

CONSOLIDATED TO 30 JUNE 2014

LAWS OF SEYCHELLES

CHAPTER 134

MORTGAGE AND REGISTRATION ACT

[17th June, 1927]

Act 5 of 1927.
Act 15 of 1936.
Act 21 of 1937.
Act 1 of 1939.
Act 19 of 1947.
Act 10 of 1948.
Act 17 of 1948.
Act 39 of 1950.
Act 4 of 1956.
Act 13 of 1956.
Act 12 of 1957.
Act 3 of 1959.
Act 13 of 1960.
Act 30 of 1961.
Act 12 of 1964.
Act 25 of 1965.
Act 31 of 1965.
Act 16 of 1968.
Act 19 of 1970.
Act 1 of 1971.
Act 19 of 1971.
Ord.4 of 1972.
Ord.4 of 1975.
S.I.95 of 1975.
S.I.72 of 1976.
Act 23 of 1976.
Dec.61 of 1977.
S.I.77 of 1987.
S.I.6 of 1990.

ARRANGEMENT OF SECTIONS

Short title and interpretation

1. (1) This Act may be cited as the Mortgage and Registration Act.

(2) In this Act, unless the context otherwise requires

"assignment", in relation to a lease, includes cession or transfer;

"share" in relation to a company, includes stock;

"writing", in relation to the transfer of a share in the capital of a company, includes any endorsement on the share certificate by which the transfer is effected.

PART I - THE MORTGAGE AND REGISTRATION OFFICE AND REGISTERS

The Mortgage and Registration Office

2. The Mortgage Office and the Registration Office heretofore established at Victoria, Mahé, shall henceforth be combined and continue as one office under the name of the Mortgage and Registration Office at Victoria aforesaid.

Office hours

3. The Mortgage and Registration Office shall be open to the public from 8 a.m. to noon and from 1.30 p.m. to 3.30 p.m. on every day except Sundays and other public holidays.

Provided that on Saturdays the office shall be closed at noon:

Provided further that no document will be received for inscription, transcription or registration unless the proper fees for the same shall have been previously paid to the Registrar of Deeds.

Appointment of Registrar

4. There shall be appointed to and in charge of the Mortgage and Registration Office an officer to be styled the Registrar of Deeds (hereinafter referred to as the Registrar); he shall be appointed by the President.

Appointment of Assistant Registrar

5. The President may also appoint an Assistant Registrar of Deeds who shall have all the powers and shall be subject to the same rules as the Registrar.

Appointment of Clerks

6. There may be appointed to the Mortgage and Registration Office such clerks as may from time to time be necessary.

Assistant Registrar and clerks subject to Registrar's direction and orders

7. The Assistant Registrar and the clerks of the Mortgage and Registration Office shall be under the direction of the Registrar and shall carry out all orders in regard to their work given by him.

Oath of Registrar and staff

8. The Registrar, the Assistant Registrar and the clerks shall as soon as may be after their acceptance of office take such oath as may be prescribed by law.

Senior Clerk when empowered to act for Registrar or Assistant Registrar. Responsibility of Assistant Registrar and Senior Clerk

9. (1) If both the Registrar and the Assistant Registrar are absent or prevented from carrying out their duties, or any of them, the senior clerk for the time being in charge of the Mortgage and Registration Office may carry out any such duties, and any acts thus performed by such clerk shall be as valid and effectual as if done by the Registrar.

(2) The Assistant Registrar and a senior clerk when performing duties pertaining to the office of the Registrar shall be held responsible for their own errors and omissions in the performance of such duties.

Domicile of Registrar

10. The domicile (domicile de droit) of the Registrar for all legal purposes shall be at the office of Registrar. This domicile shall continue so long as he shall continue to hold office.

Purposes of the Mortgage and Registration Office

11. The Mortgage and Registration Office shall be open for the following purposes

(a) the inscription and transcription therein of deeds and acts which by law require inscription or transcription, and which concern immovable property situated in Seychelles;

(b) the transcription of all other deeds or acts required or allowed by law to be transcribed;

(c) the preservation of mortgages (la conservation des hypothèques) including the performance of all formalities required by law for regularising, transcribing, giving effect to or otherwise maintaining the validity of mortgage deeds;

(d) the registration of all documents required or allowed by this Act or by any other law to be registered.

Répertoire and register of presentation

12. (1) The Registrar shall keep a register, on unstamped paper, called the "Répertoire", in which he shall enter in order of deposit and under a special account opened in the name of every party affected by any deed, a summary of all inscriptions and all transcriptions, erasures of inscriptions, or other transactions concerning immovable property or declaratory of such right together with a reference to the volume and number of the register in which the deeds have been copied or noted.

(2) The register of presentation, mentioned in article 2200 of the Civil Code of Seychelles, shall contain on the first page a mention signed by a Judge in the form following

The present register containingfolios has been handed over by me to the Registrar of Deeds at Victoria, to serve (1) for the insertion, in execution of article 2200 of the Civil Code of Seychelles without any blank or interlineation day by day and by numerical order, of the deposits which shall be made to him of deeds of mutation to be transcribed or schedules of inscriptions to be enrolled; (2) for the registration of duties of inscriptions or transcriptions.

The present register is to be closed every day in conformity with article 2201 of the Civil Code of Seychelles, and the closing thereof shall appear immediately after the last registration or closing. The register shall also mention all Sundays and holidays.

Made and signed in Chambers, Court House, Mahé, Seychelles, thisday ofin the year one thousand nine hundred and

Judge.

(3) The pages of the register of presentation shall besides be numbered and each page thereof shall be initialed by the Registrar of the Supreme Court or stamped with his stamped initials and the fact shall be certified by a mention signed by such Registrar on the first page of the register.

Books

13. (1) There shall be kept at the Mortgage and Registration Office two books which shall be numbered, and each page of which shall be initialed by the Registrar of the Supreme Court, who shall certify the fact on the first page of each book.

(2) One of these books shall serve exclusively for the registration of notarial deeds. In the second book shall be registered all other documents which are subject to the formality of registration.

(3) The first and second registration books mentioned in subsection (2) shall be closed every day and shall further be signed by the Registrar.

(4) The Registrar shall also keep such other books as may be required for the proper and efficient working of the office and approved of by the Attorney General.

Delivery of extracts and certificates

14. No extract from the registration books shall be delivered and no certificate that a deed has been registered shall be given by the Registrar, except on an order of a judge, unless such extract or certificate is applied for by one of the contracting parties or his lawful agent, or by the assignee and holder of his rights, nor shall the registration books be communicated to the public.

PART II - MORTGAGES AND TRANSCRIPTIONS

Duration of inscriptions

15. (1) An inscription shall have legal effect

(a) if made before the commencement* of the Civil Code of Seychelles for a period of ten years from the date thereof;

(b) if made on or after the commencement of that Code, for a period of thirty years from the date thereof.

A renewal of any inscription shall be subject to the same formalities and have the same legal effect as an inscription, and may be made by any party having an interest therein.

(2) This section shall apply to inscriptions made ex officio by the Registrar.

Note: The Civil Code of Seychelles commenced on 1 January 1976 (S.I. 106 of 1975).

Judicial mortgages abolished

16. Judicial mortgages, as provided in article 2123 of the Civil Code of Seychelles shall continue to stand abolished.

Inscriptions on behalf of Government, how to be erased

17. All inscription of mortgage taken on behalf of the Seychelles Government, and enrolled in the books of the Registrar, may continue to be erased upon official letter addressed to the Registrar giving the names and surnames of the debtors and stating besides the date and the volume and number of every inscription to be erased.

Applications for erasure, etc., of mortgages to be tried by Supreme Court

18. All applications for the removal, erasure, cancellation, or reduction of mortgages shall continue to be tried and disposed of before the Supreme Court.

Conditional loan mortgage to be inscribed

19. A mortgage granted under a conditional deed of loan shall rank from the date of the inscription, notwithstanding that the money lent shall not have been paid until afterwards.

Mortgages for credits opened

20. (1) It shall be lawful for any proprietor of real property to grant on that real property a mortgage for a fixed sum, for a credit opened to him, whether the amount be paid all at once or by successive instalments. The said mortgage shall take rank from the date of its inscription, whatever be the dates of each successive payment. Such payments may be proved by written vouchers according to law.

(2) When such credit shall be opened, renewable yearly, wholly or partly for several consecutive years not exceeding four years or renewal of five years in all, a fresh mortgage or a new inscription shall not be required after each annual settlement. The mortgage given and the inscription taken, by virtue of the original deed opening the credit, shall guarantee, up to the amount of the inscription taken and no further, the payment of such definitive balance as may be due at the expiration of the credit, provided that such balance be proved by written vouchers according to the law of Seychelles.

Deeds of transfer, etc., to be transcribed

*21. The following deeds (whether authentic or under private signatures) and judgments shall continue to be transcribed in the office of the Registrar

(a) every deed of transfer inter vivos of any immovable property, or of any real right capable of being mortgaged; and every deed declaratory of any such property or right;

(b) every deed constituting any pledge of immovable property (antichrèse) or any servitude over or right of use (droit d'usage), or right of residence (droit d'habitation) in an immovable property;

(c) every deed importing renunciation of any of the rights in this section before enumerated;

(d) every judgment declaratory of the existence of any such right in virtue of any verbal agreement;

(e) every judgment of adjudication;

(f) every lease of rural property (bail à ferme), of whatever duration;

Note to the official 1991 edition: See section 10(3) of the Land Registration Act (Cap 107) in respect of the non-application of sections 21 to 23 of this Act to land registered under that Act.

(g) every deed or judgment establishing the discharge or transfer of rent (whether of money or produce) not due at the date thereof under any such lease;

(h) every lease of house property (bail à loyer) of more than three years' duration;

(i) every deed or judgment establishing discharge or transfer of rent not due at the time under any lease whatsoever of house property, when the amount thereof exceeds one year's rent.

Deeds aforesaid not to be good against third parties if not transcribed

22. Until transcription, the rights resulting from the deeds and judgments hereinbefore enumerated, shall not (except as hereinafter provided) be maintainable against third parties having rights secured according to law over the immovable property to which such deeds and other apply.

Judgments extinguishing real rights to be transcribed

23. (1) Every judgment decreeing the cancellation (résolution), nullity, or rescission, either wholly or partially, of any deed duly transcribed, shall within one month after such judgment shall have become final, be entered on the margin of the transcription in the register of the deed or judgment.

(2) The attorney who shall have obtained the judgment shall be bound, under a penalty not exceeding five hundred rupees and of damages, to cause the said entry to be made by transmitting a memorandum (bordereau) thereof, prepared and signed by him, to the Registrar, who shall give a receipt therefor. In case of the said attorney failing to do so, any party interested may have the entry made upon a memorandum of the judgment prepared and signed by any other attorney whom he may employ.

Registrar to deliver certificate of transcription

24. The Registrar shall, whenever required to do so, deliver on his own responsibility a certificate, either special or general, of the transcriptions and entries specified in the preceding sections.

Creditors who may inscribe within a fortnight after transcription

25. At any time within a fortnight after the transcription of any deed of the nature specified in section 21, creditors having mortgages or privileges in terms of articles 2127 and 2128 of the Civil Code of Seychelles, and whose titles are prior in date to such deed, may effectually have their rights inscribed against the preceding proprietor. After the expiration of the said period such inscription shall not be valid.

Privileges of vendors or co-proprietors

26. (1) The vendor or the co proprietor (co partageant) may effectually inscribe his respective privileges under articles 2108 and 2109 of the Civil Code of Seychelles within forty five days of the deed of sale or division, notwithstanding the transcription of any in the interval.

(2) Nothing in this section shall be deemed to affect or modify in any way the provisions of the Immovable Property (Judicial Sales) Act relative to the consequential effects of judicial sales.

Creditor may transcribe within thirty days from opening of succession

27. Any creditor having acquired rights by way of privilege or mortgage (droit de privilège ou d'hypothèque acquis), which rights shall not have been inscribed before the death of his debtor, may cause such rights to be inscribed within thirty days from the opening of the succession, anything in article 2146 of the Civil Code of Seychelles notwithstanding:

Provided that nothing in this section shall affect the provisions of section 25 of this Act.

Resolutive action not admissible after the extinction of vendor's privilege

28. After the extinction of the vendor's privilege, the resolutive action (action résolutoire) established by article 1654 of the Civil Code of Seychelles cannot be exercised to the prejudice of third parties having, over the property to which the privilege applied, rights derived from the purchaser, and having conformed to the law for preserving their said rights.

Third parties interested to be called in the resolutive action

29. A resolutive action shall not in any case be competent against the original purchaser without the third parties in right of the property (tiers détenteurs) being called as defendants for their interest.

Creditors not to renew inscriptions after forcible ejectment

30. In case of sale by forcible ejectment, creditors having their rights inscribed at the date of adjudication may be collocated on the division of the sale price, although their inscriptions have not been renewed within the period prescribed by law.

Mutations to be registered before transcription

31. No deed of mutation of any real right shall be transcribed unless the same shall have been first registered.

Arts. 2200 and 2201 of Civil Code of Seychelles modified

32. Articles 2200 and 2201 of the Civil Code of Seychelles are modified and repealed in so far only as they are repugnant or contrary to the provisions of this Act.

Special hypothecs may be given

33. Every testator shall henceforth be entitled to grant by his will, if the same be authentic, a hypothec for a fixed sum to be taken on one or more of his immovable properties to be specially designated as a security for the legacy or legacies by him made, and such hypothec shall be inscribed at the instance of a notary. The provisions of articles 1009, 1012 and 1017 of the Civil Code of Seychelles are in nowise modified or interfered with by this enactment.

Time for filing memorandum and erasure

34. (1) Memoranda (bordereaux) of inscription of mortgage shall be filed at the Mortgage and Registration Office by the notary drawing any deed of obligation within twenty days from the date of the final execution of every mortgage.

(2) An erasure of inscription of mortgage shall be filed at the Mortgage and Registration Office within twenty days from the date of the final execution of the deed authorising or witnessing such erasure.

Inscriptions not to be void for want of form

35. The omission of one or more of the formalities prescribed by the Civil Code of Seychelles for the inscription of mortgages or privileges shall not per se involve the absolute nullity of the inscription.

But the court shall have power, if any real prejudice has been caused by any such omission, to annul the inscription or reduce the force and effects thereof.

Saving clause as to provisions of Civil Code of Seychelles

36. Nothing in this Act shall impair the provisions of the Civil Code of Seychelles as to the transcription of deeds of donations or containing obligations to restore the property transferred, all of which provisions shall continue in force as well as all articles of the Civil Code of Seychelles regarding privileges and mortgages which have not been modified by this Act.

PART III - PROCEDURE FOR EFFECTING INSCRIPTIONS AND TRANSCRIPTIONS

Interpretation

37. In this part, unless the context otherwise requires

"legal mortgage", includes all privileges and mortgages created by any law for the time being in force in favour of the Government or of the Republic;

"memorandum", in relation to an inscription means "bordereau";

"prescribed" , means prescribed by regulations made by the Minister.

Inscriptions and transcriptions how effected

38. As from the first day of January 1962, the inscription of privileges and mortgages and the transcription of deeds and judgments shall be effected in accordance with the provisions of sections 39 to 49.

Procedure for inscription of privilege or mortgage

*39. (1) Any creditor applying for the inscription of a privilege or mortgage shall either in person or by some other person on his behalf, produce to the Registrar the original or a certified copy of the deed giving rise to the privilege or mortgage:

Provided that the production of such original or a certified copy shall not be required in the case of an application for the inscription of a legal mortgage or of the privilege mentioned in Article 2111 of the Civil Code of Seychelles.

Note to the official 1991 edition: See section 10(3) of the Land Registration Act (Cap 107) in respect of the Government on payment of a prescribed fee.

(2) Such creditor or other person shall annex to such deed, or copy, two identical memoranda which shall be printed or legibly written, or typewritten in indelible ink on a special form containing not more than fifty lines per page. Such special form shall be supplied by the non application of sections 39 to 47 of this Act to land registered under that Act.

(3) Both memoranda shall be signed by the applicant, or other person on his behalf, and such applicant or other person shall certify thereon that they have been duly collated.

(4) If the applicant, or other person on his behalf, has not made use of the special form above mentioned, the Registrar shall, nevertheless, take the inscription which shall be valid and effectual; but the Registrar shall require the applicant, or other person, by registered letter, to substitute for the irregular memoranda new memoranda on the special form within fifteen days of the date of the registered letter, and the applicant or other person shall be bound to comply with such requirement.

(5) If the applicant, or other person on his behalf, fails to comply with the requirement contained in a registered letter sent to him under subsection (4) he shall be liable to a penalty not exceeding one hundred rupees to be levied by and paid to the Registrar.

(6) Notwithstanding any thing in this section, the Registrar may, in special circumstances of which he shall be the sole judge, allow one of the memoranda mentioned in subsection (2) to be drawn up on such paper as may be selected by the applicant, or other person on his behalf, if the other memorandum which is to be kept in the Mortgage and Registration Office be drawn up on the special form referred to in that subsection.

(7) Each memorandum shall contain the following particulars –

(a) the names, surname, and domicile of the creditor, and his occupation, if any; if the creditor be a partnership, company or corporate body, its trade name or corporate name and its principal place of business; and, in either case, the domicile elected by the creditor;

(b) the names and surnames of the debtor, his domicile and, if known, the date and place of his birth and his occupation; if the debtor be a partnership, company, or corporate body, its trade name or corporate name, and its principal place of business; and, if the inscription is to be taken in respect of the property of a deceased person, such a designation of that person as will enable the Registrar to ascertain who he was;

(c) the date and nature of the title deed giving rise to the privilege or mortgage; and in any case where the applicant is exempted by law from the obligation of producing a title deed, the memoranda shall set forth the ground and nature of the claim;

(d) the amount of the claim in principal and accessories, and the date when it become due; the applicant shall, unless exempted by law, give an estimate of the annuities, charges and undetermined rights; and if the rights are contingent or conditional, he shall briefly indicate the event or the condition upon which the claim depends;

(e) an indication of the nature and situation of the property over which he intends maintaining his privilege or mortgage.

(8) An inscription shall not be null and void by reason only of the omission in any of the memoranda mentioned in this section of any of the particulars set out in subsection (7), or in section 40 unless third parties have been prejudiced by such omission. It shall not be lawful for any person other than a person who may be prejudiced by such omission to move that the inscription be set aside,

and, on any such motion, the Supreme Court may set aside the inscription or restrict its effect, according to the nature and extent of the prejudice.

Inscription of legal mortgage

40. (1) A legal mortgage shall be inscribed upon the production to the Registrar of two memoranda which shall satisfy the requirements of subsection (2) and (3) of section 39, unless otherwise provided in any law for the time being in force.

(2) Each memorandum shall contain the following particulars:

- (a) the names, surname, and domicile of the creditor, his occupation, if any, and the domicile elected by or for him;
- (b) a description of the debtor in the manner prescribed by paragraph (b) of subsection (7) of section 39;
- (c) the nature of the rights to be preserved and the amount of their value as respects things which have been determined, without it being necessary to fix such value as respects things which are conditional, eventual, or undetermined;
- (d) an indication of the nature and situation of the property over which the inscription is to be taken, but the foregoing provisions of this paragraph shall not apply when an inscription is to be taken over all the immovable property of the debtor and in such cases every memorandum shall contain a statement that the inscription is sought over all the immovable property of that debtor.

(3) Any memorandum which shall not satisfy any of the requirements of this section may be rejected by the Registrar.

Duties of Registrar on inscription of privilege or mortgage

41. The Registrar shall record on the register prescribed by Article 2200 of the Civil Code of Seychelles the fact that the memoranda referred to in section 39 have been produced to him, and he shall return to the person applying for the inscription the original or the certified copy of the deed giving rise to the privilege or mortgage, as well as one of the memoranda, at the foot of which he shall record the date upon which it was produced to him and the volume in which, and the number under which, the memorandum which is to be kept in the Mortgage and Registration Office has been filed. The date aforesaid shall be deemed to be the date of inscription.

Change of domicile

42. It shall be lawful for any person who has applied for an inscription, or for his representative, or for his assigns by authentic deed, to change, at the Mortgage and Registration Office, the domicile elected by him in such inscription, subject to his or their selecting and indicating another domicile.

Transcription of authentic deeds and of judgments

43. The transcription of authentic deeds (actes authentique) and of judgments shall be effected in accordance with the following provisions:

(1) The original deed, or the original judgment, together with a copy of such deed or judgment, certified as hereinafter provided, shall be filed in the Mortgage and Registration Office:

Provided that, when the original judgment is not available, two identical copies thereof, certified as hereinafter provided, shall be filed as aforesaid.

(2) The original deed, or the original judgment or one of the certified copies thereof, as the case may be, shall be returned to the person who filed such deed, judgment, or certified copy, after the Registrar shall have endorsed thereon a memorial to the effect that the deed or judgment has been transcribed, and, as the case may be, that an ex officio inscription has been taken; and the certified copy of the deed or judgment, or one of the certified copies of the judgment, as the case may be, shall be kept in the Mortgage and Registration Office.

(3) Such copy shall be printed or legibly written or typewritten in indelible ink on a special form containing not more than fifty lines per page and shall contain no abbreviation, interlineation, superscription, or words scratched out, and all blanks shall be crossed out; and the certificate of registration of the original deed or judgment, or of the other certified copy of the judgment, as the case may be, shall be reproduced thereon.

(4) Such special form shall be supplied by the Government on payment of a prescribed fee.

(5) The copy which is to be kept in the Mortgage and Registration Office shall be certified by the person who filed it to have been duly collated with, and to be an exact copy of, the original, and such certificate shall set out the number of marginal corrections, words erased, and blanks crossed out, to which the person filing the copy shall have affixed his signature or initials.

(6) Any copy which shall not satisfy any of the requirements of subsection (3) or of subsection (5) may be rejected by the Registrar.

Transcription of private deeds

44. The transcription of deed under private signature shall be effected in accordance with the following provisions

(1) Two originals of the deed shall be filed in the Mortgage and Registration Office, one of which shall be returned to the person who filed it after the Registrar shall have endorsed thereon a memorial to the effect that the deed has been transcribed, and, as the case may be, that an ex officio inscription has been taken; the other original shall be kept in the Mortgage and Registration Office.

(2) The original which is to be kept in the Mortgage and Registration Office shall be printed or legibly written, or typewritten in indelible ink on a special form containing not more than fifty lines per page, and shall otherwise satisfy the requirements of subsection (3) and of subsection (5) of section 43 and the certificate of registration of the other original shall be reproduced thereon.

(3) Such special form shall be supplied by the Government on payment of a prescribed fee.

(4) Any original which shall not satisfy any of the requirements of subsection (2) may be rejected by the Registrar.

(5) The transcription of deeds under private signatures executed before the first day of January, 1962 shall be effected by filing in the Mortgage and Registration Office one of the originals of the deeds, which shall thereupon be transcribed on the special form aforesaid and shall be returned to the person who filed it after the Registrar shall have endorsed thereon a memorial to the effect that the deed has been transcribed and, as the case may be, that an ex officio inscription has been taken:

Provided that the transcription of deeds under private signatures executed after the first day of January, 1962 may, in special circumstances of which the Registrar shall be the sole judge, be effected in the manner provided in this paragraph.

Transcription of deeds executed or judgments obtained abroad

45. In the case of deeds executed or judgments obtained outside Seychelles, the transcription thereof shall be effected in the manner provided in subsection (5) of section 44 by filing in the Mortgage and Registration Office the original, or a certified copy, or a verbatim extract, of the deed or judgment to be transcribed.

Transcription of deeds drawn up in foreign language

46. In the case of a deed drawn up in a foreign language other than French, the transcription thereof shall be effected in the manner set out in, and subject to the provisions of, section 43 by filing in the Mortgage and Registration Office two translations of the deed in English drawn up on the special form above mentioned and certified to the satisfaction of the Registrar.

Transcription of seizures

47. The transcription of seizures under the Immovable Property (Judicial Sales) Act shall be effected in the manner set out in, and subject to the provisions of, section 44 by filing in the Mortgage and Registration Office the original memorandum of seizure, together with a certified copy thereof drawn up on the special form above mentioned.

PART IV - FEES CHARGEABLE FOR INSCRIPTIONS, TRANSCRIPTIONS AND FOR SEARCHES IN THE MORTGAGE REGISTERS, ETC.

Authority for searching

48. (1) No searches shall be made in any book or register affecting mortgages without the authority of the Registrar.

(2) Any person to whom such authority may be refused shall be entitled, on payment of the fees prescribed to obtain from the Registrar such information as may be required by him from the said books.

(3) The provisions of articles 2196 and following of the Civil Code of Seychelles are not in any way interfered with or modified by the present enactment.

(4) Subject to the provisions of this section the payment of the search fee by the year or fraction thereof shall entitle the person paying the same to make the search either by himself or by his duly authorised agent or clerk:

Provided that the authority may, in case of misconduct by the person searching, be withdrawn by the Registrar.

(5) Any person to whom such authority may be refused, or from whom such authority may be withdrawn, shall be entitled to appeal to a judge in chambers against such refusal or withdrawal.

Fees for searches and delivering of extracts

49. A search fee of fifty cents for every hour or fraction of the hour shall be levied by the Registrar and a fee of fifty cents per folio shall be paid for any extract or copy delivered.

Folio

50. A folio shall consist of 90 words.

Taxing and payment of fees, etc.

51. All fees, dues, surcharges and fines under this Act except those hereinafter specifically mentioned to be otherwise payable shall be paid in advance to the Registrar but the Registrar may be required to tax any such charges before payment; and if not previously taxed the Registrar shall on presentation of the document for registration or transcription write the amount in words and figures on the document.

Certain Government deeds to be transcribed free of charge

52. (1) All purchases and exchanges made by the Government, all partitions of property between the government and private persons, and, generally, all deeds to which the Government is a party, and for the transcription dues of which the Government would be liable, but for the provisions of this section, shall be registered and transcribed free of charge.

(2) All searches, copies, extracts or certificates made on behalf of the Government of Seychelles shall be free of charge.

Regulations

53. The Minister may make regulations generally to give effect to the purposes and provisions of this Act, and in particular and without prejudice to the generality of the foregoing to fix, amend, alter or modify the fees chargeable for inscriptions, transcriptions and for searches, copies, extracts or certificates in or from the registers maintained under the Act.

PART V - REGISTRATION OF DOCUMENTS

Documents to be registered

54. (1) All deeds, judgments or writings made or drawn up either in or out of Seychelles, and which are not specially exempted from the formality of registration, shall be registered.

(2) Deeds or writings drawn up in double minute or in duplicate shall be registered on the first minute or on one of the duplicates thereof.

Documents not to be registered before payment of duty and fine. Mention of Registration

55. (1) No deed, judgment or writing whatsoever shall be registered unless the proper duty, fees, including any stamp duty payable have been previously paid; and, upon such payment being made, it shall not be lawful for the Registrar to delay the registration of any such deed, judgment, or writing.

(2) In case after the deposit at the Mortgage and Registration Office, for registration, of any such deed, judgment or writing, it shall be discovered by the Registrar that the proper fee has not been paid, it shall be lawful for the Registrar to register any such deed, judgment, or writing and to claim

any such fee from the parties, and, until payment thereof, to retain in his hands any such deed, judgment, or writing.

(3) Before being returned to the parties, all such deeds, judgments, or writings shall bear on their face a mention of their having been registered, the date of the registration, the number of the register, the amount of the fee and fine levied.

Transfer not to be registered until previous title is registered

56. No deed containing the transfer of immovables bearing date subsequent to the 9th day of April, 1904, shall be registered until proof has been given that the vendor's title has been registered or until the duties leviable thereon are paid.

Deeds, how registered

57. (1) Civil and extra judicial acts shall be registered on the minutes, single minute, or original documents.

(2) Judicial acts shall be registered either on the minutes or on authenticated copies according to the distinction hereafter mentioned.

(3) The judicial acts which must be registered on the minutes are memoranda (procès verbaux) relative to the affixing, verifying, or removal of seals, or the appointment of guardians or curators; emancipations; acts of notoriety; declarations in civil matters; adoptions; all acts containing an authorisation or stating that certain persons abstain from, renounce, or repudiate a particular thing; appointment of skilled persons and arbitrators; oppositions to the removal of seals, parties being present; securities for attendance of persons before a court of law; securities for sums whether fixed or not; all acts in which a party acquiesces in a sum of money being deposited and consigned, or relative to a bidding or an outbidding, to the resumption of a law suit; judgments setting out transfers of immovable property; and judgments in which condemnations are pronounced concerning conventions subject to registration without any mention made of registered titles; final judgments of attribution of price, final closing of memoranda of ordre and of distributions by contribution.

(4) The fees leviable on these judgments shall become due and payable within twenty days from the day on which the judgment is pronounced and shall be taken on the judgment of the court endorsed on the record by the Registrar of the supreme Court, or on the warrant, writ, rule, or other act by which such judgment is made known and which for the purposes of registration shall be considered as the minute of the judgment.

(5) All other acts and judgments, whether preparatory or given pending the proceeding in a case, or definitive, are subject to registration only on authenticated copies.

(6) No registration fee shall be due for extracts, copies or authenticated copies of acts or judgments which must be registered on the minutes of the original documents.

(7) As to extracts and copies of judicial acts and judgments which are subject to registration on authenticated copies only, each copy must be registered.

Lease of immovable property, unless registered void as against purchasers of the property or any interest therein

58. Notwithstanding anything contained in any other law, a lease of immovable property executed after 3rd August, 1971 shall be void as against a purchaser of that immovable property or of any interest therein unless the lease has been registered under this Act.

Fee for certificate

59. The Registrar shall claim one rupee for every certificate delivered by him to the effect that a deed or writing has been duly registered.

PART VI - PERSONS LIABLE TO THE PAYMENT OF THE FEES

Fees by whom to be paid

60. (1) The fees shall be paid

(a) by notaries, as regards the deeds drawn by them, save authentic wills made or received by them;

(b) by attorneys and ushers respectively, as regards the acts, return or memoranda drawn up by them in their official capacity;

(c) by the adjudicatee, as regards judgments of adjudication;

(d) by the Registrar of the Supreme Court, as regards all other judicial documents which require to be registered on the minutes;

(e) by surveyors, as regards the surveys or plans drawn up by them;

(f) by donees and other parties, as regards rights or property acquired by or accruing to them under any donation or other contract;

(g) by the parties themselves, as regards deeds and writings under private signatures, as also all other documents lawfully in their possession.

(2) The fees on civil and judicial acts containing an obligation, a discharge, or a transfer of a right of ownership or usufruct in movable or immovable property shall be borne by the debtors and new possessors, and the fees on all other acts shall be borne by the parties who shall derive benefit from the same, when, in these cases, contrary provisions shall not have been stipulated in the acts.

Reimbursement of registration fee to public officers

61. Any public officer who, under section 60, shall have paid the registration fee out of his own money may obtain reimbursement of the same from the parties by way of ordinary action before the court.

Payment of fee due by several parties

62. Whenever any fee claimable under this Act is due by two or more parties, they shall all be jointly and severally liable for the payment of such fee.

Payment of fee not to be delayed

63. The payment of any fee levied by the Registrar cannot be delayed under any pretext whatever, even in case of contestation as to the amount claimed; but the contesting party shall have the right to claim restitution of the fee or of any part thereof in the manner provided in section 88.

PART VII - TIME FOR REGISTRATION

Time for registering documents

64. The time within which the registration of writings must be made shall be as follows:

- (a) five days for all usher's returns or memoranda;
- (b) ten days for notarial deeds, for memoranda of sales made by *auctioneers, and for memoranda of surveys made by surveyors;
- (c) twenty days for judgments of adjudication and three months for all other judicial documents which must be registered on the minutes;
- (d) one month for writings establishing the actual transfer of shares in the capital of a company;
- (e) three months for all deeds under private signatures (other than writings falling within paragraph (d) containing sale or assignment of any right whether movable or immovable, or containing obligations, leases, sub leases, or transfers of same.

Note to the official 1991 edition: For private sales by auctioneers see section 14 of the Auctioneers and Appraisers Act (Cap.10)

Time for registering documents drawn up out of Mahé

65. (1) The time fixed for the registration of notarial deeds, of memoranda of surveys, of sales by auction, and of ushers' returns or memoranda made and drawn up out of Mahé shall be three days after arrival of the notary, land surveyor, auctioneer, or usher at Victoria:

Provided that in no case shall the said time be less than that fixed by paragraphs (a), (b) and (c) of section 64.

(2) As regards deeds and writings falling within paragraph (d) or (e) of section 64, if the same have been drawn up out of Mahé, and if it has not been possible to communicate with Mahé within the period of one month or three months, as the case may be, the time for registration shall be of five days from and after the period in which such communication could have taken place.

Wills deposited with notaries

66. Wills deposited with notaries or received by them must be registered within three months from the death of the testators.

Computation of time

67. (1) In computing the time for registration, the day on which the deed, judgment, or writing was made, drawn up or given, shall not count.

(2) If the last day of the period shall fall on a Sunday or on any other public holiday, such last day shall not count.

Documents for which there is no time prescribed

68. There shall be no time prescribed for the registration of any other deeds, judgments, or writings than those referred to in sections 64 to 67, or such deeds, documents or writings as may be made or drawn up outside Seychelles.

PART VIII - DOCUMENTS EXEMPTED FROM REGISTRATION

Documents exempted from registration

69. The following deeds and writings shall be exempted from registration, namely:

- (a) the minutes and records of the People's Assembly or of any administrative, political or corporate body, or of any Government office or public department as well as office copies of such minutes and records;
- (b) all official correspondence of official writings emanating from the President or from any Government office or department, as well as office copies of such correspondence or writings;
- (c) all petitions or memorial to public persons or public bodies;
- (d) all documents, instruments, writings, proceedings, or judgments produced, made or given in correctional or criminal matters;
- (e) all orders of a judge in chambers;
- (f) all petitions drawn up by attorneys under the
- (g) all licences issued under any law regulating the grant of licences;
- (h) all diplomas of professional men;
- (i) all accounts given and delivered by public accountants;
- (j) all Government contracts;
- (k) all civil, judicial and extra judicial acts, deeds, proceedings, and all documents and other writings made use of or produced in the Magistrates' Court and all pleadings, motion papers, and similar process in the Supreme Court: Provided that a judgment affecting any interest in immovable property shall not be exempt ;
- (l) receipts for salaries and fees of Government servants as well as for all payments made by the Government;
- (m) all receipts given by the Government for any tax or duty leviable under the fiscal law;

- (n) all acts of the civil status, as well as office copies thereof;
- (o) all inland and foreign bills of exchange;
- (p) transfers, by way of endorsement, of all negotiable instruments, as well as acquittances given and written upon any such negotiable instruments so, however, that nothing in this paragraph shall exempt from registration a transfer by way of endorsement of a share in the capital of a company;
- (q) contracts of service made and entered into under the labour laws as well as proceedings under the said laws;
- (r) all documents used in evidence before the stipendiary court, when the action is not one in payment of wages;
- (s) all notices or other process drawn up by attorneys , when the same have been duly served by ushers;
- (t) all other documents and writings, judicial or extra judicial acts and proceedings which, under any law not repealed by this Act, are especially exempted from registration and as to which no special provision is herein made;
- (u) all documents and writings, judicial or extra judicial acts and proceedings specified in any order made by the Minister for the purposes of this paragraph;
- (v) Memorandum of Survey by Surveyors and Survey Plans drawn by Surveyor:

Provided that it shall be lawful for the Registrar to register on the special request of any party to a document any document exempted from registration by this Act or by any other law of Seychelles on payment of the duties set forth in this act;

PART IX - DOCUMENTS TO BE REGISTERED FREE OF ANY FEE

Documents free of fee

70. The following documents and writings shall be registered free of any fee, namely:

- (a) all legacies or donations made to the poor or to charitable bodies or institutions;
- (b) all sales or donations of immovable property made for public purposes or for charitable purposes, provided there is in the deed of sale or donation itself a clause defining clearly the purpose for which the sale or donation is made, and provided such purpose is carried out; otherwise the buyer or donee shall be liable to the ordinary fee;
- (c) all surveys, appraisements, plans and notices made or drawn up by any land surveyor or appraiser on behalf of the Government;
- (d) all purchases and exchanges made by the Government, all partitions of property between the Government and private persons, and, generally, all deeds to which the Government is a party and for the registration dues of which the Government would otherwise be liable under this Act;

(e) all proceedings taken in forma pauperis agreeably to the Seychelles Code of Civil Procedure or other existing law, as well as documents produced in the suit by the pauper; but such documents shall be registered only for the purposes of the suit and shall be subject to the ordinary registration fees if used in evidence in any other civil suit not brought in forma pauperis.

Registration of documents in a suit "in forma pauperis"

71. (1) The Registrar, on registering documents used in a suit in forma pauperis, shall not write thereon the mention prescribed by section 55.

(2) He shall merely mark the documents as seen by him and shall deliver to the party a certificate on unstamped paper to the effect that the documents have been registered free of fee for the purposes of the suit.

PART X - DUTIES AND OBLIGATIONS OF PUBLIC OFFICERS

Judge's discretion to give judgment if documents unregistered

72. It shall be in the discretion of any judge or magistrate to withhold delivery of any judgment unless the documents produced in the cause have all been duly registered; but no execution shall be issued on any judgment unless all such documents have been duly registered.

Registrar or clerk not to receive filing of unregistered document

73. No Registrar or clerk of the Supreme Court shall receive the filing of any unregistered document unless such unregistered document is produced by a witness, in which case the party applying for the production of such document shall deposit into court a sum of money sufficient to cover the amount of registration fees together with any fine and penalty under Part XI.

Unregistered documents referred to by notaries, etc.

74. (1) Attorneys, notaries, surveyors, ushers, arbitrators, appraisers, and all judicial, ministerial or public officers who, in any instrument or writing drawn up or signed by any of them, shall mention or refer to any unregistered document shall be bound to cause such unregistered document to be registered together and at the same time with the instrument or writing in which reference is made to such unregistered document, and they shall further be held personally liable for the fees and for any fine to which the unregistered document shall be subject.

(2) Any public officer aforesaid referring in any deed drawn up by him to a registered act shall be bound to set forth in such deed the volume in which the registered act has been registered, and the number and date under which such act is to be found in such volume under a penalty of five rupees for each contravention, which shall be paid at the same time as the registration fee on the deed presented for registration.

Extract or copies of unregistered deeds not to be delivered by notaries, etc.

75. It shall not be lawful for any notary, surveyor, usher or other ministerial or public officer to deliver extracts or copies of deeds or writings (other than authentic wills) drawn up by them or being in their custody, unless the original or minutes thereof have been duly registered.

Provided that ushers may give copy of promissory notes or other titles on which it is necessary to make a protest, of memoranda of seizure, placards, judicial and extra judicial proceedings signed by

them or by the parties themselves, summonses, orders, and appointments of a judge, complaints issued by the court, acts referred to in extra judicial acts, the object of which is to arrest money in the hands of third parties, under the conditions mentioned in section 74.

Production of repertory by notaries

76. (1) In addition to the obligations imposed upon them under this Act, notaries shall be bound to produce every month to the Registrar their repertory, which shall be signed by the latter as seen.

(2) Notaries shall keep their repertories in the following manner: they shall inscribe day by day without any blank space or interlineation and by numerical order, all the acts and deeds which they shall draw up, even the acts of which one minute only is made, under a penalty of a fine of three rupees for each omission to be paid to the Registrar.

(3) Each article of the repertory shall contain (i) its number; (ii) the date of the deed; (iii) its nature; (iv) the names and christian names of the parties and their domicile; (v) the description of the property, its situation, and price, when the acts referred to shall have for their object the ownership, usufruct, or enjoyment of immovable properties; and (vi) the mention of registration, this last mention to be added after the registration of the deed.

(4) Independently of the obligation of producing their repertory as enacted under this section, notaries shall be bound to communicate at their office their repertory, to the Registrar for the purpose of verification, whenever requested to do so, under the penalty of a fine of twenty rupees in case of refusal.

(5) In such a case the Registrar shall be entitled to request the assistance of any person to verify the refusal.

Description of surveyed parcels in notarial deeds

77. (1) Whenever a plan of a parcel of land, verified by the Director of Surveys has been registered under this Act and the parcel given a number, notaries shall be bound, in any deed drawn up by them in which the description of the parcel occurs, to describe such parcel by reference to the aforesaid plan and to the parcel number. Such description shall, to all intents and purposes be sufficient notwithstanding anything in any law to the contrary.

(2) A notary who fails to comply with the provisions of subsection (1) shall incur a fine of twenty rupees and the Registrar may withhold the registration of a deed until such provisions have been complied with.

PART XI - FINES AND PENALTIES

Notaries failing to register within time

78. (1) Notaries who shall fail to cause the deeds drawn up by them to be registered or to be filed within the prescribed period, shall incur a fine of twenty rupees for each contravention.

(2) Any person who shall fail to file an erasure of inscription of mortgage within the time prescribed in section 34 shall incur a fine of twenty rupees for each contravention.

Fines against ushers and surveyors

79. The fine against ushers and surveyors shall be ten rupees on each return or memorandum or act drawn up by them and not having been registered within the prescribed time.

Fines on judgments of adjudication, etc., when not registered within the time

80. (1) Judgments of adjudication and all other judicial documents, which require to be registered on the minutes, shall be subject to a fine equal to the amount of the registration fee, if the same are not registered within the proper time. Such fine shall be borne by the adjudicatee or other party on whose behalf the deed is to be registered.

(2) The Registrar of the Supreme Court shall not be liable to any penalty unless, after receiving the amount of the registration fee, he fails to cause the judgments of adjudication or other judicial documents to be registered within the proper time, in which case he shall personally be liable to the fine aforesaid.

Fines on deeds under private signatures

81. (1) Writings and deeds falling within paragraph (d) or (e) of section 64 which are not registered within one month or, as the case may be, within three months, shall be subject to a fine equal to the amount of the registration fee; such fine shall be incurred by, and claimed from, the party depositing the writing or deed for registration.

(2) The same penalty shall be incurred with regard to any other deed or document which shall not have been registered within the proper time.

Validity of certain counter-letters

82. (1) Any counter letter (contre lettre) or other deed sous seing prive which purports to show that the real consideration for the sale or exchange of an immovable property, fonds de commerce, or ministerial office is greater than the consideration set down in the deed of sale or exchange, or that a donation inter vivos of an immovable property, fonds de commerce or ministerial office is in reality a sale, exchange, mortgage, transfer, or charge, shall be deemed to be fraudulent and shall in law be of no force or avail whatsoever.

(2) (a) Any counter letter or other deed other than a counter letter or deed as aforesaid which purports to vary, amend, or rescind any registered deed of or agreement (promesse) for sale, transfer, exchange, mortgage, lease or charge or to show that any registered deed of or agreement for, or any part of any registered deed of or agreement for, sale, transfer, mortgage, lease, or charge on any immovable property is simulated (simulé) shall in law be of no force or avail whatsoever unless it shall have been registered within six months from the date of the making of the deed or of agreement for sale, transfer, exchange, mortgage, lease, or charge of or on the immovable property to which it refers.

(b) Any such counter letter or other deed which shall have been made prior to the twenty seventh day of April, 1948, hereinafter called the appointed day, and which shall not have been registered within the time prescribed in paragraph (a) of this subsection shall not be deemed to be invalid by reason alone of the same not having been registered, provided that it is registered not more than three months after the appointed day.

(3) Any counter letter or deed as described in subsection (2) drawn up prior to the appointed day, the sole copy of which is in possession of the holder of such counter letter or deed who shall be absent or away from Seychelles at the appointed day, may be registered within three months after the return of the said holder to Seychelles on application to the Supreme Court in the manner provided in subsection (5).

(4) The Supreme Court may, on the grounds of ignorance of the law due to illiteracy, fraud of any party not being the holder, incapacity of the holder due to unsoundness of mind, or imprisonment of the holder at the appointed day, extend the maximum period within which a counter letter or other deed must be registered under this section for a further period not exceeding three months in the case of fraud, incapacity, unsoundness of mind or imprisonment at aforesaid, from the time of the discovery of the fraud or the termination of the incapacity or imprisonment and, in the case of ignorance of the law through illiteracy for such further period as the court may think reasonable under the circumstances.

(5) Application for registration under subsections (3) and (4) shall be by petition supported by affidavit and such other evidence as the court may require. Copies of the petition shall be served on the Attorney General, the Registrar of Deeds, and the party bound by the counter letter or other deed; a copy shall be posted in a conspicuous place in the premises of the Supreme Court, and notice of the petition shall be published in the Gazette not less than fifteen days before the hearing thereof. The costs shall in all cases be borne by the petitioner.

(6) Articles 1321, 1322, 1323, 1324, 1326 and 1327 of the Civil Code of Seychelles in so far as they relate to the transactions mentioned in subsections (2), (3) and (4) of this shall be read subject to this section.

Mention of payment of fees to appear on office copies

83. In all office copies of public, civil and judicial acts, which are to be registered on the minutes, mention shall be made of the receipt of the fees by means of a literal and full transcription of the said receipt, under penalty of a fine of five rupees in case of contravention, to be recovered by the Registrar.

False mention of registration

84. In case a false mention of registration shall be made either in a minute or in an authentic copy, the public officer having signed such minute or copy knowing the same to be false shall be guilty of an offence and, on conviction, shall be liable to imprisonment for a period not exceeding two years and to a fine not exceeding two thousand rupees.

Against notaries, etc., infringing section 75

85. A fine of fifty rupees for each contravention shall be incurred by any notary, surveyor, or other ministerial or public officer who shall infringe section 75.

Against notaries for non-production of repertory

86. Notaries failing to produce their repertory to the Registrar as directed by section 76 shall incur a fine not exceeding twenty rupees for the first contravention and not exceeding fifty rupees for any subsequent contravention.

Fines by whom levied

87. All fines incurred under this Act, except as the result of the commission of an offence under section 84, shall be levied by the Registrar of Deeds and shall be paid to the Registrar forthwith over and above any fee payable under this Act. Any aggrieved party shall have the right to appeal to the Supreme Court by way of an action in restitution of the fine as provided by section 88 of this Act.

PART XII - LEGAL PROCEEDINGS

Actions, how to be disposed of

88. All actions in payment of any fee or in restitution of any fee or fine levied by the Registrar shall be disposed of before the Supreme Court by way of an ordinary action under the civil law.

Privilege

89. The Registrar shall have a privilege over the proceeds of any judgment sale or of any attachment for payment as well of any fine as of any unpaid fee. Such privilege shall be restricted to the property on which the fees are due and shall rank after the privileges established in articles 2101, 2102 and 2103 of the Civil Code of Seychelles, and if the property seized be not one to which duties are due, the Registrar shall have a preference only over chirographic creditors.

Remission of fines

90. It shall be lawful for the Minister, on good and sufficient ground shown and after consultation with the Minister responsible for finance to remit or refund, wholly or partially, any fee payable or any fine or penalty incurred by any party under this Act.

Limitation of actions in restitution of fee or fine

91. All actions for the restitution of any fee or fine or part thereof shall be barred by six months reckoning from the day on which the fee or fine was paid.

Limitations of actions for recovery of fee and fine

92. All actions for the recovery of any fee or fine under this Act shall be barred by ten years reckoning in cases of fee from the date of which the document giving rise to the fee or fees has been deposited for registration and in the case of a fine from the date on which the act or omission giving rise to the fine has been committed or occurred.
