

Nru. 146

14. 10. 80

MALTA**KAMRA TAD-DEPUTATI****HOUSE OF REPRESENTATIVES**

ABBOZZ ta' Ligi mressaq mill-Onorevoli Joseph Brincat, M.P., Ministru tal-Gustizzja, Artijiet, Djar u Affarijiet tal-Parlament u moqri għall-Ewwel darba fis-Seduta tas-26 ta' Mejju, 1980.

A BILL introduced by the Honourable Joseph Brincat, M.P., Minister of Justice, Lands, Housing and Parliamentary Affairs, and read the First time at the Sitting of the 26th May, 1980.

ATT biex iwaqqaf Regjistru ta' l-Artijiet biex jirregola u jirregistra t-titolu għal art, u biex jipprovdi għal hwejjeġ li huma incidental għal dan u konnessi miegħu.

AN ACT to establish a Land Registry to regulate the registration of titles to land, and to make provision for matters incidental thereto and connected therewith.

C. MIFSUD

Skrivan tal-Kamra tad-Deputati

C. MIFSUD

Clerk to the House of Representatives

ATT TA' L-1980 DWAR IR-REGISTRAZZJONI TA' ARTIJET

Arrangament ta' l-Artikoli

TAQSIMA I

Preliminari

Artikolu

1. Titolu fil-qosor u bidu fis-sehħ.
2. Tifsir.

TAQSIMA II

Disposizzjonijiet Amministrattivi

3. Reġistru ta' l-Artijiet.
4. Ir-Reġistratur ta' l-Artijiet u uffiċjali oħra.
5. Tmexxija tax-xogħol ta' reġistrazzjoni.
6. Setgħa tar-reġistraturi li jharrku xhieda u produzzjoni ta' mapep, eċċ.
7. Dipartimenti jistgħu jagħtu tagħrif lir-reġistratur.
8. Esklużjoni ta' responsabbiltà għal ghemil *bona fide* minn reġistratur.
9. Sigill tar-Reġistru ta' l-Artijiet.

TAQSIMA III

Reġistrazzjoni ta' l-Art Reġistrazzjoni Obbligatorja

10. Arei ta' reġistrazzjoni.
11. Liġijiet oħra ma japplikawx għal arei ta' reġistrazzjoni.
12. Trasferimenti ta' artijiet f'area ta' reġistrazzjoni għandhom jiġu reġistrati biex jibdew isehħu.
13. Dmirijiet ta' nutara pubbliċi li jirċievu artijiet li jolqtu artijiet f'arej ta' reġistrazzjoni.
14. Reġistrazzjoni ta' artijiet inklużi f'suċċessjoni.

Reġistrazzjoni Volontarja

15. Reġistrazzjoni Volontarja ta' titolu għal art.

X'għandu jsir qabel ir-Reġistrazzjoni

16. Dmirijiet ta' reġistratur.
17. Dmirijiet ta' l-applikant għal reġistrazzjoni.
18. Taxxa ta' spejjeż għal reġistrazzjoni.

Effetti ta' Reġistrazzjoni

19. Kif art tista' tiġi reġistrata.
20. Effetti ta' reġistrazzjoni b'titolu assolut.

21. Effetti ta' registrazzjoni b'titolu ta' pussess.
22. Registrazzjoni b'titolu kwalifikat.
23. Persuni li jistgħu jiġu registrati bhala sidien ta' artijiet.

TAQSIMA IV

X'Jista Jsir minn Art Registrata

Trasferiment ta' l-Art

24. Trasferiment ta' l-art registrata.
25. Disposizzjoni ta' art registrata.

Dejn fuq l-Art

26. Dejn fuq artijiet registrati.
27. Registrazzjoni ta' dejn.
28. Dejn ikun effettiv biss jekk imħares.
29. Preferenzi bejn djun.
30. Trasferiment ta' djun.
31. Kif jispiċċa dejn.

Trasmissjoni ta' Art u Dejn Registrati

32. Trasmissjoni ta' art u dejn registrati.

TAQSIMA V

Kawzjonijiet

33. Kawzjonijiet kontra l-ewwel registrazzjonijiet.
34. Kawzjonijiet kontra negozju bl-art.
35. Appell minn deċiżjoni ta' registratur.

TAQSIMA VI

Ċertifikati ta' Art u Dejn

36. Hruġ ta' ċertifikati ta' art u dejn.
37. Ċertifikati jiġu prodotti u jsiru notamenti fihom meta jsir negozju.
38. Hruġ ta' ċertifikati ġodda.
39. Ċertifikati jkunu prova.
40. Meta jkun hemm registrat iktar minn sid wiehed.

TAQSIMA VII

Disposizzjonijiet Ġenerali dwar Registrazzjoni

41. Interessi li jipprevalu.
42. Disposizzjoni bis-saħħa ta' interessi li jipprevalu.
43. Appartenenzi.
44. Akkwist ta' art bi preskrizzjoni.

45. Preskrizzjonijiet interrotti jiġu registrati.
46. Deskrizzjoni ta' art registrata.
47. Kif titolu jsir assolut.
48. Indirizzi għal notifika u avvizi.

TAQSIMA VIII

Korrezzjonijiet fir-Registru u Indennizz

49. Korrezzjonijiet fir-registru.
50. Jedd għal indennizz f'ċerti każijiet.
51. Fond ta' assicurazzjoni.

TAQSIMA IX

Disposizzjonijiet Mixxellanji

52. Spezzjon tar-registru u ta' kopji.
53. Kopji eċċ. maħruġa mill-uffiċċju jistgħu jinġiebu bħala prova.
54. Dokumenti jew fatti li ma jitressqux.
55. Registrazzjonijiet qarrieqa.
56. Piena.

TAQSIMA X

Regoli u Ordnijiet dwar Drittijiet

57. Regoli.
58. Drittijiet.

ABBOZZ TA' LIĠI

msejjah

ATT biex iwaqqaf Regjistru ta' l-Artijiet biex jirregola u jirregistra t-titolu għal art, u biex jipprovi għal hwejjeġ li huma inċidentali għal dan u konnessi miegħu.

TAQSIMA I — PRELIMINARI

Titolu fil-qosor
u bidu fis-sehh.

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1980 dwar ir-Registrazzjoni ta' Artijiet.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-artijiet jista' jstabilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti dwar disposizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

Tifsir.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġ xort' oħra —

“area ta' registrazzjoni” tfisser kull area f'Malta dikjarata mill-Ministru bħala area ta' registrazzjoni taħt l-artikolu 10 ta' dan l-Att;

“art” tinkludi bini u kull kostruzzjoni jew xogħlijiet;

“art li qegħda f'area ta' registrazzjoni” tinkludi art li għaliha japplika dan l-att daqsliekeku kienet hekk sitwata;

“dejn” tfisser privileġġ speċjali fuq immobbli u ipoteka speċjali, magħduda ipoteka speċjali miksuba minn ipoteka generali kemm jekk tkun legali, ġudizzjarja jew konvenzjonali;

“interessi li jipprevalu” tfisser l-interessi hekk deskritti fl-artikolu 41 ta' dan l-Att;

“Ministru” tfisser il-Ministru responsabbli għall-artijiet;

“preskritt” tfisser preskritt b'regoli magħmula taħt dan l-Att;

“regjstratur” tfisser ir-Regjstratur ta' l-Artijiet u kull assistent regjstratur jew uffiċjal ieħor tar-Regjistru ta' l-Artijiet awtorizzat għal hekk mir-Regjstratur ta' l-Artijiet;

“Registratur ta’ l-Artijiet” tfisser l-uffiċjal pubbliku inkarigat mir-Registru ta’ l-Artijiet skond l-artikolu 4 ta’ dan l-Att;

“registru” tfisser ir-registru ta’ titoli għal art miżmum skond dan l-Att, u “registrat” għandha tiftiehem f’dan is-sens;

“trasferiment”, meta wżata dwar dejn tinkludi s-surroga fid-dritt tal-proprietarju tad-dejn.

TAQSIMA II — DISPOSIZZJONIJIET AMMINISTRATTIVI

3. (1) Għandu jkun hemm uffiċċju f’Malta li jissejjaħ ir-Registru ta’ l-Artijiet għall-finijiet tar-registrazzjoni ta’ titoli għal art.

Registru ta’
l-Artijiet.

(2) Ir-Registru ta’ l-Artijiet ikun magħmul minn żewġ fergħat, waħda fil-gżira ta’ Malta fejn jiġu registrati titoli għal artijiet f’dik il-gżira, u l-oħra f’Għawdex fejn jiġu registrati titoli għal artijiet f’Għawdex u f’Kemmuna.

4. (1) Ix-xogħol tar-registru għandu jitmexxa minn uffiċċjal pubbliku li jkun maħtur għal hekk u li jkun magħruf bhala r-Registratur ta’ l-Artijiet, flimkien ma’ dawk l-uffiċċjali (jiġifieri, assistenti registraturi, skrivani u mpjegati oħra) li minn żmien għal żmien ikunu meqjusa li huma meħtieġa.

Ir-Registratur
ta’ Artijiet u
uffiċċjali oħra.

(2) Persuna ma tkunx kwalifikata biex tiġi maħtura bhala assistent registratur kemm-il darba ma tkunx hadmet bhala avukat jew nutar pubbliku jew prokuratur legali għal mill-inqas hames snin.

(3) Matul kull vaganza fil-kariga tar-Registratur ta’ l-Artijiet il-funzjonijiet, is-setgħat u l-awtoritajiet kollha li b’dan l-Att jew b’xi liġi oħra huma assenjati jew mogħtija lir-Registratur ta’ l-Artijiet għandhom jiġu eżerċitati minn assistent registratur imsemmi mill-Ministru biex jagħmilha ta’ Registratur ta’ l-Artijiet u dak kollu li jkun magħmul minn assistent registratur hekk imsemmi għandu jkollu l-istess effett għal kolloxx bħal dak li jkun magħmul minn Registratur ta’ l-Artijiet.

5. (1) Bla hsara għad-disposizzjonijiet ta’ dan l-Att, ir-Registratur ta’ l-Artijiet għandu jmessi x-xogħol kollu ta’ registrazzjoni taħt dan l-Att u għandu jlesti u jieħu hsieb li jiġu stampati jew xort’oħra riprodotti u ċirkolati jew xort’oħra maħruġa dawk il-formoli u direttivi li jidhirlu meħtieġa jew spedjenti sabiex jiġu faċilitati proċedimenti taħt dan l-Att.

Tmexxija tax-
xogħol ta’
registrazzjoni.

(2) Ir-Registratur ta’ l-Artijiet jista’ jiddelega lil kull wieħed mill-assistenti registraturi l-funzjonijiet, is-setgħat u l-awtoritajiet kollha jew uħud minnhom li b’dan l-Att jew b’xi liġi oħra huma assenjati jew mogħtija lilu, u f’kull żmien jista’ jirrevoka jew jibdel dik id-delega:

Izda ebda delega bħal dik ma għandha titqies li tneħhi lir-Registratur ta’ l-Artijiet xi waħda mill-funzjonijiet, setgħat jew awtoritajiet tiegħu u hu jista’, jekk jidhirlu xieraq, jeżerċita dawk il-funzjonijiet, setgħat jew awtoritajiet flimkien ma’ l-assistent registratur hekk delegat.

6. (1) Ir-registratur jista’ jagħti gurament jew jieħu dikjarazzjoni bil-gurament skond dan l-Att għal kull wieħed mill-għanijiet ta’ dan l-Att u jista’ wkoll, b’taħrika iffirmata minnu jitlob l-attendenza ta’ dawk il-persuni kollha li jidhirlu xierqa dwar ir-registrazzjoni ta’ kull titolu; hu jista’ wkoll, b’taħrika bħal din, jeħtieġ lil kull persuna li jkol-

Setgħa tar-
registraturi li
jharrku xhieda
u produzzjoni
ta’ mapep, eċċ.

lha fil-pussess tagħha jew taħt il-ħarsien tagħha xi mappa, *survey*, ktieb jew dokument ieħor sabiex jispezzjonahom; u jista' jeżamina bil-ġurament lil kull persuna li tidher quddiemu u għal dan il-għan jagħti l-ġurament.

(2) Jekk xi persuna, wara li tkun giet konsenjata lilu taħrika kif intqal qabel, jew kopja tagħha, għax trid tittraskura jew tirrifjuta li tattendi skond dik it-taħrika, jew li tipproduci dawn il-mapep, *surveys*, kotba jew dokumenti oħra li jkunu meħtieġa li jiġu prodotti skond id-disposizzjonijiet ta' dan l-Att, jew li twieġeb taħt ġurament jew xort'oħra dawk il-mistoqsijiet legittmi li jsirulha minn reġistratur skond is-setgħat mogħtija b'dan l-Att, tkun haġta ta' reat u teħel, meta tinsab haġta mill-Qorti tal-Maġistrati tal-Pulizija Gudizzjarja multa ta' mhux iżjed minn mitt lira.

Dipartimenti
jistgħu jagħtu
tagħrif lir-
reġistratur.

7. Minkejja d-disposizzjonijiet ta' kull liġi li tipprovdi għal segretezza, dipartiment tal-gvern jista' jagħti lir-Reġistratur ta' l-Artijiet fuq talba tiegħu dawk il-partikolaritajiet u dak it-tagħrif dwar artijiet u dejn li bil-liġi hu intitolat li jitlob sidien ta' proprjetà li jagħtuh direttament.

Esklużjoni ta'
responsabbiltà
għal għemil
bona fide minn
reġistratur.

8. (1) Ir-Reġistratur ta' l-Artijiet u kull assistent reġistratur jew persuna oħra li taġixxi taħt l-awtorità tar-Reġistratur ta' l-Artijiet jew ta' assistent reġistratur, ma jkunx responsabbli u ma jistax jiġi mħarrek għal danni jew xort'oħra, u ma jistgħux jittieħdu proċedimenti oħra kontra tagħhom, għal jew dwar xi għemil jew xi haġa li tkun saret jew li tkun naqset milli ssir in *bona fide* fl-eżerċizzju jew fil-pretiż eżerċizzju suppost tas-setgħat ta' dan l-Att, jew ta' xi ordni jew regola ġenerali magħmula skond dan l-Att.

(2) Bla ħsara għad-disposizzjonijiet ta' dan l-Att indennizz li jkollu jithallas bis-saħħa tiegħu, il-Gvern ma jkunx responsabbli, f'danni jew xort'oħra, għal ebda haġa li tkun saret jew li tkun naqset milli ssir taħt l-Att.

Siġill tar-
Reġistratur ta'
l-Artijiet.

9. Għandu jkun hemm siġill tar-Reġistru ta' l-Artijiet u kull dokument li jkun jidher li huwa ssiġillat b'dak is-siġill ikun aċċettabbli bħala prova u, kemm-il darba ma jkunx jidher kuntrarju, għandu jitqies, mingħajr prova oħra, li jkun fareġ b'ordni jew taħt l-ordni tar-Reġistratur ta' l-Artijiet.

TAQSIMA III — REĠISTRAZZJONI TA' L-ART

Reġistrazzjoni Obbligatorja

Arei ta'
reġistrazzjoni.

10. Il-Ministru jista', minn żmien għal żmien, b'ordni fil-Gazzetta, jiddikjara arei f'Malta bħala arei ta' reġistrazzjoni, u għandu juri dawk l-arej b'riferenza għal mappa inkluża fl-ordni u b'dak il-mod li jidhirlu xieraq.

Liġijiet oħra
ma japplikawx
għal arej ta'
reġistrazzjoni.
Kap. 23
Kap. 15

11. Id-disposizzjonijiet ta' l-artikolu 1039 tal-Kodiċi Ċivili u ta' l-artikolu 237 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, kif ukoll kull disposizzjoni oħra ta' dawn il-Kodiċijiet jew ta' xi liġi oħra li ma taqbilx ma' dan l-Att, għandhom jieqfu mis-seħħ dwar artijiet sitwati f'xi area ta' reġistrazzjoni, u dwar artijiet li jkunu ġew reġistrati.

12. (1) F'kull area ta' registrazzjoni —

(a) kull kuntratt li jittrasferixxi l-proprjetà ta' beni immobbli jew xi dritt reali fuq dik il-proprjetà, jew li bih xi att li jkollu l-effett li jittrasferixxi l-proprjetà ta' beni immobbli, jew xi dritt reali fuq dik il-proprjetà, jiġi xolt, imħassar jew revokat, u kull kuntratt li joħloq jew li jibdel xi dritt bħal dak jew li bih xi dritt bħal dak jinqaleb f'xi ieħor minn dawk id-drittijiet jew issir rinunzja għalih, u kull kuntratt li bih beni immobbli jiġu maqsuma, u kull kuntratt li jkollu effett dikjaratorju dwar il-proprjetà ta', jew xi dritt reali fuq, beni immobbli, u kull kuntratt ta' antikresi; u

(b) kull sentenza li biha xi att li jkollu effett li jittrasferixxi l-proprjetà ta' beni immobbli, jew xi dritt reali fuq dik il-proprjetà, jiġi xolt, imħassar jew revokat, jew li tordna t-trasferiment tal-proprjetà ta' beni immobbli, jew ta' xi dritt reali fuq dik il-proprjetà jew li jkollha l-effett li toħloq ipoteka, u kull ipoteka li tinħoloq bis-saħħa tal-liġi; u

(c) kull trasferiment ta' beni immobbli b'bejgħ fl-irkant bil-qorti;

safejn l-art inkluża fil-kuntratt, sentenza jew bejgħ bil-qorti jew milquta bl-ipoteka tkun qegħda f'area ta' registrazzjoni, m'għandhom f'ebda każ jibdwew isehħu dwar terzi persuni, sakemm u kemm-il darba t-titolu għall-art trasferita jew milquta, sew favur kemm kontra, bil-kuntratt, bis-sentenza, jew bil-bejgħ bil-qorti jew bl-ipoteka kif intqal qabel, ma jkunx registrat f'isem il-persuna li jkollha dritt għalih u ma ssirx ir-registrazzjoni xierqa fir-registru dwar il-mod kif (jekk ikun hemm) dik l-art giet milquta:

(2) Ir-registratur jista', fid-diskrezzjoni tiegħu, bl-istess mod jirregistra t-titolu għall-artijiet li qegħdin barra minn area ta' registrazzjoni u nkluzi f'xi kuntratt, sentenza jew bejgħ bil-qorti kif intqal qabel jew li jkunu milquta b'xi ipoteka kif intqal qabel u f'kull każ bħal dan hu għandu jagħmel ir-registrazzjonijiet xierqa fir-registru; u meta art tiġi hekk registrata dan l-Att għandu japplika għaliha daqslikieku kienet qegħda f'area ta' registrazzjoni.

13. (1) Nutar pubbliku li jirċievi xi wieħed mill-kuntratti msemmija fil-paragrafu (a) tas-subartikolu (2) ta' l-artikolu 12 ta' dan l-Att, u li għalihom japplika dak l-artikolu, għandu fi żmien tmintax-il jum tax-xogħol mid-data ta' l-Att, japplika bil-mod preskritt, għar-registrazzjoni tat-titolu ta' l-art milquta u sabiex isiru r-registrazzjonijiet xierqa fir-registru.

(2) Jekk nutar pubbliku jonqos li jħares il-htigiet ta' dan l-artikolu, hu jista', b'zieda mar-responsabbiltà tiegħu għal kull danni li jistgħu jiġġarrbu minħabba n-nuqqas tiegħu, jeħel, meta jinsab ħati mill-Qorti ta' Revizjoni ta' l-Atti Nutarili, ammenda ta' mhux iżjed minn għoxrin lira:

Izda nutar pubbliku jitqies li jkun ħares il-htigiet ta' dan l-artikolu jekk, sadanittant, applikazzjoni għal registrazzjoni kif intqal qabel tkun giet depożitata fir-registru minn xi waħda mill-partijiet interessati jew minn avukat jew prokuratur legali f'isem xi waħda minn dawk il-partijiet.

(3) Meta skond l-artikolu 12 ta' dan l-Att it-titolu għall-art għandu jiġi registrat u għandhom isiru xi registrazzjonijiet fir-registru wara sentenza jew bejgħ bil-qorti jew ipoteka maħluqa bis-saħħa ta' liġi, tista' ssir applikazzjoni għal hekk, bil-mod preskritt, minn kull waħda

Trasferimenti ta' artijiet f'area ta' registrazzjoni għandhom jiġu registrati biex jibdwew isehħu.

Dmirijiet ta' nutara pubblici li jirċievu attijiet li jolqtu artijiet f'arej ta' registrazzjoni.

mill-partijiet interessati jew minn avukat jew nutar pubbliku jew prokuratur legali, f'isem xi waħda minn dawk il-partijiet:

Iżda ma tiġi milqugħa ebda applikazzjoni bħal dik sakemm tiġi ċertifikata mir-Registatur tal-Qrati Superjuri li s-sentenza tkun *res judicata* jew li l-ordni tkun finali.

Registrazzjoni ta' artijiet inklużi f'suċċessjoni.

14. (1) Meta tinfetaħ is-suċċessjoni ta' xi persuna, it-titolu għal art li tkun inkluża fit-trasmissjoni u li tkun qegħda f'xi area ta' registrazzjoni, għandu jiġi registrat f'isem il-persuni li favur tagħhom dik l-art tkun għaddiet, fuq talba li ssir bil-mod preskritt, u kull tneħħija jew qsim ta' xi art bħal dik u kull disposizzjoni oħra li ssir dwarha tkun mingħajr effett sakemm u kemm-il darba t-titolu għaliha ma jkunx ġie registrat.

(2) Ir-registatur jista' fid-diskrezzjoni tiegħu, jestendi d-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għal kull art li qegħda barra mill-imsemmija area ta' registrazzjoni u li tkun inkluża fi trasmissjoni li tinkludi art sitwata f'area ta' registrazzjoni kif intqal qabel; u meta dak is-subartikolu jkun hekk estiż ir-registatur għandu jirreġistra dik l-art u dan l-Att għandu japplika għaliha daqslikieku kienet sitwata f'area ta' registrazzjoni.

Registrazzjoni Volontarja

Registrazzjoni volontarja ta' titolu għal art.

15. (1) Bla ħsara għal dawk il-kondizzjonijiet u proċeduri li jistgħu jiġu preskritti, u bla ħsara għad-disposizzjonijiet tas-subartikolu (2) ta' l-artikolu 12 u tas-subartikolu (2) ta' l-artikolu 14 ta' dan l-Att, ir-registatur jista', fid-diskrezzjoni tiegħu, u sew fuq l-inizjattiva tiegħu stess kemm fuq talba li ssir għal hekk, jirreġistraw it-titolu għal kull art, sew jekk dik l-art tkun sitwata f'area ta' registrazzjoni sew jekk le; u f'kull każ bħal dan għandu jagħmel dawk ir-registrazzjonijiet li jidhirlu xierqa.

(2) Meta art tiġi registrata bis-saħħa ta' dan l-artikolu, dan l-Att għandu japplika għaliha daqslikieku kienet qegħda f'area ta' registrazzjoni.

X'għandu jsir qabel ir-Registrazzjoni

Dmirijiet ta' registatur.

16. L-eżami mir-registatur ta' kull titolu taht dan l-Att għandu jitmexxa bil-mod preskritt:

Iżda —

(a) għandu jingħata avviż xieraq, fejn l-għoti ta' dak l-avviż jiġi preskritt, u għandha tingħata opportunità lil kull persuna li tkun tixtieq toġġezzjona li tffisser l-oġġezzjonijiet tagħha lir-registatur; u

(b) ir-registatur ikollu ġurisdizzjoni li jisma' u jiddeċiedi kull oġġezzjoni bħal dik salv li jkun hemm appell lill-Qorti ta' l-Appell bil-mod preskritt u bil-kondizzjonijiet preskritti; u

(c) jekk ir-registatur, meta jeżamina xi titolu, ikun tal-fehma li aktarx tista' ssir oġġezzjoni għat-titolu, iżda b'danakollu jkun titolu li l-pussess tahtu ma jkunx se jiġi disturbat, hu jista' japprova dak it-titolu, jew jista' jitlob lill-applikant biex jagħmel rikors lill-qorti, fuq dikjarazzjoni ffirmata mir-registatur, biex tiġi sanzjonata r-registrazzjoni tagħha.

Dmirijiet ta' l-applikant għal registrazzjoni.

17. Qabel ma tkun kompletata r-registrazzjoni ta' xi titolu ta' art li dwarha jkun meħtieġ eżami, min jitlob ir-registrazzjoni u l-konsulent legali tiegħu għandhom, kull wieħed minnhom, jekk meħtieġa mir-regist-

ratur, jagħmlu dikjarazzjoni bil-gurament li, skond l-aħjar tagħrif u twemmin tagħhom, kull att, kull testament u kull dokument ieħor u d-djun u piżijiet kollha li jolqtu t-titolu li dwaru tkun qed issir it-talba, u l-fatti materjali kollha għal dak it-titolu, ikunu ġew murija waqt l-investigazzjoni tat-titolu magħmula mir-registratur, u huma jistgħu wkoll ikunu mitluba mir-registratur li jiddikjaraw x'mezzi kellhom biex saru jafu bil-fatti msemmija f'dan l-artikolu; u jekk ir-registratur ikun tal-fehma li jkunu meħtieġa jew mixtieqa aktar provi jew provi oħra, hu jista' jirrifjuta li jikkompleta r-registrazzjoni sakemm jingiebu dawk il-provi l-oħra jew aktar provi.

18. (1) L-infieq, id-drittijiet u l-ispejjeż kollha li jsiru minn xi parti fi jew dwar xi procedimenti għal registrazzjoni għandhom, sakemm il-partijiet ma jaqblux xort'oħra, jiġu ntaxxati mir-registratur li għandu wkoll, fid-diskrezzjoni tiegħu, jistabbilixxi b'ordni bil-miktub il-persuni li għandhom iħallsu u l-mod kif għandhom jiġu maqsuma dawk l-infieq, drittijiet u spejjeż, meta tiġi meqjusa d-disposizzjoni li ġejja, jiġifieri, li kull applikant taħt dan l-Att ikun responsabbli *prima facie* li jħallas kull infieq, drittijiet u spejjeż li jkunu saru għall-applikazzjoni tiegħu jew minħabba fiha, ħlief —

(a) f'każ li xi parti li togġezzjona jkollha d-drittijiet tagħha garantiti tajjeb mingħajr ma tidher; u

(b) meta xi nfieq, drittijiet jew spejjeż ikunu saru bla ħtieġa jew b'mod mhux xieraq.

(2) Kull ordni magħmul mir-registratur taħt dan l-artikolu jkollu l-istess effett daqslikieku l-infieq, id-drittijiet jew l-ispejjeż ikunu ġew intaxxati mir-Registratur tal-Qrati Superjuri u bl-istess mod ikunu suġġetti għal revizzjoni mill-qorti.

Effetti ta' Registrazzjoni

19. Art tista' tiġi registrata jew b'titolu assolut jew b'titolu ta' pussess:

Taxxa ta' spejjeż għal registrazzjoni.

Kif art tista' tiġi registrata.

Iżda —

(i) meta jkun mitlub titolu assolut l-applikant ma jiġix registrat bħala sid sakemm u kemm-il darba t-titolu ma jiġix approvati mir-registratur;

(ii) meta jkun mitlub titolu ta' pussess l-applikant jista' jiġi registrat bħala sid meta jagħti dawk il-provi ta' titolu u jinnotifika dawk l-avviżi, jekk ikun hemm, li jkunu f'dak iż-żmien preskritti;

(iii) jekk, fuq applikazzjoni għar-registrazzjoni b'titolu ta' pussess, ir-registratur ikun sodisfatt dwar it-titolu ta' l-applikant, hu jista' jirregistra bħala assolut, sew jekk l-applikant jagħti l-kunsens tiegħu għal dik ir-registrazzjoni sew jekk le.

20. Ir-registrazzjoni ta' kull persuna bħala sid ta' art b'titolu assolut jagħti lil persuna hekk registrata titolu rrevokabbli għaliha, jiġifieri titolu li ma jistax jiġi meġġlub ħlief kif provdut f'dan l-Att, flimkien mad-drittijiet, il-privileġġi u l-appartenenzi kollha li jkollhom x'jaqsmu ma' dik l-art, suġġetta għad-drittijiet u l-interessi li ġejjin, jiġifieri —

Effetti ta' registrazzjoni b'titolu assolut.

(a) suġġetta għall-piżijiet u interessi oħra, jekk ikun hemm, li jkunu jidhru fir-registru; u

(b) kemm-il darba ma jkunx espress il-kuntrarju fir-registru, suġġetta għal dawk l-interessi li jipprevalu, jekk ikun hemm, li jolqtu l-art registrata; u

(c) dwar art miżmuma b'enfitewsi, suġġetta għal kull patt espress jew mifhum, obbligazzjoni u responsabbiltà li jkunu inċidentali għall-art registrata;

iżda hielsa mill-jeddijiet u l-interessi l-oħra kollha huma x'inhuma.

Effettj ta' registrazzjoni b'titolu ta' pussess.

21. Ir-registrazzjoni ta' xi persuna bħala sid ta' art b'titolu ta' pussess biss ma għandhiex tolqot jew tippregudika li jiġi nfużat xi dritt jew interess li jkun kontra jew jidderoga t-titolu ta' l-ewwel sid registrat u li jkunu jeżistu jew li jistgħu jinqalgħu meta l-art tiġi registrata għall-ewwel darba; iżda, hlief kif intqal qabel, għandu jkollha l-istess effett bħal registrazzjoni b'titolu assolut.

Registrazzjoni b'titolu kwalifikat.

22. (1) Meta jkun mitlub titolu assolut, u ma' l-eżami tat-titolu r-registratur ikun jidhirlu li t-titolu jista' jiġi stabbilit biss għal perijodu limitat, jew ikun suġġett għal kondizzjoni jew għal ċerti riżervi, ir-registratur jista', bi dħul fir-registru jagħmel eċċezzjoni mill-effett ta' registrazzjoni għal drittijiet jew interessi li jinqalgħu qabel data speċifikata jew taht att speċifikat jew xort'oħra deskritti b'mod partikolari fir-registru; u titolu registrat bħala suġġett għal dawk id-drittijiet jew interessi eċċettwati jissejjaħ titolu kwalifikat.

(2) Ir-registrazzjoni ta' persuna bħala sid ta' art b'titolu kwalifikat ikollha l-istess effett bħar-registrazzjoni ta' dik il-persuna b'titolu assolut hlief li registrazzjoni b'titolu kwalifikat ma tolqotx jew ma tippregudikax li jiġi nfużat xi dritt jew interess li jkun jidher fir-registru bħala li hu eċċettwat.

Persuni li jistgħu jiġu registrati bħala sidien ta' l-art.

23. Il-persuni li ġejjin biss jistgħu jiġu registrati bħala sidien ta' art, jiġifieri —

(a) is-sid, il-padrin dirett, l-enfitewta, is-sid ta' nuda proprjetà soġġetta għal użufrutt, l-użufruttwarju;

(b) il-persuna li lilha l-pussess assolut tal-proprjetà ta' assenti u l-eżerċizzju assolut tal-jeddijiet li jiddependu fuq il-mewt tiegħu jkun ingħata b'sentenza jew b'ordni tal-qorti; u

(c) l-awtorità kompetenti li tkun qed iżzomm l-art b'pussess u użu jew b'dominju pubbliku, jew xi persuna li lilha jkunu ġew mgħoddija dawk id-drittijiet, u l-persuna li jkollha jedd għall-kera ta' l-akkwist jew il-kera ta' għarfien;

Iżda d-detentur ta' użufrutt legali ma jistax jiġi registrat bħala proprjetarju, iżda jista' jkollu l-interessi tiegħu imħarsa fir-registru.

TAQSIMA IV — X'JISTA' JSIR MINN ART REGISTRATA

Trasferiment ta' l-Art

Trasferiment ta' l-art registrata.

24. (1) Is-sid jista', bla ħsara għal kull dħul kuntrarju li jkun hemm fir-registru, jittrasferixxi l-art registrata jew xi parti minnha bl-istess mod u sa fejn kien jista' daqslikieku l-art ma kenitx registrata.

(2) It-trasferiment ta' jeddijiet registrati fuq l-art jew parti minnha għandu jiġi kompletat mir-registratur billi jniżżel lill-akkwient fir-registru bħala l-proprjetarju tal-jeddijiet trasferiti fuq talba li ssir bil-mod preskritt; iżda sakemm issir dik ir-registrazzjoni min jittrasferixxi jibqa' l-proprjetarju tal-jeddijiet registrati; u, meta parti biss ta' l-art tkun trasferita, avviz ta' dan għandu wkoll jitniżżel fir-registru, fuq talba li ssir kif intqal qabel.

(3) L-interessi kollha trasferiti jew mahluqa b'disposizzjonijiet magħmula mill-proprjetarju, barra minn trasferiment tal-jeddijiet reġistrati fuq l-art, jew parti minnha, għandhom bla ħsara għad-disposizzjonijiet dwar dejn, jiġu kompletati b'reġistrazzjoni bl-istess mod u bl-istess effett kif provdut b'dan l-Att dwar trasferimenti ta' jeddijiet reġistrati u avviż ta' dan għandu wkoll jitniżżel fir-reġistru:

Iżda ebda haġa f'dan is-subartikolu ma tawtorizza r-reġistrazzjoni ta' kirja jew tagħmel meħtieġ ir-reġistrazzjoni ta' xi servitù ħlief bħala appartenenza art reġistrata jew ta' avviż dwarha ħlief kontra t-titolu reġistrat ta' l-art li tkun sugġetta għas-servitù.

25. (1) Disposizzjoni ta' art reġistrata b'titolu assolut, jew ta' xi jedd fuqha li dwaru d-detentur jista' jiġi reġistrat bħala sid, għandu, meta jiġi reġistrat, jagħti lill-persuna li favur tagħha tkun saret id-disposizzjoni titolu rrevokabbli għaliha, jiġifieri titolu li ma jistax jiġi meġħlub ħlief kif provdut f'dan l-Att, flimkien mal-jeddijiet, privileġġi u appartenenzi kollha ta' l-art, iżda tkun sugġetta —

Disposizzjoni ta' art reġistrata.

(a) għall-piżijiet u interessi oħra, jekk ikun hemm, li jkunu jidhru fir-reġistru; u

(b) kemm-il darba ma jkunx espress kuntrarju fir-reġistru, għall-interessi li jipprevalu, jekk ikun hemm, li jolqtu l-art jew il-jedd trasferit jew mahluq; u

(c) dwar art miżmuma b'enfitewsi, għal kull fatt espress jew mifhum, obligazzjoni, u responsabbiltà li jkunu inċidentali għall-art jew għall-jedd trasferit jew mahluq;

iżda hielsa mill-interessi l-oħra kollha jkunu x'ikunu.

(2) Disposizzjoni ta' art reġistrata b'titolu kwalifikat, jew ta' xi jedd fuqha li dwarha d-detentur jista' jiġi reġistrat bħala sid, għandu, meta jkun reġistrat, ikollu l-istess effett bħal ma kien ikollu kieku l-art kienet reġistrata b'titolu assolut, ħlief li dik id-disposizzjoni ma tolgotx jew ma tippregudikax li jiġi nfurzat xi jedd jew interess li jidher fir-reġistru bħala li hu eċċettwat.

(3) Disposizzjoni ta' art reġistrata b'titolu ta' pusses, jew ta' jedd għaliha li dwaru d-detentur jista' jiġi reġistrat bħala sid, ma jolqotx jew ma jippregudikax li jiġi nfurzat xi jedd jew interess li jkun kontra jew jidderoga t-titolu ta' l-ewwel sid reġistrat u li jkun jeżisti jew li jista' jinqala' fil-hin tar-reġistrazzjoni ta' dak is-sid, iżda, ħlief għal dak li ntqal qabel, għandu, meta jkun reġistrat, ikollu l-istess effett li kien ikollu kieku l-art giet reġistrata b'titolu assolut.

Dejn fuq l-Art

26. (1) Is-sid ta' art reġistrata jista', sugġett għal xi reġistrazzjoni kuntrarja li tkun tinsab fir-reġistru, idejjen l-art bl-istess mod u sa l-istess limitu daqslikieku l-art ma kenitx reġistrata; u art reġistrata tista' tiġi mdejna bis-saħħa tal-liġi jew ta' sentenza bl-istess mod u sa l-istess limitu daqslikieku l-art ma kenitx reġistrata:

Dejn fuq artijiet reġistrati.

Iżda dejn ma jiġix reġistrat kemm-il darba l-art inkluża fid-dejn ma tkunx, fl-att jew dokument ieħor li johloq id-dejn jew meħtieġ għar-reġistrazzjoni ta' dejn li jinholoq bis-saħħa tal-liġi jew tas-sentenza, deskritta b'riferenza għar-reġistru jew b'xi mod ieħor li jkun biżżejjed sabiex ir-reġistratur ikun jista' jagħrafha mingħajr ma jara xi dokument ieħor.

(2) Kull provvediment li jkun jinsab f'dejn bil-ħsieb li —

(a) inehhi lis-sid tiegħu s-setgħa li jittrasferih, b'disposizzjoni

registrata jew li jeħtieġ li t-twaqqif tiegħu jiġi mnizzel fir-registru; jew

(b) jolqot xi art registrata barra minn dik li dwarha d-dejn ikun espressament registrat, tkun nulla.

Registrazzjoni ta' djun.

27. (1) Dejn jiġi kompletat billi r-registratur jirregistra fir-registru l-persuna li favur tagħha għandu jibqa' d-dejn bhala l-proprjetarju ta' dak id-dejn, u l-partikolaritajiet tad-dejn.

(2) Meta l-art li dwarha dejn ikun registrat, tiġi registrata b'titolu kwalifikat jew ta' pussess, il-piż għandu jkollu effett suġġett għad-disposizzjonijiet ta' dan l-Att dwar art registrata b'dak it-titolu.

Dejn ikun effettiv biss jekk imħares.

28. Dejn ma jfixx ilx persuna milli takkwista xi art registrata jew jedd fuqha kemm-il darba l-piż ma jkunx imħares b'registrazzjoni fir-registru.

Preferenzi bejn djun.

29. Bla ħsara għal preferenzi stabbiliti bil-liġi u għal kull registrazzjoni kuntrarja li tkun tinsab fir-registru, djun registrati dwar l-istess art għandhom, jekk huma ta' l-istess xorta u ma jgawdux preferenza fihom infushom, jiġu wara xulxin skond l-ordni li bih ikunu ġew registrati fir-registru, u mhux skond l-ordni li bih ikunu ġew maħluqa.

Trasferiment ta' djun.

30. (1) Dejn registrat jista' jiġi trasferit bl-istess mod u sa l-istess limitu daqslikieku kien dejn registrat taħt id-disposizzjonijiet ta' l-Att dwar ir-Registru Pubbliku.

(2) Trasferiment jiġi kompletat billi r-registratur inizzel fir-registru l-persuna li favur tagħha jkun sar it-trasferiment bhala sid tad-dejn trasferit, jew ta' dik il-parti minn dak id-dejn li tiġi trasferita, iżda min jagħmel it-trasferiment għandu jitqies li jibqa' s-sid tad-dejn sakemm l-isem tal-persuna li favur tagħha jsir it-trasferiment jiġi registrat fir-registru dwaru.

Kif jispiċċa dejn.

31. Ir-registratur għandu, fuq talba tas-sid ta' xi dejn, jew fuq prova xierqa li d-dejn ikun ġie mħallas jew ikun spiċċa, għal kollox jew f'parti, jagħmel notament fir-registru bil-mod preskritt, billi jħassar jew jibdel ir-registrazzjoni oriġinali jew xort'ohra, li jkun spiċċa l-piż għal kollox jew f'parti, u malli jsir dan il-piż jitqies li spiċċa, għal kollox jew f'parti, skond il-każ.

Trasmissjoni ta' Art u Dejn Registrati

Trasmissjoni ta' art u dejn registrati.

32. (1) Meta tinfetaħ is-suċċessjoni ta' sid waħdieni jew ta' xi wieħed mis-sidien, is-suċċessur jew is-suċċessuri jkollhom jedd li jiġu registrati bhala sid jew sidien minflok.

(2) Il-fatt li xi persuna giet li għandha jedd fuq xi art jew dejn registrati minħabba ftuħ ta' suċċessjoni ta' xi sid għandu jiġi ppruvat b'dak il-mod li jiddeċiedi r-registratur.

(3) Ir-registrazzjoni ta' suċċessur minflok sid taħt dan l-artikolu tista' ssir b'titolu kwalifikat ukoll jekk l-art tkun registrata b'titolu assolut.

(4) Bla ħsara għal dak li ntqal qabel, jista' jiġi provdut b'regoli dwar il-mod kif jingħata effett għal trasmissjonijiet mal-mewt jew mat-teħid tal-voti religjużi.

TAQSIMA V — KAWZJONIJIET

33. (1) Kull persuna li jkollha jew tippretendi li għandha dak l-interess f'art li għadha mhijiex registrata li tagħtiha l-jedd li togġezzjona għar-registrazzjoni ta' jedd fuq art li jolqot l-interess ta' min jagħmel il-kawzjoni tista' tiddepożita kawzjoni għand ir-registratur fis-sens li ebda registrazzjoni ta' dak id-dritt ma għandha ssir qabel ma jiġi notifikat avviz lill-persuna min jagħmel il-kawzjoni.

Kawzjonijiet
kontra l-ewwel
registrazzjonijiet.

(2) Il-kawzjoni għandu jkollha magħha dikjarazzjoni bil-ġurament fejn jingħad ix-xorta ta' l-interess tal-persuna li tagħmel il-kawzjoni, l-art u l-jedd fuqha li jintlaqat mill-kawzjoni, u kull haġa oħra li tiġi preskritta.

(3) Wara li tkun ġiet depożitata xi kawzjoni bħal dik kontra registrazzjoni dwar art li ma tkunx għadha ġiet registrata, ma ssir ebda registrazzjoni bħal dik sakemm jiġi notifikat avviz lil min jagħmel il-kawzjoni biex jidher u jopponi, jekk jidhirlu xieraq, dik ir-registrazzjoni, u iż-żmien preskritta ikun skada mid-data tan-notifika ta' dak l-avviz, jew min jagħmel il-kawzjoni jkun deher, skond liema minnhom jiġri l-ewwel.

34. (1) Kull persuna —

Kawzjonijiet
kontra negozju
bl-art.

(a) li jkollha jew li tippretendi li għandha dritt reali mhux registrat fuq art registrata f'isem xi persuna oħra; jew

(b) li tkun ipprezentat talba għad-dikjarazzjoni ta' falliment ta' sid registrat ta' art jew ta' dejn; jew

(c) li tkun għamlet talba għall-interdizzjoni jew inabilitazzjoni ta' sid registrat ta' art jew ta' dejn; jew

(d) li, bħala mart sid registrat ta' art jew ta' dejn, tkun ipprezentat talba għax-xoljiment tal-komunjoni ta' l-akkwisti li tkun tinkludi dik l-art jew dak id-dejn;

tista' tiddepożita kawzjoni mar-registratur fis-sens li ebda disposizzjoni ta' dik l-art jew dejn min-naħa tas-sid ma għandu jiġi registrat sakemm ikun ġie notifikat avviz lill-persuna li tagħmel il-kawzjoni.

(2) Il-kawzjoni għandu jkollha magħha dikjarazzjoni bil-ġurament fejn jingħata x-xorta ta' l-interess tal-persuna li tagħmel kawzjoni, l-art li tkun milquta b'dik il-kawzjoni, u dawk il-ħwejjeġ l-oħra li jkunu preskritti.

(3) Wara li xi kawzjoni bħal dik kontra negozji tkun ġiet depożitata dwar xi art jew dejn registrati, ir-registratur ma għandux, mingħajr il-kunsens tal-persuna li tagħmel il-kawzjoni, jirregistra xi disposizzjonijiet jew jagħmel xi dħul fir-registru biex iħares il-jeddijiet akkwistati b'xi negozju mis-sid dwar dik l-art jew dak id-dejn sakemm jiġi notifikat avviz lill-persuna li tagħmel il-kawzjoni, fejn tiġi mwissija li l-kawzjoni tagħha tieqaf milli jkollha kull effett wara li jgħaddu n-numru ta' jiem preskritti minnufih wara d-data li fiha jkun notifikat dak l-avviz; u wara li jgħaddi dak iż-żmien kif intqal qabel il-kawzjoni tieqaf mis-seħħ kemm-il darba ma jsirx ordni kuntrarju mir-registratur, u malli l-kawzjoni hekk tieqaf l-art registrata jew id-dejn registrat jista' jsir minnhom daqsliekeku ebda kawzjoni ma tkun ġiet depożitata.

(4) Jekk, qabel ma jgħaddi l-imsemmi żmien, min jagħmel il-kawzjoni, jew xi persuna oħra f'isimha, tidher quddiem ir-registratur, u, meta hekk meħtieġa mir-registratur, tagħti garanzija biżżejjed biex tindennizza kull waħda mill-partijiet kontra kull danni li jistgħu jiġġarrbu minhabba li xi negozju dwar l-art registrata jew id-dejn registrat, jew xi

dhul fir-registru kif intqal qabel, ikun gie mwaqqaf għal xi żmien, ir-registratur jista' malli jsir hekk, jekk jidhirlu xieraq li hekk jagħmel u wara li jagħti kull direttivi li jidhirlu meħtieġa jew spedjenti, iwaqqaf għal xi żmien li jirregistra kull negozju dwar l-art jew dejn jew li jagħmel registrazzjonijiet għal dak iż-żmien li jidhirlu gust.

Appell minn
deċiżjoni ta'
registratur.

35. (1) Kull persuna milquta hazin minn xi għemil tar-registratur dwar kawzjoni taħt dan l-Att tista' tappella lill-Qorti ta' l-Appell bil-mod preskritt.

(2) Kawzjoni depożitata skond dan l-Att ma tippregudika l-pretensjoni jew it-titolu ta' ebda persuna u ma jkollha ebda effett ieħor hlief kif imsemmi f'dan l-Att.

(3) Jekk xi persuna tiddepożita kawzjoni mar-registratur mingħajr raġuni xierqa, din tkun responsabbli li tikkumpensa b'mod gust lil kull persuna li tkun ġarrbet danni bid-depożitu tal-kawzjoni.

(4) Bla ħsara għad-disposizzjonijiet ta' l-aħħar subartikolu ta' qabel dan, min jagħmel kawzjoni jista' japplika biex jirtira kawzjoni f'kull żmien.

TAQSIMA VI — ĊERTIFIKATI TA' ART U DEJN

Hruġ ta'
ċertifikati ta'
art u dejn.

36. (1) Ma' l-ewwel registrazzjoni ta' jedd fuq art li dwarha d-detentur jista' jiġi registrat bħala sid, u mar-registrazzjoni ta' dejn, ċertifikat ta' l-art jew ċertifikat tad-dejn, skond il-każ, għandu jithejja fil-formula preskritta; dan għandu jgħid jekk it-titolu huwiex assolut, kwalifikat jew ta' pussess u għandu jew jiġi konsenjat lis-sid jew jiġi depożitat fir-registru skond kif ikun irid is-sid.

(2) Jekk ikunu hekk depożitati fir-registru għandhom jitniżżlu fih ufficjalment minn żmien għal żmien, kif provdut f'dan l-Att, dawk innoti tad-dhul kollu li jsir wara fir-registru li jolqot l-art registrata jew id-dejn registrat li għalihom ikun jirreferi.

(3) Is-sid jista' f'kull żmien japplika biex iċ-ċertifikat jiġi konsenjat lilu jew lil dik il-persuna l-oħra kif hu jordna, u jista' f'kull żmien hekk jiddepożitah fir-registru ta' l-artijiet.

(4) It-thejjija, il-hruġ, l-aġġornament, u d-depożitu fir-registru taċ-ċertifikat ikunu mingħajr spejjeż għas-sid.

Ċertifikati jiġu
prodotti u
jsiru notamenti
fihom meta jsir
negozju.

37. (1) Sakemm ċertifikat dwar art jew ċertifikat dwar dejn għadu jseħh, dan għandu jiġi prodott lir-registratur —

(a) ma' kull dhul fir-registru ta' disposizzjoni mis-sid ta' art jew dejn registrati li għalihom jirreferi; u

(b) ma' kull registrazzjoni taħt dan l-Att ta' kull jedd li jolqot hazin it-titolu tas-sid ta' l-art registrata jew tad-dejn registrat; u

(c) ma' kull trasmissjoni registrat.

(2) Nota ta' kull dhul jew trasmissjoni bħal dawn għandha tiġi mnizzla ufficjalment fuq iċ-ċertifikat u r-registratur ikollu l-istess setgħat li jqiegħed li jiġu prodotti ċertifikati kif huma mogħtija lilu b'dan l-Att għall-produzzjoni ta' mapep, *surveys*, kotba u dokumenti oħra.

(3) Meta tkun kompletata r-registrazzjoni ta' persuna li lilha art registrata jew dejn registrat ikun gie trasferit, mogħti jew mgħoddi, ir-registratur għandu jikkonsenjalha ċertifikat ta' l-art jew ċertifikat tad-dejn,

u, meta n-negozju ikun dwar parti biss minn dik l-art, għandu wkoll jikkonsenja lill-persuna li tittrasferiha jew tagħtiha ċertifikat ta' l-art li jkun fih deskrizzjoni ta' l-art miżmuma minnha.

(4) Meta titolu għal art jiġi akkwistat bi preskrizzjoni, jew wara ordni ta' qorti kompetenti, jew bejgħ bil-qorti jew dikjarazzjoni mill-President taħt l-Ordinanza dwar l-Akkwist ta' Artijiet għal Skopijiet Pubbliċi, l-akkwist jista' jiġi registrat, u ċertifikat ta' l-art għdid jista' jiġi maħruġ lill-akkwirent mingħajr ma jiġi prodott iċ-ċertifikat ta' l-art ta' qabel (meta dan ma jkunx depożitat fir-reġistru).

Kap. 136

(5) Ċertifikat ta' dejn ma jiġix maħruġ kemm-il darba nota tad-dejn ma tkunx giet imdahħla uffiċjalment fiċ-ċertifikat ta' l-art ta' l-art reġistrata milquta b'dak id-dejn.

38. (1) Ir-reġistratur jista', meta ċertifikat ta' art jew ċertifikat ta' dejn jiġi prodott lilu, johroġ ċertifikat ta' l-art għdid jew ċertifikat ta' dejn għdid minflok il-wieħed prodott.

Hruġ ta' ċertifikati godda.

(2) Ċertifikat ta' l-art għdid jew ċertifikat ta' dejn għdid jista' jinħareġ minflok wieħed mitluf jew distrutt, jew li jkun fil-pussess ta' persuna li tkun barra l-ġurisdizzjoni ta' qorti maltin, b'dawk il-kondizzjonijiet dwar avvizi, notifikati, jew żmien kif ikun preskritt.

39. Kull ċertifikat ta' art jew ċertifikat ta' dejn ikun jista' jingiebb bħala prova ta' kull ma jkun jinsab fih, kif provdut fl-artikolu 627 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Ċertifikati jkunu prova.
Kap. 15

40. Minkejja kull fraġa li tinsab f'dan l-Att, meta jkun hemm reġistrati iktar minn persuna waħda bħala sidien ta' art jew ta' dejn, iċ-ċertifikat ta' art jew iċ-ċertifikat ta' dejn għandu jiġi konsenjat biss lill-persuna maħtura mis-sidien kollha jew, jekk ma jkunx hemm qbil, mill-qorti kompetenti; u sakemm persuna tiġi hekk maħtura, iċ-ċertifikat għandu jinżamm depożitat fir-reġistru.

Meta jkun hemm reġistrati iktar minn sid wieħed.

TAQSIMA VII — DISPOSIZZJONIJET ĠENERALI DWAR REĠISTRAZZJONI

41. (1) L-artijiet kollha reġistrati għandhom, kemm-il darba ma huwiex espress il-kuntrarju fuq ir-reġistru skond id-disposizzjonijiet ta' dan l-Att, jitqiesu li huma suġġetti għal dawk l-interessi li jipprevalu li ġejjin li jkunu għal dak iż-żmien jeżistu dwarhom, jiġifieri —

Interessi li jipprevalu.

(a) servitujiet;

(b) deċmi u piżijiet oħra;

(c) jeddijiet akkwistati jew li jkunu se jiġu akkwistati bi preskrizzjoni, jew b'konfiska jew bħala *bona vacantia*;

(d) il-jeddijiet ta' kull persuna li fil-fatt tkun qed tokkupa l-art, hliet meta tagħrif b'att għidizzjarju jintalab lil dik il-persuna u l-jeddijiet ma jiġux mistqarra;

(e) fil-każ ta' titolu ta' pussess jew kwalifikat il-jeddijiet, l-interessi u s-setgħat kollha eċċettwati mill-effetti ta' reġistrazzjoni;

(f) il-jeddijiet tal-Gvern għal u fuq minerali stabbiliti jew imħarsa b'ligi;

(g) kirjiet;

(h) privileġġi ġenerali, ipoteki ġenerali u l-benefiċċju tal-firda tal-patrimonju reġistrati kif imiss taħt il-ligijiet li jkunu fis-seħħ meta jkunu nqalghu dawk il-jeddijiet;

(i) il-jeddijiet ta' l-awtorità kompetenti akkwistati taht l-Ordinanza dwar l-Akkwist ta' Artijiet għal Skopijiet Pubbliċi kemm-il darba sakemm ma jkunux registrati jew imħarsa fir-registru bil-mod preskritt;

(j) jeddijiet għal kaċċa u jeddijiet oħra bħalhom;

(k) użufrutti legali kemm-il darba u sakemm ma jkunux imħarsa fir-registru bil-mod preskritt;

(l) il-jeddijiet tal-werrieta ta' min imut l-ewwel fost miżżewġin fuq proprjeta' li tkun parti mill-komunjoni ta' l-akkwisti u li tkun registrata f'isem min jibqa' ħaj mill-koppja miżżewġa;

Iżda, meta jkun ippruvat għas-sodisfazzjon tar-registratur li xi art registrata jew li tkun se tiġi registrata tkun ħielsa minn servitujiet jew ħielsa minn deċmi u piżijiet oħra, ir-registratur jista' jniżżel dan il-fatt fir-registru bil-mod preskritt.

(2) Meta fil-hin ta' l-ewwel registrazzjoni xi servitù jew jedd reali ieħor jew xi deċmi jew piżijiet mahluqa b'att pubbliku jew b'testament u registrati kif imiss taht il-liġi li tkun fis-seħħ fiż-żmien li fih ikunu nholqu dawk il-jeddijiet, jolqtu l-art b'mod li jkunu kontra tagħha, ir-registratur għandu jniżżel nota tagħhom fir-registru.

(3) Meta l-eżistenza ta' interess li jipprevali msemmi f'dan l-artikolu tkun ipprovata għas-sodisfazzjon tar-registratur jew issir ammissjoni dwarha, dan jista' (bla ħsara għal kull eċċezzjoni preskritta) iniżżel avviż dwarha, jew pretensjoni għaliha fir-registru, iżda ebda pretensjoni għal servitù li ma tkunx mahluqa b'att pubbliku ma għandha titniżżel kontra t-titolu għall-art sugġetta għas-servitù jekk sid dik l-art (wara li jingħatalu l-avviż preskritt) juri raġuni biżżejjed għaliex dan m'għandux isir.

Disposizzjoni bis-saħħa ta' interessi li jipprevalu.

42. Meta bis-saħħa ta' xi interess jew setgħa li tkun interess li jipprevali persuna tiddisponi minn xi jedd jew iġġiegħel li jsir id-disposizzjoni ta' xi jedd fuq art registrata, u d-disposizzjoni tkun tista' tiġi registrata, jew ikollha dak l-interess f'art li jkun jista' jiġi registrat, ir-registratur għandu, jekk hekk mitlub, jagħti effett lid-disposizzjoni jew l-interess fir-registru.

Appartenenzi.

43. Jekk qabel ir-registrazzjoni ta' xi interess f'art b'titolu assolut xi servitù jew jedd ieħor ikun gie akkwistat favur tagħha, f'dan il-każ, ma' dik ir-registrazzjoni, is-servitù jew il-jedd għandu, sugġett għal registrazzjoni kuntrarja fir-registru, isir jappartjeni lill-art registrata bl-istess mod bħallikieku kien ingħata lis-sid li jkun registrat kif intqal qabel.

Akkwist ta' art bi preskrizzjoni.

44. (1) Kull persuna li tippretendi li akkwistat bi preskrizzjoni titolu għal art registrata f'isem persuna oħra tista' tapplika biex tiġi registrata bħala sid tagħha.

(2) Ir-registratur għandu, meta jkun sodisfatt dwar it-titolu ta' l-applikant, jirregistra lill-applikant bħala sid b'titolu assolut, kwalifikat jew ta' pussess, skond il-każ, iżda bla ħsara għal kull jedd jew interess imħares b'registrazzjoni fir-registru li seta' ma ntilifx bi preskrizzjoni; u dik ir-registrazzjoni għandha, bla ħsara kif intqal qabel, l-istess effett bħar-registrazzjoni ta' l-ewwel sid; iżda s-sid jew l-applikant jew kull persuna oħra interessata tista' titlob lill-qorti kompetenti biex tistabilixxi kull kwistjoni li tinqala' taht dan l-artikolu.

(3) Id-disposizzjonijiet ta' dan l-artikolu jistgħu jiġu appli-

kati, suġġetti għal modifiki meħtieġa, għal każijiet meta servitù jew jedd reali ieħor ikun gie akkwistat bi preskrizzjoni.

(4) Id-disposizzjonijiet ta' dan l-artikolu jistgħu wkoll jiġu applikati bil-modifiki meħtieġa għal każijiet meta titolu għal art ikun akkwistat mill-Gvern b'konfiska jew bħala *bona vacantia*.

45. Kull għemil li jista' jinterrompi ż-żmien ta' preskrizzjoni dwar art registrata, jew dwar dejn registrat, jew dwar debitu imħares b'piż registrat jew b'jedd li jkollu nteress li jipprevali f'art registrata, ma jolqotx lill-persuna li takkwista xi interess f'dik l-art kemm-il darba u sakemm avviż dwar dan ma jiġix registrat fir-registru fuq talba li ssir bil-mod preskritt.

Preskrizzjonijiet interrotti jiġu registrati.

46. Art registrata tista' tiġi deskritta —

(a) permezz ta' deskrizzjoni verbali u pjanta tal-lokal jew mappa ġenerali, ibbażata fuq il-mappa uffiċjali tar-registru ta' l-artijiet; jew

(b) b'riferenza għal att jew dokumenti oħra. li kopja jew estratt tagħhom tiġi pprezentata fir-registru, li jkun fiha deskrizzjoni biżżejjed u pjanta jew mappa tagħha; jew

(c) xort'oħra kif ikun jixtieq l-applikant għar-registrazzjoni u kif japprova r-registratur;

basta wiehed jara li jkun hemm identifikazzjoni ta' malajr tal-bieċiet ta' art, deskrizzjoni korretta ta' konfini, u, kemm jista' jkun, uniformità tal-prattika; iżda l-konfini ta' l-artijiet kollha u d-dettalji kollha meħtieġa dwarhom għandhom, kull meta jista' jsir, jitniżżlu fir-registru jew fuq il-pjanta pprezentata, jew il-mappa ġenerali, u l-pjanta pprezentata, jekk ikun hemm, jew mappa ġenerali għandhom jintużaw biex jgħinu għall-identifikazzjoni ta' l-art.

Deskrizzjoni ta' art registrata.

47. (1) Meta r-registratur ikun sodisfatt dwar it-titolu ta' art registrata b'titolu kwalifikat jew ta' pussess, jew bħala riżultat ta' provi oħra li jingħatawlu jew li xort'oħra jkunu fil-pussess tiegħu, jew bħala riżultat taż-żmien li jkun għadda, jew bħala riżultat tat-tnejn, hu jista' wara li jagħti dawk l-avviżi, jekk ikun hemm, li jkunu preskritti, jirregistrah f'kull żmien bħala assolut, sew jekk is-sid jagħti l-kunsens tiegħu għal dik ir-registrazzjoni sew jekk le, iżda, kemm-il darba r-registratur ma ssirx fuq it-talba tas-sid, mingħajr ma jitlob ebda dritt għaliha.

Kif titolu jsir assolut.

(2) Jekk issir xi pretensjoni li tkun kuntrarja għat-titolu tas-sid, m'għandhiex issir registrazzjoni fir-registru taht dan l-artikolu kemm-il darba u sakemm il-kwistjoni dwar il-pretensjoni ma tkunx giet maqtugħa.

(3) Kull persuna, barra mis-sid, li gġarrab telf minhabba li jkunu saru registrazzjonijiet fir-registru bis-saħħa ta' dan l-artikolu jkollha jedd għal indenniz taht dan l-Att daqsliekeku ikun sar żball fir-registru.

48. (1) Kull persuna li isimha jkun inniżżel fir-registru bħala sid ta' xi art registrata jew dejn registrat, jew bħala persuna li tagħmel kawzjoni, jew bħala li għandha jedd li tircievi xi avviż, jew taht xi sura oħra, għandha tagħti lir-registratur post ta' indirizz f'Malta.

Indirizzi għal notifika u avviżi.

(2) Kull avviż li b'dan l-Att hu meħtieġ li jingħata lil xi persuna għandu jiġi notifikat personalment, jew jintbagħat bil-posta f'itra registrata markata fuq barra "Registru ta' l-Artijiet", u mibgħuta lil dik il-persuna fl-indirizz mogħti lir-registratur u, sakemm ma tiġix lura,

għandha titqies li l-persuna lilha tkun indirizzata tkun irċevietha f'dak iż-
zmien, li ma jkunx inqas minn tlett ijiem, eskluż il-jum li fih tiġi mpu-
tata, li jkun preskritt.

(3) Il-*Postmaster General* għandu jagħti direttivi sabiex jin-
għataw lura minnufih lir-registratur l-ittri kollha mmarkati kif intqal
qabel, u ndirizzati lil xi persuna li ma tkunx tista' tinstab u malli
tingħata lura xi ittra li jkun fiha xi avviż, ir-registratur għandu jaġixxi
dwar il-kwistjoni li tkun tehtieg li jingħata dak l-avviż kif ikun pres-
kritt.

(4) Persuna li takkwista interess f'art registrata ma tiġix
milquta min-nuqqas li jintbagħat xi avviż li skond dan l-Att għandu
jingħata jew mill-fatt li dan ma jkunx ġie riċevut.

TAQSIMA VIII — KORREZZJONIJIET FIR-REGISTRU U INDENNIZZ

Korrezzjonijiet
fir-registru.

49. (1) Jistgħu jsiru korrezzjonijiet fir-registru fuq ordni tal-qorti
kompetenti jew fuq ordni tar-registratur, salv li jkun hemm appell lill-
Qorti ta' l-Appell, f'kull wieħed mill-kazijiet li ġejjin, iżda bla ħsara
għad-disposizzjonijiet ta' dan l-artikolu:

(a) Bla ħsara għal kull disposizzjoni kuntrarja espressa ta'
dan l-Att, meta qorti kompetenti tkun iddeċidiet li xi persuna
għandha xi jedd jew interess f'xi art registrata jew dejn registrat, u
minħabba dik id-deċiżjoni l-qorti tkun tal-fehma li jkun mehtieg li
ssir korrezzjoni fir-registru, u tordna f'dan is-sens;

(b) Bla ħsara għal kull disposizzjoni kuntrarja espressa ta'
dan l-Att, meta l-Qorti ta' l-Appell, fuq talba bil-mod preskritt ta'
xi persuna li tkun milquta bi dħul li jkun sar jew bin-nuqqas ta'
dħul fir-registru, jew minħabba li jkun sar xi nuqqas, jew għax ikun
hemm dewmien mingħajr mehtieg, f'xi dħul fir-registru, tordna li ssir
korrezzjoni fir-registru;

(ċ) F'kull kaz u f'kull zmien bil-kunsens tal-partijiet
interessati;

(d) Meta qorti kompetenti jew ir-registratur ikun sodisfatt li
dħul fir-registru jkun inkiseb b'qerq jew bi vjolenza u fil-kaz tal-
qorti, tordna li ssir korrezzjoni fir-registru;

(e) Meta żewġ persuni jew iżjed, li ma jkollhomx jedd li jiġu
registrati flimkien, ikunu bi żball registrati bħala sidien ta' l-istess
jedd fuq art registrata jew ta' l-istess dejn;

(f) F'kull kaz ieħor meta, minħabba xi żball jew nuqqas fir-
registru, jew minħabba li xi dħul li jkun sar bi żball, jitqies ġust li
ssir korrezzjoni fir-registru.

(2) Jistgħu jsiru korrezzjonijiet fir-registru taħt dan l-artikolu
minkejja li l-korrezzjoni tista' tolqot xi jeddijiet, dejn jew interessi
akkwistati jew imħarsa b'registrazzjoni, jew b'xi registrazzjoni fir-
registru, jew xort'oħra.

(3) Ma jistgħux isiru korrezzjonijiet fir-registru, barra milli
sabiex jingħata effett lil interess li jipprevali, li jista' jolqot it-titolu
tas-sid li jkollu l-pussess —

(a) Ħlief meta dak is-sid ikun parti jew ikollu sehem jew ikun
il-kawża jew ikun sostanzjalment ikkontribwixxa, bl-għemil, bit-
traskuraġni jew bin-nuqqas tiegħu, għall-qerq, vjolenza, żball jew
ommissjoni li minħabba fihom tkun qed tintalab korrezzjoni; jew

(b) Hlief meta d-disposizzjoni immedjata favur tiegħu kienet nulla, jew id-disposizzjoni lil xi persuna li tagħha huwa l-aventi kawża, barra minn disposizzjoni taht titolu oneruż, kienet nulla; jew

(c) Hlief meta għal xi raġuni oħra, f'xi każ partikolari, wieħed ikun tal-fehma li jkun ingust li ma ssirx korrezzjoni fir-reġistru kontra tiegħu.

(4) Ir-reġistratur għandu jobdi l-ordni ta' kull qorti kompetenti dwar kull art registrata meta tiġi notifikata lill s-sentenza jew meta tingħatalu kopja uffiċjali tagħha flimkien ma' dikjarazzjoni mir-Reġistratur tal-Qorti li tiċċertifika li s-sentenza tkun finali u konklusiva.

(5) Qorti ma għandhiex tordna l-korrezzjoni tar-reġistru kemm-il darba r-Reġistratur ta' l-Artijiet ma jkunx parti fil-proċedimenti li dwarhom isir l-ordni.

(6) Hlief sabiex jingħata effett lil interess li jipprevali, ma tista' ssir ebda korrezzjoni fir-reġistru wara li jgħaddu għaxar snin mid-data li fiha ssir:

Izda ebda haġa f'dan is-subartikolu ma għandha tiftiehem li tolqot il-jedd ta' xi persuna li tippretendi danni mingħand xi persuna li tkun responsabbli għalihom.

(7) Ma' kull korrezzjoni fir-reġistru ċertifikat ta' art u kull ċertifikat ta' dejn li jkun mitlub għandu jiġi prodott lir-reġistratur sakemm dan ma jordnax il-kuntrarju.

50. (1) Bla ħsara għad-disposizzjonijiet kuntrarji ta' dan l-Att, kull persuna li gġarrab telf minhabba xi korrezzjoni fir-reġistru taht dan l-Att għandha jedd li tkun indennizzata taht dan l-Att.

Jedd għal
indennizz
f'ċerti
każijiet.

(2) Meta jkun sar żball jew nuqqas fir-reġistru, izda r-reġistru ma jiġix korrett, kull persuna li gġarrab telf minhabba dak l-iżball jew nuqqas, ikollha, sugġett għad-disposizzjonijiet ta' dan l-Att, jedd għal indennizz taht dan l-Att.

(3) Meta xi persuna gġarrab telf minhabba t-telf jew id-distruzzjoni ta' xi dokument depożitat fir-reġistru sabiex jiġi spezzjonat jew sabiex jinżamm fiż-żgur jew minhabba żball f'xi riċerka uffiċjali, din ikollha jedd li tiġi ndennizzata taht dan l-Att.

(4) Bla ħsara għal dak provdut hawnhekk iżjed 'il quddiem, sid ta' xi art registrata jew dejn reġistrat li jagħmel talba *in bona fide* taht disposizzjoni falza, għandu jitqies, meta ssir korrezzjoni fir-reġistru, li garrab telf minhabba dik il-korrezzjoni u jkollu jedd li jiġi ndennizat taht dan l-Att.

(5) Ebda ndennizz ma jithallas taht dan l-Att f'kull wieħed mill-każijiet li ġejjin:

(a) Meta min jagħmel it-talba jkun hu nnifsu wassal jew ikkontribwixxa b'mod sostanzjali għat-telf b'qerq jew bi vjolenza min-naħa tiegħu, jew jikseb titolu (barra minn taht disposizzjoni b'titolu oneruż li hi registrata jew imħarsa fir-reġistru) mingħand persuna li tagħmel dak il-qerq jew dik il-vjolenza;

(b) Meta l-korrezzjoni fir-reġistru ma ssirx skond is-subartikolu (6) ta' l-artikolu 50 ta' dan l-Att;

(c) Meta ssir korrezzjoni fir-reġistru sabiex jingħata effett lil interess li jipprevali;

(d) Minhabba spejjeż li jkunu saru sabiex jittiehdu xi proċedimenti legali jew sabiex issir difiża għalihom minghajr il-kunsens tar-reġistratur.

(6) Meta jithallas indennizz dwar telf ta' jedd fuq jew interess fi jew dejn fuq, art, l-ammont hekk imħallas ma għandux ikun iżjed minn —

(a) meta ma ssirx korrezzjoni fir-reġistru, il-valur tal-jedd, interess jew dejn fil-hin li jkun sar l-iżball jew in-nuqqas li minnu jkun iġġarrab it-telf;

(b) meta tkun saret il-korrezzjoni fir-reġistru, il-valur (li kieku ma saret ebda korrezzjoni) tal-jedd, interess jew dejn, minnu fih qabel il-hin li fih saret il-korrezzjoni.

(7) Ir-reġistratur jista', jekk l-applikant hekk jitlob, u sugġett għal appell lill-Qorti ta' l-Appell, jaqta', jekk jedd għal indennizz ikunx dovut taht dan l-artikolu, u, jekk ikun hekk, jagħti ndennizz. Fil-każ ta' appell lill-qorti r-rikorrent ma jkunx mehtieġ li jhallas xi spejjeż hlief tiegħu stess, ukoll jekk jitlef l-appell, kemm-il darba l-qorti ma jidhril-hiex li l-appell ma kienx raġonevoli.

(8) Fl-ghoti ta' xi ndennizz ir-reġistratur jista' jqis kull infieq u spejjeż li jkunu saru b'mod xieraq dwar il-kwistjoni, u dawn jista' jzidhom mal-flus ta' l-indennizz li xort'oħra kien ikollhom jithallsu.

(9) Meta jithallas indennizz għal telf, ir-reġistratur f'isem il-Gvern, ikollu l-jedd li jiġbor lura l-ammont imħallas minghand kull persuna li tkun wasslet jew ikkontribwiet b'mod sostanzjali għat-telf bil-qerq, vjolenza, traskuraġni jew nuqqas tagħha, u jkollu jedd li jinforza kull kondizzjoni, garanzija jew jedd iehor kemm jekk espressi jew mifhuma li l-persuna li tkun indennizzata kien ikollha jedd li tinforza dwar il-kwistjoni relattivament għall-indennizz li jkun thallas.

(10) Kull talba għal indennizz taht dan l-Att tista' titqies biss jekk issir fi żmien ħames snin mid-data li fiha jinholoq il-jedd għal indennizz, u dak iż-żmien jgħaddi kontra kulhadd:

Iżda meta l-persuna li jkollha l-jedd għal indennizz tkun minorenni t-talba minnha tista' ssir fi żmien sentejn minn meta ssir maġġorenni jew fi żmien ħames snin mid-data li fiha jinholoq il-jedd għal indennizz, skond liema tkun l-aħħar data.

(11) Dan l-artikolu japplika għall-Gvern bl-istess mod kif japplika għal persuna privata.

Fond ta'
assicurazzjoni.

51. (1) Għandu jkun hemm fond ta' assicurazzjoni sabiex minnu jithallsu talbiet għal indennizz skond dan l-Att.

(2) Għandha titwarrab u tithallas fl-imsemmi fond f'għeluq kull sena finanzjarja dik il-parti minn dhul li jsir mid-drittijiet li jingabru mir-reġistru taht dan l-Att li l-Ministru responsabbli għall-finanzi jista' jistabbilixxi b'ordni.

(3) Il-fond ta' assicurazzjoni għandu jiġi nvestit b'dak il-mod li l-imsemmi Ministru jista' jordna minn żmien għal żmien.

(4) Jekk il-fond ta' assicurazzjoni jkun f'xi żmien mhux biżżejjed biex jithallas indennizz għal xi telf li għandu jithallas minnu, id-differenza għandha, bis-saħħa ta' dan l-Att u minghajr aktar assigurazzjoni, tkun għall-karigu tal-Fond Konsolidat u tithallas minnu; iżda kull somma hekk imħallsa mill-Fond Konsolidat għandha tithallas lura mill-flus li wara jkunu għall-kreditu tal-fond ta' assicurazzjoni.

(5) Kontijiet tal-fond għandhom jinżammu u jiġu verifikati bħal kontijiet pubbliċi, skond dawk ir-regolamenti li l-Ministru responsabbli għall-finanzi jista' jagħmel minn żmien għal żmien.

TAQSIMA IX — DISPOSIZZJONIJIET MIXXELLANJI

52. (1) Kull persuna tista', mal-ħlas tad-dritt preskritt, tispezzjona kull reġistru jew dokument dwar xi art registrata jew dejn registrat li jkun qiegħed għand ir-reġistratur.

Spezzjon tar-reġistru u ta' kopji.

(2) Kull persuna tista', mal-ħlas tad-dritt preskritt, titlob lir-reġistratur biex jagħmel kopji ta' u estratti minn xi reġistru jew dokument dwar xi art registrata jew dejn registrat li jkun qiegħed għand ir-reġistratur.

53. Kopji u estratti uffiċjali ta' u minn reġistru, u ta' u minn dokumenti u pjanti pprezentati fir-reġistru, jistghu jingiebu bħala prova f'kull azzjoni jew haġa, u bejn il-persuni u l-partijiet kollha, bl-istess mod kif originali jistghu jingiebu, iżda kull persuna li gġarrab telf minħabba inezattezza f'xi kopja bħal dik jew estratt bħal dak ikollha jedd li tiġi ndennizzata taħt dan l-Att, u ebda persuna ma tkun tista' tingieb azzjoni kontriha dwar xi telf li jkun inqala' minħabba li tkun ibbażat fuq xi kopja bħal dik jew estratt bħal dak.

Kopji eċċ. mahruġa mill-uffiċċju jistghu jingiebu bħala prova.

54. Jekk waqt xi proċedimenti quddiem ir-reġistratur jew qorti skond dan l-Att xi persuna, bil-ħsieb illi taħbi t-titolu jew il-pretensjoni ta' xi persuna, jew b'sustenn ta' talba falza, ma tressaqx, jew tipprova ma tressaqx, jew tiehu sehem biex ma jitressaqx, xi dokument jew fatt, il-persuna li hekk ma tressaqx, tipprova ma tressaqx, jew tkun ħadet sehem biex ma jitressaqx, tkun ħatja ta' reat.

Dokumentj jew fatti li ma jitressaqx.

55. (1) Jekk xi persuna b'qerq tikseb, jew tipprova b'qerq tikseb, jew tiehu sehem biex b'qerq tinkiseb, xi dħul fi, tħassir minn, jew tibdil fir-reġistru, jew f'xi ċertifikat ta' art jew ċertifikat ta' dejn tkun ħatja ta' reat.

Registrazzjonijiet qarrieqa.

(2) Kull dħul, tħassir, jew tibdil li hekk isir b'qerq ikun null bejn il-persuni kollha li jkunu partijiet jew jieħdu sehem fil-qerq.

56. Persuna ħatja ta' reat taħt dan l-Att tehel, meta tinsab ħatja, prigunerija għal żmien ta' mhux iżjed minn erba' snin jew multa ta' mhux iżjed minn ħamest elef lira, jew dik il-prigunerija u multa flimkien.

Piena.

TAQSIMA X — REGOLI U ORDNIJIET DWAR DRITTIJIET

57. (1) Bla ħsara għad-disposizzjonijiet ta' dan l-Att, il-Ministru jista' jagħmel regoli ġenerali sabiex jirregola l-mod, il-proċedura jew il-kondizzjonijiet li bihom jew taħthom għandhom jiġu applikati d-disposizzjonijiet ta' dan l-Att, sabiex jiġu regolati dawk il-ħwejjeġ kollha li b'dan l-Att huma meħtieġa jew awtorizzati li jiġu preskritti, jew li dwarhom għandu jiġi provdut b'regoli u b'mod ġenerali sabiex tiġi regolata kull haġa li għandha x'taqsam mat-twaqqif u mat-tmexxija tar-reġistru ta' l-artijiet u mar-reġistrazzjoni ta' titoli għal art.

Regoli.

(2) Bla ħsara għall-ġeneralità tad-disposizzjonijiet tas-sub-artikolu (1) ta' dan l-artikolu, regoli magħmula taħt dan l-artikolu

jistghu jsiru wkoll għall-għanijiet kollha li ġejjin jew għal għan wiehed jew iżjed minnhom:

(a) sabiex jiġi regolat il-mod li bih għandu jsir u jinżamm ir-registru;

(b) sabiex jiġu preskritti l-forom li għandhom jiġu mħarsa, il-prekawzjonijiet li għandhom jittiehdu, l-atti li għandhom jintużaw, l-avviżi li għandhom jingħataw u l-provi li għandhom jingiebu fil-proċedimenti kollha quddiem ir-registratur jew relattivament għar-registrazzjoni;

(ċ) sabiex tiġi regolata l-proċedura meta ssir talba għall-ewwel registrazzjoni;

(d) sabiex tkun tista' ssir registrazzjoni temporanja ta' titolu ta' pussess sakemm isiru r-riċerki għat-titolu;

(e) sabiex jiġi regolat kif għandhom jinżammu d-dokumenti li minn żmien għal żmien jiġu f'idejn ir-registratur, bis-setgħa li tingħata l-ordni għad-distruzzjoni ta' kull dokument minn dawk li jkunu ġew sostitwiti għal kollox b'registrazzjonijiet fir-registru, jew li jkunu saru mingħajr ebda effett;

(f) sabiex jiġu applikati d-disposizzjonijiet ta' dan l-Att dwar registrazzjoni obbligatorja;

(g) sabiex jitmexxew riċerki uffiċjali kontra kawzjonijiet, inibizzjonijiet, u hwejjeġ oħra ta' din ix-xorta kif jiġi preskritti;

(h) sabiex ikun jista' jidhol fir-registru, u f'ċertifikati ta' art, il-prezz imħallas jew il-valur dikjarat ma' l-ewwel registrazzjoni, trasferimenti, u trasmissjonijiet ta' art;

(i) sabiex jingħata avviż fuq ċertifikati ta' art ta' l-effett ġenerali ta' registrazzjoni;

(j) għar-registrazzjoni, b'avviż, ma' l-ewwel registrazzjoni ta' l-art, ta' kull servitù, jedd, jew privileġġ, li jidher li jolqot l-art b'mod kuntrarju, u safejn ikun prattikabbli b'riferenza għall-att jew liġi li tohloqhom;

(k) sabiex kull persuna li takkwista xi servitù, jedd jew privileġġ bħal dak wara d-data ta' l-ewwel registrazzjoni ta' l-art, tkun tista' titlob (suġġett li jingħata avviż lis-sid ta' l-art li tkun suġġetta għas-servitù) li jsir dħul fir-registru ta' avviż għal dan, u kemm jista' jkun b'riferenza għall-att jew liġi li johloq il-jedd;

(l) sabiex l-ewwel sid jew kull sid ieħor warajh ikun jista' jitlob li avviż tat-titolu tiegħu għal kull jedd jew interess bħal dak, sew jekk akkwistat b'att jew bi preskrizzjoni jew xort'oħra, jiġi registrat fir-registru, u, kemm jista' ikun b'riferenza għall-att (jekk ikun hemm) jew liġi li johloq il-jedd jew l-interess, u sabiex jiġi preskritti l-effett ta' kull registrazzjoni bħal dik;

(m) sabiex jiġu regolati l-hruġ u l-forom ta' ċertifikati, u, jekk ikun meħtieġ, sabiex jiġi preskritti kull avviż speċjali fuq iċ-ċertifikat li għandu jingħata bħala twissija meta piżijiet, avviżi, u registrazzjonijiet oħra kuntrarji jkunu jidhru fir-registru;

(n) sabiex jiġi provdut għal każijiet meta r-registratur jista' jagħti ċertifikat li disposizzjoni li tkun ser issir hija awtorizzata u tiġi registrata jekk tiġi pprezentata;

(o) sabiex jiġi preskritti l-effett ta' avviżi ta' preċedenza u kawzjonijiet u inibizzjonijiet ta' preċedenza;

(p) sabiex jipprovdi liema prekawzjonijiet speċjali għandhom jittiehdu kontra qerq meta ċertifikat ta' art ma jkunx f'idejn is-sid ta' l-art registrata;

(q) sabfex id-disposizzjonijiet ta' dan l-Att dwar trasferiment ta' artijiet registrati jiġu adattati għal disposizzjonijiet oħra li jkunu awtorizzati li jsiru mis-sid;

(r) sabiex ikunu jistgħu jsiru reġistrazzjonijiet fir-reġistru malli xi interess ikun ċedut, spiċċa jew ġie sodisfatt mingħajr ma qabel jiġi reġistrat it-titolu għall-interess li jkun spiċċa.

58. (1) Il-Ministru jista', bi ftehim mal-Ministru responsabbli għall-finanzi, jagħmel ordnijiet dwar l-ammonti ta' drittijiet li għandhom jithallsu għal kull haġa li tkun saret jew għal kull servizz provdut taht dan l-Att. Drittijiet.

(2) L-ordnijiet dwar drittijiet li għandhom x'jaqsmu jew li huma inċidentali għar-reġistrazzjoni ta' titolu għandhom jiġu mibdula minn żmien għal żmien sabiex ihallu, kemm jista' jkun ammont biż-żejjed biex minnhom jithallsu s-salarji u l-ispejjeż l-oħra (magħduda l-kontribuzzjonijiet fis-sena fil-fond ta' assigurazzjoni) li huma inċidentali sabiex jaħdem dan l-Att.

Għanijiet u Raġunijiet

L-Għan ta' dan l-Abbozz huwa li bil-mod il-mod is-sistema preżenti ta' "reġistrazzjoni ta' atti" tinbidel f'sistema ġdida ta' "reġistrazzjoni ta' titolu għal art".

Is-sistema preżenti tipprovdi l-mezz għar-reġistrazzjoni, f'reġistru pubbliku, ta' l-atti kollha li jittrasferixxu proprjetà immobbli u jeddijiet reali fuq dik il-proprjetà. Ir-reġistrazzjoni ssir, u l-indiċi jinżamm b'riferenza għall-partijiet li jidhru fuq l-att; u tkun biċċa xogħol kbira u kull tant impossibbli, biex issir taf mir-reġistru, min hu sid ta' x'hiex u, anqas u anqas, id-dejn li jkun hemm fuq il-proprjetà. Barra minn hekk att mhux bilfors jittrasferixxi titolu, u għalhekk qatt ma tista' tkun ċert jekk il-persuna li favur tagħha jsir it-trasferiment tkunx fil-fatt is-sid tat-titolu li l-att ikun jidher li qed jittrasferixxi.

Sa ftit żmien ilu t-titoli għall-artijiet f'Malta kien iktar komplikat minhabba l-effett ta' l-ipoteka generali fuq l-immobbli. Din is-sistema ipotekarja tiddlet radikalment fl-1975. Bħala riżultat ta' dan it-tibdil, hliet għal ipoteki generali li kien hemm qabel u li l-effett tagħhom għal terzi persuni jispiċċa għal kollox fl-1985, ipoteki speċjali biss issa jistgħu jolqtu proprjetà trasferita mid-debitur.

Passi oħra li kienu ttieħdu sabiex titwitta t-triq għas-sistema l-ġdida ta' reġistrazzjoni ta' titolu kienu t-nehħija tal-jedd ta' l-irkupru u x-xoljiment tal-kuntratt tal-bejgħ minhabba leżjoni.

L-Abbozz għandu l-ħsieb li bis-sistema l-ġdida dak li jiġi reġistrat ma jkunx l-att li jittrasferixxi l-art iżda t-titolu għall-art u d-djun, il-jeddijiet, l-interessi u l-piżijiet li għalihom tkun sugġetta l-art. Dan kollu jkun jirriżulta minn ċertifikat li jggarantixxi t-titolu lis-sid tiegħu, titolu li għal kull fini Prattiku jkun assolut, kemm-il darba ċ-ċertifikat ma jkunx iġid xort'oħra. Għalhekk kull min jeżamina ċ-ċertifikati jkun jista' jgħid, mad-daqqa t'għajn, min huwa s-sid jew xort'oħra, f'idejn min hi l-art, taht liema titolu jew titoli, u d-djun eċċ. li għalihom tkun sugġetta l-art. Dejjem bla ħsara għal dawk il-prekawzzjonijiet li ma jistgħux jiġu evitati — bħalma huma dawk kontra l-qerq ta' persuna li tkun tidher fuq iċ-ċertifikat bħala li hi s-sid — iċ-ċertifikat ikun mera ta' dak kollu li jkollu x'jaqşam mal-proprjetà u li jkun jirreferi għaliha.

B'din il-garanzija sid ta' titolu jkun jista' jittrasferih kważi bl-istess faċilità qisu qed jittrasferixxi *shares* f'kumpannija.

Naturalment din is-sistema ma tistax tgħid li m'hijiex sugġetta għal żbalji umani. Izda wkoll dawn l-iżbalji ma jolqtux it-titolu muri fuq ir-registru u għalhekk ukoll fuq iċ-ċertifikat. Jekk jiġru dawn l-iżbalji, il-liġi proposta tippovdi għall-ħlas, minn fond imwaqqaf bil-liġi nnifisha, biex jaġmel tajjeb għal kull telf li jkun ġarrab.

Vantaġġ ieħor importanti tas-sistema l-ġdida huwa li l-art tiġi registrata b'riferenza, mhux għall-att u l-partijiet li jkunu jidhru fuqu, izda għall-mappa li turi l-post preċiż, is-sura, id-daqs u dettalji oħra importanti li jkollhom x'jaqsmu magħha u b'riferenza għan-numru tar-registrazzjoni tagħha, dan in-numru jkun ukoll in-numru taċ-ċertifikat tar-registrazzjoni.

Din is-sistema l-ġdida li hi komunement imsejha "registrazzjoni ta' titolu għal art" jew "registrazzjonijiet ta' l-artijiet" u wkoll, għalkemm b'mod anqas preċiż, bhala "is-sistema Torrens", ma għandhiex titħawwad mas-sistema magħrufa bhala "Cadastre", kelma franċiża li tfisser registru pubbliku tal-kwalità, valur u sidien tal-proprjetà immobilyari f'pajjiż, miġbura mill-istat għall-għanijiet tiegħu proprju, ġeneralment biex isservi bhala bazi għal taxxa. Is-sistema proposta bl-Abbozz għandha bhala l-għan ewlieni tagħha garanzija ta' titolu għas-sid registrat u biex l-art u l-bini jistgħu jiġu trasferiti aktar faċilment.

Is-sistema l-ġdida tidhol b'dak il-pass mgħaġġel li jkun iżomm it-temp taż-żmien meħtieġ biex jiġu eżaminati t-titoli għall-artijiet qabel ma dawn jiġu registrati. Wieħed iħoss li l-iqsar triq hi li jiġu speċifikati distretti u t-trasferimenti kollha (u indirettament ukoll it-trasmissjonijiet kollha li jgħaddu b'wirt) f'dawk id-distretti jkunu sugġetti għal registrazzjoni. Il-vantaġġ ewlieni ta' din il-proċedura hu li t-titolu ta' min jittrasferixxi, konsegwentement tal-persuna li lilha jkun sar it-trasferiment u li tapplika għar-registrazzjoni jkun diġà ġie eżaminat mill-konsulent legali ta' din il-persuna, u l-konferma tar-registratur normalment tkun haġa ta' rutina.

B'danakollu qed jiġi provdut ukoll biex issir registrazzjoni volontarja. Tabilhaqq, sakemm dan ikun jista' jsir minghajr ma johloq dewmien għar-registrazzjoni obligatorja, ir-registrazzjoni volontarja tkun imfiegġa sabiex it-titoli għall-artijiet kollha f'Malta u f'Għawdex ikunu registrati fl-iqsar żmien possibbli.

LAND REGISTRATION ACT, 1980

Arrangement of Sections

PART I

Preliminary

Section

1. Short title and commencement.
2. Interpretation.

PART II

Administrative Provisions

3. Land Registry.
4. Land Registrars and other officers.
5. Conduct of business of registration.
6. Power of registrars to summon witnesses and production of maps etc.
7. Departments may furnish information to registrar.
8. Exclusion of liability for acts done in good faith by registrars.
9. Seal of Land Registry.

PART III

Registration of Land

Compulsory Registration

10. Registration areas.
11. Inapplicability of other laws to registration areas.
12. Conveyance of land in registration area must be registered to become operative.
13. Duties of notaries public receiving acts affecting land in registration areas.
14. Registration of titles to land comprised in a succession.

Voluntary Registration

15. Voluntary registration of title to land.

Preliminaries to Registration

16. Duties of registrars.
17. Duties of applicant for registration.
18. Taxing of costs of registration.

Effects of Registration

19. How land may be registered.
20. Effects of registration with absolute title.

21. Effects of registration with possessory title.
22. Registration with a qualified title.
23. Persons entitled to be registered as proprietors of land.

PART IV

Dealings with Registered Land

Dispositions of Land

24. Transfer of registered land.
25. Disposition of registered land.

Charges on Land

26. Charges on registered land.
27. Registration of charges.
28. Charge effective only if protected.
29. Ranking of charges.
30. Transfer of charges.
31. Extention etc. of charges.

Transmission of Registered Land and Charges

32. Transmission of registered land and charges.

PART V

Cautions

33. Cautions against first registrations.
34. Cautions against dealings.
35. Appeal from registrar's decision.

PART VI

Land and Charge Certificates

36. Issue of land and charge certificates.
37. Certificates to be produced and noted on dealings.
38. Issue of new certificates.
39. Certificates to be evidence.
40. Where registered proprietors are more than one.

PART VII

General Provisions concerning Registration

41. Overriding interests.
42. Disposition by virtue of overriding interests.
43. Appurtenances.
44. Acquisition of land by prescription,

45. Interruptions of prescription to be noted on register.
46. Description of registered land.
47. Conversion of title into absolute.
48. Addresses for service and notices.

PART VIII

Rectification of Register and Indemnity

49. Rectification of the register.
50. Right to indemnity in certain cases.
51. Insurance fund.

PART IX

Miscellaneous Provisions

52. Inspection of register and copies.
53. Admissibility in evidence of office copies etc.
54. Suppression of documents or facts.
55. Fraudulent entries.
56. Penalty.

PART X

Rules and Fees Orders

57. Rules.
58. Fees.

PART VIII

Registration of Rights and Interests

PART IX

A BILL

entitled

AN ACT to establish a Land Registry to regulate the registration of titles to land, and to make provision for matters incidental thereto or connected therewith.

PART I — PRELIMINARY

Short title and commencement.

1. (1) This Act may be cited as the Land Registration Act, 1980.
- (2) This Act shall come into force on such date as the Minister responsible for lands may by notice in the Gazette appoint, and different dates may be so appointed for different provisions or for different purposes of this Act.

Interpretation.

2. In this Act, unless the context otherwise requires —
 - “Charge” means a special privilege over immovables and a special hypothec, including a special hypothec derived from a general hypothec whether legal, judicial or conventional;
 - “land” includes building and any other construction or works;
 - “land situated in a registration area” includes land to which this Act applies as if it were so situated;
 - “Land Registrar” means the public officer in charge of the Land Registry in accordance with section 4 of this Act;
 - “Minister” means the Minister responsible for lands;
 - “overriding interests” means the interests described as such in section 41 of this Act;
 - “prescribed” means prescribed by rules under this Act;
 - “register” means the register of title to land kept under this Act, and “registered” shall be construed accordingly;
 - “registrar” means the Land Registrar and any assistant registrar or other officer of the Land Registry authorized in that behalf by the Land Registrar;

"registration area" means any area in Malta declared by the Minister to be a registration area under section 10 of this Act;

"transfer", when used in relation to a charge, includes the subrogation in the right of the proprietor of the charge.

PART II — ADMINISTRATIVE PROVISIONS

3. (1) There shall be an office in Malta to be called the Land Registry for the purposes of registration of titles to land.

(2) The Land Registry shall consist of two branches, one in the island of Malta where the titles to land in that island shall be registered, and the other in Gozo where the titles to land in Gozo and Comino shall be registered.

4. (1) The business of the registry shall be conducted by a public officer who shall be appointed for that purpose and shall be known as the Land Registrar, with such officers (namely, assistant registrars, clerks and other employees) as may from time to time be deemed to be required.

(2) A person shall not be qualified to be appointed assistant registrar unless he is an advocate or a notary public or a legal procurator of not less than five years' standing.

(3) During any vacancy in the office of the Land Registrar all the functions, powers and authorities by this Act or by any other law assigned to or conferred on the Land Registrar shall be exercised by an assistant registrar designated by the Minister to act as Land Registrar and all acts done by an assistant registrar so designated shall have the same effect in all respects as if they had been done by the Land Registrar.

5. (1) Subject to the provisions of this Act, the Land Registrar shall conduct the whole business of registration under this Act and shall frame and cause to be printed, or otherwise reproduced and circulated or otherwise promulgated, such forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act.

(2) The Land Registrar may delegate to any assistant registrar all or any of his functions, powers or authorities assigned to or conferred on him by this Act or any other law, and may at any time revoke or vary such delegation:

Provided that no such delegation shall be deemed to divest the Land Registrar of any of his functions, powers or authorities and he may, if he thinks fit, exercise such functions, powers or authorities collaterally with the assistant registrar so delegated.

6. (1) The registrar may administer an oath or take a sworn declaration in pursuance of this Act for any of the purposes of this Act and may also, by summons under his signature require the attendance of all such persons as he may think proper in relation to the registration of any title; he may also, by like summons, require any person having the possession or custody of any map, survey, book or other document relating to land to produce such map, survey, book or other document for his inspection; and he may examine upon oath any person appearing before him and administer an oath accordingly.

(2) If any person, after the delivery to him of such summons as aforesaid, or of a copy thereof, wilfully neglects or refuses to attend in

Land Registry

Land Registrar
and other
officers.Conduct of
business of
registration.Power of
registrars to
summon
witnesses and
production of
maps etc.

pursuance of such summons, or to produce such maps, surveys, books or other documents as he may be required to produce under the provisions of this Act, or to answer upon oath or otherwise such questions as may be lawfully put to him by a registrar under the powers of this Act, he shall be liable on conviction by the Court of Magistrates of Judicial Police to a fine (*multa*) not exceeding one hundred pounds.

Departments
may furnish
information
to Registrar.

7. Notwithstanding the provisions of any law enjoining secrecy, a government department may furnish to the Land Registrar on his request such particulars and information in regard to land and charges as he is by law entitled to require owners of property to furnish to him direct.

Exclusion of
liability for
acts done in
good faith by
registrar.

8. (1) The Land Registrar shall not, nor shall an assistant registrar nor any person acting under the authority of the Land Registrar or an assistant registrar, or under any order or general rule made in pursuance of this Act, be liable in damages or otherwise, 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 of this Act, or any order or general rule made in pursuance of this Act.

(2) Without prejudice to the provisions of this Act relating to indemnity payable thereunder, the Government shall not be liable, in damages or otherwise, for anything done or omitted to be done under this Act.

Seal of Land
Registry.

9. There shall be a seal of the land registry and any documents purporting to be sealed with that seal shall be admissible in evidence and, unless the contrary is shown, shall be deemed, without further evidence, to be issued by or under the direction of the Land Registrar.

PART III — REGISTRATION OF LAND

Compulsory Registration

Registration
areas.

10. The Minister shall, from time to time, by order in the Gazette, declare areas in Malta to be registration areas, and shall define such areas by reference to a map included in the order and in such other manner as he may deem appropriate.

Inapplicability
of other laws
to registration
areas.

11. The provisions of section 1039 of the Civil Code and of section 237 of the Code of Organization and Civil Procedure, as well as any other provision of those Codes or of any other law which is inconsistent with this Act, shall cease to be operative in respect of land situated in any registration area, and in respect of land that has been registered.

Conveyance of
land in
registration area
must be
registered to
become
operative.

12. (1) In any registration area —

(a) every contract conveying the ownership of immovable property, or any real right over such property, or whereby any act having the effect of conveying the ownership of immovable property, or any real right over such property, is dissolved, rescinded or revoked, and every contract creating or varying any such right or whereby any such right is converted into any other of such rights

or is waived, and every contract whereby immovable property is partitioned, and every contract having a declaratory effect as to the ownership of, or any real right over immovable property, and every contract of antichresis; and

(b) every judgement whereby any act having the effect of conveying the ownership of immovable property, or any real right over such property, is dissolved, rescinded or revoked, or which directly adjudges the transfer of the ownership of immovable property or of any real right over such property, or which has the effect of creating a hypothec, and every hypothec arising by operation of law; and

(c) every conveyance of immovable property by judicial sale; in so far as the land comprised in the contract, judgement or judicial sale or affected by the hypothec, is situated within a registration area, shall, in no case, commence to be operative, with regard to third parties, until and unless the title to the land conveyed or affected, whether beneficially or adversely, by any contract, judgement, judicial sale or hypothec as aforesaid, is registered in the name of the person entitled thereto and an appropriate entry is made in the register of the manner (if any) in which such land is affected:

(2) The registrar may, in his discretion, likewise register the title to land situated outside a registration area and comprised in any contract, judgement or judicial sale as aforesaid or affected by any such hypothec as aforesaid and in any such case he shall make such entries in the register as are appropriate; and where land is so registered this Act shall apply thereto as if it were situated in a registration area.

13. (1) A notary public receiving any of the contracts referred to in paragraph (a) of subsection (2) of section 12 of this Act, and to which that section applies, shall within eighteen working days from the date of the deed, apply in the manner prescribed, for the registration of the title to the land affected and for the appropriate entries to be made in the register.

Duties of notaries public receiving acts affecting land in registration areas.

(2) If a notary public fails to comply with the requirements of this section, he shall, in addition to his liability for any damage that may have been sustained in consequence of his default, be liable, on conviction by the Court of Revision of Notarial Acts, to a fine (*ammenda*) not exceeding twenty pounds:

Provided that a notary public shall be deemed to have complied with the requirements of this section if, in the meantime, an application for registration as aforesaid shall have been filed in the registry by any party interested or by an advocate or legal procurator on behalf of any such party.

(3) Where under section 12 of this Act the title to land is to be registered and any entries in the register are to be made following a judgement or a judicial sale or a hypothec created by operation of law, application therefor may be made, in the manner prescribed, by any party interested or by an advocate, or a notary public or a legal procurator, on behalf of any such party:

Provided that no such application shall be entertained until it is certified by the Registrar of the Superior Courts that the judgement has become *res judicata* or that the adjudication is final,

Registration of titles to land comprised in a succession.

14. (1) On the opening of succession of any person, the title to land comprised in the transmission and situated in any registration area, shall be registered in the name of the persons in whose favour such land may have passed, on an application made in the prescribed manner, and any disposal or partition of such land or any dealing therewith shall be void until and unless the title thereto has been so registered.

(2) The registrar may in his discretion, extend the provisions of subsection (1) of this section to any land situated outside the aforesaid registration area and comprised in a transmission which includes land situated in the aforesaid registration area; and where that subsection is so extended the registrar shall register such land and this Act shall apply thereto as if it were situated in a registration area.

Voluntary Registration

Voluntary registration of title to land.

15. (1) Subject to such conditions and procedures as may be prescribed and without prejudice to the provisions of subsection (2) of section 12 and of subsection (2) of section 14 of this Act, the registrar may, in his discretion, and either on his own initiative or on an application in that behalf, register the title to any land, whether such land is or is not a registration area; and in any such case he shall make such entries as may be appropriate.

(2) Where land is registered by virtue of this section, this Act shall apply thereto as if it were situated in a registration area.

Preliminaries to Registration

Duties of registrar.

16. The examination by the registrar of any title under this Act shall be conducted in the manner prescribed:

Provided that —

(a) due notice shall be given, where the giving of such notice is prescribed, and sufficient opportunity shall be afforded to any persons desirous of objecting to state their objections to the registrar; and

(b) the registrar shall have jurisdiction to hear and determine any such objections subject to an appeal to the court in the prescribed manner on the prescribed conditions; and

(c) if the registrar, upon the examination of any title, is of the opinion that the title is open to objection, but is nevertheless a title the holding under which will not be disturbed, he may approve of such title, or may require the applicant to apply to the court, upon a statement signed by the registrar, for its sanction to the registration.

Duties of applicant for registration.

17. Before the completion of the registration of any title to land in respect of which an examination is required, the applicant for registration and his legal advisor shall each, if required by a registrar, make a sworn declaration that, to the best of his knowledge and belief, all deeds, wills and other documents and all charges and incumbrances affecting the title which is the subject of the application, and all facts material to such title, have been disclosed in the course of the investigation of title made by the registrar, and he may further be required by the registrar to state what means he has had of becoming acquainted with the several matters referred to in this section; and if the registrar is of opinion that any further or other evidence is necessary or desirable, he may refuse to complete the registration until such further or other evidence is produced.

18. (1) All costs, charges and expenses that are incurred by any party in or about any proceedings for registration shall, unless the parties agree otherwise, be taxed by the registrar who shall also, in his discretion, determine by order in writing the persons by whom and the proportions in which such costs, charges and expenses are to be paid, regard being had to the following provision, namely, that any applicant under this Act is liable *prima facie* to pay all costs, charges and expenses incurred by or in consequence of his application, except —

Taxing of costs of registration.

(a) in a case where parties object whose rights are sufficiently secured without their appearance; and

(b) where any costs, charges, or expenses are incurred unnecessarily or improperly.

(2) Any order made by the registrar under this section shall have the same effect as if the costs, charges or expenses had been taxed by the Registrar of the Superior Courts and shall likewise be subject to revision by the court.

Effects of Registration

19. Land may be registered with an absolute title or with a possessory title:

How land may be registered.

Provided that —

(i) where an absolute title is required the applicant shall not be registered as proprietor until and unless the title is approved by the registrar;

(ii) where a possessory title is required the applicant may be registered as proprietor on giving such evidence of title and serving such notices, if any, as may for the time being be prescribed;

(iii) if, on an application for registration with possessory title, the registrar is satisfied as to the title of the applicant, he may register it as absolute, whether the applicant consents to such registration or not.

20. The registration of any person as proprietor of land with an absolute title shall confer on the person so registered an indefeasible title thereto, that is to say a title not liable to be defeated except as provided in this Act, together with all rights, privileges and appurtenances belonging or appurtenant to the land, subject to the following rights and interests, that is to say —

Effects of registration with absolute title.

(a) subject to the incumbrances and other interests, if any, appearing on the register; and

(b) unless the contrary is expressed on the register, subject to such overriding interests, if any, as affect the registered land; and

(c) with regard to land held on emphyteusis, subject to all implied and express covenants, obligations and liabilities incident to the registered land;

but free from all other rights and interests whatsoever.

21. The registration of any person as proprietor of land with a possessory title only shall not affect or prejudice the enforcement of any rights or interest adverse to or in derogation of the title of the first registered proprietor and subsisting or capable of arising at the time of

Effects of registration with possessory title.

the first registration of the land; but, save as aforesaid, shall have the same effect as registration with an absolute title.

Registration with a qualified title.

22. (1) Where an absolute title is required, and on the examination of the title it appears to the registrar that the title can be established only for a limited period, or is subject to a condition or to certain reservations, the registrar may, by an entry made in the register, except from the effect of registration any right or interest arising before a specified date or under a specified instrument or otherwise particularly described in the register; and a title registered subject to such excepted right or interest shall be called a qualified title.

(2) The registration of a person as proprietor of land with a qualified title shall have the same effect as the registration of such person with an absolute title save that registration with a qualified title shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted.

Persons entitled to be registered as proprietors of land.

23. The following persons only may be registered as proprietors of land, that is to say —

(a) the owner, the dominus, the emphyteuta, the bare-owner, the usufructuary;

(b) the person in whom the absolute possession of the property of an absentee and the absolute exercise of the rights depending upon his death have been granted by a judgement or order of the court; and

(c) the competent authority holding land in use and possession or on public tenure, or any assignee of such rights, and the person entitled to the acquisition rent or the recognition rent:

Provided that the holder of a legal usufruct may not be registered as proprietor, but may have his interest protected on the register.

PART IV — DEALINGS WITH REGISTERED LAND

Dispositions of Land

Transfer of registered land.

24. (1) The proprietor may, subject to any entry in the register to the contrary, transfer the registered land or any part thereof in the same manner and to the same extent as if the land had not been registered.

(2) The transfer of registered rights over the land or part thereof shall be completed by the registrar entering on the register the transferee as the proprietor of the rights transferred or on application made in the prescribed manner; but until such entry is made the transferor shall remain the proprietor of the registered rights; and, where part only of the land is transferred, notice thereof shall also be noted on the register, or an application made as aforesaid.

(3) All interests transferred or created by dispositions by the proprietor, other than a transfer of the registered rights over the land, or part thereof, shall, subject to the provisions relating to charges, be completed by registration in the same manner and with the same effect as provided by this Act with respect to transfers of registered rights and notice thereof shall also be noted on the register:

Provided that nothing in this subsection shall authorise the registration of a lease or shall render necessary the registration of any

easement except as appurtenant to registered land or the entry of notice thereof except as against the registered title of the servient land.

25. (1) A disposition of land registered with an absolute title, or of any right thereon in respect of which the holder may be registered as proprietor, shall, when registered, confer on the person in whose favour the disposition is made an indefeasible title thereto, that is to say a title not liable to be defeated except as provided in this Act, together with all rights, privileges and appurtenances belonging or appurtenant to the land, subject —

Disposition of
registered
land.

(a) to the incumbrances and other interests, if any, appearing on the register; and

(b) unless the contrary is expressed on the register, to the overriding interests, if any, affecting the land or right transferred or created; and

(c) with regard to land held on emphyteusis, to all implied and express covenants, obligations and liabilities incident to the land or right transferred or created;

but free from all other interests whatsoever.

(2) A disposition of land registered with a qualified title, or of any right thereon in respect of which the holder may be registered as proprietor, shall, when registered, have the same effect as it would have had if the land had been registered with an absolute title, save that such disposition shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted.

(3) A disposition of land registered with a possessory title, or of any right thereof in respect of which the holder may be registered as proprietor, shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered proprietor and subsisting or capable of arising at the time of the registration of such proprietor; but, save as aforesaid, shall, when registered, have the same effect as it would have had if the land had been registered with an absolute title.

Charges on Land

26. (1) The proprietor of registered land may, subject to any entry in the register to the contrary, charge the registered land in the same manner and to the same extent as if the land had not been registered; and registered land may be charged by operation of law or of a judgement in the same manner and to the same extent as if the land had not been registered:

Charges on
registered
land.

Provided that a charge shall not be registered unless the land comprised in the charge is, in the deed or other document creating the charge or required for the registration of a charge created by operation of law or of the judgement, described by reference to the register or in any other manner sufficient to enable the registrar to identify the same without reference to any other document.

(2) Any provision contained in a charge which purports to —

(a) take away from the proprietor thereof the power of transferring it by registered disposition or of requiring the cessation thereof to be noted on the register; or

(b) affect any registered land other than that in respect of which the charge is to be expressly registered, shall be void.

Registration of charges.

27. (1) The charge shall be completed by the registrar entering on the register the person in whose favour the charge is to subsist as the proprietor of such charge, and the particulars of the charge.

(2) When the land in respect of which a charge is registered, is registered with a qualified or a possessory title, the charge shall take effect subject to the provisions of this Act with respect to land registered with such a title.

Charge effective only if protected.

28. A charge shall not affect a person acquiring any registered land or right thereon unless the charge is protected by an entry on the register.

Ranking of charges.

29. Subject to the provisions established by law and to any entry to the contrary on the register, registered charges on the same land shall, as between charges of the same kind and not enjoying any intrinsic priority, rank according to the order in which they are entered on the register, and not according to the order in which they are created.

Transfer of charges.
Cap. 93

30. (1) A registered charge may be transferred in the same manner and to the same extent as if it were a charge registered under the provisions of the Public Registry Act.

(2) The transfer shall be completed by the registrar entering on the register the transferee as proprietor of the charge transferred, or of so much of the charge as is transferred, but the transferor shall be deemed to remain proprietor of the charge until the name of the transferee is entered on the register in respect thereof.

Extinction etc. of charges.

31. The registrar shall, on the requisition of the proprietor of any charge, or on due proof of the satisfaction or extinction, whole or partial, thereof, notify on the register in the prescribed manner, by cancelling or varying the original entry or otherwise, the cessation, whole or partial, of the charge, and thereupon the charge shall be deemed to have ceased, in whole or in part, accordingly.

Transmission of Registered Land and Charges

Transmission of registered land and charges.

32. (1) On the opening of succession of the sole proprietor or of anyone of the proprietors, the successor or successors shall be entitled to be registered as proprietor or proprietors in his place.

(2) The fact of any person having become entitled to any registered land or charge in consequence of the opening of succession of any proprietor shall be proved in such manner as the registrar may determine.

(3) The registration of a successor in place of the proprietor under this section may be made with a qualified title even if the land is registered with an absolute title.

(4) Subject as aforesaid, provision may be made by rules for the manner in which effect is to be given to transmissions on death or on the taking of religious vows.

PART V — CAUTIONS

33. (1) Any person having or claiming such an interest in land not already registered as entitles him to object to the registration of a right over the land affecting the interest of the cautioner may lodge a caution with the registrar to the effect that no registration of such right is to be made until notice has been served upon the cautioner.

Cautions
against first
registrations.

(2) The caution shall be supported by a sworn declaration stating the nature of the interest of the cautioner, the land and right thereon to be affected by such caution, and such other matter as may be prescribed.

(3) After any such caution against registration has been lodged in respect of land not already registered, registration shall not be made of such right until notice has been served on the cautioner to appear and oppose, if he thinks fit, such registration, and the prescribed time has elapsed since the date of the service of such notice, or the cautioner has entered an appearance, whichever may first happen.

34. (1) Any person —

(a) having or claiming an unregistered real right over land registered in the name of any other person; or

(b) who has lodged a demand for the declaration of bankruptcy of a registered proprietor of land or of a charge; or

(c) who has lodged a demand for the interdiction or incapacitation of a registered proprietor of land or of a charge; or

(d) who, being the wife of a registered proprietor of land or of a charge, has lodged a demand for the cessation of the community of acquests comprising such land or charge;

may lodge a caution with the registrar to the effect that no disposition of such land or charge on the part of the proprietor is to be registered until notice has been served upon the cautioner.

Cautions
against
dealings.

(2) The caution shall be supported by a sworn declaration stating the nature of the interest of the cautioner, the land to be effected by such caution, and such other matters as may be prescribed.

(3) After any such caution against dealings has been lodged in respect of any registered land or charge, the registrar shall not, without the consent of the cautioner, register any disposition or make any entry on the register for protecting the rights acquired under any dealing by the proprietor with such land or charge until he has served notice on the cautioner, warning him that his caution will cease to have any effect after the expiration of the prescribed number of days next following the date at which such notice is served; and after the expiration of such time as aforesaid the caution shall cease unless an order to the contrary is made by the registrar, and upon the caution so ceasing the registered land or charge may be dealt with in the same manner as if no caution had been lodged.

(4) If, before the expiration of the said period, the cautioner, or some person on his behalf, appears before the registrar, and, where so required by the registrar, gives sufficient security to indemnify every party against any damage that may be sustained by reason of any dealing with the registered land or charge, or the making of such entry as aforesaid, being delayed, the registrar may thereupon, if he thinks fit to do so and after giving any directions he may deem necessary or expedient, delay registering any dealing with the land or charge or making any such entry for such period as he thinks just.

Appeal from registrar's decision.

35. (1) Any person aggrieved by any act done by the registrar in relation to a caution under this Act may appeal to the Court of Appeal in the prescribed manner.

(2) A caution lodged in pursuance of this Act shall not prejudice the claim or title of any person and shall have no effect whatever except as in this Act mentioned.

(3) If any person lodges a caution with the registrar without reasonable cause, he shall be liable to make to any person who may have sustained damage by the lodging of the caution such compensation as may be just.

(4) Saving the provisions of the last foregoing subsection, a cautioner may apply to withdraw a caution at any time.

PART VI — LAND AND CHARGE CERTIFICATES

Issue of land and charge certificates.

36. (1) On the first registration of a right over land in respect of which the holder may be registered as a proprietor, and on the registration of a charge, a land certificate or charge certificate, as the case may be, shall be prepared in the prescribed form; it shall state whether the title is absolute, qualified or possessory and it shall be either delivered to the proprietor or deposited in the registry as the proprietor may prefer.

(2) If so deposited in the registry it shall be officially endorsed from time to time, as in this Act provided, with notes of all subsequent entries in the register affecting the registered land or charge to which it relates.

(3) The proprietor may at any time apply for the delivery of the certificate to himself or to such person as he may direct, and may at any time so deposit it in the land registry.

(4) The preparation, issue, endorsement, and deposit in the registry of the certificate shall be effected without cost to the proprietor.

Certificates to be produced and noted on dealings.

37. (1) So long as a land certificate or charge certificate is outstanding, it shall be produced to the registrar —

(a) on every entry in the register of a disposition by the proprietor of the registered land or charge to which it relates; and

(b) on every entry under this Act of any right adversely affecting the title of the proprietor of the registered land or charge; and

(c) on every registered transmission.

(2) A note of every such entry or transmission shall be officially entered on the certificate and the registrar shall have the same powers of compelling the production of certificates as are conferred on him by this Act as to the production of maps, surveys, books and other documents.

(3) On completion of the registration of a transferee, or grantee, or successor of any registered land or charge, the registrar shall deliver to him a land certificate or charge certificate, and, where part only of the land is dealt with, shall also deliver to the transferor or grantor a land certificate containing a description of the land retained by him.

(4) Where a title to land is acquired by prescription, or pursuant to an order of a court of competent jurisdiction, or to a judicial

sale, or to a declaration made by the President under the Land Acquisition (Public Purposes) Ordinance, the acquisition may be registered, and a new land certificate may be issued to the acquirer, without production of the former land certificate (when not deposited at the registry).

Cap. 136

(5) A charge certificate shall not be issued unless a note of the charge has been officially entered on the land certificate of the registered land affected by that charge.

38. (1) The registrar may, when a land certificate or charge certificate is produced to him, grant a new land certificate or charge certificate in the place of the one produced.

Issue of new certificates.

(2) A new land certificate or charge certificate may be issued in place of one lost or destroyed, or in the possession of a person out of the jurisdiction of the courts of Malta, on such terms as to advertisement, notice, or delay as may be prescribed.

39. Any land certificate or charge certificate shall be admissible as evidence of the several matters therein contained, as provided in section 627 of the Code of Organization and Civil Procedure.

Certificates to be evidence.

Cap. 15

40. Notwithstanding anything contained in this Act, where more than one person are registered as proprietors of land or of a charge, the land certificate or charge certificate shall be delivered only to a person appointed by all the proprietors or, in defect of agreement, by the court of competent jurisdiction; and until a person is so appointed, the certificate shall be kept deposited in the registry.

Where registered proprietors are more than one.

PART VII — GENERAL PROVISIONS CONCERNING REGISTRATION

41. (1) All registered land shall, unless under the provisions of this Act the contrary is expressed on the register, be deemed to be subject to such of the following overriding interests as may be for the time being subsisting in reference thereto, that is to say —

Overriding interests.

- (a) easements;
- (b) tithes and other burdens;
- (c) rights acquired or in the course of being acquired by prescription, or through forfeiture or as *bona vacantia*;
- (d) the rights of every person in actual occupation of the land, save where enquiry by means of a judicial act is made of such person and the rights are not disclosed;
- (e) in the case of a possessory or a qualified title, all rights, interests and powers excepted from the effect of registration;
- (f) the rights of the Government to and over minerals established or protected by law;
- (g) leases;
- (h) general privileges, general hypothecs and the benefit of separation of estates duly registered under the laws in force at the time such rights may have arisen;
- (i) the rights of the competent authority acquired under the Land Acquisition (Public Purposes) Ordinance unless and until registered or protected on the register in the prescribed manner;
- (j) shooting and similar rights;

(k) legal usufructs unless and until they are protected on the register in the prescribed manner;

(1) the rights of the heirs of a predeceased spouse over property comprised in the community of acquests and registered in the name of the other spouse:

Provided that, where it is proved to the satisfaction of the registrar that any land registered or about to be registered is free from easements or free from tithes and other burdens, the registrar may notify the fact on the register in the prescribed manner.

(2) Where at the time of first registration any easement or other real right or any tithes or burdens created by a public deed or by a will and duly registered under the laws in force at the time such rights may have arisen, adversely affect the land, the registrar shall enter a note thereof on the register.

(3) Where the existence of an overriding interest mentioned in this section is proved to the satisfaction of the registrar or admitted, he may (subject to any prescribed exceptions) enter notice of the same, or a claim thereto on the register, but no claim to an easement not created by a public deed shall be noted against the title to the servient land if the proprietor of such land (after the prescribed notice is given to him) shows sufficient cause to the contrary.

Disposition by
virtue of
overriding
interests.

42. Where by virtue of any interest or power which is an overriding interest a person disposes or causes the disposal of any right over registered land, and the disposition is capable of being registered, or has such an interest in land as is capable of being registered, the registrar shall, if so required, give effect to the disposition or the interest on the register.

Appurtenances.

43. If before the registration of any interest in land with an absolute title any easement or other right has been acquired for the benefit thereof, then, on such registration, the easement or right shall, subject to an entry to the contrary on the register, become appurtenant to the registered land in like manner as if it had been granted to the proprietor who is registered as aforesaid.

Acquisition of
land by
prescription.

44. (1) Any person claiming to have acquired by prescription a title to land registered in the name of another person may apply to be registered as proprietor thereof.

(2) The registrar shall, on being satisfied as to applicant's title, enter the applicant as proprietor with absolute, qualified or possessory title, as the case may require, but without prejudice to any right or interest protected by an entry on the register which may have not been extinguished by prescription; and such registration shall, subject as aforesaid, have the same effect as the registration of a first proprietor; but the proprietor or the applicant or any other person interested may apply to the court for the determination of any question arising under this section.

(3) The provisions of this section may be applied, subject to the necessary modifications, to cases where an easement or other real right has been acquired by prescription.

(4) The provisions of this section may also be applied with the necessary modifications to cases where a title to land is acquired by the Government through forfeiture or as *bona vacantia*.

45. Any act capable of interrupting the running of prescription in relation to registered land, or to a registered charge, or to a debt protected by a registered charge or by a right which is an overriding interest in registered land, shall not affect an acquirer of any interest in such land unless and until notice thereof is noted on the register on an application made in the prescribed manner.

Interruptions of prescription to be noted on register.

46. Registered land may be described —

Description of registered land.

(a) by means of a verbal description and a field plan or general map, based on the official map of the land registry; or

(b) by reference to a deed or other documents, a copy or extract whereof is filed at the registry, containing a sufficient description and a plan or map thereof; or

(c) otherwise as the applicant for registration may desire, and the registrar, may approve;

regard being had to ready identification of parcels, correct description of boundaries, and, so far as may be, uniformity of practice; but the boundaries of all land and all requisite details in relation to the same shall, whenever practicable, be entered on the register or filed plan, or general map, and the filed plan, if any, or general map shall be used for assisting the identification of land.

47. (1) Where the registrar is satisfied as to the title to land registered with a qualified or possessory title, either as a result of the additional evidence produced to him or otherwise in his possession, or as a result of the lapse of time, or as a result of both, he may, after giving such notices, if any, as may be prescribed, register it at any time as absolute, whether the proprietor consents to such registration or not, but, unless the registration is made at the request of the proprietor, without charging any fee therefor.

Conversion of title into absolute.

(2) If any claim adverse to the title of the proprietor has been made, an entry shall not be made on the register under this section unless and until the claim has been disposed of.

(3) Any person, other than the proprietor, who suffers loss by reason of any entry on the register made by virtue of this section shall be entitled to be indemnified under this Act as if a mistake had been made in the register.

48. (1) Every person whose name is entered on the register as proprietor of any registered land or charge, or as cautioner, or as entitled to receive any notice, or in any other character, shall furnish to the registrar a place of address in Malta.

Addresses for service and notices.

(2) Every notice by this Act required to be given to any person shall be served personally, or sent through the post in a registered letter marked outside "Land Registry", and directed to such person at the address furnished to the registrar and, unless returned, shall be deemed to have been received by the person addressed within such period, not less than three days, exclusive of the day of posting, as may be prescribed.

(3) The Postmaster General shall give directions for the immediate return to the registrar of all letters marked as aforesaid, and addressed to any person who cannot be found and on the return of any letter containing any notice, the registrar shall act in the matter requiring such notice to be given in such manner as may be prescribed.

(4) An acquirer of an interest in registered land shall not be affected by the omission to send any notice by this Act directed to be given or by the non-receipt thereof.

PART VIII — RECTIFICATION OF REGISTER AND INDEMNITY

Rectification
of the
register.

49. (1) The register may be rectified pursuant to an order of a court of competent jurisdiction or by the registrar, subject to an appeal to the Court of Appeal, in any of the following cases, but subject to the provisions of this section:

(a) Subject to any express provision of this Act to the contrary, where a court of competent jurisdiction has adjudged that any person is entitled to any right or interest in or to any registered land or charge, and as a consequence of such decision such court is of opinion that a rectification of the register is required, and makes an order to that effect;

(b) Subject to any express provision in this Act to the contrary, where the Court of Appeal, on the application in the prescribed manner of any person who is aggrieved by an entry made in, or by the omission of an entry from, the register, or by any default being made, or unnecessary delay taking place, in the making of an entry in the register, makes an order for the rectification of the register;

(c) In any case and at any time with the consent of all persons interested;

(d) Where a court of competent jurisdiction or the registrar is satisfied that an entry in the register has been obtained by fraud or violence and in the case of the court, an order is made for the rectification of the register;

(e) Where two or more persons, not being jointly entitled thereto, are, by mistake, registered as proprietors of the same right over registered land or of the same charge;

(f) In any other case where, by reason of any error or omission in the register, or by reason of any entry made under a mistake, it may be deemed just to rectify the register.

(2) The register may be rectified under this section notwithstanding that the rectification may affect any rights, charges or interests acquired or protected by registration, or by any entry on the register, or otherwise.

(3) The register shall not be rectified, except for the purpose of giving effect to an overriding interest, so as to affect the title of the proprietor who is in possession —

(a) unless such proprietor is a party or privy or has caused or substantially contributed, by his act, neglect or default, to the fraud, violence, mistake or omission in consequence of which such rectification is sought; or

(b) unless the immediate disposition to him was void, or the disposition to any person through whom he claims otherwise than under an onerous title was void; or

(c) unless for any other reason, in any particular case, it is considered that it would be unjust not to rectify the register against him.

(4) The registrar shall obey the order of any court of competent jurisdiction in relation to any registered land on being served with the judgement or an official copy thereof accompanied by a statement by the registrar of the court certifying that the judgement has become *res judicata*.

(5) A court shall not make an order for the rectification of the register unless the Land Registrar is a party to the proceedings in respect of which the order is made.

(6) Except for the purpose of giving effect to an overriding interest, no entry in the register shall be rectified after the lapse of ten years from the date on which it is made:

Provided that nothing in this subsection shall be construed as affecting the right of any person to claim damages from any person liable thereto.

(7) On every rectification of the register the land certificate and any charge certificate which may be effected shall be produced to the registrar unless an order to the contrary is made by him.

50. (1) Subject to the provisions of this Act to the contrary, any person suffering loss by reason of any rectification of the register under this Act shall be entitled to be indemnified under this Act.

Right to
indemnity in
certain cases.

(2) Where an error or omission has occurred in the register, but the register is not rectified, any person suffering loss by reason of such error or omission, shall, subject to the provisions of this Act, be entitled to be indemnified under this Act.

(3) Where any person suffers loss by reason of the loss or destruction of any document lodged at the registry for inspection or safe custody or by reason of an error in any official search, he shall be entitled to be indemnified under this Act.

(4) Subject as hereinafter provided, a proprietor of any registered land or charge claiming in good faith under a forged disposition shall, where the register is rectified, be deemed to have suffered loss by reason of such rectification and shall be entitled to be indemnified under this Act.

(5) No indemnity shall be payable under this Act in any of the following cases:

(a) Where the applicant has himself caused or substantially contributed to the loss by his fraud or violence, or derives title (otherwise than under a disposition under an onerous title which is registered or protected on the register) from a person so committing fraud or violence;

(b) Where the register is not rectified in accordance with subsection (6) of section 50 of this Act;

(c) Where the register is rectified to give effect to an overriding interest;

(d) On account of costs incurred in taking or defending any legal proceedings without the consent of the registrar.

(6) Where an indemnity is paid in respect of the loss of a right over or an interest in or a charge on land, the amount so paid shall not exceed —

(a) where the register is not rectified, the value of the right, interest or charge at the time when the error or omission which caused the loss was made;

(b) where the register is rectified, the value (if there had been no rectification) of the right, interest or charge, immediately before the time of rectification.

(7) The registrar may, if the applicant desires it, and subject to an appeal to the Court of Appeal, determine whether a right to indemnity has arisen under this section, and, if so, award indemnity. In the event of an appeal to the court the applicant shall not be required to pay any costs except his own, even if unsuccessful, unless the court considers that the appeal is unreasonable.

(8) In granting any indemnity the registrar may have regard to any costs and expenses properly incurred in relation to the matter, and may add the same to the amount of the indemnity money which would otherwise be payable.

(9) Where indemnity is paid for a loss, the registrar, on behalf of the Government, shall be entitled to recover the amount paid from any person who has caused or substantially contributed to the loss by his fraud, violence, negligence or default, and shall be entitled to enforce any express or implied covenant, warranty or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which indemnity has been paid.

(10) Any claim to indemnity under this Act shall be enforceable only if made within five years from the date on which the right to indemnity arises, and such period shall run against all persons:

Provided that where the person entitled to indemnity is a minor the claim by him may be made within two years from the time he attains majority or within five years from the date on which the right to indemnity arises, whichever may be the later date.

(11) This section applies to the Government in like manner as it applies to a private person.

Insurance fund.

51. (1) There shall be an insurance fund to meet claims for indemnity payable under this Act.

(2) There shall be set aside and paid into the said fund at the end of each financial year such portion of the receipts from the fees taken in the registry under this Act as the Minister responsible for finance may by order determine.

(3) The insurance fund shall be invested in such names and manner as the said Minister may from time to time direct.

(4) If the insurance fund is at any time insufficient to pay indemnity for any loss chargeable thereon, the deficiency shall, by virtue of this Act and without further assurance, be charged on and paid out of the Consolidated Fund; but any sum so paid out of the Consolidated Fund shall be repaid out of the money subsequently standing to the credit of the insurance fund.

(5) Accounts of the fund shall be kept and be audited as public accounts, in accordance with such regulations as the Minister responsible for finance may from time to time make.

PART IX — MISCELLANEOUS PROVISIONS

52. (1) Any person may, on payment of the prescribed fee, inspect any register or document in the custody of the registrar relating to any registered land or charge.

Inspection of register and copies.

(2) Any person may, on payment of the prescribed fee, require the registrar to make copies of and extracts from any register or document in the custody of the registrar relating to any registered land or charge.

53. Office copies of and extracts from the register, and of and from documents and plans filed in the registry, shall be admissible in evidence in all actions and matters, and between all persons and parties, to the same extent as the originals would be admissible, but any person suffering loss by reason of the inaccuracy of any such copy or extract shall be entitled to be indemnified under this Act, and no person shall be answerable in respect of any loss occasioned by relying on any such copy or extract.

Admissibility in evidence of office copies etc.

54. If in the course of any proceedings before the registrar or a court in pursuance of this Act any person, with intent to conceal the title or claim of any person, or to substantiate a false claim, suppresses, attempts to suppress, or is privy to the suppression of, any document or fact, the person so suppressing, attempting to suppress, or privy suppression, shall be guilty of an offence.

Suppression of documents or facts.

55. (1) If any person fraudulently procures, or attempts fraudulently to procure, or is privy to the fraudulent procurement of, any entry on, erasure from or alteration of the register, or any land or charge certificate shall be guilty of an offence.

Fraudulent entries.

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

56. A person guilty of an offence under this Act shall, on conviction, be liable to imprisonment for a term not exceeding four years or to a fine (*multa*) not exceeding five thousand pounds, or to both such imprisonment and fine.

Penalty.

PART X — RULES AND FEES ORDERS

57. (1) Subject to the provisions of this Act, the Minister may make general rules for the purpose of regulating the manner, procedure or conditions in which or under which the provisions of this Act are to be carried out, for the purpose of regulating such matters as are by this Act required or authorized to be prescribed, or in respect of which provision is to be made by rules and generally for the purpose of regulating any matter connected with the establishment and management of a land registry and the registration of title to land.

Rules.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, rules made under this section may also be made for all or anyone or more of the following purposes:

(a) for regulating the mode in which the register is to be made and kept;

(b) for prescribing the forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be adduced in all proceedings before the registrar or in connection with registration;

(c) for regulating the procedure on application for first registration;

(d) for enabling registration with a possessory title to be provisionally effected pending the investigation of the title;

(e) for regulating the custody of any documents from time to time coming into the hands of the registrar, with power to direct the destruction of any such documents where they have become altogether superseded by entries in the register, or have ceased to have any effect;

(f) for carrying out the provisions of this Act with respect to compulsory registration;

(g) for the conduct of official searches against cautions, inhibitions, and such matters of a like nature as may be prescribed;

(h) for allowing the insertion in the register, and in land certificates, of the price paid or value declared on first registrations, transfers, and transmissions of land;

(i) for giving notice on land certificates of the general effect of registration;

(j) for the registration, by way of notice, on the first registration of the land, of any easement, right, or privilege, created by an instrument and operating at law which appears to affect adversely the land, and so far as practicable by reference to the instrument creating the same;

(k) for enabling any person who acquires any such easement, right, or privilege, after the date of first registration of the land, to require (subject to notice being given to the owner of the servient land) entry to be made in the register of notice of the same, and so far as practicable by reference to the instrument creating the right;

(l) for enabling the first or any subsequent proprietor to require that notice of his title to any such right or interest, whether acquired under an instrument or by prescription or otherwise, entered on the register, and, so far as practicable, by reference to the instrument (if any) creating the right or interest, and for prescribing the effect of any such entry;

(m) for regulating the issue and forms of certificates, and, if deemed desirable, for prescribing any special notification on the certificate to be given by way of warning when incumbrances, notices, and other adverse entries appear on the register;

(n) for providing for the cases in which the registrar may grant a certificate that an intended disposition is authorised and will be registered if presented;

(o) for prescribing the effect of priority notices and of priority cautions and inhibitions;

(p) for providing any special precautions to be taken against forgery when the land certificate is not in the possession of the proprietor of the registered land;

(q) for adapting the provisions of this Act relating to transfers of registered land to other dispositions authorised to be made by a proprietor;

(r) for enabling entries to be made in register on the surrender, extinguishment or discharge of any subsisting interest without previously registering the title to the interest which is merged or extinguished.

58. (1) The Minister may, with the concurrence of the Minister responsible for finance, make orders with respect to the amount of fees payable under this Act. Fees.

(2) The fee orders relating and incidental to registration of title shall be arranged from time to time so as to produce, as far as practicable, an amount sufficient to discharge the salaries and other expenses (including the annual contributions to the insurance fund) incidental to the working of this Act.

Objects and Reasons

The Object of the Bill is gradually to replace the present system of "registration of deeds" by a new system of "registration of title to land".

The current system provides the means for the registration, in a public registry, of all deeds conveying immovable property and of real rights on such property. The registration is made, and the index is kept, by reference to the parties to the deed; and it is very cumbersome, often impossible, to find out, from the registry, who owns what and, more so, the liabilities that attach to the property. Moreover a deed does not necessarily transfer title, and there is therefore no certainty that the transferee is in fact the proprietor of the title which the deed purports to transfer.

Until recently the title to land in Malta was further complicated by the effect of general hypothecs on immovables. It will be recalled that the hypothecary system was radically changed in 1975. As a result of those changes, except for previous general hypothecs the effect of which on third parties will cease completely in 1985, only special hypothecs can now affect property transferred by the debtor.

Other steps previously taken to pave the way for the new system of registration of title were the abolition of the right of pre-emption and the dissolution of the contract of sale on the ground of lesion.

Under the system which the Bill proposes to introduce, what will be registered is not the deed conveying the land but the title to the land and the charges, rights, interest and incumbrances to which the land may be subject. All these will result from a certificate which assures to the proprietor of the title a security of tenure which for most practical purposes will be absolute, unless the certificate otherwise specifies. Consequently anyone examining the certificates can see at a glance, who owns or otherwise holds the land, under what title or titles, and the charges etc. to which the land is subject. Subject to certain inevitable precautions — such as those against the fraud of the person appearing on the certificate to be a proprietor — the certificate is a mirror of all that matters concerning the property to which it relates.

This security enables the proprietor of the title to transfer it with practically the same ease as if he were transferring shares in a company.

The system is, of course, not immune to human error. But even these errors do not affect the title shown on the register and consequently on the certificate. Where

such mistakes do happen, the proposed law will provide for the payment, out of a fund established by the law itself, of an indemnity for any loss sustained.

Another important advantage of the new system is that land is registered by reference, not to a deed and the parties to it, but to a map showing the location, configuration, size and other important data concerning it and to its number of registration, the latter being also the number of the certificate of registration.

This new system, which is indifferently described as "registration of title to land" or "land registration" and also, though less accurately, as the "Torrens system", is not to be confused with the system known as "Cadastre", a french system meaning a public register of the quality, value and ownership of the immovable property in a country, compiled by the state for its own purposes, mainly to serve as a basis for taxation. The system the Bill proposes to introduce has as its main purpose a guaranteed security of tenure for the registered proprietor and ease of conveyancing of immovable property.

The new system will be introduced with a speed compatible with the time necessary for the examination of titles to land prior to their registration. It is felt that the quickest way is to designate specific areas and to subject all conveyancing (and indirectly also all transmissions by succession) in that area to registration. The main advantage of this procedure is that the title of the transferor and consequently that of the transferee who applies for registration will have already been examined by the latter's legal advisor, and its confirmation by the Registrar will normally be a matter of routine.

Provision is, however, also being made for voluntary registration. Indeed in so far as this can be done without delaying registration where this is compulsory, voluntary registration will be encouraged in order that the titles to all land in Malta and Gozo will be registered in the shortest possible time.