid pay interest thereon or on so much thereof as for the time being remains unpaid at the rate and on the days and in the manner therein specified;

(b) that the mortgagor will not remove or demolish any building on the land, save with the consent in writing of the mortgagee;

(c) that the mortgagor will repair and keep in repair all buildings or other improvements which have been or are erected or made upon the land;

(d) that the mortgagee with or without surveyors or other persons may at all reasonable times until the mortgage is discharged enter upon the land to view the state of repair of such buildings or improvements;

(e) that the mortgagor will insure and keep insured all buildings upon the land against loss or damage by fire with insurers approved by the mortgagee to the full value thereof and such insurance shall be assigned to the mortgagee by way of security for the mortgage;

(f) that the mortgagor will pay all rates and taxes levied upon the land;

(g) that the mortgagor will not sell or lease the land or create any easement thereover without the consent in writing of the mortgagee.

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

Variation of mortgages and charges.

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

Postponement of prior mortgages and charges.

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

Discharge of mortgages and charges.

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

Payment to credit of absent mortgagee.

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

86. Upon proof to the satisfaction of the Registrar—

(a) that all moneys due under any mortgage have been paid to the mortgagee or to his credit; or

(b) that there has occurred the event or circumstance upon which in accordance with the provisions of any charge the moneys thereby secured cease to be payable, and that no moneys are owing in respect of the charge,

Discharge of mortgage or charge by Registrar on proof.

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

87. (1) Any person with whom the certificate of title of any registered land has been deposited with the intention of creating a lien thereover may give to the Registrar notice of such deposit in Form E

Creation of lien by deposit of certificate. First Schedule.

of the First Schedule, and thereupon the Registrar shall enter a memorial of the same and shall make a corresponding endorsement upon the certificate of title.

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

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

Enforcement of mortgages and charges.

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

PART X

LEASES

Leases. First Schedule.

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

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

Conditions implied in leases.

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

(a) that the lessee will pay the rent reserved by the lease at the times therein mentioned;

(b) that the lessor will pay all rates and taxes which may be payable in respect of the premises during the continuance of the lease;

(c) that save in the case of premises leased as dwellings for human habitation the lessee will keep and yield up the premises in good and tenantable repair, accidents and damage from storm and tempest and reasonable wear and tear excepted;

(d) that the lessor may by himself or his agents during the term at any reasonable time of the day, upon giving the lessee two days previous notice, enter upon the premises and view the

state of repair thereof and may serve on the lessee a notice in writing of any defect requiring him within a reasonable time to repair the same in accordance with any terms or conditions in that behalf expressed or implied in the lease;

(e) that in default of the lessee repairing any defect according to notice the lessor may from time to time enter the premises and effect the required repairs;

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

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

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

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

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

Variation and extension of leases.

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

Renewal and substitution of leases.

(a) it is in renewal of or in substitution for a lease previously registered; and

(b) the lessee is the person registered as the proprietor of the prior lease at the time of the registration of the new lease or at the time of the expiration or surrender of the prior lease, whichever is the earlier,

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

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

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

Leases of mortgaged or charged land.

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

Sub-leases.

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

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

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

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

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

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

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

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

PART XI

TRANSMISSION

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

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

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