

# LAWS OF DOMINICA

## TITLE BY REGISTRATION ACT

### CHAPTER 56:50

#### Act

1 of 1886

Amended by

11 of 1922

8 of 1923

1 of 1925

L.I. 7 of 1928

21 of 1932

5 of 1935

15 of 1937

19 of 1939

2 of 1949

15 of 1950

22 of 1951

19 of 1952

8 of 1955

11 of 1957

10 of 1963

1 of 1973

23 of 1973

22 of 1975

41 of 1975

20 of 1978

16 of 1980\*

26 of 1983

32 of 1986

9 of 1989

12 of 1990

11 of 1992

(\*See note on page 2)

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**Note  
on  
Act No. 16 of 1980**

Section 1 of Act No. 16 of 1980 (Title by Registration (New Register) Act, Chap. 56:51) ordains that that Act shall be read together with, deemed part of, and construed as part of, this Act.

**CHAPTER 56:50**

**TITLE BY REGISTRATION ACT**

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**FIFTH SCHEDULE.**

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## CHAPTER 56:50

## TITLE BY REGISTRATION ACT

**AN ACT relating to the registration of certificates of title to land and matters incidental thereto.**

1961 Ed.  
Cap. 222.  
1 of 1886.

Commencement.

[1st February 1887\* ]

Short title.

1. This Act may be cited as the –

## TITLE BY REGISTRATION ACT†.

Interpretation.  
[41 of 1975].

2. (1) In this Act –

“Court” means the High Court;

“deed” includes every document in writing affecting or relating to lands, tenements or hereditaments in Dominica;

“first”, when used in relation to a certificate of title, means the first certificate of title issued under this Act in respect of the land comprised in the certificate;

“Form”, identified by a number, means the Form of that number set out in the Second Schedule.

Second  
Schedule.

(2) Lands shall be deemed to be brought under the operation of this Act from the time when a first certificate of title is issued in respect of them.

First Schedule.

(3) Whenever any of the expressions defined in the First Schedule occurs in this Act, it shall, unless the context otherwise requires, have the meaning assigned to it in the said Schedule.

(4) A Judge may do in Chambers any act which the Court is by this Act authorised to do.

(5) Whenever it is provided by this Act that an instrument shall be in a specified form, it shall be understood to mean that the instrument shall be in that form, or as near thereto as the circumstances admit.

\*See *Leeward Islands Gazette*, 1st February 1887.

†See also Commissioners for Oaths Act Ch.5:72.

**PART I**  
**INDEFEASIBLE CERTIFICATES OF TITLE**

**3.** The title to lands brought under the operation of this Act shall consist of a certificate of title in Form 4, to be issued in duplicate by the Registrar of Titles according to the provisions hereinafter contained, and the certificate of title shall be registered by placing one duplicate, in the order of its date, in the current volume of the register. The current volume shall be bound annually, or at such times as the Registrar of Titles, with the approval of the Chief Justice as *ex-officio* keeper of the records, may determine, and shall be carefully preserved. The other duplicate shall be handed over to the registered proprietor, who shall be bound to produce the same whenever he desires thereafter to transfer or otherwise deal with the land.

Certificate of title.  
Form 4.

**4.** Before the issue of a certificate of title, the Registrar of Titles shall note thereon in a brief, clear and legible manner, following the form of note set forth on Form 4, all mortgages and incumbrances affecting the lands, in the order of their dates. He shall also number each certificate of title as a folium of the current volume and place a corresponding number upon the duplicate delivered to the registered proprietor. When more than one person is named as registered proprietor, the duplicate shall be delivered to the person first named.

Mortgages and incumbrances to be noted on certificate of title.  
Form 4.

**5.** The date of every first certificate of title shall be the day and hour at which the Registrar of Titles places the certificate of title in the current volume; up to which period of time the former title shall be held to continue to exist, and immediately after to cease and determine, and all deeds upon which the land to which the certificate of title relates had been theretofore held, or by which any mortgages or incumbrances upon the said land were shown to exist, shall cease to have any force or effect, and shall be preserved in the custody of the Registrar of Titles, or in such manner as the Chief Justice in his capacity of keeper of the public records, shall, under the provisions of the Registration and Records Act, from time to time direct.

On issue of certificate of title former deeds to cease to have effect, and to be kept by Registrar.

Ch. 19:04.

**6.** (1) From and after the time when any land is brought under the operation of this Act, all dealings with the land shall be in the forms and governed by the principles set forth in this Act; and all such dealings shall take effect from the date and act of registration, and not from the date of the execution or delivery of any instrument or document, or

Dealings with lands brought under this Act.

otherwise, save as in this Act provided. It shall not be necessary to register under the provisions of the Registration and Records Act, dealings with lands brought under the operation of this Act, which are in accordance with the provisions of this Act.

(2) Dealings with lands brought under the operation of this Act, which are not in accordance with the provisions of this Act, shall operate as contracts only, and shall not confer any right in respect to the land, except the right of enforcing the contract as against the parties, and persons claiming otherwise than as purchasers or mortgagees for value under the parties.

7. Whenever a grant of land is made by the State, the grantee may elect, instead of receiving the grant, to have a certificate of title issued to him in lieu thereof, and on notice in writing of the election being given to the Minister, the grant, instead of being given to the grantee, shall be delivered to the Registrar of Titles, with a direction endorsed on the grant and signed by the Minister that a certificate of title be issued to the grantee. Whenever a State grant is so delivered to the Registrar of Titles, he shall, upon payment of all the fees payable on a transfer of land under the provisions of section 20(1) issue to the grantee a certificate of title in respect of the land comprised in the grant.

8. All certificates of title granted under this Act, and all notings of mortgages and incumbrances on the same, shall be indefeasible.

9. In every certificate of title, a registered proprietor or proprietors shall be set forth of the land to which it relates, who shall have the absolute power to deal with the land in any manner in which land may be dealt with under this Act; any rights for life, or rights in the land for terms of years, or any other limited or conditional rights, being hereby declared to be incumbrances on the said lands, and requiring to be constituted as such in the manner in which incumbrances are constituted under this Act.

10. The right of the registered proprietor named in a certificate of title to the land comprised in a certificate of title granted under this Act shall be the fullest and most unqualified right which can be held in land by any subject of the State under the law of Dominica, and such right cannot be qualified or limited by any limitations or qualifications in the certificate of title itself, unless the limitations and qualifications were

Ch. 19:04.

State grants.  
[32 of 1986].Certificate of  
title to be  
indefeasible.Powers of  
registered  
proprietor.Right of  
registered  
proprietor.Limitations.  
[12 of 1990].

inserted in any State grant in place of which the certificate of title has been issued, or in respect of any certificate of title issued by virtue of any scheme under the Town and Country Planning Act or under the Slum Clearance and Housing Ordinance, or any Acts replacing these enactments, or as in the case of mortgages and incumbrances, when these are noted on the certificate of title.

17 of 1975.  
Cap. 180.  
(1961 Ed.).

11. Notwithstanding anything hereinbefore contained, no certificate of title heretofore issued, or hereafter to be issued under this Act shall, save as provided in section 25, in any way affect any rights of common, rights of way, or rights to, or to be exercised over, any ponds, streams, or other water, or any other easements or *profits à prendre*, or the ownership of any public road.

Certificate of title  
not to affect  
rights of  
common.

## PART II BRINGING LANDS UNDER ACT

12. (1) Land not registered under this Act may be so registered –

Right to first  
certificate defined  
and application  
therefor.  
[10 of 1963  
26 of 1983].

- (a) if the applicant can show a good documentary title thereto in himself and his predecessors in ownership for a least thirty years next before the date of the presentation of the request under this Act;
- (b) if, notwithstanding that such documentary title thereto cannot be shown, the Court is satisfied from the deeds or other documents accompanying the requests, that the applicant has the right to claim the land as owner and that he himself has been in undisturbed possession of the same continuously during the period of twelve years next before the date of the presentation of the request under this Act;
- (c) if the applicant has, by descent or by will or deed, acquired a title to the land from a person who would have been entitled himself to have the land registered in accordance with paragraph (b);
- (d) if the land has been in the sole and undisturbed possession of the applicant alone in his own right or as executor, administrator or trustee, or partly in the sole and undisturbed possession of the applicant in any such

right and partly in the sole and undisturbed possession of any other person through whom he claims, continuously for a period of thirty years next before the date of the presentation of the request under this Act;

(e) if the land has been compulsorily acquired by the Government for a public purpose and has vested absolutely in the State by virtue of the Land Acquisition Act.

(2) The application to bring land under this Part shall be made by the owner who shall present a request to the Registrar of Titles for the issue to him of a first certificate in respect of the land described in the request.

(3) Where the owners of the land are joint tenants, tenants in common or co-parceners, the request shall be made in the names of, and shall be signed by, all of them.

(4) The request shall be in Form 1 and shall be accompanied at the time of presentation by all the titles, deeds or other documents under which the applicant claims to be the owner of the land.

(5) Forthwith upon the presentation of the request, the Registrar of Titles shall exhibit on the main door of the Court House and advertise in two issues of one or more newspapers published in the State, a schedule in Form 3 containing a description of the application for the first certificate, and no such certificate shall be issued until the expiration of six weeks from the date of exhibiting the schedule or from the date of the first appearance thereof in the said newspapers.

(6) The applicant shall within twenty-one days after the presentation of the request cause notice of the application to be served upon all owners or occupiers of land adjoining the land for which a first certificate is applied for, and no certificate shall be issued until proof has been given by the applicant that such notice has been given and that six weeks had expired since the giving of that notice.

(7) A Judge may, upon or without any application, order such special notification to individuals or generally, or may direct such public advertisement of the application for the first certificate in newspapers outside the State as may to him appear just and reasonable.

(8) Every request for the issue of a first certificate shall be accompanied by a plan made by a licensed surveyor, and the Registrar of Titles shall reject any plan which he considers insufficient, subject to an appeal to a Judge in Chambers.

Ch. 53:02.

Form 1.

Form 3.

(9) Where the application for a first certificate is in any respect based on possession of the land, the request shall be accompanied by affidavits of the applicant and of two other persons at least, and the affidavits shall set out in detail the facts establishing that the applicant has been in sole and undisturbed possession of the land continuously for the period of time required by this section as well as the acts of ownership exercised over the land and shall prove that the rents, fruits and profits accruing out of the land have been taken and appropriated by the applicant as owner during such period.

(10) Any notice or other document required or authorised to be served under this Act may be served either –

- (a) by delivering it to the person on whom it is to be served; or
- (b) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or
- (c) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office; or
- (d) if it is not practicable after reasonable inquiry to ascertain the name or address of an owner, lessee, or occupier of land on whom it should be served, by addressing it to him by the description of “owner” or “lessee” or “occupier” of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

13. The Registrar of Titles shall thereupon submit the titles, deeds and documents to a Judge, and if the Judge is satisfied that the person presenting the request is entitled to have a certificate of title issued to him, the Registrar of Titles shall issue the certificate of title accordingly, and shall note thereon the mortgages and incumbrances affecting the same. The title deeds and documents which accompanied the request shall remain in the custody of the Registrar of Titles.

Application to be  
submitted to  
Judge.

Possession to be possession as owner.

14. (1) Possession for the purpose of section 12 shall be possession as owner by a person, his heirs, executors, administrators or assigns and not as an encumbrancer holding a life interest or interest for a term of years or other less estate.

(2) A certificate of title issued under section 13 to an executor, administrator or trustee shall be expressed as having been issued to the applicant as such executor, administrator or trustee.

Evidence of possession.

15. The Judge shall take such evidence of possession by affidavit, or payment of taxes, or common repute, or otherwise, as shall be satisfactory to his own mind.

Case to be stated for consideration of Court of Appeal where there is any doubt as to title of applicant.

16. (1) Where the Judge is not able, either from the title deeds and documents and records, or evidence of possession, to ascertain whether a person making application for a certificate of title is the owner of the land, or whether any mortgage or incumbrance exists, or as to the priority of any mortgage or incumbrance, he shall state a case for the consideration of the Court of Appeal, embodying in a succinct form the difficulties which have occurred.

(2) The Court of Appeal shall give such directions for the service of the case upon any parties who may appear to be interested, or for the giving of such public notice in the State or abroad of the application for a certificate of title or the noting thereon of any mortgage or incumbrance, or the order of priority of the same, as may appear reasonable, and calling upon all interested to enter appearance at such time as may be specified in the notice.

(3) On consideration of the case at the time specified, after hearing the applicant for the certificate of title and any competing parties, or the parties interested in any mortgage or incumbrance, and also after hearing the Registrar of Titles, by himself or by counsel, if he desires to be heard, and with or without the making up of any further pleadings as the Court of Appeal may consider proper, such directions shall be given in regard to the issue of the certificate of title, or the noting thereon of any mortgage or incumbrance, or the order of priority of the same, as to the Court of Appeal seems just.

Parties interested may enter caveat.

17. Any person who claims to be the proprietor of any land, or to be interested in any mortgage or incumbrance, may enter a caveat in the office of the Registrar of Titles, either forbidding the issue of any certificate of title for any land to any specified person, or claiming that

a note may be made upon any certificate of title in regard to any mortgage or incumbrance, or in any other manner stating an interest in any land, and the caveat shall be in Form 2 and the caveator shall be heard before the certificate of title is issued, or the mortgage or incumbrance noted or rejected.

Form 2.

## PART III

## TITLES TO LAND ASSURANCE FUND

18. (1) Immediately before the issue of any first or subsequent certificate of title under this Act, a fee shall be paid by stamps to the Registrar of Titles of one cent in the dollar on the value of the land comprised in the certificate.

Titles to Land  
Assurance Fund.  
[10 of 1963  
32 of 1986].

(2) Subject to any agreement to the contrary, the fee shall be paid, in the case of a first certificate of title, by the applicant for the certificate, and, in the case of a subsequent certificate of title, by the party in whose favour the certificate is to be issued.

(3) For the purposes of this section, the value of the land shall be, according to the circumstances, the sum stated in the request for the issue of a first certificate of title to be the value of the land, or the sum stated in the memorandum of transfer as the price of the land, or if no sum or a nominal sum has been so stated, or if the Registrar of Titles has reason to believe that the sum stated is not the true value of the land, or if the certificate of title is to be issued on transmission, such sum as may be agreed upon between the Registrar of Titles and the person liable to the payment of the fee, or, if they cannot agree, as may be summarily decided by a Judge after hearing the Registrar of Titles and the person liable to the payment of the fee, and such evidence as they may respectively adduce.

(4) All fees payable under this section and all damages recovered under section 25(2) shall be paid into the Treasury for the public uses of the State.

19. (1) Any person aggrieved by the issue of a certificate of title under this Act may, with the consent of the Minister, institute a suit as plaintiff against the Attorney General as defendant, claiming damages for the injury he may have sustained. Every such suit shall be governed by the provisions of the State Proceedings Act, except that, if the plaintiff recovers any damages, the same shall be paid out of the general revenue of the State.

Provisions where  
certificate of title  
has been wrongly  
issued.

Ch. 7:80.

(2) Where any person has, by wilful misrepresentation or otherwise obtained a certificate of title to any land to be wrongfully issued, the Registrar of Titles shall call in the same to be cancelled in any case in which the rights of a transferee or incumbrancee who has taken *bona fide* for value without notice, will not be prejudiced thereby; and where damages have been recovered against the Attorney General in any such suit as mentioned in this section, the Attorney General, on behalf of the Government, shall sue the person who has obtained the certificate of title for the issuing of which such damages have been recovered, for damages to be paid into the said fund; but if the person so sued has not obtained the said certificate by fraud, and can show that he has not been benefited by the issue of the certificate to the whole amount of the damages recovered against the State, he is not liable to a greater amount than that by which he has been so benefited; and no transferee or incumbrancee who has taken *bona fide* for value, without notice, subsequent to the issue of the first certificate of title, is liable in any action for damages.

#### PART IV TRANSFER AND TRANSMISSION OF LAND

Memorandum of  
transfer.  
[26 of 1983].  
Form 5.

20. (1) When land has been brought under this Act, the registered proprietor thereof if he desires to transfer it on sale or otherwise, shall execute a memorandum of transfer in Form 5, and the memorandum of transfer shall be presented to the Registrar of Titles.

Ch. 53:02.

(2) When land has vested in the State by virtue of the Land Acquisition Act, the Registrar of Titles shall, upon presentation to him of a request signed by the Attorney General –

- (a) issue a certificate of title in favour of the Government in respect of the said land in the absence of a memorandum of transfer;
- (b) call in the certificate of title in the hands of the registered proprietor or other possessor thereof;
- (c) note the particulars of the transfer on the margin of the certificate of title of the registered proprietor and the duplicate certificate of title in the register of titles where such land is a portion of the land contained in the certificate of title; or
- (d) cancel the certificate of title if the land contained therein has vested in the State.

21. The Registrar of Titles shall thereupon demand from the presenter of the memorandum, or the registered proprietor or those acting for him, or from the person in whose custody the same may be other than an equitable mortgagee, the duplicate certificate of title, which the Registrar of Titles shall file with the memorandum of transfer, and, having satisfied himself of the sufficiency and correctness of the memorandum of transfer, he shall make out in duplicate a new certificate of title of the land contained therein, in favour of the transferee, and he shall, before delivering the new certificate of title to the new registered proprietor or the person entitled thereto, cancel the previous certificate of title by writing across the registered duplicate thereof the word "Cancelled" in ink different from the writing, printing or lithographing of the certificate of title itself, with a reference to the folium and volume of the new certificate of title which is to come in place thereof, and he shall number and mark the duplicate of the new certificate of title to be placed in the register, as well as that to be given to the new registered proprietor, with the proper folium and volume in which the new certificate is registered, and shall also make on both duplicates a reference to the certificate of title which has been cancelled, by the folium and volume in which it was recorded.

Issue of new certificate of title on transfer, and cancellation of previous certificate.

22. The Registrar of Titles shall also mark upon the new certificate of title the mortgages and incumbrances on the former certificate which are undischarged, and any new mortgage or incumbrance which may have to be added thereto, if any, on the occasion of the transfer. He shall also mark the day and hour, and, when such may appear to the Registrar of Titles necessary, the minute of the change from one registered proprietor to another, and that date shall be the time of presenting to the Registrar of Titles the memorandum of transfer. The duplicate certificate of title issued to the registered proprietor shall be an exact copy and, so far as practically possible, an exact facsimile of the duplicate placed on the register.

Mortgages and incumbrances to be noted on certificate of title.

23. (1) When a registered proprietor desires to transfer a portion of the land contained in his certificate of title, it is not necessary to cancel the certificate of title, or to issue a new certificate of title for that portion of the land which is not being transferred, but the Registrar of Titles may issue to the transferee a new certificate of title in respect of the portion transferred and note the particulars of the transfer on the margin of the certificate of title of the registered proprietor; and, if the registered proprietor so desires or if the Registrar of Titles is of opinion that the

Provisions for transfer of portion of land contained in certificate of title.

circumstances do not permit of particulars of the transfer being clearly noted on the certificate of title, the certificate shall be cancelled and the same course shall be followed, as nearly as circumstances will permit as that which has been set forth in sections 21 and 22, and the registered proprietor, on the original certificate of title being cancelled, shall receive a new certificate of title for the portion of land not transferred, at the same time that the transferee receives his certificate of title for the portion transferred to him.

Land not to be divided without consent of mortgagee, etc.

(2) Where mortgages or incumbrances are noted upon the certificate of title of land so proposed to be divided, the Registrar of Titles shall not accept the presentation of a memorandum of transfer of the land without the consent in writing of the mortgagees or incumbrancees, and this consent shall be filed with the memorandum of transfer.

Transferee to be liable for mortgages, etc., noted on certificate of title.

24. Where any mortgages or incumbrances are noted on the certificate of title issued to a transferee, the covenant shall be implied that the transferee has accepted the land subject to the mortgages and incumbrances, and that he will pay the interest accruing thereon, and discharge the principal sums for which the mortgages and incumbrances have been granted, and indemnify the transferor from the payment of the same in all time to come.

Transfer of easements or incorporeal rights.  
Form 7.

25. Whenever any easement or any incorporeal right in or over any land is to be added to any land contained in a certificate of title, the person selling, granting, or transferring the right shall execute a memorandum of transfer in Form 7, and the Registrar of Titles shall file the same when presented, and either grant a new certificate of title to the registered proprietor, with the easement or other right mentioned therein added to the land, whenever required to do so, or shall note the acquisition of the easement or incorporeal right on the existing certificate of title of the land to which it is added, as well as on the certificate of title of the land to be thenceforth subject to the easement or right.

Provisions for transfer of land to trustees.  
Ch. 19:04.

26. (1) Where the registered proprietor of any land desires to transfer the same to trustees, he may register under the Registration and Records Act any deed or document constituting the trust, but he shall, of equal date therewith, present to the Registrar of Titles a transfer to the persons named as trustees, in the ordinary form of an absolute transfer

to individuals, with the words "as Trustees" added to their description, and also with the words "with survivorship," or the words "without survivorship," according as the trustees are to continue to act, or not to continue to act, on the death of one or more of their number, and the Registrar of Titles shall thereupon issue to the transferees a certificate of title without any reference to the trust deed, and they shall be the absolute registered proprietors of the said land as regards the records of title, as fully and freely as any other registered proprietors; but any *cestuis que trust* under the trust deed shall have the right to present a caveat to the Registrar of Titles to prevent any dealing with the land by the trustees in a manner inconsistent with the provisions of the trust deed.

(2) Where, in the deed of trust, trustees are named with the right in the survivor or survivors to act after the death of one or more of their number, the survivor or survivors may require the Registrar of Titles to issue to him or them a new certificate of title in his or their names as registered proprietor or proprietors of the land; and when the said trustees are nominated as such without right in the survivor or survivors to act, the *cestuis que trust*, on the death of one or more of the said trustees, shall have the right to require the issue of a certificate of title to them as now the registered proprietors of the land. In like manner, where new trustees have been assumed in virtue of powers contained in a trust deed, or have been appointed by the Court, they shall have the right to require the issue to them of a fresh certificate of title.

Issue of a new certificate of title on death of trustees or appointment of new trustees.

27. Whenever the registered proprietor of any land dies, the land shall transmit to the personal representative or representatives of the deceased proprietor and the Registrar of Titles shall upon a request being presented to him accompanied by a grant of probate, or letters of administration, or an office copy thereof, issue to the persons named therein as executors or administrators a certificate of title to the said lands and shall note on the certificate of title in the name of the deceased proprietor (the duplicate of which, in whose hands soever the same may be, shall be delivered up to him) the date of the request, the date of the death and such reference to the registrar of grants of probate and letters of administration as may enable the grant to be found and shall cancel the certificate of title in favour of the deceased, and the date of the title of the new registered proprietor shall be held to draw back to the date of the death of the former registered proprietor, whatever may be the date of presenting the grant to the Registrar of Titles.

Issue of new certificate of title on death of registered proprietor.

Issue of new certificate of title to administrator of estates.  
Ch. 9:04.

28. When an administrator of estates is ordered under the Unrepresented Estates Act, to sell any land brought under this Act, the administrator shall be entitled to demand from the Registrar of Titles the issue to him of a new certificate of title in which shall be added to his description the words "as Administrator of Estates", and the same procedure shall be followed, as nearly as circumstances will permit, as is thereinbefore prescribed in the case of transmission to devisees.

On issue of new certificate of title all mortgages and incumbrances to be noted thereon.

29. In all cases where a new certificate of title has been issued in lieu of a certificate of title in favour of a deceased registered proprietor, the Registrar of Titles shall note on the new certificate of title issued all mortgages and incumbrances affecting the land to which it relates.

Issue of new certificate of title to trustee of bankrupt registered proprietor.  
Ch. 9:90.

30. Where a registered proprietor, incumbrancee or mortgagee of any land has been adjudicated bankrupt, or where the estate of a registered proprietor, incumbrancee or mortgagee has become the subject of liquidation by arrangement under the Bankruptcy Act for the time being in force, the land, mortgage or incumbrance, as the case may be, shall transmit to the trustee of the estate in the case of bankruptcy as from the date of the order of a adjudication, and in the case of liquidation by arrangement as from the date of the appointment of the trustee of the estate; and the Registrar of Titles shall, upon the request of any such trustee as aforesaid, accompanied by the documents proving the facts, being presented to him, issue to the trustee a certificate of title in lieu of that in favour of the registered proprietor so adjudged bankrupt or whose estate is in liquidation, as the case may be, and the duplicate copy of the certificate of title in the hands of the registered proprietor shall be delivered up to be cancelled, and the same procedure shall be followed in the issue of the new certificate, as far as the circumstances will permit, as is hereinbefore prescribed in the case of transmission to personal representatives.

Issue of new certificate of title to assignee, etc., of insolvent registered proprietor.

31. Where any person has become insolvent, and either under the authority of the Court, or voluntarily, assigns the whole of his property to any assignee, administrator or trustee on behalf of his creditors, any land of which he may be the registered proprietor shall transmit to the assignee, administrator or trustee; and the assignee, administrator or trustee shall request a certificate of title to be issued in his name; and the

Registrar of Titles, upon the request being presented to him with the deed or instrument of assignment, or such office copy thereof as he may consider sufficient shall issue a new certificate of title to the assignee, administrator or trustee in the manner hereinbefore provided as nearly as circumstances will permit.

32. Whenever any mortgage or incumbrance is transmitted in any of the manners set forth above, the person in whose favour the same is transmitted, or in the case of the death of any mortgagee or incumbrancee, the personal representatives of the mortgagee or incumbrancee shall be entitled to present to the Registrar of Titles a request accompanied by the deed, document or writing, or a grant of probate, or letters of administration, or of an office copy thereof, upon which the request is founded, to alter the noting or marking of any mortgage or incumbrance upon any certificate of title from the name of the previous mortgagee or incumbrancee to the name of such person as being then entitled to the mortgage or incumbrance; and the Registrar of Titles shall, in dealing with the request, proceed as far as circumstances will permit, in the manner already herein provided in regard to transmissions of land, and shall make such noting or marking upon the certificate of title of the land (the duplicate of which in the hands of the registered proprietor, or any other person, he shall be entitled to call in and demand for the purpose of this section) as shall set forth the parties truly entitled to the mortgage or incumbrance, and shall cancel any former noting, and shall either re-issue the same certificate of title to the party entitled thereto, or a new certificate of title as appears to the Registrar of Titles desirable and proper.

Transmission of mortgage or incumbrance on death, bankruptcy, etc., of mortgagee or incumbrancee.

33. Where any person has acquired, or claims to have acquired under the Real Property Limitation Act, the ownership of land brought upon the operation of this Act, he shall present a request to the Registrar of Titles to have a certificate of title issued to him in lieu of the registered proprietor in the original certificate of title, and the person who has acquired, or claims to have acquired, the ownership shall not be entitled to maintain any suit in regard to the land until he has obtained a certificate of title thereto. When a request for such a certificate of title is presented to the Registrar of Titles, he shall state a case to the Court, and shall not issue a certificate of title on the request until he has received the direction of the Court thereupon.

Issue of new certificate of title where land has been acquired by prescription.  
Ch. 54:07.

## PART V

LAND TAX, MORTGAGES AND INCUMBRANCES;  
AND THE SALE OF INCUMBERED LAND*Land Tax*

Land tax.

34. (1) Land tax now imposed or hereafter to be imposed by any Act, shall be a first charge on the land on which the tax is made payable by the Act, where the land is now held under, or is hereafter brought under, this Act.

(2) The charge shall rank before all mortgages, incumbrances and interests already created and constituted, or hereafter to be created and constituted, by and under this Act, and the Government may take all such proceedings under this Act for the recovery of land tax now due and unpaid, or hereafter becoming due and unpaid, by sale or otherwise of the land or estate on which the tax is so made payable, as a mortgagee or incumbrancee may now take under this Act when a mortgagor or incumbrancer has failed to perform the conditions of a mortgage or incumbrance, or as when a mortgagee or incumbrancee may lawfully demand the repayment of the sum lent on mortgage, or the amount or provision secured by an incumbrance.

(3) The Registrar of Titles shall make the following noting, as a first noting, on all certificates of title hereafter issued by him:

“Charge in favour of the Government for land tax now due or hereafter becoming due”.

(4) Every certificate of title heretofore issued by the Registrar shall be deemed and taken to be noted with the noting mentioned in subsection (3).

*Mortgages*

Mortgage to be constituted by noting on certificate of title.

35. A mortgage may be created and constituted over any land by the noting of the same by the Registrar of Titles on the duplicate certificate of title, both that in the registry and that in the hands of the registered proprietor.

Memorandum of mortgage to be presented to Registrar. [41 of 1975]. Form 8.

36. The warrant to authorise the Registrar of Titles to make any such noting upon the certificate of title shall be a memorandum of mortgage in Form 8 or 30, or in the form prescribe in Appendix A or B of the Government Housing Loans Regulations, in the case of mortgages under the Government Housing Loans Act, which shall be presented to

the Registrar of Titles by the mortgagor or mortgagee, or by those authorised to act on their behalf. The duplicate certificate of title issued to the registered proprietor, or where the mortgage extends over lands contained in more than one certificate of title, then all the duplicates, must at the same time be handed to the Registrar of Titles to be noted. Ch. 23:60.

37. Notwithstanding section 6, any memorandum or other document (whether executed before or after 15th January 1976 (the date of commencement of the Title by Registration (Amendment) Act 1975)) evidencing an equitable mortgage constituted by deposit of the certificate of title in accordance with section 62 may contain or refer to such terms and conditions as may be agreed between the mortgagor and mortgagee, and any such memorandum or document shall be deemed to be good and effectual for creating an equitable mortgage even if it was not registered under the Registration and Records Act. Form of memorandum evidencing equitable mortgage. [41 of 1975]. 41 of 1975. Ch.19:04.

38. (1) The powers and ancillary provisions mentioned below and conferred by this Act or by any other law dealing with mortgages where the mortgage (as so defined) is made by deed or otherwise and is of lands not brought under the operation of this Act, are hereby conferred *mutatis mutandis* on a mortgagee under a mortgage of such land, created or constituted before or after the commencement of this Act irrespective of whether or not the mortgage is made by deed. Additional powers for mortgagee. [41 of 1975].

(2) The powers and ancillary provisions mentioned above are those contained in the following sections of the Conveyancing and Law of Property Act, that is to say sections 39 to 47, and section 86 thereof. Ch. 54:01.

39. The date of the mortgage shall be the date of presenting the memorandum of mortgage to the Registrar of Titles. Date of mortgage.

40. When a memorandum of mortgage has been presented, the Registrar of Titles shall proceed forthwith to note the chief facts set forth therein upon the duplicate certificate of title, according to the form of noting of mortgages upon the form of the certificate of title as set out in the margin of Form 4. Particulars of mortgage to be noted on certificate of title. Form 4.

41. The Registrar of Title shall file the memorandum of mortgage presented to him, marking thereon a reference to the certificate of title, and upon the certificate of title a reference to the file where the memorandum of mortgage is preserved. Registrar to file memorandum of mortgage.

On noting of mortgage, land to be held in pledge by mortgagee.

42. So soon as the Registrar of Titles has noted the mortgage upon the certificate of title, the land contained in the certificate shall be held in pledge by the mortgagee, from the date of the mortgage, for the repayment to him of the principal sum actually advanced and the interest set forth therein.

Subsequent mortgages may be created in case of sale, mortgages to be paid in order of date.

43. A second mortgage or any number of mortgages may be created and constituted in a similar manner, but in the event of the land being sold, as hereinafter provided, for non-payment of any principal sum or interest thereon, the mortgage first in order of date shall be first paid out of the price obtained for the land, or if the sum is not sufficient to pay off the mortgage and interest due thereon, then the price obtained shall be paid to the first mortgagee in reduction of the sum due to him under his mortgage.

Mortgages and incumbrances to rank by date.

44. Every other mortgage, where there are no incumbrances, shall be paid out of the price in like manner, in the order of its date, should the price be sufficient, and whoever may be the mortgagee or other creditor prosecuting the sale of the land. In the event of incumbrances as well as mortgages being noted on the certificate of title, the prior incumbrance shall be paid before the subsequent mortgage, and the prior mortgage before any subsequent incumbrance.

Mortgage to be for specific sum actually advanced. [41 of 1975].

45. A mortgage created under this Act or any other law may be constituted and created so as to secure a sum already advanced as well as other sums of money thereafter to be advanced.

Mortgagee may take steps for sale on non-payment at specified date. [41 of 1975].

46. The moneys from time to time secured by the pledge of the land shall be payable at any time or times which may be fixed on the happening of any event or events which may be specified in the memorandum of mortgage, and, if not so paid, the mortgagee may, at any time thereafter, take steps for the sale of the land in the manner hereinafter provided.

Mortgage to extend over land, works, growing crops, etc.

47. The mortgage shall be held to extend over the land contained in the certificate of title upon which it is noted, or any part of the land described in the memorandum of mortgage, and all rents thereof, and upon all fixtures on the land, and upon labourers' houses, mills, buildings, stables, cattle sheds, outhouses, and all erections used for estate purposes, whether fixtures or not, and upon all trees and shrubs, whether bearing fruit valuable in commerce or not, and upon all growing crops on the land belonging to the mortgagee, and all agricultural

instruments, and appliances of sugar or other mills, and all stock belonging to the mortgagor, whether used for work and draught purposes, or grazing on the land, and over all contracts for labour to be performed on the land in favour of the mortgagor.

**48.** The mortgagor shall have the free use, enjoyment and management of all the property pledged, and it shall be his duty to care for the same, and keep all in workmanlike order and good condition and, for this purpose, to deal with all personal chattels accessory to the land, and to sell and replace stock as a good husbandman, but not to deteriorate the condition of the land, and to use his utmost skill in the profitable cultivation of the soil; and he shall have the right to raise temporary advances for crop purposes by pledging the crop, when cut or plucked for sale or manufacture, in the manner mentioned below.

Mortgagor to have use and enjoyment of property, and right to raise advances by pledging crop when cut.

**49.** Nothing contained in section 48 shall limit the right of a mortgagee who is by any other law entitled to enter into possession of a mortgaged property from so entering and nothing contained in sections 74 to 97 (both inclusive) shall limit the powers of sale and of appointing a receiver by this section conferred on a mortgagee.

Right of mortgagee to enter into possession of mortgaged property. [41 of 1975].

**50.** (1) The mortgagee may on non-payment of principal or interest, on the order of the Court, enter into the possession of the land with the view of working the same until the mortgage be paid off, subject to an accounting for the rents and profits of the land, as of land belonging to the registered proprietor thereof, or by selling it.

Mortgagee may enter into possession of land on order of the Court. [41 of 1975].

(2) Where the power of sale conferred by this Act on a mortgagee has become exercisable, the Court may grant the mortgagee an order for possession of the mortgaged property for the purpose of enabling the mortgagee to sell the mortgaged property with vacant possession.

**51.** Whenever any estate or right is sold under the power of sale conferred on a mortgagee by this Act the mortgagee shall execute a memorandum of transfer thereof to the purchaser in Form 31 and the Registrar of Titles upon the transfer being presented to him by or on behalf of the purchaser shall in the same manner as if the transfer had been executed by the registered proprietor proceed in accordance with this Act to cancel the existing certificate of title and to issue a new certificate of title with all mortgages and incumbrances, if any, which are undischarged and have priority over the mortgage in favour of the

Mortgagee to execute memorandum of transfer. [41 of 1975]. Form 31.

mortgagee duly noted thereon; and the duplicate certificate of title in whose hands soever the same may be, shall, on the demand of the Registrar of Titles be delivered to him in order that it may be cancelled.

Mortgagee may demand duplicate certificate of title.  
[41 of 1975].

**52.** The first mortgagee shall have a right to demand and obtain the duplicate certificate of title.

### *Incumbrances*

Incumbrance to be created by noting on certificate of title.

**53.** An incumbrance shall be created and constituted over and upon any land, in the same manner as a mortgage, by the noting thereof by the Registrar of Titles upon the certificate of title.

Memorandum of incumbrance.

**54.** The warrant to authorise the Registrar of Titles so to note any certificate of title shall be a memorandum of incumbrance, which shall be in Form 9.

Form 9.

Incumbrances to rank by date.

**55.** Incumbrances shall take rank in the order of their dates, and the date of presenting the memorandum of incumbrance to the Registrar of Titles shall be the date of the incumbrance, and shall be entered in the note thereof by the Registrar of Titles upon the certificate of title; and where there are both mortgages and incumbrances upon the same land, the prior incumbrance shall take precedence of a subsequent mortgage, and the prior mortgage of a subsequent incumbrance.

Clearing of incumbrances on seizure and sale of land.

**56.** When land is seized and sold for non-payment of any mortgage or incumbrance, any incumbrance if of the nature of a tenancy for life or years, and if it is prior in date to the mortgage or incumbrance in regard to which the sale is prosecuted, may be cleared from the title with the consent of the incumbrancee, and if of a later date, without such consent, and, in order to its being so cleared, shall be valued at its then present value, and shall be paid off in its order out of the proceeds of the sale, if the price is sufficient for the purpose, unless the purchaser and the incumbrancee agree that the incumbrance shall remain a burden upon the land.

Valuation of incumbrances.

**57.** In order to ascertain the then present value of any incumbrance, the Court shall give such directions and orders for the employment of skilled persons either in or out of the State, to value the same as it may deem requisite and necessary.

58. An incumbrance which is not specially limited to a payment out of revenue, or other special form of incumbrance of a like nature, shall extend over the land contained in the certificate of title upon which it is noted and upon all fixtures, houses, outhouses, growing crops, stock and other property over which a mortgage extends.

Extent of incumbrances.

59. For the purposes of this Act, and in order that all the rights granted, which to any important extent affect the land, may appear upon the certificate of title, a lease for three years and upwards shall be deemed an incumbrance, and shall be constituted by a noting on the certificate of title in the same manner as an incumbrance.

Leases for three years to be incumbrances

60. The warrant to authorise the Registrar of Titles to make such a noting of a lease shall be a memorandum of lease in Form 10.

Memorandum of lease. Form 10.

61. No lessee shall be deemed an incumbrancee for the purpose of suing forth or prosecuting any sale of the land, in the manner provided in this Act for incumbrancees other than lessees, for any breach of the conditions of his lease, but he shall be left to his ordinary legal remedies.

Power of incumbrancee to prosecute sale of land not to extend to lessee.

### *Equitable Mortgages*

62. An equitable mortgage may be constituted by deposit of the certificate of title, and when a duplicate certificate of title is so deposited to cover any liability incurred by the registered proprietor, the Registrar of Titles shall not require the holder thereof to deliver up the same for the purpose of noting thereon any mortgage or incumbrance subsequent to the said deposit, or for the purposes of any transfer. If the land is transmitted by the death of the registered proprietor while the equitable mortgage subsists, any new certificate of title which may be issued consequent thereupon shall be deposited with the equitable mortgagee in lieu of the certificate of title held by him.

Equitable mortgage constituted by deposit of certificate of title.

63. An equitable mortgage shall be constituted and created over the land contained in the certificate of title deposited, and over all fixtures, houses, outhouses, growing crops, stock, and other property over which a mortgage extends; and shall rank in its order according to the date of presenting a caveat, as hereinafter provided, to the Registrar of Titles to prohibit dealings with the land while the equitable mortgage exists.

Equitable mortgage to extend over all property over which a mortgage extends.

Equitable mortgage may be for a definite sum, or to cover advances to be made.

64. An equitable mortgage may be constituted by the deposit of the certificate of title, either for the repayment of a definite sum then advanced, if placed to the account of the borrower, or to cover advances to be made, or for the purpose of covering advances made or to be made, or liability for sums due.

Equitable mortgagee may by caveat prevent dealing with land.

65. The equitable mortgagee, if he desires to prevent any other creditor obtaining a preference over such effects comprised in his equitable mortgage as may be secured by bill of sale or otherwise, shall forthwith present a caveat, in manner hereinafter provided, to prevent any dealing with the land and the things accessory thereto, as already set forth, over which his equitable mortgage extends; but he may refrain from presenting such caveat, and in that case, his right as regards the registered proprietor shall not be adversely affected thereby, but he will not have any preference over a more diligent creditor whose security may be meantime completed.

Conversion of an equitable mortgage into a mortgage.

66. An equitable mortgage may be converted into a mortgage, with all the powers and privileges of a mortgagee against the registered proprietor by way of sale of the land and otherwise, by the equitable mortgagee obtaining the judgment of the Court fixing the amount due to him by the registered proprietor, or obtaining from the debtor a writing accepting a specific sum therein stated as being due by him to the creditor under the equitable mortgage. Whereupon the equitable mortgagee may present the judgment or the writing to the Registrar of Titles, and request him to note upon the certificate of title a mortgage in his favour for the amount of the judgment or accepted balance due, the date to draw back to the date of the caveat, which shall be removed and the noting of the mortgage put on the certificate of title in place thereof. The judgment or writing shall be filed as the authority to the Registrar of Titles for so acting. Where no caveat has been entered, the date of the mortgage shall be the date of presenting the judgment or writing to the Registrar of Titles.

#### *Transfer and Discharge of Mortgages and Incumbrances*

Memorandum of transfer to be presented to Registrar.  
Form 11.

67. A mortgage or incumbrance may be transferred from the mortgagee or incumbrancee to any other person, who shall then become the mortgagee or incumbrancee, by the presentation of a memorandum of transfer to the Registrar of Titles in Form 11, and the noting by him of the fact of the transfer upon the certificate of title.

**68.** When the memorandum of transfer has been presented to the Registrar of Titles, he shall proceed in regard to the noting of the transfer, and the filing of the memorandum of transfer, in a similar manner to that provided for the noting of a mortgage or incumbrance.

Transfer to be noted in same way as mortgage or incumbrance.

**69.** The date of the presentation shall be the date of the transfer, and immediately thereafter the transferee shall enter into the whole rights of the transferor under the mortgage or incumbrance. The transferee may demand from the Registrar of Titles a certified copy of the memorandum of transfer, together with a certified copy of the noting thereof upon the certificate of title, with such reference thereon to the volume and folium of the register where the certificate of title is registered as to permit of easy reference thereto.

Date of transfer. Transferee to hold certified copy of memorandum of transfer, etc.

**70.** When a mortgage or incumbrance has been paid off and discharged, or has been partially paid off or discharged, the mortgagee or incumbrancee shall sign such an instrument as Form 12 as may correctly set forth the facts, and, when the same is presented to the Registrar of Titles, he shall alter or cancel the noting of the mortgage or incumbrance, or make such fresh noting upon the certificate of title as shall correctly set forth the actual position and the amount of the mortgage or incumbrance, as the case may be, and he shall file the instrument, in the manner already provided, as his warrant for making the alteration or cancellation.

On payment or part payment, of mortgage or incumbrance, noting on certificate of title to be altered accordingly. Form 12.

**71.** A lease for three years and upwards may be transferred by the execution of a memorandum of transfer in Form 13, and the noting thereof by the Registrar of Titles on the certificate of title.

Transfer of lease. Form 13.

**72.** The date of the transfer shall be the date of the presentation of the instrument, and the duties of the Registrar of Titles, in regard to the instrument presented shall, in all respects, be similar to those provided for in the case of the transfer of a mortgage or incumbrance.

Proceedings for transfer of lease.

**73.** When a lease has come to an end by effluxion of time, or has been determined by consent or by the judgment of the Court, the registered proprietor may present a request to the Registrar of Titles to make such noting on the certificate of title as shall indicate the fact that the lease has ceased to exist, or to cancel the noting of the lease in such manner as the Registrar of Titles may deem shall best set forth the actual state of the facts in regard thereto.

Termination of lease to be noted on certificate of title.

*Sale of Incumbered Lands or Estates*

Notice to pay off.

**74.** When a mortgagor or incumbrancer has failed to perform the conditions of the mortgage or incumbrance, or when the mortgagee or incumbrancee may lawfully demand the repayment of the sum lent on mortgage, or the amount or provision secured by the incumbrance, the mortgagee or incumbrancee shall serve or cause to be served upon the registered proprietor a formal notice to pay off in Form 14 requiring him to perform the acts therein required within sixty days from the date of service. Where the registered proprietor is resident abroad and there is no one in the State holding his power of attorney, he shall be served in the manner in which a defendant out of the jurisdiction may be served under the procedure of the High Court.

Form 14.

Seizure of land on non-payment after notice.

**75.** If the registered proprietor shall not, within the time specified, pay off the mortgage or incumbrance, or do the acts required of him in the notice to pay off, the mortgagee or incumbrancee may seize the land contained in the certificate of title on which the mortgage or incumbrance is noted, with the things accessory thereto as set forth and enumerated in this Act as falling within the mortgage or incumbrance.

Act of seizure to be served on registered proprietor.

**76.** The seizure shall be complete as regards the registered proprietor by the bailiff appearing on the premises with orders to seize, but, in evidence of his act, he shall place in the hands of the registered proprietor, or leave at his dwelling place, or, if resident abroad, in the hands of his attorney acting under his power of attorney, or, if he has no such attorney, then the mortgagee or incumbrancee, in the manner in which a defendant out of the jurisdiction of the High Court may be served, shall serve the registered proprietor with an act of seizure in Form 15 in which shall be set forth, not only the land seized, but an inventory of the things accessory to the land over which the mortgage or incumbrance extends; but where the registered proprietor resides abroad, it shall not be necessary to delay proceedings because of such service.

Form 15.

Caveat of seizure to be presented to Registrar.  
Form 16.

**77.** The mortgagee or incumbrancee shall also forthwith present to the Registrar of Titles a caveat of seizure, in Form 16 which the Registrar of Titles shall note upon the certificate of title in the same manner as is provided for other caveats to prohibit all dealings with the land seized until the caveat be removed or withdrawn.

78. If the debt is not paid off or discharged, or the acts required in the notice to pay off are not performed, and no new arrangements are made within thirty days from the date of seizure, the mortgagee or incumbrancee shall lodge in the registry of the High Court articles of sale in Form 17 of the said land, and the things accessory to the said land over which the mortgage or incumbrance extends, either in one lot or in more lots, as may be thought most likely to bring the highest price, and shall by summons, call upon the registered proprietor, and all other mortgagees and incumbrancees, to appear before the Court on a day to be specified in the summons, being not less than three and not more than ten days after the date of the summons, to settle the said articles of sale, to estimate an upset price, to fix the day of sale and to adjust the announcements of sale and the mode of publication thereof.

On non-payment of debt within thirty days after seizure, articles of sale to be settled by a Judge.  
Form 17.

79. On the day appointed the Court shall settle the articles of sale, fix the upset price upon such information or valuation as may be considered necessary and sufficient, and appoint the day of sale, adjust the announcements and determine the mode of publication thereof according to the nature and value of the property. For lands not exceeding five thousand dollars in value (to be judged by the Court from any indications or informal evidence of value which the proceedings may disclose or which may be communicated to the Court) it shall not be necessary to publicly announce the sale beyond the island in which the land is situated, but for land of greater value, the Court will determine whether the announcements should be published throughout the State, or beyond the State, or in the English journals. The day of sale shall be determined by the length of time necessary to publish the announcements in such a manner as shall bring the highest price.

Court to appoint and advertise date and conditions of sale.

80. In settling the articles of sale, the Court shall cause to be inserted therein, and in the announcements, provisions which shall reserve the rights of all persons holding estates for life or lesser estates which entitle such incumbrancees to the possession and enjoyment of the property, if their incumbrances shall be entitled to priority over the mortgagee or incumbrancee prosecuting the sale, unless the consent of such prior incumbrancees have been obtained to an unreserved sale; in which case the rights of the incumbrancees shall be valued and dealt with in the manner set forth in sections 56 and 57 hereof.

Rights of incumbrancees to be preserved, unless they consent to unreserved sale.

81. All lands so appointed to be sold shall be sold at the registry of the High Court, or, if rendered necessary by the number of bidders, in the Court House itself, and the Registrar of the High Court shall preside

Sale to be by Registrar of High Court, at the Court House.

at the sale, and shall take biddings for the lands; each bid being written down and signed by the bidder, and the highest bidder shall be accepted as the purchaser. When a higher bid has been made and accepted, the lower bids shall cease to be binding, even if the higher bidder fails to carry out the purchase.

Payment of price.

**82.** The deposit shall be forthwith paid by the purchaser as the Court shall have fixed in settling the articles of sale, being not less than one-fourth of the whole, and the balance of the price shall be paid as may be arranged between the Registrar of the High Court and the purchaser, but in no case shall a longer delay than three months be granted for the purpose.

On non-payment of price new sale to take place.

**83.** Should the price not be paid, the land shall, if need be, be anew exposed to sale at the cost of the accepted purchaser, to be paid out of the money deposited. If a higher bid than formerly is received, the deposit, less the cost of the second sale, shall be returned to the first purchaser, but should a less sum be offered, the difference shall, in addition to the costs, be retained out of the deposit before any balance is returned to the first purchaser, and in like manner with successive sales.

Scheme of division.

Form 18.

**84.** So soon as the price has been completely paid, the Registrar of the High Court shall draw up a scheme of division of the price, as in Form 18 and the mortgagee or incumbrancee who is prosecuting the sale shall, in like manner as was done for the settling of the articles of sale, call the mortgagees and incumbrancees and all parties interested before the Court, and the Court shall settle the scheme of division and direct the Registrar of the High Court to pay the amounts to the respective persons preferred, upon receipt given by them, or those acting for them, opposite to their names in the scheme of division.

Issue of new certificate of title after sale with reserved incumbrances noted thereon.

**85.** The Court shall, at any time after payment of the price, and not later than the settling of the scheme of division, order and direct the Registrar of Titles to issue to the accepted purchaser a certificate of title to the land sold, free from any noting of the mortgages and incumbrances and caveat of seizure on the former certificate of title, except those incumbrances which have been reserved under section 80 hereof (the date of the new certificate of title to draw back to the day on which the offer was accepted), and to cancel the former certificate of title (the duplicate of which shall be delivered up to the Registrar of Titles by the former registered proprietor); and the land contained therein shall,

thereafter, be held fully and completely freed and purged from the former mortgages and incumbrances, except those reserved as already provided for.

**86.** The registered proprietor, or his attorney or manager on the spot, shall, as a general rule, be named by the bailiff to take charge of the property seized and, during the necessary delay and until the land is sold, shall carry on the cultivation of the land and the preparing and reaping of the crops, as before the seizure, but where, from the necessity of obtaining advances for the pay of labourers or otherwise and the stoppage of his credit, the registered proprietor is not in a position to do so, then the mortgagee or incumbrancee who has made the seizure shall apply to the Court to appoint a receiver to manage and carry on the land or estate until a sale is effected or the seizure paid off.

Registered proprietor may remain in charge of property between seizure and sale, but receiver may be appointed.

**87.** The registered proprietor may, at any time up to twelve o'clock of the day preceding the day of sale, pay off the seizure, by depositing in Court the amount of the sum due under the mortgage or incumbrance and the costs.

Debt may be paid up to noon of day preceding day of sale.

**88.** Should the creditor, after the sixty days provided in the notice to pay off have run out, not proceed to seizure within twenty-one days, he shall serve a new notice to pay off, and the procedure shall have the same course as before.

If no seizure made within the time limited.

**89.** If there is more than one seizure, the mortgagee or incumbrancee who first presents the caveat of seizure to the Registrar of Titles shall have the carriage of the sale, unless the Court otherwise orders.

Seizing creditor to have carriage of sale.

**90.** Any lease for less than three years of any portion of the land seized, made after the seizure, shall be *ipso facto* null, and no lease for three years or upwards can be registered in face of the caveat of seizure. All rents due for any portion of the land seized shall be paid, after seizure, into the registry of the High Court.

Effect of seizure on leases and rents.

**91.** The solicitor having the carriage of the sale shall be remunerated, over and above the sums of money actually paid out of pocket, by a percentage upon the sale price in full payment of costs against the registered proprietor or the mortgagee or incumbrancee of the land and estate in any manner or way, from the date of the notice to pay off until the completion of the scheme of division and the issuing of the certificate of title in favour of the purchaser.

Payment of solicitor having carriage of sale.

Percentage payable to solicitor. Fifth Schedule.

**92.** The percentage payable to the solicitor having the carriage of the sale shall be according to the proportionate amount set forth in the Fifth Schedule.

Taxation and payment of costs.

**93.** The total costs, including both the sums actually paid out of pocket and the percentage on the sale price, shall be taxed by the Registrar of the High Court and publicly notified at the time of adjusting the scheme of division, and the amount shall form the first item in such scheme in the name of the solicitor having the carriage of the sale, after the sums, if any, due to the receiver.

Adjournment of sale.

**94.** Should no bidders appear on the day of sale or no bidders to offer the upset price, or on other strong grounds of necessity or expediency, the Registrar of the High Court may, of his own motion, adjourn the sale either to a day to be fixed or *sine die*, and he may also so adjourn the sale either at the instance of the registered proprietor, or the mortgagee or incumbrancee prosecuting the sale, or any other mortgagee or incumbrancee, if the reasons set forth by them for the adjournment appear to be serious and well founded in the interest of all parties.

Announcement of adjourned sale.

**95.** When the sale has been so postponed, another day shall be fixed by the Court, either at the request of the Registrar of the High Court, or on the motion of the mortgagee or incumbrancee prosecuting the sale, or of the registered proprietor, and with or without any alteration of the upset price, or of the announcements of sale, as may be considered best adapted to ensure a sale of the land and estate, and on such publication of the announcement of the adjourned sale as the Court may order.

Mortgagee, etc., may bid at sale. Certain persons prohibited from bidding.

**96.** The mortgagee or incumbrancee prosecuting the sale may bid, and all other mortgagees and incumbrancees; but the following persons are incapacitated from bidding or purchasing either in their own persons or by means of a third party; viz., any Judge of the High Court, any Registrar of the High Court or any of his clerks, the solicitor having charge of the sale and any person notoriously in insolvent circumstances. Any bidding or purchase made by, or on behalf of, any of the above persons, shall be absolutely null and void.

Questions arising in course of sale to be settled by the Court.

**97.** Any question arising in the course of a sale of land or estate, from the time of serving the notice to pay off till the completion of the scheme of division and distribution of the price, either between the registered proprietor and the mortgagee or incumbrancee prosecuting the sale, or between either of the said parties and any receiver appointed by the

Court, or between any other mortgagees and incumbrancees themselves, or between any other creditor and any of the parties named or any one pretending right to any of the property seized, shall be heard and determined by the Court in such manner as the Court may direct.

### *Crop Advance Warrants*

**98.** The security of the mortgagee and incumbrancee over the land, stock, growing crop, and other things accessory to the land, hereinbefore enumerated, shall not be held to extend over the crop, when cut or plucked, but the mortgagor or incumbrancer shall deal therewith as a good husbandman to sell the crop to the best advantage, and shall, from the first and readiest of the moneys realised therefor, provide for the payment of the interest due or to become due on the mortgages and incumbrances for the year, and for payments constituting incumbrances.

Security of mortgagee, etc., not to extend over crop when reaped.

**99.** The registered proprietor shall be at liberty to deal with the sugar, cocoa, coffee or other crop in order that it may be a pledge for the repayment of advances made for the purpose of providing the labour and supplies essential to the production of the crop; but up to the period of the crop ceasing to be a growing crop, the right of the mortgagee or incumbrancee under his pledge of the land and estate, to seize and sell the land with the growing crop belonging to the registered proprietor, is preferable to all others.

Crop may be pledged repayment of advances, but, until reaped, to be liable to seizure by mortgagee.

**100.** Where the land of the registered proprietor has been seized and sold by any mortgagee or incumbrancee, after the advance of the whole or a portion of the sum in a crop advance warrant, as provided for in section 101, for the crop then on the ground, the holder of the crop advance warrant shall be repaid out of the sale price, preferably to any creditor other than the receiver and the solicitor having the carriage of the sale and shall be ranked in the scheme of division accordingly.

On sale of land by mortgagee, crop advance warrant to have preference.

**101.** The registered proprietor may grant a crop advance warrant in Form 19, and the meaning and effect of such document shall be that so soon as the sugar-cane is cut, or the coffee, cocoa or fruit plucked from the tree, or the other crops have been taken from the plants or ground, so as to have ceased to be growing crops, they shall be a pledge for the repayment of the amount set forth in the crop advance warrant; and the buildings or places where the sugar is drained and stored, or the coffee or cocoa or other crop is prepared for market or stored, whether such

Effect of crop advance warrant. Form 19.

buildings or places are on the land and estate or in town or elsewhere, shall be held to be the joint warehouse or store of the registered proprietor and the holder of the crop advance warrant, and the registered proprietor shall hold the same for himself and the holder of the crop advance warrant.

Holder of crop advance warrant may take possession of crop, if not, proprietor may deal with it, and account to holder for proceeds.

**102.** The holder of the crop advance warrant may take possession of the crop at any time after it becomes subject to his right, or he may place a person to represent his interest in joint charge with the registered proprietor, but where the holder of the crop advance warrant does not take possession of the crop, it shall, for the purposes of sale and turning it into money, be at the disposal of the registered proprietor, who shall account for the same to the holder of the crop advance warrant, and repay the crop advance.

Holder of crop advance warrant to account to proprietor.

**103.** When the holder of the crop advance warrant takes possession of the crop, he shall in like manner account for the proceeds of the same to the registered proprietor, and repay to him any balance after paying the sums due under the crop advance warrant.

Proprietor appropriating proceeds of crop without paying crop advance.

**104.** If the grantor of a crop advance warrant deals with the sugar or other crops and, with intent to defraud, appropriates the proceeds solely to his own use, without paying the holder of the crop advance warrant, he is guilty of larceny, and shall be subject to trial and punishment accordingly.

If crop insufficient to repay advance balance to be a personal debt of proprietor.

**105.** When the crop over which the crop advance warrant extends has been sold or disposed of, an account shall be made up between the holder thereof and the registered proprietor, and the balance, if any, retained by or paid over to the latter; but if there is a balance owing to the holder of the crop advance warrant, it shall be a debt due by the registered proprietor personally and, subject to the provisions of Part VI, shall not be a charge upon the land or estate; and it shall always be lawful for the registered proprietor to grant a mortgage for the said balance, which shall take its place in the order of its date, or to guarantee payment of the said balance by the deposit of the certificate of title by way of equitable mortgage protected by caveat.

Crop advance warrants transferable, and may be granted by lessees.

**106.** Crop advance warrants may be transferred by special or blank endorsements in the same manner as bills of exchange, and may be granted by lessees in the same manner as if they were registered proprietors of the land leased.

**107.** Crop advance warrants shall be registered, within thirty days of their date, in the register of bills of sale, and shall take precedence and priority according to their date of registration, both among themselves and in relation to bills of sale which may be registered in the same register.

Registration of  
crop advance  
warrant.

**108.** (1) Whenever any sum secured by a crop advance warrant is due and owing to the holder thereof, or whenever any sum of money promised to be advanced is due to the grantor of a crop advance warrant, it shall not be necessary for the holder or grantor to sue upon the crop advance warrant, but, if the holder or grantor gives three clear days notice to the person from whom he seeks to recover the said sum of his intention to apply to the Registrar of the High Court to issue execution for the recovery of the sum so due or withheld, and calling upon him, if he has any reason to give why execution should not issue, to send notice thereof to the Registrar of the High Court with an affidavit verifying the facts on which he relies, and giving him notice that, if he fails to do so within three days, execution will issue, the said holder or grantor may apply in writing, in Form 20, to the Registrar of the High Court to issue execution for the sum so due and owing as aforesaid, and the Registrar of the High Court shall, on receipt of the application together with an affidavit of service of the notice aforesaid satisfying him that all the requirements of this section have been complied with, issue execution in Form 21 for such sum as is hereinafter provided.

Proceedings for  
enforcing  
payments due  
under crop  
advance warrant.

Form 20.

Form 21.

(2) If the said Registrar has received no notice of any reason why he should not issue execution, or if in his opinion no good reason is shown why the execution should not issue, he shall issue execution for the whole amount. If it appears to the said Registrar that the reasons advanced why execution should not issue apply only to a part of the amount named in the application, he shall issue execution for such part of the said amount as the reasons advanced do not apply to; but the said Registrar shall not issue execution for any part of the amount named in the application as to which, in his opinion, good reason is shown that execution shall not issue; and, for the recovery of any such sum, the person making the application shall bring his action in the ordinary way.

(3) No such notice as in this section is mentioned shall, except by leave of the Court, be served on any person who is not within the State; which leave may be granted by the Court, subject to such conditions, and with such directions as to time and manner of procedure, as to the Court seems fit.

(4) On execution being issued by the said Registrar, the same steps may be followed in all respects as if execution had issued after judgment in the High Court in favour of the holder of the warrant or of the grantor.

## PART VI JUDGMENTS

Order of sale in satisfaction of judgment debt.

**109.** (1) Where any registered proprietor, mortgagee or incumbrancee, or the estate or right of any registered proprietor, mortgagee or incumbrancee in or over any land brought under this Act, is liable to the payment of a judgment debt, the Court may, at any time after the date of the judgment, on the application of the judgment creditor, make an order for the sale of the estate or right of the registered proprietor, mortgagee or incumbrancee in or over the said land; but if it is proved to the satisfaction of the Court that the estate or right in question is of the value of two thousand four hundred dollars or upwards, or where the application is for the sale of the estate or right of a registered proprietor, that of the land in question, forty acres or more are under cultivation, no order of sale shall be made hereunder, except with the consent of the registered proprietor, mortgagee or incumbrancee, until the expiration of six months after the date of the application; and on any such application, the Court instead of making an order of sale may order the amount due to be levied by the appointment of a receiver or otherwise as it thinks fit.

(2) In this section –

Ch. 4:70.

“judgment” means judgment entered in the High Court; and any other judgment to which section 8 of the Judgments Act applies, and in respect of which the provisions of the said section have been complied with, shall also be deemed a judgment within the meaning of this section; and

“judgment creditor” means any person to whom any money, including money due for costs, is for the time being payable under any such judgment.

Sale in satisfaction of judgment debt.

**110.** When an order of sale is made under section 109, the estate or right thereby ordered to be sold shall be sold accordingly at public auction, at such time and place, in such manner, upon such conditions, and after such advertisement as the Court, by the same or any subsequent order, may direct, and the proceeds of the sale shall be paid into Court,

and shall be applied in satisfaction of the judgment debt and the subsequent costs and expenses.

111. Whenever any estate or right is sold under section 110, the Registrar of the High Court shall execute a transfer thereof to the purchaser in Form 22, or in such other form as the Court may direct; and the Registrar of Titles, upon such transfer being presented to him, by or on behalf of the purchaser, shall, in the same manner as if the transfer had been executed by the registered proprietor, mortgagee or incumbrancee in question, proceed, in accordance with the provisions of Parts IV and V, according to the circumstances of the case, either, if it is the estate or right of the registered proprietor which has been sold, to cancel the existing certificate of title and to issue a new certificate of title with all the mortgages and incumbrances affecting the land duly noted thereon or, if it is a mortgage or incumbrance which has been sold, to note the transfer on the existing certificate of title; and the duplicate certificate of title, in whose hands soever the same may be, shall, on the demand of the Registrar of Titles, be delivered to him, in order, according to the circumstances, that the same may be cancelled, or that the transfer may be noted thereon.

Transfer on sale  
in satisfaction of  
judgment debt.  
Form 22.

112. (1) A judgment for the payment of any money or costs shall constitute the money or costs a charge, subject to charges having a priority, upon the estate or right of any registered proprietor, mortgagee or incumbrancee in or over any land brought under the operation of this Act as soon as the person entitled to the benefit of the judgment has –

Judgments, how  
made a charge.

(a) filed an application to the Court under the Judgements Act for an order for the levying of the money or costs or part thereof by sale of the estate, right or otherwise, and all further proceedings in connection with the judgment shall be governed by that Act;

Ch 4:70.

(b) the Registrar of Titles shall have noted the application upon any relevant certificate of title in his custody.

(2) (a) The Registrar of Titles upon making the notation as aforesaid, shall call upon the person having custody of the duplicate of any such certificate of title mentioned in subsection (1) to produce it to him forthwith.

(b) Upon production of the duplicate certificate the Registrar of Titles shall endorse thereon the same notation of the application

as appears on the original certificate of title in his custody and the date of the notation thereon, for the purpose of priority, shall draw back to and rank as from the date of filing as entered on the original certificate of title aforesaid.

## PART VII CAVEATS

Form of caveat.  
Form 23.

**113.** A caveat shall, subject to the provisions of sections 17 and 77, be in Form 23 and shall be verified by the oath of the caveator, or his solicitor, or person acting under the power of attorney of the caveator, and shall contain an address within the State at which notices may be served on the caveator.

Who may present  
caveat.

**114.** Any person claiming to be entitled to stay the registration of any dealing in land, until his rights therein shall be recognised and registered, may present a caveat to the Registrar of Titles.

Caveat to be  
noted on  
certificate of  
title.

**115.** The Registrar of Titles shall register the caveat in the same form and manner as an incumbrance affecting the land set forth in the caveat, and the date of registration shall be the date of the presentation of the caveat, and, for the purpose of the registration, the Registrar of Titles shall have the right to demand the duplicate certificate of title from the possessor thereof, in order that the caveat may be noted thereon as well as on the duplicate in the register.

Notice of caveat  
to be sent to  
caveatee.

**116.** Where the caveatee is not the person in possession of the certificate of title, and would not necessarily by the proceedings receive notice of the caveat, the Registrar of Titles shall forthwith send notice to him, by post, of the presentation of the caveat.

Effect of  
registration of  
caveat.

**117.** After the registration of a caveat, and so long as it remains in force, the Registrar of Titles shall not register any dealing with the land embraced therein, until the caveat is removed.

Caveator may  
withdraw caveat.  
Form 24.

**118.** A caveat may be removed by the caveator, at any time, by presenting to the Registrar of Titles an order of withdrawal in Form 24, subject to any demand for costs and damages which the caveatee may make in the manner hereinafter provided.

**119.** A caveat may be removed by a caveatee by his sending the Registrar of Titles an order of removal in Form 25 and containing an address within the State, where notices and letters may be addressed to or served on the caveatee and, upon receipt of the order of removal, the Registrar of Titles shall note on the order the day and hour at which it was received, and shall give written intimation to the caveator, at the address given in the caveat, that, at the expiry of twenty-one days from the date noted on the order, he will enter the order of removal in the presentation book and will proceed thereon to cancel the caveat on the duplicate certificates of title unless, before the expiry of such period as aforesaid, there is presented to him an order of a Judge, sustaining or continuing the caveat for a time specified, or otherwise dealing with the caveat so as to require its continuance on the register.

Caveatee may give order of removal; caveat to be removed unless otherwise ordered by Court. Form 25.

**120.** The caveator may, at any time and without any notice from the Registrar of the receipt of an order of removal from the caveatee, apply to the Court to sustain the caveat, and to order its continuance on the register, either until some question of right has been determined between the caveator and the caveatee, or till such time and in such manner as may be ordered by the Court, and the Court, after such notice to the caveatee or service upon him as may appear sufficient, may proceed to hear the parties or, in the absence of the caveatee if he does not appear, to deal with the case as may appear just.

Caveator may apply to Court to sustain caveat.

**121.** The caveatee may, in like manner, and without sending any order of removal to the Registrar of Titles, apply to the Court to have the caveat removed by order of the Court.

Application to Court to remove caveat.

**122.** Any person lodging any caveat with the Registrar without reasonable cause is liable to make any person who may have sustained damage thereby such compensation as may be just, and such compensation shall be recoverable in an action at law by the person who has sustained damage from the person who lodged the caveat.

Caveator liable in damages.

**123.** All orders sustaining, continuing, or removing caveats, and all other orders of the Court relating thereto, shall be presented to the Registrar of Titles by the person in whose favour they are given, or on his behalf, and shall be noted by the Registrar of Titles on the duplicate certificate of title as of the date of the presentation.

All orders of Court relating to caveats to be noted.

No second caveat to be received from the same person.

124. No second or other caveat shall be lawful, at the instance of the same person, in relation to the same matter, and the Registrar shall refuse to receive or note the same on the register.

Cases in which Registrar may enter caveat.

125. The Registrar of Titles may, of his own motion, enter a caveat upon the register, either to protect the rights of the State, or the rights of any person under legal disability or absent from the State, or for any good, valid and sufficient reason to him appearing which may require him to act in such a manner in the interests of justice, and he may also enter a caveat when it appears to him that any error has been committed in regard to any certificate of title, or any noting thereon, in order to prevent dealing with the said land until the error has been corrected.

### PART VIII

#### REGISTRATION AND CONFIRMATION OF QUALIFIED AND POSSESSORY TITLES

##### *Registration of Qualified Titles and Possessory Titles*

Application for certificate.

126. An application for the issue of a first certificate under this Part may be made by such persons, and shall be made in such manner and subject to such notice, and be supported by such examination or evidence of the title to the land as may be prescribed.

Certificate of qualified title.

127. (1) A certificate of qualified title may be issued in the name of any person, if, on the prescribed examination of title, he appears to the Judge to be entitled, at law or in equity, as owner to such an estate in the land as in this section mentioned, whether subject or not to incumbrances, and whether for his own benefit or not.

(2) On the issuing of a certificate of qualified title, the registered proprietor of the land shall have the same estate in the land as a registered proprietor with an indefeasible title under the preceding provisions of this Act, except that the title shall be subject to any qualifications endorsed on the certificate of title as respects the reservation or exception of any right arising before a specified date, or arising under a specified instrument, or otherwise particularly described in the certificate.

Certificate of possessory title.

128. (1) A certificate of possessory title may be issued in the name of any person, if, on the prescribed evidence, it appears to the Judge that he is *prima facie* entitled to the land as owner, and that he, or some person for whom he holds the land in trust is, or would but for some incumbrance be, in possession of the land.

(2) The issue of a certificate of possessory title shall not prejudice the enforcement of any right adverse to, or in derogation of, the title of the person in whose name it is issued, and subsisting or capable of arising at the date of the certificate, but, save as aforesaid, the registered proprietor shall have the same estate in the land as a registered proprietor with an indefeasible title under the preceding provisions of this Act.

(3) In any case where an application for a certificate of possessory title has been made, the Judge may, if he thinks fit, require the Magistrate of the district in which the land is situated to enquire as to the possession of the applicant, and any other matter calling for local enquiry.

(4) The Judge may direct whether the enquiry shall be with or without any and what jury, and generally in what way it shall be held, and as to the procedure thereat.

(5) If the enquiry is with a jury, the Provost Marshal shall, on receipt of notice by the Magistrate, summon the necessary number of jurymen at the place and time appointed by the Magistrate for holding the enquiry.

(6) When the land is partly in one district and partly in another district or districts, the Judge may direct an enquiry to be held in all or any of them as to the whole or any part of the land.

(7) Subject to the foregoing provisions, the Magistrate shall, for the purposes of procuring the attendance of witnesses, and for other matters and things connected with the enquiry, have the like powers as are given him under the Magistrate's Code of Procedure Act in matters within his summary jurisdiction (criminal). Ch. 4:20.

**129.** The term "certificate of title" in the other Parts of this Act shall include certificates of possessory title and certificates of qualified title; and all the enactments contained in the other Parts of this Act with reference to certificates of title and any proceeding with reference to the same (save and except so much of section 5 which enacts that, immediately after the issue of a certificate of title, all deeds upon which the land to which the certificate of title relates has been theretofore held, or by which any mortgages or incumbrances upon the said land were shown to exist, shall cease to have any force or effect, and any provisions of any other Parts of this Act which are inconsistent with the provisions of this Part of this Act) shall, with such modifications as may

Application of other parts of this Act to certificates of qualified or possessory title.

be necessary, apply to certificates of possessory title and certificates of qualified title and all proceedings under this Part; but no person in whose name a certificate of qualified title or a certificate of possessory title is issued, or who derives title from any such person, or from any noting on any such certificate, shall have, or shall by any dealing with the same confer, any greater right than by such certificate is given to the person in whose name the certificate is issued.

Application of forms to certificates of possessory and qualified title. Second Schedule.

**130.** The forms contained in the Second Schedule, with such alterations (if any) as may be prescribed or necessary, may be used in relation to certificates of qualified or possessory title; but, at the head of every such form, there shall be printed the words "Qualified Title" or "Possessory Title", as the case may be.

Certificate may be cancelled.

**131.** Where, at the hearing of any action or otherwise, it is shown to the satisfaction of a Judge that any person holding a certificate of qualified or possessory title is not entitled to hold such certificate, the Judge may direct the certificate to be cancelled and order the person holding the duplicate thereof to deliver up the same to the Registrar; and on any application to cancel any such certificate, the Judge may order any issue or issues to be tried in such manner and at such times as he may think fit.

#### *Confirmation of Possessory Titles and Qualified Titles*

Power to apply for examination of possessory or qualified title.

**132.** The Registrar may, on the application of a person in whose name as owner a certificate of qualified title or a certificate of possessory title has been issued, submit his title to a Judge, who thereupon may, according to the nature of the evidence adduced, direct the issue of a certificate of title under Part II, or a certificate of qualified title as on first registration.

Application for confirmation of possessory or qualified title.

**133.** (1) Any person, in whose name as owner a certificate of possessory title or of qualified title has been issued, may apply to the Registrar for the issuing of an indefeasible title under Part II, or of a certificate of qualified title, after the expiration of five years from the date of the first publication of the notice mentioned in section 134, unless due cause is shown in the meantime why the certificate should not be issued.

(2) The application for the issue of a certificate under this section shall be accompanied by an affidavit in such form, by such

persons, and with such information as to title and other particulars, as may be prescribed, and shall include a statement to the effect that the deponent has made due enquiry into the title, is not aware of any question or dispute as to the title, except such (if any) as is specified in the affidavit, and believes that, except as aforesaid, the issue of the certificate applied for will not prejudice any estate, right, or interest of any other person in, to, or over the land.

**134.** (1) On the receipt of an application accompanied by the requisite affidavit, and on the deposit by the applicant of such sum as may be directed by the Registrar for the purpose of covering the expenses of and consequential on the application, the Registrar shall publish and serve notice of the application having been made.

Public notice on receipt of application.

(2) Publication of the notice shall be made by such advertisements, local notices and other means as may be prescribed, or as the Judge or Registrar may in any particular case direct; and shall take place during the month of November next after the application, and during the month of November in each of the four years succeeding the first publication; and the date of the first publication shall be ascertained and conclusively determined by the Registrar in the prescribed manner.

(3) Service of the notice shall be made by serving in the prescribed manner a copy thereof on any person who, in the opinion of the Registrar, ought to receive notice and is capable; and the notice shall be served as soon as is reasonably practicable after the publication of the notice in the last of the said five years.

**135.** (1) Any person desirous of showing cause against the issue of a certificate of title under sections 132 to 137 may, at any time within the period of five years from the date of the first publication of notice of the application for the issue thereof, petition the Registrar, subject to the prescribed conditions as to security for costs and otherwise.

Mode of showing cause against confirmation of title.

(2) On receipt of the petition, the Registrar shall place the same before the Judge, and shall make such enquiries as to the matters in the petition alleged as the Judge shall direct, and the Judge, or the Registrar by his direction, may summon such witnesses and take such steps as are necessary to satisfy the Judge as to the sufficiency of any cause shown in the petition against the application.

(3) A petition under this section may be presented by any person alleging that he has cause to believe the issuing of a certificate

of title under sections 132 to 137 would prejudice the right of some person absent from the State, or of some unborn person, or of some person as to whom it is not known whether he is alive or dead, or of some one claiming under or in succession to such a person.

(4) Where it appears to the Judge that the right of any person absent from the State may possibly be prejudiced by the issue of a certificate of title under sections 132 to 137 he shall take such means for protecting his interest as may be prescribed, or as appear to him in any particular case to be proper.

Confirmation of  
title at expiration  
of time.

136. (1) Within the prescribed time after the expiration of the period of five years from the date of the first publication of the notice of application for the issue of a certificate of title under sections 132 to 137, the applicant may finally apply to the Registrar to issue the certificate of title applied for.

(2) The final application shall be accompanied by an affidavit in such form, by such persons, and with such particulars, as may be prescribed, and shall include, with respect to its date, the like statements as are required in the affidavit accompanying a first application.

(3) On receipt of the final application accompanied by the requisite affidavit, if cause has not been shown against the issue, or if the cause shown against the issue is not, in the opinion of the Judge, sufficient, the Registrar shall, unless he is satisfied that the certificate ought not to be issued, issue a certificate of title under Part II, or a certificate of qualified title, as the case may be.

(4) From and after the date of the issue of a certificate of title under sections 132 to 137, the title of a registered proprietor shall be the same as if the certificate had been issued on the day when the Registrar received the first application for the issue thereof.

(5) If, by reason of the issue of a certificate of title under sections 132 to 137, any person is deprived of any estate or right in, to or over the land, or any money charged on the land, the person in whose name the certificate of title is issued, his executors and administrators, are liable to pay that person, his executors, administrators or assigns compensation for the same.

(6) If, on the receipt of the final application for the issue of a certificate of title under sections 132 to 137, the Registrar is satisfied that the certificate should only be issued subject to certain exceptions or

reservations, or as respects part only of the land, the Registrar shall issue the certificate of title either subject to those exceptions or reservations, as on first registration of a qualified title, or as respects that part only of the land.

(7) In the event of any change of ownership of the land during the period between the date of an application for the issue of a certificate of title under sections 132 to 137 and the issue of the certificate, the application shall not be deemed to have determined, but the person to whom a certificate has been issued as successor in title of the applicant may, if he thinks fit, proceed with the application as if he were the original applicant.

(8) All mortgages and incumbrances endorsed on the original certificate of title shall be endorsed on the certificate of title issued under sections 132 to 137, and, subject to any entry to the contrary on the certificate, the issue of the certificate shall enure for the benefit of any such mortgagee or incumbrancee.

137. (1) Where a certificate of possessory title or qualified title has been issued, and any incumbrance or mortgage is endorsed thereon, the incumbrancee or mortgagee may, if he thinks fit, after notice to the person in whose name the certificate has been issued, apply to the Registrar to have a certificate issued under sections 132 to 137, and thereupon all the provisions of the said sections shall apply, as in the case of an application by a person in whose name the original certificate was issued.

Confirmation of title to incumbrancee.

(2) The costs of any proceeding under this section with respect to an incumbrance shall be added to the incumbrance.

## PART IX

### POWERS AND DUTIES OF REGISTRARS OF TITLE AND MODE OF REVIEWING THEIR DECISIONS

138. (1) The Registrar of the High Court shall be, *ex-officio*, the Registrar of Titles.

Registrar of High Court to be Registrar of Titles.

(2) All notings by the Registrar of Titles may be done either by his own hand, or by the hand of one of his clerks if such notings are duly signed and authenticated by the Registrar.

Notings by Registrars.

Registrar may state a case for decision of Court in questions arising under this Act.

**139.** Whenever any question arises with regard to the performance of any of the duties, or the exercise of any of the functions by this Act conferred or imposed upon a Registrar of Titles, or if, in the exercise of any of the duties or powers hereby conferred upon him, any question of difficulty or importance arises, it shall be competent for him to state a case to the Court, and the Court, after hearing the Registrar of Titles and the parties interested, if after due notice or citation they appear, or in their absence, if after the notice or citation they fail to appear, shall give such order and directions thereupon as appears just.

Registrar to obtain direction of Court upon questions of difficulty. Powers of Court.

**140.** The Registrar of Titles may at all times take the advice, opinion, or direction of the Court upon questions of difficulty, even where there are no contending parties, and may request that such advice, opinion or direction be given in writing to be preserved along with the papers connected with the issue of a certificate of a title, or noting of mortgages or incumbrances; and where no special procedure has been provided by this Act for any case with regard to placing on the register, or removing therefrom, the title of any person to any land, or any mortgage or incumbrance, or any fact in regard thereto which ought to be registered, or the registration of which ought to be altered, the Court shall give directions in regard thereto, according to the intent and meaning of this Act, and with the view of carrying out the objects for which it was framed in the true spirit thereof.

Party aggrieved by act of Registrar may bring question before the Court.

**141.** If any person is dissatisfied with any act, omission, refusal, decision, direction, order, noting, or other completed proceeding of a Registrar of Titles affecting the right of that person to any land, or any mortgage or incumbrance thereon, or any caveat in relation thereto, that person may apply to the Registrar of Titles to set forth in writing the grounds upon which he proceeded, and, thereupon, that person may bring any question in relation thereto before the Court by summons served on the Registrar of Titles, and the Court shall hear and determine the question at issue, and give such order and directions thereupon as may appear just.

In case of error or fraud, the Court may compel return of certificate of title to Registrar, etc.

**142.** In case it appears to a Registrar of Titles that any certificate of title has been issued in error, or contains any misdescription of land or boundaries, or that any noting of any mortgage or incumbrance or otherwise has been made in error, either wholly or as to any part thereof, or that the certificate of title, or noting thereon, has been obtained by fraud, or that any certificate of title has been fraudulently obtained or is

fraudulently retained, he may require the duplicate certificate of title issued from the registry to be returned for correction, or to be delivered to the true owner thereof, and, if the person so required fails to return the certificate of title, or to deliver the same to the true owner, the Registrar of Titles may apply to the Court for a summons to bring the person before the Court for examination; and the Court may thereupon examine the person, and may direct the certificate of title to be given up to the Registrar of Titles or to the true owner thereof, or may grant a warrant for searching for and recovering the same, or, if the said person refuses to be examined or refuses to deliver up the certificate of title, or deliver it up to the true owner, either then or at any time ordered by the Court, may commit the said person to prison for any term not exceeding six months.

143. At the request of a Registrar of Titles upon petition or case stated, or in any proceeding respecting any land, or in respect of any contract or transaction relating thereto, or in respect of any instrument, caveat, or dealing with land, the Court may by decree or order direct the Registrar of Titles to cancel, correct, substitute or issue any certificate of title, or make any noting or entry thereon, and to do any such acts as may be necessary to carry into effect any judgment of the Court.

Court may order cancellation or amendment of certificate of title.

144. A Registrar of Titles may require any person, for the purposes of this Act, to produce the duplicate certificate of title issued to the registered proprietor, and may make enquiry into any matter affecting titles to land and the accuracy of the register, and may summon any person before him for the purpose of giving evidence and explanation in regard to any such matter, and any person refusing to appear in answer to the summons may be proceeded against in the same manner as a person refusing to give evidence before the Court. The summons may be in Form 26.

Registrar may require production of certificate of title, and attendance of witnesses.

Form 26.

145. The Registrar of Titles may administer oaths, or take declarations or affirmations in lieu of oaths, and may correct errors in the certificates of title registered or issued, and supply entries omitted.

Registrar may administer oaths, and correct errors.

146. If the duplicate certificate of title issued to any registered proprietor is lost, the Registrar of Titles may make such enquiries as he thinks necessary in regard thereto, and if he comes to the conclusion that it is irrecoverably lost by misadventure, or if the Court so determines then, without public notice, or after such public intimation as may be

On proof of loss of certificate of title, new certificate may be issued.

considered reasonable and safe, the Registrar of Titles may cancel, for the reason to be stated thereon, the registered certificate of title and issue a new certificate, in the manner hereinbefore provided, to the person entitle thereto.

Registrar may require plan to be attached to certificate of title.

147. The Registrar of Titles, whenever he thinks it expedient for the better administration of this Act, and when such a step is practically possible in the circumstances of the locality without imposing upon the parties to any dealing with land a cost out of proportion to the value of the subject, or the nature of the dealing, may require the person proposing to deal with land to deposit a plan, map or diagram of the land to be dealt with, or to have the land sketched or delineated upon the certificate of title before the completion or issue of the same, the said plan, map or diagram to be the work of a licensed surveyor and, when there is no licensed surveyor, no map, plan or diagram is to be insisted on or required.

Two or more adjacent parcels owned by one or more persons can be held under one certificate of title.

148. Where one or more and the same person or persons are the holders of two or more certificates of title relating to contiguous parcels of land, the Registrar of Titles may, at the request of that person or persons, issue to such person or persons one certificate of title in respect of all the parcels of such land in substitution for the several certificates of title.

Issue of new certificate of title with plan attached.

149. Where a certificate of title has been issued under this Act without a plan attached, the Registrar of Titles may, at the request of the registered proprietor, issue to such registered proprietor a new certificate of title with plan attached.

Request for first certificate of title, etc., to be accompanied by plan.

150. Notwithstanding anything to the contrary contained in this Act, from and after 30th October 1950 every request for the issue of a first certificate of title and, when there is no plan attached to the certificate of title, every application made under sections 146 or 150 for the issue of a new certificate of title and every transfer and every request for transmission of land registered under this Act and every request for the issue of a new certificate of title under sections 152 and 153 shall be accompanied by three plans of the land to be described in the certificate of title, two of which shall be attached to the original and duplicate certificates of title when issued.

Application of section 12.

151. Section 12(5), (6), (7) and (8) shall have effect *mutatis mutandis* on every application or request made under sections 148, 149 and 150.

**152.** Where an order for the partition of land registered under this Act is made by the Court, the writ of partition directed to the Provost Marshal shall be sufficient to authorise the Provost Marshal to transfer to the several parties amongst whom the land has been partitioned their respective portions, and subject to the production of the required plans by the respective parties concerned the Registrar of Titles shall at the request of the Provost Marshal issue certificates of title to the said parties for their respective portions at their expense.

Partition.

**153.** If it is proved to the satisfaction of the Court or a Judge that any error or discrepancy appears on a plan registered under this Act, he may direct such inquiry as he may think fit to be made into the circumstances of the case and upon proof of the error or discrepancy order that the plan be corrected or rectified or that a new plan be made and substituted for the former. On every such inquiry four weeks notice shall be given to the owners or occupiers of lands adjacent to the portion of land comprised in the plan to be corrected or rectified and likely to be affected by the correction or rectification and when a new plan is ordered section 151 shall also apply to this section.

Rectification of plans.

## PART X

### POWERS OF ATTORNEY, ATTESTATION OF INSTRUMENTS, DEALINGS ABROAD, AND MARRIED WOMEN

**154.** A power of attorney intended to authorise dealings with land, if executed within the State, may be in Form 27. If executed without the limits of the State, it may be either in the said form, or in any form in use in the State, country, kingdom, or place where the same appears to have been executed.

Form of power of attorney.  
Form 27.

**155.** All instruments relating to land, executed within the State, shall be attested by one witness, but it shall not be necessary to prove the execution of the instrument by any declaration or certificate of the witness. Wherever the Registrar of Titles has occasion to doubt the authenticity of any signature to any instrument, he shall make enquiry, and admit or refuse the instrument as he may think fit, subject to the direction of the Court if his decision is challenged by the parties interested or any of them.

Attestation of instruments executed within the State.

Attestation and proof of instruments executed out of the State.  
Third Schedule.

**156.** All instruments relating to land, executed without the State, shall be proved by the declaration or certificate of the attesting witness before one of the official persons named in the Third Schedule before whom instruments may be proved out of the State, or they may be attested, without being proved, by such official person subscribing as a witness to the signature.

Certificate of closing of registration.

**157.** When a registered proprietor desires to deal with land situated in the State when he is out of the limits thereof, he may apply to the Registrar of Titles to close the registration as regards the land contained in his certificate of title until such time as may be agreed upon, or the return of the certificate of closing of registration hereinafter provided for, and the Registrar of Titles shall thereupon note on the certificate of title in the register that the registration in regard to that certificate is closed within the State until such note is cancelled, and he shall likewise append to the duplicate certificate of title in the hands of the registered proprietor a certificate of closing of registration in Form 28.

Form 28.

Noting dealings in land made out of the State.

**158.** When the registered proprietor deals outside the limits of the State with the land contained in the certificate of title, he, or the person in whose favour any memorandum of transfer, mortgage or incumbrance has been made, may produce the certificate of title, with the certificate of closing of registration annexed thereto, to any of the persons before whom such instruments may be attested, and, upon such person noting upon the certificate of title a short note of the transaction after the form of the entries already shown upon the certificate of title, the Registrar of Titles shall, upon receipt of the same and the instrument dealing with the land, cancel the note of closing of registration, and shall register the dealing as of the date of the noting upon the certificate of title, and shall, if the dealing is a transfer, post to the address of the transferee the new certificate of title to be issued in consequence thereof, or, if the instrument is a mortgage or incumbrance, shall post to the mortgagee or incumbrancee a certificate that the mortgage or incumbrance has been duly recorded.

Acknowledgment of married woman executing instrument out of the State.

**159.** Where any married woman executes, or signs any instrument under this Act as concurring therein, it shall be necessary, if the instrument is executed out of the limits of the State, that she appear before a Judge or other officer qualified to take the acknowledgments of married women in the country, kingdom or place where she may be, or before any of the official persons appointed for the purpose of proving

or attesting instruments under this Act, who shall examine her apart from her husband and take her acknowledgment that she signed the said instrument of her own free will, and that she did not act under any fear of, or compulsion from, her husband, and the person taking the acknowledgment shall sign a certificate thereof.

**160.** Where any instrument under this Act, or any deed or document relating to land is executed by a married woman within the State, or signed by her as consenting thereto, it shall not be necessary for the Registrar to require any certificate of acknowledgment of the nature above set forth, but, if he has any doubt of the genuineness of the signature, or has reason to believe that the instrument was not executed or signed freely and voluntarily, he may make such enquiries into the same as he may think fit, and accept or reject the document presented or offered for presentation.

Execution of instrument by married woman in the State.

**161.** The provisions of this Part shall apply only in the case of land brought under the operation of this Act.

Application of Part X.

## PART XI

### FORMS, SOLICITORS, AND SCALES OF FEES

**162.** The various forms of instruments and other forms set forth in the Second Schedule shall be printed or lithographed, or otherwise prepared to be publicly sold, and any person, if he so chooses, may himself fill up the form of instrument he desires to present to the Registrar of Titles, but if he employs any person to do so other than a solicitor of the High Court, then such a person shall not be entitled to charge any fees therefor, and may be compelled to return them by summary order of the Court on the complaint of anyone having interest.

Parties may themselves fill up forms of instruments; only solicitors may charge fees for doing so.  
Second Schedule.

**163.** Where solicitors are employed to do professional work under this Act, they shall be permitted to charge an *ad valorem* fee according to the scale set forth in the Fifth Schedule and no higher or other fees; and such fees shall cover, not merely the filling up of any form of instrument required to be presented to the Registrar of Titles, or any other form under this Act, but also all meetings, correspondence, and other charges whatsoever which they might otherwise have legally made, or which might formerly have been charged before the passing of this Act, in relation to the professional work, or any similar professional work required to be performed.

Fees to be paid to solicitors.

Fifth Schedule.

Contracting out  
of scheduled fees  
prohibited.

**164.** It shall be unlawful for any barrister, solicitor or other person authorised to prepare legal documents, to charge any fees other than those authorised by this Act for any legal services rendered in respect of any transaction connected with land brought under the operation of this Act, either by contracting out or in any other manner.

Discretionary  
power to allow  
additional costs.

**165.** Notwithstanding any of the provisions of sections 163 and 164, if the Court is satisfied that any professional work of an exceptional nature has been performed under this Act by any person enrolled as a solicitor of the Court, and that it is just and equitable that a fee in excess of the scale of remuneration set out in the Fifth Schedule be charged in relation to the transaction, the Court may, upon application by the solicitor concerned, allow and fix such additional fee in respect of such professional work as, having regard to all the circumstances of the case, the Court may think fair and reasonable.

Fifth Schedule.

Fees of office.  
Fourth Schedule.

**166.** In respect of each of the transactions specified in the Fourth Schedule, the fee specified in the Fourth Schedule in respect of that transaction shall be paid by stamps affixed to the document relating to the transaction; and it shall be the duty of the Registrar of Titles or the Registrar of the High Court, according to the nature of the transaction, to see that the proper stamps are duly affixed and cancelled.

Land value  
appreciation tax.  
[22 of 1975].

**167.** (1) Where land has been conveyed to, or acquired by the Government for a public purpose, a land value appreciation tax of ten per cent shall be payable by the vendor to the Accountant General on the difference between the price at which the land was purchased and the price or compensation for which it is subsequently acquired by Government.

(2) Where land is conveyed to a private person a land value appreciation tax of five per cent shall be payable by the vendor on the difference between the price at which the land was purchased and the price at which it is subsequently conveyed; but land sold by Government is exempt from such tax.

(3) Where land is inherited the "purchase price" shall be deemed to be the value fixed on the land for the purpose of estate duty.

(4) Any arrangement or agreement under which any tax payable under this section shall be paid by the purchaser shall be null and void.

**168.** The Government of the Commonwealth of Dominica and the University of the West Indies are exempt from the payment of any fees under section 18 (1) and section 166. Exemption.

## PART XII PENALTIES

**169.** Any person who fraudulently procures, or is privy to the fraudulent procuring of any certificate of title or instrument, or of any noting or entry in the register in respect of any land or the title thereto, or in respect of any dealing with land under this Act, is liable to fine of fifteen thousand dollars or to imprisonment for two years. Fraudulent procuring of certificate of title, etc.

**170.** Any person who – Forgery of seal, etc.

- (a) forges or procures to be forged, or assists in forging, the seal of the Registrar of Titles, or his name or signature, or the name or signature of any officer of the registry of titles authorised to sign official documents, to any document, writing, note or entry, either kept in the registry or issued to any registered proprietor; or
- (b) stamps, or procures to be stamped, or assists in stamping, any instrument or document with any such forged seal; or
- (c) uses fraudulently the true seal of the Registrar of Titles; or
- (d) uses, with an intention to defraud, any instrument, writing or document upon which any impression or part of the impression of the seal of the Registrar of Titles has been forged, or fraudulently obtained or stamped, knowing the same to have been so forged, or fraudulently obtained or stamped,

is liable to imprisonment for five years.

## PART XIII MISCELLANEOUS

**171.** In order to facilitate reference and search where one person is proprietor of the lands contained in more than one certificate of title, and where various mortgages, incumbrances and other securities have been granted, the Registrar of Titles shall enter in a nominal index every instrument presented to him, both under the names of the grantors and grantees. Nominal index of parties to instruments.

Minister to  
provide offices.

**172.** The Minister shall see that proper offices of stone, brick, concrete, or other durable substance are provided for the Registrar of Titles for the preservation of the registers under this Act.

Appointment of  
officers.

**173.** Whatever officer or additional officers as may be necessary for the effectual carrying out of the provisions of this Act shall be appointed at such salaries as may be fixed by the House of Assembly.

Seals and forms  
of instruments to  
be provided.

**174.** The Minister shall further provide the necessary seals, and have the forms required for the carrying out of this Act, and copies of this Act, properly printed, lithographed, or prepared, and ready for sale at the office of the Registrar of Titles and at such other places as may be determined on, and do any other executive act which may be necessary for putting this Act in operation, or which may facilitate the working thereof.

Appeal.

**175.** Any person who may feel aggrieved by any decision of a Judge in regard to the issue of any certificate of title, or the noting of any mortgage or incumbrance, or the refusal to note any mortgage or incumbrance, or as to the priority of any mortgage or incumbrance, may present to the Registrar of the High Court a claim in Form 29, and the Registrar of Titles shall not issue any certificate of title, or note or refuse to note any mortgage or incumbrance, with respect to which a difference or dispute has arisen with anyone interested or claiming to be interested, until the decision has been reviewed by the Court of Appeal.

Form 29.

Judge may refer  
case to Attorney  
General.

**176.** If, on any application for the issue of a certificate of title, questions which the Judge considers difficult arise for his decision, he may order the applicant to serve notice of the application upon the Attorney General, together with a statement of the questions, and copies of all such documents and evidence as the Judge may direct, and thereupon the Attorney General may, by himself or someone appointed by him in that behalf, intervene and oppose the grant of a certificate, if he is of opinion that it is likely to result in a successful action for damages under section 19.

Question of fact  
may be tried by  
jury.

**177.** If any question of fact arises in any application under this Act the Judge may, if he thinks fit, direct that such question be tried by a Judge and jury at the High Court.

178. Notwithstanding the provisions of this Act empowering a Judge to adjudicate in matters arising thereunder, nothing contained in this Act shall be construed to take away the right of any person to have any question of fact or other issue tried before a Judge and jury in cases in which, before the High Court, any person could demand that such question of fact, or other issue, should be tried before a Judge and jury, had this Act not been passed.

Reservation of right of parties to have questions tried before a jury.

179. Receivers appointed under this Act shall be appointed in such manner, and receive such remuneration, as may be prescribed.

Receivers.

180. In order that no lien or security may in any way affect land, except mortgages and incumbrances which are borne on the face of the certificate of title, no consignee of produce or other person who may provide supplies or advances to any land or estate shall, from and after the issue of a first certificate of title under this Act, as regards the land therein, or, as regards other land throughout the State, from and after 2nd August 1887, be entitled under any legal privilege called consignee's lien or otherwise, to have his claims against the land and estate paid by preference to other creditors, or to any mortgagee or incumbrancee, or, on the ground of any such privilege or lien, to sue out or apply for the sale of any land or estate as an incumbrancee, but all persons, whether consignees of produce or otherwise, who may advance moneys or supplies to any land or estate shall be left to recover the sums due for the same by ordinary process of law, or by obtaining such securities as are provided by this Act or otherwise known to the law; reserving always power to the High Court, when a receiver has been appointed to any land or estate, to order and decree that the receiver shall, if he advances moneys or supplies to the land or estate, have a lien over the price thereof, when sold for payment of such advances and supplies, or to allow such preference or lien to a receiver appointed by the Court, if the circumstances shall call for it, although no such order or direction had been made beforehand.

Abolition of consignee's lien.

181. (1) The Minister may by Order prescribe and fix the charges to be made for any act, matter or thing under this Act to be done or observed.

Rules.  
[12 of 1990].

(2) The Chief Justice, with the approval of the Minister, may make Rules, Regulations and Orders to carry out any of the purposes of this Act, including regulation of times, mode of procedure, forms, and generally the procedure of the Act, and all such Rules, Regulations and

Orders upon being approved by the Minister and published in the *Gazette* shall take effect as Rules, Regulations and Orders under the Act.

Proof by  
draughtsman.

**182.** Whenever any request, application or other document (hereinafter called document) offered for registration purports to have been prepared by any person, other than a barrister, solicitor or other person authorised to prepare legal documents, the Registrar in his discretion before admitting such document to registration, may require an affidavit from that person proving that he did not draw or prepare the said document either directly or indirectly, for or in expectation of any fee, gain or reward, and a further affidavit from the party bearing the cost of the preparation or registration of the said document, that no such fee, gain or reward was offered, paid, or was to be paid by him to the person for drawing or preparing the said document.

Further, the Registrar, in his discretion, is hereby authorised to retain custody of such document so offered for the purpose of being registered pending the production of the aforesaid affidavit.

Section 2(3).

### FIRST SCHEDULE

Form 15.

**ACT OF SEIZURE.** A written statement in Form 15 by the bailiff who seizes land or estate in virtue of the instructions of a mortgagee or incumbrancee, setting forth the fact that he has seized, and naming the day and hour from which the seizure runs. The act shall also set forth an inventory of the articles in addition to the land or estate. The act of seizure shall be served upon the registered proprietor, or those acting for him, in the manner set forth in this Act, and it shall also be embodied in the caveat of seizure to be presented forthwith to the Registrar of Titles upon the seizure being effected.

**ARTICLES OF SALE.** The conditions and stipulations under which any land or estate, which has been seized for non-payment of a mortgage or incumbrance, is to be put up for sale. The articles of sale shall describe the land as in the certificate or certificates of title, and the other articles seized as in the act of seizure. They shall settle any conditions under which biddings shall be made or the price paid, fix an upset price, and appoint the day of sale. The articles of sale may be in Form 17.

Form 17.

**CANCELLED.** The marking by the Registrar of Titles of the word "Cancelled" across a certificate of title in the register, and thus destroying its efficacy as a registered title. The cancellation of a certificate of title takes place when a new certificate of title has been issued for the land contained therein, or where it has been found to have been issued in error.

**CAVEAT.** An instrument presented to the Registrar of Titles in one of the forms of caveat in the Second Schedule for the purpose of forbidding the registration of any dealing with the land set forth therein, until the caveat be withdrawn or removed. Second Schedule.

**CAVEATOR.** The person in whose name the caveat is presented, and who forbids the registration of dealings with the land specified in the caveat.

**CAVEATEE.** The registered proprietor of the land to prohibit dealings with which the caveat is presented.

**CERTIFICATE OF TITLE.\*** The name of the instrument issued by the Registrar of Titles to show that the person named therein as proprietor of the land set forth is the registered proprietor thereof under this Act. The certificate of title shall be in Form 4 and may be either printed, engraved, lithographed, or written, or partly one and partly the other, or done in any other manner which the Registrar of Titles, with the consent of the Minister, may from time to time determine. It must be signed by the Registrar of Titles and sealed with the seal of his office. It may be either of paper, parchment, vellum, or any other substance which may be determined on. The certificate of title must set forth on the face thereof, if space permits, but at all events on the folium thereof, all the mortgages and incumbrances affecting the land; and when these are transferred or discharged, the Registrar of Titles will, by a marking across the note of the particular mortgage or incumbrance, show that it is so transferred or discharged, and how, and refer to the file where the authority to make the marking is to be found. The certificate of title is registered by placing it in boards, or clips, or other contrivances which hold the materials of the current volume of the register, and marking on it the date of issue, and the folium of the register, and the reference to the instrument on the file in virtue of which it was issued, together with the mortgages and incumbrances thereon. In the case of a first certificate of title under this Act, the reference will be to the titles in the old form handed in to the Registrar of Titles to show that the registered proprietor was the true owner of the land. Form 4.

**CERTIFICATE OF CLOSING OF REGISTRATION.** A certificate by the Registrar of Titles written, printed, engraved, or lithographed, but dated and signed when issued, placed at the foot or end of the certificate of title which has been issued to a registered proprietor, to show that, until the duplicate certificate of title having the certificate of closing attached is returned to the Registrar of Titles, the registration of dealings in the State in regard to the land contained in the certificate of title is closed. The certificate of closing of registration, if attached to a duplicate certificate of title, must be so marked by the Registrar of Titles, at the place of attachment, that he could at once detect if it had been detached and added to any other certificate of title.

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\*See also section 129.

**COURT.** *See* The Court.

**CURRENT VOLUME.** The certificates of title forming the register, which have not yet become numerous enough to be bound and placed on the shelf among the record of the department of the Registrar of Titles. It shall be the duty of the Registrar of Titles to provide boards or clips, or some other contrivance, to keep the certificates of title together in the order of their dates, and he shall not allow access to the current volume by anyone unconnected with the department, and shall, himself, be personally responsible for its safe keeping in a correct and orderly manner. It may be bound either at the completion of a year or when it attains a uniform thickness, as the Registrar of Titles, subject to the approval of the Chief Justice as *ex-officio* keeper of the records, may determine.

**DEALING.** A dealing with land is any act in regard thereto which requires an application to the Registrar of Titles to have the act completed and made available by registration. A sale of land, for example, is evidenced by the registered proprietor signing in the proper manner a memorandum of transfer, and the memorandum of transfer must be presented to the Registrar of Titles to be dealt with by him, without which there is no registration of the title, and the sale is not completed. In the same way all mortgages and incumbrances and transmissions of land are dealings in the sense of the Act. Every act therefore by which the proprietorship of the land is changed or affected, or the mortgages and incumbrances are increased or diminished, is a dealing.

**DUPLICATE CERTIFICATE OF TITLE.** The certificate of title issued to the registered proprietor, and which, as nearly as circumstances permit, must be an exact counterpart, or facsimile, of the certificate of title which is preserved in the register.

**ENTER APPEARANCE.** To enter appearance in the manner in which appearance may, for the time being, be entered in civil proceedings in the High Court.

**ENTER A CAVEAT.** To present a caveat to the Registrar of Titles by entering it in the presentation book.

**FILE.** The act of putting away for preservation, and the indexing, or otherwise keeping a record of the place of deposit, of the instruments which have been the authorities and warrants to the Registrar of Titles to perform some official act as such Registrar. When a first certificate of title is issued under this Act, the Registrar of Titles shall preserve and put away for safe custody the former title deeds upon the faith of which the certificate of title was issued.

**FOLIUM.** The sheet of paper, parchment or vellum upon which the certificate of title is written, engraved, printed, lithographed, or partly written and partly engraved, printed or lithographed, and which, when placed in the current volume of the register, shall be numbered as one folium thereof,

whether it be folded so as to represent two leaves book-wise, or whether more leaves are required to embrace the full description of the land, and the notings by the Registrar of Titles. The reference to the certificate of title placed upon the duplicate certificate of title, or new certificate of title, or instruments placed on the file, or in the presentation book, shall be to the number which the certificate of title ought to bear, counting from the first which has been placed in the current volume, and giving one consecutive number to each certificate of title registered.

**INCUMBRANCE.** All burdens, securities or liens upon land, arising whether at law or in equity, other than mortgages, by which the land is subjected to particular interests in favour of individuals, or the revenues thereof are affected for the payment of annuities or temporary charges; and also any dealings with land which, in the event of sale, would limit the free use and disposal thereof by the purchaser, such as leases for three years and upwards; and all temporary attachments by judgements; and all caveats forbidding registration of dealings. An incumbrance is made, constituted or created by a memorandum of incumbrance or memorandum of lease, the noting of a judgment or order, or the presentation of a caveat. The instruments must be presented to the Registrar of Titles, and must be noted by him on the certificate of title in the same manner as mortgages. Incumbrances (except caveats and judgments\* ) may be transferred and discharged in the same manner as mortgages, and the transfers and discharges must be noted by the Registrar of Titles.

**INCUMBRANCER.** The registered proprietor who makes, constitutes or creates such burdens or liens upon land, or the revenues thereof, as above defined, and who executes the memorandum of incumbrance.

**INCUMBRANCEE.** The person in whose favour a memorandum of incumbrance is granted, and the incumbrance is noted on the certificate of title by the Registrar of Titles.

**INDEFEASIBLE.** The word used to express that the certificate of title issued by the Registrar of Titles, and the notings by him thereon, cannot be challenged in any court of law on the ground that some person, other than the person named therein as the registered proprietor, is the true owner of the land therein set forth, or on the ground that the mortgages or incumbrances in the notings thereon are not mortgages and incumbrances on the said land; except on the ground of fraud connected with the issue of the certificate of title, or the noting of the mortgages or incumbrances, or that the title of the registered proprietor had been superseded by a title acquired under the Real Property Limitation Act, by the person making the challenge. The word also means that, the certificate of title being issued by the Government, the Government is, with the exceptions above mentioned, prepared to maintain the title in favour of the

Ch 54.07.

\*See also section 112.

registered proprietor, leaving anyone justly aggrieved by its issue to bring an action for money damages against the Government.

Second  
Schedule.

**INSTRUMENT.** A paper, or document in one of the forms set forth in the Second Schedule, which may be either written, engraved, printed or lithographed, by which proposed dealings in land are set forth, with the view of being completed by the Registrar of Titles when the instrument is presented to him.

**ISSUED.** The word used when a certificate of title, having been drawn up by the Registrar of Titles and signed and sealed by him, with all the necessary notings on the face thereof, is placed in the current volume of the register, and the counterpart or facsimile, also signed and sealed by the Registrar of Titles, with all the same notings on the face thereof, is handed to the registered proprietor, or to anyone authorised to receive the same on his behalf.

**JUDGMENT.** Includes judgment, decree, order and rule.

**LAND.** Land includes all the fixtures and buildings thereon, and everything growing on the soil (unless otherwise specified), with the exception of any wooden houses belonging to others on the land, which are accustomed to be moved from place to place, and any wooden houses the property of lessees, and, in towns or villages, with the exception of such movable wooden houses as are the property of the residents therein, and not of the owner of the soil.

**LICENSED SURVEYOR.** Any land surveyor licensed to practise his profession by any law of the State.

**MEMORANDUM OF INCUMBRANCE.** *See* Incumbrance.

**MEMORANDUM OF TRANSFER.** *See* Transfer.

**MEMORANDUM OF MORTGAGE.** *See* Mortgage.

**MORTGAGE.** A pledge by the registered proprietor of the land contained in the certificate of title, and certain things accessory thereto, as set forth in this Act, to secure repayment of the debt expressed in the memorandum of mortgage.

**MORTGAGOR.** The registered proprietor of the land over which the mortgage extends.

**MORTGAGEE.** The person who advances money upon the security of the registered proprietor, and the land contained in his certificate of title, and in whose favour the registered proprietor executes the memorandum of mortgage; and any transferee of his rights.

**NOMINAL INDEX.** An index, in the form of a ledger, containing, under the name of every individual who has been the grantor or grantee of any

instrument or certificate of title, or noting thereon, the nature of the transaction, and the volume and folium of the register where the certificate of title, or noting thereon, in which the name occurs is to be found.

**NOTE.** The word used to denote the writing and markings with figures which the Registrar of Titles makes upon the certificate of title in the register, and on the duplicate issued to the registered proprietor, to show the mortgages and incumbrances which are upon the land, and also the transfers and discharges of the mortgages and incumbrances, and the caveats, or the withdrawal or removal of caveats. The notings made by the Registrar of Titles upon a certificate of title are as indefeasible as the title upon which they are marked, that is, that anyone, in dealing with the land, may take it as guaranteed by the Government that no other mortgages or incumbrances affect the land than those noted on the certificate of title, and that the existing mortgages and incumbrances are correctly set forth.

**NOTICE TO PAY OFF.** The intimation given in writing by a mortgagee or incumbrancee that he demands payment, within sixty days from the date thereof, of the sums due to him under the mortgage or incumbrance. The notice may be signed by the registered proprietor, or the person holding his power of attorney, or the solicitor acting for him, and shall be in Form 14. It must be formally served upon the mortgagor or incumbrancer by a bailiff, or according to some other of the modes of service authorised in civil proceedings in the High Court.

Form 14.

**OWNER.** The person having the legal right to land and the full *dominium* thereof, but who has not become the registered proprietor under this Act. This distinction is for the temporary purposes of this Act only, as the registered proprietor is in the fullest sense the absolute owner of the land.

**PLAN, MAP, OR DIAGRAM.** A sketch or drawing made of the position of the land as it lies in regard to the lands of the neighbouring proprietors, and showing the length of the boundary lines, the angles at which they lie towards each other, the extent of the whole, and the various subdivisions of the land. When the land is of small extent, the plan ought to be placed in the lower left hand corner of the certificate of title, but where the land is of large extent requiring a separate plan, as in the case of an estate, the Registrar of Titles, after having satisfied himself of its accuracy, will so mark and sign it as to show to what certificate of title it applies, and shall also attach it to the certificate of title so that it shall follow it in order in the register, and form part of the same folium.

**PRESCRIBED.** Means prescribed by Rules made under this Act.

**PRESENT.** To present any instrument to the Registrar of Titles is to enter it in the presentation book, and hand it in to the registry.

**PRESENTATION BOOK.** A book which is to lie in some convenient

place in the office of every Registrar of Titles in order that anyone having an instrument to present may be able to write the particulars thereof in the book. The Registrar of Titles, and his clerks, must at all times give information and directions to assist the presenter in making a correct entry, and just see when he hands in the instrument that it is entered correctly, making the necessary corrections themselves if deficient and, in particular, they must see that the time of presentation has been exactly entered, correcting it if necessary.

**RECORDS.** All the books and instruments, writings, deeds and documents preserved in the department of the Registrar of Titles, and also, in a more general sense preserved in any department of Government or under official custody.

**REGISTER.** The current volume wherein certificates of title are preserved before being bound up in a volume, and all the bound volumes of certificates of title with the notings thereon.

**REGISTERED.** The placing by the Registrar of Titles of a certificate of title, dated, signed and sealed, in the current volume, and marking thereon the number of the folium by which it is thereafter to be designated and referred to; and also the noting by the Registrar of Titles upon certificates of title of mortgages and incumbrances as the same may be instructed by instruments presented to him.

**REGISTRY.** The office of a Registrar of Titles, and the place of deposit for preservation of the volumes of the register, and the file of instruments and writings, deeds and documents which have been the authority to the Registrar of Titles to issue certificates of title, and make notings thereon. The registry of the High Court shall be the registry of titles to lands.

**REGISTERED PROPRIETOR.** The person in whose favour a certificate of title is issued for the land named therein.

**RULES.** Rules made in accordance with this Act.

**REQUEST.** Request in writing reciting the facts on which the request is founded, and signed by the person making the request or his solicitor or duly appointed attorney.

**SEAL OF THE REGISTRAR OF TITLES.** The seal provided by the Minister for the Registrar of Titles. The seal shall be affixed to all certificates of title, and to all writings which require to be authenticated by the Registrar of Titles. It shall be the duty of the Registrar of Titles to keep the seal in a lock-fast place, and not to permit its use by anyone except in his presence, unless he is prevented by illness from being in his office, or is absent on leave of absence, when the same duties and responsibilities which devolve upon him shall be binding on the person who temporarily occupies the post. Until a special seal is provided under this Act, the seal of the High Court may lawfully be used, and shall be sufficient for the purposes of this Act.

**SEIZED.** The act of a mortgagee or incumbrancee by which he takes possession, by the hands of a bailiff, of the land forming the pledge contained in his mortgage or incumbrance, after a notice to pay off has been given and payment has not been made. The formal announcement is made to the registered proprietor by an act of seizure, and it is publicly notified on the register by presenting a caveat of seizure to the Registrar of Titles.

**THE COURT.** Means the High Court or a Judge thereof.

**TRANSFER.** The consent of a registered proprietor to the sale or donation of the whole or part of the land contained in his certificate of title. The writing by which he signifies his consent is called a memorandum of transfer, and shall be in Forms 5 or 6. Transfers can also be made of mortgages and incumbrances, and of easements and incorporated rights to be carried out by the execution of a memorandum of transfer, and the presentation of the same to the Registrar of Titles. Forms 5 or 6.

**TRANSFEROR.** The registered proprietor who sells the whole or a portion of his land, and signs the memorandum of transfer; and the persons who assign or transfer mortgages or incumbrances, including leases.

**TRANSFeree.** The person in whose favour a memorandum of transfer is executed.

**TRANSMIT.** The act by which land contained in any certificate of title passes to another proprietor by any other method than by transfer. Thus land transmits to the representative of a deceased proprietor, the date of his death being the date to be inserted in the new certificate of title in favour of the executor, administrator, or representative. The proprietorship of land transmits also to the trustee appointed by the Court under a bankruptcy.

**TRANSMISSION.** The passing of the proprietorship of land in the manner above set forth.

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## SECOND SCHEDULE

[41 of 1975].

### FORM 1

#### COMMONWEALTH OF DOMINICA

##### *Title by Registration Act Ch. 56:50*

(Section 2).

#### REQUEST FOR ISSUE OF CERTIFICATE OF TITLE

To the Registrar of Titles.

I, \_\_\_\_\_, of \_\_\_\_\_ in the Commonwealth of Dominica am the owner in possession of that estate in the said

Commonwealth of Dominica commonly called \_\_\_\_\_ and bounded as follows<sup>1</sup>

The deed under which I hold the said estate is<sup>2</sup>

The said estate is of the extent of<sup>3</sup> \_\_\_\_\_ and is, so far as I can estimate the same, of the value of \$ \_\_\_\_\_

There are no mortgages or incumbrances affecting the same.<sup>4</sup>

There is no other person claiming to be owner of the said land.<sup>5</sup>

For the purpose of obtaining an indefeasible title, I request that a certificate of title may be issued to me as registered proprietor of the land above set forth, <sup>6</sup>placing upon the certificate of title, or attaching thereto, the plan of the said land, made and drawn by \_\_\_\_\_, licensed surveyor, which accompanies this request.

And I hand in herewith the title deeds under which I hold the said land as owner aforesaid, which are enumerated and set forth in the Schedule attached hereto.<sup>7</sup>

I have not knowingly withheld any fact concerning the land which ought to have been disclosed in making this request, and I have truly and honestly, to the best of my knowledge and belief, represented the truth concerning the title thereof.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

*Signature of Applicant.*

Signed before and in the presence of:

\_\_\_\_\_

<sup>1</sup>Here insert boundaries.

<sup>2</sup>Here insert briefly the title under which the applicant holds the estate or land, and refer to the volume of the register in which it is recorded, or if the applicant holds no deed, describe briefly under what circumstances he claims to be owner, to bring him under the Act.

<sup>3</sup>Here insert number of acres or fraction of an acre.

<sup>4</sup>Where mortgages and incumbrances exist, here state those which exist to the knowledge of the applicant.

<sup>5</sup>If there is, here add names of any competing claimants.

<sup>6</sup>If there is no plan this clause may be omitted.

<sup>7</sup>If there are special circumstances affecting the title to the land, which the Registrar of Titles ought to be made acquainted with, here state them.

## FORM 2

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## CAVEAT AGAINST THE ISSUE OF FIRST CERTIFICATE OF TITLE

To the Registrar of Titles.

**TAKE NOTICE THAT I** \_\_\_\_\_ **do hereby forbid**  
 the issue of a certificate of title of the estate of<sup>1</sup>  
 to \_\_\_\_\_ of \_\_\_\_\_ ; as I am the legal owner thereof,  
 and intend to apply at the proper time for the issue of a certificate of title in my  
 favour.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

*Signature.*

Signed before and in the presence of:

*Or if the purpose of a caveat be to prevent the issue of a certificate of title unless  
 a specific mortgage or incumbrance be noted thereon, the above form will be  
 varied in accordance with the facts.*

## FORM 3

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

REGISTRY OF TITLES;

SCHEDULE OF APPLICATIONS

for certificates of title, and notings thereon, and caveats, for the week ending  
 the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

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<sup>1</sup>Here insert description and boundaries.

| Date of request.      | Person presenting.                       | Nature of request, whether for certificate of title, or noting thereon, or caveat.                                       |
|-----------------------|--|--|
| 3rd January, 19 ..... | A. B. of in the Commonwealth of Dominica | Certificate of title for the land of   |
| 30th " " .....        | C. D. of in the Commonwealth of Dominica | Noting on certificate of title of land of , of mortgage stated in request.   |
| 31st " " .....        | L. P. of in the Commonwealth of Dominica | Caveat against issue of certificate of title to land of to any applicant for certificate of title till caeator be heard. |

Date.

Signature of Registrar of Titles.

FORM 4

COMMONWEALTH OF DOMINICA

Title by Registration Act, Ch. 56:50

CERTIFICATE OF TITLE

Land titles;

Register book,

Fol.

Mortgage by the within named , in favour of \$ ; interest per cent: Payable ; Registered ; Instrument filed A. 10. 5.

KNOW ALL MEN TO WHOM THESE PRESENTS SHALL COME, that<sup>1</sup> is the registered proprietor of<sup>2</sup> all as the same is delineated and set forth on the plan thereof by , licensed surveyor, annexed hereto, subject, nevertheless, to the mortgages and incumbrances which are noted on the margin hereof, or endorsed hereon.

<sup>1</sup>Name of registered proprietor.

<sup>2</sup>Insert careful description of land, by its full boundaries and estimated extent.

IN FAITH AND TESTIMONY WHEREOF I have here-  
unto subscribed my name and affixed the seal of my  
office this      day of      , 19      .

Transfer of above mort-  
gage to      .  
Registered      .  
Instrument filed B. 6. 3.

*Signature of Registrar of Titles.*

(L. S.)

|                      |
|----------------------|
| Place of<br>the Plan |
|----------------------|

FORM 5

COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

MEMORANDUM OF TRANSFER ON SALE

I,<sup>1</sup>      , of the Commonwealth of Dominica, of      ,  
registered proprietor of<sup>2</sup>      all as the same is set forth bounded  
and described in the certificate of title in my favour, dated the      day of      ,  
19      and registered in the register of titles of the Commonwealth of Dominica,  
Vol.      , Fol.      , in consideration of the sum of \$      paid to me by      ,  
the receipt of which I hereby acknowledge, do hereby transfer the said land to  
and in favour of the said<sup>3</sup>      , and consent to  
the noting hereof by the Registrar of Titles, and the cancellation of the  
certificate of title in my favour, and that a new certificate of title of the said land  
shall be issued in favour of the said<sup>3</sup>

For the doing of all which I hereby authorise and grant warrant to the Registrar  
of Titles accordingly.

Given under my hand this      day of      , 19      .

*Signature of Transferor.*

Signed before and in the presence of:

<sup>1</sup>Name of transferor.

<sup>2</sup>Here insert description of land from certificate of title.

<sup>3</sup>Name of transferee.

## FORM 6

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*MEMORANDUM OF TRANSFER OF PART OF LAND CONTAINED IN  
A CERTIFICATE OF TITLE

I,<sup>1</sup> being registered proprietor of<sup>2</sup> as the same is bounded and described in the certificate of title in my favour registered in Vol. , Fol. , of the register of titles of the Commonwealth of Dominica, in consideration of the sum of \$ paid to me by<sup>3</sup> , the receipt of which I hereby acknowledge, do hereby transfer to the said<sup>3</sup> five acres of the said land bounded as follows, that is to say<sup>4</sup> all as the same are delineated and set forth on the plan thereof by , licensed surveyor, of , annexed hereto.

And I do by these presents consent to the cancellation by the Registrar of Titles of the certificate of title in my favour, and to a new certificate of title being issued to me for the portion of the said land remaining after deduction of the five acres, which land will then be bounded as follows<sup>5</sup> all as the same is delineated and set forth on the plan thereof by , of , licensed surveyor annexed hereto.

And for the doing, noting and registering all that is necessary in the premises, I hereby authorise and grant warrant to the Registrar of Titles accordingly.

Given under my hand this day of , 19 .

*Signature of Transferor.*

Signed before and in the presence of:

\_\_\_\_\_

<sup>1</sup>Name of transferor.

<sup>2</sup>Here describe land briefly by name if it has any.

<sup>3</sup>Name of transferee.

<sup>4</sup>Here insert boundaries of five acres sold.

<sup>5</sup>Here follows new description of land remaining in possession of transferor.

## FORM 7

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## MEMORANDUM OF TRANSFER OF RIGHT OF WAY TO A STREAM

I,<sup>1</sup> , being registered proprietor of the estate of , as the same is fully set forth and described in the certificate of title in my favour, dated the day of , 19 , and registered in Vol. , Fol. , of the register of titles of the Commonwealth of Dominica, in consideration of the sum of \$ paid to me by<sup>2</sup> , the registered proprietor of<sup>3</sup> all as the same is set forth and described in the certificate of title in favour of the said<sup>2</sup> , dated the day of , 19 , and registered in Vol. , Fol. , of the register of titles of the Commonwealth of Dominica, do hereby transfer to the said<sup>2</sup> and all subsequent registered proprietors of the land last above described, a right of way through my said estate of , at the point and in the direction set forth on the plan by , licensed surveyor, of , annexed hereto, for the purpose of having access to the stream of for watering horses, cattle, and all manner of flocks and herds, and for carrying water therefrom in kegs, casks, or other suitable manner, and I consent that the said right of way be noted on or added to a certificate of title of the said land last above described to be granted by the Registrar of Titles in favour of the said<sup>2</sup> , and to form part of the title of the registered proprietor of the said land last above described in all time to come.

And for all that is necessary to be done in the premises I authorise and grant warrant to the Registrar of Titles accordingly.

Given under my hand this day of , 19 .

*Signature of Transferor.*

Signed before and in the presence of:

\_\_\_\_\_

<sup>1</sup>Name of transferor.

<sup>2</sup>Name of transferee.

<sup>3</sup>Here describe land of transferee.

## FORM 8

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## MEMORANDUM OF MORTGAGE

I,<sup>1</sup> registered proprietor of<sup>2</sup> all as the same is bounded and described in the certificate of title in my favour dated the day of , 19 , and registered in the register of titles of the Commonwealth of Dominica, Vol. , Fol. , in consideration of the sum of \$<sup>3</sup> , advanced to me by way of loan by<sup>4</sup> to be repaid on the day of , 19 , with interest till then at the rate of per cent per annum, and half-yearly and continually thereafter until the said principal sum be repaid, do hereby mortgage the above land as security for repayment of the said sum with interest thereon.

And I consent to the noting by the Registrar of Titles of a mortgage for the said sum and interest upon the certificate of title of the said land, and authorise and grant warrant to the Registrar of Titles accordingly.

Given under my hand this day of , 19 .

*Signature of Mortgagor.*

Signed before and in the presence of:

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<sup>1</sup>Name of mortgagor.

<sup>2</sup>Here describe land from certificate of title.

<sup>3</sup>Sum advanced.

<sup>4</sup>Name of mortgagee.

## FORM 9

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## MEMORANDUM OF INCUMBRANCE

*(a) General Form*

I, \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_ being registered proprietor of<sup>1</sup> \_\_\_\_\_ all as the same is bounded and described in the certificate of title in my favour dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and registered in Vol. \_\_\_\_\_, Fol. \_\_\_\_\_, of the register of titles of the Commonwealth of Dominica, in consideration of<sup>2</sup> \_\_\_\_\_ and other causes and considerations me hereunto moving, do hereby constitute an incumbrance on the said land in favour of \_\_\_\_\_, for the sum of \$ \_\_\_\_\_ payable<sup>3</sup> \_\_\_\_\_ and I hereby consent that the above incumbrance be noted by the Registrar of Titles upon my certificate of title of the said land.

And I authorise and grant warrant to the Registrar of Titles to make the noting of such incumbrance accordingly.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*Signature of Incumbrancer.*

Signed before and in the presence of:

*(b) Form for securing a sum of money by way of annuity in favour of a wife*

I,<sup>1</sup> \_\_\_\_\_, being a registered proprietor of the estate of<sup>2</sup> \_\_\_\_\_ all as the same is bounded and described in the certificate of title in my favour dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and registered in Vol. \_\_\_\_\_, Fol. \_\_\_\_\_, of the register of titles of the Commonwealth of Dominica having, by contract of marriage dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and registered under the Registration and Records Act, Ch. 19:04 on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, bound and obliged myself to grant to \_\_\_\_\_, of \_\_\_\_\_, in view of our approaching marriage, an annuity of \$<sup>3</sup> \_\_\_\_\_ per annum from the said estate of \_\_\_\_\_, as a provision to her as my wife and so long as she remains my widow after my death, to be expended and dealt with

<sup>(a)</sup> <sup>1</sup>Here describe land from certificate of title.

<sup>2</sup>Here state reason for granting incumbrance.

<sup>3</sup>Here insert time of payment and other necessary details.

<sup>(b)</sup> <sup>1</sup>Name of incumbrancer.

<sup>2</sup>Here describe land from certificate of title.

<sup>3</sup>Insert sum.

as her own property as she shall think fit; and our said marriage being about to be solemnised on the            day of           , 19   , do hereby, in virtue of the provision contained in the said contract of marriage, give, grant, and constitute to and in favour of the said           , out of the rents and revenue of the said estate of           , so long as she lives and remains my wife, or so long as she remains my widow after my death, an incumbrance of the sum of \$            per annum, the first payment thereof to be made on the            day of            next, and each year upon the            day of            thereafter, and I consent to this incumbrance being noted by the Registrar of Titles upon the certificate of title of my said estate of           ; and I authorise and grant warrant to the Registrar of Titles to make such noting for the purpose of constituting such incumbrance accordingly.

Given under my hand this            day of           , 19   .

*Signature of Incumbrancer.*

Signed before and in the presence of:

*(c) Form for securing payment of various instalments of an amount due*

I,<sup>1</sup>           , being registered proprietor of<sup>2</sup>           , all as the same is bounded and described in the certificate of title in my favour dated the            day of           , 19   , and registered in Vol.   , Fol.   , of the register of titles of the Commonwealth of Dominica, having by contract dated the            day of           , 19   , and registered under the Registration and Records Act, Ch. 19:04 on the            day of           , 19   ,            made and executed between myself and<sup>3</sup>           , bound and obliged myself, in the event of the said<sup>3</sup>            supplying me with<sup>4</sup>            to grant him an incumbrance as after mentioned over my said land as security for payment of the instalments payable by the said contract, do hereby, in virtue of the obligation upon me contained in the said contract, constitute in favour of the said<sup>3</sup>            an incumbrance upon the said land as set forth, viz. –

- (a) a payment on the            day of           , 19   , of the sum of \$           , or such other sum as may be due by me to him of a less amount than \$            at that date in terms of the said contract;
- (b) a payment on the            day of           , 19   , of \$           , or such other sum as may be due by me to him of a less amount than \$            at that date in terms of the said contract;
- (c) a payment on the            day of           , 19   , of the sum of \$           , or such other sum as may be due by me to him of a less amount than \$            at that date in terms of the said contract.

<sup>1</sup>Name of incumbrancer.

<sup>2</sup>Here describe land from certificate of title.

<sup>3</sup>Here insert name of incumbrancee.

<sup>4</sup>Here insert cause for granting incumbrance.

And I consent to the noting of this incumbrance on the certificate of title of my said land by the Registrar of Titles, and I authorise and grant warrant to the Registrar of Titles to make such noting accordingly.

Given under my hand this     day of     , 19     .

*Signature of Incumbrancer.*

Signed before and in the presence of:

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FORM 10

COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

MEMORANDUM OF LEASE

I,<sup>1</sup>     , being the registered proprietor of<sup>2</sup>     , all as the same is bounded and described in the certificate of title in my favour dated the     day of     , 19     , registered in Vol.     , Fol.     , of the register of titles of the Commonwealth of Dominica, do hereby lease to<sup>3</sup>     twenty acres of the said land bounded and described as follows, viz. –

<sup>4</sup>     to be held by him the said<sup>3</sup>     as tenant thereof for the space of     years, at the yearly rental of \$     payable quarterly, and beginning said payment on the     day of     , 19     , and regularly every three months thereafter until the termination of the said lease.

And I the said<sup>3</sup>     do accept of the said twenty acres in lease on the terms above specified.

And we both with one assent and consent, so far as it is necessary for us to do in the relative positions of lessor and lessee, authorise and grant warrant to the Registrar of Titles to note the said lease as an incumbrance on the certificate of title of the said land first above described accordingly.

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<sup>1</sup>Name of lessor.

<sup>2</sup>Here describe land from certificate of title.

<sup>3</sup>Name of lessee.

<sup>4</sup>Here insert boundaries and description of the twenty acres.



## FORM 12

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## DISCHARGE OF MORTGAGE OR INCUMBRANCE

I,<sup>1</sup> , mortgagee, in the right of the sum of \$ in terms of mortgage noted upon the certificate of title in favour of<sup>2</sup> , dated the day of , 19 , and registered in Vol. , Fol. , of the register of titles of the Commonwealth of Dominica, having received payment of the same from the said<sup>2</sup> , do hereby discharge the said mortgage, and consent to a noting of this discharge, or the cancellation of the noting of the mortgage, being made by the Registrar of Titles, and, so far as my authority is necessary therefor, I do authorise, and grant warrant to the Registrar of Titles to make such noting or cancellation accordingly.

Given under my hand this day of , 19 .

*Signature of Mortgagee.*

Signed before and in the presence of:

*Note. – The discharge of an incumbrance will be in the same form, with the necessary alteration of words to describe the incumbrance discharged.*

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<sup>1</sup>Name of mortgagee.

<sup>2</sup>Name of registered proprietor.

## FORM 13

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## MEMORANDUM OF TRANSFER OF LEASE

I,<sup>1</sup> , being under and by virtue of a memorandum of lease noted upon the certificate of title hereinafter mentioned, lessee of twenty acres of land bounded and described as follows, viz., –

<sup>2</sup> which twenty acres form part and portion of the land of<sup>4</sup> , the registered proprietor thereof, all as the same is bounded and described in the certificate of title in his favour dated the day of , 19 , registered in the register of titles of the Commonwealth of Dominica, Vol. , Fol. , in consideration of the sum of \$ now paid to me by<sup>3</sup> , of , do hereby transfer to the said the said lease for the term thereof still to run.

And I, the said<sup>4</sup> , registered proprietor of the said land, consent thereto.

And I, the said<sup>3</sup> , accept the said transfer of the said lease accordingly.

And we all, for our respective rights and interests in the premises, authorise and grant warrant to the Registrar of Titles to note this transfer upon the certificate of title of the said<sup>4</sup> accordingly.

Given under our hands this day of , 19 .

*Signature of Transferor.*

Signed by the said

before and in the presence of:

*Signature of Registered Proprietor.*

Signed by the said

before and in the presence of:

*Signature of Transferee.*

Signed by the said

before and in the presence of:

---

<sup>1</sup>Name of lessee.

<sup>2</sup>Here follows description of twenty acres from the memorandum of lease.

<sup>3</sup>Name of transferee.

<sup>4</sup>Name of lessor.

FORM 14

COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

NOTICE TO PAY OFF

To \_\_\_\_\_, registered proprietor of<sup>1</sup>

TAKE NOTICE that I,<sup>2</sup> \_\_\_\_\_, require you to pay off the sum of<sup>3</sup> \_\_\_\_\_ due to me by virtue of<sup>4</sup> \_\_\_\_\_ registered the day of \_\_\_\_\_, 19\_\_\_\_, and duly noted upon the certificate of title of the said land; and that within sixty days from the date of service of this notice.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*Signature of Mortgagee or Incumbrancee.*

Signed before and in the presence of:

\_\_\_\_\_

<sup>1</sup>Here insert description of land from certificate of title.

<sup>2</sup>Here insert name and designation of mortgagee or incumbrancee.

<sup>3</sup>Here insert sum in mortgage or incumbrance with interest actually due.

<sup>4</sup>Here state the mortgage, incumbrance, or transfer under which the sum is due to the giver of the notice.

## FORM 15

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## ACT OF SEIZURE

BE IT KNOWN TO ALL MEN THAT, by virtue of powers on me conferred by<sup>1</sup> I, \_\_\_\_\_, bailiff, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, did proceed to the land and premises of<sup>2</sup> \_\_\_\_\_ and, there being at \_\_\_\_\_ of the clock on the day and date above written, did seize all that<sup>3</sup> \_\_\_\_\_ and the things necessary to the said land which are set down in the inventory hereto annexed, which is subscribed by me as relative hereto; the said land and things to be held for sale in due course of law for non-payment of the sum of<sup>4</sup> \_\_\_\_\_

OF WHICH SEIZURE I do, by this Act, give notice to you the said<sup>5</sup> \_\_\_\_\_, and to all concerned.

Done by me at<sup>6</sup> \_\_\_\_\_, on the day and date above written, before and in the presence of the witness who subscribes this act of seizure with me.

*Signature of Bailiff.*

Done in the presence of:

*Note. - Inventory of things seized to be annexed.*

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<sup>1</sup>Here insert name and description of seizing creditor.

<sup>2</sup>Here insert name and designation of debtor.

<sup>3</sup>Here insert description of land from certificate of title, or memorandum of mortgage.

<sup>4</sup>Here insert sum as in notice to pay off, together with the mortgages, transfers, or incumbrances under which the sum is due.

<sup>5</sup>Here insert name of debtor.

<sup>6</sup>Name of estate or land.

## FORM 16

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch, 56:50*

## CAVEAT OF SEIZURE

To the Registrar of Titles.

TAKE NOTICE THAT I,<sup>1</sup> \_\_\_\_\_, did, on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, cause the land and estate of<sup>2</sup> \_\_\_\_\_, registered proprietor thereof, all as the same if fully set forth and described in the certificate of title in favour of the said \_\_\_\_\_, dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and registered in Vol. \_\_\_\_\_, Fol. \_\_\_\_\_, of the register of titles of the Commonwealth of Dominica, together with all the things necessary to the said land, as the same are set forth in an inventory by the bailiff effecting the seizure, to be seized with the view to the sale thereof in due course of law for non-payment of the sum of<sup>3</sup> \_\_\_\_\_ due to me by virtue of the<sup>4</sup> \_\_\_\_\_ over the said land duly noted on the certificate of title thereof and dated<sup>5</sup> \_\_\_\_\_

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*Signature of Mortgagee or Incumbrancee.*

Signed before and in the presence of:

\_\_\_\_\_

<sup>1</sup>Here insert name and designation of mortgagee or incumbrancee making seizure.

<sup>2</sup>Here insert name of debtor.

<sup>3</sup>Here insert sum due.

<sup>4</sup>Here insert mortgage or incumbrance.

<sup>5</sup>Here insert date of mortgage or incumbrance.

## FORM 17

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## ARTICLES OF SALE

ARTICLES OF SALE of all that<sup>1</sup> all as the same is fully set forth and described in the certificate of title of the same, registered in Vol. , Fol. , of the register of titles of the Commonwealth of Dominica, in favour of<sup>2</sup> as registered proprietor thereof, which land and the things accessory thereto, as set forth in the inventory attached to the act of seizure, have been seized by<sup>3</sup> by and in virtue of a<sup>4</sup> in favour of the said<sup>3</sup>, duly noted upon the said certificate of title of date the day of , 19 , for non-payment of the sum of<sup>5</sup>, as set forth in the notice to pay off and act of seizure lodged in the registry of the High Court herewith.

1. The day of sale shall be the day of , 19 , at o'clock in the noon.
2. The upset price shall be \$<sup>6</sup> for the land and things accessory thereto, as set forth in the inventory of the bailiff attached to the act of seizure, in one lot.
3. The sale shall take place at the registry of the High Court; or at the Court House, if convenient, and the attendance of bidders be numerous.
4. Unless the upset price be offered the land shall be withdrawn from sale on that day.
5. The deposit to be paid by the purchaser at the time of the sale to the Registrar of the High Court shall be one-fourth of his accepted bid.
6. The Registrar of the High Court shall sell the said land in the manner usual at auctions, he having first read, or caused to be read, aloud to the assembled bidders these articles of sale.
7. Each bidder shall sign his bid after the amount thereof has been written down on the leaf or leaves attached to these articles of sale.

<sup>1</sup>Here insert description of land and estate from certificate of title or memorandum of mortgage.

<sup>2</sup>Here insert name of registered proprietor.

<sup>3</sup>Here insert name of seizing creditor.

<sup>4</sup>"Mortgage" or "incumbrance".

<sup>5</sup>Insert sum due to debtor.

<sup>6</sup>This sum may be suggested by the solicitor who draws the articles of sale, but it must be fixed by the Judge in Chambers, with or without a valuation, as he may consider necessary.

8. Each bid shall be at least \$ \_\_\_\_\_ higher than the preceding bid.
9. All disputes between bidders shall be determined on the spot by the Registrar of the High Court, whose decision shall be binding on all parties attending the sale. In the event of there being any dispute between two bidders as to who was first to bid a certain sum, the Registrar of the High Court, if he should have any doubt about the matter, may go back to the immediately preceding bid, and take the biddings of the disputants anew.
10. The Registrar of the High Court, on bringing down the hammer and terminating the sale, shall declare aloud the last and highest bidder to be the purchaser, and shall also add, if the last and highest bidder so desires, that he has purchased not for himself but another, whose name shall also be publicly announced. A memorandum of the announcement thus made shall be added to the biddings.
11. The accepted bidder shall pay the deposit before he leaves the precincts of the Court House or registry, and, if he tenders the amount by cheque, the Registrar of the High Court shall not be bound to accept the same unless, or until, the same is accepted by the bank on which it is drawn.
12. The balance of the sale price must be paid within one month from the day of sale, and, on such balance being paid, the solicitor having the carriage of the sale will move the Court to order the Registrar of Titles to grant the certificate of title in favour of the purchaser.
13. The person declared to be the purchaser may enter upon possession of the property immediately after paying the deposit.
14. The property is sold subject to all leases noted on the certificate of title, and all tenancies for shorter dates than three years, of which the purchaser shall be held to have satisfied himself.
15. Whether the property contains the exact measurement mentioned in the certificate of title or not, the purchaser shall be understood to have purchased the land described in the certificate of title and be bound to pay the price offered by him.
16. Any taxes due for the said land must be paid by the purchaser.

7

*Signature of Registrar of the High Court.*

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<sup>7</sup>Here add any other conditions which may be necessary for the particular estate sold.

## FORM 18

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## SCHEME OF DIVISION

1961.

|         |  |    |
|---------|--|----|
| May 2.  | Deposit on sale price received from A. B.  | \$ |
|         | Interest thereon from the 2nd day of May to date,<br>at            per cent per annum  | \$ |
| June 2. | Balance of sale price received from the said A. B.                                     | \$ |
|         | Interest thereon from the 2nd day of June to date,<br>at            per cent per annum | \$ |

## TO BE DIVIDED THUS:

|   |    |
|---|----|
| C.D., receiver, balance due on his account  | \$ |
| G.H., solicitor, having carriage of the sale, his<br>taxed costs  | \$ |
| H.M., amount advanced on crop advance warrant<br>before seizure and applied to growing crop sold<br>with land | \$ |
| N. L., first mortgagee (seizing creditor), amount of<br>his claim as settled                                  | \$ |
| L.P., second mortgagee, amount of his claim as<br>settled   | \$ |
| Balance paid over to R. S., the former registered<br>proprietor   | \$ |

*Note.*—*The scheme of division will be attached to the articles of sale following the bids.*

## FORM 19

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## CROP ADVANCE WARRANT

*(a) Form with imaginary names and details filled up to serve as a model.*

**THIS CROP ADVANCE WARRANT WITNESSETH** that, on 13th September 1885, the parties following, that is to say, William Money, merchant, of \_\_\_\_\_, of the one part, and Robert Shortcash, registered proprietor of the estate of Canebrake, in the said Island, of the other part, have contracted, agreed, and ended in manner following, that is to say, the said William Money hath agreed to advance to the said Robert Shortcash, for the purposes of the crop of 1886, the sum of \_\_\_\_\_ in the manner following: the first instalment of \_\_\_\_\_ on 1st of November 1885, upon a promissory note to be given by the said Robert Shortcash to the said William Money at six months' date; the second instalment of \_\_\_\_\_ on 1st of December, 1885 upon a promissory note by the said Robert Shortcash to the said William Money at six months' date; the third instalment of \_\_\_\_\_ upon 1st of January 1886 upon a promissory note by the said Robert Shortcash to the said William Money at six months' date; and the last instalment on 1st of February 1886 upon a promissory note by the said Robert Shortcash to the said William Money at six months' date; the whole of the said instalments bearing interest at the rate of eight per cent per annum from the date of advance until repaid.

And the said Robert Shortcash binds and obliges himself to apply the said sums solely to the purposes for which they are advanced, viz., to pay for the labour and supplies to produce the crop of the year 1886 on his land and estate of Canebrake, as the same is described in the certificate of title thereof in favour of the said Robert Shortcash as registered proprietor, registered in Vol. \_\_\_\_\_, Fol. \_\_\_\_\_, of the register of titles of \_\_\_\_\_.

And the said Robert Shortcash further binds and obliges himself to repay the said sums advanced at the dates the several instalments become due, viz., \_\_\_\_\_, with interest from 1st day of November, 1885, on 4th of May 1866; \_\_\_\_\_, with interest from 1st of December, 1885 on 4th of June, 1886; \_\_\_\_\_, with interest from 1st of January, 1886 on 4th July 1886; and \_\_\_\_\_, with interest from 1st of February 1886, on 4th of August 1886 and in everything faithfully to execute these presents according to the spirit and provisions of the Title by Registration Act.

And the said parties, with one consent and assent, agree that these presents shall be registered for publication, and also for execution without the necessity for any judgment against the party in default, in terms of the said Act.

Given under our hands on the day and date first above written before and in the presence of the witnesses subscribing hereto.

Signed by the said William Money before }  
and in the presence of Peter Cash. } *William Money.*

Signed by the said Robert Shortcash before }  
and in the presence of Theophilus Skimmings. } *Robert Shortcash.*

COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

CROP ADVANCE WARRANT

*(b) Form in blank*

THIS CROP ADVANCE WARRANT witnesseth that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the parties following, viz.<sup>1</sup> \_\_\_\_\_ have contracted, agreed and ended in manner following; that is to say, the said<sup>2</sup> \_\_\_\_\_ hath agreed to advance to the said<sup>3</sup> \_\_\_\_\_ for the purpose of the crop of 19\_\_\_\_, the sum of<sup>4</sup> \_\_\_\_\_ at the dates, and in the instalments following, viz.<sup>5</sup>

AND the said<sup>3</sup> \_\_\_\_\_ binds and obliges himself to apply the said sum solely to pay for the labour and supplies to his land and estate of<sup>6</sup> \_\_\_\_\_ to produce the crop of the year 19\_\_\_\_.

AND the said<sup>3</sup> \_\_\_\_\_ further binds and obliges himself to repay the said sum advanced in the order in which the instalments of the said sum have been made, with interest thereon, viz..<sup>7</sup> \_\_\_\_\_ and in everything faithfully to execute these presents according to the spirit and provisions of the Title by Registration Act.

AND the said parties, with one consent and assent, agree that these presents shall be registered for publication, and also for execution without the necessity for any judgment against the party in default, in terms of the said Act.

<sup>1</sup>Here insert names of parties to the contract, adding "of the one part" after the name of the party who is to give the advance, and "of the other part" after the name of the party who is to receive it; or, where more than two parties, describe them as of "the first part," "the second part," etc.

<sup>2</sup>Here insert name of party of the one part.

<sup>3</sup>Here insert name of part of the other part.

<sup>4</sup>Here insert sum in writing.

<sup>5</sup>Here insert details of the transaction.

<sup>6</sup>Here give name of estate if it is known by any distinguishing name; or, if not, insert description of the land.

<sup>7</sup>Here insert the dates of payment of instalments.

Given under our hands on the day and date first above written before and in the presence of the witnesses subscribing hereto.

*Signature of party of the first part.*

Signed by the said

before and in the presence of:

*Signature of party of the second part.*

Signed by the said

before and in the presence of:

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FORM 20

COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

CROP ADVANCE WARRANT: APPLICATION FOR EXECUTION

To the Registrar of the High Court for the Commonwealth of Dominica.

**TAKENOTICE THAT**, in virtue of a crop advance warrant, in my favour, dated the day of , 19 , and registered the party who has received the advance under the said warrant, viz.<sup>1</sup> is now indebted to me in the sum of<sup>2</sup> and I require you to issue execution against his goods and chattels for that amount by virtue of the powers contained in the Title by Registration Act.

*Signature of Creditor or his Solicitor.*

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<sup>1</sup>Here insert name of debtor.

<sup>2</sup>Here insert sum owing, whether whole amount of balance.

## FORM 21

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## EXECUTION FOR SUM DUE ON CROP ADVANCE WARRANT

ELIZABETH THE SECOND, BY THE GRACE OF GOD, ETC., GREETING:

**WHEREAS**, on the        of       , 19       , there was registered in our registry of bills of sale for the Commonwealth of Dominica a crop advance warrant of the following words and tenor:<sup>1</sup>

**AND** the above named<sup>2</sup>        hath given notice in the manner required by the Title by Registration Act, that<sup>3</sup>        the other party to the said crop advance warrant, is now indebted to him, in virtue thereof, in the sum of<sup>4</sup>

**NOW THESE ARE** to command you and every of you, the bailiffs and officers of our High Court that, in virtue hereof, you do levy execution upon the goods and chattels of the said<sup>3</sup>        for the said sum of<sup>4</sup>        in the same manner and with the same due diligence as if a judgment had been pronounced against the said<sup>3</sup>        by our said High Court for the sum aforesaid - all in terms of the provisions of the Title by Registration Act.

**AND IN THIS** see that ye fail not as ye will answer to us thereupon.

*Signature of Registrar of the High Court.*

Seal of  
High  
Court.

\_\_\_\_\_

<sup>1</sup>Here copy crop advance warrant verbatim with signatures.

<sup>2</sup>Here insert name of person taking out execution.

<sup>3</sup>Here insert name of debtor.

<sup>4</sup>Insert sum owing.

## FORM 22

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## MEMORANDUM OF TRANSFER ON SALE BY REGISTRAR OF HIGH COURT

**WHEREAS**<sup>1</sup> , is the registered proprietor of<sup>2</sup> all as the same is set forth, bounded and described in the certificate of title in his favour dated the day of , 19 , and registered in the register of titles of the Commonwealth of Dominica, Vol. , Fol. :

**AND WHEREAS**, under and by virtue of an order of the High Court, dated the day of , 19 , and made in an action wherein is the plaintiff, and the defendant, the estate or right of the said<sup>3</sup> in the said land was sold, at public auction, by me,<sup>4</sup> , the undersigned Registrar of the High Court for the Commonwealth of Dominica, to<sup>5</sup> , for the sum of \$ .

Now I, the said<sup>4</sup> , as such Registrar as aforesaid, in consideration of the said sum of \$ paid to me by the said , the receipt of which I hereby acknowledge, do, under and by virtue of the provisions of section 111 of the Title by Registration Act, hereby transfer the said land to and in favour of the said<sup>6</sup> , and hereby authorise and require the Registrar of Titles for the Commonwealth of Dominica to cancel the certificate of title in favour of the said<sup>3</sup> , and to issue a new certificate of title (with all mortgages and incumbrances, if any, duly noted thereon) in favour of the said<sup>6</sup>

Given under my hand this day of , 19 .

*Signature of Registrar of High Court.*

Signed before and in the presence of:

*Note. - The above form applies where the estate or right of a registered proprietor is to be transferred. Where a mortgage or incumbrance is to be transferred, the above form is to be varied accordingly.*

<sup>1</sup>Full name, residence and description of registered proprietor whose land has been sold.

<sup>2</sup>Here insert description of land from certificate of title.

<sup>3</sup>Full name of registered proprietor whose land has been sold.

<sup>4</sup>Full name of Registrar of High Court

<sup>5</sup>Full name, residence and description of purchaser.

<sup>6</sup>Full name of purchaser.

FORM 23

COMMONWEALTH OF DOMINICA

Title by Registration Act, Ch. 56:50

CAVEAT

To the Registrar of Titles.

TAKE NOTICE THAT I,<sup>1</sup> , claiming to be entitled to stay the registration of any dealing in all that<sup>2</sup> of which land<sup>3</sup> is the registered proprietor, and caveatee under this caveat, do hereby forbid the registration of any dealing with the said land accordingly.

My right to present this caveat arises from the following facts and circumstances<sup>4</sup>

My address for the purposes of the Title by Registration Act, and the sections thereof relating to caveats, is

Given under my hand this day of , 19 .

Signature of Caveator.

Signed before and in the presence of:

AFFIDAVIT BY THE CAVEATOR'S SOLICITOR

I, , solicitor for the above named and described , make oath and say that the allegations in the above caveat are true in substance and fact to the best of my knowledge and belief.

Signature of Solicitor.

Sworn before me, this day of , 19 .

<sup>1</sup>Here insert name and description of caveator.

<sup>2</sup>Here describe land as in certificate of title.

<sup>3</sup>Here insert name of registered proprietor.

<sup>4</sup>Here describe how the interest of caveator to present caveat arises.

## FORM 24

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## ORDER OF WITHDRAWAL OF CAVEAT

To the Registrar of Titles.

TAKE NOTICE THAT I,<sup>1</sup> \_\_\_\_\_, having on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, presented a caveat to forbid the registration of any dealing in all that<sup>2</sup> \_\_\_\_\_ of which land \_\_\_\_\_ is the registered proprietor and caveatee, now order the withdrawal of the same.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*Signature of Caveator.*

Signed before and in the presence of:

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<sup>1</sup>Here insert name and description of caveator.

<sup>2</sup>Here describe land as in caveat.

## FORM 25

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## ORDER OF REMOVAL OF CAVEAT

To the Registrar of Titles.

TAKE NOTICE THAT I,<sup>1</sup> \_\_\_\_\_ being the registered proprietor of all that<sup>2</sup> \_\_\_\_\_ all as the same is more fully described in the certificate of title, in my favour, dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and registered in Vol. \_\_\_\_\_, Fol. \_\_\_\_\_, of the register of titles of the Commonwealth of Dominica, having been informed that a caveat has been presented by<sup>3</sup> \_\_\_\_\_ forbidding the registration of dealings in the said land, hereby order the removal of the said caveat.

---

<sup>1</sup>Here insert name of caveatee.

<sup>2</sup>Here describe land from certificate of title.

<sup>3</sup>Here insert name of caveator.

My address within the State for the purposes of the Title by Registration Act, and the sections thereof relating to caveats, is

Given under my hand this     day of             , 19 .

*Signature of Caveator.*

Signed before and in the presence of:

\_\_\_\_\_

FORM 26

COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

SUMMONS TO APPEAR BEFORE THE REGISTRAR OF TITLES

To<sup>1</sup>

I,<sup>2</sup>                                     , Registrar of Titles for the Commonwealth of Dominica, believing that you can give evidence or explanations in regard to<sup>3</sup>                                     do hereby, in virtue of the powers conferred upon me by the Title by Registration Act, summon you to appear before me at my office on the     of             , 19 , there to answer such questions as may be put to you, under peril, if you fail to attend, of the pains and penalties provided in the said Act.

Given under my hand this     day of             , 19 .

L.S.

*Signature of Registrar of Titles.*

\_\_\_\_\_

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<sup>1</sup>Here insert name of part whose evidence is desired.

<sup>2</sup>Here insert name of Registrar.

<sup>3</sup>Here state briefly nature of the inquiry.

## FORM 27

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## POWER OF ATTORNEY

I,<sup>1</sup> \_\_\_\_\_, do hereby appoint<sup>2</sup> \_\_\_\_\_ my attorney to do in my name and as my acts all things necessary in relation to the land of which I am at present registered proprietor in the Commonwealth of Dominica, and to any land of which I may subsequently become registered proprietor.

The said<sup>3</sup>

<sup>4</sup> \_\_\_\_\_ may sell the said land and sign the instrument necessary to obtain the purchaser entered on the register, he may mortgage or incur the said land, and sign the instruments necessary to create the mortgage or incumbrance, he may enter into and sign crop advance warrants for the wants of the estate, grant leases for the terms of years usual in the Commonwealth of Dominica and discharge or transfer mortgages or incumbrances, cancel leases, receive and discharge rents and interests, collect and discharge debts, carry out all agreements and covenants in regard to the said land, make, vary and discharge such agreements and covenants, and maintain and defend suits in regard to occupation, trespass, and every other right and matter in which I have interest, submit any question or questions to arbitration, and generally, in relation to the said land, do everything which I myself could do if personally present.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ .

*Signature of Grantor.*

Signed before and in the presence of:

---

<sup>1</sup>Here insert name and description of grantor of power.

<sup>2</sup>Here insert name and description of the person appointed.

<sup>3</sup>Name of attorney.

<sup>4</sup>Here insert such of the following powers, and such others, as may be desired.

## FORM 28

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## CERTIFICATE OF CLOSING OF REGISTRATION

*[At the end of the duplicate certificate of title in the hands of the registered proprietor the Registrar of Titles shall write as follows :*

In virtue of the provisions of the Title by Registration Act, the above named \_\_\_\_\_, registered proprietor of the land described in the certificate of title, may deal outside the limits of the State with the above land.

No dealing within the State with the said land can be registered until this document is returned, and all dealings with the land, outside the State, when done in conformity with the provisions of the Title by Registration Act, shall be registered as of their respective dates.

In witness whereof I have hereunto signed my name and affixed my seal this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

*Registrar of Titles.*

L. S.

## FORM 29

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50**Claim for the decision or direction of the Court of Appeal*IN THE EASTERN CARIBBEAN SUPREME COURT  
COMMONWEALTH OF DOMINICA

Claim by \_\_\_\_\_, of \_\_\_\_\_, under section 175 of the Title by Registration Act, for the decision and direction of the Court of Appeal.

The claimant, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, applied to the Registrar of Titles for the issue to him of a certificate of title to<sup>1</sup>

2

I am aggrieved by such decision, and humbly claim the decision and direction of the Court of Appeal in terms of the Title by Registration Act.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

*Signature of Claimant.*

Signed before and in the presence of: \_\_\_\_\_

<sup>1</sup>Here describe land.

<sup>2</sup>Here state decision which occasions claim.

## FORM 30

## COMMONWEALTH OF DOMINICA

*Title by Registration Act, Ch. 56:50*

## MEMORANDUM OF MORTGAGE

I,<sup>1</sup> (registered proprietor) (being entitled to the issue in my favour of a certificate of title)<sup>2</sup> of<sup>3</sup>

all as the same is (with other land)<sup>4</sup> bounded and described in the certificate of title in (my favour)(in favour of )<sup>5</sup> dated the day of , 19 , and registered in the register of titles of the Commonwealth of Dominica, Vol. , Fol. , in consideration of the sum of \$<sup>6</sup> advanced (and of every sum hereafter advanced)<sup>7</sup> to me by way of loan by<sup>8</sup> do hereby mortgage the above land as security for repayment of the said sum(s)<sup>9</sup> with interest thereon as hereinafter provided

*(Here insert all the agreed terms and conditions)*<sup>10</sup>

And I consent to the noting by the Registrar of Titles of a mortgage for the said sum(s)<sup>9</sup> and interest upon the certificate of title of the said land (to be issued in my favour)<sup>11</sup> , and authorise and grant warrant to the Registrar of Titles accordingly.

Given under my hand this day of , 19 .

*(Signature of Mortgagor)*

Signed before and in the presence of:

*Note: The above is an alternative to Form 8.*

<sup>1</sup>Name of mortgagor.

<sup>2</sup>The words in brackets are alternative, the second alternative being appropriate where the mortgagor is not yet the registered proprietor of the land being mortgaged.

<sup>3</sup>Here describe the land from the certificate of title with an appropriate amendment where the certificate of title includes the land being mortgaged and other land.

<sup>4</sup>Delete the words in brackets where the land included in the certificate of title is identical with the land mortgaged.

<sup>5</sup>The words in brackets are alternative as in 2 above. Where the second alternative is appropriate insert the name of the registered proprietor.

<sup>6</sup>Sum advanced.

<sup>7</sup>Delete the words in brackets unless the mortgage is to be security for moneys advanced in the future.

<sup>8</sup>Name of mortgagee.

<sup>9</sup>Delete the letter in brackets unless the mortgage is to be security for moneys advanced in the future.

<sup>10</sup>The agreed terms and conditions may include a guarantee by a third party of the mortgagor's obligations under the mortgage in which case the guarantor should sign in the presence of a witness in the same manner, and immediately below, the mortgagor.

<sup>11</sup>Delete the words in brackets if the mortgagor is the registered proprietor.



**THIRD SCHEDULE**

Section 156.

Notaries public; Commissioners appointed under the Commissioners for Oaths Act, Ch. 5:72, if empowered by their commissions to administer oaths for the purposes of this Act; Commissioners for taking oaths and affidavits in the Supreme Court of Judicature in England and Northern Ireland; the Lord Mayor, Lord Provost, Mayor, Provost, or Chief Magistrate of any city, town, or municipal corporation within any Commonwealth territory, or the United States of America; the Governor, or officer administering the Government, of any Commonwealth territory; any Judge of any Court of Record of any Commonwealth territory and the United States of America; and the ambassador, or officer performing the duties of that office, the consul, or consular officer performing the duties of consul, in any foreign country or possession, town or place, where such functionaries may be found.

All these may also witness the instrument, but, if private parties have been the witnesses to the signatures, one at least of the witnesses must appear before one of the officers above named, and sign in his presence a certificate that he saw the party sign, and that the signature is of his proper handwriting.

Where an instrument signed out of the State does not technically agree with the provisions of this Schedule, the Registrar of Titles, to save vexatious and hurtful delays, may take the direction of a Judge, upon the point in conformity with the provisions of this Act.

**FOURTH SCHEDULE**

Section 166.  
[1 of 1973  
22 of 1975  
20 of 1978  
32 of 1986  
9 of 1989].

- On every request for the issue of a first certificate of title, an assurance fund fee as stipulated under section 18(1) of ..... 1% of the value of the land;
- On every memorandum of transfer of land, a judicial fee of ..... 2.5% of the value of the land;
- On every request, and on transmission for a new certificate of title ..... the same fee as a request for the issue of a first certificate of title.
- On every certificate of title ..... the fee of one cent in the dollar provided by section 18 of this Act.
- On every memorandum of mortgage ..... 2 1/2% of the amount of the mortgage.

On every transfer or discharge of a mortgage one-half the fee payable on a memorandum of mortgage.

On every memorandum of incumbrance; and on every transfer or discharge of an incumbrance the same fees, respectively, as on a memorandum of mortgage, and on a transfer or discharge of a mortgage.

*N. B. - The value of the incumbrance is to be calculated as provided in case of incumbrances in the Fifth Schedule.*

On every memorandum of lease 2 1/2% of the rental value of the lease.

On every request for the transfer or cancellation of a lease \$ 7.50

On every caveat, other than a caveat under section 77\* of this Act 7.50

On every caveat of seizure 7.50

On every order of removal, or withdrawal, of a caveat 7.50

On every claim, under section 170 of this Act, for the decision or direction of the Full Court 4.50

On every power of attorney for the purposes of this Act 7.50

On every certificate of closing of registration 10.50

On every search under one name\* 4.50

On every general search\* 7.50

\*PROVIDED THAT in every registry a search book shall be kept in which the person making the search shall enter and sign a memorandum of the search, and affix thereto the proper stamp.

On every certified copy of any document –  
if it does not exceed five folios \$1.80

if it exceeds five folios, then for the first five folios 1.80

and for every folio exceeding the first five .25

*N. B. - A folio is to be reckoned at 72 words.*

*An incomplete folio is to be reckoned as a folio.*

In every registry a search book shall be kept, in which the person making the search shall enter and sign a memorandum of the search, and affix thereto the proper stamp.

|   |   |
|---|---|
| On registration of an order under section 113 of this Act                           | the same fee as on a memorandum of mortgage.  |
| On every request, under section 62 of this Act, in respect of an equitable mortgage | the same fees as on a memorandum of mortgage. |
| On every scheme of division –<br>where the sale price –                             |   |
| does not exceed \$1,000.00  | \$ 1.50                                       |
| exceeds \$1,000.00 and does not exceed \$2,000.00                                   | 4.50  |
| exceeds \$2,000.00 and does not exceed \$3,000.00                                   | 7.50  |
| exceeds \$3,000.00 and does not exceed \$5,000.00                                   | 22.50   |
| exceeds \$5,000.00 and does not exceed \$15,000.00                                  | 45.00   |
| exceeds \$15,000.00   | 75.00   |
| On every crop advance warrant –<br>where the sum lent –                             |   |
| does not exceed \$500.00  | 1.50  |
| exceeds \$500.00 and does not exceed \$1,500.00                                     | 3.00  |
| exceeds \$1,500.00 and does not exceed \$3,000.00                                   | 4.50  |
| exceeds \$3,000.00 and does not exceed \$5,000.00                                   | 7.50  |
| exceeds \$5,000.00  | 15.00   |
| On every transfer of a crop advance warrant   | 1.50  |
| On every execution under a crop advance warrant                                     | 4.50  |

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### FIFTH SCHEDULE

(Sections 163 and 165).

[12 of 1990

11 of 1992].

**1. FEE BASED UPON THE VALUE OF THE LAND AT THE FOLLOWING SCALES:**

First certificate and transfer subsequent to first certificate - a fee of 3% based on the sale value of the property.

**2. TRANSMISSION - TAKING OUT TITLE, CONSOLIDATION OF TITLES, OBTAINING NEW CERTIFICATE OF TITLE WITH PLAN ATTACHED AND IN THE CASE OF CROP WARRANTS - a fee of 3% based on the sale value of the property.**

- \*3. MORTGAGES AND TRANSFER OF MORTGAGES – a fee of 2% based on the sale value of the property.
- \*4. (1) CAVEATS –
- (a) For securing loans of up to \$20,000 - a fee of \$150.00; and
  - (b) For securing loans of over \$20,000 - a fee of \$350.00.
- (2) INCUMBRANCES, DISCHARGE OF MORTGAGE AND CAVEATS - a fee of \$150.00.
5. SALE OF INCUMBERED LAND AND ESTATE
- (1) A fee of 3% based on the sale value of the property sold.
  - (2) For each additional application for or incidental to sale of incumbered land and estate such fee not exceeding two hundred dollars as the Court may allow.
6. (1) For replacement of a lost certificate of title \$200.00
- (2) Correction or rectification of plan  
(without new plan) \$250.00
- (3) Any work performed under this Act not provided for by this Schedule such fee as may be allowed by the Court.
7. The above scales shall not include payment for professional services rendered in respect of contentious litigation arising between parties, or the customary commission payable for carrying through negotiations for purchase, sale or loan.
8. (1) If the practitioner and the client cannot agree upon the value of the land or incumbrance, the question shall be referred to the Registrar of Titles, who shall fix the value for the purposes of this Schedule, and for so doing he may require such evidence by affidavit or otherwise as he may think fit.
- (2) Where either party is dissatisfied with the value of the land or incumbrance fixed by the Registrar of Titles, he may appeal to a Judge to review the valuation and fix the value of the land or incumbrance.
- (3) The property value of incumbrances shall be taken at ten years of the annual sum chargeable on the estate value or whole value of instalments secured.

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\* Paragraphs 3 and 4 came into operation on 1st May, 1992.