

Dealings where transmission not registered.

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

(a) any transfer by the executor or administrator in pursuance of the will or by way of distribution under intestacy or in pursuance of an agreement between the persons entitled thereto or of a contract entered into by the proprietor in his lifetime;

(b) any discharge or cancellation of a mortgage or charge of which the deceased person was the proprietor;

(c) any surrender of a lease of which the deceased person was the proprietor.

Application to register persons entitled.

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

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

Transmission on insolvency.

100. (1) On the adjudication of insolvency of any registered proprietor or on the making of an order for the administration in insolvency of the estate of a deceased registered proprietor, the Official Receiver or assignee in insolvency claiming any land of the insolvent may apply to be registered as proprietor thereof by transmission, and upon proof of such adjudication or order and that the applicant is entitled thereto the Registrar shall register the applicant as proprietor in accordance with section 116.

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

Effect of disclaimer, discharge and annulment.

101. Notwithstanding the provisions of any Act relating to insolvency, no disclaimer and no order for the discharge of an insolvent and no order for the annulment of an adjudication in insolvency shall operate to divest an assignee of any registered land of which he is the proprietor until he has executed and caused to be registered such

transfers or other instruments as may be necessary to give effect to any such disclaimer or order as aforesaid.

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

Receiving winding-up and other orders.

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

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

Transmission by operation of law.

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

Transmission on death of joint proprietor or holder for life.

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

Effect of transmission.

PART XII

ACQUISITION OF TITLE BY ADVERSE POSSESSION

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

Acquisition of title by adverse possession.

Application for declaration of title and procedure thereon.

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

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

(a) the documents or other evidence relied on in support of the application;

(b) an affidavit containing such particulars as may be prescribed;

(c) a plan of the land.

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

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

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

(a) cause notice of the application to be published in the *Gazette* and in one daily newspaper circulating in Guyana; and

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

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

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

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

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

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

Title of registered proprietor to prevail.

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

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

Extinction of previous title.

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

No limitation against registered proprietor.

PART XIII

EASEMENTS, RESTRICTIVE COVENANTS AND OTHER RIGHTS AND INTERESTS

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

Registration of easements and restrictive covenants.

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

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

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

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

(2) When an application has been made under the law preceding subsection, the Commissioner shall give notice thereof to every person who appears by the register to have any interest in the land to which the benefit of the easement or restrictive covenant is appurtenant, and thereafter sections 39, 40 and 42 shall apply so far as they are applicable and with such adaptations as may be necessary.

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

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

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

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

(2) Such endorsement shall not operate as a registration of the building, but so long as the endorsement remains on the register the building shall be excepted from any dealing with the land.

Removal from the register of easements and restrictive covenants.

Easements enjoyed by the public.

Provisions as to buildings.

which it stands, and the fact of such exception shall be expressed in every instrument that gives effect to such dealing.

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

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

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

Rights of way
of necessity.

PART XIV

TRUSTS

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

Registration
of proprietor
in a fiduciary
capacity.

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

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

Restriction
may be
entered but
no trusts.

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

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

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Land Registry

Removal of restrictions.

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

Exoneration of persons dealing.

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

PART XV

JUDGMENTS AND WRITS

Effect of judgments and writs.

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

Registration of judgments and writs.

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

(a) a copy of his judgment or writ of execution or a certificate signed by a solicitor giving full particulars of such judgment or writ;

(b) a statutory declaration proving the amount owing under the judgment or writ and identifying to the satisfaction of the Registrar the judgment of execution debtor as the proprietor of any registered land,

and the Registrar shall thereupon enter a memorial of the judgment or writ and shall give notice thereof to the registered proprietor:

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

(a) it shall not be necessary for the execution creditor to make a statutory declaration, but a statement of the amount owing shall be lodged with the Registrar; and

(b) the registration of the writ shall have the same priority as the registration of the judgment.

Removal from register of memorials of judgments and writs.

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

(a) at the request of the judgment or execution creditor;

(b) on proof to the satisfaction of the Registrar that the judgment or writ has been satisfied;

(c) in the case of a judgment, upon registration of a writ of execution issued pursuant to that judgment;

(d) in the case of a writ, upon proof to the satisfaction of the Registrar that the writ has lapsed in accordance with any rules of court for the time being in force:

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

Lapsing of
memorials
of judgments.

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

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

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

Sales in
execution.

PART XVI

CAVEATS AND PROHIBITIONS

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

Caveats.

First
Schedule.

(2) No caveat shall be accepted by the Registrar unless there is therein specified an address for service in the district in which the land registry is situated.

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

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

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

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

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

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

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

Prohibitions.

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

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

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

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

PART XVII

ASSURANCE FUND AND COMPENSATION

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

(2) There shall be paid into the Fund—

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

(b) until the Fund reaches the sum of one hundred thousand dollars, such proportion of the fees payable to the Registrar under this Act as the Minister responsible for finance may from time to time direct.

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

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

(5) The Minister responsible for finance may from time to time authorise that such sums as may be approved by resolution of the National Assembly be transferred from the Fund into the Consolidated Fund, and money transferred as aforesaid shall be used for the purpose of cadastral surveys and plans and for such other purposes as may be required for the advancement of the objects of this Act:

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

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

(a) the bringing of any land under the operation of this Act;

(b) the registration of any other person as proprietor or any rectification of the register;

(c) any error, omission or mis-description in the register or in a certified copy thereof or of any registered document or in any other certificate of the Registrar, howsoever caused;

(d) any payment or consideration given to any other person on the faith of any entry in the register;

(e) the loss or destruction of any instrument or document lodged at a land registry for inspection or safe custody or otherwise;

(f) any error, omission or misfeasance of the Registrar or of any officer in the execution of his duties;

(g) the exercise by the Court, the Commissioner or the Registrar of any power conferred by this Act,

shall be entitled to recover compensation out of the Fund.

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

(a) the breach by a registered proprietor of any trust, whether expressed implied or constructive;

(b) any error in a diagram or a plan not being an approved plan;

(c) the acquisition of title to any registered land by adverse possession in accordance with this Act;

(d) the exercise of any power conferred by this Act where the person suffering loss, damage or deprivation has been privy to the application or dealing in connexion with which such power was exercised or derives title otherwise than for value under or through a person who has been privy as aforesaid.

Fund not liable in certain cases.

130. No person shall be entitled to compensation out of the Fund—

(a) where such person or his agent caused or substantially contributed to the loss, damage or deprivation by fraud, neglect or wilful default or derives title otherwise than for value from a person who or whose agent has been guilty of such fraud, neglect or wilful default;

(b) in respect of costs incurred in taking or defending any legal proceedings without the consent in writing of the Registrar, other than in proceedings against the Registrar.

Persons not entitled to compensation.

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

(a) where the register is rectified, the value of the land immediately before the time of rectification;

Amount of compensation.

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

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

Notice of action.

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

(a) admit the claim in full or offer an amount in settlement thereof; or

(b) admit liability but not the extent thereof; or

(c) with or without an admission of liability request the claimant to join any person as a co-defendant in any action that he may bring.

133. If the Registrar admits the claim or the claimant accepts the amount offered in settlement as aforesaid and the Registrar certifies accordingly to the Accountant General the amount so certified shall be paid forthwith out of the Fund.

Admission or compromise of claim.

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

Summary determination of compensation.

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

Action for recovery of compensation.

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

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

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

Right of Registrar to enforce judgment.

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

Right of Registrar to recover compensation payable or paid.

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

Costs against the Fund.

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

PART XVIII

GENERAL PROVISIONS

Inspection of register.

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

Certified copies.

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

Official search.

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

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

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