

CHAPTER 3 LAND REGISTRATION

- §101. Land commission; created; composition; appointment; primary purpose; powers generally. .
- §102. Same; supervision of chief of lands and surveys; promulgation of rules and regulations; supervision of land registration teams.
- §103. Same; appointment of land registration teams; conflicts of interests.
- §104. Same; designation of registration areas.
- §105. Filing of designation of registration area; actions concerning lands in designated areas.
- §106. Survey and establishment of boundaries in designated registration areas
- §107. Land registration teams; duties generally.
- §108. Same; settlement of disputed claims.
- §109. Same; review of record of adjudication by land commission
- §110. Same; notice of hearing.
- §111. Authority of land commission and registration teams to administer oaths, take testimony, etc.
- §112. Conduct of hearings.
- §113. Hearings involving minors or incompetents.
- §114. Notice of determination of ownership .
- §115. Appeal from determination of land commission .
- §116. Concurrence of majority present required for decision by commission.
- §117. Issuance of certificate of title .
- §118. Register of titles .
- §119. Transfers and encumbrances of interest in lands registered.
- §120. Official land gazette.

§101. Land commission; created; composition; appointment; primary purpose; powers generally.

There shall be a land commission in each administrative district of the Trust Territory consisting of a senior commissioner and not more than two additional commissioners, if any. They shall all be appointed by the High Commissioner, who shall decide, within the limits indicated, the number of members on each commission.

The senior commissioner shall devote his full working time to work of the commission. The primary purpose of the commission shall be to proceed on a systematic geographical basis to accomplish promptly the registration of as much of the land as practical within such registration areas within its district as it determines.

Each commission is authorized and empowered, subject to the provisions of this chapter, to determine the ownership of any land in its district, but it shall endeavor to avoid becoming involved in such lengthy consideration of disputed claims as to seriously delay the registration program. (Code 1966, § 1025; Code 1970, tit. 67, § 101.)

Source: 67 TTC 3 § 101, modified.

§102. Same; supervision of chief of lands and surveys; promulgation of rules and regulations; supervision of land registration teams.

Each land commission shall be under the administrative supervision of the chief of lands and surveys, who, with the approval of the High Commissioner, shall have the

power to prescribe rules and regulations implementing this chapter. Such rules and regulations shall have the force and effect of law and a copy thereof shall be filed by the chief of lands and surveys with each clerk of courts. Each land registration team shall be under the administrative supervision of the commission which appointed it.

Each commissioner and each member of a land registration team, however, is to be allowed and is expected to exercise the same independence of judgment as a judge. (Code 1966, § 1037; Code 1970, tit. 67, S 102.)

Source: 67 TTC 3, § 102, modified.

§103. Same; appointment of land registration teams; conflicts of interests.

(a) Each land commission shall appoint one or more land registration teams and designate the area or areas for which each team shall be responsible. Members of these teams shall be Trust Territory citizens who are at least twenty-five years of age and shall have resided at least ten years in the area or areas within which the land lies concerning which they are to act. Such appointment shall be for a term not to exceed one year, but each member may be reappointed for additional such terms at the discretion of the land commission. The commission may appoint any number of members for each team, but the presence of three members shall constitute a quorum for the purpose of transacting business. Written notice shall be given to each member seven days prior to any meeting. If a commissioner is available, he shall preside at any meeting of a land registration team, but the teams may also proceed without any commissioner being present.

(2) After a claim has been recorded by a team as provided in section 107 of this chapter, no member who has any interest in the claim or is a near relative of anyone having such an interest shall take any part in hearing or considering that claim. If there is doubt as to whether he is disqualified from taking part as to the claim, the land commission shall decide whether he may participate. (Code 1966, § 1026; Code 1970, tit. 67, § 103; P.L. No. 7-95, § 1.)

Source: 67 TTC 3, § 103, modified.

§104. Same; designation of registration areas.

The land commission shall designate a registration area or areas within which it believes it will be desirable and practicable to register within a year most of the land, including all that concerning which there are no major disputes. When work in any designated registration area has been completed except for disputed cases, or when work in any designated registration area cannot be completed and in the opinion of the commission public interest would be served by moving to a new registration area or areas, the commission may designate a new registration area or areas and so on until all parts of the district in which the commission believes it will be desirable to have lands registered have been so designated. (Code 1966, § 1027; Code 1970, tit. 67, § 104; P.L. No. 5-13, § 1.)

Source: 67 TTC 3, § 104, modified.

§105. Filing of designation of registration area; actions concerning lands in designated areas.

A copy of the land commission's designation of any registration area shall be filed with the clerk of courts for the district and thereafter the courts shall not entertain any action with regard to interests in land within that registration area without a showing of special cause why action by a court is desirable before it is likely a determination can be made on the matter by the land commission. Any court entertaining action as to such land shall notify the land commission promptly that it has decided to entertain the action, describing the land involved as accurately as practicable. (Code 1966, § 1028; Code 1970, tit. 67, § 105.)

Source: 67 TTC 3 § 105, modified.

§106. Survey and establishment of boundaries in designated registration areas.

Upon the designation of a registration area, it shall be the duty of the district surveyor to cause an accurate survey to be made of the exterior bounds of the area and thereafter to make such surveys of plots or claim and place such markers within the area as the commission may direct; provided however, that after a determination is made by the commission, the boundaries of the land covered by each determination shall be shown by either permanent markers or by easily recognizable, natural features. (Code 1966, § 1029; Code 1970, tit. 67, § 106.)

Source: 67 TTC 3, § 106, modified.

§107. Land registration teams; duties generally.

(1) A land registration team shall:

(a) Upon its appointment, institute a preliminary inquiry regarding the title to all lands claimed by individuals, families, lineages, clans, or otherwise, within the area for which it is responsible and, if satisfied that such claims are well-founded, shall record the same for hearing.

(b) When the recording of such claims has been completed for the area for which it is responsible, proceed, after notice, to hear the parties and witnesses and adjudicate such claims, subject to review by the commission and the exceptions provided in this chapter.

(c) On a decision being reached on any claim, record the place name, if any, of the land, otherwise a brief description thereof, together with the names of individuals, families, lineages, clans, or other bodies found to be the rightful owners thereof and the type of ownership involved, and shall also record the name of any person or group who holds either any subordinate rights (such as rights of administration) or use or any encumbrance or easement with respect to such land.

(2) Where the parties to any claim agree to a settlement or compromise in the presence of the team, the particulars required by subsection (3) of this section shall be recorded and shall have the same force and effect as a decision under this section.

(3) Upon completion of the actions set forth in subsections (1) to (4) of this section, the team shall submit its record concerning the claim to the commission for review. In all cases where dispute has arisen, the substance of all pertinent testimony taken shall be included in the team's record. (Code 1966, § 1030; Code 1970, tit. 67, § 107.)

Source: 67 TTC 3, § 107, modified.

§108. Same; settlement of disputed claims.

(1) Each land registration team shall endeavor to adjudicate the claims to as much land within the area for which it is responsible as is practicable within a year after that area has been designated. It shall endeavor to avoid becoming involved in such lengthy consideration of disputed claims as will seriously interfere with such adjudication.

(2) If the land registration team deems that consideration of a disputed claim will seriously interfere with accomplishment of the purpose of this chapter, it may refer the claim to the land commission for that district without the team's making any decision thereon.

(3) If a land commission deems that one of its teams is spending an undesirable amount of time on a particular disputed claim, it may withdraw that claim from consideration by the team.

(4) In either of the situations set forth in subsections (2) and (3) of this section, the team shall submit to the commission its record concerning the claim including the substance of all pertinent testimony, if any, taken by the team, and the commission may then proceed itself to hear the parties and witnesses and make a determination on the claim based on both the testimony, if any, taken by the team and that taken by the commission, or the commission may refer the claim to the trial division of the high court for adjudication without any determination by the commission.

(5) If a claim has been referred by a commission to the trial division of the high court without any determination by the commission, the trial division of the high court shall, after the time for appeal from its decision has expired without any notice of appeal having been filed or after an appeal duly taken has been determined, certify its decision, as modified by the appellate division if that has happened, to the land commission involved. The land commission shall then issue a certificate of title based thereon in the same manner as if based on a determination of the commission as provided in section 117 of this chapter. (Code 1966, § 1031; Code 1970, tit. 67, § 108.)

Source: 67 TTC 3 § 108, modified.

§109. Same; review of record of adjudication by land commission.

Upon receipt of an adjudication from a land registration team and the record on which it is based, the land commission shall review the record and shall:

(1) If satisfied therewith, make a determination of ownership based thereon; or

(2) Return the record to the land registration team with instruction concerning further hearing or other action; or

(3) Itself hold further hearing and then make determination of ownership based on the record and the further information obtained by the commission. (Code 1966, § 1032; Code 1970, tit. 67, § 109.)

Source: 67 TTC 3 § 109, modified.

§110. Same; notice of hearing.

(1) Before a land registration team commences hearing with respect to any claim, notice containing a description of the claim and the date, time, and place of hearing shall be given at least thirty days in advance of the hearing as follows:

(a) By posting such notice on the land involved in both English and the principal local language of the municipality in which the land is situated;

(b) By posting such notice, in the languages specified in paragraph (a) of this subsection, at the municipal office and the principal meeting place in the village in which or near to which the land is situated;

(c) By serving such notice upon all parties shown by the preliminary inquiry to be interested either

(i) By service in the same manner as a civil summons, or

(ii) By registered air mail, postage prepaid, to the party's last known address, if outside the district where the land lies; provided however, that in the case of a clan or lineage, notice shall be so given to the two senior male members resident within the municipality where the land lies, the two senior female members resident within the municipality where the land lies, and to the senior male title holder, if any, and the senior female title holder, if any, or if two male members and two female members, residing within the municipality and over thirty-five years of age cannot be located then to such representative or representatives of such clan or lineage as the land commission for the district in which the land lies may designate.

(2) Such notice and notices of determinations of ownership under section 114 of this chapter shall be served by any policeman without charge. During the period between the giving of notice under this chapter and the hearing, any person or group claiming an interest in the land adverse to the claim as stated in the notice may file his or their claim with the district land officer for the district, or the magistrate of the municipality, in which the land is situated, either of whom shall promptly notify the commission and the land registration team concerned. Notice of such adverse claims may also be given orally at the hearing. (Code 1966, § 1033; Code 1970, tit. 67, § 110; P.L. No. 4C-27, § 5.)

Source: 67 TTC 3 § 110, modified.

§111. Authority of land commission and registration teams to administer oaths, take testimony, etc.

Each land commission and each of its land registration teams shall have the authority to administer oaths to witnesses, take testimony under oath, subpoena witnesses, order the production of papers and documents, and punish for contempts committed in its presence. Punishment for contempt shall be limited to a fine of not more than fifty dollars, or imprisonment for a period of not more than thirty days, or both. (Code 1966, § 1034; Code 1970, tit. 67, § 111.)

Source: 67 TTC 3 § 111, modified.

§112. Conduct of hearings.

In conducting hearings, each adjudicatory body referred to in section 3 of secretarial order 2969, each land commission and each land registration team shall be guided by the Trust Territory rules of civil procedure and the rules of evidence. Each adjudicatory body referred to in section 3 of secretarial order 2969, each commission and each registration team is authorized to consider any evidence that will be helpful in reaching a just decision. Neither an adjudicatory body referred to in section 3 of secretarial order 2969 nor a commission nor a land registration team, however, shall endeavor to redetermine any matter already decided between the same parties or those under whom the present parties claim, by a court. An adjudicatory body referred to in section 3 of secretarial order 2969, commissions, and land registration teams shall accept such prior determinations as binding on such parties without further evidence than the judgment or determination of ownership. All hearings shall be public and every person claiming an interest in land under consideration shall be given an opportunity, by actual or constructive notice, to be heard. Hearings must be held in the municipality in which the land involved lies and when practicable shall be held in the village in which or near which the land lies. All parties, including any representative (appointed under section 113 of this chapter or by a court or other proper authority) of a minor or incompetent, may be represented and assisted by counsel. (Code 1966, § 1035; Code 1970, tit. 67, § 112; Dept. of Interior Order No. 2969, § 8(c).)

Source: 67 TTC 3 § 112, modified.

§113. Hearings involving minors or incompetents.

If a land commission or a land registration team finds that any party in interest is a minor or incompetent, the commission or team, as the case may be, shall appoint one person to act as guardian and represent such minor or incompetent unless he is already represented by a person appointed by a court or other proper authority. A guardian appointed by a commission or team shall have full authority and power to act for the minor or incompetent in all matters in connection with his interest in land; provided, that a guardian may not encumber or in any way alienate any land under his guardianship except by an order of the trial division of the high court. (Code 1966, § 1036; Code 1970, tit. 67, § 113; P.L. No. 5-59, § 1.)

Source: 67 TTC 3 § 113, modified.

§114. Notice of determination of ownership.

Notice of all determinations of ownership by a land commission shall be given promptly in the same manner as prescribed in section 110 of this chapter for notices of hearings. (Code 1966, § 1038; Code 1970, tit. 67, § 114.)

Source: 67 TTC 3 § 114, modified.

§115. Appeal from determination of land commission.

A determination of ownership by a land commission shall be subject to appeal by any party aggrieved thereby to the trial division of the high court at any time within one hundred twenty days from the date of said determination. Such appeal shall be treated and effected in the same manner as an appeal from a district court in a civil action, shall be subject to the same fees, and the powers of the high court with regard thereto shall be the same. Final decisions of the trial division of the high court may be appealed to the appellate division of the high court in the same manner and with the same effect as in cases tried originally in the high court. (Code 1966, § 1039; Code 1970, tit. 67, § 115.)

Source: 67 TTC 3 § 115, modified.

§116. Concurrence of majority present required for decision by commission.

In case of land commissions consisting of more than a senior commissioner, the concurrence of at least two members shall be necessary to constitute action by the commission. Concurrence of a majority of the members of a land registration team present at the time shall be necessary to a decision of the team. (Code 1966, § 1040; Code 1970, tit. 67, § 116.)

Source: 67 TTC 3 § 116, modified.

§117. Issuance of certificate of title.

(1) After the time for appeal from a determination of ownership by a land commission has expired without any notice of appeal having been filed, or after an appeal duly taken has been determined, the land commission shall issue a certificate of title setting forth the names of all persons or groups of persons holding interest in the land pursuant to the determination, either as originally made or as modified by the high court, as the case may be. Such certificate of title shall be conclusive upon all persons who have had notice of the proceedings and all those claiming under them and shall be prima facie evidence of ownership as therein stated against the world, except that such ownership shall be subject to the following which need not be stated in the certificate:

- (a) Any rights of way there may be over the land in question;
 - (b) Any taxes on the land in question which have become due within two years prior to the issuance of the certificate;
 - (c) Any lease or use right for a term not exceeding one year.
- (2) Any easements or other rights appurtenant to the land in question which are over unregistered land shall remain so appurtenant even if not mentioned in the

certificate, and shall pass with the land until cut off or extinguished in some lawful manner independent of the determination covered by the certificate. (Code 1966, § 1041; Code 1970, tit. 67, § 117.)

Source: 67 TTC 3 § 117, modified.

§118. Register of titles.

The original certificate of title shall be bound in a permanent register for the district in which it is issued. This register shall remain in the custody of and under the supervision of the senior commissioner until such time as a separate registrar for that district is appointed by the high commissioner. A duplicate certificate shall be issued, marked "Owner's Duplicate Certificate," and delivered to the owner or his or its authorized representative. (Code 1966, § 1042; Code 1970, tit. 67, § 118.)

Source: 67 TTC 3 § 118, modified.

§119. Transfers and encumbrances of interest in lands registered.

(1) All transfers and encumbrances (other than those excepted in section 117 of this chapter) of any interest in the land covered by such certificate of title shall be noted thereon or therewith by the senior commissioner, or by the registrar if one has been appointed for that district, instead of being recorded with the clerk of courts under sections 301 and 302 of title 57 of this Code, and such notation shall have the same force and effect as to such land as a recording under those sections 301 and 302 would have as to land not registered. It shall be the duty of the owner in requesting any transfer or upon notice that any involuntary transfer has been effected to submit his owner's duplicate certificate for proper endorsement or cancellation, if it is physically practicable for him or it to do so. If the owner's duplicate certificate has actually been lost or destroyed, the owner may, by petition under oath, request the commission to issue him a new duplicate and the commission after such notice, if any, as it may order and a hearing, may direct the issuance of a new duplicate certificate which shall contain a memorandum of the fact that it is issued in place of a lost certificate. Before accepting and noting on the certificate of title any transfer of any interest therein, the senior commissioner or the registrar, if one has been appointed for that district, shall be responsible for seeing that the document of transfer is properly executed and properly describes the land affected. If the certificate holder's entire interest is transferred, his certificate shall be canceled and a new certificate of title issued to the transferee. If only a part of the land is transferred the certificate holder may be required, at his own expense, to have the area to be transferred surveyed and a map thereof submitted showing to the satisfaction of the senior commissioner, or the registrar, as the case may be, the area so transferred and a new certificate of title shall then be issued for each part of the land covered by the former certificate.

(2) When an owner of any interest in land dies and that land has been registered in accordance with section 118 of this chapter and a certificate of title issued in accordance with section 117 or this section of this chapter and that interest in land is devised by will, the person or persons entitled thereto may submit to the senior commissioner, or the registrar if one has been appointed for that district, the owner's duplicate certificate issued to the testator, and the senior commissioner or registrar

shall cancel the testator's owner's duplicate certificate and the original certificate of title and the land commission shall issue new certificates to the devisee or devisees entitled thereto. When an owner of any interest in land dies, without having devised the same by will, the person or persons entitled thereto may submit the owner's duplicate certificate, issued to the intestate and the senior commissioner or registrar shall cancel the intestate's owner's duplicate certificate and the original certificate of title and the land commission shall issue new certificates of title. Provided that where the land is to be divided the devisees or heirs shall be required, before the issuance of new certificates of title, to have the area devised or inherited surveyed and a map thereof submitted showing to the satisfaction of the senior commissioner or registrar the area so devised or inherited and the new certificate of title shall then be issued by the land commission for each part of the land covered by the former certificate.

(3) The land commission shall make a determination of the devisee or devisees or heir or heirs and the interest or respective interests to which each are entitled in accordance with the following procedure:

(a) Upon the death of a decedent, the land commission shall conduct a hearing at which evidence shall be heard for the purpose of determining the heir or heirs or devisee or devisees entitled to the decedent's land. The land commission shall conduct such hearing within sixty days after being requested to do so by any person claiming to be an heir or devisee.

(b) The land commission shall make a finding as to the heir or heirs or devisee or devisees and the respective interest or interests to which each are entitled within thirty days after the conclusion of such hearing.

(c) The chief of lands and surveys shall promulgate rules and regulations subject to the approval of the High Commissioner to implement the provisions of this section. Rules and regulations may be promulgated regarding the conduct of hearings, notice to prospective heirs and devisees and regarding any other matter necessary to carry out the purposes of this section. Such rules and regulations shall have the force and effect of law.

(d) Appeal may be taken to the trial division of the high court in the manner provided in section 115 of this title. (Code 1966, § 1043; Code 1970, tit. 67, § 119; P.L. No. 4C-52, § 1.)

Source: 67 TTC 3 § 119, modified.

§120. Official land gazette.

All designations, appointments and determinations by a land commission and notices of hearings by either a land commission or a land registration team shall be published in the official land gazette, if and when one is established by the chief of lands and surveys. (Code 1966, § 1044; Code 1970, tit. 67, § 120.)

Source: 67 TTC 3 § 120, modified.

