

CONSOLIDATED TO 30 JUNE 2014

LAWS OF SEYCHELLES

CHAPTER 107

LAND REGISTRATION ACT

[1st January, 1967]

Act 25 of 1965
Act 8 of 1967
S.I 60 of 1968
Act 4 of 1972
S.I 95 of 1975
Act 17 of 1977
S.I 72 of 1976
Act 23 of 1976
Dec 29 of 1979
Act 5 of 1984
S.I 79 of 1987
S.I 6 of 1990

ARRANGEMENT OF SECTIONS

PART I: PRELIMINARY

Short Title

1. This Act may be cited as the Land Registration Act.

Interpretation

2. In this Act, except where the context otherwise requires-

“charge” means a mortgage charging land for securing the payment of money or money’s worth or the fulfillment of any condition and includes a legal charge and the instrument creating a charge;

“chargee” means the proprietor of a charge;

“chargor” means the proprietor of charged land or of a charged lease;

“company” includes a société having corporate existence;

“dealing” includes disposition and transmission;

“Director of Surveys” means the person appointed as the Director of Surveys for the purposes of the Land Survey Act;

“disposition” means any act by a proprietor whereby his rights in or over his land, lease or charge are affected, but does not include an agreement to transfer, lease or charge;

“easement” means a servitude and includes the right of occupation;

“file” means place in the relative parcel file;

“the Government” means the Government of Seychelles;

“instrument” includes any deed, judgment, decree, order or other document requiring or capable of registration under this Act;

“interest” in land includes ownership of land;

“land” includes land covered with water, all things growing on land and buildings and other things permanently affixed to land and also an undivided share in land;

“land register” means the land register compiled under Division 2 of Part II of this Act;

“lease” means the grant, with consideration, by the proprietor of land of the right to the exclusive possession of his land and includes the right so granted and the instrument granting it, and also includes a sublease, but does not include an agreement for lease;

“lessee” means the holder of a lease;

“lessor” means the person who has granted a lease or his successor in title;

“legal charge” means a legal mortgage or a privilege over immovable property arising under the law in favour of any person, of the Government or the Republic or of any statutory body;

“parcel” means an area of land-

(a) separately delineated on the registry map; or

(b) separately shown and identified by number on a demarcation map within the meaning of Adjudication of Title Decree.

“prescribed” means prescribed by rules made under this Act;

“presentation book” means the presentation book kept paragraph (d) of section 4;

“proprietor” means-

(a) in relation to land, a lease or a usufructuary interest, the person named in the register as the proprietor thereof; and

(b) in relation to a charge, the person named in the register as the person in whose favour the charge is made;

“to register” means to make an entry, note or record in the register under this Act, and “registered”, “unregistered” and “registration” bear a corresponding meaning;

“the Registrar” means-

(a) the Land Registrar appointed under subsection (1) of section 5;

(b) where an Assistant Land Registrar has been authorised under subsection (3) of section 5 to exercise or perform any particular power or duty, that Assistant Land Registrar so far as concerns that power or duty;

“registration district” means a registration district constituted under subsection (1) of section 15;

“registry” means the land registry established under section 4;

“registry map” means the map or series of maps referred to in subsection (2) of section 15;

“statutory body” means a statutory body prescribed as such for the purposes of this Act;

“surveyed” means surveyed to the satisfaction of the Director of Surveys;

“transfer” means the passing of land, a lease or a charge by act of the parties and not by transmission or operation of law, and also the instrument by which such passing is effected;

“transmission” means the passing of land, a lease or a charge from one person to another on death, by will or intestacy, by operation of law, on bankruptcy or insolvency or otherwise howsoever, and includes the compulsory acquisition of land under any written law;

“usufructuary interest” means a usufructuary interest as defined in paragraph (d) of section 20;

“valuable consideration” includes marriage, but does not include a nominal consideration.

Reconciliation with other laws

3. Except as otherwise expressly provided in this Act, no other written law relating to land shall apply to land registered under this Act so far as it is inconsistent with this Act; but save as aforesaid any written law relating to land, unless otherwise expressly or by necessary implication provided by this or any other Act, shall apply to land registered under this Act whether expressed so to apply or not:

Provided that nothing contained in this Act shall be construed as permitting any dealing which is forbidden by the express provisions of any other written law or as overriding any provision of any other written law requiring the sanction or approval of any authority to any dealing.

PART II : ORGANIZATION AND ADMINISTRATION

DIVISION 1 – LAND REGISTRY AND OFFICERS

Land Registry

4. There shall be established and maintained in Victoria a land registry, in which there shall be kept-

(a) a register, to be known as the land register, in accordance with Division 2 of this part;

(b) the registry map;

(c) parcel files containing the instruments which support subsisting entries in the land register and any filed plans and documents;

(d) a book, to be known as the presentation book, in which shall be kept a record of all applications for registration, numbered consecutively in the order in which they are presented to the registry;

(e) an index, in alphabetical order, of the names of the

proprietors of land, leases and charges, showing the numbers of parcels in which they are interested; and

(f) a register and a file of powers of attorney.

Appointment of officers

5. (1) The President shall appoint a Land Registrar, who shall be responsible for administering the land registry in accordance with this Act.

(2) The President may appoint such Assistant Land Registrars as may be necessary for carrying out the provisions of this Act.

(3) The Land Registrar may, in writing, authorize any Assistant Land Registrar to exercise or to perform all or any of the powers or duties conferred on the Land Registrar by this Act and may at any time revoke or vary any such authorization:

Provided that no such authorization shall be deemed to divest the Land Registrar of any of his powers or duties, and he may, if he thinks fit, exercise and perform all his powers or duties notwithstanding any such authorization.

General powers of Registrar

6. The Registrar may exercise the following powers in addition to any other powers conferred on him by this Act, that is to say:-

(a) he may require any person to produce any instrument or other document or plan relating to the land, lease or charge in question, and that person shall produce the same;

(b) he may summon any person to appear and give any information or explanation respecting land, a lease or a charge, or any instrument, or other document or plan relating to the land, lease or charge in question and such person shall appear and give such information and explanation;

(c) he may refuse to proceed with any registration if any instrument or other document, plan, information or

explanation required to be produced or given is withheld or any act required to be performed under this Act is not performed;

(d) he may administer oaths or take an affidavit in lieu thereof, and may require that any proceedings, information or explanation affecting registration shall be verified on oath or by affidavit;

(e) he may order that the costs, charges and expenses incurred by him or by any person in connection with any investigation or hearing held by him for the purposes of this Act shall be borne and paid by such persons and in such proportions as he may think fit.

Indemnity of officers

7. The Land Registrar and any other officer of the Registry shall not be liable to any action, suit or proceedings for or in respect of any act or matter in good faith done or omitted to be done in exercise or supposed exercise of the powers given by this Act.

Seal of registry and evidence

8. (1) The registry shall have a seal and every instrument purporting to bear the imprint of such seal shall be received in evidence and, unless the contrary is shown, shall be deemed without further proof, to have been issued by or under the direction of the Land Registrar.

(2) Every entry or note in or on any register, registry map or filed plan shall, subject to sections 88 and 89, be received in all proceedings as conclusive evidence of the matter or transaction which it records.

DIVISION 2 – THE LAND REGISTER

The land register

9. (1) The land register shall comprise a register in respect of each parcel in each registration district and a register in respect of each lease required by this Act to be registered.

(2) Each register shall be divided into three sections as follows:-

A. the property section, containing a brief description of the land or lease and a reference to the registry map;

B. the proprietorship section, containing the name of the proprietors and a note of any inhibition, caution or restriction affecting his right of disposition;

C. the encumbrances section, containing a note of every interest or other matter required to be registered therein.

Compilation of and register

10. (1) The Registrar shall-

(a) from time to time prepare, from the records of the Mortgage and Registration Office established under the Mortgage and Registration Act, a register in the prescribed form in respect of every surveyed parcel of land, showing all subsisting particulars affecting the parcel which are capable of registration under this Act;

(b) make, certify and file a copy of the document creating any subsisting lease, mortgage or other encumbrance affecting the parcel; and

(c) serve notice of registration on the proprietor of the land and on any other person appearing to have a subsisting interest therein capable of registration under this Act,

and upon the signing of the register by the Registrar this Act shall apply to the land.

(2) Whenever an adjudication record has become final under section 25 of the Adjudication of Title Decree, and the Adjudication officer has delivered the adjudication record to the Land Registrar, the Land Registrar shall prepare a register for each parcel shown in the adjudication record and for any lease required to be registered and shall register therein such particulars in the adjudication record as required registration.

(3) The provisions of sections 21, 22 and 23 and sections 38 to 47 of the Mortgage and Registration Act, shall cease to apply to land registered under this Act.

Nature of title on first registration

11. (1) Every person registered as a proprietor of land in pursuance of subsection (1) of section 10 shall be so registered with a qualified title.

(2) The following rules shall apply in registering any land under subsection (2) section 10-

(a) where any person is recorded in the adjudication record as an absolute owner of land, that person shall be registered as a proprietor of land with an absolute title; and

(b) where any person is recorded in the adjudication record as a qualified owner of land, that person shall be registered as a proprietor of land with a qualified title.

Manner of registration

12. Registration shall be effected by an entry in the land register in such form as the Registrar may from time to time direct and by the cancellation of the entry, if any, which it replaces.

New editions of register

13. The Registrar may at any time open a new edition of a register, showing only subsisting entries and omitting therefrom all entries that have ceased to have effect.

Cancellation of obsolete entries

14. The Registrar may cancel any entry in the register which he is satisfied has ceased to have any effect.

DIVISION 3 – MAPS, PARCELS AND BOUNDARIES

Registry map

15. (1) For the purposes of this Act the Registrar may constitute any area of land a registration district and may at any time vary the limits of any such district.

(2) The Director of Surveys shall prepare and maintain a map, or series of maps, to be called the registry map, for every registration district.

(3) Each registration district shall be given a distinctive name, and may be divided into sections which shall be given distinctive Roman numbers.

(4) The parcels in each registration district, or section, shall be numbered consecutively, and the name of the registration district and the number of the section, if any, and the number of the parcel shall together from a sufficient reference to any parcel.

(5) The Registrar may, at anytime, cause registration districts or sections to be combined or divided, or cause their boundaries to be varied.

(6) A plan, verified by the Director of Surveys, or a diagram submitted with the adjudication record under section 25 of the Adjudication of Title Decree shall be filed in respect of each parcel, and such plan or diagram shall be presumed, until the contrary is shown, to define accurately the beacons and boundaries of the parcel:

Provided that-

(a) in the case of a plan filed under this subsection the position of a beacon or boundary shown on the plan shall not be capable of being brought into question in any court when such beacon or boundary-

(i) is deemed in terms of section 21 of the Land Survey Act to have been lawful established; or

(ii) is placed or delineated as a result of the division of a registered parcel of land.

(b) In the case of a diagram filed under this subsection the position of a beacon or boundary shown on the diagram shall not be capable of being brought into question in any court after 10 years from the date of filing.

Power to alter registry map and to prepare new editions

16. (1) The Registrar may require the Director of Surveys to alter the line or position of any beacon or boundary shown on the register to be affected by the alteration or in accordance with any scheme made and approved under the provisions of any other written law, but no such alteration shall be effected except on the instructions of the Registrar in writing in the prescribed form, to be known as a mutation form, and the mutation form shall be filed.

(2) Whenever the boundary of a parcel is altered on the registry map, the parcel number shall be cancelled and the parcel shall be given a new number.

(3) The Registrar may require the Director of Surveys to prepare a new edition of the registry map or any part thereof, and there may be omitted from the new map any matter which the Registrar considers obsolete.

Further surveys

17. The Registrar may cause a survey to be made for any purpose connected with this Act.

Combinations and subdivisions

18. (1) Where contiguous parcels are owned by the same proprietor, with and subject in all respect to the same rights and obligations, the Registrar, on application by the proprietor, may combine these parcels by closing the registers relating to them and opening a new register or registers in respect of the parcel or parcels resulting from the combination.

(2) Upon the application of a proprietor for the division of his parcel into two or more parcels, the Registrar shall effect the division by closing the register and opening new registers in respect of the new parcels resulting from the division, and recording in the new registers all subsisting entries appearing in the closed register:

Provided that-

- (a) nothing shall be done under this section which would be inconsistent with this Act, or any other written law; and
- (b) no parcel which is subject to a lease shall be subdivided.

Reparcellation

19. The Registrar may, on the application of the proprietors of contiguous parcels who are desirous of changing the layout of their parcels, and with the consent in writing of all other persons in whose names any right or interest in such parcels is registered and of any cautioner, cancel the registers relating to such parcels and prepare new registers in accordance with the revised layout:

Provided that where in the opinion of the Registrar a proposed reparcellation involves substantial changes of ownership which should be effected by transfers without invoking this section, he may, in his discretion, refuse to effect such reparcellation.

PART III: EFFECT OF REGISTRATION AND CONVERSION OF TITLE

Interest conferred by registration

20. Subject to the provisions of this Act-

- (a) the registration of a person as the proprietor of land with an absolute title shall vest in him the absolute ownership of that land, together with all rights, privileges and appurtenances belonging or appurtenant thereto;
- (b) the registration of a person as the proprietor of land with a qualified title only shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the proprietor and subsisting or capable of arising at the time of registration of that proprietor; but save as aforesaid shall have the same effect as registration of a person with an absolute title;
- (c) the registration of a person as the proprietor of a lease shall vest in that person the leasehold interest described in the lease together with all implied and expressed rights and privileges belonging or appurtenant thereto and subject to all implied and expressed agreements, liabilities and incidents of the lease;

(d) the registration of a person as a proprietor of a usufructuary interest shall vest in that person the interest described in the instrument granting it, together with and subject to all the rights and liabilities conferred or imposed on the owner of an interest of that nature by the law relating to usufructs;

(e) the registration of a person as the proprietor of a charge shall vest in that person all the rights, powers and remedies of a mortgagee or of a person entitled to a privilege, as the case may be, under the law relating to mortgages and privileges; and it is hereby provided that, notwithstanding anything to the contrary contained in any other written law, the land or lease comprised in a registered charge shall be a security for all sums recoverable under such charge in priority to all claims under any mortgage or privilege which is not registered under this Act.

Conversion of qualified into absolute title

21.(1) When at any time any land has been registered with a qualified title for a continuous period of ten years and has not during that period been the subject of any transmission under the provisions of subsection (1) of section 72, the proprietor may apply in writing to be registered with an absolute title.

(2) Notwithstanding the provisions of subsection (1) of this section, the proprietor of any land registered with a qualified title may at any time apply to the court for an order directing the Registrar to register him with an absolute title.

(3) Upon being satisfied with the application, or upon presentation of the order of the court, the Registrar shall alter the register by registering the proprietor with an absolute title, and shall file the application or order.

Application of this Act to usufructuary interest

22. The provisions of this Act, shall apply to usufructuary interests in the same manner as they apply to leases, and, where the context so admits, the words “lease”, “lessor” and “lessee”, shall be deemed to include a usufructuary interest and the proprietors of the land and of the usufructuary interest therein, respectively.

Rights of proprietor

23. The rights of a proprietor, whether acquired on first registration or acquired subsequently for valuable consideration or by an order of the court, shall be rights not liable to be defeated except as provided in this Act, and shall be held by the proprietor free from all other interests and claims whatsoever, but subject-

(a) to the encumbrances and other matters shown in the register; and

(b) to the overriding interests set out in section 25.

Voluntary transfer

24. Every proprietor who has acquired land, a lease or a charge by transfer without valuable consideration shall hold it subject to any action maintainable against the transferor or any other person in respect of such transfer and also to any unregistered rights or interests to which it may be subject, but save as aforesaid such transfer when registered shall in all respects have the same effect as a transfer for valuable consideration.

Overriding interests

25. Unless the contrary is expressed in the register, all registered land shall be subject to such of the following overriding interests as may for the time being subsist and affect the same without their being noted on the register:-

- (a) easements subsisting at the time of first registration under this Act;
- (b) easements for the benefit of the public or arising by law;
- (c) rights of compulsory acquisition, resumption, entry, search and user conferred by any written law;
- (d) leases or agreements for leases for a period not exceeding two years;
- (e) charges for unpaid rates and other moneys which, without reference to registration under this Act are expressly declared by any written law to be a charge upon land;
- (f) rights acquired or in process of being acquired by virtue of any written law relating to prescription;
- (g) the rights of a person in possession or actual occupation of land;
- (h) a usufruct arising under the law;
- (i) in the case of a qualified title, all rights and interests excepted from the effect of registration;
- (j) electric supply lines, telephone and telegraph lines or poles, pipelines, aqueducts, canals, reservoirs, weirs and dams erected, constructed or laid in pursuance or by virtue of any power conferred by any written law;
- (k) restrictions or prohibitions imposed by, or under the authority of, any written law and relating to the building on or the user or other enjoyment of land:

Provided that the Registrar may direct registration of any of the liabilities, rights and interests hereinbefore defined in such manner as he thinks fit.

Entries to constitute actual notice

26. Every proprietor acquiring any land, lease or charge shall be deemed to have notice of every entry in the register and of the provisions of every filed instrument relating to the land, lease or charge and subsisting at the time of acquisition.

PART IV: SEARCHES AND COPIES

Searches and copies

27. (1) Any person may, during official hours of business, inspect any register and any sheet of the registry map or any filed instrument or plan.

(2) Any person may require a certificate of official search in respect of any parcel, containing particulars of the subsisting entries in the register relating thereto, and certified copies of any document or of the registry map or of any plan filed in the registry.

PART V: DISPOSITIONS

DIVISION 1 – GENERAL

Subsequent dealings

28. Notwithstanding any provision contained in any other written law, no land, lease or charge registered under this Act shall be capable of being dealt with except in accordance with the provisions of this Act and every attempt to deal with such land, lease or charge otherwise than in accordance with the provisions of this Act shall be ineffectual to create, extinguish, transfer, vary or affect any right or interest in the land, lease or charge.

Protection of persons dealing in registered land

29. No person dealing or proposing to deal for valuable consideration with a proprietor shall be required or be in any way concerned-

- (a) to enquire or ascertain the circumstances in or the consideration for which such proprietor or any previous proprietor was registered; or
- (b) to see to the application of any consideration or any part thereof; or
- (c) to search any register kept under the Mortgage and Registration Act.

Priority of registered interests

30. (1) Interests appearing in the register shall have priority according to the order in which the instruments which led to their registration were presented to the registry, irrespective of the dates of the instruments and notwithstanding that the actual entry in the register may be delayed.

(2) Instruments sent by post or under cover and received during the hours of business shall be deemed to be presented simultaneously immediately before the closing of the office on that day, and instruments so sent but received between the time of closing and the next opening of the office for business shall be deemed to be presented simultaneously immediately after such opening.

(3) Where more than one instrument or application are presented on the same day, or on different days but at so short an interval from each other that in the opinion of the Registrar there is doubt as to their order of priority, the Registrar may refuse registration until he has heard and determined the rights of the parties interested thereunder.

Merger of registered interests

31. Where, upon the registration of a dealing the interest of-

- (a) lessor and lessee, or
- (b) charger and chargee, or

(c) the proprietor of a parcel which is burdened with an easement or restrictive agreement and the proprietor of a parcel which benefits therefrom,

vest in the same proprietor, such interests shall not merge unless a surrender or discharge is registered or the parcels are combined or there is a declaration of merger, which may be contained in the instrument evidencing the dealing.

DIVISION 2 – LEASES

Leases

32. Subject to the provisions of this Act, the proprietor of land may lease it, or part of it, to any person for a definite period or for the life of the lessor or of the lessee or for a period which though indefinite may be determined by the lessor or the lessee, and subject to such conditions as he may think fit:

Provided that-

(a) a lease for a period not exceeding two years shall not be capable of registration unless it contains an option whereby the lessee may require the lessor to grant him a further period or periods which, together with the original period, will exceed two years;

(b) if only part is leased the lease shall be accompanied by a plan which the Registrar in his absolute discretion, deems adequate to identify the part leased.

Registration of leases

33. Every lease shall be in the prescribed form, and shall be completed by-

(a) opening a register in respect of the lease in the name of the lessee; and

(b) filing the lease; and

(c) noting the lease in the encumbrances section of the register of the lessor's land or lease.

Future and conditional leases

34. No lease purporting to commence on a date more than twenty-one years after the date of the instrument, or to take effect on the fulfillment of any condition, shall be registered.

Variation and extension of leases

35. The terms of a lease may be varied, and the period may from time to time be extended by an instrument executed by the lessor and the lessee for the time being and registered before the expiration of the then current period of the lease.

Substitution of leases

36. Where upon the presentation of a lease for registration the Registrar is satisfied that the lessee is the person registered as the proprietor of a prior lease in respect of the same land, he shall cancel the

registration of the prior lease and register the new lease subject to the encumbrances registered against the prior lease.

Subleases

37. (1) Subject to any provision of this lease affecting his right to do so, the proprietor of a lease may sublease the land comprised therein, by an instrument in the prescribed form.

(2) Save as otherwise expressly provided in this Act, the provisions of this Act affecting leases, lessors and lessees shall apply to subleases, sublessors and sublessees, with such adaptations as are necessary.

Surrender of leases

38. (1) Where the lessor and the lessee agree that a lease of any parcel, or of any part of a parcel, comprised in any lease, shall be surrendered-

(a) an instrument shall be prepared in the prescribed form, and executed by the lessee; and

(b) the Registrar shall cancel the registration of the lease in respect of such parcel or part of a parcel and file the instrument, and thereupon the interest of the lessee therein shall cease.

(2) Where the lease is subject to a charge or a sublease the instrument of surrender shall be executed by the proprietor of the charge or sublease in addition to the lessee.

Determination of leases

39. (1) Where-

(a) the period of a lease has expired; or

(b) an event upon which a lease is expressed to determine has happened; or

(c) a lessor has lawfully re-entered and recovered possession of the land leased; or

(d) a notice duly given to determine the lease has expired; or

(e) the lease has been cancelled by the court,

the lessor may apply in writing to the Registrar to cancel the registration of the lease.

(2) An application under this section shall be supported by such evidence of the matters giving rise to the determination and the recovery of possession by the lessor as the Registrar may require, and the Registrar on being satisfied of the matters set forth in the application shall cancel the registration of the lease and of every other interest appearing in the register relating to the lease.

(3) A lease shall continue in full force and effect until the registration thereof has been cancelled in accordance with the provisions of this Act.

(4) Upon application for the entire cancellation of the registration of a lease the duplicate and triplicate thereof shall be surrendered for retention in the Registry.

DIVISION 3 – USUFRUCTUARY INTERESTS

Usufructuary interests

40. The proprietor of land may grant a usufructuary interest therein by the execution of an instrument in the prescribed form.

DIVISION 4 – CHARGES

Form and effect of charges

41. (1) A charge in respect of land or a lease may be created by the execution of an instrument in the prescribed form.

(2) The charge shall be completed by its registration as an encumbrance and filing the instrument.

(3) A charge shall not operate as a transfer but shall have effect as a security only.

(4) A charge shall continue in full force and effect until the registration thereof has been cancelled in accordance with the provisions of this Act.

Mortgages and privileges at first registration

42. Any mortgage or privilege registered as subsisting at the time of first registration of any land or lease under this Act shall be deemed to be a charge made in accordance with the provisions of this Act.

Legal charges

43. The Registrar shall, upon the application in writing of the officer or person responsible for obtaining or entitled to obtain the registration of a legal charge, register the same as a charge in the register of the land affected, and file the application.

Variation of charges

44. The terms of a charge may be varied by the registration of an instrument of variation executed by the parties to the charge, but no such variation shall affect the rights of the proprietor of any subsequent charge unless he has consented to the variation in writing on the instrument.

Discharge of charge

45. (1) A charge shall be discharged by an order of the court or by an instrument in the prescribed form, or, in the case of a legal charge, by an order of the court or upon the application in writing of the officer or person referred to in section 43.

(2) Notwithstanding subsection (1), a charge under section 26 of the Adjudication of Title Decree, shall be discharged when the Land Registrar certifies that payment of the costs of the survey has been made.

(3) A discharge shall be completed by cancellation of the relevant entry or entries of the charge in the register or registers and filing the order of the court, instrument or application.

(4) Upon application for the entire cancellation of the registration of a charge the duplicate and triplicate thereof shall be surrendered for retention in the Registry.

DIVISION 5 – TRANSFERS

Transfer

46. (1) A proprietor may transfer his land, lease or charge with or without consideration, by an instrument in the prescribed form:

Provided that where a charge is transferred the instrument shall also be executed by the charger to signify that he agrees to the transfer.

(2) The transfer shall be completed by registration of the transferee as proprietor of land, lease or charge and filing the instrument.

Transfer to take effect immediately

47. A transfer shall not be expressed to take effect on the happening of any event or on the fulfillment of any condition or at any future time.

Conditions repugnant to interest transferred

48. (1) Any condition purporting to prevent a transferee or any person claiming under him from disposing of the ownership of land transferred shall be void.

(2) Any condition or limitation made in relation to a transfer of the ownership of land which purports to determine the interests of the transferee on the happening of any future event or on the failure of any future event to happen shall be void.

Transfer of part

49. No part of land comprised in a register shall be transferred unless the proprietor has first subdivided the land and new registers have been opened in respect of each subdivision.

No transfer unless adjudication costs paid

50. Where a charge for the costs of a survey under the Adjudication of Title Decree has been registered under section 43 no transfer of the land affected shall be registered unless the charge has been discharged under section 45 (2).

Transfer subject to lease

51. A transfer of land which is subject to a lease shall be valid without the lessee acknowledging the transferee as lessor.

DIVISION 6 – EASEMENTS AND RESTRICTIVE AGREEMENTS

Easements

52. (1) The proprietor of land or a lease may, by an instrument in the prescribed form grant an easement to the proprietor or lessee of other land for the benefit of that other land.

(2) The instrument creating the easement shall specify clearly-

(a) the nature of the easement, the period for which it is granted and any conditions, limitations or restrictions intended to affect its enjoyment; and

(b) the land burdened by the easement and, if required by the Registrar, the particular part thereof so burdened; and

(c) the land which enjoys the benefit of the easement, and shall, if so required by the Registrar, include a plan sufficient in the Registrar's estimation to define the easement.

(3) The grant of the easement shall be completed by its registration as an encumbrance in the register of the land burdened and in the property section of the register of the land which benefits, and filing the instrument.

(4) An easement granted by the proprietor of a lease shall be capable of subsisting only during the subsistence of the lease.

Restrictive agreements

53. (1) Where the proprietor or transferee of land or of a lease agrees to restrict the building on or the user or other enjoyment of his land, whether for the benefit of other land or not, he shall execute an instrument to that effect (hereinafter referred to as a restrictive agreement), and upon presentation such restrictive agreement shall be noted in the encumbrances section of the register of the land or lease burdened thereby, and the instrument shall be filed.

(2) Subject to its being noted in the register, a restrictive agreement shall be binding on the proprietor of the land or lease burdened by it and, unless the instrument otherwise provides, it shall also be binding on his successors in title.

(3) Where a restrictive agreement has been entered into for the benefit of land, the proprietor of such land and his successors in title shall be entitled to the benefit of it, unless the instrument otherwise provides.

(4) The provisions of this section shall apply to all restrictive agreements entered into with the Government or the Republic or any statutory body whether or not any land will benefit from such agreement.

Release and extinguishment of easements and restrictive agreements

54. (1) Upon presentation of a duly executed release in the prescribed form or of an order of the court to the same effect the registration of an easement or restrictive agreement shall be cancelled and thereupon the easement or restrictive agreement becomes extinguished.

(2) On the application of any person affected thereby, the Registrar may cancel the registration of an easement or restrictive agreement upon proof to his satisfaction that-

(a) the period of time for which it was intended to subsist has expired, or

(b) the event upon which it was intended to determine has occurred.

DIVISION 7 – CO-PROPRIETORSHIP AND PARTITION

Registration of proprietors in undivided shares

55. An instrument made in favour of two or more persons, and the registration giving effect to it, shall show the undivided share of each proprietor.

Partition

56. Upon presentation of an order made by the Court directing partition of any land owned in undivided shares, or an application in the prescribed form for partition by all the proprietors of any such land, the Registrar shall give effect to such order or application by closing the register of the parcel partitioned and opening registers in respect of the new parcels created by the partition and filing the order or application.

DIVISION 8 – DISPOSITIONS TO ALIENS

Registration of the Republic as proprietor in cases of forfeiture

57. (1) Upon being notified in writing, signed in accordance with section 10 of the Immovable Property (Transfer Restriction) Act, that in consequence of an unlawful transaction any land has been forfeited under section 6 of the said Act, the Registrar shall register the Republic as the proprietor thereof in place of the proprietor shown in the register, and shall file the notification:

Provided that this section shall not apply to any subsequent transaction, made in good faith and for valuable consideration, for which sanction under the said Act was either not required or was obtained.

(2) Where the Republic has been registered as proprietor in pursuance of subsection (1), and sanction in writing is subsequently given to the transaction which gave rise to the forfeiture, the Registrar shall, on presentation of such sanction, together with the instrument required for the said transaction, together with the instrument required for the said transaction, cancel the registration of the Republic as proprietor and give effect to the instrument by registration, and shall file the instrument and sanction.

PART VI: INSTRUMENTS AND AGENTS

Form of instruments

58. (1) Every disposition shall be effected by an instrument in the prescribed form or in such other form as the Registrar may in any particular case approve.

(2) Leases and charges shall be presented for registration in triplicate.

(3) Instruments shall contain a true statement of the amount or value of the purchase price or loan or other consideration (if any), and, when received, an acknowledgment of the receipt of the consideration or of any part thereof.

Execution of instruments

59. (1) Every instrument evidencing a disposition shall be executed by all persons shown by the register to be proprietors of the interest affected and by all other parties to the instrument:

Provided that the Registrar may dispense with execution by any particular party (other than the donee under a disposition by way of gift) where he considers that such execution is unnecessary.

(2) Subject to subsection (2) of section 73, an instrument shall be deemed to have been executed only-

(a) by a natural person, if signed by him;

(b) by a corporation-

(i) if sealed with the common seal of the corporation, affixed thereto in the presence of and attested by its clerk, secretary or other permanent officer and by a member of the board of directors, council or other governing body of the corporation; or

(ii) in the case of a corporation not required by law to have a common seal, if signed by such persons as are authorised in that behalf by any law or by the statute or charter of the corporation or, in the absence of any express provision, by the persons duly appointed in writing for that purpose by the corporation, evidence of which appointment has been produced to the satisfaction of the Registrar.

Verification of execution

60. (1) Every instrument evidencing a disposition and executed in Seychelles shall be executed in the presence of a notary, barrister, attorney, magistrate, Justice of the Peace, a duly appointed Government Representative, or the Registrar, who shall attest the execution in the prescribed form.

(2) Every instrument executed out of Seychelles shall-

(a) if the instrument is executed in the Commonwealth, be executed in the presence of a Judge, a magistrate, a justice of the peace, a notary public, or a commissioner for oaths, who shall attest the execution in the prescribed form;

(b) if the instrument is executed in a foreign country, be executed in the presence of a British consular officer or such other person as the Minister may determine, who shall attest the execution in the prescribed form.

What is to be done when parties cannot sign

61. When a party who is required to execute an instrument is unable to do so through ignorance or physical disability, he shall be deemed to have executed such instrument-

(a) in case of ignorance, if he makes his mark thereon in the presence of a person empowered under section 60 to attest the execution of an instrument and of two witnesses able to sign their names, after the instrument has been read over to him by such person in the presence of the two witnesses, and such mark is attested by such person and the two witnesses in the prescribed form; and

(b) in case of physical disability, if he declares or acknowledges in the presence of such person and of two such witnesses his assent to such instrument after the same has

been read over to him by such person in the presence of the two witnesses and such assent and the fact of such physical disability is attested by such person and the two witnesses in the prescribed form.

Notaries Act not to apply to instruments attested by a notary

62. The Notaries Act shall not apply to instrument attested by a notary under section 60 and 61.

Effect of due attestation

63. An instrument the execution of which is duly attested in accordance with section 60 or section 61 shall be presumed, unless the contrary is shown, to have been duly executed by the parties thereto. The attestation shall be evidence of the facts set out therein and such facts shall be presumed to be true unless the contrary is shown.

Signature of person who attest presumed genuine without proof of official character

64. An attestation purporting to have been signed by a person empowered under section 60 to attest the execution of an instrument shall, in the presence of proof to the contrary, be presumed to have been so signed without proof of the official character of such person.

Sufficient for instrument to be in conformity with provisions of this Act

65. An instrument drawn up and executed in accordance with the provisions of this Act and which in other respects complies with such provisions shall be valid and effectual notwithstanding the provisions of any other law relating to the form and validity of the transaction effected by such instrument.

Disposal of instruments

66. (1) Subject to subsection (2) of this section and to subsection (2) of section 69, all instruments accepted by the Registrar shall be retained in the registry for as long as they support a current entry in the register and for five years thereafter.

(2) When a lease or charge is registered, particulars of registration shall be noted on the duplicate and the triplicate thereof, which shall be returned to the person who presented them.

(3) After five years after an entry in the register has been superseded or has ceased to have any effect, the Registrar may destroy any instrument which supported the entry.

Minors, interdicted persons, and persons to whom a conseil judiciaire has been appointed

67. (1) The name of a minor or of an interdicted person or of a person to whom a conseil judiciaire has been appointed may be entered in the register either on first registration or as a transferee or on transmission.

(2) Nothing in this section enables any such person to deal with land or any interest in land by virtue of such registration, and, where to his knowledge a minor, an interdicted person or any person to whom a conseil judiciaire has been appointed is registered, the Registrar shall enter a restriction accordingly.

(3) Where a disposition by a person whose disability as aforesaid has not been disclosed to the Registrar has been registered, such disposition may not be set aside only on the grounds of such disability.

Institute (grevé) to be registered in cases of substitution

68. (1) In cases of substitution the name of the institute (grevé) may be entered in the register either on first registration or on a transfer or transmission giving rise to the substitution.

(2) Nothing in this section enables an institute (grevé) by virtue of such registration to deal with land or any interest in land subject to the substitution otherwise than he would be enabled so to do under the law.

(3) The Registrar shall in cases of substitution enter a restriction accordingly.

Agents, guardians, and legal administrators

69. (1) Except as provided in subsection (3), no instrument executed by any person as agent for any other person shall be accepted by the Registrar unless the person executing it was authorised in that behalf by a power of attorney executed and attested in accordance with section 60.

(2) The original of such power of attorney or, with the consent of the Registrar, a copy thereof certified by the Registrar, shall be filed.

(3) Where any person who, if not a minor or under interdiction, might have made any application, done any act or been a party to any proceeding under this Act or under any rules made thereunder, the guardian or the legal administrator of such person may make any application, do any act and be party to any proceeding on behalf of that person, and shall generally represent that person for the purposes of this Act.

(4) Before accepting any instrument executed by a guardian or a legal administrator, the Registrar shall satisfy himself that such guardian or legal administrator is entitled to execute the instrument and has received the necessary authority, if any, to enter into the particular transaction, and shall file a note of the explanation which satisfied him and a copy of any instrument produced to him as evidence.

Powers of attorney

70. (1) Upon the application of the donor or the donee of a power of attorney which contains any power to dispose of any interest in land, such power of attorney shall be entered in the register of powers of attorney and the original, or with the consent of the Registrar a copy thereof certified by the Registrar, shall be filed in the file of powers of attorney.

(2) Every such power of attorney shall be in the prescribed form or such other form as the Registrar may in any particular case approve, and shall be executed and attested in accordance with section 60.

(3) The donor or donee of a power of attorney registered under this section may at any time give notice to the Registrar in the prescribed form that the power has come to an end by revocation or renunciation respectively and thereupon the revocation or renunciation respectively and thereupon the revocation or renunciation shall be entered in the register of powers of attorney and noted upon the power, and the notice shall be filed in the file of powers of attorney.

(4) Any interested person may give notice in writing to the Registrar that a power of attorney which has been registered under subsection (1) has been revoked by the death, interdiction, bankruptcy or insolvency of the donee, accompanied by such evidence as the Registrar requires, and thereupon the revocation shall be entered in the register of powers of attorney and noted upon the power, and the notice shall be filed in the file of powers of attorney.

(5) Subsections (3) and (4) of this section do not apply to a power of attorney given for valuable consideration during any period for which it is, by virtue of the terms thereof, irrevocable.

(6) If owing to the length of time since the execution of a power of attorney, or for any other reason, the Registrar considers it desirable, he may require evidence that the power has not been revoked, and may refuse to register any disposition by the donee of the power of attorney until satisfactory evidence is produced.

Effect of registered power of attorney

71. (1) A power of attorney which has been registered under section 70, and of which no notice of revocation has been registered under that section, shall be deemed to be subsisting as regards any person acquiring any interest in land affected by the exercise of the power, for valuable consideration and without notice of revocation and in good faith, or any person deriving title under such a person.

(2) Any person making any payment or doing any act in good faith in pursuance of a power of attorney registered under section 70 shall not be liable in respect of the payment or act by reason only that before the payment or act the donor of the power had died or been interdicted or become bankrupt or insolvent, or had revoked the power, if the fact of death, interdiction, bankruptcy, insolvency or revocation was not at the time of the payment or act known to the person making or doing the payment or act.

PART VII: TRANSMISSIONS

Transmission on death

72. (1) When a proprietor dies the persons who under the will or the law relating to succession on intestacy, as the case may be, are entitled to any land, lease or charge registered in the name of the deceased proprietor shall, upon production and filing of an affidavit by them in the prescribed form, be registered as the proprietors of the land, lease or charge for the interests and in the shares shown in the affidavit.

(2) The person or persons registered under this section shall hold the land, lease or charge subject to any liabilities, rights or interests which are unregistered but are nevertheless enforceable and subject to which the deceased proprietor held the same but for the purpose of any dealing shall be deemed to have been registered as proprietor or proprietors thereof with all rights conferred by this Act on a proprietor who has acquired land, a lease, or a charge, as the case may be, for valuable consideration.

(3) The registration of any person as aforesaid shall relate back to and take effect from the date of the death of the deceased proprietor.

(4) Nothing contained in or done under this section shall operate to revive any adverse right or interest which became unenforceable upon the registration of any former proprietor of the land with an absolute title in accordance with the provisions of section 21.

Transmission on bankruptcy or insolvency

73. (1) An assignee in bankruptcy or insolvency shall, upon production to the Registrar of a certified copy of the order of court adjudging a proprietor bankrupt or insolvent be registered as proprietor of any land, lease or charge of which the bankrupt or insolvent is proprietor, in his place, and a copy of the order shall be filed.

(2) An assignee in bankruptcy or insolvency shall be described in the register as “assignee of the property of bankrupt/insolvent”.

(3) The assignee in bankruptcy or insolvency shall hold any land, lease or charge of which he is registered as proprietor subject to any restrictions contained in the Bankruptcy and Insolvency Act or in any order of court and subject to any liabilities, rights or interests which are unregistered but are nevertheless enforceable and subject to which the bankrupt or insolvent held the same, but for the purpose of any dealing with such land, lease or charge the assignee in bankruptcy or insolvency shall have all the rights and be subject to all the limitations conferred or imposed by this or any other written law on a proprietor who has acquired land, a lease or a charge for valuable consideration.

Liquidation

74. (1) Where a company is being wound up, the liquidator shall produce to the registrar any resolution appointing him as liquidator and the Registrar shall enter the appointment in respect of any land, lease or charge of which the company is registered as proprietor, and shall file a copy of the resolution.

(2) An instrument executed by or on behalf of a company in liquidation delivered for registration after the appointment of the liquidator has been entered under subsection (1) shall be sealed with the common seal of the company and attested by the liquidator, or, in the case of a company not required by law to have a common seal, shall be signed by the liquidator whose signature shall be attested in accordance with section 60.

(3) Where a vesting order has been made under any law relating to companies, the liquidator shall present the order and the Registrar shall register the liquidator as proprietor of any land, lease or charge to which the order relates.

Transmission in other cases

75. Where the Republic or any authority or body duly constituted by law, or any person, has become entitled to any land, lease or charge under any law or by virtue of any judgment, decree, order or certificate of sale made or issued under any law, the Registrar shall, on application, supported by such evidence as he may require, register the Republic or such authority, body or person as aforesaid as the proprietor, and shall file the instrument.

PART VIII: RESTRAINTS ON DISPOSITIONS

DIVISION 1 – INHIBITIONS

Power of Court to inhibit registered dealings

76. (1) The Court may make an order (hereinafter referred to as an inhibition) inhibiting for a particular time, or until the occurrence of a particular event, or generally until further order, the registration of any dealing with any land, lease or charge.

(2) A copy of the inhibition, under the seal of the Court, with particulars of the land, lease or charge affected thereby, shall be sent to the Registrar, who shall register it in the appropriate register, and no inhibition shall bind or affect the land, lease or charge until it has been registered.

Effect of inhibition

77. So long as an inhibition remains registered, no instrument which is inconsistent with it shall be registered.

Cancellation of inhibition

78. The registration of an inhibition shall be cancelled in the following cases and in no others-

- (a) on the expiration of the time limited by the inhibition; or
- (b) on proof to the satisfaction of the Registrar of the occurrence of the event named in the inhibition; or
- (c) on the land, lease or charge being sold by order of the court; or
- (d) by order of the court.

DIVISION 2 – CAUTIONS

Lodging of cautions

79. (1) Any person who-

- (a) claims the right, whether contractual or otherwise, to obtained an interest in any land, lease or charge, that is to say, some defined interest capable of creation by an instrument registrable under this Act, or
- (b) has presented a bankruptcy or insolvency petition against the proprietor of any registered land, lease or charge,

may lodge a caution with the Registrar forbidding the registration of dispositions of land, lease or charge concerned and the making of entries affecting the same.

(2) A caution may either-

- (a) forbid the registration of dispositions and the making of entries altogether; or
- (b) forbid the registration of dispositions and the making of entries to the extent therein expressed.

(3) A caution shall be in the prescribed form, and the Registrar may require the cautioner to support it by an affidavit.

(4) The Registrar may reject a caution which he considers unnecessary or whose purpose he considers can be effected by the registration of an instrument under this Act.

(5) Subject to the provisions of this section, the caution shall be registered in the appropriate register.

Notice and effect of caution

80. (1) The Registrar shall give notice in writing to the proprietor whose land, lease or charge is affected by the caution.

(2) So long as a caution remains registered, no disposition which is inconsistent with it shall be registered except with the consent of the cautioner or by order of the court.

Withdrawal and removal of caution

81. (1) A caution may be withdrawn by the cautioner or removed by order of the court or, subject to the provisions of subsection (2), by order of the Registrar.

(2)

(a) The Registrar may, on the application of any person interested, serve notice in writing on the cautioner warning him that his caution will be removed at the time stated in the notice.

(b) If at the expiration of the time stated the cautioner has not objected, the Registrar may remove the caution.

(c) If the cautioner objects to the removal of the caution, he shall notify the Registrar in writing of his objection within the time specified in the notice, and the Registrar, after giving the parties an opportunity of being heard, shall make such order as he thinks fit, and may in the order make provision for the payment of costs.

(3) On registration of a transfer pursuant to an order for sale made by the Court at the suit of a chargee the Registrar shall remove any caution which purports to prohibit any dealing by the chargor and which was registered after the charge by virtue of which the transfer has been effected.

(4) On the withdrawal or removal of a caution, its registration shall be cancelled, but any liability of the cautioner previously incurred under section 83 shall not be affected by the cancellation.

Second caution in respect of same matter

82. The Registrar may refuse to accept a further caution by the same person or anyone on his behalf in relation to the same matter as a previous caution.

Wrongful cautions

83. Any person who lodges or maintains a caution wrongfully and without reasonable cause shall be liable, in an action for damages at the suit of any person who has thereby sustained damage, to pay compensation to such person.

DIVISION 3 – RESTRICTIONS

Restrictions

84. (1) For the prevention of any fraud or improper dealing or for any other sufficient cause, the Registrar may, either with or without the application of any person interested in the land, lease or

charge, after directing such inquiries to be made and notices to be served and hearing such persons as he thinks fit, make an order (hereinafter referred to as a restriction) prohibiting or restricting dealings with any particular land, lease or charge.

(2) A restriction may be expressed to endure-

(a) for a particular period; or

(b) until the occurrence of a particular event; or

(c) until the making of a further order,

and may prohibit or restrict all dealings or only such dealings as do not comply with specified conditions, and the restriction shall be registered in the appropriate register.

(3) The Registrar shall make and enter a restriction in any case where it appears to him that the power of the proprietor to deal with the land, lease or charge is restricted.

Notice and effect of restrictions

85. (1) The Registrar shall give notice in writing of a restriction to the proprietor affected thereby.

(2) So long as any restriction remains registered, no instrument which is inconsistent with it shall be registered except by order of the court or of the Registrar.

Removal and variation of restrictions

86. (1) The Registrar may at any time, upon application by any person interested or of his own motion, and after giving the parties affected thereby an opportunity of being heard, order the removal or variation of a restriction.

(2) Upon the application of any proprietor affected by a restriction, and upon notice thereof to the Registrar, the court may order a restriction to be removed or varied, or make such other order as it thinks fit, and may make an order as to costs.

PART IX: PRESCRIPTION

Registration of title acquired by prescription

87. (1) Any person who has acquired a title, under the law relating to prescription, to any land may apply to the court for an order that he be registered as the proprietor of the land.

(2) An order made under subsection (1) shall on registration take effect subject to an entry on the register which has not yet been extinguished under the law relating to prescription.

(3) A proprietor of land who has acquired a right to an easement under the law relating to prescription may apply to the court for an order vesting the easement in him and may apply for the registration of any order so obtained in the register of the land for the benefit of which it has been acquired, and the easement shall come into being upon such registration being made, but not before.

(4) The proprietor or the applicant or any other person interested may apply to the court for the determination of any question arising under this section.

PART X: RECTIFICATION AND INDEMNITY

Rectification by Registrar

88. (1) The Registrar may rectify the register or any instrument presented for registration in the following cases:

- (a) in formal matters and in the case of errors or omissions not materially affecting the interests of any proprietor;
- (b) in any case and at any time, with the consent of all persons interested or in accordance with any scheme made and approved under the provisions of any other written law;
- (c) where, upon resurvey, a dimension or area shown in the register is found to be incorrect, but in such case the Registrar shall first give notice, to all persons appearing by the register to be interested or affected, of his intention so to rectify.

(2) Upon proof of the change of the name if any proprietor, the Registrar shall, on the written application of the proprietor, make an entry in the register to record the change.

Rectification by Court

89 (1) Subject to subsection (2), the court may order rectification of the register by directing that any registration be cancelled or amended where it is satisfied that any registration has been obtained, made or omitted by fraud or mistake.

(2) The register shall not be rectified so as to affect the title of a proprietor who is in possession and acquired the land, lease or charge for valuable consideration, unless such proprietor had knowledge of the omission, fraud or mistake in consequence of which rectification is sought, or caused such omission, fraud or mistake or substantially contributed to it by his act, neglect or default.

Right to indemnity

90 (1) Subject to the provisions of this Act, or written law relating to the limitation of actions, any person suffering damage by reason of-

- (a) any rectification of the register under this Act; or
- (b) any mistake or omission in the register which cannot be rectified under this Act; or
- (c) any error in a copy of or extract from the register or in a copy of or extract from any document or plan certified under this Act,

shall be entitled to be indemnified by the Government.

(2) Where the land concerned is registered with a qualified title, indemnity shall only be payable, if at all, in respect of damage suffered in accordance with paragraph (c) of subsection (1).

(3) No indemnity shall be payable in respect of anything done under the provisions of subsection (1) of section 57 or to any person who has himself caused or substantially contributed to the damage by his fraud or negligence, or who derives title (otherwise than under a registered disposition made bone fide for valuable consideration) from a person who so caused or substantially

contributed to the damage, or to any person to whom any compensation in respect of the same matter has been awarded under the provisions of any other written law.

Amount of indemnity

91. Where an indemnity is awarded in respect of the loss of any interest in land, it shall not exceed-

(a) where the register is not rectified, the value of the interest at the time when the mistake or omission which caused the damage was made; or

(b) where the register is rectified, the value of the interest immediately before the time of rectification.

Procedure for claiming indemnity

92. The Registrar may, on the application of any interested party, determine whether a right of indemnity has arisen under this part, and, if so, award indemnity, and may add thereto any costs and expenses properly incurred in relation to the matter.

Recovery of indemnity paid

93. Where any moneys are paid by way of indemnity under this part, the Government is entitled to recover by suit or otherwise the amount so paid from any person who has caused or substantially contributed to the loss by his fraud or negligence, and to enforce any express or implied agreement or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which the indemnity has been paid.

Errors in Survey

94 (1) As between the Government and a proprietor no claim to indemnity shall arise and no suit shall be maintained on account of any surplus or deficiency in the area or measurement of any land disclosed by a survey showing an area or measurement differing from the area or measurement disclose on any subsequent survey or from the area or measurement shown in the register or on the registry map.

(2) As between a proprietor and any person from or through whom he acquired the land, no claim to indemnity shall be maintainable on account of any surplus or deficiency in the area or measurement above or below that shown in any other survey or above or below the area or measurement shown in the register or on the registry map, after a period of six months from the date of registration of the instrument under which the proprietor acquired the land.

PART XI: DECISIONS OF REGISTRAR AND APPEALS

Power of Registrar to state case

95. Whenever any question arises with regard to the exercise of any power or the performance of any duty conferred or imposed on him by this Act, the Registrar may state a case for the opinion of the court and thereupon the court shall give its opinion thereon, which shall be binding upon the Registrar.

Appeals

96 (1) If any person is dissatisfied by the refusal of an Assistant Land Registrar to effect or cancel any registration, he may, within thirty days of the refusal, appeal in the prescribed form to the Land registrar, and the Land Registrar, and the land Registrar may direct that such registration be effected or cancelled, as the case may require, or may uphold the refusal.

(2)(a) Any person aggrieved by a decision, direction, order, determination or award of the Land Registrar may, within thirty days of the decision, direction, order, determination or award, give notice in the prescribed form to the Land Registrar of his intention to appeal to the court against the decision, direction, order, determination or award.

(b) On receipt of a notice of appeal, the Land Registrar shall prepare and send to the court and to the appellant, and to any other person appearing to him from the register to be affected by the appeal, a brief statement of the question in issue.

(c) On the hearing of appeal, the appellant and the Land registrar and any other person who, in the opinion of the court, is affected by the appeal may, subject to any rules of court, appear and be heard in person or by advocate.

(d) The court may make such order on the appeal as the circumstances may require, and every such order shall be given effect to by the Land Registrar.

(e) The costs of the appeal shall be in the discretion of the Court.

Effect of appeal on dispositions

97 (1) Any party to an appeal from the decision of the court or to any subsequent appeal may give notice in writing of the appeal to the Registrar, who shall make a note thereof in the register.

(2) Where-

(a) a note has been so made in the register, all dispositions affecting the land, lease or charge concerned, and registered after the note, shall take effect subject to any order made on the appeal; and

(b) no note has been so made in the register, all dispositions, other than dispositions made in good faith and for valuable consideration, shall take effect subject to any order made on the appeal.

PART XII: MISCELLANEOUS

Service of notices

98. A notice under this Act shall be deemed to have been served on or given to any person-

(a) if served on him personally;

(b) if left for him at his last known place of residence in Seychelles;

(c) if sent by registered post to him at his known postal address;

(d) if served in any of the above-mentioned ways on an attorney holding a power of attorney where under such attorney is authorised to accept such service;

(e) if service cannot be effected in one of the abovementioned ways, by displaying it in a prominent place on the land.

Meaning of “opportunity of being heard”

99. (1) Where by this Act a thing is to be or may be done after giving a person an opportunity of being heard, that person shall be deemed to have been given such an opportunity-

(a) if he attends before the Registrar personally or by an advocate or other agent, and is given such an opportunity; or

(b) if he intimates, personally or by an advocate or other agent, that he does not wish to be heard; or

(c) if he has been served with a notice in writing specifying the nature of the thing to be done and appointing a day and time not less than seven days after service of the notice at which he will, if he attends before the Registrar, be heard.

(2) Where a person or an advocate or other agent on his behalf attends before the Registrar concerning a matter on which he is entitled to an opportunity of being heard, or fails to attend pursuant to such a notice as aforesaid, the registrar may, if he thinks fit, adjourn the hearing from time to time, and, notwithstanding failure to attend, may if he thinks fit, hear such person at any time.

(3) Where by this Act all persons interested or affected are to be given an opportunity of being heard, it shall be sufficient if all persons who, according to any subsisting entry in the register, appear to be so interested or affected are given such opportunity.

Offences

100. (1) Any person who knowingly misleads or deceives any person authorised by or under this Act to require information in respect of any land or interest in land shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding five thousand rupees or to both such imprisonment and such fine.

(2) A person who

(a) fraudulently issues or makes or fraudulently procures the issue or making of, any document, or any registration, or any erasure or alteration in any document or in any register; or

(b) fraudulently removes from the registry any register or any part of any register or any instrument filed in the registry; or

(c) fraudulently causes any defacement, obliteration, mutilation or unauthorized entry or alteration to be made on or in any register or filed instrument,

shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding seven years or to a fine not exceeding ten thousand rupees or to both such imprisonment and such fine.

(3) If any person after the delivery to him of a notice or summons to attend before the Registrar or to produce any document for inspection or retention neglects or refuses without reasonable cause to attend in accordance with the notice or summons, or to produce any document which he is required by the notice or summons to produce, or to answer upon oath or otherwise any question which is lawfully put to him by the Registrar under the powers conferred by this Act, he shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rupees.

Fees

101. The prescribed fees shall be payable in respect of searched, survey plans, and all other matters connected with registration, and the Registrar may refuse registration until the fees are paid.

Recovery of fees and expenses

102. Unpaid fees or expenses incurred by the Registrar shall constitute a debt due to the Government.

Enforcement of Registrar's order for payment

103. An order for the payment of a sum of money made by the Registrar under any power conferred by this Act may be executed and enforced as if it were a judgement of the Court.

Rules

104. The Minister may make rules generally to give effect to the purposes and provisions of this Act, and in particular and without prejudice to the generality of the foregoing, for prescribing the forms to be used under this Act and the fees payable for anything to be done thereunder, and for prescribing anything which under this Act may be prescribed.

Act to bind the Republic but without effect on prerogative of the President and other rights of the Republic

105. This Act shall bind the Republic:

Provided that nothing herein contained shall be construed to limit or curtail any prerogative right vested in the President under section 14 of the Seychelles Independence Order, 1976 (S.I.46/1976) or under the Constitution or any interest, right, power or privilege conferred on the Republic by any other law.

Construction of other laws

106. A reference in any law not expressly or impliedly repealed or amended by this Act to transcription of any deed or judgment or to inscription of any mortgage or privilege shall, in relation to land registered under this Act, be construed as a reference to registration under this Act.

LAWS OF SEYCHELLES

CHAPTER 107

LAND REGISTRATION ACT

SUBSIDIARY LEGISLATION: SECTION 4: THE LAND REGISTRATION RULES

[27th February, 1967]

S.I. 12 of 1967.
S.I. 14 of 1973.
S.I. 91 of 1974.
Act 9 of 1983.
Act 7 of 1985.
S.I. 11 of 1988.
S.I. 33 of 2011

Citation

1. These rules may be cited as the Land Registration Rules.

Form of register

2. A register shall be in one of the forms in the First Schedule to these rules, whichever is appropriate; the registration district, the section number (if any) and the parcel number shall together form the title number, and the parcel number entered in a register in respect of a lease shall contain-

- (a) where the lease is of a whole parcel, the parcel number;
- (b) where the lease is a sublease, a letter suffix unique to that sublease;
- (c) where the lease or sublease is of a portion of a parcel, a subdivisional number unique to that portion, and letters and subdivisional numbers shall appear in the order in which the respective interests were created.

Other forms

3. Subject to section 58 of the Act, every instrument shall, with such variations as may be necessary to meet the circumstances of any particular case, be in one of the forms in the Second Schedule to these rules, whichever is appropriate.

Instruments to be in English

4. All instruments shall be clearly and legibly printed, written, or typewritten, in the English language.

Forms of attestation

5. The attestation of every execution required by the Act to be attested shall be in the following form-

“signed by who is known to me (or who was satisfactorily identified to me) in my presence.”:

Provided that where section 61 of the Act applies, the attestation shall be in the following form:-

- (a) in case of ignorance-

“Marked by who is known to me (or who was satisfactorily identified to me) in my presence and that of the two undersigned witnesses after the above instrument had been read over to the said by me in the presence of the two said witnesses.”

(b) in the case of physical disability-

“We, the undersigned, do hereby attest that Who is known to us suffers from, a physical disability whereby he/she is unable to execute the above instrument and that after the said instrument had been read over to the said by in the presence of the undersigned witnesses, he/she declared (or acknowledged) that he/she assented thereto.”

Execution and attestation of instruments in foreign countries

6. Where it is not practicable or convenient to execute an instrument in a foreign country in the presence of a British consular officer, or to have the execution of that instrument attested by that officer, for the purposes of section 60(2)(b) of the Act, the instrument may be executed in the presence of a judge, magistrate, justice of the peace, notary public or commissioner of oaths in that country who shall attest the execution in the appropriate form prescribed by rule 5.

Form of application to register certain legal charges

7. (1) An application to the Registrar for the registration of a legal charge under section 43 of the Act, when the legal charge to be registered related to a vendor's privilege or to a minor's legal mortgage, shall contain the following particulars:-

(a) the name, surname, residence and occupation, if any, of both the creditor and the debtor;

(b) in the case of a vendor's privilege the date of the instrument giving rise to the privilege and the amount of the claim in principal and accessories and the date when it becomes due;

(c) in the case of a minor's legal mortgage, the nature of the rights to be preserved and the amount of their value as respects things have been determined, without it being necessary to fix such value as respect things which are conditional, eventual or undetermined;

(d) the description of the land affected by the legal charge.

(2) An application which does not satisfy any of the requirements of this rule may be rejected by the Registrar.

Non-Seychellois

8. Every transfer and every lease presented for registration shall have endorsed thereon a certificate by the attesting witness in the following form:-

The Immovable Property (Transfer Restriction) Act.

(a) The transferee/lessee is not a non-Seychellois; or

(b) Sanction has been given.

Stamps and registration fees

9. No instrument required to be stamped or to be registered in accordance with the provisions of the Mortgage and Registration Act shall be accepted for registration under the Act unless it has been so stamped or registered.

Statutory bodies

10. The Development Bank of Seychelles shall be a statutory body for the purposes of the Act and of these rules.

Fees

11. The fees specified in the second column of the Third Schedule to these rules shall be paid in respect of the matters specified in the first column of that schedule:

Provided that no fee shall be payable in respect of any dealing in favour of the Republic or any statutory body, or in respect of any application, notice or caution made, given or presented by or on behalf of the Republic or any such body, or, where they are required for official purposes, for a search by or for the issue of any copy to any public officer.

Payment of fees

12. (1) All fees shall be payable on presentation of the instrument or application.

(2) Unless the Registrar otherwise agrees, fees shall be paid in cash.

Refund of fees

13. No fee shall be refunded except by order of the Land Registrar.

Interpretation

14. In these rules words and expressions shall have the meaning ascribed to them in section 2 of the Act.

FIRST SCHEDULE

Form 1:(Rule 2)

A – PROPERTY SECTION

Edition:	
Opened:	

Registration District	Beneficial Easements, etc.	Nature of Title
Parcel No.		
Area	Acres	

B - PROPRIETORSHIP SECTION

Entry No.	Date	Name of Proprietor	Address of Proprietor	Signature of Registrar
Title No.				

C – ENCUMBRANCES SECTION

Entry No.	Date	Name of Encumbrance	Address of Proprietor	Signature of Registrar

Form 2

A - PROPERTY SECTION

Edition:		
Opened:		
Registration District	Particulars of Lease	Nature of Title
	Lessor:	
	Lessee	
Parcel No.		
	Rent: Term: Form:	
Area Acres		

N.B. Where the Lease is part of parcel the parcel number refers to the number shown on the filed plan.

B - PROPRIETORSHIP SECTION

Entry No.	Date	Name of Proprietor	Address of Proprietor	Signature of Registrar
Title No,				

C – ENCUMBRANCES SECTION

Entry No.	Date	Name of Encumbrance	Address of Proprietor	Signature of Registrar

ECOND SCHEDULE (Rule 3): FORMS

FORM L.R.1

THE LAND REGISTRATION ACT

TRANSFER OF LAND

I/We, in consideration of rupees (which sum [or of which sum Rupees] has been paid) hereby transfer to of the land comprised in the above-mentioned title [in the following undivided shares:-]

Dates this day of 19

(Form L.R.2)

THE LAND REGISTRATION ACT

TRANSFER OF LEASE

Title No.

I/We, in consideration of rupees (which sum has been paid) hereby transfer to of the leasehold interest comprised in the above-mentioned title.

Dates this day of 19

(Form L.R.3)

THE LAND REGISTRATION ACT

TRANSFER OF CHARGE

Title No.

I/We, in consideration of Rupees (which sum has been paid) hereby transfer to of the charge shown as entry number in the encumbrances section of the register of the above-mentioned title.

I/We the Chargor, hereby agree to this transfer.

Dates this day of 19

(Form L.R.4)

THE LAND REGISTRATION ACT

TRANSFER OF UNDIVIDED SHARE

Title No.

I/We, in consideration of Rupees (which sum [or of which sum Rupees] has been paid) hereby transfer to of [part of], my/our undivided share in the above-mentioned title [in the following proportion:-]

Dates this day of 19

(Form L.R.5)

THE LAND REGISTRATION ACT

TRANSFER OF LEASE

Title No.

I/We, hereby lease to of the land comprised in the above-mentioned title [or that part of the land comprised in the above-mentioned title which is shown on the plan annexed hereto and comprises acres approximately,] for the term of From the day of 19..... At the rent of Rupees payable, and subject to the following conditions:-

(conditions)

Dates this day of 19

THE LAND REGISTRATION ACT
USUFRUCTUARY INTEREST

(Form L.R.6)

Title No.

I/We, hereby grant to of a usufructuary interest in the land comprised in the above-mentioned title, for his life [or for the term of years from the day of 19.....,] subject to the following conditions:-

(conditions)

Dates this day of 19

THE LAND REGISTRATION ACT
CHARGE

(Form L.R.7)

Title No.

I/We, hereby charge my/our interest in the above-mentioned title to secure the payment to of of the principal sum of with interest at the rate of per centum per annum payable

The principal sum shall be repaid on the Day of 19..... together with any interest then due.

(Any other conditions)

Dates this day of 19

THE LAND REGISTRATION ACT

(FORM L.R.8)

DISCHARGE OF CHARGE

Title No.

I/We, Hereby discharge the Charge registered against the above-mentioned title as Entry No:

Dates this day of 19

THE LAND REGISTRATION ACT

(Form L.R.9)

SURRENDER OF LEASE

Title No.

I/We, in consideration (the receipt whereof is hereby acknowledged) hereby surrender the lease comprised in the above-mentioned title; and the Lessor hereby accepts such surrender.

I/We, the Chargee [or Sublessee] hereby agree to this surrender.

Dates this day of 19

THE LAND REGISTRATION ACT

(Form L.R.10)

GRANT OF EASEMENT

Title No.

I/We, in consideration of (the receipt whereof is hereby acknowledged) hereby grant to the proprietor of the land comprised in title number the following easement:-

Dates this day of 19

(Form L.R.11)

THE LAND REGISTRATION ACT

RELEASE OF EASEMENT OR RESTRICTIVE AGREEMENT

Title No.

I/We, Being entitled to the benefit of the lease [easement] [restrictive agreement] shown as entry number in the encumbrances section of the register of the above-mentioned title, hereby release the [easement] [restrictive agreement].

Dates this day of 19

(Form L.R.12)

THE LAND REGISTRATION ACT

APPLICATION FOR PARTITION

Title No.

I/We, Hereby apply for the land comprised in the above-mentioned title to be partitioned in the following manner:-

Dates this day of 19

(Form L.R.13)

THE LAND REGISTRATION ACT

POWER OF ATTORNEY

Title No.

I hereby appoint of to be my attorney and generally in relation to my interest in the above-mentioned title to do anything and everything that I myself could do, and for me and in my name to execute all such instruments and to do all such acts, matters and things as may be necessary or expedient for carrying out the power hereby given.

(If the power is to be limited to particular acts only, delete all the words after the word “attorney”, and set out what powers are to be conferred.)

Dates this day of 19

(Form L.R.14)

THE LAND REGISTRATION ACT

NOTICE OF REVOCATION OF A POWER OF ATTORNEY

Title No.

I, hereby give notice that the Power of Attorney filed in the register of powers of attorney as number has been revoked-

- (a) by me Or
- (b) by the (death) (bankruptcy) (interdiction) of the donor or
- (c) by the (death) (interdiction) of the attorney, and I attach the following documents in support thereof:-

Dates this day of 19

(Form L.R.15)

THE LAND REGISTRATION ACT

NOTICE OF RENUNCIATION OF POWER OF ATTORNEY

Title No.

I hereby give notice that I have renounced the Power of Attorney filed in the register of powers of attorney as No:

Dates this day of 19

(Form L.R.16)

THE LAND REGISTRATION ACT

CAUTION

Title No.

I, of Claim an interest as in the above-mentioned title and forbid the registration of dealings and the making of entries in the register relating to the title (altogether) or (to the following extent) without my consent, until this caution has been withdrawn by me or removed by order of the Court or of the Registrar.

Dates this day of 19

(Form L.R.17)

THE LAND REGISTRATION ACT

APPEAL TO THE LAND REGISTRAR UNDER SECTION 96(1)

Title No.

I hereby appeal against the refusal of the Assistant Land Registrar to effect or cancel the following registration:-

My grounds for appeal are as follows:-

Dates this day of 19

(Form L.R.18)

THE LAND REGISTRATION ACT

NOTICE OF INTENTION TO APPEAL TO THE SUPREME COURT

Title No.

To The Land Registrar,

Victoria

Take notice that I intend to appeal to the Supreme Court against the decision given by you in my appeal to you dated the

Dates this day of 19

(Form L.R.19)

THE LAND REGISTRATION ACT

CERTIFICATE OF OFFICIAL SEARCH

Title No.

On the day of 19..... the following were the subsisting entries on the register of the above-mentioned title-

Part A – Property Section (Easements, etc.)

Part B – Proprietorship Section.

Name and address of proprietor:

Inhibitions, Cautions and Restrictions:

Part C – Encumbrances Section (Leases, charges, etc.)

Dates this day of 19

.....
(Assistant) Land Registrar.

THE LAND REGISTRATION ACT
MUTATION FORM

(Form L.R.20)

Title(s) No. (s):

To: Director of Surveys

1. The proprietor wishes to subdivide
or
The proprietors wish to alter their common boundary
2. The new parcel numbers will be and
3. Please arrange for survey and, when this has been passed, amend the Registry Map and send to me survey plans of the new parcels.

Date: 19

.....
Land Registrar.

To: Land Registrar

1. Registry Map amended.
2. Survey plans herewith.

Date: 19.....

.....
Director of Surveys

(This form to be completed in triplicate).

THE LAND REGISTRAR ACT

(Form L.R.21)

AFFIDAVIT ON TRANSMISSION BY DEATH

We, hereby solemnly and conscientiously swear as follows:-

1. That our (Father, etc.) (Name of deceased) died at on the
Day of 19 (Death certificate attached hereto).

2. That at the date of his death the deceased was registered as the proprietor of-
(Details of land etc. owned, giving title references).

3. That under the Will of the deceased (or on the death, intestate, of the deceased) we became
entitled to the above-mentioned property as follows:-

4. That, to the best our knowledge, information and belief, no other person is entitled to any
interest in the said property.

Sworn before me

At

This day of 19 Magistrate/Justice of the Peace/
Registrar of the Supreme Court.

THIRD SCHEDULE: FEES

1. For registration, in respect of each title affected, of	SR
(a) Transfer or Transmission	100.00
(b) Lease or sublease	100.00
(c) Surrender or cancellation of lease or sublease	100.00
(d) Extension or variation of lease or sublease	100.00
(e) Charge	100.00
(f) Discharge or variation of charge	100.00
(g) Easement or restrictive agreement	100.00
(h) Release of easement or restrictive agreement	100.00
(h) Release of easement or restrictive agreement	100.00
(i) Assignee in bankruptcy or insolvency	100.00
(j) Liquidator of company	100.00
(j) Liquidator of company	100.00
(k) Power of attorney	100.00
(l) Renovation or renunciation of power of attorney	100.00

(m) Inhibition by court	100.00
(n) Caution	500.00
(o) Restriction, on application by an interested party	500.00
(p) Court order	100.00
(q) Executor or fiduciary appointment	100.00
(r) Change of name	100.00
2. For opening new registers on a partition or Sub-division, for each new parcel resulting	100.00
3. On the combination of parcels	100.00
4. On conversation of title under section 21(1) of the Act	100.00
5. On application to inspect under section 27(1) of the Act	100.00
6. For a certificate of official search under section 27(2) of the Act	100.00
7. For certificate copies of instruments, for every folio of 15 lines or part thereof	50.00
8. For certified copies of registry map or of a filed plan, Per square foot or part thereof	100.00
9. Attestation fee, payable to notary, for each execution attested	500.00