

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

c. 3:05
Sub Leg.

(4) Until rules are made under subsections (1) and (2), the Summary Jurisdiction (Civil Procedure) Rules shall apply with such adaptations as may be necessary and so far as the same can be applied to proceedings in the Land Court.

PART IV

FIRST REGISTRATION

A. Registration Areas

Designation of
registration
area by order.

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

(2) The Minister may by any order made under subsection (1) or by subsequent order—

(a) make such supplemental and consequential provisions as he may consider necessary for giving full effect to the order or for carrying it into effect;

(b) prescribe the fees to be paid in respect of the first registration of any land in the area.

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

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

Commissioner
to give notice
of the order.

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

(a) requiring every person who claims title to any unregistered land in the area under a document of title to apply to the Commissioner to record the said document; and

(b) requiring every person who claims to have acquired title by inheritance, devise, purchase, adverse possession or in any other manner to any unregistered land in the area but who

holds no document of title therefor to apply to the Commissioner for a declaration of title thereto under this Act; and

(c) requiring every person who claims title or to have acquired title as aforesaid to any share in any land in the area or to be the mortgagee of any such share and who desires the partition of such land to apply to the Commissioner for such partition; and

(d) specifying the period within which all such applications shall be submitted.

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

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

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

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

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

22. (1) Upon publication of the notice—

(a) the Commissioner of Lands shall apply for the registration of public land in the name of the State;

(b) every person who claims title to any unregistered land in the area under a document of title shall apply to have the document recorded;

Applications for declarations or recording of title.

(c) every person who claims title to any unregistered land in the area but who holds no document of title therefor shall apply for a declaration of title thereto;

(d) every person who claims title to a share in any land in the area or to be the mortgagee of any such share may apply to have the land partitioned.

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

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

Hearing of applications.

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

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

Adjudication by Commissioner.

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

(a) record all documents of title to unregistered land in respect of which he is satisfied—

(i) that the person claiming ownership under any such document is the person or derives title under or through the person named in the document;

(ii) that no other person is able to establish title to the land by possession adverse to the title of the claimant;

(b) make a declaration of title to each parcel of unregistered land in respect of which he is satisfied that no person is the owner and entitled to possession thereof under a document of title, subject to such interests as may have been admitted or proved to subsist therein or thereover;

(c) partition in conformity with the manner in which it is being occupied by the persons entitled thereto or in any other manner he considers expedient to ensure its more beneficial occupation any land in respect of which an application for partition has been received under section 22:

Provided that he shall so far as possible divide such land between the persons entitled thereto in proportion to their respective shares;

(d) make a declaration of title in favour of the State to any land in respect of which no person is able to establish title to his satisfaction and he is unable after due enquiry to identify any person as being entitled thereto.

25. (1) The Commissioner may—

Further powers
of the
Commissioner.

(a) adjust the boundaries of any land in the area or reallocate the same to ensure the more beneficial occupation thereof or to effect a more suitable sub-division thereof;

(b) make any reservations he considers necessary for the purpose of laying out roads and paths or for the better drainage of any land or for any other purposes connected with the improvement thereof;

(c) make a declaration of such right of way of necessity over any land in the area in favour of any other land in the area as may to him seem necessary and just and may direct the manner which the right of way is to be exercised and in such case he shall direct that a memorial of the right of way be entered in the land registry or in the Deeds Registry or in both in respect of the dominant land and of the servient land;

(d) award such compensation as may to him appear just to any person who has suffered loss of land as the result of any adjustment of boundaries or the partition or re-allotment of any land or the creation of any right of way and may make an order directing by whom such compensation shall be paid;

(e) determine the proportion in which the expenses of any partition shall be borne by the persons interested therein and make an order accordingly;

(f) make an order as to costs not exceeding fifty dollars.

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

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

(a) may cancel or amend any document of title to give effect thereto; and

(b) shall in the case of a partition cancel all documents of title in respect of the land partitioned and issue declarations of title therefor.

Rights of absent persons safeguarded.

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

Provisions as to occupation of land.

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

(a) all waste, forest and unoccupied land shall be deemed to be the property of the State until the contrary is proved;

(b) the exercise by any person of rights in or over one or more portions or pieces of land shall not be taken as a presumption in his favour of ownership of any rights in or over any greater extent of land than that in or over which such rights were exercised.

Declaration of absolute title.

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

Declaration of provisional title.

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

Recording of documents of title by the Commissioner.

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

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

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

Publication of declarations and records of title.

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

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

Registration of declarations of title.

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

Recording of documents of title by the Registrar.

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

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

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

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

Appeals.

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

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

No registration or record of title pending appeal.

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

Order where appeal allowed.

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

B. Areas other than Registration Areas

First registration of public lands and of state grants.

37. (1) The Commissioner of Lands may apply to the Registrar for the registration of any land in the name of the State.

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

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

(a) a statement that the land is the property of the State together with any existing title thereto;

(b) a statement of any interests known to subsist in or over the land or which it is desired to show upon the register;

(c) a recorded plan of the land.

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

(5) Any person claiming title to or interest in any land, or claiming to be in possession of any land, in respect of which such application has been made may within three months of the date of the *Gazette* in which the advertisement first appears lodge with the Registrar a notice of objection.

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

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

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

Application
for declaration
of title.

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

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

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

(c) a diagram or plan of the land.

(3) An application from a person claiming ownership of an undivided share of unregistered land shall not be proceeded with unless the persons claiming ownership of the remaining undivided shares therein join in the application so that the entirety of the land can be included in the declaration of title, but any such person may apply to have such land partitioned and for a declaration of title in respect of his divided share thereof and if the Commissioner is of the opinion that such land should be partitioned to ensure the more beneficial occupation thereof, the Commissioner may partition the same and shall have all the powers conferred on him by section 25 in respect thereof.

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

39. (1) Upon receipt of an application the Commissioner shall fix a day for hearing and shall cause not less than thirty days notice thereof to be given by publication in the *Gazette* and in a daily newspaper circulating in Guyana and shall also give notice by registered

Hearing of
applications.

post to the applicant, to any person named in the report of the Registrar as the holder of a document of title to the land, to the occupants if any of the land and to the proprietors of adjoining lands.

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

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

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

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

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

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

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

(a) issue a declaration of title in favour of the applicant or of any counter-applicant in respect of the land or of any part thereof subject to such interests as may have been admitted or proved to subsist thereover;

(b) dismiss the application or any counter-application;

(c) make any order as to costs not exceeding fifty dollars.

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

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

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

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

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

Publication of
declarations of
title and
procedure
thereafter.

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

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

First
registration
by transport.
c. 5:01

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

(3) Any person may pass transport of any land to himself as registered proprietor and in such case no duty shall be payable in respect of such transport.

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

c. 5:01

(a) that in the vendors instructions to advertise and in every advertisement and in the transport the transferee shall be described by the addition of the words "as registered proprietor under the Land Registry Act"; and

(b) that upon being passed the transport shall be registered in accordance with this Act and not of the Deeds Registry Act.

(5) No transport shall be passed under this section unless the Registrar has certified in the certificate which he is required to sign under the Deeds Registry Rules that the land is not already registered under this Act and unless the person passing the transport is the owner of the entirety of the land sought to be registered.

First registration upon order of Court.

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

First registration in lieu of judicial sale transport.

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

First registration upon vesting under an Act.

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

First registration upon partition or re-allotment. c. 60:03

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

C. General

Endorsement of documents filed as of record.

48. Upon the first registration of any land—

(a) any subsisting documents of title filed as of record in the Deeds Registry or in the Lands Department and referring to the land shall be endorsed with a statement that the land has been registered under this Act and with a reference to the parcel-number under which the land has been registered; and

(b) all documents produced to the Commissioner or to the Registrar as evidence of title to the land to which they refer shall be marked "cancelled" and retained in the land registry.

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

First registration with absolute title adverse to provisional title.

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

PART V

THE REGISTER

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

Form of register.

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

Index plan and blocks.

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

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

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

First entry in register.

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

No registration except by plan.

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

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

(a) all subsisting interests to which that parcel is subject at the time when it is brought under the operation of this Act in such manner as to preserve the priorities thereof;

(b) every instrument dealing or other matter affecting that parcel which is required by this Act to be registered.

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

55. (1) Every instrument presented for registration—

(a) shall be in such form as may be prescribed;

(b) shall be executed by every person who is a party thereto unless the Registrar considers that execution by any particular party is unnecessary; and

(c) shall except in the case of an instrument of transfer of land be in duplicate,

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

(2) An instrument may affect more than one parcel of land including unregistered land, but no memorial shall be made of any matter affecting unregistered land.

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

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

57. (1) Every instrument, dealing or other matter affecting any registered land shall when registered be deemed to have been registered

Entry of
memorials
register.

Provisions as
to instruments.

Endorsement
of instruments.

Registration
of instruments.