

LANDS REGISTRY ACT, 1962, (ACT 122)

ARRANGEMENT OF SECTIONS

Section

PART I — REGISTRY OFFICES

1. Offices to be established.
2. Appointment of registrars.

PART II—PRESENTATION OF INSTRUMENTS FOR REGISTRATION

3. Instruments registrable.
4. Instruments except wills, to describe the land affected.
5. Proof of instruments.
6. Before whom proof must be made.
7. Probate and judge's certificates.
8. Instruments kept in public office in another country.
9. Instruments executed before the 24th March, 1883.

PART III—MODE OF REGISTRATION

10. Certificate of registration.
11. Register.
12. Registration of duplicate or copy.
13. Numbering and filing of duplicates or copies.
14. Endorsed instruments.
15. Replacement of illegible instruments.
16. Copies of maps and plans to be provided.
17. Books and Registers of particulars of instruments to be kept.
18. Publication of registered instruments.
19. Searches, copies and extracts.

PART IV—POWER TO REFUSE REGISTRATION

20. Refusal of registration.
21. Notice of grounds of objection to register.
22. Formal hearing of application for registration.
23. Requirement as to registration of instruments showing grantor's title.

PART V—CONSEQUENCES OF REGISTRATION

24. Registration necessary for validity.
25. Registration to be actual notice.
26. Priority of instruments.
27. Copies or extracts may be put in evidence.

PART VI—MISCELLANEOUS

28. Inspection of registers, books and records.
29. Protection of registrars.
30. Previously registered instruments.
31. Kumasi Lands.
32. Proceedings under Land Development (Protection of Purchasers) Act, 1960.
33. Regulations.
34. Offences for fraudulent transactions.
35. Repeal and saving.
36. Interpretation.
37. Commencement.

SCHEDULE

Forms.

Form A—Oath of grantor

Form B—Oath of grantee or witness

Form C—Endorsement on instrument by Officer before whom the oath is sworn

Form D—Certificate of proof before registrar

Form E—Certificate of proof not before registrar

Form F—Certificate of delivery to registrar of instrument not proved before him

Form G—Monthly list



REPUBLIC OF GHANA

**THE HUNDRED AND TWENTY-SECOND
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
THE LAND REGISTRY ACT, 1962**

AN ACT to consolidate with amendments the law relating to the registration of instruments affecting land.

DATE OF ASSENT: 14th June, 1962

BE IT ENACTED by the President and the National Assembly in this present Parliament assembled as follows:—

PART I—REGISTRY OFFICES

Section 1—Offices to be Established.

There shall be a registry office at Accra, and at such other place or places as the Minister may appoint. The Minister may remove any office from one place to another, and increase or diminish the number of offices.

Section 2—Appointment of Registrars.

The President shall appoint a Chief Registrar of Lands to supervise all registry offices, and a registrar at each office.

PART II—PRESENTATION OF INSTRUMENTS FOR REGISTRATION

Section 3—Instruments Registration.

Any instrument may be registered under this Act subject to the conditions herein contained.

Section 4—Instruments, Except Wills, to Describe the Land Affected.

No instrument, except a will or probate, shall be registered unless it contains a description (which may be by reference to a plan) which, in the opinion of the registrar, is sufficient to enable the location and boundaries of the land to which it relates to be identified or a sufficient

reference to the date and particulars of registration of an instrument affecting the same land and already registered.

Section 5—Proof of Instruments.

(1) Every instrument presented for registration (except a will or an instrument which may be registered without proof under the provisions hereinafter contained), shall be proved by the oath of the grantor or one of the grantors, or of the grantee or one of the grantees, or of one of the subscribing witnesses, to have been duly executed by the grantor.

(2) Any original will presented for registration shall be proved by the oath of one of the subscribing witnesses, or, if both of them are dead or if from any other circumstance an affidavit cannot be obtained from either of them, by the oath of some other person present at the execution of the will, or, failing such person, by the oath of some person or persons who can testify to the handwriting of the testator and the subscribing witnesses, to have been duly executed by the testator.

(3) The oath shall also state whether the grantor or testator could read and write, and, if he could not read and write, shall state (except in case of a will where the deponent was not present at its execution) that the instrument was read over and interpreted to him at the time of its execution by him and that he appeared to understand its provisions.

Schedule.

Form A.

Form B.

(4) The oath required for proving an instrument shall be put into writing and signed by the deponent and filed with the registrar. Every registrar may administer the oath. The oath may be in the Form A or B in the Schedule with such variations as circumstances require.

Section 6—Before Whom Proof Shall be Made.

(1) The proof hereby required shall be made as follows—

(a) if the instrument was executed in Ghana, before the registrar at the office where it is presented for registration, or before a Judge, District Magistrate, or a registrar of the High Court;

(b) if the instrument was executed in any Commonwealth country, before a Judge, Magistrate, notary public, or diplomatic agent or consular officer representing or acting on behalf of the Republic in that country;

(c) if the instrument was executed in any other country, before a notary public, or diplomatic agent or consular officer representing or acting on behalf of the Republic in that country.

Form E.

(2) An instrument not proved before the registrar shall not be registered unless it bears a certificate as near as may be in the Form E in the Schedule purporting to be under the hand and official seal or private seal (if there is no official seal), or the hand alone if the person has no

official or private seal, of some one of the persons authorised to receive such proof to the effect that the instrument has been proved.

Section 7—Probate and Judge's Certificates.

A probate or a judge's certificate may be registered without proof upon production thereof to the registrar.

Section 8—Instruments Kept in Public Office In another Country.

If an instrument be executed in any part of the world where by law the original is kept in the custody of a public officer, a copy of the original and the certificate of proof thereof, certified to be correct by the public officer in whose custody the original is kept, shall be registered in the same manner as an original instrument, provided the original has been proved in accordance with this Act.

Section 9—Instruments Executed Before the 24th March, 1883.

The will of a person who died before the 24th day of March, 1883, and any other instrument executed before that date, may be registered without proof.

PART III—MODE OF REGISTRATION

Section 10—Certificate of Registration.

Form D.

Form F.

The registrar at each office shall immediately after the proof before him of any instrument presented for registration, and upon the presentation of any instrument duly proved before any other person, or of any instrument which may be registered under this Act without proof, place upon the instrument a certificate in the Form D or F, as the case may be, in the Schedule, or as near thereto as may be, specifying the year, month, day, and hour of the proof or presentation, as the case may be, of such instrument; and the year, month, day, and hour specified in the certificate shall, if the instrument is ultimately registered, be taken to be the year, month, day, and hour at which the instrument was registered.

Section 11—Register.

The registrar shall keep a Register, and, subject to the exceptions hereinafter stated, shall register therein in manner hereinafter provided all instruments presented to him in the prescribed form.

Section 12—Registration of Duplicate or Copy.

(1) Registration shall consist in filing a duplicate or copy (to be provided by the person presenting the instrument for registration) of the instrument brought for registration.

(2) Every duplicate or copy shall bear the certificate required by section 10 of this Act to be placed on the original instrument, and also a certificate signed by the registrar that such duplicate has been compared and verified with the original.

(3) The duplicate or copy may be printed, written, typewritten, photographed or copied by any other process.

(4) The registrar may refuse to accept any duplicate or copy that is made on paper or other material which in his opinion is of a size unsuitable for filing or of insufficient substance to be durable, and may refuse to accept any duplicate or copy made in a way which in his opinion does not produce a permanent impression.

Section 13—Numbering and Filing of Duplicates or Copies.

The registrar shall number every duplicate or copy so filed consecutively, and shall file duplicates or copies in the order in which they are received by him.

Section 14—Endorsed Instruments.

An instrument endorsed on another instrument shall not be registered without the instrument on which it is endorsed, unless the latter instrument is already registered.

Section 15—Replacement of Illegible Instruments.

If in the opinion of a registrar any duplicate or copy of an instrument registered in accordance with the provisions of this Act has deteriorated or become illegible or is likely to deteriorate or become illegible, he may substitute therefor a further copy of the original instrument or, as the case may be, an improved and legible copy of the deteriorated or illegible duplicate or copy. In every such case the registrar shall endorse upon the substituted document a certificate setting forth the circumstances which rendered the substitution necessary.

Section 16—Copies of Maps and Plans to be Provided.

Where a map or plan is comprised in or annexed to an instrument, a true copy of the map or plan must accompany the instrument when brought for registration, and shall be filed in the register.

Section 17—Books and Registers of Particulars of Instruments to be Kept.

(1) The registrar shall keep a book in which he shall, upon registration of any instrument, enter the registered number, the names of the parties, the date and nature of the instrument, and the date of registration.

(2) The Chief Registrar may cause registrars to keep such other books and registers as he thinks fit.

Section 18—Publication of Lists of Registered Instruments.

Form G.

Within ten days after the last day of each month the registrar in charge of each office shall send to the Chief Registrar a complete list in the Form G in the Schedule, or to that effect, of all instruments registered in his office during the past month. On receipt of these lists the Chief Registrar shall within fourteen days compile one general list which shall be retained in his office, and shall send one copy of it to the registrar in charge of each office and publish the list in the Gazette.

Section 19—Searches, Copies and Extracts.

A registrar shall, upon application, allow searches to be made at all reasonable times in any book, register or list in his custody, and shall upon request give certified copies of, or extracts from, any entry in any such book, register or list or of any duplicate or copy of a registered instrument filed in his register.

PART IV—POWER TO REFUSE REGISTRATION

Section 20—Refusal of Registration.

A registrar may, subject to the provisions of this Part of this Act, refuse to register an instrument affecting any particular land if—

- (a) he is satisfied that the instrument deals with the land or part of it in a manner inconsistent with an instrument previously executed whether by the same grantor or some predecessor in title or by any other person; or
- (b) on the face of the records the grantor does not appear to him to be entitled to deal with the land as the instrument purports to do; or
- (c) the instrument is made in contravention of, or is null and void by virtue of, any enactment; or

Section 21—Notice of Grounds of Objection to Register.

Where, on presentation of an instrument for registration, the registrar is of opinion that there may be grounds under paragraph (a), (b) or (c) of section 20 of this Act for refusal to register the instrument he shall notify the grantor and the grantee of his opinion and the grounds thereof giving them three months within which to reply to the notice and to satisfy the Chief Registrar as to the grantor's title to deal with the land in the manner proposed by the instrument.

Where, on presentation of an instrument for registration, the registrar is of opinion that there may be grounds under paragraph (a), (b) or (c) of section 20 of this Act for refusal to register the instrument he shall notify the grantor and the grantee of his opinion and the grounds thereof giving them three months within which to reply to the notice and to satisfy the Chief Registrar as to the grantor's title to deal with the land in the manner proposed by the instrument.

Section 22—Formal Hearing of Application for Registration.

(1) Where the Chief Registrar remains unsatisfied as to the title of the grantor to execute the instrument he shall notify the grantor and grantee of his opinion and that, unless the application for registration is withdrawn within thirty days or such extended period, not longer than three months as the Chief Registrar may for good cause allow, he will proceed to deal with it in the manner provided by this section.

(2) If the application is not withdrawn within the appointed time, the Chief Registrar shall serve upon the grantor and the grantee and upon every person whose interest in the land appears to him to be affected by the instrument, notice of the time and place at which he will proceed to hear and determine the question whether registration of the instrument should be refused, and shall publish notice of the hearing in the Gazette and in some newspaper circulating in the area in which the land is situated and may cause notice thereof to be published in such other manner as he thinks fit.

(3) The Chief Registrar shall proceed to hear and determine the question at the time and place appointed or at any other time or place to which he may adjourn the hearing. He shall hear every person claiming to be entitled to an interest in the land.

(4) The decision of the Chief Registrar shall be communicated in writing to the grantor and to every person represented at the hearing and shall be published in the same manner as the notice of the hearing.

(5) The grantor, the grantee, any other party represented at the hearing and, by leave of the Court, any other person may appeal to the High Court from the decision of the Chief Registrar.

(6) Subject to rules of court, the rules governing appeals from a Circuit Court to the High Court in civil matters shall apply to the appeal.

Section 23—Requirement as to Registration of Instruments Showing Grantor's Title.

(1) The Chief Registrar may, as a condition of registration, require the grantor to present for registration any instruments prior to the instrument presented for registration which, in the opinion of the Chief Registrar, are necessary in order to show on the face of the register the title of the grantor to execute the instrument.

(2) Where the grantor satisfies the Chief Registrar as to the existence and purport of any such prior instrument and that the instrument is not within the possession, power or control of the grantor, the Chief Registrar may accept and register, in lieu of the instrument, such documentary evidence thereof as he considers sufficient.

PART V—CONSEQUENCES OF REGISTRATION

Section 24—Registration necessary for Validity.

(1) Subject to subsection (2), of this section, an instrument other than,

(a) a will, or

(b) a judge's certificate,

first executed after the commencement of this Act shall be of no effect until it is registered.

(2) Nothing in this Act shall operate to prevent any instrument which, by virtue of any enactment, takes effect from a particular date from so taking effect.

Section 25—Registration to be Actual Notice.

(1) The registration of any instrument shall be deemed or constitute actual notice of the instrument and of the fact of registration to all persons and for all purposes, as from the date of registration, unless otherwise provided in any enactment.

(2) This section does not apply to a judge's certificate or a probate.

Section 26—Priority of Instruments.

(1) An instrument, other than a will or judge's certificate, whether executed before or after the commencement of this Act, shall, so far as regards any land affected thereby, take effect in accordance with this Part of this Act as against other instruments affecting the same land.

(2) The instrument shall, upon registration, take such effect from the date of its execution if it was presented for registration within whichever of the following periods is applicable —

(a) if executed at the place where it is registered, the period of fifteen days from its date;

(b) if executed elsewhere in Ghana, the period of sixty days from its date;

(c) if executed abroad, the period of three months from its date.

(3) The will of a testator dying on or after the 24th day of March, 1883, shall, so far as regards any land affected thereby, take such effect from the death of the testator if registered within such of the following periods as is applicable, that is to say,

(a) in the case of the will of a person dying in Ghana, the period of two months next after the death of the testator;

(b) in the case of the will of a person dying abroad, the period of eighteen months next after the death of the testator;

and in any other case, the will shall take effect from the date of its registration.

(4) Every judge's certificate shall take such effect in accordance with its terms.

(5) In any other case, the instrument shall, except as otherwise expressly provided in this Part of this Act, take such effect from the date of its registration.

Section 27—Copies or Extracts May be Put in Evidence.

(1) Every copy or extract or certificate of registry purporting to be signed by a registrar shall be receivable in evidence in any Court without further or other proof thereof, unless it is proved to be a forgery.

(2) The party proposing to use it in evidence in a civil case shall give notice of his intention in writing to the opposite party, and at the same time shall deliver to him a copy of the copy or extract and of the certificate thereon; and on proof of the service or on admission of the receipt of such notice and copy, the certified copy or extract shall be received in evidence if the Court is of opinion that the service has been made in sufficient time before the hearing to enable the opposite party to apply for a search of the original book or the register from which the copy or extract has been taken.

PART VI—MISCELLANEOUS

Section 28—Inspection of Registers, Books and Records.

The books, registers and records in each office shall be inspected by a Judge of a superior court at such times as the Chief Justice shall direct.

Section 29—Protection of Registrars.

No action shall be brought against the Chief Registrar or a registrar in respect of anything done or omitted to be done by him in good faith in the execution or supposed execution of his functions under this Act.

Section 30—Previously Registered Instruments.

All instruments duly registered or deemed to be duly registered in pursuance of any law in force prior to the commencement of this Act shall be retained by the registrars in charge thereof and every instrument duly registered therein in pursuance of the law governing its registration at the date of its registration shall be deemed to be duly registered under this Act and shall continue to take effect in accordance with that law.

Section 31—Kumasi Lands.

The registers established under section 23 of the Kumasi Lands Ordinance (Cap. 145), shall constitute a Register for the purposes of this Act of land vested in the President in trust for the Golden Stool and the Kumasi traditional area, and those registers, and key maps relating to such land, shall be transferred to, and kept by, the Chief Registrar.

Section 32—Proceedings Under Land Development (Protection of Purchasers) Act, 1960.

(1) Where proceedings to which the Land Development (Protection of Purchasers) Act, 1960 (Act 2) and the Farm Lands (Protection) Act, 1962 (Act 107) apply are instituted in any Court, the registrar of the Court shall give notice of the proceedings to the Chief Registrar who shall adjourn consideration of any matter affecting the land which is the subject of the proceedings until the conclusion of the proceedings.

(2) The registrar of the Court by which the proceedings are finally disposed of shall send to the Chief Registrar a copy of the judgment and order of the Court, and the Chief Registrar shall make such additional entries and make such cancellations and alterations in the register as may be necessary to give full effect thereto.

Section 33—Regulations.

(1) The Minister may, by legislative instrument, make Regulations for carrying into effect the purposes of this Act.

(2) Without prejudice to the generality of subsection (1) the regulations may include provisions for the charging of fees for any services performed under this Act and for the regulation of costs.

Section 34—Offences for Fraudulent Transactions.

Any person who knowingly —

(a) purports to make a grant of a piece of land to which he has no title; or

(b) purports to make a grant of a piece of land without authority; or

(c) makes conflicting grants in respect of the same piece of land to more than one person, shall be guilty of an offence which shall be a second degree felony and may, in addition to any other punishment that may be imposed upon him, be liable to pay an amount of twice the value of the aggregate consideration received by him.

Section 35—Repeal and Saving.

(1) The Land Registry Ordinance (Cap. 133) is hereby repealed.

(2) Any instrument made under the repealed enactment and in force immediately before the commencement of this Act and fees and costs in relation to any matter for which provision is

made by this Act shall, until otherwise provided by regulations under this Act, continue in force.

Section 36—Interpretation.

In this Act, unless the context otherwise requires,

"Ghana" in relation to any time prior to the 6th day of March, 1957, means the territory comprised in Ghana on that date;

"grantee" includes every person taking or claiming any interest under any instrument;

"grantor" includes a vendor, donor, mortgagor, lessor, or other person conveying, mortgaging, charging, or demising land;

"instrument" means any writing affecting land situate in Ghana, including a judge's certificate and a memorandum of deposit of title deeds;

"judge's certificate" means a certificate of purchase of land sold in execution signed by a Judge or a District Magistrate, and a certificate of title signed by a Judge under the State Property and Contracts Act, 1960 (CA 6).

"Minister" means the Minister to whom functions under this Act are assigned by the President.

Section 37—Commencement.

This Act shall come into operation on such day as the Minister may, by legislative instrument, appoint.

SCHEDULE

FORM A

(Section 5)

OATH OF GRANTOR

I, A.B.,O....., make oath and say that on the day of 19..., I duly executed the instrument now produced to me and marked A, and that I can read and write (or, cannot read and write and that the said instrument was read over and interpreted to me by at the time of its execution and that I understood its provisions).

Sworn at this day of , 19.....

Before me,

FORM B

(Section 5)

OATH OF GRANTEE OR WITNESS

I, N.M., of , make oath and say that on theday of 19 , I saw A.B., of , duly execute the instrument now produced to me and marked A, and that the said A. B. can read and write (or, cannot read and write and that the said instrument was read over and

interpreted to him by at the time of its execution and that he appeared to understand its provisions).

Sworn at this..... day of , 19

Before me,

FORM C

ENDORSEMENT ON INSTRUMENT BY OFFICER BEFORE WHOM THE OATH IS SWORN

This is the instrument marked A, referred to in the oath of sworn before me this..... day of , 19.....

FORM D

(Section 10)

CERTIFICATE OF PROOF BEFORE REGISTRAR

On the..... day of ,19..... , at o'clock in the noon this instrument was proved before me by the oath of the within named.....to have been duly executed by the within named.

Registrar.

FORM E

(Section 6)

CERTIFICATE OF PROOF NOT BEFORE REGISTRAR

On the day of , 19....., at o'clock in the noon this instrument was proved before me by the oath of the within named to have been duly executed by the within named

Given under my hand and official seal.

or

Given under my hand and private seal, I having no official seal.

or

Given under my hand, I having no official or private seal.

FORM F

(Section 10)

CERTIFICATE OF DELIVERY TO REGISTRAR OF INSTRUMENT NOT PROVED BEFORE HIM

This instrument was delivered to me for registration by of ato'clock in the noon this day of ,19.....

Registrar.

FORM G

(Section 18)

MONTHLY LIST

o.	Date of receipt	Nature of instrument	Situation of land	Date	of	instrument
Grantor	Grantee	Party registering				