

CHAPTER 75

A Law to prohibit unqualified persons from drawing instruments affecting Land; and to regulate the registration of instruments and the filing of judgments affecting land in Anambra State.

L. of N. 1948,
Cap. 108 and
110: 15 of
1948: 6 of
1949: 36 of
1951: and 3 of
1954: N.L.N
31 of 1954 and
153 of 1957.
E.N. Cap. 70
and 71.

[30th August, 1917]

Part 1.—General Provisions

1. This Law may be cited as the Land Instruments (Preparation and Registration) Law. Short title.

2. In this Law—

Interpretation.

“certificate of purchase” means a certificate granted by a court certifying that the right, title and interest of a judgment debtor in certain immovable property has been sold to the person named in the certificate;

“commissioner” means the State Commissioner charged with the responsibility for lands;

“instrument” means a document affecting land in Anambra State whereby one party (hereinafter called the grantor) confers, transfers, limits, charges or extinguishes in favour of another party (hereinafter called the grantee) or purporting to do so, any right or title to, or interest in land in Anambra State, and a certificate of purchase and a power of attorney under which any instrument may be executed, but not a will;

“local judgment” means a judgment or decree of the Supreme Court, Court of Appeal, the High Court, a Magistrate's Court or Customary Court whereby the title to land in Anambra State is or shall be affected or whereby the validity of any instrument registered under this Law is affected;

“office” means the proper office of the land registry established under this Law;

"Privy Council Judgment" means a judgment of the Judicial Committee of Her Britannic Majesty's Privy Council determining an appeal from a local judgment together with the Order of Her Britannic Majesty's privy Council giving effect to such judgment;

"State grant" includes a mining lease, mining right, water right or exclusive prospecting licence granted under the Minerals Act, and a timber licence granted under the Forest Law, and every other grant, conveyance, lease or mortgage by or on behalf of the Government.

Part 2.—Preparation of Instruments

Endorsement
of name and
address on
instrument.

3. Every person who shall draw or prepare any instrument shall endorse or cause to be endorsed thereon his name and address.

Penalty: a fine of ten naira.

Unqualified
persons not to
draw
instrument.

4. No person other than a legal practitioner shall either directly or indirectly for or in expectation of any fee, gain or reward draw or prepare any instrument.

Penalty: a fine of one hundred naira.

Certain
agreements
void.

5. (1) An agreement entered into after the commencement of this Law to pay a fee or reward to any person, other than a legal practitioner, in consideration of such person drawing or preparing any instrument is void.

Fee or reward
paid under
void agreement
may be
recovered

(2) Any person who shall after the commencement of this Law pay to any person, other than a legal practitioner, any fee or reward for having after the commencement of this Law drawn or prepared or agreed to draw or prepare an instrument may sue for and recover the amount of such fee or reward from the person to whom the same was paid.

Saving for
instruments
drawn by
public officers.

6. Nothing in this Law shall apply to any public officer drawing or preparing an instrument in the course of his duty as such.

Power to
except any
class of
instrument.

7. The Attorney-General may by order except from the provisions of this Law any class of instrument specified in such order.

Part 3—Registration of Instruments

8. (1) There shall be in Anambra State a land registry with an office of offices at such place or places as the Commissioner may from time to time direct. Establishment of land Registry.

(2) The registry shall be the proper office for the registration of all instruments including powers of attorney affecting land in Anambra State.

9. (1) The Commissioner shall from serving officers, appoint such number of registrars, deputy registrars and assistant registrars as may be necessary for the purposes of this Law. Appointment of registrars.

(2) Subject to the directions of the registrar, a deputy registrar or an assistant registrar may do anything which by this Law is required or authorized to be done by the registrar.

10. (1) There shall be kept at each office such registers, books and files as may be prescribed and a registrar shall, subject to the provisions of this Law, register therein in the prescribed manner all instruments required to be registered and delivered to him for registration, and shall file all local judgments and privy council judgments required or permitted to be filed and delivered to him for filing. Registers and documents to be kept.

(2) All registers kept in the offices of the land registry immediately before the commencement of this Law shall form part of the register under this Law.

11. Subject to the provisions of this Law, every instrument executed after the commencement of this Law shall be registered. Instrument executed after the commencement of this Law.

12. Subject to the provisions of this Law, every instrument executed before the commencement of this Law, and not already registered, shall be registered. Instruments executed before the commencement of this Law.

13. (1) No instrument executed in Nigeria after the commencement of this Law, the grantor, or one or more of the grantors, whereof is illiterate, shall be registered unless it has been executed by such illiterate grantor or grantors in the presence of a magistrate or justice of the peace and is subscribed by such magistrate or justice of the peace as a witness thereon. Proof of instruments executed by illiterates in Nigeria.

Proof of
instruments
executed out of
Nigeria.
Form A First
Schedule.

(2) No instrument executed out of Nigeria shall be registered unless it has endorsed thereon or attached thereto a certificate of proof (as in Form A in the First Schedule or to the like effect) by one of the persons mentioned in (a) or (b) of subsection (3), as the case may be; or unless one of the subscribing witnesses thereto be one of such persons or unless the due execution thereof is otherwise certified, to the satisfaction of the registrar, by one of such persons:

Provided that an instrument executed out of Nigeria by a person serving in the armed forces of the country on actual naval or military service may be registered if it has been executed in the presence of—

- (a) the officer commanding the ship or other unit in which the person executing the instrument is serving, or
 - (b) any other officer not below the rank of Lieutenant Commander in the Nigerian Naval Forces, or Major in the Nigerian Military Forces, and bears a statement that it has been executed on actual naval or military service.
- (3) The persons referred to in subsection (2) shall be—
- (a) if such instrument is executed in any part of the Commonwealth or in any British protectorate, any judge, police officer, magistrate, justice of the peace, notary public or administrative officer resident therein.
 - (b) if such instrument is executed in any foreign country, any Nigerian consul or other accredited Nigerian representative resident therein.

Description
and plan of
land affected.

14. (1) No instrument executed after the commencement of this Law, other than a power of attorney, shall be registered unless it contains a proper and sufficient description, and, subject to the regulations, a plan of the land affected by such instrument.

The decision of the registrar as to the adequacy of the description and plan of any land in any instrument for the purpose of identification shall be final, subject to any order of the High Court.

(2) No State grant executed after the 1st June, 1918, and no instrument executed after the said date affecting land the subject of a State grant executed after the said date shall be registered unless the plan of the land affected by such State grant or instrument is signed by a surveyor or is a copy of a plan so signed.

(3) No instrument executed after the 1st June, 1918, having thereon or attached thereto a plan of the land affected shall be registered unless the plan is signed by a surveyor or is a copy of a plan which has been signed by a surveyor.

(4) In this section the term "surveyor" has the meaning assigned to it by the Survey Law.

15. No instrument requiring the consent of the Governor or any public officer to the validity thereof shall be registered unless such consent be endorsed thereon or the registrar is otherwise satisfied that such consent has been given.

Endorsement of consent of Governor in the case of certain instruments.

16. No instrument declared by any enactment repealed by this Law to be void shall be registered.

Validity of instruments.

17. No instrument executed before the commencement of this Law shall be registered if it does not comply with the requirements of this Law or of the enactment in force at the date of execution thereof.

Compliance with the requirements of this or prior Law.

18. No instrument endorsed on another instrument shall be registered unless the instrument on which it is endorsed is registered.

Registration of instrument endorsed on another instrument.

19. (1) Any person desiring that any instrument shall be registered shall deliver the same together with a true copy thereof and the prescribed fee to the registrar at the office.

Instrument and copy to be delivered to registrar.

(2) The registrar shall, immediately after such delivery, place upon the instrument and upon the copy thereof a certificate, as in Form B in the First Schedule.

(3) Unless the instrument is one which is declared by this Law to be void or the registration of which is prohibited by this Law, the registrar shall compare the copy of the instrument with the original and if he shall find such copy to be a true copy and to comply with any regulations made under this Law and for the time being in force he shall certify the same by writing thereon the words "certified true copy" and appending his signature thereto.

(4) The registrar shall thereupon register the instrument by causing the copy so certified to be pasted or bound in one of the register books and by endorsing upon the original instrument a certificate as in Form C in the First Schedule; and upon such registration the year, month, day and hour specified in the certificate endorsed on the instrument in pursuance of subsection (2) shall be taken to be the year, month, day and hour at which the instrument was registered.

(5) The original instrument shall thereafter, upon application, be returned to the person who shall have delivered it for registration:

Provided that if application for the return of the instrument is not made within twelve months after the date of registration the registrar may destroy the instrument.

(6) Every instrument duly certified as having been registered at the Enugu registry or the Ibadan registry between the 30th day of September, 1949, and the date upon which the Land Registration (Amendment) Ordinance, 1948, came into operation shall be deemed for all purposes to have been registered at the hour in the day of the month and year specified in the certificate placed thereon in accordance with the provisions of subsection (2) of this section.

When
registration to
be refused.

20. (1) When, upon examining an instrument and the copy thereof delivered to him for registration, the registrar shall find that such instrument is one which is prohibited by this Law or that the copy is not a true copy, or does not comply with any regulations made under this Law for the time being in force, he shall refuse to register such instrument and shall write in red ink across the certificates endorsed on the instrument and copy in pursuance of subsection (2) of the last preceding section the words "registration refused" and shall append his signature thereto and the title of the registry office concerned.

Return of
rejected
instrument.

(2) Such instrument and copy thereafter, upon application, shall be returned to the person who shall have delivered it for registration:

Provided that if application for the return of the instrument and copy is not made within twelve months from the date on which they were delivered for registration the registrar may destroy them.

Redelivery for
registration.

(3) (a) Nothing herein contained shall prevent an instrument the registration of which has been refused from being delivered again for

registration provided that the provisions of section 19 are complied with, and that the instrument, if it was void by virtue of the provisions of section 21 when previously delivered for registration, has ceased to be void owing to the time for registration having been extended by the registrar.

(b) In the event of such subsequent delivery the procedure prescribed by section 19 shall be followed and the year, month, day and hour of registration shall be taken to be the year, month, day and hour of such subsequent delivery.

(4) When registration of an instrument is refused, the fee paid upon delivery for registration shall not be returnable, and in the event of the instrument being delivered again for registration the fee upon delivery shall be payable again.

21. Every State grant executed after the commencement of this Law, and every instrument affecting land the subject of a State grant or whereby land is granted by a citizen of Nigeria to a non-Nigerian executed after commencement of this Law shall, so far as it affects any land, be void unless the same is registered within six months from its date (or, in the case of an instrument whereby land granted by a citizen of Nigeria to a non-Nigerian from the date on which it receives the Governor's consent) if executed in Nigeria, or twelve months from its date (or, in the case of an instrument whereby land is granted by a citizen of Nigeria to a Non-Nigerian, from the date on which it receives the Governor's consent) if executed elsewhere:

Certain documents void for non-registration.

Provided that the registrar may extend such periods whenever he shall be satisfied that registration has been delayed without default or neglect on the part of the person acquiring the right or interest in the lands in question.

22. No instrument shall be pleaded or given in evidence in any court as affecting any land unless the same shall have been registered:

Inadmissibility in evidence.

Provided that a memorandum given in respect of an equitable mortgage affecting land in Anambra State executed before the 1st day of July, 1944, and not registered under this Law may be pleaded and shall not be inadmissible in evidence by reason only of not being so registered.

23. Subject to the provisions of this Law every instrument registered under this Law shall, so far as it affects any land, take effect, as against other instruments affecting the same land, from the date of its registration as

Loss of priority.

hereinafter defined in the proper office as specified in section 8 and every instrument registered before the commencement of this Law shall be deemed to have taken effect from the date provided by the Law in force at the time of its registration.

Effect of
registration.

24. Registration shall not cure any defect in any instrument or, subject to the provisions of this Law, confer upon it any effect or validity which it would not otherwise have had.

Instrument to
include
endorsements
thereon.

25. For the purposes of registration an instrument shall be deemed to include all certificates and other matter endorsed thereon or attached thereto at the time it is delivered for registration.

Registers to be
deemed in
legal custody
and to be
receivable in
evidence.

26. All register books, registers and files of registered documents at the registry office shall be deemed to be in legal custody, and shall be receivable in evidence in any court and every registrar shall produce or cause to be produced any register book, register or file of registered documents in his office, on subpoena or order of any court without payment for so doing unless the court shall direct otherwise.

Searches.

27. The register shall allow searches to be made at all reasonable times in any register book, register or file of registered or filed documents in his custody.

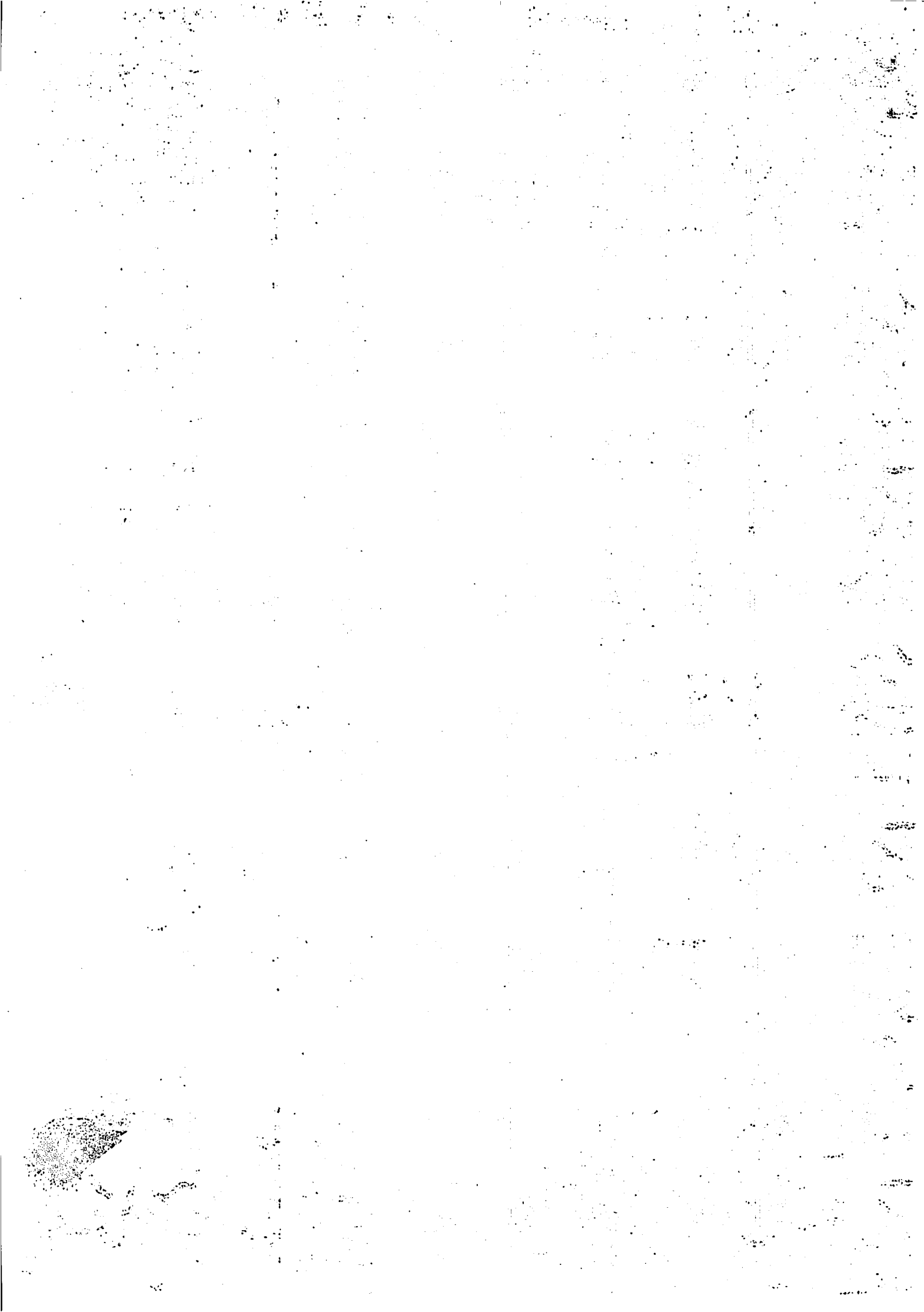
Copies of
entries in
registers.

28.(1) the registrar shall upon request give a certified copy of any entry in any such register book or register, or of any filed document.

(2) Every such certified copy shall be received in evidence, without any further or other proof in all civil cases.

Penalty for
false
statement.

29. Any person who shall wilfully make or cause to be made for the purpose of being inserted in any register under this Law any false statement touching any of the particulars herein required to be known and registered shall be liable to a fine of one hundred naira or to imprisonment for two years.



30. Any person who shall wilfully destroy or injure cause to be destroyed or injured, any register books, register or filed document or any part thereof, or shall counterfeit or cause to be counterfeited any part of any such book, register or document or any certified copy thereof, or extract therefrom, or shall wilfully insert or cause to be inserted in any such book, register, file, certified copy or extract of any such book, register or file, knowing the same to be false in any part thereof, or shall forge and counterfeit the seal of any registry office, shall be liable to imprisonment for seven years.

Penalty for
destroying or
falsifying
register.

31. The fees as the Commissioner may by regulation prescribe shall be taken by the officers by or before whom the acts for which the fees are payable are done.

Fees.

32. The Commissioner may, whenever he may think fit, remit or reduce the amount of any fee payable under this Law.

Power to remit
fees.

33. The Commissioner may make regulations—

Power to make
regulations
schedule.

- (a) for the governance and guidance of registrars and of all persons acting under them;
- (b) prescribing the nature, size and shape of the paper or other substance to be used for copies of instruments delivered for registration and generally the manner in which such copies are to be prepared;
- (c) excepting from the provisions of section 14 in so far as the said section relates to a plan, any class of instrument;
- (d) excepting from the provisions of this Law any class of instrument;
- (e) adding to or altering any of the forms given in the Schedule;
- (f) generally for the purposes of this Law.

Part 4.—Filing of Judgments

34. (1) Within two calendar months from the date of every local judgment the registrar of the court by which such judgment has been pronounced shall transmit to the registrar, at such registry office as the Commissioner may from time to time direct, a certified true copy of the judgment together with a copy of any map or plan ordered to be filed in that court to which the judgment refers, a copy whereof has not already been transmitted under the provisions of this Law, and any other map or plan ordered by the court to be transmitted.

Copy of local
judgments to
be transmitted
with plan.

(2) No map or plan other than those specified in subsection (1) shall accompany or be attached to a copy of a judgment transmitted under the provisions of that subsection.

Registrar to
file copy of
judgment.

35. On receipt of the certified true copy of any local judgment and the map or plan specified in subsection (1) of section 34 the registrar shall file the same.

Effect of filing.

36. Failure to transmit or file any local judgment and any error in transmitting or filing any local judgment shall not affect the validity or effect of such judgment.

Rules of court.

37. The Chief judge with the approval of the Governor may make rules of court for giving effect to sections 34, 35 and 36 of this Law in the High Court and magistrates' courts and in particular for requiring and regulating the filing in courts of maps and plans in matters wherein the title to land in Anambra State or the validity of any instrument registered under this Law is or may be in issue.

Repeal of Cap
87 of L. of N.
1923 (No. 12
of 1915)

38. The Registration Ordinance (No. 12 of 1915) is hereby repealed:

Provided that such repeal shall not affect any priority conferred upon any instrument by such enactment or subject to the provisions of this Law validate any instrument thereby declared to be void, and that all directions given and all things lawfully done under the provisions of the said Law shall, if not inconsistent with the provisions of this Law, be deemed to have been given or done under this Law.

SCHEDULE

FORM A

Section 13.

Certificate of Proof

This instrument was proved before me by the oath (or statutory declaration) of the within named (grantor, grantee or subscribing witness) to have been duly executed by the within named (grantor)

GIVEN under my hand and seal this.....day
of, 19.....

(Signed).....

(Office)

FORM B

Section 19.

Certificate of Delivery to Registrar of Instrument

This instrument was delivered to me for registration by A. B. of (state his residence and profession) at o'clock in thenoon, this.....day of
....., 19.....

.....
(Registrar)

FORM C

Section 19.

This instrument is registered as No. at page in volume of the Lands Registry in the office at

.....
(Registrar)