

REGISTERED LAND ACT, 1990.

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I ASSENT

SALMIN AMOUR  
PRESIDENT OF ZANZIBAR  
AND  
CHAIRMAN OF THE REVOLUTIONARY COUNCIL.

1st August, 1990

AN ACT TO PRO-VIDE FOR THE REGISTRATION OF LAND,  
AND INTERESTS THEREIN, FOR THE REGULATION OF  
DEALINGS IN LAND SO REGISTERED, AND FOR  
MATTERS CONNECTED THEREWITH.

ENACTED by the House of Representative of Zanzibar.

PART I  
PRELIMINARY.

Short title. 1. This Act may be cited as the Registered Land Act 1989 and shall come into operation immediately upon being assented by the President.

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

"adjudication officer" "adjudication record"  
and "adjudication section" have the meaning  
assigned to those words by the Land  
Adjudication Act;

"application book" means the application book  
kept under section 6(d);

"certificate of lease" means a certificate of  
lease issued under section 32;

"charge" means an interest in land securing payment of money or money's worth of the fulfilment of any condition and includes a subcharge and the instrument creating a charge;

"chargee" means the proprietor of a charge;

"charger" means the proprietor of a charged land or of a charged lease or charge;

"the court" save as otherwise expressly provided, means the High Court of Zanzibar;

"dealing" includes disposition and transmission;

"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 right attached to a parcel of land which allows the proprietor of the parcel either to use the land of another in a particular manner or to restrict its use to a particular extent, but does not include a profit;

"file" means place in the file, kept under section 6(c), which relates to the parcel or lease of land affected;

"guardian" means any person responsible, whether under customary law or otherwise, for protecting the interests of any person who is under a disability, whether by reason of age, unsoundness of mind or any other cause;

"instrument" includes any deed, judgement, decree, order or other document requiring or capable of registration under this Act;

"land" includes land covered with water, all things growing on land, and buildings and other things permanently affixed to land;

"Land certificate" means a land certificate issued to a proprietor of land under section 32.

"land register" means the Land Register compiled and maintained under the provision of Division 2 of Part II of this Act;

"lease" means a grant, with or without consideration, by the proprietor of land of the right to exclusive possession of his land, and included the right so granted and the instrument granting it, and also includes a sublease by the proprietor of a lease, but does not include an agreement to lease;

"leasee" means the holder of a lease;

"lessor" means the proprietor of leased land, and includes, in respect of a sublease, the proprietor of a lease;

"Minister" means the Minister for the time being responsible for legal affairs;

"parcel" means an area of land separately delineated on the Registry Map and given a number;

"personal representative" means the executor of the will or the administrator of the estate of a deceased person;

"President" means the President of Zanzibar and Chairman of Revolutionary Council;

"profit" means a right to go on the land of another and take particular substance from that land, whether the soil or products of the soil;

"proprietor" means -

- (a) in relation to land or lease, the person or body of persons named in the register as the proprietor thereof, and

(b) in relation to a charge of land or of a lease, the person or body of persons named in the register of the land or lease whose favour the charge is made;

"Register" means a separate register of the land Register kept in respect of a Parcel of public or private land or of a registered lease;

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

"Registrar" means the (Registrar of land appointed in accordance with the provisions of section 7 and includes the Deputy Registrar so appointed and any Assistant Registrar so appointed to the extent that he has been authorized to exercise or perform any of the powers or duties conferred by this Act upon the Registrar;

"registration district" means a land registration district constituted under section 5;

"registration section" means a division of a registration district made in accordance with section 17;

"Registry Map" means the map or series of maps compiled in accordance with the provisions of section 17;

"transfer" means the passing of land, a lease or a charge by act of the parties and not by operation of law, and includes the instrument by which such passing is effected, but does not include an agreement to transfer;

"transmission" means the passing of land, a lease or a charge from one person to another by operation of law or death or insolvency or otherwise howsoever, and includes compulsory acquisition or

or revocation of grants under any written law;

"trustee" includes personal representative and statutory trustee;

"valuable consideration" includes marriage, but does not include a nominal consideration;

"Wakf and Trust Commission" means the Wakf and Trust Commission established by the Commission for the Administration of Wakf and Trust Property Decree, 1980.

Application,

3. This Act shall apply to any area constituted as a registration district under section 5.

Reconciliation with other laws.

4. Except where otherwise provided in the Act, no law, regulation, practice or procedure relating to land shall apply to land registered under this Act so far as it is inconsistent with this Act.

Provided that, except where a contrary intention appears, 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 consent or approval of any authority to any dealing.

## PART II

### ORGANIZATION AND ADMINISTRATION.

#### Division 1 - Land Registries and Officers.

Registration districts.

5. For the purpose of this Act, the Minister may by order constitute an area or areas of land land registration district, or land registration district and may at any time vary the limits of any such district or districts.

Land registries.

6. There shall be maintained in each registration district a land registry, in which shall be kept:

- (a) a register, to be known as the Land Register, in accordance with Division 2 of this Part;
- (b) a map, to be known as the Registry Map, in accordance with Division 3 of this Part;
- (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 application book, in which shall be kept a record of all application numbered consecutively in the order in which they are received at the registry;
- (e) an index in alphabetical order of the names of proprietors of land, lease and charges showing the numbers of the parcels in which they are interested;
- (f) a record to be known as the mutation record, in accordance with the provisions of section 19;
- (g) a register and file of powers of attorney.

Appointment of officers.

7. (1) The President shall appoint a qualified person to be the Registrar of land who shall be responsible for administering the land registry or land registries in accordance with the provisions of this Act.

(2) The Minister may appoint a Deputy Registrar of Lands and as many Assistant Registrars of Lands as may be necessary for carrying out the provisions of this Act.

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

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

Provided further that in the absence for whatever reason of the Registrar, the Deputy Registrar may exercise any of the powers vested in the Registrar by this Act.

General  
powers of  
Registrar.

8. 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, certificate or other document or plan relating to the land, lease or charge in question and the person shall produce the same;
- (b) he may summon any person to appear and give any information or explanation respecting land, a lease or charge, or any instrument, certificate or other document or plan relating to the land, lease or charge in question, and such person shall appear and give such information or explanation;
- (c) he may refuse to proceed with any registration if any instrument, certificate, 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 a declaration in lieu thereof, and may require that any proceedings, information or explanation shall be verified on oath or by statutory declaration;

(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 or on his orders shall be borne and paid by such persons and in such proportions as he, the Registrar, thinks fit.

Indemnity of officers.

9. The Registrar shall not, nor shall any other officer of the land registry, be liable to any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith in the exercise or supposed exercise of the powers and duties under this Act, or any regulations made thereunder.

Seal of registry.

10. Each 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 be issued by or under the direction of the Registrar.

#### Division 2

#### The Land Register.

The Land Register.

11. (1) The Land Register shall comprise a register in respect to every parcel in each registration section and a register in respect of each lease required by this Act to be registered.

(2) Each register shall show whether the land is public land or private land, and shall be divided into three sections as follows -

A. the property section, containing a brief description of the land or lease, together with particulars of its appurtenances and

reference to the Registry Map and filed plan, if any;

3. the proprietorship section, containing particulars of the proprietor of the land or lease, and any inhibition, caution or restriction affecting his right of disposition;
- C. the encumbrances section, containing particulars of every encumbrance and every right adversely affecting the land or lease.

(3) No entry shall <sup>be</sup> required in the proprietorship section of a register relating to land which is public land.

Compilation  
of the Land  
Register.

12. (1) Whenever an adjudication record in respect of any adjudication section is certified as final under section 25 of Land Adjudication Act, the Adjudication Officer shall forthwith deliver such record and the demarcation map, to the Registrar.

(2) The Registrar shall forthwith prepare a register for every parcel of public and private land contained in the adjudication record and shown on the demarcation map, and shall register -

- (a) any person recorded as the occupant of a parcel in such record as the proprietor of that parcel to any restriction contained in such record affecting his power of dealing with the land;
- (b) particulars of any lease, charge or other encumbrance affecting the parcel and the names of the persons recorded in such record as entitled to the benefit thereof.

First  
registration.

13. The date of first registration under this Act shall be the date on which the adjudication record in respect of land in any adjudication section is

certified as final under section 25 of the Land Adjudication Act.

Manner of registration.

14. (1) The First registration of any parcel shall be effected by preparation of a register in accordance with the provision of subsection (2) of section 12 of this Act and the signing by the Registrar of the particulars of proprietorship, restrictions on power of dealing and encumbrances, if any, appearing thereon.

(2) Every subsequent registration shall be effected by an entry in the 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.

Cancellation of obsolete entries.

15. The Registrar may cancel any entry in a register which he is satisfied has ceased to exist.

New editions of registers.

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

### Division 3

#### Maps, Parcels and Boundaries.

Registry Map.

17. (1) The Registry Map shall be compiled from the demarcation maps made under the Land Adjudication Act and shall be divided into registration sections which, so far as is possible, shall have the same boundaries and names as the adjudication sections; the registration sections, where the adjudication sections are so divided, shall be divided into blocks, which shall be given the same letters or numbers or combination of letters and numbers as are given on the demarcation maps.

(2) The parcels in each registration section or block shall be numbered consecutively following the numbering in the adjudication proceedings, and the name of the registration section and the letters or numbers of the registration block, if any, and the number of the parcel shall together be a sufficient reference to any parcel.

(3) The Registrar may from time to time cause registration sections or blocks to be combined or divided, or cause their boundaries to be varied.

(4) A plan may be filed in respect of a particular parcel to augment the information available from the Registry Map, and the filing of such plan shall be noted in the register.

Correction of  
Registry Map  
and new  
editions.

18. (1) The Registrar may cause to be made a survey of land for any purpose connected with this Act and, after informing every person affected thereby, may cause the Registry Map to be corrected as a result of such survey.

(2) The Registrar may at any time direct the preparation of a new edition of the Registry Map or any part thereof, and there may be omitted therefrom any matter which the Registrar considers obsolete.

Mutation.

19. (1) On the application of a proprietor of land, and subject to the agreement of all person affected thereby, the Registrar may order the alteration of the Registry Map, 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 and recorded in the mutation record.

(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.

Boundaries.

20. (1) Except where, under section 21 of this Act, it is noted in the register that the boundaries of a parcel have been fixed, the Registry Map and any filed plan shall be deemed to indicate the approximate boundaries and the approximate situation only of the parcel.

(2) Where any uncertainty or dispute arises as to the position of any boundary, the Registrar, on the application of any interested party shall, on such evidence as the Registrar considers relevant, determine and indicate the position of the uncertain of disputed boundary.

(3) Where the Registrar exercise the power conferred by subsection (2) of this section, he shall make a note to that effect on the Registry Map and in the register and shall file such plan or description as may be necessary to record his decision.

(4) No court shall entertain any action or other proceedings relating to a dispute as to boundaries of registered land unless the boundaries have first been determined by the Registrar as provided in this section.

(5) Except where it is noted in the register that the boundaries of a parcel have been fixed under section 21 of this Act, the Court or the Registrar may, in any proceedings concerning the parcel, receive such evidence as to its boundaries and situation as it or he thinks fit.

Fixed  
Boundaries:

21. (1) Where any interested person makes application to the Registrar to indicate on a filed plan, or otherwise to define in the Register, the precise position of the boundaries of a parcel or any part thereof, the Registrar shall give notice to the proprietors and any person having interests in the Land adjoining the boundaries in question of the intention to ascertain and fix the boundaries.

(2) The Registrar shall, after giving all persons appearing by the register to be affected an opportunity of being heard, cause to be defined by survey the precise position of the boundaries in question, file a plan containing necessary particulars and make a note in the register that the boundaries have been fixed, and thereupon the plan shall be deemed to define accurately the boundaries of the parcel.

Maintenance  
of boundary  
features.

22. (1) Every proprietor of land shall maintain in good order any fences, hedges, stones, pillars, walls or other marks which demarcate his boundaries.

(2) The Registrar may in writing order the demarcation of any boundary in such manner as he may direct and any person who fails to comply with such an order shall be guilty of an offence.

(3) The Registrar may in writing order which of adjoining proprietor shall be responsible for the care and maintenance of any feature demarcating a common boundary and any proprietor so ordered to be responsible who allows the boundary feature to fall into disrepair or to be destroyed or removed shall be guilty of an offence.

Interference  
with boundary  
features.

23. (1) Any person who wilfully defaces, removes or otherwise impairs any boundary, feature or any part of it unless authorized to do so by the Registrar, shall be guilty of an offence.

(2) Any person convicted of such an offence, whether or not any penalty therefor is imposed upon him, shall be liable to pay the cost of restoring the boundary feature and such cost shall be recoverable as a civil debt by any person responsible under section 22 of this Act for maintenance of the feature.

Combinations  
and  
subdivisions.

24. (1) Where contiguous parcels are held by the same proprietor and are subject in all respects to the same rights and obligations, the Registrar, on application by the proprietor, may combine those 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 the proprietor of a parcel for the division of his parcel into two or more parcels, the Registrar shall effect the division by closing the register relating to the parcel 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 -

- (i) nothing shall be done under this section which would be inconsistent with this Act or any other written law; and
- (ii) no parcel which is subject to a lease shall be subdivided so as to subdivide the land comprised in such lease.

Reparcellation.

25. (1) 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 which should be effected by transfers without invoking this section, he may in his discretion refuse to accept such reparcellation.

(2) Upon any such reparation, the persons named in the revised layout shall, notwithstanding section 38 of this Act, be registered as the proprietors of the parcels.

Foreshore.

Cap. 105

26. Land adjacent to the sea which is alternately left dry and covered with water by the ordinary ebb and flow of the tides shall be deemed to be public land and shall not be included in any parcel.

PART III

EFFECT OF REGISTRATION.

Interest conferred by registration.

27. Subject to the provisions of this Act -

- (a) the registration of a person as the proprietor of land shall vest in that person an exclusive right of occupancy of that land, together with all rights and privileges belonging thereto, but subject to the conditions thereof, conferred or imposed by the provisions of the Public Land Decree;
- (b) 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 thereto, and subject to all implied and expressed agreements, liabilities and incidents of the lease.

Rights of proprietor.

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

- (a) to the leases, charges and other encumbrances and to the conditions and restrictions, if any, shown in the register; and
- (b) unless the contrary is expressed in the register, to such liabilities, rights and interests as affect the same and are declared by section 30 of this Act not to require noting on the register.

Provided that nothing in this section shall be taken to relieve a proprietor from any duty or obligation to which he is subject as a trustee.

Voluntary transfer.

29. Every proprietor who has acquired land, a lease or a charge by transfer without valuable consideration shall hold it subject to any unregistered rights or interests to which the transferor hold it, and subject also to the provisions of any law relating to bankruptcy and to the winding-up provisions of any law relating to companies, but save as aforesaid such transfer shall in all respects have the same effect as a transfer for valuable consideration.

Overriding interests.

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

- (a) rights of way, rights of water and profits subsisting at the time of first registration under this Act;
- (b) natural rights of light, air, water and support;

- (c) rights of compulsory acquisition, resumption, entry, search and user conferred by any other law;
- (d) leases or agreements for leases for a term not exceeding two years, periodic tenancies and indeterminate tenancies within the meaning of section 46 of this Act;
- (e) charges for unpaid taxes, rates or other moneys which, without reference to registration under this Act, are expressly declared by any law to be a charge on land;
- (f) rights acquired on in process of being acquired by virtue of any law relating to limitations of action by prescription;
- (g) the rights of a person in actual occupation of land or in receipt of rents or profits therefrom save where enquiry is made of such person and the rights are not disclosed;
- (h) electric supply lines, telephone and telegraph lines or poles, pipelines, equeducts, canals and dams erected, constructed or laid by virtue of any power conferred by any law.

Entries to constitute actual notice,

31. Every proprietor acquiring any land, lease or charge shall be deemed to have notice of every entry in the register relating to the land, lease or charge.

PART IV

## CERTIFICATES AND SEARCHES.

and  
 certificate and  
 certificates of  
 lease.

32.(1) The Registrar shall, if requested by any proprietor of land or a lease where no land certificate or certificates of lease has been issued, issue to him a land certificate or certificate of lease, as the case may be, in the prescribed form showing all subsisting entries in the register effecting that land or lease.

~~Provided that~~ such

- (i) only one certificate shall be issued in respect of each parcel or lease;
- (ii) no certificate of lease shall be issued unless the lease is for a certain period exceeding two years.

(2) A land certificate or certificate of lease shall be only prima facie evidence of the matters shown therein, and the land or lease shall be subject to all entries in the register whether they are shown on the certificate or not.

(3) Where there is more than one proprietor, the proprietors shall agree among themselves as to who shall receive the certificate, and failing agreement the certificate shall be filed in the registry.

(4) The date of issue of a land certificate or of lease shall be noted in the register.

Production of  
 certificates.

33. (1) If a land certificate or certificate of lease has been issued, then, unless it is filed in the registry or the Registrar dispenses with its production, it shall be produced on the registration of any dealing with the land or lease to which it relates, and, if the certificate shows all subsisting entries in the register, a note of such registration shall be made on the certificate.

(2) If the disposition is a transfer, the certificate if produced shall be destroyed, and in such case a new certificate may be issued to the new proprietor.

(3) If the disposition is a charge, the certificate, if produced shall be filed in the registry.

Disposition of leases and charges.

34. On the registration of any disposition of a lease or charge the duplicate and triplicate of the lease or charge shall, unless the Registrar is satisfied that they cannot be produced, be produced to the Registrar, who shall note particulars of the disposition of the filed lease or charge and on the duplicate and triplicate thereof.

Lost or destroyed certificates.

35.(1) If a land certificate or certificate of lease is lost or destroyed, the proprietor may apply to the Registrar for the issue of a new certificate, and shall produce evidence to satisfy the Registrar of the loss or destruction of the previous certificate.

(2) The Registrar may require a statutory declaration that the certificate has been lost or destroyed.

(3) The Registrar, if satisfied with the evidence as to the loss or destruction of the certificate, and after the publication of such notice as he thinks fit, may issue a new certificate.

(4) When a lost certificate is found, it shall be delivered to the Register for cancellation.

Searches and copies.

36(1) Any person, on application in the prescribed form and on paying the prescribed fee, may inspect during official hours of business any register and any sheet of the Registry Map or any filed instrument or plan.

(2) Any person, on application in the prescribed form and on paying the prescribed fee, shall be entitled to a certified copy of any register or part of the Registry Map or any filed instrument or plan.

(3) Any person, on application in the prescribed form and on paying the prescribed fee, may require an official search in respect of any parcel, and the Registrar shall issue a certificate of official search setting forth particulars of all subsisting entries in the register of that parcel.

Evidence.

37. (1) A certified copy of the register or part of the Registry Map or any filed instrument or plan shall be admissable in evidence in all actions and matters and between all persons and parties to the same extent as the original, and a signature on any such certified copy purporting to be the signature of the Registrar shall be presumed to be the signature of the Registrar until the contrary is proved.

(2) No legal practitioner, trustee, personal representatives of other person in a fiduciary position shall be held liable in respect of any loss occasioned by the inaccuracy of any such certified copy as is referred to in subsection (1).

(3) No process for compelling the production of a register of the Registry Map or of any filed instrument of plan shall issued from any court except with leave of that court, which leave shall not be granted if a certified copy or extract will suffice, and any such process, if issued, shall bear thereon a statement that it is issued by leave of the court.

PART V  
DISPOSITIONS

Division 1 - General.

Subsequent dealings.

38. (1) No land, lease or charge registered under the Act shall be capable of being disposed of except in accordance with this Act, and every disposal of such land, lease or charge otherwise than in accordance with this Act shall be incapable of creating, extinguishing, transferring, varying or affecting any right or interest in the land, lease or charge.

(2) Nothing in this section shall be construed as preventing any unregistered instrument from operating as a contract.

Protection of persons dealing in registered land.

39. (1) No person dealing or proposing to deal for valuable consideration with a proprietor shall be required -

(a) to enquire or research the circumstances in or the consideration for which such proprietor or any previous proprietor was registered; or

(Cap. 99)

(b) to search any register kept under the Registration of Documents Decree.

(2) Where the proprietor of land, a lease or a charge is a trustee, he shall, in dealing therewith, be deemed to be the proprietor thereof, and no disposition by such trustee to a bona fide purchaser for valuable consideration shall be defeasible by reason of the fact that such disposition amounted to a breach of trust.

Fees for  
delayed  
registration.

40. (1) An instrument shall be presented for registration within three months from the date of execution thereof.

(2) Where an instrument is presented for registration later than three months from the date of execution, an additional fee equal to the registration fee shall be payable for every period of three months or part thereof which has elapsed since the expiry of three months from the date of the instrument.

Provided that in no such case shall the sum of the additional fees exceed five times the original registration fee.

Power to  
compel  
registration.

41. (1) If the Registrar is satisfied that any person, through his wilful default, has failed to register any instrument which is registerable under the Act, he may by notice in writing order such person to present such instrument for registration and thereupon the registration fee and any additional fee payable under section 40 of this Act shall become due and shall be payable whether the instrument is produced or not.

(2) Any person who fails to comply with an order of the Registrar under section (1) of this section within one month of the service of the notice shall be guilty of an offence.

Priority of  
registered  
interests.

42. (1) Interests appearing in the register shall have priority according to the order in which the instruments which led 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.

Provided that ~~where~~ an instrument is prepared in the registry it shall be deemed to have been presented on the date on which application for its preparation was made to the Registrar.

(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 is 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 about their order or priority, the Registrar may refuse registration until he has heard and determined the rights of the parties interested thereunder.

Stay of  
registration.

43. (1) Where any person proposing to deal with registered land has, with the consent in writing of the proprietor, applied for an official search and has stated in his application the particulars of the proposed dealing, the registration of any instrument affecting the land to be comprised in or affected by the proposed dealing shall be stayed for a period (hereinafter referred to as the suspension period) of fourteen days from the time at which application for the official search was made, and a note shall be made in the register accordingly.

(2) If within the suspension period a property executed instrument effecting the proposed dealing is presented for registration, such instrument shall have priority over any other instrument which may be presented during the suspension period, and shall be registered notwithstanding any caution or other entry for which application for registration may have been made during the suspension period.

(3) Subject to subsection (2) of this section, any instrument or document for which application for registration is made during the suspension period, other than that effecting the proposed dealing, shall be dealt with in the same manner, shall have the same priority and shall be as effectual as if no stay of registration had been obtained.

Merger of registered interests.

44. Where upon the registration of a dealing, the interests of -

- (a) Lessor and lessee; or
- (b) charger and chargee, or
- (c) the proprietor of a parcel which is burdened with an easement, profit 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.

45. Subject to the provision of this Act and any other law the proprietor of land may lease the land or part of it to any person for a definite

term or for the life of the lessor or of the leasee or for a period which though indefinite may be determined by the lessor or the lessee, and subject to such conditions as he thinks fit.

Provided that, if only part of the land is leased, the lease shall be accompanied by a plan or other description which the Registrar, in his absolute discretion, deems adequate to identify the part leased.

Periodic.  
tenancy.

46. (1) Subject to any law governing agricultural tenancies --

- (a) Where in any lease the term is not specified and no provision is made for the giving of notice to terminate the tenancy, the lease shall be deemed to have created a periodic tenancy.
- (b) Where a proprietor of land permits the exclusive occupation of the land or any part thereof by any other person at a rent but without any agreement in writing, that occupation shall be deemed to constitute a periodic tenancy.
- (c) The period of a periodic tenancy created by this section shall be the period by reference to which the rent is payable, and the tenancy may be terminated by either party giving to the other notice, the length of which shall, subject to any other law, be not less than the period of the tenancy and shall expire on one of the days on which the rent is payable.

(2) No periodic tenancy of any kind shall be capable of registration.

Registration  
of leases.

47. A lease for a specified period exceeding two years, or for the life of the lessor or of the lessee, or a lease which contains an option whereby the lessee may require the lessor to grant him a further term which, together with the original term, exceeds two years, 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.

Lessor's  
consent to dealing  
with lease.

48. Upon the registration of a lease containing an agreement, expressed or implied, by the lessee that the will not transfer, sub-let, charge or part with possession of the land leased or any part thereof without the written consent of the lessor, the agreement shall be noted in the register of the lease and no dealing with the lease shall be registered until the written consent of the lessor, verified in accordance with section 113 of this Act, has been produced to the Registrar.

Lease of  
charged land.

49. Where any land is subject to a charge no lease of such land shall be registered without the previous consent in writing of the proprietor of the charge, verified in accordance with section 113 of this Act, unless the charge expressly dispenses with the necessity for such consent.

Computation of  
lease.

50. (1) Where a lease is expressed as commencing on a particular day, that day is excluded in computing the period.

(2) Where no day of commencement is named, the lease shall be deemed to commence on the day it is executed.

(3) Where the period is a year or a number of years, in the absence of an express agreement to the contrary, the lease shall last during the whole anniversary of the day on which such period commences.

Future leases.

51. (1) A lease may be made for a period to commence on a future date, not being later than twenty-one years from the date on which the lease is executed, but shall be of no effect unless it is registered.

(2) An instrument purporting to create a lease to commence on a date more than twenty-one years after the date of the instrument, or to take effect on the fulfilment of any condition, is void.

Holding over.

52 (1) Where a person, having lawfully entered into occupation of any land as a lessee, continues to occupy that land with the consent of the lessor after the termination of the lease, he shall, subject to the provisions of any law governing agricultural tenancies and in the absence of any evidence to the contrary, be deemed to be a tenant holding the land on a periodic tenancy on the same conditions as those of the lease so far as these conditions are appropriate to a periodic tenancy.

(2) For the purposes of this section, the acceptance of rent in respect of any period after the termination of the lease shall, if the former tenant is still in occupation and subject to any agreement to the contrary, be taken as evidence of consent to the continued occupation of the land.

Agreements implied in leases on the part of lessor.

53. (1) Save as otherwise expressly provided in the lease, the lessor shall be implied in every lease to have agreed -

(a) that, so long as the lessee pays the the rent and observes and performs the

agreement and conditions expressed or implied in the lease and on his part to be observed and performed, the lessee shall and may peaceably and quietly possess and enjoy the leased land during the period of the lease without any interruption from or by the lessor or any person rightfully claiming through him;

- (b) not to use or permit to be used any adjoining land of which he is the proprietor or lessee in any way which would render the leased land unfit or materially less fit for the purpose for which it is leased;
- (c) where part only of a building is leased, to keep the roof, main walls and main drains, and the common passages and the common installation of the lease;
- (d) where any dwelling-house, flat or room is leased to be furnished that such house, flat or room is fit for habitation at the commencement of the lease;
- (e) that if at any time the leased premises are damaged or destroyed by fire, hurricane, civil commotion or any other accident not attributable to the negligence of the lessee or his servants so as to render the leased premises wholly or partially unfit for occupation, the rent or a just proportion thereof shall be suspended and cease to be payable until such premises have been rendered fit for occupation.

Provided that, if the leased premises have not been so rendered fit within six months of their damage or destructions, the lessee may, on

giving one month's written notice, terminate the lease.

Agreements implied in lease on the part of lessee.

54. Save as otherwise expressly provided in the lease, the lessee shall be implied in every lease to have agreed -

- (a) to pay the rent reserved in the lease at the times and in the manner therein specified;
- (b) to pay all rates, taxes and other outgoings which are at any time payable in respect of the leased premises during the continuance of the lease unless the same are payable exclusively by the lessor by virtue of any other law;
- (c) except where part only of a building is leased, or where a dwelling-house is leased furnished, to keep all buildings comprised in the lease and all boundary marks in repair;
- (d) where part only of a building is leased, or where a dwelling house is leased furnished, to keep the leased premises except the roof and main walls and main drains and the common passages and common installations, in repair;
- (e) to permit the lessor or his agent with or without workmen or others at all convenient times and after reasonable notice to enter on the leased premises and examine the condition thereof;
- (f) in the case of agricultural land, to farm the same in accordance with the practice and any rules of good husbandry, and to yield up the land at the end of the term in good condition.

- (g) to repair any defect or breach of agreement for which the lessee is responsible and of which notice has been given by the lessor to the lessee, within such reasonable period as may be specified in the notice; and
- (h) not to transfer, charge, sublease or otherwise part with the possession of the leased premises or any part thereof without written consent from the lessor but such consent shall not be unreasonably withheld.

Meaning of  
'in repair'

55. Where an agreement is contained or implied in any lease to keep a building or a particular part thereof "in repair", it shall, in the absence of an express provision to the contrary, mean in such state or repair as that in which a prudent owner might reasonably be expected to keep his property, due allowance being made for the age, character and locality of the building at the commencement of the lease.

Provided that there shall not be read into such an agreement and undertaking to put any building into a better state of repair than that in which it was at the commencement of the lease.

Lessor's right  
of forfeiture.

56. (1) Subject to the provisions of section 59 of this Act and to any provision to the contrary in the lease, the lessor shall have the right to forfeit the lease if the lessee -

- (a) commits any breach of or omits to perform, any agreement or condition on his part expressed or implied in the lease; or
- (b) is adjudicated a bankrupt; or
- (c) being a company, goes into liquidation.

- 29 -
- (2) The right of forfeiture may be -
    - (a) exercised, where neither the lessee nor any person claiming through or under him is in occupation of the leased land, by entering thereon and remaining in possession thereof; or
    - (b) enforced by action in the Court.

(3) The right of forfeiture shall be taken to have been waived if -

- (a) the lessor accepts rent which has become due since the breach of the agreement or condition which entitled the lessor to forfeit the lease or has by any other positive act shown an intention to treat the lease as subsisting and;
- (b) the lessor is, or should by reasonable diligence have become, aware of the commission of the breach.

Provided that the acceptance of rent after the lessor has commenced an action in the Court under subsection (2) of this section shall not operate as a waiver.

Effect of forfeiture on subleases.

57. The forfeiture of a lease terminate every sublease and every other interest in the register relating to that lease, but -

- (a) where the forfeiture is set aside by a court on the grounds that it was procured by the lessor in fraud of the sublessee; or
- (b) where a court grants relief against the forfeiture under section 59 of this Act,

every such sublease and other interest shall be deemed not to have terminated.

Notice before  
forfeiture.

58. Notwithstanding anything to the contrary contained in the lease, no lessor shall be entitled to exercise the right of forfeiture for the breach of any agreement or condition in the lease, whether expressed or implied, until the lessor has served on the lessee a notice -

- (a) specifying the particular breach complained of, and
- (b) if the breach is capable of remedy, requiring the lessee to remedy the breach within such reasonable period as is specified in the notice; and
- (c) in any case other than non-payment of rent, requiring the lessee to make compensation in money for the breach, and the lessee has failed to remedy the breach within a reasonable time thereafter, if it is capable of remedy, and to make reasonable compensation in money.

Relief against  
forfeiture.

59. (1) A lessee upon whom a notice has been served under section 58 of this Act, or against whom the lessor is proceeding by action or re-entry to enforce his right of forfeiture, may apply to the Court for relief, and the Court may grant or refuse relief, as it thinks fit, and, if it grants relief, may grant it on such terms as it thinks fit.

Provided that nothing in this subsection shall apply in the case of a forfeiture arising from a breach to which the sublessee is a party, or from the breach of an expressed agreement or condition against sub-leasing, parting with the possession of or disposing of the property.

(2) This section shall have effect notwithstanding any stipulation or agreement to the contrary and whether the lease is registered or not.

Variation and extension of leases.

60. Subject to the provisions of section 58 of this Act, the agreements and conditions expressed or implied in any registered lease may be varied, negatived or added to and the period of any registered lease may from time to time be extended by an instrument executed by the lessor and lessee and registered before the expiration of the then current term of the lease.

Substitution of leases.

61. Where upon 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.

62. (1) Subject to any provision in his lease affecting his right to do so, the proprietor of a registered lease may, by instrument in the prescribed form, sublease for any period of his lease.

(2) Save as otherwise 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.

(3) If a lease is terminated by operation of law or by surrender under any law relating to bankruptcy or liquidation proceedings, such termination shall terminate the sublease.

(4) In addition to the agreements specified in this Act to be implied in lease, there shall be implied in every sublease under this Act an agreement by the sublessor that he will, during the continuance of the sublease, pay the rent

reserved by the lease under which the sublessor holds, and observe and perform the agreements and conditions thereof.

(5) Where a sublessee has paid to the sublessor's lessor the rent or any part of the rent payable by the sublessor under the lease under which the sublessor holds, the sublessee shall be entitled to set off any sum so paid against the rent payable by him to the sublessor in respect of the sublease.

Surrender of leases.

63. (1) Where the lessor and the lessee agree that a registered lease shall be surrendered, it shall be surrendered in the following manner:-

- (a) either an instrument shall be prepared in the prescribed form, or the word "surrendered" shall be inscribed on the lease or on the duplicate or triplicate thereof;
- (b) the instrument or inscription shall then be executed by the lessor and lessee;
- (c) the Registrar shall then cancel the registration of the lease; and
- (d) the instrument or inscribed lease shall be filed,

and thereupon, or upon such earlier date as is expressed in the instrument or inscription, the interest of the lessee shall cease.

(2) No lease which is subject to a charge or a sublease shall be surrendered without the consent in writing of the proprietor of the charge or sublease.

Termination of leases.

64. (1) Where -
- (a) the period of the lease has expired; or
  - (b) the event upon which a lease is expressed to terminate has happened; or

- (c) the lessor has lawfully re-entered and recovered possession of the leased land; or
- (d) a notice duly given to terminate the lease has expired and the lessor has recovered possession of the leased land,

the lease and every other interest appearing on the register relating to the lease shall thereupon terminate, and the lessor may apply in writing to the Registrar to cancel its registration.

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

#### Division 3 - Charges.

Form and effect  
of charges.

65. (1) A proprietor may, by instrument in the prescribed form, charge his land, lease or charge to secure payment of an existing or a future or contingent debt or other money or money's worth or the fulfilment of a condition, and the instrument shall contain a special acknowledgment that the charger understands the effect of section 73 of this Act, and the acknowledgement shall be signed by the charger or, where the charger is a corporation, by one of the persons attesting the affication of the common seal.

Provided that the Minister may prescribed the persons, authorities or institutions in favour of which any land, lease or charge may be charged, and until the Minister so prescribeds, no charge of any

land, lease or charge shall be registered otherwise than in favour of a housing, agricultural or other bank established and operating in Zanzibar.

(2) A date for the repayment of the money secured by the charge may be specified in the instrument of charge and where no such date is specified or repayment is not demanded by the charges on the date specified the money shall be deemed to be repayable three months after the service of a demand in writing by the charges,

(3) The charge shall be completed by the registration as an encumbrance and registration of the person in whose favour it is created as its proprietor and by filing the instrument and the charge.

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

(5) There shall be included in an instrument of charge securing fulfilment of a condition or the payment of an annuity or other periodical payment not of the nature of interest on a capital sum, such provisions as the parties think fit for disposing, subject to the provisions of section 77 of this Act, of the money which may arise on exercise by the chargee of his power of sale, either by setting aside the proceeds of sale or part thereof on investment to make future periodical payments, or by payment to the chargee of such proceeds or part thereof, to the extent of the estimated capital value of the chargee's interest, or otherwise.

Second or subsequent charges.

66. A proprietor whose land or lease is subject to a charge may create a second or subsequent charge in the same manner as the first charge and the same provisions shall apply thereto, but any sale under the power expressed or implied

in any such charge shall be expressed to be subject to all prior charges unless all those charges have been discharged.

Presumption that money paid is interest.

67. If any question arises whether any payment made by the charger is in respect of principal or interest, such payment shall be presumed to be in respect of interest to the extent of all interest which is due and payable at the date of payment.

Agreements implied in charges.

68. There shall be implied in every charge, unless the contrary is expressed therein, agreements by the chargor with the chargee binding the charger:

- (a) to pay the principal money on the day therein appointed and, so long as the principal sum or any part thereof remains unpaid, to pay interest thereon at the rate and on the days and in the manner therein specified;
- (b) to pay all rates, taxes and other outgoings which are at any time payable in respect of the charged property;
- (c) to repair and keep in repair all buildings or other improvements upon the charged land, <sup>and</sup> to permit the chargee or his agent, at all reasonable notice to the charger, to enter the land and examine the condition of such buildings or improvements;
- (d) to insure and keep insured all buildings upon the charged land against loss or damage by fire in the joint names of the charger and chargee with insurers approved by the chargee to the full value thereof;

- (e) in the case of charge of agricultural land, to farm the land in accordance with the rules of goods husbandry;
- (f) in the case of a charge of land or of a lease, not to lease the charged land or part thereof, or sublease the whole or part of the land comprised in the charged lease for any period longer than one year without the previous consent in writing of the chargee, but such consent shall not be unreasonably withheld;
- (g) not to transfer the land, lease or charge or any part thereof without the previous consent in writing of the chargee, but such consent shall not be unreasonably withheld;
- (h) in the case of a charge of a lease, during the continuance of the charge to pay the rent reserved by the lease and observe and perform the agreements and conditions thereof, and keep the chargee indemnified against all proceedings, expenses and claims on account of non-observance of the said agreements and conditions, and, if the lessee has an enforceable right to renew the lease, to renew it;
- (i) where the charge is a second or subsequent charge, to pay the interest from time to time accruing due on each prior charge when it becomes due, and at the proper time to repay the principal money due on each prior charge; and
- (j) that where the chargee fails to comply with any of the agreements implied by paragraph (b), (c), (d), (e), (h) and (i) of this section the

chargee may spend such money as is necessary to remedy the breach, and may add the amount so spent to the principal money, and that thereupon the amount shall be deemed for all purposes to be part of the principal money secured by the charge.

Chargee's consent to transfer.

69. Where a charge contains an agreement, expressed or implied, by the chargor with the chargee that he will not transfer the land, lease or charge or any part thereof without the consent in writing of the chargee, the agreement shall be noted in the register, and no transfer by the chargor shall be registered until the written consent of the chargee, verified in accordance with section 113 of this Act, has been produced to the Registrar.

Variation of charges.

70. The amount secured, the method of repayment, the rate of interest or the term of the charge may be varied by the presentation and registration of an instrument of variation executed by the chargor and chargee, but no such variation shall affect the rights of the proprietor of a second or subsequent charge unless he has consented to the variation in writing on the instrument of variation.

Chargor's right of redemption.

71. (1) Subject to the provisions of this section a chargor, on payment of all money due and owing under the charge at the time of payment or on fulfilment of any condition secured thereby and on payment of any costs or expenses properly incurred by the chargee in exercising any power conferred on him by section 73 of this Act, may redeem the charged land, lease or charge at any time before it has been sold under section 76 of this Act, and any agreement or provision which purports to deprive the chargor of this right of redemption shall be void, and, for the purpose of this subsection land, a lease or a charge shall be deemed to have been sold when a bid has been accepted at the auction sale.

(2) Where the chargor wishes to redeem the charged land or lease or charge before the date for repayment specified in the charge, he shall be entitled to do so on payment to the chargee of all money due or owing under the charge at the date of redemption.

(3) Where no date for redemption is specified in the charge or where the chargor, seeks to redeem the charged land or lease or charge after the date specified in the charge, he shall give the chargee three months notice of his intention to redeem the charged land or lease or charge or shall pay him three months' interest in lieu thereof.

(4) If at any time the chargor is entitled and desires to repay the money secured by the charged and the chargee is not in Zanzibar or cannot be found or the Registrar is satisfied that the charge cannot be discharged otherwise, the chargor may deposit the amount due with the Registrar in trust for the person entitled thereto, and thereupon the obligations of the chargor under the charge shall cease, and the Registrar shall cancel the registration of the charge, and shall pay the amount deposited to the chargee if the chargee applies for it within six years from the date of deposit, and if the amount is not so claimed and paid it shall be appropriated to the general revenue of the Government of Zanzibar.

Provided that, prior to the cancellation of the registration, the Registrar may require that the chargor shall publish in a newspaper approved by the Registrar, a notice of his intention to redeem the charged land or lease or charge.

Right of third party to transfer of charge.

72. On his tendering to the chargee such sum as would have been payable to the chargee if the chargor had sought to redeem the charge under section 71 of this Act, any of the following persons, that is to say -

- (a) any person (other than the chargee) who has an interest in the charged land, lease or charge; or
- (b) any surety for the payment of the amount secured by the charge; or
- (c) any creditor of the chargor who has obtained an order of court for sale of the charged land, lease or charge, may require the chargee to transfer the charge to him.

Chargee's remedies.

73. (1) If default is made in payment of the principal sum or of any interest or other periodical payment or part thereof, or in the observance or performance of any agreement expressed or implied in any charge, and such default continues for one month, the chargee may serve on the chargor a notice in writing to pay the money due or to observe and perform the agreement, as the case may be.

(2) If the chargor does not, within three months from the date of service of a notice served on him under subsection (1), comply with that notice, the chargee may -

- (a) appoint a receiver of the income of the charged property; or
- (b) sell the charged property,

Provided that a chargee who has appointed a receiver may not exercise the power of sale unless the chargor fails to comply within three months from the date of service, with a further notice served on him under subsection (1).

(3) The chargee shall be entitled to sue for the money secured by the charge in the following cases only -

- (a) where the charge is bound to an agreement expressed or implied, to repay the same; or
- (b) where by any cause other than the wrongful act or chagor of the chargee, the charged property is wholly or partially destroyed or the security is rendered insufficient and the chargee has given the chargor a reasonable opportunity of providing further security which will render the whole security sufficient, and the chargor has failed to provide such security; or
- (c) where the chargee is deprived of the whole or part of his security by, on in consequence of, the wrongfull act or default of the chargor;

Provided that -

(i) in the case specified in paragraph (a) of this subsection -

(a) a transferee from the chargor shall not be liable to be sued for the money unless he has agreed with the chargee to pay the same; and

(b) no action shall be commenced until a notice served in accordance with subsection (1) of this section has expired;

(ii) the court may, at its discretion, stay a suit brough under paragraph (a) or ~~paragraph (b) of this subsection~~

notwithstanding any agreement to the contrary, until the chargee has exhausted all his other remedies against the charged property, unless the chargee agrees to discharge the charge.

Appointment,  
powers, remuneration  
and duties of  
receiver.

74. (1) The appointment of a receiver under the powers conferred by section 73 of this Act shall be in writing signed by the chargee and a copy shall be filed in the registry.

(2) A receiver may be removed at any time and a new receiver appointed in writing signed by the chargee and a copy of such new appointment shall be filed in the registry.

(3) A receiver appointed under this section shall be deemed to be the agent of the chargor for the purposes for which he is appointed, and the chargor shall be solely responsible for the receiver's acts and defaults unless the chargee otherwise provides.

(4) The receiver shall have power to demand and recover all the income of which he is appointed receiver, by action or otherwise, in the name of the chargor, and to give effectual receipts accordingly for the same.

(5) A person paying money to the receiver shall not enquire into the validity of the receiver's appointment.

(6) Subject to the provision of subsection (8) of this section the receiver shall be entitled to . . . out of any money received by him all costs, charges and expenses incurred by him as receiver, and, for his remuneration, a commission at such rate, not exceeding five percent of the

gross amount of all moneys received, as is specified in his appointment, or if no rate is specified at the rate of five percent of that gross amount or such other rate as the chargor and the chargee and any other chargees, if any, agree or the Court thinks fit to allow on application by the receiver for that purpose.

(7) The receiver shall apply insurance money in making good the loss or damage in respect of which the money is received.

(8) Subject to the provisions of subsection (7) of this section, the receiver shall apply all money received by him in the following order of priority -

- (a) in discharge of all rents, rates, taxes and outgoings whatever affecting the charged property; and
- (b) in keeping down all annual sums or other payments and the interest on all principal sums, having priority to the charge in right whereof he is receiver; and
- (c) in payment of his commission, costs, charges, and expenses and of the premiums of fire or other insurance policies, if any, properly payable under the charge or under this Act, and the cost of executing necessary repairs directed in writing by the chargee, and
- (d) in or towards the discharge of the money secured by the charge, if so directed in writing by the charges, and shall pay the residue, if any, of the money received by him to the person who, but for the appointment of the receiver, would have been entitled to receive

receiver, or who is otherwise entitled to the charged property.

Chargee's powers of leasing.

75. (1) The proprietor of a charge of land or a lease who has appointed a receiver under the powers conferred on him by section 73 of this Act shall, in the absence of any expressed provision to the contrary contained in the charge, have power subject to the provisions of this Act and of any other law:-

- (a) to grant leases in respect of the charged land or the land comprised in the charged lease or any parts thereof; and
  - (b) to accept a surrender of any lease so granted and of any lease created by the chargor and may, for such purposes, execute in the place of the chargor any instrument required to effect such lease or surrender.
- (2) Every lease granted by a chargee shall -
- (a) be made to take effect in possession not later than twelve months after its date;
  - (b) reserve the best rent that can reasonably be obtained, but without a fine or premium being obtained;
  - (c) be for a term not exceeding twenty-one years; and
  - (d) contain a declaration by the chargee that he has appointed a receiver and the date of such appointment.

Chargee's power of sale.

76. (1) A chargee exercising his power of sale shall act in good faith and have regard to the interests of the chargor, and may sell or concur

with any person in selling the charged land, lease or charge, or any part thereof, together or in lots, by public auction for a sum payable in one amount or by instalments, subject to such reserve price and conditions of sale as the chargee thinks fit, with power to buy in at the auction.

(2) Where the chargor is in possession of the charged land or the land comprised in the charged lease, the chargee shall become entitled to recover possession of the land upon a bid being accepted at the auction sale.

(3) A transfer by a chargee in exercise of his power of sale shall be made in the prescribed form, and the Registrar may accept it as sufficient evidence that the power has been duly exercised, and any person suffering damage by an irregular exercise of the power shall have his remedy in damages only against the person exercising the power.

(4) Upon registration of such transfer, the interest of the chargor as described therein shall pass to and vest in the transferee freed and discharged from all liability on account of the charge or on account of any other encumbrance to which the charge has priority (other than a lease, easement, profit or restrictive agreement subsisting at the time the charge was effected or to which the chargee has consented in writing.)

(5) A chargee, in exercising his power of sale, shall have the same powers and rights in regard to easements, profits and restrictive agreements as are conferred upon a proprietor by section 93, 94 and 95 of this Act.

Application of  
purchase money.

77. The purchase money received by the chargee who has exercised his power of sale, after discharge of any prior encumbrances to which the

sale is not made subject or after payment into court of a sum sufficient to meet any such prior encumbrance, shall be applied -

- (a) first, in payment of all costs and expenses properly incurred and incidental to the sale or any attempted sale;
- (b) secondly, in accordance with any expressed provision in the charge (as required by section 65(5) of this Act) for disposing of such money and, in the absence of any such expressed provision, in discharge of the money due to the chargee at the date of the sale; and
- (c) thirdly, in payment of any subsequent charges in the order of their priority,

and the residue of the money so received shall be paid to the person who immediately before the sale was entitled to redeem the charged land, lease or charge.

Variation of powers.

78. The provisions of section 71(2) and (3), 73, 74, 75 and 76 of this Act may in their application to a charge be varied or added to in the charge -

Provided that any such variation or addition shall not be acted upon unless the court, having regard to the proceedings and conduct of the parties and to the circumstances of the case, so orders.

No right of entry into possession or of foreclosure.

79. For the avoidance of doubt, it is hereby declared that the chargee shall not be entitled to foreclose, or to enter into possession of the land or the land comprised in a charged lease or to receive the rents or profits thereof by reason only that default has been made in the payment of the principal sum or of any interest or other periodical payment, or of any part thereof, or in the performance or observance of any agreement expressed or implied in the charge.

Discharge of charge.

80. (1) A discharge whether of the whole or of part of a charge shall be made by instrument in the prescribed form or, in the case of a discharge of the whole, by inscribing the word "Discharged" on the charge or the duplicate or triplicate thereof, and the instrument or inscription shall be executed by the chargee.

(2) A discharge shall be completed by cancellation in the register of the charge, or part thereof as the case may require, and by filing the instrument of discharge of the inscribed charge.

Satisfaction of charges.

81. Upon proof to the satisfaction of the Registrar -

(a) that all money due under a charge has been paid to the charges or by his direction; or

(b) that the event or circumstance has occurred upon which, in accordance with the provisions of any charge, the money thereby secured ceases to be payable and that no money is owing under the charge,

the Registrar shall order the charge to be cancelled in the register, and thereupon the land, lease or charge shall cease to be subject to the charge.

Taking and further advances.

82. (1) Provision may be made in the charge for a chargee to make further advances or give credit to the chargor on a current account, but, unless that provision is noted in the register, further advances shall not rank in priority to any subsequent charge except with the consent in writing of the proprietor of the subsequent charge.

(2) Except as provided in this section, there is no right to tack.

Consolidation  
of charges.

83. A chargee has no right to consolidate his charge with any other charge unless the right is expressly reserved in the charges or in one of them and is noted in the register against all the charges so consolidated.

#### Division 4 - Transfers

Transfer.

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

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

(3) The transferee of a charge may require the chargor to execute the transfer for the purpose of acknowledging the amount due under the charge at the date of execution of the transfer.

Conditional  
transfers not  
registerable.

85. A transfer to take effect on the happening of any event or on the fulfilment of any condition or at any future time shall not be capable of registration.

Conditions  
repugnant to  
interests  
transferred.

86. (1) Any condition or limitation purporting to restrain absolutely a transferee or any person claiming under him from disposing of the interest transferred shall be void.

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

(3) Except as provided in Division 5 of this Part, no transfer of a land shall contain a direction that the land shall be used or enjoyed by the transferee in a particular manner.

(4) This section shall not apply to Wakf properties.

Transfer of part.

87. No part of the 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.

Transfer of Leases.

88. On the transfer of a lease, unless the contrary is expressed in the transfer, there shall be implied:

- (a) a warranty on the part of the transferor that the rent, agreements and conditions on the part of the lessee to be paid, performed and observed have been so paid, performed and observed up to the date specified in the transfer or, if no such date is specified, the date of the transfer; and
- (b) an agreement of the part of the transferee to pay the said rent as from the day following the date specified in the transfer or the date of the transfer, as the case may be, and to perform and observe the said agreements and conditions.

Effect of transfer of agreements in leases.

89. A transferee from a lessor or from a lessee shall have all the rights, and be subject to all the liabilities, of the lessor or lessee, as the case may be expressed or implied in the lease or arising or which have arisen thereunder, and the transferor shall cease to be under any obligation or to have any rights in respect of the lease.

Provided that nothing in this section shall affect rights or liabilities of the lessor or lessee as the case may be, in respect of a breach of any of the agreements expressed or implied in the lease which occurred before the transfer.

Transfer subject to charges and interest.

90. In every transfer of land or a lease subject to a charge, there shall be implied an agreement by the transferee with the transferor to pay the interest secured by the charge at the rate and at the times and in the manner specified in the charge and to keep the transferor indemnified against the principal sum secured by the charge and from and against all liability in respect of any of the agreements on the part of the transferee therein expressly contained or implied.

Transfer subject to lease.

91. A transfer of land which is subject to a lease shall be valid without the lessee acknowledging the transferee as lessor, but nothing in this section -

- (a) shall effect the validity of any payment of rent made by the lessee to the transferor; or
- (b) shall render the lessee liable, an account of his failure to pay the rent to the transferee, for any breach of agreement to pay rent,

before notice of the transfer is given to the lessee by the transferee.

Transfer of unregistered lease.

92. The transfer of a lease of registered land which lease does not require registration and is not registered, shall not itself require registration.

## Division - 5

## Easements, Profits and Restrictive Agreements.

## Easements.

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

(2) Any proprietor transferring or leasing land or a lease may, in the transfer or lease, grant an easement for the benefit of the land transferred or leased over land retained by him, or reserve an easement for the benefit of land retained by him over the land transferred or leased.

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

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

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

Profits.

94. (1) The proprietor of land or of a lease may, by instrument in the prescribed form, grant a profit.

(2) The instrument shall specify clearly -

(a) the nature of the profit and the period for which it is to be enjoyed; and

(b) whether it is to be enjoyed in gross or as appurtenant to other land or a lease; and

(c) whether it is to be enjoyed by the grantee exclusively or in common with the grantor.

(3) The grant of a profit shall be completed -

(a) by its registration as an encumbrance in the register of the land or lease it affects; and

(b) where it is appurtenant to other land or a lease, by its registration in the property section of the register of the land or lease to which it is appurtenant; and

(c) by filling the instrument.

(4) A profit which is not appurtenant to land may be dealt with as though it were land and may be transferred or otherwise disposed of accordingly.

(5) A profit granted by the proprietor of a lease shall be capable of subsisting only during the subsistence of the lease.

Restrictive agreements.

95. (1) Where an instrument, other than a lease or charge, contains an agreement (hereinafter referred to as a restrictive agreement) by one proprietor restricting the building on or user or other enjoyment of his land for the benefit of the proprietor of other land, and is presented to the Registrar, the Registrar shall note the restrictive agreement in the encumbrances section of the register of the land or lease burdened by the restrictive agreement, either by entering particulars of the agreement or by referring to the instrument containing the agreement, and shall file the instrument.

(2) Unless it is noted in the register, a restrictive agreement is not binding on the proprietor of the land or lease burdened by it or on any person acquiring the land or lease.

(3) The note of a restrictive agreement in the register does not give the restrictive agreement any greater force or validity than it would have had if it had not been registerable under this Act and had been noted.

(4) In so far as the restrictive agreement is capable of taking effect, the proprietors and their respective successors in title shall be entitled to the benefit and shall be subject to the burden of it respectively, unless the instrument otherwise provides.

release and extinguishment of easement, profits and restrictive agreements.

96. (1) Upon presentation of a duly executed release in the prescribed form, the registration of the easement, profit or restrictive agreement shall be cancelled, and the easement, profit or restrictive agreement shall thereupon be extinguished.

(2) Upon the application of any person affected thereby, the Registrar may cancel the registration of the easement, profit 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 terminate has occurred; or
- (c) it has been abandoned.

Discharge and modification of easement, profits and restrictive agreement by Court order.

97. Upon the application of any person interested in Land affected by an easement, profit or restrictive agreement, the Court shall have power by order to extinguish wholly, partially, or to modify any such easement, profit or restrictive agreement, with or without payment by the applicant of compensation to any person suffering loss in consequence of the order, or being satisfied -

- (a) that, by reason of changes in the character of the property of the neighbourhood or other circumstances of the case which the court deems material, the easement, profit or restrictive agreement ought to be held to be obsolete; or
- (b) that the continued existence of the easement, profit or restrictive agreement impedes the reasonable user of the land for public or private purpose without securing practical benefits to other

persons or, as the case may be, will unless modified so impede such user; or

- (c) that the proposed discharge or modification will not injure the person entitled to the benefit of the easement, profit or restrictive agreement.

Natural rights.

98. Nothing in this Act shall be construed as derogating from natural rights to water, light, air, support or access to a public road appertaining to any land, nor from such ancillary rights as are necessary for effective enjoyment of an easement.

Licences.

99. (1) Without prejudice to section 132(1) of this Act, a licence is not capable of registration.

(2) A licence relating to the use or enjoyment of land is ineffective against a bona fide purchaser for valuable consideration unless the licensee has protected his interest by lodging a caution under the said section.

Division 6 - Co-proprietorship and Partition.

Co-proprietorship.

100.(1) An instrument made in favour of two or more persons and the registration giving effect to it, shall show:-

- (a) whether such persons are joint proprietors or proprietors in common; and
- (b) where they are proprietors in common, the share of each proprietor.

Characteristics of joint proprietorship.

101.(1) Where two or more persons are joint proprietors of any land, lease or charge, no such proprietor shall be entitled to any separate share in the land, lease or charge, and consequently:-

- (a) dispositions may be made only by all the joint proprietors; and
- (b) on the death of a joint proprietor, his interest shall vest in the surviving proprietor or proprietors jointly.

(2) For the avoidance of doubt, it is hereby declared that:-

- (a) the sole proprietor of any land, lease or charge may transfer the same to himself and to another person jointly; and
- (b) a joint proprietor of any land, lease or charge may transfer his interest therein to all the other joint proprietors.

3. Joint proprietors, not being trustees, may execute an instrument in the prescribed form signifying that they agree to sever the joint proprietorship, and the severance shall be completed by registration of the joint proprietors as proprietors in common with equal shares, and by filing the instrument.

Character-  
istics of  
proprietor-  
ship in  
common.

102.(1) Where two or more persons are proprietors in common of any land, lease or charge, each such proprietor shall be entitled to a separate undivided share in the whole and on his death his share shall be administered as part of his estate.

(2) No proprietor in common shall deal with his undivided share in favour of any person other than another proprietor in common of the same land except with the consent in writing of the remaining proprietor or proprietors of such land, but such consent shall not be unreasonably withheld.

Statutory  
trusts.

103. When:-

- (a) on first registration under this Act more than ten persons have been registered as proprietors in common of any land; or
- (b) the registration of a dealing results in more than ten persons being registered as proprietors in common of any land,

Such land shall be held under a statutory trust, and the Registrar shall enter a restriction in the register of such land prohibiting any dealing in the land and in any undivided share thereof until statutory trustees of such land shall have been appointed.

Appointment  
of statutory  
trustees.

104.(1) Upon entering a restriction under section 103 of this Act, the Registrar shall by notice require the proprietors in common named in the register to appoint not less than two and not more than four persons to be the statutory trustees of the land, and for this purpose the Registrar may:-

- (a) summon all the said proprietors in common to appear before him, at such place and such time as he may direct, to appoint such statutory trustees in his presence; all proprietors in common present shall be entitled to vote for the selection of persons to be appointed as statutory trustees, and the Registrar shall prepare and sign a record the statutory trustees so appointed; or
- (b) accept a statement in writing, assigned by more than half the number of proprietors in common named on the register and verified in accordance with section 113 of this Act, of the persons, being not less than two or more than four in number, appointed to be the statutory trustees of the land.

(2) If, after the expiry of reasonable time from the date of the notice issued under subsection (1) of this section, the proprietors in common named on register have failed to appoint statutory trustees, the Registrar may, and if so requested by any proprietor in common shall, by order appoint not less than two and not more than four persons to be the statutory trustees of the land.

105. Upon the appointment of statutory trustees under section 104 of this Act, the Registrar shall:-

- (a) cancel the names of all proprietors in common shown on the register; and
- (b) register in the proprietorship section of the register only the names of the persons appointed as statutory trustees, and add after their names the words "as statutory trustees"; and

Registration  
of Statutory  
Trustees.

(c) file:-

- (i) the record of the appointment of statutory trustees in the presence of the Registrar in accordance with paragraph (a) of section 104 (1) of this Act; or
  - (ii) the statement of appointment of statutory trustees accepted by the Registrar in accordance with paragraph (b) of section 104 (1) of this Act; or
  - (iii) the order of the Registrar appointing statutory trustees in accordance with section 104 (2) of this Act; and
- (d) compile and file a list of all occupants in common of the land and the share of each; and
- (e) remove the restriction imposed under section 103 of this Act.

106. (1) The registered statutory trustees of land shall have and may exercise the sole and exclusive right, subject to any entry in the register, to deal in the land, and an occupant in common of the land shall be entitled only to a share, corresponding to his undivided share, of the net proceeds of sale of the whole, and to any rents or profits until sale of the whole, but shall not be entitled to deal with his undivided share under this Act.

(2) Nothing in this Act shall relieve any registered statutory trustee from any duty, customary or otherwise, to consult the occupants in common of the land or lease, and any registered statutory trustee shall be bound to exercise the powers vested in him by this Act on behalf of such occupants in common and for their collective benefit.

Effect of registration of statutory trustees.

(3) Any failure by a registered statutory trustees to comply with any such duty or obligation shall in no way concern or affect any person dealing with him in good faith for valuable consideration nor shall any such failure create any right to indemnity under this Act.

Removal  
and replacement  
of statutory  
trustees.

107.(1) The Registrar shall:-

- (a) on proof to the satisfaction of the Registrar that a registered statutory trustee has died; or
- (b) on being informed in writing by a registered statutory trustee that he no longer wishes to act as a statutory trustee; or
- (c) on being informed in writing by any occupant in common of the land or lease, and on proof to the satisfaction of the Registrar, that a registered statutory trustee is unable to act as a statutory trustee by reason of age, physical disability, unsoundness of mind, absence from Zanzibar or imprisonment, cancel the registration of the name of such registered statutory trustee on the register.

(2) On application to the Court by any occupant in common of the land or lease that a registered statutory trustee should be removed for a breach of trust or for any other reason, the Court may order that the name of the registered statutory trustee shall be struck off the register, and upon receiving a certified copy of such order the Registrar shall cancel the name of such registered statutory trustee on the register accordingly.

(3) The occupants in common of the land or lease may, and if the Registrar by notice so requires shall, from time appoint one or more persons to be added to the statutory trustees in accordance with the provisions of section 104 (1) of this Act, or if they fail to do so, the Registrar shall appoint such additional statutory trustees in accordance with section 104 (2) of this Act;

Provided that the total number of statutory trustees appointed and registered shall at no time exceed four.

(4) So long as two or more statutory trustees remain on the register they shall have all the powers of statutory trustees under this Act.

(5) If less than two statutory trustees remain on the register, the Registrar shall enter a restriction in the register prohibiting any dealing in the land or lease and in any undivided share thereof until two or more statutory trustees shall have been appointed under this Act.

Partition of  
land held in  
common.

108. (1) An application for partition of land held in common may be made to the Registrar by the statutory trustees or, in respect of land for which no statutory trustees have been appointed under the provisions of this Act, by one or more of the proprietors in common.

(2) Subject to the provisions of this Act and of any other law by which minimum areas or frontages are prescribed or the consent of any authority is required, the Registrar shall effect the partition in accordance with any agreement of the statutory trustees or of the proprietors in common, as the case may be, or, in the absence of agreement, in such manner as the Registrar may order.

(3) Partition shall be completed by closing the register of the parcel partitioned and opening new registers in respect of the new parcels created by the partition, and filing the agreement or order, and the instrument.

Where Registrar may order sale.

109. Where for any reason the land sought to be partitioned is incapable of partition or the partition would adversely affect the proper use of the land, and demand is made by the statutory trustees or by one or more of the proprietors in common, as the case may be that the land or any share or shares in the land be sold, the Registrar shall, in default of any agreement between the occupants in common, value the land and the shares of the occupants in common and order the sale of the land or the separation and sale of such shares by public auction or make such other order for the disposal of the application as he thinks fit.

Procedure where share is small.

110. (1) Where the land sought to be partitioned is capable of partition generally, but the resultant share of any particular occupant in common or proprietor in common, as the case may be, would be less in area than any minimum prescribed by law, the Registrar shall add such share to the share of any other occupant or proprietor in common, or shall distribute such share to two or more other occupants or proprietors in common, as in default of agreement, he thinks fit.

(2) Where the Registrar proceeds in accordance with subsection (1) of this section, he shall assess the value of the share added or distributed and shall order that there be paid to the occupant or proprietor of the share by each occupant or proprietor who has received an addition to his share the value of such addition.

PART VI

INSTRUMENTS AND AGENTS

Division 1 - Instruments.

Form of  
instruments.

111.(1) Every disposition of land, a lease or a charge shall be effected by an instrument in the prescribed form or in such other form as the Registrar may in any particular case approve, and every person shall use a printed form issued by the Registrar unless the Registrar otherwise permits.

(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 an acknowledgement of the receipt of the consideration.

Execution  
of  
instruments.

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

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

(2) Subject to section 125 (2) of this Act 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 authorized in that behalf by any law or by the statute charter of the corporation or, in the absence of any expressed provision, by the person duly appointed in writing for that purpose by the corporation, evidence of which appointment has been produced to the satisfaction of the Registrar.

Identity of  
the executor of  
instrument.

113.(1) Subject to the provision of subsection (3) of this section, a person who desires to execute an instrument or document shall appear before the Registrar or such public officer or other person as is prescribed and, unless he is known to the Registrar or such public officer or other person shall be accompanied by a credible witness for the purpose of establishing his identity.

(2) The Registrar or public officer or other person shall satisfy himself as to the identity of the person appearing before him and shall ascertain whether he freely and voluntarily executed the instrument or document and shall complete a certificate to that effect.

(3) An instrument which is required to be executed by or on behalf of the Government shall be deemed to be executed when it has been signed by the Minister for the time being responsible for land affairs.

(4) The Registrar may dispense with verification under this section:-

(a) if he considers that it cannot be obtained or can be obtained only with difficulty and he is otherwise satisfied that the document has been properly executed; or

(b) in cases in which to his knowledge the document has been properly executed,

and shall record on the document his reasons for dispensing with the appearance of the parties.

(5) No instrument executed out of Zanzibar shall be registered unless it has endorsed thereon or attached thereto a certificate in the prescribed form completed:-

(a) if the instrument was executed in the commonwealth, by a judge, magistrate, justice of the peace, notary public or commissioner for oaths;

(b) if the instrument was executed in a foreign country other than a commonwealth country by a Tanzanian or British consular official or pro-consul or other person or class of persons prescribed.

Stamp  
duty.  
114. No instrument required by law to be stamped shall be accepted for registration unless it is duly stamped.

Disposal of  
Instruments.  
115.(1) Subject to subsection (2) of this section and to section 117 (2) of this Act, 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 six years thereafter.

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

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

116. (1) For the avoidance of doubt, it is hereby declared that the name of a person under the age of eighteen years 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 is registered, the Registrar shall enter a restriction accordingly.

(3) A minor or any person representing a minor who applies to register any disposition of land or any interest in land shall state in such application particulars of the age and date of birth of the said minor:

Provided that where a disposition by a minor whose minority has not been disclosed to the Registrar has been registered, such disposition may not be set aside only on the grounds of minority.

#### Division 2 - Agents

117. (1) Except as provided in subsection (3) of this section, no instrument executed by any person as agent for any other person shall be accepted by the Registrar unless the person executing it was authorized in that behalf by a power of attorney executed and verified in accordance with section 112, and 113 of this Act.

- 07 -

(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 in the file of powers of attorney kept under section 6(r) of this Act.

(3) Where any person who, if not under a disability, might have made any application, done any act or been a party to a proceeding under this Act or any regulations made thereunder is a minor, a person of unsound mind or a person under any other disability, the guardian of such person, or if there is no such guardian, the person appointed under any law to represent that person, may make any application, do any act and be a 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 document executed by a guardian or a person so appointed to represent a person under a disability, the Registrar shall satisfy himself that the person claiming to be the guardian is entitled to execute the document or require the production of the appointment of the person so appointed, and shall file a note of the explanation which satisfied him or a copy of the appointment, as the case may be.

118. A person under a disability who has been registered as proprietor of land, a lease or charge acquired by him by way of gift may, within six months after he ceases to be under a disability, repudiate the gift if he has not already disposed of the subject matter thereof, but no such repudiation shall be effective until:-

- (a) he has transferred the land, lease or charge to the donor who shall be bound to accept it; and

Gift to  
person  
under  
disability.

(b) the transfer has been registered.

Powers of  
attorney.

119. (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 kept under section 6(f) of this Act.

(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 in accordance with sections 112 and 113 of this Act.

(3) The grantor of a power of attorney filed in accordance with subsection (1) of this section may at any time give notice to the Registrar in the prescribed form that the power has been revoked, 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.

(4) Any interested person may give notice in writing to the Registrar that a power of attorney which has been registered under subsection (1) of this section has been revoked by (death,) bankruptcy or disability of the grantor or the death or disability 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 on 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 time 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.

120.(1) A power of attorney which has been registered under section 119 of this Act 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 person.

(2) Any person making any payment or doing any act in good faith in pursuance of a power of attorney registered under section 119 of this Act 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 become subject to a disability or become bankrupt, or had revoked the power, if the fact of death, disability, bankruptcy 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

TRANSMISSION AND TRUSTS

Transmission  
on death  
of joint  
proprietor.

121. If one of two or more joint proprietors of any land lease or charge dies the Registrar, on proof to his satisfaction of the death, shall cancel the name of the deceased in the register.

Transmission  
on death  
of sole  
proprietor  
or  
proprietor  
in common.

122. If a sole proprietor, or a proprietor in common of land in respect of which statutory trustees have not been appointed, dies, his personal representative on application to the Registrar in the prescribed form and on production to him of the grant, shall be entitled to be registered by transmission as proprietor in the place of the deceased with the addition of the words "as executor of the will of ..... deceased" or "as administrator of the estate of ..... deceased", as the case may be.

(2) Upon production of the grant, the Registrar may without requiring the personal representative to be registered, register by transmission:-

- (a) any transfer by the personal representative; or
- (b) any surrender of a lease or discharge of a charge by the personal representative.

(3) In this section "grant" means the grant of probate of the will or letters of administration of the estate of the deceased proprietor.

(4) Nothing in this section shall be construed as affecting the right of a personal representative of a deceased occupant in common of land in respect of which statutory trustees have been appointed, to transmit the rights in the undivided share to the heir or heirs of the deceased occupant, but such transmission shall not entitle any such heir to deal with an undivided share under this Act and shall not be registerable.

(5) On being informed in writing by the personal representative of the death of an occupant in common of land and on production of the grant, the Registrar shall cancel the name of the deceased occupant in common in the list filed in accordance with section 105(d) of this Act and enter the name or names of the new occupant or occupants and the share of each.

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Transmission  
on death  
effects

123.(1) Subject to any restriction on his power of disposing of the land, lease or charge contained in his appointment, the personal representative, or person beneficially entitled on the death of the deceased proprietor, as the case may be, shall hold the land, lease or charge subject to any liability, rights or interests which are unregistered but are nevertheless enforceable, and subject to which the deceased proprietor held the same, but for purpose of any dealing he shall be deemed to have been registered as proprietor thereof with all the rights conferred by this Act on a proprietor who has acquired land, or lease or a charge for valuable consideration.

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

Transmission  
on  
bankruptcy.

124.(1) A trustee in bankruptcy shall, upon production to the Registrar of a certified copy of the order of court adjudging a proprietor bankrupt, or directing that the estate of a deceased proprietor shall be administered according to the law of bankruptcy, be registered as proprietor of any land, lease or charge of which the bankrupt or the deceased proprietor is proprietor, in his place and a copy of the order shall be filed.

(2) A trustee in bankruptcy shall be described in the register as "trustee of the property of ..... a bankrupt."

(3) The trustee in bankruptcy shall hold any land, lease or charge of which he is registered as proprietor subject to any restriction contained in any law relating to bankruptcy 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

on the deceased proprietor held the same, but for the purpose of any dealing with such land, lease or charge the trustee in bankruptcy shall have all rights and be subject to all the limitations conferred or imposed by this Act or any other law on a proprietor who has acquired land, a lease or a charge for valuable consideration.

**Liquidation.**

125.(1) Where a company, which is a registered proprietor of any land, lease or charge is being wound up the liquidator shall produce to the Registrar any resolution or order appointing him 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 or order.

(2) An instrument executed by or on behalf of a company in liquidation presented for registration after the appointment of the liquidator under subsection (1) of this section 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 verified in accordance with section 113 of this Act.

**Transmission by compulsory acquisition or order of court.**

126. Where the Government or any person has become entitled to any land, lease or charge under any law or by virtue of any order or certificate of sale made or issued under any law, the Registrar shall, on the application of any interested person register the land as public land or register the person entitled as proprietor of the land, as the case may be.

**Trusts.**

127.(1) A person acquiring land or a lease or a charge in a fiduciary capacity may be described by that capacity in the instrument and, if so described, shall be registered with the additional words "as trustee" but the Registrar shall not enter particulars of trust in the register.

(2) An instrument which declares or is deemed to declare any trust, or a certified copy thereof, may be deposited in the registry for safe custody, but such instrument shall not form part of the register or be deemed to be registered.

(3) Where the proprietor of land, a lease or a charge is a trustee he shall hold the same subject to any unregistered liabilities, rights or interests to which it is subject by virtue of the instrument creating the trust, but for the purpose of any registered dealings he shall be deemed to be the proprietor thereof, and no person dealing in good faith for valuable consideration shall be deemed to have notice of the trust, nor shall any breach of the trust create any right to indemnity under this Act.

Survivor of trustees.

128. Whenever two or more proprietors are registered jointly as trustees, and the survivor of such trustees would not be entitled to exercise alone the powers which are vested in them, the Registrar shall enter a restriction in the register to that effect.

#### PART VIII

#### RESTRAINTS ON DISPOSITION

#### Division 1 - Inhibitions.

Power of Court to inhibit registered dealings.

129.(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.

130. An instrument which is inconsistent with a registered inhibition shall, for so long as the inhibition remains registered, not be registered.

Cancellation  
on  
inhibitions.

131. The registration of inhibitions shall be cancelled in the following cases -

- (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 specified in the inhibition; or
- (c) on the land, lease or charge being sold by a chargee, unless such sale in itself is inhibited; or
- (d) by order of the Court.

Lodging of  
cautions.

132.(1) Any person who -

- (a) claims any unregistrable interest whatsoever in land or a lease or a charge; or
- (b) is entitled to a licence; or
- (c) has presented a bankruptcy petition against the proprietor of any registered land, lease or charge; or
- (d) being a Bank, has advanced money on a current account to the proprietor of any land, lease or charge,

may lodge a caution with the Registrar forbidding the registration of dispositions of the 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 shall state the interest claimed by the cautioner, and the Registrar may require the cautioner to support it by a statutory declaration.

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

#### Division 2 - Cautions

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

Notice and effect of cautions.

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

(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 cautions.

134.(1) A caution may be withdrawn by the cautioner or removed by order of the Court or, subject to the provisions of subsection (2) of this section, by order of the Registrar.

(2)(a) The Registrar may, on the application of any person interested, serve notice on the cautioner warning him that his caution will be removed at the expiration of 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 by a chargee in exercise of his powers of sale under section 76 of this Act, the Registrar shall remove any caution which purports to prohibit any dealing by the charger 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 136 of this Act shall not be affected by the cancellation.

Second  
caution in  
respect of  
same matter.

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

Wrongful  
cautions.

136. 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.

137.(1) For the prevention of 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 enquiries 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 order a restriction to be entered 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 restriction.

138.(1) Upon the entry of a restriction in the register the Registrar shall give notice thereof in writing 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 Registrar or of the Court.

Removal and variation of restrictions.

139.(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 a 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

Acquisition of right of occupancy by prescription.

140.(1) The right of occupancy of land may be acquired by open, peaceful and uninterrupted occupation for a period of twelve years and without the permission of any person lawfully entitled to such right of occupancy:

Provided that no person shall so acquire the right of occupancy of land which is registered as public land or of land which is foreshore.

(2) Any person who claims to have acquired a right of occupancy of land by virtue of the provisions of subsection (1) of this section may apply to the Registrar to be registered as the proprietor thereof.

Principles  
of  
occupancy-

141.(1) Where it is shown that a person has been in occupation of land, or in receipt of rents or profits thereof, at a certain date and is still in occupation or receipt thereof, it shall be presumed that he has, from that date, been in uninterrupted occupation of the land until the contrary be shown.

(2) Occupation of land or receipt of rents or profits thereof by any person through whom a claimant derives his occupation of the land shall be deemed to be or have been the occupation of receipt of rents or profits of the claimant.

(3) Where from the relationship of the parties or from other special cause it appears that the person in occupation of the land was in occupation on behalf of another, his occupation shall be deemed to be the occupation of that other.

(4) If a person, whose occupation of land is subject to conditions imposed by or on behalf of the proprietor of the land, continues in such occupation after the expiry of the term during which such conditions subsist, without fulfilment or compliance with them by such person and without any exercise by the proprietor of his right to the land, such subsequent occupation shall be deemed to be peaceful, open and uninterrupted occupation within the meaning of section 140 of this Act.

(5) For the purposes of subsection (4) of this section a periodic tenancy shall be deemed to have terminated at the expiration of the period in accordance with section 46(1)(c) of this Act;

Provided that where any rent has subsequently been paid in respect of the tenancy it shall be deemed to have terminated at the expiration of the period for which the rent has been paid.

(6) Occupation shall be interrupted

(a) by occupation by a person claiming the land in opposition to the person in occupation; or

(b) by the institution of legal proceedings by the proprietor of the land to assert his right thereto; or

(c) by any acknowledgment made by the person in occupation of the land to any person claiming to be the proprietor thereof that such claim is admitted.

(7) No person in occupation of land in a fiduciary capacity on behalf of another may acquire by prescription a right of occupancy of land as against such other.

Procedure of application.

142.(1) On application by any person for registration as proprietor under section 140 of this Act the application shall be advertised by the Registrar at the expense of the applicant in such manner as the Registrar may direct.

(2) The Registrar shall give notice of any such application to the proprietor of the land affected and to any other persons who may, in his opinion, be affected thereby.

(3) After three months have elapsed from the date of giving notice under subsection (2) of this section the Registrar, on being satisfied that the

applicant has acquired a right of occupancy of the land claimed, may allow the application and register him as proprietor of the land claimed subject to any interests on the register which have not been extinguished by his occupation of the land.

Cap.12.  
Acquisition of  
easements  
and profits.

143.(1) Subject to the provisions of the Limitation Decree, easements and profits may be acquired by open, peaceable, and uninterrupted enjoyment thereof for a period of twelve years:

Provided that this section shall not apply to any easement or profit affecting registered public land or to land which is foreshore or to any public right of way.

(2) Where any person claims to have acquired an easement or profit by virtue of the provisions of subsection (1) of this section he may apply to the Registrar for registration thereof; and the Registrar, on being satisfied as to the claim and subject to such notices, advertisements and conditions as the Registrar may direct, shall register the easement or profit as an encumbrance in the register of the land affected and, in the case of an easement or a profit which is appurtenant to land, in the property section of the register which benefits.

#### PART X

#### RECTIFICATION AND INDEMNITY

Rectification  
by  
Registrar.

144.(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) where any person has acquired an interest in land by prescription under Part IX of this Act;

- (c) in any case at any time with the consent of all persons interested;
- (d) where, upon resurvey, a dimension or area shown in the Registry Map or in any 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 to rectify.

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

Rectification  
by the  
Court.

145.(1) Subject to subsection (2) of this section the Court may order rectification of the register by directing that any registration be cancelled or amended where it is satisfied that any registration (including a first 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 occupation and acquired the land, lease or charge for valuable consideration, unless such proprietor had knowledge of the fraud, mistake or omission in consequence of which the rectification is sought, or caused such fraud, mistake or omission or substantially contributed to it by his act, negligence or default.

Right to  
indemnity.

146.(1) Subject to the provisions of this Act and of any law relating to 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, other than a mistake or omission in a first registration 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 Minister out of the public funds of the Government of Zanzibar.

(2) No indemnity shall be payable under this Act to any person who has himself caused or substantially contributed to the damage by his fraud or negligence, or who derives his title (otherwise than under a registered disposition made bona fide for valuable consideration) from a person who so caused or substantially contributed to the damage.

Amount of indemnity.

147. 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 loss was made; or
- (b) where the register is rectified, the value of the interest immediately before the time of rectification.

Procedure for claiming indemnity.

148. 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 thereto award any costs and expenses properly incurred in relation to the matter.

Recovery of indemnity paid.

149. Where any moneys are paid by way of indemnity under this Part, the Minister is entitled to recover by suit or otherwise amount so paid from any person who has caused or substantially contributed to the damage by his fraud or negligence and to enforce any expressed 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.

150.(1) As between the Government and a proprietor, no 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 measurement differing from the area or measurement disclosed on any subsequent survey or from the area or measurement shown on the Registry Map or in a register.

(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 on the Registry Map or in a register, after a period of six months from the date of registration of the instrument under which the proprietor acquired the land.

PART XI

APPEALS FROM DECISIONS OF THE  
REGISTRAR

Registrar  
may state  
case.

151. Wherever 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 on the Registrar.

Appeals.

152.(1) The Minister or any person aggrieved by a decision, order, determination or award of the Registrar may, within thirty days of the decision, order, determination or award, give notice to the Registrar in the prescribed form of his intention to appeal to the Court against the decision, direction, order, determination or award.

(2) On receipt of a notice of appeal, the 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.

(3) On the hearing of the appeal, the appellant and the 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 advocates.

(4) The Court may make such order on the appeal as the circumstances may require, and every such order shall be given effect by the Registrar.

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

Effect of  
appeal on  
disposition.

153.(1) An appeal to the Court shall not affect a disposition for valuable consideration made in good faith and registered before presentation to the Registrar of the appeal under section 152(1) of this Act.

(2) A note that an appeal is pending shall be made in the register affected by the appeal and any disposition shall be subject to such notice.

Appeal  
rules.

154. The Chief Justice may make rules of court for regulating applications and appeals to the Court under this Act and for the fees to be paid in respect thereof.

PART XII

MISCELLANEOUS

Addresses.

155. Any person who under this Act submits a caution or any instrument for registration, or is the proprietor of any land, lease or charge, shall furnish to the Registrar in writing a postal address in Zanzibar for service, and shall notify him in writing of any change of address.

Service of notices.

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

- (a) if served on him personally; or
- (b) if sent by registered post to him at his last known address in Zanzibar or elsewhere; or
- (c) if served on an attorney holding a power of attorney whereunder such an attorney is authorized to accept such service; or
- (d) if service cannot be effected in one of the above mentioned ways, by displaying the notice in a prominent place on the land.

Meaning of "opportunity of being heard".

157.(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 agent, and is given such an opportunity; or
- (b) if he intimates, personally or by agent, that he does not wish to be heard; or
- (c) if he has been served with a notice in writing specifying the thing to be done and appointing a day and time not less than thirty days after service of the notice at which he will, if he attends before the Registrar, be heard.

(2) Where a person or his agent attends before the Registrar concerning a matter on which he is entitled to be heard, or fails to attend pursuant to such a notice as aforesaid, the Registrar, if he thinks fit, may 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 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 interested are given such opportunity.

Offences.

158.(1) Any person who -

- (a) fraudulently issues or makes, or fraudulently procures the issue of or making of any certificate or other document, or any registration, or any erasure or alteration in any certificate, other document or register; or
- (b) fraudulently removes from a registry any register of filed instrument; or
- (c) causes any defacement, obliteration, mutilation or unauthorised entry to be made in any register of filed instrument,

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

(2) Any person who -

- (a) knowingly misleads or deceives any person authorized by or under this Act to require information in respect of any land or interest in land;
- (b) wilfully defaces, removes, injures or otherwise impaires any boundary features, unless authorized to do so by the Registrar.

shall be guilty of an offence and liable to a fine of four thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(3) Any person who -

(a) after delivery to him of a summons to attend before the Registrar or to produce any document, neglects or refuses without reasonable cause to attend in accordance with the summons or to produce any document which he is required by the summons to produce, or to answer upon oath or otherwise any question lawfully put to him by the Registrar; or

(b) allows a boundary feature for which he is responsible by virtue of an order made under section 22(3) of this Act, to fall into despair or be removed or destroyed; or

(c) when ordered by the Registrar under section 22(2) of this Act to demarcate a boundary, fails to comply with such order,

shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

**Fees.**

159. There shall be payable in respect of land certificates, certificates of lease, searches, survey plans and all other matters connected with registration, such fees as shall from time to time be prescribed and the Registrar shall refuse registration until the fees are paid.

**Recovery of unpaid expenses.**

160. Any expenses incurred by the Registrar or on his behalf shall constitute a civil debt recoverable summarily by the Registrar in the appropriate court.

**Enforcement of Registrar's orders for payment.**

161. Any sum of money ordered by the Registrar to be paid in the exercise of any power conferred on him by this Act shall be deemed to be a decree of the High Court and shall be enforceable as such.

Suits to be  
tried by  
High Court.

162. Notwithstanding the provisions of the Magistrates' Courts Act, civil suits and proceedings relating to proprietorship of land or a lease or a charge registered under this Act, or to any interest in any such land, lease or charge, being an interest which is registered or registrable under this Act, or being an overriding interest which is expressed by section 30 of this Act not to require registration, shall be tried by the High Court, or, where the value of the subject matter in dispute does not exceed forty thousand shillings, by the High Court or a subordinate Court presided over by a Resident Magistrate, as the High Court shall direct.

Regulations.

163. The Minister may make regulations generally to give effect to the purposes and procedures of this Act, and in particular and without prejudice to the generality of the foregoing, for prescribing the form of the registers and instruments to be used and the fees payable for anything to be done under this Act, and for prescribing anything under this Act may be prescribed.

Saving of  
rights of  
Government.

164. Nothing in this Act shall prejudice any of the interests, rights, powers and privileges conferred on the Government by any other law.

Act to bind  
Government.

165. Subject to the provisions of section 164, this Act shall bind the Government.

Other law.

166. Any matter not provided for in this Act or in any other law in relation to land, leases or charges and interests therein registered under this Act shall be decided in accordance with the principle of justice, equity and good conscience.

Cessation of  
application  
of certain  
laws.

167.(1) Without prejudice to anything done thereunder, the following laws shall, upon first registration of any land under this Act, cease to apply to such land -

- Cap.150. (a) Transfer of Property Decree, in so far as  
it concerns immovable property;
- Cap.99. (b) Registration of Documents Decree.
- (2) The following Decrees are hereby repealed:-
- Cap.54. (a) Arab and African Guardianship;
- Cap.94. (b) Land Alienation.

Passed by the House of Representatives of Zanzibar  
on the 20th day of December, 1989.

KHAMIS JUMA CHANDE  
CLERK TO THE HOUSE OF REPRESENTATIVES.