

CHAPTER 282
Land Titles Act

Commencement Date: 11/30/1908

An Act of Parliament to make provision for the removal of doubts that have arisen in regard to titles to land and to establish a Land Registration Court

PART I—PRELIMINARY

Short title.

1. This Ordinance may be cited as the Land Titles Act.

Application

2. The President may, by proclamation published in the Gazette and published in such other manner (if any) as he thinks fit, apply this Act to any district, area or place in Kenya, and may by that proclamation fix the day on which this Act shall apply to that district, area or place.

Interpretation

24 of 1959, s. 2

3.(1) In this Act and in all instruments purporting to be made or executed thereunder, except where inconsistent with the context and subject-matter—

"certificate of title" means a certificate of title granted by the Recorder of Titles under this Act.

"encumbrance" means any charge on immovable property created for the purposes of securing the payment of an annuity or sum of money other than a loan;

"immovable property" includes land, benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth, but does not include standing timber (other than coconut trees), growing crops or grass;

"instrument" means a certificate of title, conveyance, assurance, deed, map, plan, will, probate or exemplification of will, and any other document in writing relating to the title to immovable property or any interest therein;

"Land Registration Court" means the court constituted under this Act and presided over by the Recorder of Titles or the Deputy Recorder of Titles as judge thereof;

"lunatic" means any person who has been found to be a lunatic under the law for the time being in force in Kenya;

"mortgage" means any charge on immovable property created merely for securing a loan;

"person" includes any association of persons whether designated as an association, society, league or otherwise, and a body corporate whether limited or unlimited;

"person of unsound mind" means any person not a minor who, not having been found to be a lunatic, is certified by two medical practitioners to be incapable from infirmity of mind of managing his own affairs;

"proprietor" means any person seized or possessed of any freehold or other estate or interest in immovable property at law, or in equity in possession, in futurity or expectance, and any person possessed of or having any interest in or entitled to any charge upon any immovable property;

"Recorder of Titles" includes a Deputy Recorder of Titles;

"signed" and "signature" include a mark made by an illiterate person and attested by a witness to the making of such mark;

(2) The description of a person as a proprietor, or as seized of or having any estate or interest in immovable property, shall be deemed to include the heirs, executors, administrators and assigns of that person.

PART II—ADJUDICATION OF CLAIMS

Recorder of Titles

4. The President may appoint an officer to perform the duties of the Recorder of Titles under this Act.

Deputy Recorder of Titles may perform acts of Recorder of Titles

5. Whenever by any law for the time being in force anything is appointed to be done by the Recorder of Titles, it may be lawfully done by any Deputy Recorder of Titles or other officer duly appointed by the President in that behalf.

Jurisdiction of Land Registration Court

6. There shall be a court of special jurisdiction, subordinate to the High Court, to be styled the Land Registration Court, whereof the Recorder of Titles shall be the presiding judge, and the Recorder of Titles shall have jurisdiction in all claims made under this Act relating to immovable property situated in the district, area or place to which this Act has been applied, with powers to determine any questions that may need determination in connexion with those claims, and the Recorder of Titles shall have all the powers of a judge in respect of procedure in the Land Registration Court, including the summoning of and administering oaths to witnesses, assessors, land valuers, appraisers and other persons whose advice, assistance or evidence seem to him to be necessary, the production of instruments and records and the due and proper administration of justice and order in the Court.

Judgments of Recorder of Titles to be final and conclusive, subject to appeal

7.(1) The determination and judgment of the Recorder of Titles upon each claim shall, save as otherwise expressly provided for in this Act, be final and conclusive upon the claimants, and upon those claiming under any of them by any title acquired subsequent to the claim being made.

(2) The Commissioner of Lands, on behalf of the Government, and any person aggrieved by any final judgment or order having the effect of a final judgment of the Recorder of Titles, may within thirty days after the pronouncing thereof lodge with the Recorder of Titles an appeal in writing to the High Court, and the Recorder of Titles shall without delay forward to the High Court the appeal with the record made up as hereinafter provided.

(3) An appeal shall lie from the decrees or from any part of the decrees and from the orders of the High Court made on any such appeal to the Court of Appeal.

Recording of proceedings; consolidation of claims

8.(1) It shall not be necessary for the Recorder of Titles to take down in writing the evidence given in the Land Registration Court of any witness verbatim, unless requested to do so by the claimant or by a person opposing a claim:

Provided that the essence of such evidence shall be noted by him.

(2) It shall not be necessary for the Recorder of Titles to put in writing any judgment delivered by him, except in a short and concise form showing his reasons for arriving at the judgment.

(3) The record of all evidence, whether oral or documentary, taken by the Recorder of Titles at the investigation of the claims shall, subject to the provisions of subsection (5), be made up in a separate file, and the finding or judgment thereon, and reasons therefor, and all orders of the Recorder of Titles in relation thereto, shall be entered on the record.

(4) The record so made up shall at all reasonable times, upon a written application on that behalf, be open to the inspection of any person interested in the claim or his agent duly authorized thereto in writing, with liberty to demand and receive copies thereof or extracts therefrom upon payment of the fees which may be prescribed.

(5) The Recorder of Titles may consolidate the claims of one or more persons, and the claims shall then form the subject of the same investigation; and the record of all evidence whether oral or documentary taken by the Recorder of Titles at the investigation shall be filed with any one of the statements of the claims so consolidated, and the finding or judgment on each of the claims, and reasons therefor, and all orders of the Recorder of Titles in relation thereto, shall be entered on the record.

Venue of Court

9.The Land Registration Court shall be held in such places as the Recorder of Titles shall determine.

Qualified surveyor to be attached to Court

10. (1) There shall be appointed and attached to the Land Registration Court a qualified surveyor who, with such assistants as may be necessary, shall survey land, make a plan or plans thereof and define and mark the boundaries of any areas therein as, when and where directed by the Recorder of Titles, either before, during or after the termination of any question concerning land or any interest connected therewith, and every area so defined and marked shall be further marked with a number or other distinctive symbol to be shown upon the plan or plans for the purposes of complete identification and registration thereof as is herein-after prescribed.

(2) The surveyor or assistant may demand any explanation or information required for the purposes of this Act from any person in his opinion likely to be able to give it.

Oath of Recorder of Titles

11. The following oath shall be taken before a judge of the High Court by the Recorder of Titles before entering upon the execution of his office hereunder—

I,, do solemnly swear that I will faithfully and to the best of my ability execute and perform the office and duties of Recorder of Titles [or Deputy Recorder of Titles] for Kenya, according to the provisions of the Land Titles Act. So help me God.

Seal of Recorder of Titles

12. The Recorder of Titles shall have and use a seal of office bearing the impression of the Kenya Coat of Arms, and having inscribed thereon in the margin "Recorder of Titles, Kenya", and the imprint of the seal shall be valid whether made in wax, ink or other substances.

Presumption of authenticity of documents of Recorder of Titles

13. All documents purporting to be issued or written by or under the directions of the Recorder of Titles and purporting to be sealed with his seal of office, or signed by him or by one of his deputies, shall be received in evidence, and shall be deemed to be issued or written by or under the direction of the Recorder of Titles without further proof, unless the contrary is shown.

Alteration of forms

G.N.1603/1955, L.N.172/1960

14. The Recorder of Titles may from time to time, with the approval of the Minister, make such alterations in the several forms prescribed in the First Schedule as he may deem requisite, and shall, before finally issuing any such altered form, give notice thereof in the Gazette, and such form shall be supplied at the office of the Recorder of Titles free of charge, and every such form shall be taken to be made in the form hereby required, or in the form sanctioned by the Recorder of Titles, unless the contrary is proved.

Making of claims

15. (1) All persons being or claiming to be proprietors of or having or claiming to have any interest whatever in immovable property situated in any district, area or place to which this Act has been applied shall, before the expiration of six clear months from the date of the application of this Act, make a claim in respect thereof to the District Commissioner of the district wherein the immovable property is situated or to such officer as he may appoint:

Provided that—

(i) if a claimant satisfies the Recorder of Titles that he has failed or neglected through ignorance or other sufficient cause to make his claim before the expiration of the period of six months, and if no other claim has been made in respect of the same land or any other part of it, the Recorder of Titles may hear and determine the claim out of time in all respects as if the claimant had made his claim within the period of six months;

(ii) no such claim shall be heard and determined out of time unless it is made within one year of the expiration of the period of six months.

(2) Every such claim shall as regards a claim in respect of-

(a) estates in fee in land, be in form A1 in the First Schedule;

(b) all interests in immovable property other than estates in fee in land, be in form A2 in the First Schedule, and shall be forwarded by the District Commissioner or other officer appointed by him within one month of the receipt thereof to the Recorder of Titles, Mombasa.

(3) Any person may for the purpose of a claim under this section obtain the forms free of charge from the office of a District Commissioner or from the office of the Recorder of Titles at Mombasa.

District Commissioner to give notice to residents; and may sign claims of illiterates

16.(1) The District Commissioner or such officer as he may appoint in that behalf shall cause notice to be given, in such manner as best conveys the requirements of this Act, to all persons concerned therein in that district, and notices shall be issued in such districts and elsewhere as the Minister shall from time to time determine in such language or languages as are understood by those persons, and shall be posted up in the usual places or otherwise disseminated as is deemed expedient.

(2) In districts where any person making his claim is unable for any cause to write, the District Commissioner or such other officer as he may appoint may sign the claim on behalf of that person, and the claim shall have the same effect as if signed by the person with his own hand under this Act.

All land for which no certificate of ownership granted deemed Government land.

24 of 1959, s.3, G.N.1603/1955, G.N.1605/1955, L.N.518/1959, L.N.172/1960, L.N.173/1960

17. (1) All land situated in any district, area or place to which this Act has been applied concerning which no claim or claims for a certificate of ownership have been made in the manner and in the period provided, or if, such claim or claims having been made, none have been allowed, shall at the

expiration of that period be deemed to be Government land, and the land and all things attached to it or permanently fastened to any thing attached to it shall be subject only to a right or interest in any person other than the Government as may be evidenced by a certificate of title granted under this Act or which may thereafter be granted by or on behalf of the Government.

(2) If, within twelve years from the date on which any land becomes Government land by reason of the provisions of this section, any person satisfies the Minister that he or his predecessor in title was entitled to the land at that date and that the person entitled to make a claim under this Act in respect of the land had no notice of the application of this Act to the area within which the land is situated or for other good and sufficient reason failed to make a claim, the Minister may direct either—

(a) a grant to be made of the land to him if practicable, or

(b) such value as in the circumstances may appear reasonable to be paid to him by the Permanent Secretary of the Ministry for the time being responsible for land.

Recorder of Titles to deal with claims

18.(1) The Recorder of Titles, upon receipt of the claims hereinbefore provided for, shall proceed to deal therewith in the order and according to the district, area or place to which the Act has been applied as seem to him to be most expedient in connexion therewith, and, in the event of any dispute or doubt arising out of or from any claim to immovable property or interest therein, shall give notice to the persons concerned of the date when and place where he proposes to hear and determine in the Land Registration Court the matters in dispute or doubt.

(2) If a claimant fails to appear on the day fixed for investigating his claim and no good and sufficient cause is shown for this absence, the Recorder of Titles may make an order or give judgment as he deems fit.

(3) If a claimant appears in reasonable time and satisfies the Recorder of Titles that his absence was due to sickness, accident or some other cause over which he had no control, the Recorder of Titles shall cancel any order made or open up any judgment given under this section.

Representation of interested persons

24 of 1959, s.4

19.(1) A party in any proceeding in the Land Registration Court may appear by an advocate.

(2) The Chief Commissioner or any assistant to the Chief Commissioner, and the officer in charge of the administration of any district concerned therein, shall in the same manner have a right of audience whenever any person is concerned in any proceeding in the Land Registration Court, and any officer or person generally or specially appointed in that behalf by the Commissioner of Lands shall have a right of audience on behalf of the Government in any proceeding in that Court.

Certificate of title to be granted to successful claimant

20.(1) After six months from the date of the application of this Act, or as soon thereafter as is possible, the Recorder of Titles shall give a certificate of title to those persons whose right to any immovable property or any interest therein has been determined.

(2) Certificates of title shall be of three kinds—

(a) a certificate of ownership in form B in the First Schedule, which shall be granted to those persons whose claim to an estate in fee in land has been upheld;

(b) a certificate of mortgage in form C in the First Schedule, which shall be granted to mortgagees of immovable property or any undivided share thereof or interest therein under any instrument valid in law;

(c) a certificate of interest in form D in the First Schedule, or as near thereto as the case may require, which shall be granted to persons whose rights as owners of immovable property (other than land), or whose rights by way of lease, encumbrance, charge, lien, contract or other interest in any immovable property (except such rights as would be included in a certificate of ownership or mortgage), or whose rights in remainder, reversion or expectancy in or to immovable property, or any undivided share thereof, have been upheld.

Effect of certificate of title

21. Save as in this Act otherwise expressly provided, every certificate of title duly authenticated under the hand and seal of the Recorder of Titles shall be conclusive evidence against all persons (including the Government) of the several matters therein contained, and a certificate of ownership shall be conclusive proof that the person to whom the certificate is granted is the owner of the coconut trees, houses and buildings on the land in respect of which the certificate is granted, at the date of the certificate, unless there is noted thereon in manner hereinafter provided a memorandum to the contrary effect.

Boundaries to be shown on plan and to be marked on the land; penalty for alteration of boundary marks

22. Upon the determination of the right of any proprietor, and, if the Recorder of Titles should so think fit, before the issue of the certificate of title, the surveyor appointed under section 10 or his assistant shall, if and when directed by the Recorder of Titles, demark and delimit the boundaries of the land comprised in the estate upon a map or plan, and he shall determine, place or cause to be placed upon the land boundary marks showing the demarcation and delimitation thereof, such boundary marks to be so placed at the expense of the Government and maintained and repaired at the joint or proportionate expense of the proprietor of the land and of the proprietors of land contiguous thereto, and any proprietor thereafter altering or causing to be altered whether temporarily or otherwise those boundary marks without the leave in writing of the Recorder of Titles or other officer duly authorized in that behalf shall be guilty of an offence and subject to penalties as hereinafter provided.

Instruments of title to be deposited with Recorder of Titles on issue of certificate of title

23. Upon issuing a certificate of title to any proprietor under this Act, the Recorder of Titles shall require the proprietor to deposit with him all instruments of title which the proprietor has in his possession or power and which have not already been so deposited.

Endorsement of instrument relating to other property; Recorder of Titles to retain instruments deposited

24. (1) If any such instrument relates to or includes any property, whether movable or immovable, other than the property included in the certificate of title, then the Recorder of Titles shall endorse thereon a memorandum cancelling it in so far only as relates to the property included in the certificate of title, and shall return the instrument to the proprietor.

(2) The Recorder of Titles shall retain in his office all instruments so deposited except such as he is hereby directed to return to the proprietor, and no person shall be entitled to the production of an instrument so deposited except upon the written order of the proprietor who deposited it or of some person claiming through or under him, or upon the order of the High Court.

Death of claimant

25. Where any claimant dies in the interval between the date of his claim and the date appointed for the certificate of title to issue in accordance with the provisions hereinbefore contained, the certificate of title shall be issued to the person to whom the property the subject of the claim has devolved.

Recorder of Titles to keep register of certificates of title

24 of 1959,s.5

26.(1) The Recorder of Titles shall keep a register and shall file therein the photostat copies of all certificates of title issued under this Act.

(2) Each certificate of title shall constitute a separate folio of the register.

Contents of certificate of title

24 of 1959,s.6.

27.(1) Every certificate of title shall set out a description of the immovable property therein referred to, with figures and references necessary to identify it on the plan or map of the area in which it is situated, and a correct statement of the right, title or interest of the person to whom it is issued.

(2) The Recorder of Titles shall note thereon in such manner as to preserve their priority a memorandum of the particulars of all subsisting mortgages or other encumbrances or of any lease to which the property may be subject, and of the right or interest in the property existing at the date of the certificate of any person other than the person to whom the certificate is issued.

(3) If a certificate of title is issued to a minor or to a person under disability, the Recorder of Titles shall state the age of the minor or the nature of the disability so far as known to him.

(4) There shall be attached to every certificate of ownership a plan of the land the subject of the certificate, and the plan shall be signed by the Recorder of Titles and the Director of Surveys, or such officer as the Director of Surveys may appoint.

Matters excepted from certificates of title

28.(1) A certificate of title shall not confer upon any person any rights over or to any gold, silver or precious stones, or to any mines, metals or minerals whatsoever or to any mineral oil, or to or over the foreshore or to any water except in so far as those rights are expressly mentioned and described in the certificate, and except in that case nothing in this Act or in any certificate of title issued thereunder shall be deemed to derogate from the rights of the Government in or over the foreshore, or any water or any gold, silver or precious stones, or to any mines, metals or minerals whatsoever, or to any mineral oil.

(2) Nothing contained in any certificate of title issued under this Act shall derogate from any rights to or over water or rights-of-way subsisting at the date of the issue of the certificate.

When certificate of title deemed to be registered

29. Every certificate of title shall be deemed to be registered under and for the purposes of this Act as soon as it has been marked by the Recorder of Titles with the number of the folio and volume as embodied in the register book.

Certified copies

30. The Recorder of Titles, upon payment of the fee specified in the Second Schedule, shall furnish to any person applying for it a certified copy of a certificate of title.

Search of register.

31. Any person may, upon payment of the fee specified in the Second Schedule, have access to the register for the purpose of inspection during the hours and upon the days appointed for search.

Il claims to be authenticated by claimant

32. The Recorder of Titles shall not receive any claim under this Act unless there is thereon or therein a statement that it is correct for the purposes of this Act, signed by the claimant or by a person holding a power of attorney in that behalf from the claimant.

Court fees and costs

33.(1) The Recorder of Titles shall, whenever any claim made under section 15 is disallowed by him in whole or in part, order the person whose claim or application has been disallowed to pay to the Government as court fees such sums as he may think fit, not exceeding two per cent of the value of the property claimed, but, save as provided in this Act, no court fees shall be demanded in any proceeding in the Land Registration Court.

(2) Any sum ordered to be paid under subsection (1) shall be recoverable by the Government in the manner prescribed by section 50.

(3) The costs of the parties to any proceedings in the Land Registration Court shall ordinarily be paid by the parties incurring them:

Provided that the Recorder of Titles may, whenever he disallows any claim in whole or in part and the claim or the part thereof disallowed is in his opinion frivolous, vexatious or fraudulent, order that the expenses, or such portion thereof as he determines, incurred by the Government or by any person who

has opposed the claims, shall be paid to the Government or to such other person, as the case may be, by the person whose claim is disallowed.

Action to recover possession of land to lie in certain cases

34. Any person claiming to be wrongfully deprived of immovable property or of any estate or interest therein by fraud or by any error, omission or misdescription in a certificate of title may bring and prosecute an action at law for the recovery of the property or of any estate or interest therein against—

(a) the person to whom a certificate of title in respect of the property or estate or interest therein has been granted, by reason of that fraud or with that error, omission or misdescription herein;

(b) any person who has acquired a title to the property or estate or interest therein with knowledge of that fraud, error, omission or misdescription.

Notice of action; limitation of actions

35. No action for recovery of immovable property or any estate or interest therein shall lie or be sustained against the person referred to in section 34 unless notice of the action has been given to the Recorder of Titles and the action is commenced within twelve years from the grant of the certificate of title in respect of the immovable property, estate or interest:

Provided that—

(i) any person who at the time of the grant of the certificate was under the disability of infancy or unsoundness of mind may bring the action within twelve years from the date upon which the disability ceases;

(ii) the times hereby fixed for prosecuting claims shall only begin to run against persons claiming estates in remainder or reversion from the time when those persons acquired a right of possession or enjoyment of the immovable property or estate or interest therein which forms the subject of their claims.

Protection of purchasers, lessees and mortgagees

36. Whenever the person against whom an action could be brought under section 34 has, before notice is given to the Recorder of Titles as provided in section 35, alienated, demised or encumbered the immovable property for valuable consideration, and the alienee, lessee or mortgagee has duly registered the alienation, demise or encumbrance, all rights and claims in or to the immovable property or any interest therein which under this Act should be the subject of a certificate of title or an

endorsement thereon shall, unless evidenced by a certificate of title or an endorsement thereon made under this Act, be deemed to be extinguished and void as against the alienee, lessee or mortgagee for valuable consideration, saving however the right of any person to proceed against the person to whom the certificate of title has been granted or his estate to recover such sum as may, in the opinion of the court before which the claim is prosecuted, be equivalent to the injury which he has sustained by the loss of the immovable property, interest or estate.

Rights barred if no claim made

37. Save as is expressly provided in this Act to the contrary, every right, title or interest in any immovable property in respect of which a claim should have been made under section 15 shall, if a claim has not been made in respect thereof in the manner and within the period prescribed on the expiration of six months from the application of this Act to that immovable property, expire; and any claim to such a right, title or interest, whether made by the person who should have made a claim or by a person claiming through him, shall be absolutely barred.

Saving of rights of Government and of public

38. Nothing in this Act shall be held to affect the rights of the Government, except where it is otherwise expressly provided, or any rights which the public may possess or be entitled to in respect of any immovable property.

Records of Title as may summon person to produce certificate of title for cancellation or correction

39.(1) In case it appears to the satisfaction of the Recorder of Titles that—

(a) a certificate of title has been issued in error or contains a variation from the judgment or judgments relating to the immovable property the subject of the certificate; or

(b) a certificate of title has been fraudulently or wrongfully obtained,

he may call upon the person to whom the certificate has been so issued or by whom it has been so obtained and is retained to deliver it up for the purpose of being cancelled or corrected as the case may require.

(2) If any person refuses or neglects to comply with a requisition under subsection (1), or cannot be found, the Recorder of Titles may issue a summons for that person to appear before him and show cause why the certificate should not be delivered up to be cancelled or corrected.

(3) If any person when served with a summons neglects or refuses to attend before the Recorder of Titles at the time therein appointed, the Recorder of Titles may issue a warrant authorizing and directing the person so summoned to be apprehended and brought before him for examination.

Procedure on summons

40.(1) Upon the appearance before the Recorder of Titles of any person called upon, summoned or brought up by virtue of a warrant, the Recorder of Titles may examine him upon oath, and may order him to deliver up the certificate of title.

(2) Upon refusal or neglect by a person to deliver up the certificate pursuant to an order under subsection (1), the Recorder of Titles may commit that person to prison.

(3) Upon refusal or neglect, or in case the person has absconded so that a summons cannot be served upon him, the Recorder of Titles shall, if the circumstances of the case require it, issue to the proprietor of the immovable property a secondary certificate of title as is authorized under sections 41 and 42 to be issued in the case of a certificate of title being lost, mislaid or destroyed, and shall enter in the register notice of the issuing of the secondary certificate of title and the circumstances under which it was issued, and such other particulars as he may deem necessary.

(4) A secondary certificate shall be available for all purposes and uses for which the certificate of title which was not produced upon the order of the Recorder of Titles would have been available and valid in law.

Records of Title may issue secondary certificate of titles

41.In the event of a certificate of title being lost, mislaid or destroyed, the Recorder of Titles may issue to the proprietor thereof, if satisfied by such evidence as he may require or by a sworn declaration (to be made by the proprietor before him or before a person qualified to administer oaths) stating the circumstances and giving full particulars of the land and interest therein concerned, a certificate containing an exact copy of the certificate of title contained in the register.

Notice to be given before issue of such certificate

42.The Recorder of Titles shall, as and when he proposes to issue a secondary certificate or a certificate in the place of one lost, mislaid or destroyed, give in the Gazette ninety days' notice prior to issue of his intention to make the issue in the absence of any valid objection thereto within the period stated.

Offences and penalties

43.(1) If any person—

(a) fraudulently or falsely makes or assists in making a false or fraudulent claim, declaration or application under this Act, or is privy to the false or fraudulent making of any such claim, declaration or application, or gives or procures the giving or is privy to the giving of false evidence in respect of any claim to any right, title, estate or interest in immovable property under this Act, or fraudulently procures or assists in fraudulently procuring or is privy to the fraudulently procuring of any certificate of title or other instrument or any entry in the register or any erasure or alteration in any entry in the register or in any instrument or form issued by the Recorder of Titles; or

(b) fraudulently uses, assists in fraudulently using or is privy to the fraudulent using of any form purporting to be issued by the Recorder of Titles; or

(c) knowingly misleads or deceives any person hereinbefore authorized to demand explanation or information in respect of immovable property which is the subject of a claim under this Act; or

(d) wilfully damages, removes, defaces, covers up, renders useless, invisible or irre recognizable or in any way whatsoever tampers or deals with boundary marks of any description provided for in this Act, or causes or procures or is privy to the causing or procuring of the damaging, removing, defacing, covering up or rendering useless, invisible or irre recognizable or in any way whatsoever tampering or dealing with any boundary marks, without the lawful order in writing of an officer duly authorized in that behalf,

he shall be guilty of an offence and liable to imprisonment for a term not exceeding three years or to a fine not exceeding six thousand shillings, or to both such imprisonment and fine.

(2) Any certificate of title, entry, erasure or alteration so procured or made by fraud shall be void as between all parties or persons privy to the fraud.

Conviction not to affect remedy of persons injured

44.No proceeding or conviction of any act declared to be an offence under this Act shall affect any remedy which a person aggrieved or injured by that act may be entitled to against the person who has committed the act or against his estate.

Recorder of Titles may issue writ of possession in favour of Government

45.The Recorder of Titles may, on the application of the Commissioner of Lands, issue a writ of possession in favour of the Government in the prescribed form in respect of any land which, by virtue of section 17, is deemed to be Government land, and the writ shall be enforced according to the terms thereof by an officer of the Land Registration Court or the High Court.

Persons hindering execution of writ may be called upon to show cause

46. If, in the execution of a writ of possession issued under section 45, the officer charged with the execution of the writ is resisted or obstructed by any person, or if after the officer has delivered possession the person placed in possession is hindered by any person in taking complete and effectual possession, the Commissioner of Lands may at any time within one month from the time of the resistance or obstruction or hindrance complain thereof to the Recorder of Titles, and the Recorder of Titles shall appoint a day for the determination of the complaint and intimate to the person resisting or obstructing or hindering the writ that he will be heard in opposition to the complainant if he appears before the Recorder of Titles for that purpose on the day so appointed.

Penalty for hindering execution of writ

47. On the hearing of the complaint, the Recorder of Titles, if he is satisfied of the obstruction or resistance or hindrance complained of, may sentence the person or persons so obstructing or resisting or hindering to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings.

Exemption from stamp duty

48.No certificates of titles issued under this Act shall be liable to stamp duty.

Fees

49.The fees specified in the Second Schedule shall be payable in respect of the several acts, matters and things therein mentioned.

Payment of fees,
G.N.1603/1955,
L.N.172/1960

50. (1) The Recorder of Titles shall fix a date within which the fee payable in respect of a certificate of title shall be paid by the person entitled to the certificate.

(2) If the fee has not been paid by that date, the Recorder of Titles shall endorse on the certificate the sum then payable in respect of the certificate, together with a note that the sum is due and payable to the Government, and shall then issue the certificate to the person entitled thereto.

(3) In the case of every certificate of title, the sum endorsed thereon shall be a debt due to the Government from the person to whom the certificate has been granted and his heirs and successors, and, in the case of a certificate of ownership, shall have priority over all charges or interests over the land the subject of the certificate, whether existing at the date of the certificate or created thereafter.

(4) Until the fee payable in respect of a certificate of ownership has been paid, any sale, mortgage, charge or other disposition of the land the subject of the certificate or any right or interest in or over that land, and every agreement for the sale, mortgage, charge or other disposition (except a devise by will or any lease for a period not exceeding twelve months), to which the consent of the President has not been expressed, shall be void.

(5) The Minister may, in any case he may think proper, authorize the Recorder of Titles to remit the whole or a portion of the fee payable in respect of a certificate of title, and in that case the Recorder of Titles shall endorse the certificate with a note of the remission.

Protection of Recorder of Titles

51. The Recorder of Titles shall not individually, nor shall any person acting under his authority, be liable to any action, suit or proceeding for or in respect of any matter bona fide done or omitted to be done under this Act.

Grant of certificate of title where claimant has agreed to exchange with Government

52. (1) Whenever the Recorder of Titles, in the course of dealing with any claim or claims under this Act, is satisfied that any person who has made a claim for a certificate of ownership has agreed with the Government to surrender to the Government his rights and interests in or over the immovable property claimed in consideration of the Government granting to him a certificate of ownership in respect of other immovable property in the district, area or place to which this Act has been applied, he may issue to that person a certificate of ownership in respect of the area of Government land which the Government has agreed to grant to him and he has agreed to accept.

(2) In every such case the Recorder of Titles shall record in the file relating to the claim made by the claimant the fact that he has surrendered to the Government all his rights and interest in and over the immovable property claimed and that the certificate granted has been granted in consideration of the surrender.

(3) That record shall for all purposes be conclusive evidence of the facts therein set forth.

Grant of certificate of title where no valid claim made

G.N.1603/1955,

L.N.172/1960

53. If the Recorder of Titles, in the course of dealing with any claim under this Act, is satisfied that any person has any interest in any Government land subject to this Act but is prevented from asserting that claim by reason only that he has not made a claim in respect thereof in the manner or within the time prescribed, the Recorder of Titles may, with the consent of the Minister or of such officer as the Minister may appoint in that behalf, grant to that person a certificate which the Recorder of Titles is satisfied that he would have been entitled to had he made a claim under and in accordance with this Act.

PART III—REGISTRATION OF DOCUMENTS AFTER A CERTIFICATE OF OWNERSHIP GRANTED

Application of Part.

54. This Part shall apply to all holdings in respect of which a certificate of ownership has been issued by the Recorder of Titles.

Interpretation Part

55. For the purposes of this Part—

(a) each parcel of land the subject of a certificate of ownership shall be deemed to be a separate holding; and

(b) "holding" includes the land and the coconut trees, houses and buildings for the time being on the land.

Principal Registrar and registrars

56.(1) The President may appoint, by notice in the Gazette, such person as he may think fit to be the Principal Registrar for the purposes of this Part.

(2) The President may appoint, by notice in the Gazette, such person or persons as he may think fit to perform the duties of the registrar under this Part, and may define the area or areas in respect of which the person or persons shall perform those duties.

(3) A registrar appointed under subsection (2) shall have, for and on behalf of the Recorder of Titles, the custody of the register, provided for by section 26, relating to the area in respect of which he is appointed.

Documents to be registered

24 of 1959,s.7. Cap. 281

57.After the issue of a certificate of ownership of a holding under this Act every document affecting the holding or any interest in the holding shall, subject to the provisions of this Part, be registered in the register:

Provided that powers of attorney relating to or affecting any such holding or any interest in any such holding, and revocations of those powers, which have been duly registered under and in accordance with the Registration of Titles Act shall be deemed to have been registered under and for the purposes of this Act.

Effect of non-registration

24 of 1959,s.8

58. Every document unless so registered shall be deemed void against all parties claiming an adverse interest thereto for valuable consideration by virtue of any subsequent document which has been duly registered:

Provided that—

(i) fraud or collusion in obtaining the last-mentioned document, or in securing the prior registration, shall defeat the priority of the person claiming thereunder ;

(ii) priority shall not be lost merely in consequence of the person claiming under the registration having been affected with actual or constructive notice of the document first executed, except in case of actual fraud;

(iii) nothing herein contained shall be deemed to give any greater effect or different construction to any document registered in pursuance thereof, save the priority hereby conferred on it;

(iv) priority shall not be affected by the subsequent registration of any document executed before the document first registered; and

(v) nothing in this section shall apply to the following documents, nor shall they be capable of registration—

(a) a composition deed;

(b) a document relating to shares in a joint stock company, notwithstanding that the assets of the company consist in whole or in part of immovable property subject to this Part;

(c) a debenture given by such a company and creating only a floating charge over the assets of the company (notwithstanding that the charge, upon the happening of a subsequent event, becomes fixed upon all or any of the assets):

Provided that this section shall nevertheless apply to such a debenture if it is not protected by a caveat registered under section 72;

(d) an endorsement upon or transfer of any debenture issued by any such company;

(e) a document not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property subject to this Part, but merely creating a right to obtain another document, which will, when executed, create, declare, assign, limit or extinguish any such right, title or interest; or

(f) a lease for one year only or for any term not exceeding one year.

No charge to be created except by registered document

24 of 1959,s.9

59.(1) No lien, charge or mortgage (other than such as may arise or be created in favour of the Government under or by virtue of any Act or other enactment) shall be created or effected so as to be of any legal validity upon or in respect of a holding or interest therein, unless it is created or effected by a last will, of which probate is resisted under this Act, or by the order of a competent court or by a duly executed instrument, such order or instrument being duly registered under this Part.

(2) Nothing in this section

(a) shall affect the lien of any advocate in respect of taxable costs, charges or expenses due to or incurred by him in connexion with the holding or any interest therein;

(b) shall apply to an equitable mortgage by deposit of documents of title, if a memorandum of the equitable mortgage has been registered in the register; and on the discharge of the equitable mortgage a memorandum of discharge shall be registered in the register; and every memorandum shall be transmitted to the registrar of the area in which the immovable property thereby affected is situated in duplicate, and shall be in such form, and there shall be paid on the registration thereof such fee, as may be prescribed.

Priority given by registration not by execution

24 of 1959,s.10

60. (1) Except as is hereinafter otherwise provided, every document presented for registration shall be accompanied by the prescribed form and fee, and shall be registered in the order of time in which it is presented for that purpose; and documents registered in respect of or affecting the same land shall be entitled to priority according to the date of registration, and not according to the dates of the respective documents.

(2) The registrar, upon registration thereof, shall file a photostat copy in the register and shall deliver the original to the person entitled thereto, and, so soon as registered, every document shall for the purposes of this Act be deemed and be taken to be embodied in the register as part and parcel thereof.

(3) The time of presentation endorsed on the document in the registry shall be deemed to be the time of registration.

Registration of judgements, decrees and orders of court

61. A court in which a judgment, decree or order has been pronounced, granted or made relating to or affecting any immovable property subject to this Part, or any right, title or interest therein, shall transmit a copy thereof to the registrar for the purposes of registration, along with any map or plan which may have been put in evidence and referred to in the judgment, decree or order:

Provided that the judgment, decree or order shall not be registered unless and until the prescribed fee has been paid by the persons in whose favour it is pronounced, granted or made.

Registration of probates and letters of administration

62.(I) On the death of any person possessed of or entitled to immovable property or interest therein subject to this Part, the person to whom probate of the will or letters of administration has been granted, and every wasi or court administering the estate of a deceased African, shall—

(a) forthwith apply to the registrar for the registration of the will or letters of administration, or of the order of the court appointing the wasi, or declaring that the estate shall be administered by the court; and

(b) transmit to the registrar for registration a document in which are set out the names of the person or persons on whom the immovable property subject to this Part of the estate of the testator or intestate have devolved together with a sufficient description, for the purposes of identification, of the immovable property, and a statement as to the estate or interest therein of each person.

(2) Any person who fails to comply with the requirements of subsection (1) shall be guilty of an offence and liable to a fine not exceeding six hundred shillings; but no proceedings under this subsection shall be taken except on an information or complaint laid by the Principal Registrar.

Provision regarding property in local authority area

24 of 1959,s, 11, 13 of 1972. Sch. Cap. 267

63. (1) The registrar shall not register any document purporting to transfer immovable property to which this Part applies situated within the area of jurisdiction of a local authority unless there is produced to the registrar the written statement referred to in section 21 of the Rating Act and unless that statement is expressed to be available until the day upon which, or until a day not earlier than that upon which, the document was registered.

(2) The registrar shall not register any document purporting to transfer or create any interest in land unless a certificate is produced to him certifying that no rent is owing to the Government in respect of the land, or that the land is freehold.

Registrar may call for proof and give notice to third parties

24 of 1959,s.12

64. (1) A registrar may require any person applying for the registration of a document to prove its due execution, and the identity of the immovable property affected by the document or of the parties to it, and, in case of an authenticated copy other than the copy of a judgment, decree or order of a court, the loss or destruction of the original; and, where he may have reason to believe that a fraud has been or is

about to be committed on any person, he shall give notice to that person of the intended registration in order to prevent it being effected to his prejudice.

(2) If the registrar is satisfied upon inquiry that the document was duly made and, in the case of an authenticated copy, of the loss or destruction of the original, and as to the identity of the immovable property or the parties, and that there is no reason to believe that a fraud has been or is about to be committed, he shall register the document, and the registration shall take effect from the time of presentation.

(3) If he is not satisfied, he shall refuse to register the document, and shall return it unregistered, together with a statement of his reasons in writing.

Plans and description of property

65. (1) A document (other than a judgment, decree or order of a court) to which there is attached a map or plan which is not signed by the Director of Surveys shall not be accepted for registration.

(2) The registrar shall not register any document presented for registration unless a clearly written description of the property concerned is attached thereto signed by the Director of Surveys, nor shall any document be presented for registration if the description is insufficient to identify the parcel therein referred to without a plan attached signed by the Director of Surveys:

Provided that—

(i) in the case of refusal, if the document is presented for registration together with a plan to the satisfaction of the registrar within such time as the registrar considers reasonable under the circumstances of the case, the registration of the document shall take effect as from the time when it was first presented for registration;

(ii) an appeal shall lie against an order made by a registrar under this subsection to the Principal Registrar, and the Principal Registrar may reverse or alter that order; but if the Principal Registrar confirms the order of the registrar, his decision thereon shall be final.

Mode of description of property

66. (1) Every document or copy thereof produced for registration shall contain embodied therein, or in a schedule annexed thereto, an accurate and clear description of the property affected thereby and its boundaries, extent and situation, and a reference to the volume and folio of the register in which the property has been previously registered.

(2) If the property consists of a divided portion of land, the property of the person alienating it or any interest therein that portion shall be clearly and accurately defined by its particular boundaries and extent.

(3) If the property consists of undivided share in immovable property, the proportion which it bears to the entire property shall be stated, and a description of the entire property shall be given as required by subsection (1).

Admission of documents containing insufficient description or particulars

67. No document which does not state the particulars required by section 66 shall be admitted to registration, except with the sanction of the Principal Registrar upon the necessary particulars being supplied by affidavit by the person producing the document for registration and on such other terms as the Principal Registrar may think expedient.

Documents unsuitable for photostat copying

24 of 1959, s. 13

68. The registrar may refuse to register any document which he considers unsuitable for photostat copying.

Appeal from order refusing registration

69. (1) An appeal shall lie against an order refusing to register any document from the registrar to the Principal Registrar, and the Principal Registrar may reverse or alter the order.

(2) Any person dissatisfied with the decision of the Principal Registrar on appeal may, except as otherwise provided in subsection (2) of section 65, appeal to the High Court within thirty days from the decision being communicated to him.

Where registration ordered conditionally

24 of 1959, s. 14

70. (1) If the registration of the document is ordered by the Principal Registrar or the High Court to be made on condition of payment of a fee for registration or other terms, then upon the compliance of the person seeking registration with the condition or terms the registrar shall register the document, and the document shall be deemed to have been registered on the date of compliance.

(2) If the Principal Registrar or the High Court decides that the document should have been registered when originally tendered to the registrar, the document shall, upon registration, be deemed to have been registered at the time of its presentation.

Document not written in specified language to be accompanied by translation

71. If any document presented for registration is not written in English, Arabic or Kiswahili, or such other language as may from time to time be prescribed, either generally or locally, the registrar shall refuse to register it unless it is accompanied by a true translation in English, certified to the satisfaction of the registrar.

Caveats

24 of 1959, s. 15. Cap.486

72. (1) Any person claiming the right, whether contractual or otherwise, to obtain some defined interest in land capable of creation by an instrument registrable under this Act, and any person in whose favour a debenture has been executed by a company within the meaning of the Companies Act or by a company to which Part X of that Act applies, creating a floating charge over land (hereinafter called the caveator) may lodge a caveat with the registrar forbidding the registration of any document affecting the property either absolutely or unless the transaction is expressed to be subject to the claim of the caveator as may be required in the caveat, or to any conditions conformable to law expressed therein.

(1A) For the prevention of any fraud or improper dealing or for any other sufficient cause, the Registrar may lodge a caveat which shall be in the prescribed form forbidding the registration of any document affecting the land the subject thereof absolutely.

(2) A caveat lodged under subsection (1) shall be in the form in the Third Schedule and shall be verified by the oath of the caveator or his agent and shall contain an address within Kenya at which notices may be served.

(3) Upon the receipt of a caveat, the registrar shall make a memorandum thereon of the date and hour of the receipt thereof and shall enter a memorandum thereof in the register, and shall forthwith send a notice of the caveat, by post or otherwise, to the person against whose title the caveat has been lodged (hereinafter called the caveatee).

(4) So long as any caveat remains in force prohibiting the transfer or other dealing with the land, the registrar shall not, unless the caveator consents or (if the caveat does not forbid registration absolutely)

the transaction is expressed to be made subject to the claim of the caveator or to any conditions expressed in the caveat, enter in the register any memorandum of transfer or other instrument purporting to transfer or otherwise deal with or affect the land in respect to which the caveat is lodged.

(5) The proprietor or other person claiming the land may, by summons, call upon the caveator to attend before the court to show cause why the caveat should not be withdrawn, and the court may, upon proof that the caveator has been summoned and upon such evidence as the court may require, make such order in the premises, either *ex parte* or otherwise, as to the court seems fit; and where a question of right or title requires to be determined the proceedings shall be as nearly as possible in conformity with the rules of court in relation to civil causes.

(6) Except in the case of a caveat lodged by the registrar, the caveatee may make application in writing to the registrar to remove the caveat, and thereupon, and upon payment of the prescribed fee, the registrar shall give twenty-eight days notice in writing to the caveator requiring that the caveat be withdrawn, and after the expiration of the notice the registrar shall remove the caveat from the register by entering a memorandum that it is discharged, unless he has previously been served with an order of the court extending the time as herein provided.

(7) A caveatee shall in an application under this section give an address in Kenya at which notices and proceedings may be served.

(8) The caveator may, either before or after receiving the notice from the registrar, apply by summons to the court for an order to extend the time beyond the twenty-eight days mentioned in the notice, and the summons may be served at the address given in the application of the caveatee, and the court may, upon proof that the caveatee has been summoned and upon such evidence as the court may require, make such order in the premises, either *ex parte* or otherwise, as the court thinks fit.

(9) The caveator may, by notice in writing to the registrar, withdraw his caveat at any time, but withdrawal shall not prejudice the power of the court to make an order as to payment by the caveator of the costs of the caveatee incurred before the receipt by the caveatee of the notice withdrawing the caveat.

(10) An entry shall be made by the registrar in the register of the withdrawal, lapse or removal of any caveat or of any order made by the court.

(11) The same person or anyone on his behalf shall not lodge a further caveat in relation to the same matter and against the same title.

(12) Any person, other than the registrar, lodging or continuing any caveat wrongfully and without reasonable cause shall be liable to make compensation to any person who may have sustained damage thereby.

Fee to be paid before registration

24 of 1959, s.16

73. Neither the Principal Registrar nor any registrar shall be required to register any document or do any other act under this Act unless the prescribed fee has been paid.

Method of registration

24 of 1959, s.17

74. (1) Save as may be otherwise prescribed by this Act, the registrar, on payment of the prescribed fee, shall file a photostat copy of every document to be registered, and, in the case of a document falling within section 71, also of the translation, in such part of the register as relates to the land affected by the document.

(2) Every such copy filed shall bear the number of the volume and folio in which it is registered and the date of registration.

Document when registered to be endorsed by registrar

75. The registrar shall, immediately after registration, make and sign an endorsement thereof on the document registered, and deliver it to the person who presented it for registration, or his agent or representative, and the endorsement shall be substantially in form C in the Third Schedule.

Where holdings lying in two or more registration areas

76. Documents affecting holdings lying in the areas of two or more registrars shall be registered in the office of the registrar of each such area.

Power of registrar to hold inquiry

77. For the purposes of inquiries under this Part, the Principal Registrar and any registrar may cite and examine witnesses upon oath or affirmation and call for the production of any document material to the inquiry from the person having custody of the document.

Appeal to Supreme Court

27 of 1961, Sch.

78. Every appeal to the High Court under this Part shall be dealt with and disposed of in such manner as the Chief Justice shall, by rules of court, prescribe.

Protection of registrars

79. The Principal Registrar, registrar or a person acting under his orders shall not be liable to any action, suit or proceeding for or in respect of any matter bona fide done or omitted to be done under this Act.

Searches

24 of 1959, s.18

80. Any person desiring information may apply either—

(a) in person to the Land Titles Registry, and, on completion of the prescribed form and on payment of the prescribed fee, may inspect the register relating to the title or documents specified in the form; or

(b) by post on the prescribed form and on payment of the prescribed fee, and the registrar shall then complete and return to the applicant a postal search certificate limited to the matters specified in the form.

Errors in register may be corrected

24 of 1959, s. 19

81. The registrar may, upon such evidence as shall appear to him sufficient and subject to any rules made under this Act, correct errors and supply omissions in the register or in any entry therein, and may call in any outstanding document for that purpose.

Cancellation of determined entries and destruction of spent documents

24 of 1959, s. 20

82. (1) The registrar may at any time, after such inquiry and notices, if any, as he may consider proper and upon production of such evidence as may be prescribed or as he may deem necessary, withdraw from the register by cancellation or otherwise any document or entry which he is satisfied has determined or ceased or been discharged, or for any other reason no longer affects or relates to immovable property subject to this Act.

(2) The registrar may also direct the destruction of any document in his possession or custody which has become altogether superseded by any entry in the register, or has ceased to have any effect.

Cap. 285 not to apply to documents registrable under this Act

83. The Registration of Documents Act shall not apply to any document registrable under this Act:

Provided that, if any document relates both to immovable property which is subject to this Act and to other immovable property not so subject, that document shall be registered under this Act, and, if the document is one the registration whereof is compulsory under the Registration of Documents Act, it shall also be registered under that Act.

PART IV—SUPPLEMENTAL

Saving of things done under certain rules

84. Any matter or thing done or any order, decree or judgment made or given under and in pursuance of the Rules made under this Act and dated the 29th August, 1912, or of the Rules made under this Act and dated the 5th February, 1913, and not reversed or set aside shall be deemed to have been lawfully done, made or given, notwithstanding anything in this Act to the contrary.

Where claimant transfers land, transferee may give notice of transfer

85. (1) Whenever, in the interval between the date of his claim and the date of judgment being given by the Recorder of Titles on the claim, a claimant transfers the land or portion of the land in respect of which he has claimed that he is entitled to a certificate of ownership, and the transferee cannot, by reason of the time for making claims under section 15 having expired, make a claim in respect of the land under that section, the transferee may give notice in writing to the Recorder of Titles of the sale or transfer together with the name of the transferor and such other particulars as may be required to identify the land.

(2) A transferee giving notice under this section shall pay to the Recorder of Titles a fee of four shillings.

Transferee may be heard as if he had made claim for ownership

86. Whenever notice has been given in accordance with section 85, the transferee shall be entitled to appear and be heard in the Land Registration Court as if he had duly made a claim for a certificate of ownership in respect of the land of which in the notice he claims to be such transferee.

Recorder of Titles to adjudicate as if original claimant and transferee had made claim

87. Upon receipt of the notice, the Recorder of Titles shall inquire into the claim of the original claimant and that of the transferee, and shall enter judgment thereon, and shall issue certificates and do all acts or things required to give effect to any judgment entered as if both the original claimant and the transferee had made claims under section 15.

Notice of transfer made after Recorder of Titles' judgment but before issue of certificate

88.(1) Whenever, in the interval between the date of judgment given by the Recorder of Titles in favour of an applicant for a certificate of ownership and the issue of the certificate, the ownership of the land or of any portion thereof is transferred to any other person, the transferee may give notice of the transfer to the Recorder of Titles together with such particulars as may be required to identify the land.

(2) A transferee giving notice under this section shall pay to the Recorder of Titles a fee of four shillings.

Recorder of Titles to give effect to such transfer

89. Whenever notice has been given under and in accordance with section 88, the Recorder of Titles shall inquire into the matters of which notice has been given, and if satisfied as to the transfer shall record a note of the transfer in the file of the case relating to that land, and shall issue certificates and do all acts or things necessary to give effect to the transfer as if the transferee had made a claim for a certificate of ownership under section 15.

Transferee to pay cost of additional survey or marks, etc.
G.N.1603/1955 L.N.172/1960

90. If by reason of transfer of land after the date of the claim by the transferor it is necessary to demark or delineate any boundary, or to cause any boundary mark to be placed, or to make any survey or prepare any map or plan, which would not have been necessary had the transfer not been effected, the transferee shall pay to the Recorder of Titles the cost of those works or things in addition to any other payment which he may be required by this Act or any rules thereunder to make, and until that amount has been paid the transferee shall not be entitled to receive and shall not, without the sanction of the Minister, be granted a certificate of ownership.

Notice of mortgage or other interest created after time for making claims has expired but before grant
of certificate

91. (1) Any person desiring that any mortgage or other encumbrance or any lease, or any right or interest, of, in or over any property, granted or created after the time has expired for making claims under this Act and before a certificate in respect of that property has been issued, shall be noted in any certificate of ownership, may give notice in writing to the Recorder of Titles of that mortgage, encumbrance, lease, right or interest.

(2) A person giving notice under this section shall pay to the Recorder of Titles a fee of two shillings in respect of each mortgage, encumbrance, lease, right or interest of which notice is given.

Recorder of Titles to adjudicate on such mortgage or interest

92. Whenever a notice is given to the Recorder of Titles under section 91, the Recorder of Titles shall adjudicate on the right of the person to have the mortgage, encumbrance, lease, right or other interest of which notice has been given noted on the certificate of ownership as if the person giving notice had made a claim for a certificate of mortgage or a certificate of interest under and in accordance with this Act, and, if the mortgage or other interest is proved to his satisfaction, shall note the certificate granted in respect of the property in accordance with his judgment.

Notice of transfer of mortgage or other interest after time for making claims has expired but before grant of certificate

93.(1) Any person to whom any mortgage or other encumbrance or any lease, right or interest, in respect of which a claim for a certificate of title has been made under this Act, is transferred after the time has expired for making claims under this Act but before the grant of a certificate, may give notice in writing of the transfer to the Recorder of Titles.

(2) A person giving notice under this section shall pay to the Recorder of Titles a fee of two shillings.

Power of Recorder of Titles to grant certificate of mortgage or other interest

94. Whenever notice is given under section 93, the Recorder of Titles shall adjudicate on the right of the person who has given notice to receive a certificate of mortgage or a certificate of interest as if that person had made a claim for the certificate, and if the mortgage, encumbrance, lease, right or interest and the transfer thereof is proved to the satisfaction of the Recorder of Titles he shall issue a certificate in respect thereof to the transferee.

95. The provisions of this Act shall not apply to any person claiming to be a proprietor of or having any interest in immovable property under a conveyance, lease or licence issued under the East Africa Land Regulations, 1897, the Crown Lands Ordinance, 1902, or the Government Lands Act.

Certificate of title in respect of Government land to be registered in Government Lands register
26 of 1897. 21 of 1902. Cap.280

96. (1) In any case in which a person claiming under a conveyance, lease or licence issued under the East Africa Land Regulations, 1897, the Crown Lands Ordinance, 1902, or the Government Lands Act to be a proprietor of or to have any interest in immovable property has applied to the Land Registration Court for a certificate of title and the Land Registration Court has granted a certificate of title in respect of that claim, the certificate of title shall be registered without further fee in the register of Government lands.

(2) In any case in which the Land Registration Court grants a certificate of interest in respect of land held under a conveyance, lease or licence from the Government, other than a certificate of title in respect of the conveyance, lease or licence, the certificate of interest shall be registered without further fee in the register of Government lands.

(3) Part X of the Government Lands Act shall apply as if the expression "land registered under this Part" used therein included Government land in respect of which the Land Registration Court had granted a certificate of title.

Part III not to apply to entries in Government lands register

97. Part III of this Act shall not apply to certificates of ownership registered under this Act in the register of Government lands.

Issue of decree by Recorder of Titles and execution thereof.
Cap. 21

98.(1) The Recorder of Titles may issue a decree for any fees or costs due in respect of any adjudication or order on any claim or application made under this Act, and shall have all the powers relating to the execution of decrees of a civil court under the Civil Procedure Act in respect of decrees issued by him.

(2) The Attorney-General for and on behalf of the Government may apply for the issue of a decree and execution thereof in respect of any costs or fees due to the Government under an adjudication or order of the Recorder of Titles.

Rules
24 of 1959.s.21

99.The Minister may make rules under this Act for any of the following purposes—

- (a) prescribing the person by whom and the manner in which immovable property shall be valued for the purposes of this Act;
- (b) fixing the charge to be made in respect of anything done in or emanating from the office of the Recorder of Titles under this Act;
- (c) fixing the fees to be levied in the Land Registration Court;
- (d) prescribing the procedure to be followed on an appeal to the High Court from a judgment or order of the Recorder of Titles, the persons who shall have a right of audience on appeal and the persons in favour of whom or against whom the costs of appeals may be awarded;
- (e) prescribing fees and forms, either in lieu of or in addition to those set out in the First, Second and Third Schedules, in respect of any act, matter or thing to be done under this Act or any rules made thereunder;
- (f) for the better carrying out of or rendering effective the provisions or intentions of this Act.