



ST. CHRISTOPHER AND NEVIS

CHAPTER 10.19

TITLE BY REGISTRATION ACT

Revised Edition

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TITLE BY REGISTRATION ACT

Act 1 of 1886 ... in force 1st February 1887

Amended by: Act 3 of 1971

Act 7 of 1976

Act 10 of 1984

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CHAPTER 10.19
TITLE BY REGISTRATION ACT

AN ACT TO MAKE PROVISION FOR THE ISSUE OF INDEFEASIBLE CERTIFICATES OF TITLE IN RESPECT TO LANDS BROUGHT UNDER THE OPERATION OF THIS ACT; AND TO MAKE PROVISION FOR RELATED OR INCIDENTAL MATTERS.

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Title by Registration Act.

Interpretation.

2. (1) In this Act—
“first” when used in relation to a certificate of title, means the first certificate of title issued under this Act in respect of the land comprised in the certificate;
“First Schedule,” “Second Schedule,” “Third Schedule” “Fourth Schedule” and “Fifth Schedule” mean respectively the First, Second, Third, Fourth and Fifth Schedule to this Act.
(2) Lands shall be deemed to be brought under the operation of this Act from the time when a first certificate of title is issued in respect of them.
(3) Whenever any of the expressions defined in the First Schedule occurs in this Act, it shall, unless the context otherwise requires, have the meaning assigned to it in the said Schedule.
(4) A Judge may do in Chambers any act which the Court is by this Act authorised to do.
(5) Whenever it is provided by this Act that an instrument shall be in a specified form, it shall be understood to mean that the instrument shall be in that form, or as near thereto as the circumstances admit.

PART II
INDEFEASIBLE CERTIFICATES OF TITLE

Certificate of title.

3. (1) The title to lands brought under the operation of this Act shall consist of a certificate of title in Form 4 in the Second Schedule, to be issued in duplicate by the Registrar of Titles for the Circuit in which the lands are situate, according to the provisions hereinafter contained, and such certificate of title shall be registered by placing one duplicate, in the order of its date, in the current volume of the register for the Circuit.

(2) The current volumes for each Circuit shall be bound annually, or at such times as the Registrar of Titles for the Circuit, with the approval of the Chief Justice as ex officio Keeper of the Records, may determine, and shall be carefully preserved.

(3) The other duplicate shall be handed over to the registered proprietor, who shall be bound to produce the same whenever he or she desires thereafter to transfer or otherwise deal with the land.

(4) Before the issue of a certificate of title, the Registrar of Titles shall note thereon in a brief, clear and legible manner, following the form of note set forth on Form 4 in the Second Schedule, all mortgages and encumbrances affecting the lands, in the order of their dates.

(5) The Registrar of Titles shall also number each certificate of title as a folium of the current volume and place a corresponding number upon the duplicate delivered to the registered proprietor, and when more than one person is named as registered proprietor, the duplicate shall be delivered to the person first named.

On issue of certificate of title former deeds to cease to have effect, and to be kept by Registrar.

4. The date of every first certificate of title shall be the day and hour at which the Registrar of Titles shall place the certificate of title in the current volume, up to which period of time the former title shall be held to continue to exist, and immediately after to cease and determine, and all deeds upon which the land to which the certificate of title relates had been theretofore held, or by which any mortgages or encumbrances upon the land were shown to exist, shall cease to have any force or effect, and shall be preserved in the custody of the Registrar of Titles, or in such manner as the Chief Justice, in his or her capacity of Keeper of the Public Records, shall, under the provisions of the Registration and Records Act, Cap. 23.25 from time to time direct.

Dealings with lands brought under this Act.

5. (1) From and after the time when any land is brought under the operation of this Act, all dealings with such land shall be in the forms and governed by the principles set forth in this Act, and all such dealings shall take effect from the date and act of registration, and not from the date of the execution or delivery of any instrument or document, or otherwise, save as in this Act provided.

(2) It shall not be necessary to register under the provisions of the Registration and Records Act, Cap. 23.25, dealings with lands brought under the operation of this Act, which are in accordance with the provisions of this Act.

(3) Dealings with lands brought under the operation of this Act, which are not in accordance with the provisions of this Act, shall operate as contracts only, and shall not confer any right in respect to the land, except the right of enforcing the contract as against the parties, and persons claiming, otherwise than as purchasers or mortgagees for value, under such parties.

Procedure where land acquired by the Crown.

6. (1) In any case where the land of any registered proprietor under this Act is partly or wholly acquired by the Crown by gift, purchase or devise, or under the provisions of any Act for the time being in force relating to the acquisition of land, the Governor-General shall forward to the Registrar of Titles the particulars of such acquisition (the correctness of which shall, in the case of acquisition by purchase, be certified by the registered proprietor) together with a plan or, where part only of the

land has been acquired, with a plan in duplicate showing the extent of such acquisition.

(Amended by Act 3 of 1971)

(2) On receipt of such particulars and plan or plans, the Registrar of Titles shall—

- (a) note on the original, and also on the duplicate certificate of title, the fact, date and extent of acquisition of the land by the Crown and also a reference to the volume and folio in the book (hereinafter in this section referred to) in which a copy of the plan relating to the land may be found and, where the whole of the land has been acquired, cancel the certificate of title;
- (b) where part only of the land has been acquired, cause the area to be demarcated by a licensed surveyor on the plan attached to or on the certificate of title; and
- (c) bind the plan or one of the plans (as the case may be) in the said book and attach the other (if any) to the duplicate certificate of title and return the same to the person entitled thereto.

(3) The effect of noting or cancellation under subsection (2) shall be that the land or portion of the land the subject of the certificate of title shall thereby be removed from the operation of this Act.

(4) For the purposes of this section the Registrar of Titles shall keep a book in which shall be bound a copy of every plan received by him or her under the provisions of this section.

(5) This section shall be deemed to have come into operation on the 27th day of March, 1941, but nothing in this section or in any other section of this Act shall affect or prejudice the validity of any certificate of title issued to the Crown or to the Governor of the Leeward Islands and his or her successors in office under the provisions of this Act prior to the coming into operation of this section.

Crown grants.

7. (1) Whenever a grant of land is made by the Crown, the grantee may elect, instead of receiving the grant, to have a certificate of title issued to him or her in lieu thereof, and on notice in writing of such election being given to the Governor-General the grant, instead of being given to the grantee, shall be delivered to the Registrar of Titles, with a direction endorsed on the grant and signed by the Governor-General, that a certificate of title be issued to the grantee.

(2) Whenever a Crown grant is so delivered to the Registrar of Titles, he or she shall, without payment of further or other fees, issue to the grantee a certificate of title in respect of the land comprised in the grant.

(Amended by Act 3 of 1971)

Certificate of title to be indefeasible.

8. All certificates of title granted under this Act, and all notings of mortgages and encumbrances on the same, shall be indefeasible.

Powers of registered proprietor.

9. In every certificate of title a registered proprietor or proprietors shall be set forth of the land to which it relates, who shall have the absolute power to deal with the land in any manner in which land may be dealt with under this Act, any rights for

life, or rights in the land for terms of years, or any other limited or conditional rights, being hereby declared to be encumbrances on the lands, and requiring to be constituted as such in the manner in which encumbrances are constituted under the provisions of this Act.

Right of registered proprietor.

10. The right of the registered proprietor named in a certificate of title to the land comprised in a certificate of title granted under this Act shall be the fullest and most unqualified right which can be held in land by any subject of the Crown under the law of England, and such right cannot be qualified or limited by any limitations or qualifications in the certificate of title itself, unless such limitations and qualifications were inserted in any Crown grant in place of which the certificate of title has been issued or as in the case of mortgages and encumbrances, when these are noted on the certificate of title.

Certificate of title not to affect rights of common.

11. Notwithstanding anything hereinbefore contained, no certificate of title heretofore issued, or hereafter to be issued, under the provisions of this Act shall, save as provided in section 25, in any way affect any rights of common, rights of way, or rights to, or to be exercised over, any ponds, streams, or other water, or any other easements or *profits à prendre*, or the ownership of any public road.

PART III

BRINGING LANDS UNDER ACT

Right to first certificate defined and application therefor.

- 12.** (1) Land not registered under this Act may be so registered—
- (a) if the applicant can show a good documentary title thereto in himself or herself and his or her predecessors in ownership for at least thirty years next before the date of the presentation of the request under this Act;
 - (b) if, notwithstanding that such documentary title thereto cannot be shown, the Court is satisfied from the deeds or other documents accompanying the request that the applicant has the right to claim the land as owner and that he or she or himself or herself has been in undisturbed possession of the same continuously during the period of twelve years next before the date of the presentation of the request under this Act;
 - (c) if the applicant has, by descent or by will or deed, acquired a title to the land from a person who would have been entitled himself or herself to have the land registered in accordance with the provisions of paragraph (b) of this subsection;
 - (d) if the land has been in the sole and undisturbed possession of the applicant alone in his or her own right or as executor, administrator or trustee, or partly in the sole and undisturbed possession of the applicant in any such right and partly in the sole and undisturbed possession of any other person through whom he or she claims,

continuously for a period of thirty years next before the date of the presentation of the request under this Act.

(2) The application to bring land under this Part shall be made by the owner who shall present a request to the Registrar of Titles for the issue to him or her of a first certificate in respect of the land described in the request.

(3) Where the owners of land are joint tenants, tenants in common or coparceners, the request shall be made in the names of, and shall be signed by, all of them.

(4) The request shall be in Form 1 set out in the Second Schedule and shall be accompanied at the time of the presentation by all the titles, deeds or other documents under which the applicant claims to be the owner of the land.

(5) Forthwith upon the presentation of the request, the Registrar of Titles shall thereupon proceed to give public information of such application by exhibiting on the door of the Court House a copy of the schedule of applications in Form 3 set out in the Second Schedule, and the person presenting the request shall give further notice of such application by causing that part of the schedule of applications which relate to his or her application to be advertised in two issues of at least one newspaper published in the State, and no such certificate shall be issued until the expiration of four weeks from the date of exhibiting the schedule or from the date of the first appearance thereof in the newspaper.

(Amended by Act 3 of 1971)

(6) The applicant shall also within seven days after the presentation of the request cause notice of the application to be served personally upon all owners or occupiers of land adjoining the land for which a first certificate is applied, and no certificate shall be issued until proof has been given by the applicant that such notice has been given and that four weeks have expired since the giving of that notice.

(7) A Judge may, upon or without any application, order such special notification to individuals or generally, or may direct such public advertisement of the application for the first certificate in newspapers outside the State as may to him or her appear just and reasonable.

(Amended by Act 3 of 1971)

(8) Every request for the issue of a first certificate shall be accompanied by a plan made by a licensed surveyor, and the Registrar of Titles shall reject any plan which he or she considers insufficient, subject to an appeal to a Judge in Chambers.

(9) Where the application for a first certificate is in any respect based on possession of the land, the request shall be accompanied by affidavits of the applicant and of two other persons at least, and such affidavits shall set out in detail the facts establishing that the applicant has been in sole and undisturbed possession of the land continuously for the period of time required by this section as well as the acts of ownership exercised over the land and shall prove that the rents, fruits and profits accruing out of the land have been taken and appropriated by the applicant as owner during such period.

Application to be submitted to Judge.

13. (1) The Registrar of Titles shall thereupon submit such titles, deeds and documents to a Judge, and if the Judge is satisfied that the person presenting the request is entitled to have a certificate of title issued to him or her, the Registrar of Titles shall issue the certificate of title accordingly, and shall note thereon the mortgages and encumbrances affecting the same.

(2) The title deeds and documents which accompanied the request shall remain in the custody of the Registrar of Titles.

Possession to be possession as owner.

14. (1) Possession for the purpose of section 12 shall be possession as owner by a person, his or her heirs, executors, administrators or assigns and not as an encumbrancer holding a life interest or interest for a term of years or other less estate.

(2) A certificate of title issued under section 13 to an executor, administrator or trustee shall be expressed as having been issued to the applicant as such executor, administrator or trustee.

(3) The Judge shall take such evidence of possession by affidavit, or payment of taxes, or common repute, or otherwise, as shall be satisfactory to his or her own mind.

Case to be stated for consideration of Court of Appeal where there is any doubt as to title of applicant.

15. (1) Where the Judge is not able, either from the title deeds and documents and records, or evidence of possession, to ascertain whether a person making application for a certificate of title is the owner of the land, or whether any mortgage or encumbrance exists, or as to the priority of any mortgage or encumbrance, he or she shall state a case for the consideration of the Court of Appeal, embodying in a succinct form the difficulties which have occurred, and the Court of Appeal shall give such directions for the service of such case upon any parties who may appear to be interested, or for the giving of such public notice in the State or abroad of the application for a certificate of title, or the noting thereon of any mortgage or encumbrance, or the order of priority of the same, as may appear reasonable, and calling upon all interested persons to enter appearance at such time as may be specified in such notice.

(2) Upon consideration of the case at the time specified, after hearing the applicant for the certificate of title and any competing parties, or the parties interested in any mortgage or encumbrance, and also after hearing the Registrar of Titles, by himself or herself or by counsel, if he or she shall desire to be heard, and with or without the making up of any further pleadings as the Court of Appeal may consider proper, such directions shall be given in regard to the issue of the certificate of title, or the noting thereon of any mortgage or encumbrance, or the order of priority of the same, as to the Court of Appeal shall seem just.

(Amended by Act 3 of 1971)

Parties interested may enter caveat.

16. Any person who claims to be the proprietor of any land, or to be interested in any mortgage or encumbrance, may enter a caveat in the office of the Registrar of Titles, either forbidding the issue of any certificate of title for any land to any specified person, or claiming that a note may be made upon any certificate of title in regard to any mortgage or encumbrance, or in any other manner stating an interest in any land, and such caveat shall be in Form 2 set out in the Second Schedule and the caveator shall be heard before the certificate of title is issued, or the mortgage or encumbrance noted or rejected.

Request for first certificate of title, etc., to be accompanied by plan.

17. (1) Notwithstanding anything to the contrary contained in this Act, from and after the coming into operation of this section every request for the issue of a first certificate of title and, when there is no plan attached to the certificate of title, every application made under subsection (2) and under section 144 for the issue of a new certificate of title, and every transfer and every request for transmission of land registered under this Act and every request for the issue of a new certificate of title under the provisions of section 28 and subsection (4) shall be accompanied by three plans of the land to be described in the certificate of title, two of which shall be attached to the original and duplicate certificates of title when issued.

(2) Where a certificate of title has been issued without a plan attached it shall be lawful for the Registrar of Titles, at the request of the registered proprietor, to issue to such registered proprietor a new certificate of title with plan attached.

(3) Subsections (5), (6), (7) and (8) of section 12 as well as section 13 shall have effect, *mutatis mutandis*, on every request made under subsections (1) and (2).

(4) If it is proved to the satisfaction of the Court or a Judge that any error or discrepancy appears on a plan registered under this Act he or she may direct such inquiry as he or she may think fit to be made into the circumstances of the case and upon proof of such error or discrepancy order that the plan be corrected or rectified or that a new plan be made and substituted for the former:

Provided that on every such inquiry four weeks notice shall be given to the owners or occupiers of lands adjacent to the portion of land comprised in the plan to be corrected or rectified and likely to be affected by such correction or rectification and provided further that when a new plan is ordered subsection (3) shall also apply to this subsection.

PART IV

TITLES TO LAND ASSURANCE FUND

Titles to Land Assurance Fund.

18. (1) Immediately before the issue of any first or subsequent certificate of title under this Act, save and except a certificate of title issued under section 7, a fee shall be paid by stamps to the Registrar of Titles of one cent in every five dollars on the value of the land comprised in the certificate.

(Amended by Act 7 of 1976)

(2) Subject to any agreement to the contrary, the fee shall be paid, in the case of a first certificate of title, by the applicant for the certificate, and, in the case of a subsequent certificate of title, by the party in whose favour the certificate is to be issued.

(3) For the purposes of this section, the value of the land shall be, according to the circumstances, the sum stated in the request for the issue of a first certificate of title to be the value of the land, or the sum stated in the memorandum of transfer as the price of the land, or if no sum or a nominal sum has been so stated, or if the Registrar of Titles has reason to believe that the sum stated is not the true value of the land, or if the certificate of title is to be issued on transmission, such sum as may be agreed upon between the Registrar of Titles and the person liable to the payment of the fee, or, if they cannot agree, as may be summarily decided by a Judge after

hearing the Registrar of Titles and the person liable to the payment of the fee, and such evidence as they may respectively adduce.

(4) All fees paid under this section and all damages recovered under subsection (2) of section 19 shall be paid into the Consolidated Fund.

(Amended by Act 3 of 1971)

Provisions where certificate of title has been wrongly issued.

19. (1) Any person aggrieved by the issue of a certificate of title under this Act may, institute a suit as plaintiff against the Attorney-General as defendant, claiming damages for the injury he or she may have sustained.

(2) Every such suit shall be governed by the provisions of the Crown Proceedings Act, Cap. 5.06 and if the plaintiff shall recover any damages, the same shall be paid out of the Consolidated Fund.

(Amended by Act 3 of 1971)

(3) Where any person has, by wilful misrepresentation or otherwise, obtained a certificate of title to any land to be wrongfully issued, the Registrar of Titles shall call in the same to be cancelled in any case in which the rights of a transferee or encumbrancee who has taken *bonâ fide* for value without notice, will not be prejudiced thereby, and where damages have been recovered against the Attorney-General in such suit as in this section is mentioned, the Attorney-General, on behalf of the Government of the State, shall sue the person who has obtained the certificate of title for the issuing of which such damages have been recovered, for damages to be paid into the Consolidated Fund:

(Amended by Act 3 of 1971)

Provided that if the person so sued has not obtained the certificate by fraud, and can show that he or she has not been benefited by the issue of such certificate to the whole amount of the damages recovered against the Crown, he or she shall not be liable to a greater amount than that by which he or she has been so benefited:

Provided also, that no transferee or encumbrancee who has taken *bonâ fide* for value, without notice, subsequent to the issue of the first certificate of title, shall be liable in any action for damages.

PART V

TRANSFER AND TRANSMISSION OF LAND

Memorandum of transfer.

20. When land has been brought under the provisions of this Act, the registered proprietor thereof, if he or she desires to transfer it to another on sale or otherwise, shall execute a memorandum of transfer in Form 5 set out in the Second Schedule, and such memorandum of transfer shall be presented to the Registrar of Titles.

Issue of new certificate of title on transfer, and cancellation of previous certificate.

21. (1) When a memorandum of transfer is presented to the Registrar of Titles, the Registrar of Titles shall thereupon demand from the presenter of the memorandum, or the registered proprietor or those acting for him or her, or from the person in whose custody the same may be, other than an equitable mortgagee, the duplicate certificate of title, which the Registrar of Titles shall file with the memorandum of transfer, and, having satisfied himself or herself of the sufficiency and correctness of the

memorandum of transfer, he or she shall make out in duplicate a new certificate of title of the land contained therein, in favour of the transferee, and he or she shall, before delivering the new certificate of title to the new registered proprietor or the person entitled thereto, cancel the previous certificate of title by writing across the registered duplicate thereof the word "Cancelled" in ink different from the writing, printing or lithographing of the certificate of title itself, with a reference to the folium and volume of the new certificate of title which is to come in place thereof, and he or she shall number and mark the duplicate of the new certificate of title to be placed in the register, as well as that to be given to the new registered proprietor, with the proper folium and volume in which the new certificate is registered, and shall also make on both duplicates a reference to the certificate of title which has been cancelled, by the folium and volume in which it was recorded.

(2) The Registrar of Titles shall also mark upon the new certificate of title the mortgages and encumbrances on the former certificate which are undischarged, and any new mortgage or encumbrance which may have to be added thereto, if any, on the occasion of the transfer.

(3) The Registrar of Titles shall also mark the day and hour, and, when such may appear to the Registrar of Titles necessary, the minute of the change from one registered proprietor to another, and that date shall be the time of presenting to the Registrar of Titles the memorandum of transfer.

(4) The duplicate certificate of title issued to the registered proprietor shall be an exact copy and, so far as practically possible, an exact facsimile of the duplicate placed on the register.

Consolidation of certificates of title.

22. (1) Where any person is the registered proprietor of contiguous parcels of land, it shall be lawful for the Registrar of Titles at the request of such person to issue to him or her one certificate of title in respect of the parcels of land in substitution for the several certificates of title relating thereto.

(2) Subsections (5), (6), (7) and (8) of section 12 as well as section 13 shall have effect, *mutatis mutandis*, on every request made under subsection (1).

Provisions for transfer of portion of land contained in certificate of title.

23. (1) When a registered proprietor desires to transfer a portion of the land contained in his or her certificate of title, it shall not be necessary to cancel the certificate of title, or to issue a new certificate of title for that portion of the land which is not being transferred, but the Registrar of Titles may issue to the transferee a new certificate of title in respect of the portion transferred, and note the particulars of the transfer on the margin of the certificate of title of the registered proprietor:

Provided that, if the registered proprietor shall so desire, or if the Registrar of Titles shall be of opinion that the circumstances do not permit of particulars of the transfer being clearly noted on the certificate of title, such certificate shall be cancelled and the same course shall be followed, as nearly as circumstances will permit, as that which has been set forth in the immediately preceding sections, and the registered proprietor, on the original certificate of title being cancelled, shall receive a new certificate of title for the portion of land not transferred, at the same time that the transferee receives his or her certificate of title for the portion transferred to him or her.

(2) Where mortgages or encumbrances are noted upon the certificate of title of land so proposed to be divided, the Registrar of Titles shall not accept the

presentation of a memorandum of transfer of such land without the consent in writing of the mortgagees or encumbrancees, and this consent shall be filed with the memorandum of transfer.

Transferee to be liable for mortgages, etc., noted on certificate of title.

24. Where any mortgages or encumbrances are noted on the certificate of title issued to a transferee, the covenant shall be implied that the transferee has accepted the land subject to such mortgages and encumbrances, and that he or she will pay the interest accruing thereon, and discharge the principal sums for which such mortgages and encumbrances have been granted, and indemnify the transferor from the payment of the same in all time to come.

Transfer of easements or incorporeal rights.

25. Whenever any easement or any incorporeal right in or over any land is to be added to any land contained in a certificate of title, the person selling, granting, or transferring such right shall execute a memorandum of transfer in Form 7 set out in the Second Schedule, and the Registrar of Titles shall file the same when presented, and either grant a new certificate of title to the registered proprietor, with the easement or other right mentioned therein added to the land, whenever required so to do, or shall note the acquisition of the easement or incorporeal right on the existing certificate of title of the land to which it is added, as well as on the certificate of title of the land to be thenceforth subject to the easement or right.

Provisions for transfer of land to trustees.

26. (1) Where the registered proprietor of any land desires to transfer the same to trustees, he or she may register under the Registration and Records Act, Cap. 23.25 any deed or document constituting the trust, but he or she shall, of equal date therewith, present to the Registrar of Titles a transfer to the persons named as trustees, in the ordinary form of an absolute transfer to individuals, with the words "as Trustees" added to their description, and also with the words "with survivorship," or the words "without survivorship," according as the trustees are to continue to act, or not to continue to act, on the death of one or more of their number, and the Registrar of Titles shall thereupon issue to the transferees a certificate of title without any reference to the trust deed, and they shall be the absolute registered proprietors of the land, as regards the records of title, as fully and freely as any other registered proprietors:

Provided that any *cestuis que* trust under the trust deed shall have the right to present a caveat to the Registrar of Titles to prevent any dealing with the land by the trustees in a manner inconsistent with the provisions of the trust deed.

(2) Where, in the deed of trust, trustees are named with the right in the survivor or survivors to act after the death of one or more of their number, the survivor or survivors may require the Registrar of Titles to issue to him or her or them a new certificate of title in his or her or their names as registered proprietor or proprietors of the land, and when the trustees are nominated as such without right in the survivor or survivors to act, the *cestuis que* trust, on the death of one or more of the trustees, shall have the right to require the issue of a certificate of title to them as now the registered proprietors of the land.

(3) In like manner, where new trustees have been assumed by virtue of powers contained in a trust deed, or have been appointed by the Court, they shall have the right to require the issue to them of a fresh certificate of title.

Issue of new certificate of title on death of registered proprietor.

27. Whenever the registered proprietor of any land dies, the land shall transmit to the personal representative or representatives of the deceased proprietor and the Registrar of Titles shall upon a request being presented to him or her accompanied by a grant of probate, or letters of administration, or an office copy thereof, issue to the persons named therein as executors or administrators a certificate of title to the lands and shall note on the certificate of title in the name of the deceased proprietor (the duplicate of which, in whose hands the same may be, shall be delivered up to him or her) the date of the request, the date of the death and such reference to the register of grants of probate and letters of administration as may enable the grant to be found and shall cancel the certificate of title in favour of the deceased, and the date of the title of the new registered proprietor shall be held to draw back to the date of the death of the former registered proprietor, whatever may be the date of presenting the grant to the Registrar of Titles.

Partition.

28. Where an order for the partition of land registered under this Act is made by the Court the Writ of Partition directed to the Provost Marshal shall be sufficient to authorize the Provost Marshal to transfer to the several parties amongst whom the land has been partitioned their respective portions, and subject to the production of the required plans by the respective parties concerned the Registrar of Titles shall, at the request of the Provost Marshal, issue certificates of title to the parties for their respective portions at their expense.

Issue of new certificate of title to Administrator of Estates.

29. When an Administrator of Estates shall be ordered, under the Unrepresented Estates Act, Cap. 5.20, to sell any land brought under this Act, such Administrator shall be entitled to demand from the Registrar of Titles the issue to him or her of a new certificate of title in which shall be added to his or her description the words "as Administrator of Estates," and the same procedure shall be followed, as nearly as circumstances will permit, as is hereinbefore prescribed in the case of transmission to devisees.

On issue of new certificate of title, all mortgages and encumbrances to be noted thereon.

30. In all cases where a new certificate of title has been issued in lieu of a certificate of title in favour of a deceased registered proprietor, the Registrar of Titles shall note on the new certificate of title issued all mortgages and encumbrances affecting the land to which it relates.

Issue of new certificate of title to trustee of bankrupt registered proprietor.

31. Where a registered proprietor, encumbrancee, or mortgagee of any land has been adjudicated bankrupt, or where the estate of a registered proprietor, encumbrancee, or mortgagee has become the subject of liquidation by arrangement under the Bankruptcy Act, Cap. 5.04 for the time being in force, the land, mortgage, or encumbrance, as the case may be, shall transmit to the trustee of the estate, in the case of bankruptcy, as from the date of the order of adjudication, and in the case of liquidation by arrangement, as from the date of the appointment of the trustee of the estate, and the Registrar of Titles shall, upon the request of any such trustee as aforesaid, accompanied by the documents proving the facts, being presented to him or her, issue to the trustee a certificate of title in lieu of that in favour of the registered

proprietor so adjudged bankrupt or whose estate is in liquidation, as the case may be, and the duplicate copy of the certificate of title in the hands of such registered proprietor shall be delivered up to be cancelled, and the same procedure shall be followed in the issue of the new certificate, as far as the circumstances will permit, as is hereinbefore prescribed in the case of transmission to personal representatives.

Issue of new certificate of title to assignee, etc., of insolvent registered proprietor.

32. Where any person has become insolvent, and shall, either under the authority of the Court or voluntarily, assign the whole of his or her property to any assignee, administrator, or trustee on behalf of his or her creditors, any land of which he or she may be the registered proprietor shall transmit to the assignee, administrator, or trustee, and such assignee, administrator, or trustee shall request a certificate of title to be issued in his or her name, and the Registrar of Titles, upon such request being presented to him or her with the deed or instrument of assignment, or such office copy thereof as he or she may consider sufficient, shall issue a new certificate of title to such assignee, administrator, or trustee in the manner hereinbefore provided as nearly as circumstances will permit.

Transmission of mortgage or encumbrance on death, bankruptcy, etc., of mortgagee or encumbrancee.

33. Whenever any mortgage or encumbrance shall transmit in any of the manners above set forth, the person in whose favour the same shall have transmitted, or in the case of the death of any mortgagee or encumbrancee, the personal representatives of such mortgagee or encumbrancee shall be entitled to present to the Registrar of Titles a request accompanied by the deed, document or writing, or a grant of probate, or letters of administration, or of an office copy thereof, upon which such request is founded, to alter the noting or marking of any mortgage or encumbrance upon any certificate of title from the name of the previous mortgagee or encumbrancee to the name of such person as being then entitled to the mortgage or encumbrance, and the Registrar of Titles shall, in dealing with such request, proceed as far as circumstances will permit, in the manner already herein provided in regard to transmissions of land, and shall make such noting or marking upon the certificate of title of such land (the duplicate of which in the hands of the registered proprietor, or any other person, he or she shall be entitled to call in and demand for the purpose of this section) as shall set forth the parties truly entitled to such mortgage or encumbrance, and shall cancel any former noting, and shall either re-issue the same certificate of title to the party entitled thereto, or a new certificate of title as shall appear to the Registrar of Titles desirable and proper.

Issue of new certificate of title where land has been acquired by prescription.

34. (1) Where any person has acquired, or claims to have acquired, under the Limitation Act, Cap. 5.09 the ownership of land brought under the operation of this Act, he or she shall present a request to the Registrar of Titles to have a certificate of title issued to him or her in lieu of the registered proprietor in the original certificate of title, and the person who has acquired, or claims to have acquired, such ownership shall not be entitled to maintain any suit in regard to such land until he or she shall have obtained a certificate of title thereto.

(2) When a request for such a certificate of title is presented to the Registrar of Titles, he or she shall state a case to the Court, and shall not issue a certificate of title on such request until he or she has received the direction of the Court thereupon.

PART VI

PROPERTY TAX MORTGAGES AND ENCUMBRANCES; AND THE SALE OF INCUMBERED
LAND PROPERTY TAX**Property tax.**

35. (1) Property tax now imposed, or hereafter to be imposed, by any Act shall be a first charge on the land on which the said tax is made payable by the said Act, where such land is now held under, or is hereafter brought under, this Act.

(2) Such charge shall rank before all mortgages, encumbrances and interest already created and constituted, or hereafter to be created and constituted, by and under this Act and the Government may take all such proceedings under this Act for the recovery of land tax now due and unpaid, or hereafter becoming due and unpaid, by sale or otherwise of the land or estate on which the tax is so made payable, as a mortgagee or encumbrancee may now take under this Act when a mortgagor or encumbrancer has failed to perform the conditions of a mortgage or encumbrance, or as when a mortgagee or encumbrancee may lawfully demand the repayment of the sum lent on mortgage, or the amount or provision secured by an encumbrance.

(3) The Registrar of Titles shall make the following noting, as a first noting, on all certificates of title hereafter issued by him or her:

“Charge in favour of the Government for land tax now due or hereafter becoming due.”

(4) Every certificate of title heretofore issued by the Registrar shall be deemed and taken to be noted with the noting specified in subsection (3).

*Mortgages***Mortgage to be constituted by noting on certificate of title.**

36. A mortgage may be created and constituted over any land by the noting of the same by the Registrar of Titles on the duplicate certificate of title, both that in the Registry and that in the hands of the registered proprietor.

Memorandum of mortgage to be presented to Registrar.

37. (1) The warrant to authorise the Registrar of Titles to make any such note upon the certificate of title shall be a memorandum of mortgage in Form 8 set out in the Second Schedule, which shall be presented to the Registrar of Titles by the mortgagor or mortgagee, or by those authorised to act on their behalf.

(2) The duplicate certificate of title issued to the registered proprietor, or where the mortgage extends over lands contained in more than one certificate of title, then all the duplicates, must at the same time be handed to the Registrar of Titles to be noted.

Date of mortgage.

38. The date of the mortgage shall be the date of presenting the memorandum of mortgage to the Registrar of Titles.

Particulars of mortgage to be noted on certificate of title.

39. When a memorandum of mortgage has been presented, the Registrar of Titles shall proceed forthwith to note the chief facts set forth therein upon the duplicate certificates of title, according to the form of noting of mortgages upon the form of the certificate of title, Form 4 set out in the Second Schedule.

Registrar to file memorandum of mortgage.

40. The Registrar of Titles shall file the memorandum of mortgage presented to him or her, marking thereon a reference to the certificate of title, and upon the certificate of title a reference to the file where the memorandum of mortgage is preserved.

On noting of mortgage, land to be held in pledge by mortgagee.

41. So soon as the Registrar of Titles has noted the mortgage upon the certificate of title, the land contained in such certificate shall be held in pledge by the mortgagee, from the date of the mortgage, for the repayment to him or her of the principal sum actually advanced and the interest set forth therein.

Subsequent mortgages may be created; in case of sale, mortgages to be paid in order of date.

42. A second mortgage or any number of mortgages may be created and constituted in a similar manner, but in the event of the land being sold, as hereinafter provided, for non-payment of any principal sum or interest thereon, the mortgage first in order of date shall be first paid out of the price obtained for the land, or if the sum be not sufficient to pay off the mortgage and interest due thereon, then the price so obtained shall be paid to the first mortgagee in reduction of the sum due to him or her under his or her mortgage.

Mortgages and encumbrances to rank by date.

43. (1) Every other mortgage, where there are no encumbrances, shall be paid out of the price in like manner, in the order of its date, should the price be sufficient, and whoever may be the mortgagee or other creditor prosecuting the sale of the land.

(2) In the event of encumbrances as well as mortgages being noted on the certificate of title, the prior encumbrance shall be paid before the subsequent mortgage, and the prior mortgage before any subsequent encumbrance.

Mortgage to be for specific sum actually advanced.

44. A mortgage cannot be created or constituted for any undetermined sum, but only for the sum expressly stated in the instrument, and actually advanced.

On non-payment mortgagee may take steps for sale of land.

45. The specific sum lent upon the pledge of the land shall be payable at any date which may be fixed in the memorandum of mortgage, and, if not repaid at that date, the mortgagee may, at any time thereafter, take steps for the sale of the land in manner hereinafter provided.

Mortgage to extend over land, works, growing crops, etc.

46. The mortgage shall be held to extend over the land contained in the certificate of title upon which it is noted, or any part of such land described in the memorandum of

mortgage, and all rents thereof, and upon all fixtures on such land and upon labourers' houses, mills, buildings, stables, cattle sheds, outhouses, and all erections used for estate purposes, whether fixtures or not, and upon all trees and shrubs, whether bearing fruit valuable in commerce or not, and upon all growing crops on the land belonging to the mortgagor, and all agricultural instruments, and appliances of sugar or other mills, and all stock belonging to the mortgagor, whether used for work and draught purposes, or grazing on the land, and over all contracts for labour to be performed on the land in favour of the mortgagor.

Mortgagor to have use and enjoyment of property.

47. The mortgagor shall have the free use, enjoyment and management of all the property pledged, and it shall be his or her duty to care for the same, and keep all in workmanlike order and good condition, and, for this purpose, to deal with all personal chattels accessory to the land, and to sell and replace stock as a good husbandman, but not to deteriorate the condition of the land, and to use his or her utmost skill in the profitable cultivation of the soil, and he or she shall have the right to raise temporary advances for crop purposes by pledging the crop, when cut or plucked for sale or manufacture, in the manner hereinafter provided.

Mortgagee not to enter into possession of land without consent of parties interested.

48. The mortgagee cannot, as of right, on non-payment of principal or interest, and with or without notice, enter into the possession of the land with the view of working the same until the mortgage be paid off, but by consent of all parties interested the mortgagee can so enter subject to an accounting for the rents and profits of the land, as of land belonging, not to the mortgagee, but to the registered proprietor thereof.

Registered proprietor to retain certificate of title.

49. The mortgagee shall not be entitled to the duplicate certificate of title as of right pertaining to him or her as mortgagee, but he or she shall be entitled to demand from the Registrar of Titles, at the cost of the mortgagor, a certified copy of the memorandum of mortgage, with a copy of the noting of the mortgage upon the certificate of title attached thereto, and the duplicate certificate of title shall remain with the registered proprietor.

Encumbrances

Encumbrance to be created by noting on certificate of title.

50. An encumbrance shall be created and constituted over and upon any land, in the same manner as a mortgage, by the noting thereof by the Registrar of Titles upon the certificate of title.

Memorandum of encumbrance.

51. The warrant to authorise the Registrar of Titles so to note any certificate of title shall be a memorandum of encumbrance, which shall be in one of the Forms numbered 9 set out in the Second Schedule.

Encumbrances to rank by date.

52. Encumbrances shall take rank in the order of their dates, and the date of presenting the memorandum of encumbrance to the Registrar of Titles shall be the

date of the encumbrance, and shall be entered in the note thereof by the Registrar of Titles upon the certificate of title, and where there are both mortgages and encumbrances upon the same land, the prior encumbrance shall take precedence of a subsequent mortgage, and the prior mortgage of a subsequent encumbrance.

Clearing of encumbrances on seizure and sale of land.

53. When land is seized and sold for non-payment of any mortgage or encumbrance, any encumbrance, if of the nature of a tenancy for life or years, and if it be prior in date to the mortgage or encumbrance in regard to which the sale is prosecuted, may be cleared from the title with the consent of the encumbrancee, and if of later date, without such consent, and, in order to its being so cleared, shall be valued at its then present value, and shall be paid off in its order out of the proceeds of the sale, if the price be sufficient for the purpose, unless the purchaser and the encumbrancee agree that the encumbrance remains a burden upon the land.

Valuation of encumbrances.

54. In order to ascertain the then present value of any encumbrance, the Court shall give such directions and orders for the employment of skilled persons, either in or out of the State, to value the same as it may deem requisite and necessary.

(Amended by Act 3 of 1971)

Extent of encumbrance.

55. An encumbrance which is not specially limited to a payment out of revenue, or other special form of encumbrance, of a like nature, shall extend over the land contained in the certificate of title upon which it is noted, and upon all fixtures, houses, outhouses, growing crops, stock and other property over which a mortgage extends.

Leases for three years to be encumbrances.

56. For the purposes of this Act, and in order that all the rights granted, which to any important extent affect the land, may appear upon the certificate of title, a lease for three years and upwards shall be deemed an encumbrance, and shall be constituted by a noting on the certificate of title in the same manner as an encumbrance.

Memorandum of lease.

57. The warrant to authorise the Registrar of Titles to make such a noting of a lease shall be a memorandum of lease in Form 10 set out in the Second Schedule.

Power of encumbrancee to prosecute sale of land not to extend to lessee.

58. No lessee shall be deemed an encumbrancee for the purpose of suing forth or prosecuting any sale of the land, in the manner provided in this Act for encumbrancees other than lessees, for any breach of the conditions of his or her lease, but he or she shall be left to his or her ordinary legal remedies.

Equitable Mortgages

Equitable mortgage constituted by deposit of certificate of title.

59. (1) An equitable mortgage may be constituted by deposit of the certificate of title, and when a duplicate certificate of title is so deposited to cover any liability incurred by the registered proprietor, the Registrar of Titles shall not require the holder thereof to deliver up the same for the purpose of noting thereon any mortgage or encumbrance subsequent to the deposit, or for the purposes of any transfer.

(2) If the land shall transmit by the death of the registered proprietor while the equitable mortgage subsists, any new certificate of title which may be issued consequent thereupon shall be deposited with the equitable mortgagee in lieu of the certificate of title held by him or her.

Equitable mortgage to extend over all property over which a mortgage extends.

60. An equitable mortgage shall be constituted and created over the land contained in the certificate of title deposited, and over all fixtures, houses, outhouses, growing crops, stock, and other property over which a mortgage extends, and shall rank in its order according to the date of presenting a caveat, as hereinafter provided, to the Registrar of Titles to prohibit dealings with the land while the equitable mortgage exists.

Equitable mortgage may be for a definite sum, or to cover advances.

61. An equitable mortgage may be constituted by the deposit of the certificate of title, either for the repayment of a definite sum then advanced, if placed to the account of the borrower, or to cover advances to be made, or for the purpose of covering advances made or to be made, or liability for sums due.

Equitable mortgagee may by caveat prevent dealing with land.

62. The equitable mortgagee, if he or she desires to prevent any other creditor obtaining a preference over such effects comprised in his or her equitable mortgage as may be secured by bill of sale or otherwise, shall forthwith present a caveat, in manner hereinafter provided, to prevent any dealing with the land and the things accessory thereto, as already set forth, over which his or her equitable mortgage extends, but he or she may refrain from presenting such caveat, and in that case, his or her right as regards the registered proprietor shall not be adversely affected thereby, but he or she will not have any preference over a more diligent creditor whose security may be meantime completed.

Conversion of an equitable mortgage into a mortgage.

63. (1) An equitable mortgage may be converted into a mortgage, with all the powers and privileges of a mortgagee against the registered proprietor by way of sale of the land and otherwise, by the equitable mortgagee obtaining the judgment of the Court fixing the amount due to him or her by the registered proprietor, or obtaining from the debtor a writing accepting a specific sum therein stated as being due by him or her to the creditor under the equitable mortgage.

(2) Where the equitable mortgagee presents the judgment or the writing referred to in subsection (1) to the Registrar of Titles, and requests him or her to note upon the certificate of title a mortgage in his or her favour for the amount of the judgment or accepted balance due, the date to draw back to the date of the caveat,

shall be removed and the noting of the mortgage put on the certificate of title in place thereof.

(3) The judgment or writing shall be filed as the authority to the Registrar of Titles for so acting.

(4) Where no caveat has been entered, the date of the mortgage shall be the date of presenting the judgment or writing to the Registrar of Titles.

Transfer and Discharge of Mortgages and Encumbrances

Memorandum of transfer to be presented to Registrar.

64. A mortgage or encumbrance may be transferred from the mortgagee or encumbrancee to any other person, who shall then become the mortgagee or encumbrancee, by the presentation of a memorandum of transfer to the Registrar of Titles in Form 11 set out in the Second Schedule, and the noting by him or her of the fact of the transfer upon the certificate of title.

Transfer to be noted in same way as mortgage or encumbrance.

65. When such memorandum of transfer has been presented to the Registrar of Titles, he or she shall proceed in regard to the noting of the transfer, and the filing of the memorandum of transfer, in a similar manner to that provided for the noting of a mortgage or encumbrance.

Date of transfer.

66. (1) The date of the presentation shall be the date of the transfer, and immediately thereafter the transferee shall enter into the whole rights of the transferor under the mortgage or encumbrance.

(2) The transferee may demand from the Registrar of Titles a certified copy of the memorandum of transfer, together with a certified copy of the noting thereof upon the certificate of title, with such reference thereon to the volume and folium of the register where the certificate of title is registered as to permit of easy reference thereto.

On payment or part payment, of mortgage or encumbrance, noting on certificate of title to be altered accordingly.

67. When a mortgage or encumbrance has been paid off and discharged, or has been partially paid off or discharged, the mortgagee or encumbrancee shall sign such an instrument as is Form 12 set out in the Second Schedule as may correctly set forth the facts, and, when the same is presented to the Registrar of Titles, he or she shall alter or cancel the noting of the mortgage or encumbrance, or make such fresh noting upon the certificate of title as shall correctly set forth the actual position and the amount of the mortgage or encumbrance, as the case may be, and he or she shall file the instrument, in manner already provided, as his or her warrant for making such alteration or cancellation.

Transfer of lease.

68. A lease for three years and upwards may be transferred by the execution of a memorandum of transfer in Form 13 set out in the Second Schedule, and the noting thereof by the Registrar of Titles on the certificate of title.

Proceedings for transfer of lease.

69. The date of the transfer shall be the date of the presentation of the instrument, and the duties of the Registrar of Titles, in regard to the instrument presented, shall, in all respects, be similar to those provided for in the case of the transfer of a mortgage or encumbrance.

Termination of lease to be noted on certificate of title.

70. When a lease has come to an end by effluxion of time, or has been determined by consent or by the judgment of the Court, the registered proprietor may present a request to the Registrar of Titles to make such noting on the certificate of title as shall indicate the fact that the lease has ceased to exist, or to cancel the noting of the lease in such manner as the Registrar of Titles may deem shall best set forth the actual state of the facts in regard thereto.

*Sale of Encumbered Lands or Estates***Notice to pay off.**

71. (1) When a mortgagor or encumbrancer has failed to perform the conditions of the mortgage or encumbrance, or when the mortgagee or encumbrancee may lawfully demand the repayment of the sum lent on mortgage, or the amount or provision secured by the encumbrance, the mortgagee or encumbrancee shall serve, or cause to be served, upon the registered proprietor a formal notice to pay off set out in Form 14 in the Second Schedule requiring him or her to perform the acts therein required within sixty days from the date of service.

(2) Where the registered proprietor is resident abroad and there is no one in the State holding his or her power of attorney, he or she shall be served in the manner in which a defendant out of the jurisdiction of the High Court may be served.

(Amended by Act 3 of 1971)

(3) Where the address of the registered proprietor is unknown or where the registered proprietor is dead and his or her estate is unrepresented the Court may order the notice to pay off to be served by posting it up in a conspicuous place on the encumbered land and also by publishing it in a newspaper circulating in the State.

(Inserted by Act 3 of 1971)

Seizure of land on non-payment after notice.

72. If the registered proprietor shall not, within the time specified, pay off the mortgage or encumbrance, or do the acts required of him or her in the notice to pay off, the mortgagee or encumbrancee may seize the land contained in the certificate of title on which the mortgage or encumbrance is noted, with the things accessory thereto as set forth and enumerated in this Act as falling within the mortgage or encumbrance.

Act of seizure to be served on registered proprietor.

73. (1) The seizure shall be complete as regards the registered proprietor by the bailiff appearing on the premises with orders to seize, but, in evidence of his or her act, he or she shall place in the hands of the registered proprietor, or leave at his or her dwelling place, or, if resident abroad, in the hands of his or her attorney acting under his or her power of attorney, or, if he or she has no such attorney, then the mortgagee or encumbrancee, in the manner in which a defendant out of the

jurisdiction of the High Court may be served, shall serve the registered proprietor with an act of seizure, set out in Form 15 in the Second Schedule in which shall be set forth, not only the land seized, but an inventory of the things accessory to the land over which the mortgage or encumbrance extends, but where the registered proprietor resides abroad, it shall not be necessary to delay proceedings because of such service.

(Amended by Act 3 of 1971)

(2) Where the address of the registered proprietor is unknown or where the registered proprietor is dead and his or her estate is unrepresented the Court may order the act of seizure to be served by posting it up in a conspicuous place on the encumbered land and also by publishing it in a newspaper circulating in the State.

(Inserted by Act 3 of 1971)

Caveat of seizure to be presented to Registrar.

74. The mortgagee or encumbrancee shall also forthwith present to the Registrar of Titles a caveat of seizure, set out in Form 16 in the Second Schedule which the Registrar of Titles shall note upon the certificate of title in the same manner as is provided for other caveats, to prohibit all dealings with the land seized until the caveat be removed or withdrawn.

On non-payment of debt within thirty days after seizure, articles of sale to be settled by a Judge.

75. If the debt is not paid off or discharged, or the acts required in the notice to pay off are not performed, and no new arrangements are made within thirty days from the date of seizure, the mortgagee or encumbrancee shall lodge in the Registry of the High Court articles of sale, set out in Form 17 in the Second Schedule of the land, and the things accessory to the land over which the mortgage or encumbrance extends, either in one lot or in more lots, as may be thought most likely to bring the highest price, and shall, by summons, served in the same manner as prescribed in section 71, call upon the registered proprietor, and all other mortgagees and encumbrancees, to appear before the Court on a day to be specified in the summons, being not less than three and not more than ten days after the date of the summons, to settle the articles of sale, to estimate an upset price, to fix the day of sale and to adjust the announcements of sale, and the mode of publication thereof.

(Amended by Act 3 of 1971)

Court to appoint and advertise date and conditions of sale.

76. (1) On the day appointed the Court shall settle the articles of sale, fix the upset price upon such information or valuation as may be considered necessary and sufficient, and appoint the day of sale, adjust the announcements, and determine the mode of publication thereof, according to the nature and value of the property.

(2) For lands not exceeding five thousand dollars in value (to be judged by the Court from any indications or informal evidence of value which the proceedings may disclose, or which may be communicated to the Court) it shall not be necessary to publicly announce the sale beyond the island in which the land is situated, but for land of greater value, the Court will determine whether the announcements should be published throughout the State, or beyond the State, or in what manner.

(3) The day of sale shall be determined by the length of time necessary to publish the announcements in such a manner as shall bring the highest price.

(Amended by Acts 3 of 1971 and 7 of 1976)

Rights of encumbrances to be preserved.

77. In settling the articles of sale, the Court shall cause to be inserted therein, and in the announcements, provisions which shall reserve the rights of all persons holding estates for life or lesser estates which entitle such encumbrances to the possession and enjoyment of the property, if their encumbrances shall be entitled to priority over the mortgagee or encumbrancee prosecuting the sale, unless the consent of such prior encumbrances shall have been obtained to an unreserved sale, in which case the rights of the encumbrancee shall be valued and dealt with in the manner set forth in sections 53 and 54.

Sale to be by Registrar of High Court, at the Court House.

78. (1) All lands so appointed to be sold shall be sold at the Registry of the High Court, or, if rendered necessary by the number of bidders, in the Court House itself, and the Registrar of the High Court shall preside at the sale, and shall take biddings for the lands, each bid being written down and signed by the bidder, and the highest bidder shall be accepted as the purchaser.

(2) When a higher bid has been made and accepted, the lower bids shall cease to be binding, even if the higher bidder fails to carry out the purchase.

(Amended by Act 3 of 1971)

Payment of price.

79. Such a deposit shall be forthwith paid by the purchaser as the Court shall have fixed in settling the articles of sale, being not less than one-fourth of the whole, and the balance of the price shall be paid as may be arranged between the Registrar of the High Court and the purchaser, but in no case shall a longer delay than three months be granted for the purpose.

(Amended by Act 3 of 1971)

On non-payment of price, new sale to take place.

80. (1) Should the price not be paid, the land shall, if need be, be anew exposed to sale at the cost of the accepted purchaser, to be paid out of the money deposited.

(2) If a higher bid than formerly be received, the deposit, less the costs of the second sale, shall be returned to the first purchaser, but should a less sum be offered, the difference shall, in addition to the costs, be retained out of the deposit before any balance be returned to the first purchaser, and in like manner with successive sales.

Scheme of division.

81. So soon as the price has been completely paid, the Registrar of the High Court shall draw up a scheme of division of the price, as set out in Form 18 in the Second Schedule and the mortgagee or encumbrancee who is prosecuting the sale shall, in like manner as was done for the settling of the articles of sale, call the mortgagees and encumbrancees and all parties interested before the Court, and the Court shall settle the scheme of division and direct the Registrar of the High Court to pay the amounts to the respective persons preferred, upon receipt given by them, or those acting for them, opposite to their names in the scheme of division.

(Amended by Act 3 of 1971)

Issue of new certificate of title after sale with reserved encumbrances noted thereon.

82. The Court shall, at any time after payment of the price, and not later than the settling of the scheme of division, order and direct the Registrar of Titles to issue to

the accepted purchaser a certificate of title to the land sold, free from any noting of the mortgages and encumbrances and caveat of seizure on the former certificate of title, except those encumbrances which have been reserved under section 77 (the date of the new certificate of title to draw back to the day on which the offer was accepted), and to cancel the former certificate of title (the duplicate of which shall be delivered up to the Registrar of Titles by the former registered proprietor), and the land contained therein shall, thereafter, be held fully and completely freed and purged from the former mortgages and encumbrances, except those reserved as already provided for.

Registered proprietor may remain in charge of property between seizure and sale, but receiver may be appointed.

83. The registered proprietor, or his or her attorney or manager on the spot, shall, as a general rule, be named by the bailiff to take charge of the property seized, and, during the necessary delay and until the land be sold, shall carry on the cultivation of the land, and the preparing and reaping of the crops, as before the seizure, but where, from the necessity of obtaining advances for the pay of labourers or otherwise, and the stoppage of his or her credit, the registered proprietor shall not be in a position to do so, then the mortgagee or encumbrancee who has made the seizure shall apply to the Court to appoint a receiver to manage and carry on the land or estate until a sale be effected, or the seizure paid off.

Debt may be paid up to noon of day preceding day of sale.

84. The registered proprietor may, at any time up to twelve of the clock of the day preceding the day of sale, pay off the seizure, by depositing in Court the amount of the sum due under the mortgage or encumbrance, and the costs.

If no seizure made within the time limited.

85. Should the creditor, after the sixty days provided in the notice to pay off have run out, not proceed to seizure within twenty-one days, he or she shall serve a new notice to pay off, and the procedure shall have the same course as before.

Seizing creditor to have carriage of sale.

86. If there be more than one seizure, the mortgagee or encumbrancee who shall first present the caveat of seizure to the Registrar of Titles shall have the carriage of the sale, unless the Court shall otherwise order.

Effect of seizure on leases and rents.

87. (1) Any lease for less than three years of any portion of the land seized made after the seizure shall be *ipso facto* null, and no lease for three years or upwards can be registered in face of the caveat of seizure.

(2) All rents due for any portion of the land seized shall be paid, after seizure, into the Registry of the High Court.

(Amended by Act 3 of 1971)

Payment of solicitor having carriage of sale.

88. The solicitor having the carriage of the sale shall be remunerated, over and above the sums of money actually paid out of pocket, by a percentage upon the sale price in full payment of costs against the registered proprietor or the mortgagee or encumbrance of the land and estate in any manner or way, from the date of the notice

to pay off until the completion of the scheme of division and the issuing of the certificate of title in favour of the purchaser.

Percentage payable to solicitor.

89. The percentage payable to the solicitor having the carriage of the sale shall be according to the proportionate amount set forth in the Fifth Schedule.

Taxation and payment of costs.

90. The total costs, including both the sums actually paid out of pocket and the percentage on the sale price, shall be taxed by the Registrar of the High Court and publicly notified at the time of adjusting the scheme of division, and the amount shall form the first item in such scheme in the name of the solicitor having the carriage of the sale, after the sums, if any, due to the receiver.

(Amended by Act 3 of 1971)

Adjournment of sale.

91. Should no bidders appear on the day of sale, or no bidders to offer the upset price, or on other strong grounds of necessity or expediency, the Registrar of the High Court may, of his or her own motion, adjourn the sale either to a day to be fixed or *sine die*, and he or she may also so adjourn the sale either at the instance of the registered proprietor, or the mortgagee or encumbrancee prosecuting the sale, or any other mortgagee or encumbrancee, if the reasons set forth by them for the adjournment appear to be serious and well founded in the interest of all parties.

(Amended by Act 3 of 1971)

Announcement of adjourned sale.

92. When the sale has been so postponed, another day shall be fixed by the Court, either at the request of the Registrar of the High Court, or on the motion of the mortgagee or encumbrancee prosecuting the sale, or of the registered proprietor, and with or without any alteration of the upset price, or of the announcements of sale, as may be considered best adapted to ensure a sale of the land and estate, and on such publication of the announcement of the adjourned sale as the Court may order.

(Amended by Act 3 of 1971)

Mortgagee, etc., may bid at sale.

93. (1) The mortgagee or encumbrancee prosecuting the sale may bid, and all other mortgagees and encumbrancees:

But the following persons are incapacitated from bidding or purchasing either in their own persons or by means of a third party; viz., any Judge of the High Court, any Registrar of the High Court or any of his or her clerks, the solicitor having charge of the sale, and any person notoriously in insolvent circumstances.

(2) Any bidding or purchase made by, or on behalf of, any of the above persons, shall be absolutely null and void.

(Amended by Act 3 of 1971)

Questions arising in course of sale to be settled by the Court.

94. Any question arising in the course of a sale of land or estate, from the time of serving the notice to pay off till the completion of the scheme of division and distribution of the price, either between the registered proprietor and the mortgagee or encumbrancee prosecuting the sale, or between either of the parties and any receiver

appointed by the Court, or between any other mortgagees and encumbrancees themselves, or between any other creditor and any of the parties named, or any one pretending right to any of the property seized, shall be heard and determined by the Court in such manner as the Court may direct.

Crop Advance Warrants

Security of mortgagee, etc., not to extend over crop when reaped.

95. The security of the mortgagee and encumbrancee over the land, stock, growing crop, and other things accessory to the land, hereinbefore enumerated, shall not be held to extend over the crop when cut or plucked, but the mortgagor or encumbrancer shall deal therewith as a good husbandman to sell the crop to the best advantage, and shall, from the first and readiest of the moneys realized therefor, provide for the payment of the interest due, or to become due, on the mortgages and encumbrances for the year, and for payments constituting encumbrances.

Crop may be pledged for repayment of advances.

96. The registered proprietor shall be at liberty to deal with the sugar, cocoa, coffee or other crop in order that it may be a pledge for the repayment of advances made for the purpose of providing the labour and supplies essential to the production of the crop:

Provided that up to the period of the crop ceasing to be a growing crop, the right of the mortgagee or encumbrancee, under his or her pledge of the land and estate, to seize and sell the land with the growing crop belonging to the registered proprietor, is preferable to all others.

On sale of land by mortgagee, crop advance warrant to have preference.

97. Where the land of the registered proprietor has been seized and sold by any mortgagee or encumbrancee, after the advance of the whole or a portion of the sum in a crop advance warrant, as provided for in section 98, for the crop then on the ground, the holder of the crop advance warrant shall be repaid out of the sale price preferably to any creditor other than the receiver and the solicitor having the carriage of the sale shall be ranked in the scheme of division accordingly.

Effect of crop advance warrant.

98. The registered proprietor may grant a crop advance warrant set out in Form 19 in the Second Schedule, and the meaning and effect of such document shall be that, so soon as the sugar cane is cut, or the coffee, cocoa or fruit plucked from the tree, or the other crops have been taken from the plants or ground, so as to have ceased to be growing crops, they shall be a pledge for the repayment of the amount set forth in the crop advance warrant, and the buildings or places where the sugar is drained and stored, or the coffee or cocoa or other crop is prepared for market or stored, whether such buildings or places be on the land and estate, or in town or elsewhere, shall be held to be the joint warehouse or store of the registered proprietor and the holder of the crop advance warrant, and the registered proprietor shall hold the same for himself or herself and the holder of the crop advance warrant.

Holder of crop advance warrant may take possession of crop.

99. The holder of the crop advance warrant may take possession of the crop at any time after it becomes subject to his or her right, or he or she may place a person to represent his or her interest in joint charge with the registered proprietor, but where the holder of the crop advance warrant does not take possession of the crop, it shall, for the purposes of sale and turning into money, be at the disposal of the registered proprietor, who shall account for the same to the holder of the crop advance warrant, and repay the crop advance.

Holder of crop advance warrant to account to proprietor.

100. When the holder of the crop advance warrant takes possession of the crop, he or she shall, in like manner, account for the proceeds of the same to the registered proprietor, and repay to him or her any balance after paying the sums due under the crop advance warrant.

Proprietor appropriating proceeds of crop without paying crop advance.

101. If the grantor of a crop advance warrant deals with the sugar or other crops, and, with intent to defraud, appropriates the proceeds solely to his or her own use, without paying the holder of the crop advance warrant, he or she shall be deemed to have committed the offence of larceny, and shall be subject to trial and punishment accordingly.

If crop insufficient to repay advance, balance to be a personal debt of proprietor.

102. When the crop over which the crop advance warrant extends has been sold or disposed of, an account shall be made up between the holder thereof and the registered proprietor, and the balance, if any, retained by or paid over to the latter; but if there is a balance owing to the holder of the crop advance warrant, it shall be a debt due by the registered proprietor personally, and, subject to the provisions of Part VII, shall not be a charge upon the land or estate:

Provided that it shall always be lawful for the registered proprietor to grant a mortgage for the balance, which shall take its place in the order of its date, or to guarantee payment of the balance by the deposit of the certificate of title by way of equitable mortgage protected by caveat.

Crop advance warrants transferable, and may be granted by lessees.

103. Crop advance warrants may be transferred by special or blank endorsements in the same manner as bills of exchange, and may be granted by lessees in the same manner as if they were registered proprietors of the land leased.

Registration of crop advance warrants.

104. Crop advance warrants shall be registered, within thirty days of their date, in the register of bills of sale, and shall take precedence and priority according to their date of registration, both among themselves and in relation to bills of sale which may be registered in the same register.

Proceedings for enforcing payments due under crop advance warrant.

105. (1) Whenever any sum secured by a crop advance warrant is due and owing to the holder thereof, or whenever any sum of money promised to be advanced is due to the grantor of a crop advance warrant, it shall not be necessary for such holder or grantor to sue upon such crop advance warrant, but, if such holder or grantor shall

give three clear days notice to the person from whom he or she seeks to recover the sum of his or her intention to apply to the Registrar of the High Court to issue execution for the recovery of the sum so due or withheld, and calling upon him or her, if he or she has any reason to give why execution should not issue, to send notice thereof to the Registrar of the High Court with an affidavit verifying the facts on which he or she relies, and giving him or her notice that, if he or she fails to do so within three days, execution will issue, the holder or grantor may apply in writing, in Form 20 set out in the Second Schedule, to the Registrar of the High Court to issue execution for the sum so due and owing, and the Registrar of the High Court shall, on receipt of such application, together with an affidavit of service of the notice satisfying him or her that all the requirements of this section have been complied with, issue execution, in Form 21 set out in the Second Schedule, for such sum as is hereinafter provided.

(2) If the Registrar has received no notice of any reason why he or she should not issue execution, or if, in his or her opinion, no good reason is shown why such execution should not issue, he or she shall issue execution for the whole amount.

(3) If it shall appear to the Registrar that the reasons advanced why execution should not issue apply only to a part of the amount named in the application, he or she shall issue execution for such part of the said amount as the reasons advanced do not apply to:

Provided that the Registrar shall not issue execution for any part of the amount named in the application as to which, in his or her opinion, good reason is shown that execution shall not issue, but, for the recovery of any such sum, the person making the application shall bring his or her action in the ordinary way:

Provided also that, when the application for execution is made to the Registrar of the High Court for a Circuit other than that in which the notice to show cause is served, such Registrar shall not issue execution on the ground that no cause has been shown, until he or she is satisfied by affidavit that no cause has been shown, in the manner and time hereinbefore provided, to the Registrar of the High Court for the Circuit in which such notice was served.

(4) No such notice as in this section is mentioned shall, except by leave of the Court, be served on any person who is not within the State, which leave may be granted by the Court, subject to such conditions, and with such directions as to time and manner of procedure as to the Court shall seem fit.

(5) On execution being issued by the Registrar, the same steps may be followed in all respects as if execution had issued after judgment in the High Court in favour of the holder of the warrant, or of the grantor.

(Amended by Act 3 of 1971)

PART VII

JUDGMENTS

Order of sale in satisfaction of judgment debt.

106. (1) Where any registered proprietor, mortgagee or encumbrancee, or the estate or right of any registered proprietor, mortgagee or encumbrancee in or over any land brought under this Act, is liable to the payment of a judgment debt, the Court may, at any time after the date of the judgment, on the application of the judgment creditor,

make an order for the sale of the estate or right of such registered proprietor, mortgagee or encumbrancee in or over the land:

Provided that, if it is proved to the satisfaction of the Court that the estate or right in question is of the value of five thousand dollars or upwards, or where the application is for the sale of the estate or right of a registered proprietor, that, of the land in question, forty acres or more are under cultivation, no order of sale shall be made hereunder, except with the consent of such registered proprietor, mortgagee or encumbrancee, until the expiration of six months after the date of the application:

(Amended by Act 7 of 1976)

Provided further, that, on any such application, the Court instead of making an order of sale may order the amount due to be levied by the appointment of a receiver, or otherwise as it shall think fit.

(Amended by Act 6 of 1976)

(2) In this section—

“judgment” means judgment entered in the High Court:

Provided that any other judgment to which the provisions of section 8 of the Judgments Act, Cap. 3.14 apply, and in respect of which the provisions of that section have been complied with, shall also be deemed a judgment within the meaning of this section; and

(Amended by Act 3 of 1971)

“judgment creditor” means any person to whom any money, including money due for costs, is for the time being payable under any such judgment.

Sale in satisfaction of judgment debt.

107. When an order of sale is made under section 106, the estate or right thereby ordered to be sold shall be sold accordingly at public auction, at such time and place, in such manner, upon such conditions, and after such advertisement as the Court, by the same or any subsequent order, may direct, and the proceeds of the sale shall be paid into Court, and shall be applied in satisfaction of the judgment debt and the subsequent costs and expenses.

Transfer on sale in satisfaction of judgment debt.

108. Whenever any estate or right is sold under section 107, the Registrar of the High Court shall execute a transfer thereof to the purchaser in Form 22 set out in the Second Schedule, or in such other form as the Court may direct; and the Registrar of Titles, upon such transfer being presented to him or her, by or on behalf of the purchaser, shall, in the same manner as if the transfer had been executed by the registered proprietor, mortgagee or encumbrancee in question, proceed, in accordance with the provisions of Parts V and VI, according to the circumstances of the case, either, if it is the estate or right of the registered proprietor which has been sold, to cancel the existing certificate of title and to issue a new certificate of title with all the mortgages and encumbrances affecting the land duly noted thereon, or if it is a mortgage or encumbrance which has been sold, to note the transfer on the existing certificate of title, and the duplicate certificate of title, in whose hands the same may be, shall, on the demand of the Registrar of Titles, be delivered to him or her, in order, according to the circumstances, that the same may be cancelled, or that the transfer may be noted thereon.

Judgments, how made a charge.

109. A judgment for the payment of any money or costs shall constitute such money or costs a charge, subject to charges having a priority, upon the estate or right of any registered proprietor, mortgagee or encumbrancee in or over any land brought under the operation of this Act as soon as—

- (a) the person entitled to the benefit of such judgment has filed an application to the Court under the Judgments Act, Cap. 3.14 for an order for the levying of such money or costs or part thereof by sale of such estate right or otherwise, and all further proceedings in connection with such judgment shall be governed by the provisions of that Act; and
- (b) the Registrar of Titles shall have noted such application upon any relevant certificate of title in his or her custody.

Endorsement of judgment on duplicate certificate.

110. (1) The Registrar of Titles, upon making such notation as aforesaid, shall call upon the person having custody of the duplicate of the certificate of title mentioned in section 109 to produce it to him or her forthwith.

(2) Upon production of the duplicate certificate, the Registrar of Titles shall endorse thereon the same notation of the application as appears on the original certificate of title in his or her custody and the date of such notation thereon, for the purposes of priority, shall draw back to and rank as from the date of filing as entered on the original certificate of title aforesaid.

PART VIII

CAVEATS

Form of caveat.

111. A caveat shall, subject to the provisions of sections 16 and 74, be in Form 23 set out in the Second Schedule and shall be verified by the oath of the caveator, or his or her solicitor, or person acting under the power of attorney of the caveator, and shall contain an address within the State at which notices may be served on the caveator.

(Amended by Act 3 of 1971)

Who may present caveat.

112. Any person claiming to be entitled to stay the registration of any dealing in land, until his or her rights therein shall be recognised and registered, may present a caveat to the Registrar of Titles.

Caveat to be noted on certificate of title.

113. The Registrar of Titles shall register such caveat in the same form and manner as an encumbrance affecting the land set forth in the caveat, and the date of registration shall be the date of the presentation of such caveat, and, for the purpose of such registration, the Registrar of Titles shall have the right to demand the duplicate certificate of title from the possessor thereof, in order that the caveat may be noted thereon as well as on the duplicate in the register.

Notice of caveat to be sent to caveatee.

114. Where the caveatee is not the person in possession of the certificate of title, and would not necessarily by such proceedings receive notice of the caveat, the Registrar of Titles shall forthwith send notice to him or her, by post, of the presentation of such caveat.

Effect of registration of caveat.

115. After the registration of a caveat, and so long as it remains in force, the Registrar of Titles shall not register any dealing with the land embraced therein, until the caveat is removed.

Caveator may withdraw caveat.

116. A caveat may be removed by the caveator, at any time, by presenting to the Registrar of Titles an order of withdrawal set out in Form 24 in the Second Schedule, subject to any demand for costs and damages which the caveatee may make in the manner hereinafter provided.

Caveatee may give order of removal.

117. A caveat may be removed by a caveatee by his or her sending the Registrar of Titles an order of removal set out in Form 25 in the Second Schedule and containing an address within the State, where notices and letters may be addressed to or served on the caveatee, and, upon receipt of such order of removal, the Registrar of Titles shall note on the same the day and hour at which it was received, and shall give written intimation to the caveator, at the address given in the caveat, that, at the expiry of twenty-one days from the date noted on the order, he or she will enter the order of removal in the presentation book, and will proceed thereon to cancel the caveat on the duplicate certificate of title, unless, before the expiry of such period, there shall be presented to him or her an order of a Judge, sustaining or continuing the caveat for a time specified, or otherwise dealing with the caveat so as to require its continuance on the register.

(Amended by Act 3 of 1971)

Caveator may apply to Court to sustain caveat.

118. The caveator may, at any time and without any notice from the Registrar of the receipt of an order of removal from the caveatee, apply to the Court to sustain such caveat, and to order its continuance on the register, either until some question of right has been determined between the caveator and the caveatee, or till such time and in such manner as may be ordered by the Court, and the Court, after such notice to the caveatee or service upon him or her as may appear sufficient, may proceed to hear the parties, or, in the absence of the caveatee if he or she does not appear, to deal with the case as may appear just.

Application to Court to remove caveat.

119. The caveatee may, in like manner, and without sending any order of removal to the Registrar of Titles, apply to the Court to have the caveat removed by order of the Court.

Caveator liable in damages.

120. Any person lodging any caveat with the Registrar without reasonable cause shall be liable to make any person who may have sustained damage thereby such

compensation as may be just, and such compensation shall be recoverable in an action at law by the person who has sustained damage from the person who lodged the caveat.

All orders of Court relating to caveats to be noted.

121. All orders sustaining, continuing, or removing caveats, and all other orders of the Court relating thereto, shall be presented to the Registrar of Titles by the person in whose favour they are given, or on his or her behalf, and shall be noted by the Registrar of Titles on the duplicate certificate of title as of the date of such presentation.

No second caveat to be received from the same person.

122. No second or other caveat shall be lawful, at the instance of the same person, in relation to the same matter, and the Registrar shall refuse to receive or note the same on the register.

Cases in which Registrar may enter caveat.

123. The Registrar of Titles may, of his or her own motion, enter a caveat upon the register, either to protect the rights of the Crown, or the rights of any person under legal disability or absent from the State, or for any good, valid and sufficient reason to him or her appearing which may require him or her to act in such a manner in the interests of justice, and he or she may also enter a caveat, when it shall appear to him or her that any error has been committed in regard to any certificate of title, or any noting thereon, in order to prevent dealing with the said land until such error shall have been corrected.

(Amended by Act 3 of 1971)

PART IX

REGISTRATION AND CONFIRMATION OF QUALIFIED AND POSSESSORY TITLES

Registration of Qualified Titles and Possessory Titles

Application for certificate.

124. An application for the issue of a first certificate under this Part may be made by such persons, and shall be made in such manner and subject to such notice, and be supported by such examination or evidence of the title to the land as may be prescribed.

Certificate of qualified title.

125. (1) A certificate of qualified title may be issued in the name of any person, if, on the prescribed examination of title, he or she appears to the Judge to be entitled, at law or in equity, as owner to such estate in the land as in this section mentioned, whether subject or not to encumbrances, and whether for his or her own benefit or not.

(2) On the issuing of a certificate of qualified title, the registered proprietor of the land shall have the same estate in the land as a registered proprietor with an indefeasible title under the preceding provisions of this Act, except that the title shall be subject to any qualifications endorsed on the certificate of title as respects the

reservation or exception of any right arising before a specified date, or arising under a specified instrument, or otherwise particularly described in the certificate.

Certificate of possessory title.

126. (1) A certificate of possessory title may be issued in the name of any person, if, on the prescribed evidence, it appears to the Judge that he or she is *primâ facie* entitled to the land as owner, and that he or she, or some person for whom he or she holds the land in trust, is, or would but for some encumbrance be, in possession of the land.

(2) The issue of a certificate of possessory title shall not prejudice the enforcement of any right adverse to, or in derogation of, the title of the person in whose name it is issued, and subsisting or capable of arising at the date of the certificate, but, save as aforesaid, the registered proprietor shall have the same estate in the land as a registered proprietor with an indefeasible title under the preceding provisions of this Act.

(3) In any case where an application for a certificate of possessory title has been made, the Judge may, if he or she thinks fit, require the Magistrate of the district in which the land is situated to enquire as to the possession of the applicant, and any other matter calling for local enquiry.

(4) The Judge may direct whether the inquiry referred to in subsection (3) shall be with or without any and what jury, and generally in what way it shall be held, and as to the procedure thereat.

(5) If the inquiry is with a jury, the Provost Marshal shall, on receipt of notice by the Magistrate, summon the necessary number of jurymen at the place and time appointed by the Magistrate for holding the enquiry.

(6) When the land is partly in one district and partly in another district or districts, the Judge may direct an inquiry to be held in all or any of them as to the whole or any part of the land.

(7) Subject to the foregoing provisions, the Magistrate shall, for the purposes of procuring the attendance of witnesses, and for other matters and things connected with such inquiry, have the like powers as are given him or her under the Magistrate's Code of Procedure Act, Cap. 3.17 in matters within his or her summary jurisdiction (Criminal).

Application of other Parts of this Act to certificates of qualified or possessory title.

127. The term "certificate of title" in the other Parts of this Act shall include certificates of possessory title and certificates of qualified title; and all the enactments contained in the other Parts of this Act with reference to certificates of title and any proceeding with reference to the same (save and except so much of section 4 which enacts that, immediately after the issue of a certificate of title, all deeds upon which the land to which the certificate of title relates has been theretofore held, or by which any mortgages or encumbrances upon the said land were shown to exist, shall cease to have any force or effect, and any provisions of any other Parts of this Act which are inconsistent with the provisions of this Part) shall, with such modifications as may be necessary, apply to certificates of possessory title and certificates of qualified title and all proceedings under this Part:

Provided that no person in whose name a certificate of qualified title or a certificate of possessory title is issued, or who derives title from any such person, or from any noting on any such certificate, shall have, or shall by any dealing with the

same, confer any greater right than by such certificate is given to the person in whose name the certificate is issued.

Application of forms to certificates of possessory and qualified title.

128. The forms contained in the Second Schedule, with such alterations (if any) as may be prescribed or necessary, may be used in relation to certificates of qualified or possessory title:

Provided that, at the head of every such form, there shall be printed the words “Qualified Title” or “Possessory Title” as the case may be.

Certificate may be cancelled.

129. Where, at the hearing of any action or otherwise, it is shown to the satisfaction of a Judge that any person holding a certificate of qualified or possessory title is not entitled to hold such certificate, the Judge may direct the certificate to be cancelled and order the person holding the duplicate thereof to deliver up the same to the Registrar, and on any application to cancel any such certificate, the Judge may order any issue or issues to be tried in such manner and at such time as he or she may think fit.

Confirmation of Possessory Titles and Qualified Titles

Power to apply for examination of possessory or qualified title.

130. The Registrar may, on the application of a person in whose name as owner a certificate of qualified title or a certificate of possessory title has been issued, submit his or her title to a Judge, who thereupon may, according to the nature of the evidence adduced, direct the issue of a certificate of title under Part III, or a certificate of qualified title as on first registration.

Application for confirmation of possessory or qualified title.

131. (1) Any person, in whose name as owner a certificate of possessory title or of qualified title has been issued, may apply to the Registrar for the issuing of an indefeasible title under Part III, or of a certificate of qualified title, after the expiration of five years from the date of the first publication of the notice in section 132 mentioned, unless due cause is shown in the meantime why such certificate should not be issued.

(2) The application for the issue of a certificate under this section shall be accompanied by an affidavit in such form, by such persons, and with such information as to title and other particulars, as may be prescribed, and shall include a statement to the effect that the deponent has made due enquiry into the title, is not aware of any question or dispute as to the title, except such (if any) as is specified in the affidavit, and believes that, except as aforesaid, the issue of the certificate applied for will not prejudice any estate, right, or interest of any other person in, to, or over the land.

Public notice on receipt of application.

132. (1) On the receipt of an application accompanied by the requisite affidavit, and on the deposit by the applicant of such sum as may be directed by the Registrar for the purpose of covering the expenses of and consequential on the application, the Registrar shall publish and serve notice of the application having been made.

(2) Publication of the notice shall be made by such advertisements, local notices and other means as may be prescribed, or as the Judge or Registrar may, in any particular case, direct, and shall take place during the month of November next after the application, and during the month of November in each of the four years succeeding the first publication, and the date of the first publication shall be ascertained and conclusively determined by the Registrar in the prescribed manner.

(3) Service of the notice shall be made by serving in the prescribed manner a copy thereof on any person who, in the opinion of the Registrar, ought to receive notice and is capable, and the notice shall be served as soon as is reasonably practicable after the publication of the notice in the last of the said five years.

Mode of showing cause against confirmation of title.

133. (1) Any person desirous of showing cause against the issue of a certificate of title under sections 130 to 135 may, at any time within the period of five years from the date of the first publication of notice of the application for the issue thereof, petition the Registrar, subject to the prescribed conditions as to security for costs and otherwise.

(2) On receipt of the petition, the Registrar shall place the same before the Judge, and shall make such inquiries as to the matters in the petition alleged as the Judge shall direct, and the Judge, or the Registrar by his or her direction, may summon such witnesses and take such steps as are necessary to satisfy the Judge as to the sufficiency of any cause shown in the petition against the application.

(3) A petition under this section may be presented by any person alleging that he or she has cause to believe that the issuing of a certificate of title under sections 130 to 135 would prejudice the right of some person absent from the State, or of some unborn person, or of some person as to whom it is not known whether he or she is alive or dead, or of someone claiming under or in succession to such a person.

(Amended by Act 3 of 1971)

(4) Where it appears to the Judge that the right of any person absent from the State may possibly be prejudiced by the issue of a certificate of title under sections 130 to 135, he or she shall take such means for protecting his or her interest as may be prescribed, or as appear to him or her in any particular case to be proper.

(Amended by Act 3 of 1971)

Confirmation of title at expiration of time.

134. (1) Within the prescribed time after the expiration of the period of five years from the date of the first publication of the notice of application for the issue of a certificate of title under sections 130 to 135, the applicant may finally apply to the Registrar to issue the certificate of title applied for.

(2) The final application shall be accompanied by an affidavit in such form, by such persons, and with such particulars, as may be prescribed, and shall include, with respect to its date, the like statements as are required in the affidavit accompanying a first application.

(3) On receipt of the final application accompanied by the requisite affidavit, if cause has not been shown against the issue, or if the cause shown against the issue is not, in the opinion of the Judge, sufficient, the Registrar shall, unless he or she is satisfied that the certificate ought not to be issued, issue a certificate of title under Part III, or a certificate of qualified title as the case may be.

(4) From and after the date of the issue of a certificate of title under sections 130 to 135, the title of a registered proprietor shall be the same as if such certificate

had been issued on the day when the Registrar received the first application for the issue thereof.

(5) If, by reason of the issue of a certificate of title under sections 130 to 135, any person is deprived of any estate or right in, to, or over the land, or any money charged on the land, the person in whose name the certificate of title is issued, his or her executors and administrators, shall be liable to pay that person, his or her executors, administrators, or assigns, compensation for the same.

(6) If, on the receipt of the final application for the issue of a certificate of title under sections 130 to 135, the Registrar is satisfied that the certificate should only be issued subject to certain exceptions or reservations, or as respects part only of the land, the Registrar shall issue the certificate of title either subject to those exceptions or reservations, as on first registration of a qualified title, or as respects that part only of the land.

(7) In the event of any change of ownership of the land during the period between the date of an application for the issue of a certificate of title under sections 130 to 135 and the issue of such certificate, the application shall not be deemed to have determined, but the person to whom a certificate has been issued as successor in title of the applicant may, if he or she thinks fit, proceed with the application as if he or she were the original applicant.

(8) All mortgages and encumbrances endorsed on the original certificate of title shall be endorsed on the certificate of title issued under sections 130 to 135, and, subject to any entry to the contrary on such certificate, the issue of such certificate shall enure for the benefit of any such mortgagee or encumbrancee.

Confirmation of title to encumbrance.

135. (1) Where a certificate of possessory title or qualified title has been issued, and any encumbrance or mortgage is endorsed thereon, the encumbrancee or mortgagee may, if he or she thinks fit, after notice to the person in whose name such certificate has been issued, apply to the Registrar to have a certificate issued under sections 130 to 135, and thereupon all the provisions of the said sections shall apply, as in the case of an application by a person in whose name the original certificate was issued.

(2) The costs of any proceeding under this section with respect to an encumbrance shall be added to the encumbrance.

PART X

POWERS AND DUTIES OF REGISTRARS OF TITLES, AND MODE OF REVIEWING THEIR DECISIONS

Registrars of High Court to be Registrars of Titles.

136. (1) The Registrar of the High Court for each Circuit shall be, *ex officio*, the Registrar of Titles for that Circuit.

(Amended by Act 3 of 1971)

(2) All notings by any Registrar of Titles may be done either by his or her own hand, or by the hand of one of his or her clerks, or by means of a rubber stamp if such notings be duly signed and authenticated by such Registrar.

Registrar may state a case for decision of Court in questions arising under this Act.

137. Whenever any question shall arise with regard to the performance of any of the duties, or the exercise of any of the functions, by this Act conferred or imposed upon a Registrar of Titles, or if, in the exercise of any of the duties or powers hereby conferred upon him or her, any question of difficulty or importance shall arise, it shall be competent for him or her to state a case to the Court, and the Court, after hearing the Registrar of Titles and the parties interested, if after due notice or citation they appear, or in their absence, if after such notice or citation they fail to appear, shall give such order and directions thereupon as shall appear just.

Registrar to obtain direction of Court upon questions of difficulty; Powers of Court.

138. The Registrar of Titles may at all times take the advice, opinion, or direction of the Court upon questions of difficulty, even where there are no contending parties, and may request that such advice, opinion, or direction be given in writing to be preserved along with the papers connected with the issue of a certificate of a title, or noting of mortgages or encumbrances; and where no special procedure has been provided by this Act for any case with regard to placing on the register, or removing therefrom, the title of any person to any land, or any mortgage or encumbrance, or any fact in regard thereto which ought to be registered, or the registration of which ought to be altered, the Court shall give directions in regard thereto, according to the intent and meaning of this Act, and with the view of carrying out the objects for which it was framed in the true spirit thereof.

Party aggrieved by act of Registrar may bring question before the Court.

139. If any person is dissatisfied with any act, omission, refusal, decision, direction, order, noting, or other completed proceeding of a Registrar of Titles affecting the right of such person to any land, or any mortgage or encumbrance thereon, or any caveat in relation thereto, such person may apply to the Registrar of Titles to set forth in writing the grounds upon which he or she proceeded, and, thereupon, such person may bring any question in relation thereto before the Court by summons served on the Registrar of Titles, and the Court shall hear and determine the question at issue, and give such order and directions thereupon as may appear just.

In case of error or fraud, the Court may compel return of certificate of title to Registrar, etc.

140. In case it appears to a Registrar of Titles that any certificate of title has been issued in error, or contains any misdescription of land or boundaries, or that any noting of any mortgage or encumbrance or otherwise has been made in error, either wholly or as to any part thereof or that the certificate of title, or noting thereon, has been obtained by fraud, or that any certificate of title has been fraudulently obtained or is fraudulently retained, he or she may require the duplicate certificate of title issued from the registry to be returned for correction, or to be delivered to the true owner thereof, and, if the person so required fails to return the certificate of title, or to deliver the same to the true owner, the Registrar of Titles may apply to the Court for a summons to bring the person before the Court for examination; and the Court may thereupon examine the person, and may direct the certificate of title to be given up to the Registrar of Titles or to the true owner thereof, or may grant a warrant for searching for and recovering the same, or, if the person refuses to be examined or refuses to deliver up the certificate of title, or deliver it up to the true owner, either then or at any time ordered by the Court, may commit the person to prison for any term not exceeding six months.

Court may order cancellation or amendment of certificate of title.

141. At the request of a Registrar of Titles upon petition or case stated, or in any proceeding respecting any land, or in respect of any contract or transaction relating thereto, or in respect of any instrument, caveat, or dealing with land, the Court may by decree or order direct the Registrar of Titles to cancel, correct, substitute, or issue any certificate of title, or make any noting or entry thereon, and to do such acts as may be necessary to carry into effect any judgment of the Court.

Registrar may require production of certificate of title, and attendance of witnesses.

142. (1) A Registrar of Titles may require any person, for the purposes of this Act, to produce the duplicate certificate of title issued to the registered proprietor, and may make inquiry into any matter affecting titles to land and the accuracy of the register, and may summon any person before him or her for the purpose of giving evidence and explanation in regard to any such matter, and any person refusing to appear in answer to such summons may be proceeded against in the same manner as a person refusing to give evidence before the Court.

(2) The summons may be in Form 26 set out in the Second Schedule.

Registrars may administer oaths, and correct errors.

143. Every Registrar of Titles may administer oaths, or take declarations or affirmations in lieu of oaths, and may correct errors in the certificates of title registered or issued, and supply entries omitted.

On proof of loss of certificate of title, new certificate may be issued.

144. If the duplicate certificate of title issued to any registered proprietor is lost, the Registrar of Titles may make such inquiries as he or she deems necessary in regard thereto, and if he or she comes to the conclusion that it is irrecoverably lost by misadventure, or if the Court so determines, then, without public notice, or after such public intimation as may be considered reasonable and safe, the Registrar of Titles may cancel, for the reason to be stated thereon, the registered certificate of title and issue a new certificate, in the manner herein-before provided, to the person entitled thereto.

Registrar may require plan to be attached to certificate of title

145. The Registrar of Titles, whenever he or she deems it expedient for the better administration of this Act, and when such a step is practically possible in the circumstances of the locality without imposing upon the parties to any dealing with land a cost out of proportion to the value of the subject, or the nature of the dealing, may require the person proposing to deal with land to deposit a plan, map, or diagram of the land to be dealt with, or to have the land sketched or delineated upon the certificate of title before the completion or issue of the same-the said plan, map, or diagram to be the work of a licensed surveyor, and, where there is no licensed surveyor, no map, plan, or diagram is to be insisted on or required.

PART XI

POWERS OF ATTORNEY, ATTESTATION OF INSTRUMENTS, DEALINGS ABROAD AND
MARRIED WOMEN**Form of power of attorney.**

146. (1) A power of attorney intended to authorise dealings with land, if executed within the State, may be in Form 27 set out in the Second Schedule.

(2) If executed without the limits of the State, the power of attorney may be either in the form referred to in subsection (1) or in any form in use in the State, country, kingdom, or place where the same appears to have been executed.

(Amended by Act 3 of 1971)

Attestation of instruments executed within the State.

147. (1) All instruments relating to land, executed within the State, shall be attested by one witness, but it shall not be necessary to prove the execution of the instrument by any declaration or certificate of such witness.

(2) Wherever the Registrar of Titles shall have occasion to doubt the authenticity of any signature to any instrument, he or she shall make inquiry, and admit or refuse that instrument as he or she may deem proper, subject to the direction of the Court if his or her decision shall be challenged by the parties interested or any of them.

(Amended by Act 3 of 1971)

Attestation and proof of instruments executed out of the State.

148. All instruments relating to land, executed without the State, shall be proved by the declaration or certificate of the attesting witness before one of the official persons named in the Third Schedule before whom instruments may be proved out of the State, or they may be attested, without being proved, by such official person subscribing as a witness to the signature.

(Amended by Act 3 of 1971)

Certificate of closing of registration.

149. When a registered proprietor desires to deal with land situated in the State, when he or she is out of the limits thereof, he or she may apply to the Registrar of Titles to close the registration as regards the land contained in his or her certificate of title until such time as may be agreed upon, or the return of the certificate of closing of registration hereinafter provided for, and the Registrar of Titles shall thereupon note on the certificate of title in the register that the registration in regard to that certificate is closed within the State until such note be cancelled, and he or she shall likewise append to the duplicate certificate of title in the hands of the registered proprietor a certificate of closing of registration in Form 28 set out in the Second Schedule.

(Amended by Act 3 of 1971)

Noting dealings in land made out of the State.

150. When the registered proprietor deals without the limits of the State with the land contained in the said certificate of title, he or she, or the person in whose favour any memorandum of transfer, mortgage or encumbrance has been made, may produce such certificate of title, with the certificate of closing of registration annexed thereto, to any of the persons before whom such instruments may be attested, and, upon such

person noting upon the certificate of title a short note of the transaction after the form of the entries already shown upon the said certificate of title, the Registrar of Titles shall, upon receipt of the same and the instrument dealing with the land, cancel the note of closing of registration, and shall register the dealing as of the date of the noting upon the certificate of title, and shall, if the dealing be a transfer, post to the address of the transferee the new certificate of title to be issued in consequence thereof, or, if the instrument be a mortgage or encumbrance, shall post to the mortgagee or encumbrancee a certificate that the mortgage or encumbrance has been duly recorded.

(Amended by Act 3 of 1971)

Acknowledgement of married woman executing instrument out of the State.

151. Where any married woman executes, or signs any instrument under this Act as concurring therein, it shall be necessary, if the instrument be executed out of the limits of the State, that she appears before a Judge or other officer qualified to take the acknowledgments of married women in the country, kingdom, or place where she may be, or before any of the official persons appointed for the purpose of proving or attesting instruments under this Act, who shall examine her apart from her husband and take her acknowledgment that she signed the said instrument of her own free will, and that she did not act under any fear of, or compulsion from, her husband, and the person taking the acknowledgment shall sign a certificate thereof.

(Amended by Act 3 of 1971)

Execution of instrument by married woman in the State.

152. Where any instrument under this Act, or any deed or document relating to land is executed by a married woman within the State, or signed by her as consenting thereto, it shall not be necessary for the Registrar to require any certificate of acknowledgment of the nature above set forth, but, if he or she has any doubt of the genuineness of the signature, or has reason to believe that the instrument was not executed or signed freely and voluntarily, he or she may make such inquiries into the same as he or she may deem fit and accept or reject the document presented or offered for presentation.

(Amended by Act 3 of 1971)

Application of Part XI.

153. The provisions of this Part shall apply only in the case of land brought under the operation of this Act.

PART XII

FORMS, SOLICITORS, AND SCALES OF FEES

Parties may themselves fill up forms of instruments; only solicitors may charge fees for doing so.

154. The various forms of instruments and other forms set forth in the Second Schedule shall be printed or lithographed, or otherwise prepared to be publicly sold, and any person, if he or she so chooses, may himself or herself fill up the form of instrument he or she desires to present to the Registrar of Titles, but if he or she employs any person to do so other than a solicitor of the High Court, then such person shall not be entitled to charge any fees therefor, and may be compelled to

return them by summary order of the Court on the complaint of any one having interest.

(Amended by Act 3 of 1971)

Fees to be paid to solicitors.

155. (1) Where a solicitor is employed to do professional work under this Act, he or she shall be permitted to charge an *ad valorem* fee according to the scale set forth in the Fifth Schedule.

(2) The fee referred to in subsection (1) shall not include payment for professional work rendered in respect of contentious litigation arising between parties, or the customary commissions payable for carrying through negotiations for purchase, sale or loan.

(3) Subject to the provisions of subsection (2), the fee referred to in subsection (1) shall cover not merely the filling up of any form or instrument required to be presented to the Registrar of Titles, or any other form under this Act, but also all meetings, correspondence and all other charges whatsoever which the solicitor might otherwise have legally made, or which might have been charged before the passing of this Act, in relation to professional work, or any similar professional work, required to be performed.

(4) If the solicitor and his or her client are unable to agree upon the value of the land or encumbrance for the purposes of this section, the question shall be referred to the Registrar of Titles who shall fix the said value and for so doing he or she may require such evidence by affidavit or otherwise as he or she may think fit.

(5) Where the value of the land or encumbrance fixed by the Registrar of Titles under subsection (4) exceeds four thousand eight hundred dollars either party, if dissatisfied therewith, may bring the question before the Court in the manner provided by section 139.

(6) For the purposes of this section, the property value of encumbrances shall be taken as ten years of the annual sum chargeable on the estate value or whole value of instalments secured.

(7) It shall be unlawful for any barrister, solicitor or other person authorised to prepare legal documents, to charge any fees other than those authorised by this Act for any legal services rendered in respect of any transaction connected with land brought under the operation of this Act, either by contracting out or in any other manner.

(8) Notwithstanding any of the provisions of this section, if the Court is satisfied that any professional work of an exceptional nature has been performed under this Act by any person enrolled as a solicitor of the Court, and that it is just and equitable that a fee in excess of the scale of remuneration set out in the Fifth Schedule be charged in relation to the transaction, the Court may, upon application by the solicitor concerned, allow and fix such additional fee in respect of such professional work as, having regard to all the circumstances of the case, the Court may think fair and reasonable.

Fees of office.

156. In respect of each of the transactions specified in the Fourth Schedule, the fee specified in the Fourth Schedule in respect of that transaction shall be paid by stamps affixed to the document relating to the transaction; and it shall be the duty of the Registrar of Titles or the Registrar of the High Court, according to the nature of the transaction, to see that the proper stamps are duly affixed and cancelled.

(Amended by Act 3 of 1971)

PART XIII

PENALTIES

Fraudulent procuring of certificate of title, etc., a misdemeanor.

157. If any person fraudulently procures, or is privy to the fraudulent procuring of, any certificate of title or instrument, or of any noting or entry in the register in respect of any land or the title thereto, or in respect of any dealing with land under this Act, he or she commits a misdemeanour, and shall be liable to a penalty not exceeding seven thousand five hundred dollars, or imprisonment for any term not exceeding two years.

(Amended by Act 7 of 1976 and 9 of 1986)

Forgery of seal, etc., felony.

158. If any person—

- (a) forges or procures to be forged, or assists in forging, the seal of the Registrar of Titles, or his or her name or signature, or the name or signature of any officer of the Registry of Titles authorised to sign official documents, to any document, writing, note, or entry, either kept in the Registry or issued to any registered proprietor;
- (b) stamps, or procures to be stamped, or assists in stamping, any instrument or document with any such forged seal;
- (c) uses fraudulently the true seal of the Registrar of Titles; or
- (d) uses, with an intention to defraud, any instrument, writing, or document upon which any impression or part of the impression of the seal of the Registrar of Titles has been forged, or fraudulently obtained or stamped, knowing the same to have been so forged, or fraudulently obtained or stamped,

he or she commits a felony, and shall be liable to imprisonment, with or without hard labour for any term not exceeding five years.

PART XIV

MISCELLANEOUS

Nominal index of parties to instruments.

159. In order to facilitate reference and search where one person is proprietor of the lands contained in more than one certificate of title, and where various mortgages, encumbrances and other securities have been granted, the Registrar of Titles shall enter in a nominal index every instrument presented to him or her, both under the names of the grantors and grantees.

Minister to provide offices.

160. The Governor-General shall see that proper offices of stone, brick, concrete, or other durable substance are provided for the Registrars of Titles in the various Circuits, for the preservation of the registers under this Act.

(Amended by Act 3 of 1971)

Appointment of officers.

161. The Governor-General shall appoint whatever officer or additional officers may be necessary for the effectual carrying out of the provisions of this Act, at such salaries as may be fixed by the National Assembly.

(Amended by Act 3 of 1971)

Seals and forms of instruments to be provided.

162. The Governor-General shall provide the necessary seals, and have the forms required for the carrying out of this Act, and copies of this Act, properly printed, lithographed, or prepared, and ready for sale at the offices of the Registrars of Titles in the different Circuits and at such other places as may be determined on, and do any other executive act which may be necessary for putting this Act in operation, or which may facilitate the working thereof.

(Amended by Act 3 of 1971)

Appeal to Court of Appeal.

163. Any person who may feel aggrieved by any decision of a Judge in regard to the issue of any certificate of title, or the noting of any mortgage or encumbrance, or the refusal to note any mortgage or encumbrance, or as to the priority of any mortgage or encumbrance, may present to the Registrar of the High Court a claim in Form 29 in the Second Schedule, and the Registrar of Titles shall not issue any certificate of title, or note or refuse to note any mortgage or encumbrance, with respect to which a difference or dispute has arisen with any one interested or claiming to be interested, until such decision has been reviewed by the Court of Appeal.

(Amended by Act 3 of 1971)

Judge may refer case to Attorney-General.

164. If, on any application for the issue of a certificate of title, questions which the Judge considers difficult arise for his or her decision, he or she may order the applicant to serve notice of the application upon the Attorney-General, together with a statement of such questions, and copies of all such documents and evidence as the Judge may direct, and thereupon the Attorney-General may, by himself or herself or some one appointed by him or her in that behalf, intervene and oppose the grant of a certificate, if he or she is of opinion that it is likely to result in a successful action for damages against the Crown.

Question of fact may be tried by jury.

165. If any question of fact arise in any application under this Act the Judge may, if he or she thinks fit, direct that such question be tried by a Judge and jury at the High Court.

Reservation of right of parties to have questions tried before a jury.

166. Notwithstanding the provisions of this Act empowering a Judge to adjudicate in matters arising thereunder, nothing in this Act contained shall be construed to take away the right of any person to have any question of fact or other issue tried before a Judge and jury in cases in which, under the Eastern Caribbean Supreme Court (Saint Christopher and Nevis) Act, Cap. 3.11 any person could demand that such question of fact, or other issue, should be tried before a Judge and jury, had this Act not been passed.

Receivers.

167. Receivers appointed under this Act shall be appointed in such manner, and receive such remuneration, as may be prescribed.

Abolition of consignee's lien.

168. In order that no lien or security may in any way affect land, except mortgages and encumbrances which are borne on the face of the certificate of title, no consignee of produce or other person who may provide supplies or advances to any land or estate shall, from and after the issue of a first certificate of title under this Act, as regards the land therein, or, as regards other land throughout the State, from and after the 2nd day of August, 1887, be entitled under any legal privilege called consignee's lien or otherwise, to have his or her claims against the land and estate paid by preference to other creditors, or to any mortgagee or encumbrancee, or, on the ground of any such privilege or lien, to sue out or apply for the sale of any land or estate as an encumbrancee, but all persons, whether consignees of produce or otherwise, who may advance moneys or supplies to any land or estate shall be left to recover the sums due for the same by ordinary process of law, or by obtaining such securities as are provided by this Act or otherwise known to the law; reserving always power to the High Court, when a receiver has been appointed to any land or estate, to order and decree that such receiver shall, if he or she advances moneys or supplies to the land or estate, have a lien over the price thereof, when sold for payment of such advances and supplies, or to allow such preference or lien to a receiver appointed by the Court, if the circumstances shall call for it, although no such order or direction had been made beforehand.

(Amended by Act 3 of 1971)

Power to Chief Justice to make rules

169. (1) The Cabinet may, by Order, prescribe and fix the charges to be made for any act, matter or thing under this Act to be done or observed.

(Amended by Act 3 of 1971)

(2) The Chief Justice may make rules and orders to carry out any of the purposes of this Act, including any regulation of times, mode of procedure, forms, and generally the procedure of the Act.

(Amended by Acts 3/1971 and 7/1976)

(3) The fees and charges contained in the Fourth and Fifth Schedules shall continue to be taken, applied and accounted for until abolished or varied otherwise by Order.

Proof by draughtsman.

170. (1) Whenever any request, application or other document (hereinafter called document) offered for registration purports to have been prepared by any person, other than a barrister, solicitor or other person authorised to prepare legal documents, the Registrar in his or her discretion before admitting such document to registration, may require an affidavit from that person proving that he or she did not draw or prepare the said document either directly, or indirectly, for or in expectation of any fee, gain or reward, or otherwise contrary to the provisions of section 20 of the Supreme Court Act, or of any enactment replacing the same, and a further affidavit from the party bearing the cost of the preparation or registration of the said document, that no such fee, gain or reward was offered, paid, or was to be paid by him or her to the person for drawing or preparing the said document.

(Amended by Act 3 of 1971)

(2) The Registrar, in his or her discretion, is hereby authorised to retain custody of such document so offered for the purpose of being registered pending the production of the aforesaid affidavit.

(Amended by Act 3 of 1971)

FIRST SCHEDULE

(Section 2(3))

Act of Seizure. A written statement in form 15 in the Second Schedule by the bailiff who seizes land or estate in virtue of the instructions of a mortgagee or encumbrancee, setting forth the fact that he or she has seized, and naming the day and hour from which the seizure runs. The Act shall also set forth an inventory of the articles in addition to the land or estate. The act of seizure shall be served upon the registered proprietor, or those acting for him or her, in the manner set forth in this Act, and it shall also be embodied in the caveat of seizure to be presented forthwith to the Registrar of Titles upon the seizure being effected.

Articles of Sale. The conditions and stipulations under which any land or estate, which has been seized for non-payment of a mortgage or encumbrance, is to be put up for sale. The articles of sale shall describe the land as in the certificate or certificates of title, and the other articles seized as in the act of seizure. They shall settle any conditions under which biddings shall be made or the price paid, fix an upset price, and appoint the day of sale. The articles of sale may be in form 17 in the Second Schedule.

Cancelled. The marking by the Registrar of Titles of the word "Cancelled" across a certificate of title in the register, and thus destroying its efficacy as a registered title. The cancellation of a certificate of title takes place when a new certificate of title has been issued for the land contained therein, or where it has been found to have been issued in error.

Caveat. An instrument presented to the Registrar of Titles in one of the forms of caveat in the Second Schedule for the purpose of forbidding the registration of any dealing with the land set forth therein, until the caveat be withdrawn or removed.

Caveatee. The registered proprietor of the land to prohibit dealings with which the caveat is presented.

Caveator. The person in whose name the caveat is presented, and who forbids the registration of dealings with the land specified in the caveat.

Certificate of Closing of Registration. A Certificate by the Registrar of Titles written, printed, engraved, or lithographed, but dated and signed when issued, placed at the foot or end of the certificate of title which has been issued to a registered proprietor, to show that, until the duplicate certificate of title having the certificate of closing attached be returned to the Registrar of Titles, the registration of dealings in the State in regard to the land contained in the certificate of title is closed. The certificate of closing of registration, if attached to a duplicate certificate of title, must be so marked by the Registrar of Titles, at the place of attachment, that he or she could at once detect if it had been detached and added to any other certificate of title.

(Amended by Act 3 of 1971)

Certificate of Title. The name of the instrument issued by the Registrar of Titles to show that the person named therein as proprietor of the land set forth is the registered proprietor thereof under this Act. The certificate of title shall be in form 4 in the Second Schedule and may be either printed, engraved, lithographed, or written, or partly one and partly the other, or done in any other manner which the Registrar of Titles, with the consent of the Cabinet,

may from time to time determine. It must be signed by the Registrar of Titles and sealed with the seal of his or her office. It may be either of paper, parchment, vellum, or any other substance which may be determined on. The certificate of title must set forth on the face thereof, if space permits, but at all events on the folium thereof, all the mortgages and encumbrances affecting the land; and when these are transferred or discharged, the Registrar of Titles will, by a marking across the note of the particular mortgage or encumbrance, show that it is so transferred or discharged, and how, and refer to the file where the authority to make the marking is to be found. The certificate of title is registered by placing it in boards, or clips, or other contrivances which hold the materials of the current volume of the register, and marking on it the date of issue, and the folium of the register, and the reference to the instrument on the file in virtue of which it was issued, together with the mortgages and encumbrances thereon. In the case of a first certificate of title under this Act, the reference will be to the titles in the old form handed in to the Registrar of Titles to show that the registered proprietor was the true owner of the land.

(Amended by Act 3 of 1971)

Court. See The Court.

Current Volume. The certificates of title forming the register, which have not yet become numerous enough to be bound and placed on the shelf among the records of the department of the Register of Titles. It shall be the duty of the Registrar of Titles to provide boards or clips, or some other contrivance, to keep the certificates of title together in the order of their dates, and he or she shall not allow access to the current volume by any one unconnected with the department, and shall, himself or herself, be personally responsible for its safe keeping in a correct and orderly manner. It may be bound either at the completion of a year or when it attains a uniform thickness, as the Registrar of Titles, subject to the approval of the Chief Justice as *ex officio* Keeper of the Records, may determine.

Dealing. A dealing with land is any act in regard thereto which requires an application to the Registrar of Titles to have the act completed and made available by registration. A sale of land, for example, is evidenced by the registered proprietor signing in the proper manner a memorandum of transfer, and the memorandum of transfer must be presented to the Registrar of Titles to be dealt with by him or her, without which there is no registration of the title, and the sale is not completed. In the same way all mortgages and encumbrances and transmissions of land are dealings in the sense of the Act. Every act therefore by which the proprietorship of the land is changed or affected, or the mortgages and encumbrances are increased or diminished, is a dealing.

Duplicate Certificate of Title. The certificate of title issued to the registered proprietor, and which, as nearly as circumstances permit, must be an exact counterpart, or facsimile, of the certificate of title which is preserved in the register.

Encumbrance. All burdens, securities, or liens upon land, arising whether at law or in equity, other than mortgages, by which the land is subjected to particular interests in favour of individuals, or the revenues thereof are affected for the payment of annuities or temporary charges; and also any dealings with land which, in the event of sale, would limit the free use and disposal thereof by the purchaser, such as leases for three years and upwards; and all temporary attachments by judgments; and all caveats forbidding registration of dealings. An encumbrance is made, constituted, or created by a memorandum of

encumbrance or memorandum of lease, the noting of a judgment or order, or the presentation of a caveat. The instruments must be presented to the Registrar of Titles, and must be noted by him or her on the certificate of title in the same manner as mortgages. Encumbrances (except caveats and judgments) may be transferred and discharged in the same manner as mortgages, and the transfers and discharges must be noted by the Registrar of Titles.

Encumbrancee. The person in whose favour a memorandum of encumbrance is granted, and the encumbrance is noted on the certificate of title by the Registrar of Titles.

Encumbrancer. The registered proprietor who makes, constitutes, or creates such burdens or liens upon land, or the revenues thereof, as above defined, and who executes the memorandum of encumbrance.

Enter a Caveat. To present a caveat to the Registrar of Titles by entering it in the presentation book.

Enter Appearance. To enter appearance in the manner in which appearance may, for the time being, be entered in civil proceedings in the High Court.

(Amended by Act 3 of 1971)

File. The act of putting away for preservation, and the indexing, or otherwise keeping a record of the place of deposit, of the instruments which have been the authorities and warrants to the Registrar of Titles to perform some official act as such Registrar. When a first certificate of title is issued under this Act, the Registrar of Titles shall preserve and put away for safe custody the former title deeds upon the faith of which the certificate of title was issued.

Folium. The sheet of paper, parchment, or vellum upon which the certificate of title is written, engraved, printed, lithographed, or partly written and partly engraved, printed or lithographed, and which, when placed in the current volume of the register, shall be numbered as one folium thereof, whether it be folded so as to represent two leaves book-wise, or whether more leaves are required to embrace the full description of the land, and the notings by the Registrar of Titles. The reference to the certificate of title, placed upon the duplicate certificate of title, or new certificate of title, or instruments placed on the file, or in the presentation book, shall be to the number which the certificate of title ought to bear, counting from the first which has been placed in the current volume, and giving one consecutive number to each certificate of title registered.

Indefeasible. The word used to express that the certificate of title issued by the Registrar of Titles, and the notings by him or her thereon, cannot be challenged in any Court of law on the ground that some person, other than the person named therein as the registered proprietor, is the true owner of the land therein set forth, or on the ground that the mortgages or encumbrances in the notings thereon are not mortgages and encumbrances on the said land; except on the ground of fraud connected with the issue of such certificate of title, or the noting of such mortgages or encumbrances, or that the title of the registered proprietor had been superseded by a title acquired under the Limitation Act, Cap. 5.09 by the person making the challenge. The word also means that, the certificate of title being issued by the Government of the State, the Government of the State is, with the exceptions above mentioned, prepared to maintain the title in favour of the registered proprietor, leaving any one justly aggrieved by its issue to bring an action for money damages against the Government of the State.

(Amended by Act 3 of 1971)

Instrument. A paper, or document in one of the forms set forth in the Second Schedule, which may be either written, engraved, printed, or lithographed, by which proposed dealings in land are set forth, with the view of being completed by the Registrar of Titles when the instrument is presented to him or her.

Issued. The word used when a certificate of title, having been drawn up by the Registrar of Titles and signed and sealed by him or her, with all the necessary notings on the face thereof, is placed in the current volume of the register, and the counterpart or facsimile, also signed and sealed by the Registrar of Titles, with all the same notings on the face thereof, is handed to the registered proprietor, or to any one authorized to receive the same on his or her behalf.

Judgment. Includes judgment, decree, order and rule.

Land. Land includes all the fixtures and buildings thereon, and everything growing on the soil (unless otherwise specified), with the exception of any wooden houses belonging to others on the land, which are accustomed to be moved from place to place, and any wooden houses the property of lessees, and, in towns or villages, with the exception of such movable wooden houses as are the property of the residents therein, and not of the owner of the soil.

Licensed Surveyor. Any land surveyor licensed to practise his or her profession by any law of the State.

(Amended by Act 3 of 1971)

Memorandum of Encumbrance. See Encumbrance.

Memorandum of Mortgage. See Mortgage.

Memorandum of Transfer. See Transfer.

Mortgage. A pledge by the registered proprietor of the land contained in the certificate of title, and certain things accessory thereto, as set forth in this Act, to secure repayment of the debt expressed in the memorandum of mortgage.

Mortgagee. The person who advances money upon the security of the registered proprietor, and the land contained in his or her certificate of title, and in whose favour the registered proprietor executes the memorandum of mortgage; and any transferee of his rights.

Mortgagor. The registered proprietor of the land over which the mortgage extends.

Nominal Index. An index, in the form of a ledger, containing, under the name of every individual who has been the grantor or grantee of any instrument or certificate of title, or noting thereon, the nature of the transaction, and the volume and folium of the register where the certificate of title, or noting thereon, in which the name occurs is to be found.

Note. The word used to denote the writing and markings with figures which the Registrar of Titles makes upon the certificate of title in the register, and on the duplicate issued to the registered proprietor, to show the mortgages and encumbrances which are upon the land, and also the transfers and discharges of such mortgages and encumbrances, and the caveats, or the withdrawal or removal of caveats. The notings made by the Registrar of Titles upon a certificate of title are as indefeasible as the title upon which they are marked, that is, that any one, in dealing with the land, may take it as guaranteed by the Government of the State that no other mortgages or encumbrances affect the land than those noted on the certificate of title, and that the existing mortgages and encumbrances are correctly set forth.

(Amended by Act 3 of 1971)

Notice to Pay Off. The intimation given in writing by a mortgagee or encumbrancee that he or she demands payment, within sixty days from the date thereof, of the sums due to him or her under the mortgage or encumbrance. The notice may be signed by the registered proprietor, or the person holding his or her power of attorney, or the solicitor acting for him or her, and shall be in Form 14 in the Second Schedule. It must be formally served upon the mortgagor or encumbrancer by a bailiff, or according to some other of the modes of service authorized in civil proceedings in the High Court.

(Amended by Act 3 of 1971)

Owner. The person having the legal right to land and the full *dominium* thereof, but who has not become the registered proprietor under this Act. This distinction is for the temporary purposes of this Act only, as the registered proprietor is in the fullest sense the absolute owner of the land.

Plan, Map, or Diagram. A sketch or drawing made of the position of the land as it lies in regard to the lands of the neighbouring proprietors, and showing the length of the boundary lines, the angles at which they lie towards each other, the extent of the whole, and the various subdivisions of the land. When the land is of small extent, the plan ought to be placed in the lower left hand corner of the certificate of title, but where the land is of large extent requiring a separate plan, as in the case of an estate, the Registrar of Titles, after having satisfied himself or herself of its accuracy, will so mark and sign it as to show to what certificate of title it applies, and shall also attach it to the certificate of title so that it shall follow it in order in the register, and form part of the same folium.

Prescribed. Means prescribed by rules made under this Act.

Present. To present any instrument to the Registrar of Titles is to enter it in the presentation book, and hand it in to the registry.

Presentation Book. A book which is to lie in some convenient place in the office of every Registrar of Titles in order that any one having an instrument to present may be able to write the particulars thereof in the book. Every Registrar of Titles, and his or her clerks, must at all times give information and directions to assist the presenter in making a correct entry, and must see when he or she hands in the instrument that it is entered correctly, making the necessary corrections themselves if deficient, and, in particular, they must see that the time of presentation has been exactly entered, correcting it if necessary.

Records. All the books and instruments, writings, deeds and documents preserved in the department of the Registrar of Titles, and also, in a more general sense preserved in any department of Government or under official custody.

Register. The current volume wherein certificates of title are preserved before being bound up in a volume, and all the bound volumes of certificates of title with the notings thereon.

Registered. The placing by the Registrar of Titles of a certificate of title, dated, signed and sealed, in the current volume, and marking thereon the number of the folium by which it is thereafter to be designated and referred to; and also the noting by the Registrar of Titles upon certificates of title of mortgages and encumbrances as the same may be instructed by instruments presented to him or her.

Registered Proprietor. The person in whose favour a certificate of title is issued for the land named therein.

Registry. The office of a Registrar of Titles, and the place of deposit for preservation of the volumes of the register, and the file of instruments and writings, deeds and documents which have been the authority to the Registrar of Titles to issue certificates of title, and make notings thereon. The Registries of the High Court in the several Circuits of the State shall be the several Registries of Titles to lands situate in such Circuits.

(Amended by Act 3/1971)

Rules. Rules made in accordance with the provisions of this Act.

Request. Request in writing reciting the facts on which the request is founded, and signed by the person making the request or his or her solicitor or duly appointed attorney.

Seal of the Registrar of Titles. The seal provided by the Governor-General for the Registrar of Titles in each Circuit. The seal shall be affixed to all certificates of title, and to all writings which require to be authenticated by the Registrar of Titles. It shall be the duty of the Registrar of Titles to keep the seal in a lock-fast place, and not to permit its use by any one except in his or her presence, unless he or she be prevented by illness from being in his or her office, or be absent on leave of absence; when the same duties and responsibilities which devolve upon him or her shall be binding on the person who temporarily occupies the post. Until a special seal is provided under this Act, the seal of the High Court may lawfully be used, and shall be sufficient for the purposes of this Act.

(Amended by Act 3 of 1971)

Seized. The act of a mortgagee or encumbrancee by which he or she takes possession, by the hands of a bailiff, of the land forming the pledge contained in his or her mortgage or encumbrance after a notice to pay off has been given and payment has not been made. The formal announcement is made to the registered proprietor by an act of seizure, and it is publicly notified on the register by presenting a caveat of seizure to the Registrar of Titles.

The Court. Means the High Court or a Judge thereof.

(Amended by Act 3 of 1971)

Transfer. The consent of a registered proprietor to the sale or donation of the whole or part of the land contained in his or her certificate of title. The writing by which he or she signifies his or her consent is called a memorandum of transfer, and shall be in Form 5 or 6 in the Second Schedule. Transfers can also be made of mortgages and encumbrances, and of easements and incorporeal rights to be carried out by the execution of a memorandum of transfer, and the presentation of the same to the Registrar of Titles.

Transferee. The person in whose favour a memorandum of transfer is executed.

Transferor. The registered proprietor who sells the whole or a portion of his or her land, and signs the memorandum of transfer; and the person who assigns or transfers mortgages or encumbrances, including leases.

Transmission. The passing of the proprietorship of land in the manner above set forth.

Transmit. The act by which land contained in any certificate of title passes to another proprietor by any other method than by transfer. Thus land transmits to the representative of a deceased proprietor, the date of his or her death being the date to be inserted in the new certificate of title in favour of the executor, administrator, or representative. The proprietorship of land transmits also to the trustee appointed by the Court under a bankruptcy.

SECOND SCHEDULE

FORM 1

(Section 12)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

REQUEST FOR ISSUE OF CERTIFICATE OF TITLE

To the Registrar of Titles for the Circuit.

I,, of the Island of am the owner in possession of that estate in the said Island commonly called and bounded as follows¹:

The deed under which I hold the said estate is²

The said estate is of the extent of³ and is, so far as I can estimate the same, of the value of \$

There are no mortgages or encumbrances affecting the same⁴

There is no other person claiming to be owner of the said land⁵

For the purpose of obtaining an indefeasible title, I request that a certificate of title may be issued to me as registered proprietor of the land above set forth, ⁶placing upon the certificate of title, or attaching thereto, the plan of the said land, made and drawn by, licensed surveyor, which accompanies this request;

And I hand in herewith the title deeds under which I hold the said land as owner aforesaid, which are enumerated and set forth in the schedule attached hereto.⁷

I have not knowingly withheld any fact concerning the land which ought to have been disclosed in making this request and I have truly and honestly, to the best of my knowledge and belief, represented the truth concerning the title thereof.

Given under my hand this day of 20

Signature of Applicant

Signed before and in the presence of

¹ Here insert boundaries.

² Here insert briefly the title under which the applicant holds the estate or land, and refer to the volume of the register in which it is recorded, or if the applicant holds no deed, describe briefly under what circumstances he or she claims to be owner, to bring him or her under the Act.

³ Here insert number of acres or fraction of an acre.

⁴ Where mortgages and encumbrances exist, here state those which exist to the knowledge of the applicant.

⁵ If there is, here add names of any competing claimants.

⁶ If there is no plan this clause may be omitted.

⁷ If there are special circumstances affecting the title to the land, which the Registrar of Titles ought to be made acquainted with, here state them.

FORM 2

(Section 16)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

CAVEAT AGAINST THE ISSUE OF FIRST CERTIFICATE OF TITLE

To the Registrar of Titles for the Circuit.

Take notice that I

Do hereby forbid the issue of a certificate of title of the estate of¹
to of ; as I am the legal owner
thereof, and intend to apply at the proper time for the issue of a certificate of title in
my own favour.

Given under my hand this day of 20

Signature

Signed before and in the presence of

*Or if the purpose of a caveat be to prevent the issue of a certificate of title
unless a specific mortgage or encumbrance be noted thereon, the above form will be
varied in accordance with the facts.*

¹ *Here insert description and boundaries.*

FORM 3

(Section 12)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

Registry of Titles: Circuit.

SCHEDULE OF APPLICATIONS

For certificates of title, and notings thereon, and caveats, for the week ending the
..... day of 20

Date of request	Person presenting	Nature of request, whether for certificate of title, or noting thereon, or caveat
3rd January, 20.....	A. B. of the Island of	Certificate of title for the land of
30th " "	C. D. of the Island of	Noting on certificate of title of land of, of mortgage stated in request.
31st " "	L. P. of the Island of	Caveat against issue of certificate of title to land of to any applicant for certificate of title till caveator be heard.

Date.

Signature of Registrar of Titles

FORM 4

(Sections 3 and 39)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

CERTIFICATE OF TITLE

Land titles;

Register book, Fol.

Know all men to whom these presents shall come, that is the registered proprietor of all as the same is delineated and set forth on the plan thereof by licensed surveyor, annexed hereto, subject, nevertheless, to the mortgages and encumbrances which are noted on the margin hereof, or endorsed hereon. In faith and testimony whereof I have hereunto subscribed my name and affixed the seal of my office this day of two thousand and

Mortgage by the within named in favour of \$ interest per cent: Payable Registered Instrument filed A. 10. 5

Signature of Registrar of Titles

Transfer of above mortgage to Registered Instrument filed B. 6. 3

(L.S.)

Place of the Plan

¹ Name Of Registered Proprietor.

² Insert Careful Description Of Land, By Its Full Boundaries And Estimated Extent.

FORM 5

(Section 20)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

MEMORANDUM OF TRANSFER ON SALE

I, ¹, of the Island of registered proprietor of all as the same is set forth bounded and described in the certificate of title in my favour, dated the day of 20, and registered in the register of titles of the Circuit Vol., Fol., in consideration of the sum of \$ paid to me by, the receipt of which I hereby acknowledge, do hereby transfer the said land to and in favour of the said ³

..... and consent to the noting hereof by the Registrar of Titles, and the cancellation of the certificate of title in my favour, and that a new certificate of title of the said land shall be issued in favour of the said³

For the doing of all which I hereby authorise and grant warrant to the Registrar of Titles accordingly.

Given under my hand this day of 20.....

Signature of Transferor

Signed before and in the presence of

¹ Name of transferor.

² Here insert description of land from certificate of title.

³ Name of transferee

FORM 6

(Section 23)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

MEMORANDUM OF TRANSFER PART OF LAND CONTAINED IN A CERTIFICATE OF TITLE

I,¹ being registered proprietor of , as the same is bounded and described in the certificate of title in my favour registered in Vol., Fol., of the register of titles of the Circuit in consideration of the sum of \$ paid to me by³ , the receipt of which I hereby acknowledge, do hereby transfer to the said³ five acres of the said land bounded as follows, that is to say⁴ all as the same are delineated and set forth on the plan thereof by , licensed surveyor, of annexed hereto. And I do by these presents consent to the cancellation by the Registrar of Titles of the certificate of title in my favour, and to a new certificate of title being issued to me for the portion of the said land remaining after deduction of the five acres, which land will then be bounded as follows⁵ all as the same is delineated and set forth on the plan thereof by , of , licensed surveyor annexed hereto. And for the doing, noting and registering all that is necessary in the premises, I hereby authorise and grant warrant to the Registrar of Titles accordingly.

Given under my hand this day of 20.....

Signature of Transferor

Signed before and in the presence of

¹ Name of transferor.

² Here describe land briefly by name if it has any.

³ Name of transferee.

⁴ Here insert boundaries of five acres sold.

⁵ Here follows new description of land remaining in possession of transferor.

FORM 7

(Section 25)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

MEMORANDUM OF TRANSFER OF RIGHT OF WAY TO A STREAM

I, ¹....., being registered proprietor of the estate of....., as the same is fully set forth and described in the certificate of title in my favour, dated the day of, 20, and registered in Vol., Fol., of the register of titles of the Circuit, in consideration of the sum of \$ paid to me by², the registered proprietor of³, all as the same is set forth and described in the certificate of title in favour of the said², dated the day of, 20, and registered Vol., Fol., of the register of titles of the Circuit, do hereby transfer to the said² and all subsequent registered proprietors of the land last above described, a right of way through my said estate of, at the point and in the direction set forth on the plan by, licensed surveyor, of, annexed hereto, for the purpose of having access to the stream of for watering horses, cattle, and all manner of flocks and herds, and for carrying water therefrom in kegs, casks, or other suitable manner, and I consent that the said right of way be noted on or added to a certificate of title of the said land last above described to be granted by the Registrar of Titles in favour of the said², and to form part of the title of the registered proprietor of the said land last above described in all times to come. And for all that is necessary to be done in the premises I authorise and grant warrant to the Registrar of Titles accordingly.

Given under my hand this day of 20

Signature of Transferor

Signed before and in the presence of

¹Name of transferor.

²Name of transferee.

³Here describe land of transferee.

FORM 8

(Section 37)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

MEMORANDUM OF MORTGAGE

I, ¹..... registered proprietor of ²..... all as the same is bounded and described in the certificate of title in my favour dated the day of, 20, and registered in the register of titles of the Circuit, Vol., Fol., in consideration of the sum of \$³..... advanced to me by way of loan by⁴..... to be repaid on the day of, 20, with interest till then at the rate of per cent, per annum, and half yearly and continually thereafter until the said principal sum be repaid, do hereby mortgage the above land as security for repayment of the said sum with interest thereon. And I consent to the noting by the Registrar of Titles of a mortgage for the said sum and interest upon the certificate of title of the said land, and authorise and grant warrant to the Registrar of Titles accordingly.

Given under my hand this day of 20

Signature of Mortgagor

Signed before and in the presence of

¹Name of mortgagor.

²Here describe land from certificate of title.

³Sum advanced.

⁴Name of mortgagee.

FORM 9

(Section 51)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

MEMORANDUM OF ENCUMBRANCE

a. General Form

I, of the Island of being registered proprietor of all as the same is bounded and described in the certificate of title in my favour dated the day of, 20, and registered in Vol., Fol., of the register of titles of the Circuit, in consideration of²..... and other causes and considerations me hereunto moving, do hereby constitute an encumbrance on the said land in favour of of the Island of , for the sum of \$

payable³ and I hereby consent that the above encumbrance be noted by the Registrar of Titles upon my certificate of title of the said land. And I authorise and grant warrant to the Registrar of Titles to make the noting of such encumbrance accordingly.

Given under my hand this day of 20

Signature of Encumbrancer

Signed before and in the presence of

¹Here describe land from certificate of title.

²Here state reason for granting encumbrance.

³Here insert time of payment and other necessary details.

b. Form for securing a sum of money by way of annuity in favour of a wife

I,¹, being a registered proprietor of the estate of²

.....
all as the same is bounded and described in the certificate of title in my favour dated the day of, 20, and registered in Vol., Fol., of the register of titles of the Circuit, having, by contract of marriage dated the day of, 20, and registered under the Registration and Records Act, on the day of, 20, bound and obliged myself to grant to, of, in view of our approaching marriage, an annuity of \$³ per annum from the said estate of, as a provision to her as my wife and so long as she shall remain my widow after my death, to be expended and dealt with as her own property as she shall think fit; and our said marriage being about to be solemnized on the day of, 20, do hereby, in virtue of the provision contained in the said contract of marriage, give, grant, and constitute to and in favour of the said, out of the rents and revenue of the said estate of, so long as she shall live and remain my wife, or so long as she shall remain my widow after my death, an encumbrance of the sum of per annum, the first payment thereof to be made on the day of next, and each year upon the day of thereafter, and I consent to this encumbrance being noted by the Registrar of Titles upon the certificate of title of my said estate of; and I authorise and grant warrant to the Registrar of Titles to make such noting for the purpose of constituting such encumbrance accordingly.

Given under my hand this day of 20

Signature of Encumbrancer

Signed before and in the presence of

¹Name of encumbrancer.

²Here describe land from certificate of title.

³Insert sum.

c. Form for securing payment of various instalments of an amount due

I, ¹....., being registered proprietor of²
....., all as the same
is bounded and described in the certificate of title in my favour dated the
day of, 20, and registered in Vol.,
Fol. of the register of titles of the
Circuit, having by contract dated the day of,
20, and registered under the Registration and Records Act, on the
day of, 20, made and executed between myself and³
....., bound and obliged myself, in the event of the said³
..... supplying me with⁴
to grant him an encumbrance as after mentioned over my said land as security for
payment of the instalments payable by the said contract, do hereby, in virtue of
the obligation upon me contained in the said contract, constitute in favour of the said³
..... an encumbrance upon the said land as set
forth, viz:

- a. a payment on the day of, 20, of the
sum of \$, or such other sum as may be due by me
to him or her of a less amount than \$ at that date in
terms of the said contract;
- b. a payment on the day of, 20, of
\$, or such other sum as may be due by me
to him or her of a less amount than \$ at that date in
terms of the said contract;
- c. a payment on the day of, 20, of the
sum of \$, or such other sum as may be due by me
to him or her of a less amount than \$ at that date in
terms of the said contract;

and I consent to the noting of this encumbrance on the certificate of title of my said
land by the Registrar of Titles, and I authorise and grant warrant to the Registrar of
Titles to make such noting accordingly.

Given under my hand this day of 20

Signature of Encumbrancer

Signed before and in the presence of

¹Name of encumbrancer.

²Here describe land from certificate of title.

³Here insert name of encumbrancee.

⁴Here insert cause for granting encumbrance.

FORM 10

(Section 57)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

MEMORANDUM OF LEASE

I, ¹....., being the registered proprietor of²

 all as the same is bounded and described in the certificate of title in my favour dated
 the day of 20, registered Vol.,
 Fol., of the Register of Titles of the Circuit,
 do hereby lease to³ twenty acres of the said land bounded
 and described as follows, viz:⁴
 to be held by him or her the said³
 as tenant thereof for the space of years, at the yearly
 rental of \$ payable quarterly, and beginning
 said payment on the day of, 20, and regularly
 every three months thereafter until the termination of the said lease;

And I the said³ do accept of the said twenty
 acres in lease on the terms above specified;

And we both with one assent and consent, so far as it is necessary for us to do
 in the relative positions of lessor and lessee, authorise and grant warrant to the
 Registrar of Titles to note the said lease as an encumbrance on the certificate of title
 of the said land first above described accordingly.

Given under my hand this day of 20

Signature of Lessor

Signed by the said before and in the
 presence of

Signature of Lessee

Signed by the said before and in the
 presence of

¹Name of lessor.

²Here describe land from certificate of title.

³Name of lessee.

⁴Here insert boundaries and description of the 20 acres.

FORM 11

(Section 64)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

MEMORANDUM OF TRANSFER OF MORTGAGE OR ENCUMBRANCE

I¹, in right as mortgagee of the sum of \$
in terms of mortgage noted upon the certificate of title in favour of²
registered proprietor of³ all as
the same is bounded and described in the said certificate of title in favour of the said²
....., registered Vol., Fol.,
of the register of titles of the Circuit, of which sum the sum of
\$ remains unpaid, in consideration of the sum of \$
paid to me by⁴ of which sum I hereby acknowledge the
receipt, do hereby transfer the mortgage in my favour, to the extent of the said sum of
\$ still due thereupon, to and in favour of the said⁴,
as mortgagee in my room and stead, and I consent to the Registrar of Titles making a
note upon the said certificate of title of this transfer; and authorise and grant warrant
to the Registrar of Titles accordingly.

Given under my hand this day of 20.....

Signature of Transferor

Signed before and in the presence of

Note. For Transfer of encumbrance this form will be followed with the necessary alterations.

¹ Name of transferor.

² Name of mortgagor.

³ Here describe land as in certificate of title.

⁴ Name of transferee.

FORM 12

(Section 67)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

DISCHARGE OF MORTGAGE OR ENCUMBRANCE

I¹, mortgagee, in right of the sum of \$ in
terms of mortgage noted upon the certificate of title in favour of²
dated the day of, 20, and registered Vol.,
Fol., of the Register of Titles of the Circuit,
having received payment of the same from the said² do hereby
discharge the said mortgage, and consent to a noting of this discharge, or the
cancellation of the noting of the mortgage, being made by the Registrar of Titles, and,
so far as my authority is necessary therefor, I do authorise, and grant warrant to the
Registrar of Titles to make such noting or cancellation accordingly.

Given under my hand this day of..... 20

Signature of Mortgagee

Signed before and in the presence of

Note. The discharge of an encumbrance will be in the same form, with the necessary alteration of words to describe the encumbrance discharged.

¹ Name of mortgagee.

² Name of registered proprietor.

FORM 13

(Section 68)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

MEMORANDUM OF TRANSFER OF LEASE

I,¹, being, under and by virtue of a memorandum of lease noted upon the certificate of title hereinafter mentioned, lessee of twenty acres of land bounded and described as follows:

² which twenty acres form part and portion of the land of⁴ the registered proprietor thereof, all as the same is bounded and described in the certificate of title in his or her favour dated the day of 20..... registered in the Register of Titles of the Circuit, Vol., Fol., in consideration of the sum of \$ now paid to me by³, of, do hereby transfer to the said the said lease for the term thereof still to run:

And I, the said⁴, registered proprietor of the said land, consent thereto:

And I, the said³, accept the said transfer of the said lease accordingly.

And we all, for our respective rights and interests in the premises, authorize and grant warrant to the Registrar of Titles to note this transfer upon the certificate of title of the said⁴ accordingly.

Given under our hands the day of 20

Signature of Transferor

Signed by the said before and in the presence of

Signature of Registered Proprietor

Signed by the said before and in the presence of

Signature of Transferee

Signed by the said before and in the presence of

- ¹ Name of lessee.
- ² Here follows description of 20 acres from the memorandum of lease.
- ³ Name of transferee.
- ⁴ Name of lessor.

FORM 14

(Section 71)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

NOTICE TO PAY OFF

To registered proprietor of¹

Take notice that I,², require you to pay off the sum of³ due to me by virtue of⁴ registered the day of, 20, and duly noted upon the certificate of title of the said land: and that within sixty days from the date of service of this notice.

Given under my hand this day of 20

Signature of Mortgagee or Encumbrancee

Signed before and in the presence of

- ¹ Here insert description of land from certificate of title.
- ² Here insert name and designation of mortgagee or encumbrancee.
- ³ Here insert sum in mortgage or encumbrance, with interest actually due.
- ⁴ Here state the mortgage, encumbrance, or transfer under which the sum is due to the giver of the notice.

FORM 15

(Section 73)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

ACT OF SEIZURE

Be it known to all men that, by virtue of powers on me conferred by¹

.....

I, bailiff, on the day of, 20, did proceed to the land and premises of² and, there being at of the clock on the day and date above written, did seize all that³ and the things accessory to the said land which are set down in the inventory hereto annexed, which is subscribed by me as relative hereto; the said land and things to be held for sale in due course of law for non-payment of the sum of⁴

Of which seizure I do, by this Act, give notice to you the said⁵
.....and to all concerned.

Done by me at⁶.....,
on the day and date above written, before and in the presence of the witness who
subscribes this act of seizure with me.

Signature of Bailiff

Done in the presence of

Note. Inventory of things seized to be annexed.

¹ Here insert name and designation of seizing creditor.

² Here insert name and designation of debtor.

³ Here insert description of land from certificate of title, or memorandum of mortgage.

⁴ Here insert sum as in notice to pay off, together with the mortgages, transfers, or encumbrances under which the sum is due.

⁵ Here insert name of debtor.

⁶ Name of estate or land.

FORM 16

(Section 74)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

CAVEAT OF SEIZURE

To the Registrar of Titles for the Circuit.
Take notice that I,¹ did on this
..... day of, 20, cause the land and estate of²
....., registered proprietor thereof, all as the same is fully
set forth and described in the certificate of title in favour of the said,
dated the day of, 20, and registered in Vol,
Fol, of the Register of Titles of the
Circuit, together with all the things accessory to the said land, as the same are set
forth in an inventory by the bailiff effecting the seizure, to be seized with the view to
the sale thereof in due course of law for non-payment of the sum of³
..... due to me by virtue of the⁴
over the said land duly noted on the certificate of title thereof and dated⁵

Given under my hand this day of 20

Signature of Mortgagee or Encumbrancee

Signed before and in the presence of

¹ Here insert name and designation of mortgagee or encumbrancee making seizure.

² Here insert name of debtor.

³ Here insert sum due.

⁴ *Here insert mortgage or encumbrance.*

⁵ *Here insert date of mortgage or encumbrance.*

FORM 17

(Section 75)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

ARTICLES OF SALE

Articles of sale of all that¹
all as the same is fully set forth and described in the certificate of title of the same,
registered in Vol, Fol, of the register of titles
of the Circuit in favour of²
as registered proprietor thereof, which land and the things accessory thereto, as set
forth in the inventory attached to the act of seizure, have been seized by³
..... by and in virtue of a⁴
in favour of the said³, duly noted upon the said
certificate of title of date the day of, 20.....,
for non-payment of the sum of⁵, as set forth
in the notice to pay off and act of seizure lodged in the Registry of the High Court
herewith.

1. The day of the sale shall be the day of 20.....,
at o'clock in the noon.

2. The upset price shall be \$⁶ for the land and
things accessory thereto, as set forth in the inventory of the bailiff attached to the act
of seizure, in one lot.

3. The sale shall take place at the Registry of the High Court; or at the
Court House, if convenient, and the attendance of bidders be numerous.

4. Unless the upset price be offered the land shall be withdrawn from sale
on that day.

5. The deposit to be paid by the purchaser at the time of the sale to the
Registrar of the High Court shall be one-fourth of his or her accepted bid.

6. The Registrar of the High Court shall sell the said land in the manner
usual at auctions, he or she having first read, or caused to be read, aloud to the
assembled bidders these articles of sale.

7. Each bidder shall sign his or her bid after the amount thereof has been
written down on the leaf or leaves attached to these articles of sale.

8. Each bid shall be at least \$ higher than the
preceding bid.

9. All disputes between bidders shall be determined on the spot by the
Registrar of the High Court, whose decision shall be binding on all parties attending
the sale. In the event of there being any dispute between two bidders as to who was
first to bid a certain sum, the Registrar of the High Court, if he or she should have
any doubt about the matter, may go back to the immediately preceding bid, and take
the biddings of the disputants anew.

10. The Registrar of the High Court, on bringing down the hammer and terminating the sale, shall declare aloud the last and highest bidder to be the purchaser, and shall also add, if the last and highest bidder shall so desire, that he or she has purchased not for himself or herself but another, whose name shall also be publicly announced. A memorandum of the announcement thus made shall be added to the biddings.

11. The accepted bidder shall pay the deposit before he or she leaves the precincts of the Court House or Registry, and, if he or she tenders the amount by cheque, the Registrar of the High Court shall not be bound to accept the same unless, or until, the same be accepted by the bank on which it is drawn.

12. The balance of the sale price must be paid within one month from the day of sale, and, on such balance being paid, the solicitor having the carriage of the sale will move the Court to order the Registrar of Titles to grant the certificate of title in favour of the purchaser.

13. The person declared to be the purchaser may enter upon possession of the property immediately after paying the deposit.

14. The property is sold subject to all leases noted on the certificate of title, and all tenancies for shorter dates than three years, of which the purchaser shall be held to have satisfied himself or herself.

15. Whether the property contains the exact measurement mentioned in the certificate of title or not, the purchaser shall be understood to have purchased the land described in the certificate of title and be bound to pay the price offered by him or her.

16. Any taxes due for the said land must be paid by the purchaser.

7

.....

Signature of the Registrar of the High Court

¹ Here insert description of land and estate from certificate of title or memorandum of mortgage.

² Here insert name of registered proprietor.

³ Here insert name of seizing creditor.

⁴ "mortgage" or "encumbrance."

⁵ Insert sum due by debtor.

⁶ This sum may be suggested by the solicitor who draws the articles of sale, but it must be fixed by the Judge in Chambers with or without a valuation, as he or she may consider necessary.

⁷ Here add any other conditions which may be necessary for the particular estate sold.

FORM 18

(Section 81)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

SCHEME OF DIVISION

1960

May 2. Deposit on sale price received from A.B.
Interest thereon from the 2nd day of May to
date, at per cent. per annum

June 2. Balance of sale price received from the said A.B.
Interest thereon from the 2nd day of June to
date, at per cent. per annum

TO BE DIVIDED THUS:

C.D., receiver, balance due on his or her account

G.H., solicitor having carriage of the sale, his or her taxed costs

H.M., amount advanced on crop advance warrant before seizure and applied
to growing crop sold with land

N.L., first mortgagee (seizing creditor), amount of his or her claim as settled
.....

L.P., second mortgagee, amount of his or her claim as settled

Balance paid over to R.S., the former registered proprietor

Note. The scheme of division will be attached to the articles of sale following the bids.

FORM 19

(Section 98)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

CROP ADVANCE WARRANT

a. Form with imaginary names and details filled up to serve as a model

THIS CROP ADVANCE WARRANT witnesseth that, on the 13th of September, 1960, the parties following, that is to say, William Money, Merchant, of Basseterre, St. Christopher, of the one part, and Robert Shortcash, registered proprietor of the estate of Canebrake, in the said Island, of the other part, have contracted, agreed, and ended in manner following, that is to say, the said William Money hath agreed to advance to the said Robert Shortcash, for the purposes of the crop of 1961 the sum of \$4000, in the manner following: the first instalment of \$1000 on the first day of November, 1960, upon a promissory note to be given by the said Robert Shortcash to the said William Money at six months' date; the second

instalment of \$1000, on the first day of December, 1960, upon a promissory note by the said Robert Shortcash to the said William Money at six months' date; the third instalment of \$1000 upon the first day of January, 1961, upon a promissory note by the said Robert Shortcash to the said William Money at six months' date; and the last instalment on the first day of February, 1961, upon a promissory note by the said Robert Shortcash to the said William Money at six months' date; the whole of the said instalments bearing interest at the rate of eight per cent per annum from the date of advance until repaid. And the said Robert Shortcash binds and obliges himself to apply the said sums solely to the purposes for which they are advanced, viz: to pay for the labour and supplies to produce the crop of the year 1961 on his land and estate of Canebrake, as the same is described in the certificate of title thereof in favour of the said Robert Shortcash as registered proprietor, registered Vol....., Fol., of the Register of Titles of the Circuit. And the said Robert Shortcash further binds and obliges himself to repay the said sums advanced at the dates the several instalments become due, viz., \$1000 with interest from the 1st November, 1960, on the 4th of May, 1961; \$1000 with interest from the 1st of December, 1960, on the 4th of June 1961; \$1000 with interest from the 1st of January, 1961, on the 4th of July, 1961; and \$1000 with interest from the 1st of February, 1961, on the 4th of August, 1961; and in everything faithfully to execute these presents according to the spirit and provisions of the Title by Registration Act. And the said parties, with one consent and assent, agree that these presents shall be registered for publication, and also for execution without the necessity for any judgment against the party in default, in terms of the said Act.

Given under our hands on the day and date first above written before and in the presence of the witnesses subscribing hereto.

Signed by the said William Money before and in the presence of

Peter Cash

William Money

Signed by the said Robert Shortcash before and in the presence of

Theophilus Skimmings

Robert Shortcash

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

CROP ADVANCE WARRANT

b. Form in Blank

THIS CROP ADVANCE WARRANT witnesseth that on the day of, two thousand and, the parties following, viz.¹ have contracted, agreed and ended in manner following; that is to say, the said² hath agreed to advance to the said³ for the purpose of the crop of 20....., the sum of⁴ at the dates, and in the instalments following,⁵

And the said³ binds and obliges himself or herself to apply the said sum solely to pay for the labour and supplies to his or her land and estate of⁶ to produce the crop of the year 20..... : And the said³ further binds and obliges himself or herself to repay the said sum advanced in the order in which the instalments of the said sum have been made, with interest thereon, viz:⁷ and in everything faithfully to execute these presents according to the spirit and provisions of the Title by Registration Act.

And the said parties, with one consent and assent, agree that these presents shall be registered for publication, and also for execution without the necessity for any judgment against the party in default, in terms of the said Act.

Given under our hands on the day and date first above written before and in the presence of the witnesses subscribing hereto.

Signature of party of the first part

Signed by the said before and in the presence of

Signature of party of the second part

Signed by the said before and in the presence of

¹ Here insert names of parties to the contract, adding "of the one part" after the name of the party who is to give the advance, and "of the other part" after the name of the party who is to receive it; or, where more than two parties, describe them as of "the first part," "the second part," etc.

² Here insert name of party of the one part.

³ Here insert name of party of the other part.

⁴ Here insert sum in writing.

⁵ Here insert details of the transaction.

⁶ Here give name of estate if it is known by any distinguishing name; or, if not, insert description of the land.

⁷ Here insert the dates of payment of instalments.

FORM 20

(Section 105)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

CROP ADVANCE WARRANT : APPLICATION FOR EXECUTION

To the Registrar of the High Court for the Circuit.

Take notice that, by virtue of a crop advance warrant, in my favour, dated the day of, 20, and registered the party who has received the advance under the said warrant, viz.¹ is now indebted to me in the sum of²

..... and I require you to issue execution against his or her goods and chattels for that amount by virtue of the powers contained in the Title by Registration Act.

Signature of Creditor or his or her Solicitor

¹ Here insert name of debtor.

² Here insert sum owing, whether whole amount or balance.

FORM 21

(Section 105)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

EXECUTION FOR SUM DUE ON CROP ADVANCE WARRANT

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith. Greeting:

WHEREAS, on the day of 20, there was registered in our registry of bills of sale for the Circuit, a crop advance warrant of the following words and tenor:¹ And the above named² hath given notice in the manner required by the Title by Registration Act, that³ the other party to the said crop advance warrant, is now indebted to him or her, by virtue thereof, in the sum of⁴

Now these are to command you and each one of you, the bailiffs and officers of Our High Court that, by virtue hereof, you do levy execution upon the goods and chattels of the said³ for the said sum of⁴ in the same manner and with the same due diligence as if a judgment had been pronounced against the said³ by Our said High Court for the sum aforesaid –all in terms of the provisions of the Title by Registration Act.

And in this see that ye fail not as ye will answer to Us thereupon.

Signature of Registrar of the High Court

Seal of High Court.

¹ Here copy crop advance warrant verbatim with signatures.

² Here insert name of person taking out execution.

³ Here insert name of debtor. ⁴Insert sum owing.

FORM 22

(Section 108)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

MEMORANDUM OF TRANSFER ON SALE BY REGISTRAR OF HIGH COURT

Whereas¹, is the registered proprietor of² all as the same is set forth, bounded and described in the certificate of title in his or her favour dated the day of 20, and registered in the register of titles of the Circuit Vol., Fol. AND WHEREAS, under and by virtue of an order of the High Court, dated the day of 20, and made in an action wherein is the plaintiff, and the defendant, the estate or right of the said³ in the said land was sold, at public auction, by me,⁴ the undersigned Registrar of the High Court for the Circuit to⁵ for the sum of \$, now I, the said⁴ as such Registrar as aforesaid, in consideration of the said sum of \$ paid to me by the said the receipt of which I hereby acknowledge, do, under and by virtue of the provisions of section 108 of the Title by Registration Act, hereby transfer the said land to and in favour of the said⁶, and hereby authorise and require the Registrar of Titles for the Circuit to cancel the certificate of title in favour of the said³, and to issue a new certificate of title (with all mortgages and encumbrances, if any, duly noted thereon) in favour of the said⁶

Given under my hand this day of 20

Signature of Registrar of High Court

Signed before and in the presence of

Note.—The above form applies where the estate or right of a registered proprietor is to be transferred. Where a mortgage or encumbrance is to be transferred, the above form is to be varied accordingly.

¹ Full name, residence and description of registered proprietor whose land has been sold.

² Here insert description of land from certificate of title.

³ Full name of registered proprietor whose land has been sold.

⁴ Full name of Registrar of High Court.

⁵ Full name, residence and description of purchaser.

⁶ Full name of purchaser.

FORM 23

(Section 111)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

CAVEAT

To the Registrar of Titles for the Circuit.

Take notice that I, ¹ claiming to be entitled to stay the registration of any dealing in all that ² of which land ³ is registered proprietor, and caveatee under this caveat, do hereby forbid the registration of any dealing with the said land accordingly.

My right to present this caveat arises from the following facts and circumstances ⁴

My address for the purposes of the Title by Registration Act, and the sections thereof relating to caveats, is

Given under my hand this day of 20

Signature of Caveator

Signed before and in the presence of

¹ Here insert name and description of caveator.

² Here describe land as in certificate of title.

³ Here insert name of registered proprietor.

⁴ Here describe how the interest of caveator to present caveat arises.

AFFIDAVIT BY THE CAVEATOR'S SOLICITOR

I, solicitor for the above named and described, make oath and say that the allegations in the above caveat are true in substance and fact to the best of my knowledge and belief.

Signature of Solicitor

Sworn before me, this day of..... 20

FORM 24

(Section 116)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

ORDER OF WITHDRAWAL OF CAVEAT

To the Registrar of Titles for the
Circuit.

Take notice that I, ¹, having
on the day of 20, presented a caveat to forbid
the registration of any dealing in all that² of which land
..... is the registered proprietor and caveatee; now order
the withdrawal of the same.

Given under my hand this day of 20

Signature of Caveator

Signed before and in the presence of

¹ *Here insert name and description of caveator.*

² *Here describe land as in caveat.*

FORM 25

(Section 117)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

ORDER OF REMOVAL OF CAVEAT

To the Registrar of Titles for the
Circuit.

Take notice that I, ¹ being
the registered proprietor of all that² all as the
same is more fully described in the certificate of title, in my favour, dated the
day of 20, and registered Vol.,
Fol., of the Register of Titles of the
Circuit having been informed that a caveat has been presented by³
forbidding the registration of dealings in the said land; hereby order the removal of
the said caveat.

My address within the State for the purposes of the Title by Registration Act,
and the sections thereof relating to caveats, is

Given under my hand this day of 20

Signature of Caveatee

Signed before and in the presence of

¹ *Here insert name of caveatee.*

² *Here describe land from certificate of title.*

³ *Here insert name of caveator.*

FORM 26
(Section 142)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

SUMMONS TO APPEAR BEFORE THE REGISTRAR OF TITLES

To1

I2, Registrar of Titles for the
..... Circuit believing that you can give evidence or explanations in
regard to3 do hereby, by virtue of the powers
conferred upon me by the Title by Registration Act, summon you to appear before me
at my office on the of, 20, there to answer
such questions as may be put to you, under peril, if you fail to attend, of the pains and
penalties provided in the said Act.

Given under my hand and seal this day of 20

L.S. Signature of Registrar of Titles

1 Here insert name of party whose evidence is desired.

2 Here insert name of Registrar.

3 Here state briefly nature of the inquiry.

FORM 27
(Section 146)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

POWER OF ATTORNEY

I1 do hereby appoint2
..... my attorney
to do in my name and as my acts all things necessary in relation to the land of which I
am at present registered proprietor in the State of St. Christopher said Nevis and to
any land of which I may subsequently become registered proprietor.

The said3
.....
may sell the said land and sign the instrument necessary to obtain the purchaser
entered on the register, he or she may mortgage or incumber the said land, and sign
the instruments necessary to create the mortgage or encumbrance, he or she may enter
into and sign crop advance warrants for the wants of the estate, grant leases for the
terms of years usual in the State, and discharge or transfer mortgages or
encumbrances, cancel leases, receive and discharge rents and interests, collect and
discharge debts, carry out all agreements and covenants in regard to the said land,
make, vary and discharge such agreements and covenants, and maintain and defend
suits in regard to occupation, trespass, and every other right and matter in which I
have interest, submit any question or questions to arbitration, and generally, in
relation to the said land, do everything which I myself could do if personally present.

Given under my hand this day of 20

Signature of Grantor

Signed before and in the presence of

¹ Here insert name and description of grantor of power.

² Here insert name and description of the person appointed.

³ Name of attorney.

⁴ Here insert such of the following powers, and such others, as may be desired.

FORM 28

(Section 149)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

CERTIFICATE OF CLOSING OF REGISTRATION

[At the end of the duplicate certificate of title in the hands of the registered proprietor the Registrar of Titles shall write as follows:]

By virtue of the provisions of the Title by Registration Act, the above named , registered proprietor of the land described in the certificate of title, may deal without the limits of the State with the above land. No dealing within the State with the said land can be registered until this document be returned, and all dealings with the land, outside the State, when done in conformity with the provisions of the Title by Registration Act, shall be registered as of their respective dates.

In witness whereof I have hereunto signed my name and affixed my seal this day of 20

Signature of Registrar of Titles

L.S.

FORM 29

(Section 163)

STATE OF SAINT CHRISTOPHER AND NEVIS

Title by Registration Act

CLAIM FOR THE DECISION OR DIRECTION OF THE COURT OF APPEAL

In the Supreme Court of the Eastern Caribbean States

Claim by , of , under section 163 of the Title by Registration Act, for the decision and direction of the Court of Appeal.

The claimant, on the day of 20 , applied to the Registrar of Titles for the issue to him or her of a certificate of title to¹
.....² I am aggrieved by such decision, and humbly claim the decision and direction of the Court of Appeal in terms of the Title by Registration Act.

Given under my hand this day of 20

Signature of Claimant

Signed before and in the presence of

¹ *Here describe land.*

² *Here state decision which occasions claim.*

THIRD SCHEDULE

(Section 148)

Notaries Public; Commissioners appointed under the Commissioners for Oaths Act, if empowered by their commissions to administer oaths for the purposes of this Act; Commissioners for taking oaths and affidavits in the Supreme Court of Judicature in England and Northern Ireland; the Lord Mayor, Lord Provost, Mayor, Provost, or Chief Magistrate of any city, town, or municipal corporation within Great Britain, Northern Ireland, the Commonwealth countries, the Colonies of the United Kingdom, or the United States of America; the Governor, or Officer administering the Government, of any British Colony or Possession; any Judge of any Court of Record of Great Britain, Northern Ireland, the Commonwealth countries, the Colonies and Possessions of Great Britain, and the United States of America; and the Ambassador, or Officer performing the duties of that office, the Consul, or Consular Officer performing the duties of Consul, or any Ambassador of Saint Christopher and Nevis or Officer performing the duties of that office, the Consul of Saint Christopher and Nevis, or Consular Officer performing the duties of Consul in any foreign country or possession, town or place, where such functionaries may be found.

(Amended by Act 10 of 1984)

All these may also witness the instrument, but, if private parties have been the witnesses to the signatures, one at least of the witnesses must appear before one of the officers above named, and sign in his or her presence, a certificate that he or she saw the party sign, and that the signature is of his or her proper handwriting.

Where an instrument signed out of the State does not technically agree with the provisions of this Schedule, the Registrar of Titles, to save vexatious and hurtful delays, may take the direction of a Judge upon the point in conformity with the provisions of this Act.

(Amended by Act 3 of 1971)

FOURTH SCHEDULE

(Section 156)

On every request for the issue of a first certificate of title—
where the value of the land—

	\$
does not exceed \$ 240.....	.72
exceeds \$ 240 and does not exceed \$ 720	1.44
„ \$ 720 „ „ „ „ \$1440	2.16
„ \$1440 „ „ „ „ \$2880	3.60
„ \$2880 „ „ „ „ \$4800	7.20
„ \$4800	14.40

On every memorandum of transfer of land—
where the value of the land—

does not exceed \$1200.....	.72
exceeds \$1200 and does not exceed \$2400	1.44
„ \$2400 „ „ „ „ \$4800	2.88
„ \$4800	7.20

On every request, on transmission, for a new certificate of title the same fee as on a memorandum of transfer.

On every certificate of title (except as provided in section 7 of this Act)—
the fee of one cent in every four dollars and eighty cents provided by
section 18 of this Act.

On every memorandum of mortgage—

where the amount of the mortgage—

does not exceed \$480.....	.36
exceeds \$480 and does not exceed \$120072
„ \$1200 „ „ „ „ \$2400	1.80
„ \$2400 „ „ „ „ \$4800	3.60
„ \$4800	7.20

On every transfer or discharge of a mortgage—

one half the fee payable on a memorandum of mortgage.

On every memorandum of encumbrance; and on every transfer or discharge of an encumbrance—

the same fees, respectively, as on a memorandum of mortgage, and on a transfer or discharge of a mortgage.

N.B The value of the encumbrance is to be calculated as provided in the case of encumbrances in the Fifth Schedule.

On every memorandum of lease—	
where the rent—	
does not exceed \$240.....	.36
exceeds \$240 and does not exceed \$48096
,, \$480	1.80
On every request for the transfer or cancellation of a lease—	\$
the same fee as on a memorandum of lease.	
On every caveat, other than a caveat under section 74 of this Act.....	0.96
On every caveat of seizure.....	1.80
On every order of removal, or withdrawal, of a caveat	0.96
On every claim, under section 163 of this Act, for the decision or direction of the Court of Appeal.....	0.96
On every power of attorney for the purposes of this Act.....	1.80
On every certificate of closing of registration	3.60
On every search under one name*72
On every general search*.....	1.80
On every certified copy of any document—	
if it does not exceed 5 folios96
if it exceeds 5 folios, then for the first 5 folios96
and for every folio exceeding the first five.....	.12
<i>N.B. A folio is to be reckoned at 72 words. An incomplete folio is to be reckoned as a folio.</i>	
On registration of an order under section 109 of this Act—	
the same fee as on a memorandum of mortgage.	
On every request, under section 63 of this Act, in respect of an equitable mortgage—	
the same fee as on a memorandum of mortgage.	
On every scheme of division—	
where the sale price—	
does not exceed \$ 720.....	.72
exceeds \$ 720 and does not exceed \$1440	1.80
,, \$1440 and does not exceed \$2880	3.60
,, \$2880 ,, ,, ,, \$4800	10.80
,, \$4800 ,, ,, ,, \$14400	21.60
,, \$14400	36.00
On every crop advance warrant—	
where the sum lent—	

does not exceed \$48036
On every crop advance warrant—	
where the sum lent—	
exceeds \$ 480 and does not exceed \$1440.....	.72
,, \$1440 and does not exceed \$2880.....	1.80
,, \$2880 ,, ,, ,, \$4800.....	3.60
,, \$4800.....	7.20
On every transfer of a crop advance warrant36
On every execution under a crop advance warrant96
* <i>In the registry a search book shall be kept, in which the person making the search shall enter and sign a memorandum of the search, and affix thereto the proper stamp.</i>	

FIFTH SCHEDULE

(Section 55)

1.	First Certificate of Title and Transfer subsequent to First Certificate of Title	
	Fee based upon the value of the land on the following scale:	
	For the first \$480 minimum fee	\$20.16
	,, ,, second \$480	\$10.08
	,, ,, next \$3840.....	1½%
	,, each succeeding \$4800 or part thereof	1%
2.	Transmission—Taking out Certificate of Title, Consolidation of Titles and Crop Advance Warrants.	
	Fee based upon the value of the land, or, in the case of Crop Advance Warrants, the estimated crop value, on the following scale:	
	One half of the sums specified in the several categories set out in paragraph 1 of this Schedule.	
3.	Mortgages, Transfer of Mortgages and Encumbrances.	
	For the first \$480	\$15.12
	,, ,, next \$4320.....	1%
	,, all amounts in excess of \$4800	½%
4.	Discharge of Mortgages and Caveats	
	For endorsement of discharge	\$10.08
	Entering, withdrawing or removing Caveats	\$10.08
5.	Sale of Incumbered Land.	

(a) Fees based upon the sale value of the land sold on the following scale:	
For the first \$480	5%
„ „ next \$480.....	4%
„ „ „ \$1920.....	3%
„ „ „ \$16,320.....	2%
„ all amounts in excess of \$19,200	2½%
(b) For each additional application for or incidental to the sale of incumbered land, such fee as the Court may allow not exceeding	\$15.12
6. For replacement of a lost Certificate of Title	\$15.12
7. Any work performed under this Act not provided for by this Schedule	Such fee as the Court may allow under section 155.
