

ACT 122
LAND REGISTRY ACT, 1962
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ACT 122

LAND REGISTRY ACT, 1962¹

AN ACT to amend and consolidate the law relating to the registration of instruments affecting land.

*Registry Offices***1. Offices to be established**

(1) There shall be a registry office at Accra, and at any other place that the Minister may appoint.

(2) The Minister may remove an office from one place to another, and increase or decrease the number of offices.

2. Appointment of registrars

A chief registrar of lands to supervise the registry offices, and a registrar at each office, shall be appointed by the President in accordance with article 195 of the Constitution.

*Presentation of Instruments for Registration***3. Instruments registrable**

An instrument may be registered under this Act subject to the conditions contained in this Act.

4. Instruments should describe the land

(1) An instrument shall not be registered unless it contains

- (a) a description 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

I. The Act was assented to on 14th June, 1962.

- (b) a sufficient reference to the date and particulars of registration of an instrument affecting the same land and already registered.
- (2) A description may be made by reference to a plan.
- (3) Subsections (1) and (2) do not apply to a will or probate.

5. Proof of instruments

(1) An instrument presented for registration shall be proved to have been duly executed by the grantor by the oath

- (a) of the grantor or one of the grantors, or
- (b) of the grantee or one of the grantees, or of one of the subscribing witnesses.

(2) An 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 any other person present at the execution of the will, or, failing that person, by the oath of a person 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 state whether the grantor or testator could read and write, and, if the grantor or testator 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 the grantor or testator at the time of its execution and that the grantor or testator appeared to understand its provisions.

(4) The oath required for proving an instrument shall be put into writing and signed by the deponent and filed with the registrar.

(5) A registrar may administer the oath.

(6) The oath may be in the Form A or B set out in the Schedule with the variations that the circumstances require.

(7) For the purposes of this section, "instrument" does not include a will or probate and an instrument which may be registered without proof under this Act.

6. Before whom proof shall be made

- (1) The proof required by this Act shall be made,
 - (a) if the instrument was executed in the Republic, before the registrar at the office where it is presented for registration, or before a Justice, a District Magistrate, or a registrar of the High Court;
 - (b) if the instrument was executed in a 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.

(2) An instrument not proved before the registrar shall not be registered unless it bears a certificate as near as may be in Form E set out in the Schedule purporting to be signed personally and under the official seal or private seal, if there is no official seal, or signed personally alone by that person if that person does not have an official or private seal, of one of the persons authorised to receive the proof to the effect that the instrument has been proved.

7. Probate and judge's certificates

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

8. Instruments kept in another country

Where an instrument is executed in a 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, 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.

9. Instruments executed before 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.

Mode of Registration

10. Certificate of registration

(1) The registrar at each office shall immediately after the proof of an instrument presented for registration, and on the presentation of an instrument duly proved before any other person, or of an instrument which may be registered under this Act without proof, place on the instrument a certificate in the Form D or F, set out in the Schedule.

(2) The certificate shall specify the year, month, day and hour of the proof or presentation, of the instrument.

(3) The year, month, day, and hour specified in the certificate is, for the purposes of this Act, if the instrument is ultimately registered, the year, month, day, and hour at which the instrument was registered.

11. Register

The registrar shall keep a register, and, subject to the exceptions stated in this Act, shall register in the register in the manner provided the instruments presented to the registrar in the prescribed form.

12. Registration of duplicate or copy

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

(2) A duplicate or copy shall bear the certificate required by section 10 to be placed on the original instrument, together with a certificate signed by the registrar that the 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

- (a) a duplicate or copy that is made on paper or other material which in the opinion of the registrar is of a size unsuitable for filing or of insufficient substance to be durable, and
- (b) a duplicate or copy made in a way which in the opinion of the registrar does not produce a permanent impression.

13. Numbering and filing of duplicates or copies

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

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.

15. Replacement of illegible instruments

(1) Where in the opinion of a registrar a duplicate or copy of an instrument registered in accordance with this Act has deteriorated or become illegible or is likely to deteriorate or become illegible, the registrar may substitute for that duplicate or copy a further copy of the original instrument, or an improved and legible copy of the deteriorated or illegible duplicate or copy.

(2) The registrar shall endorse on the substituted document a certificate setting forth the circumstances which rendered the substitution necessary.

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.

17. Books and registers of instruments

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

(2) The chief registrar may cause registrars to keep any other books and registers.

18. Publication of lists of registered instruments

(1) 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 set out in the Schedule, or to that effect, of the instruments registered in the registrar's office during the past month.

(2) On receipt of the lists the chief registrar shall, within fourteen days, compile one general list which shall be retained in the chief registrar's office, and shall send one copy of it to the registrar in charge of each office, and publish the list in the *Gazette*.

19. Searches, copies and extracts

A registrar shall, on application, allow searches to be made at reasonable times in a book, register or list in the registrar's custody, and shall on request give certified copies of, or extracts from, an entry in that book, register or list or of a duplicate or copy of a registered instrument filed in the register.

*Refusal of Registration***20. Refusal of registration**

A registrar may, subject to sections 21, 22 and 23, refuse to register an instrument affecting a particular land if

- (a) the registrar 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 a predecessor in title or by any other person, or
- (b) on the face of the records, the grantor does not appear 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 void by virtue of, an enactment, or
- (d) it contains an interlineation, a blank, an erasure or alteration not verified by the signatures or initials of the persons executing the instrument.

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 paragraphs (a), (b) or (c) of section 20 for refusal to register the instrument, the registrar shall notify the grantor and the grantee of the opinion and the grounds of the opinion, 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.

22. Formal hearing of application for registration

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

(2) Where the application is not withdrawn within the appointed time, the chief registrar shall serve on the grantor and the grantee and on any other person whose interest in the land appears to the registrar to be affected by the instrument, notice of the time and place at which the registrar will proceed to hear and determine the question whether registration of the instrument should be refused.

(3) The chief registrar shall publish notice of the hearing in the *Gazette* and in a newspaper circulating in the area in which the land is situated, and may cause notice of the hearing to be published in any other manner the registrar thinks fit.

(4) The chief registrar shall proceed

- (a) to hear and determine the question at the time and place appointed or at any other time or place to which the hearing is adjourned, and
- (b) to hear every person claiming to be entitled to an interest in the land.

(5) 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 *Gazette*.

(6) 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.

(7) 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.

23. Registration of instruments showing grantor's title

(1) The chief registrar may, as a condition of registration, require the grantor to present for registration an instrument prior to the instrument presented for registration which, in the opinion of the chief registrar, is 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 a 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, the documentary evidence of the prior instrument that the chief registrar considers sufficient.

Consequences of Registration

24. Registration necessary for validity

(1) Subject to subsection (2), an instrument, other than a will or a judge's certificate, first executed after the commencement of this Act, shall not have effect until it is registered.

(2) A provision of this Act shall not operate to prevent an instrument which, by virtue of an enactment, takes effect from a particular date from so taking effect.

25. Registration to be actual notice

(1) The registration of an instrument constitutes 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 an enactment.

(2) Subsection (1) does not apply to a judge's certificate or a probate.

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 a land affected by the instrument, take effect in accordance with sections 24, 25, 26 and 27 as against any other instruments affecting the same land.

(2) The instrument shall, on registration, take effect from the date of its execution if it was presented for registration within

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

- (b) the period of sixty days from its date, if executed elsewhere in the Republic, or
- (c) the period of three months from its date, if executed abroad.

(3) The will of a testator dying on or after the 24th day of March, 1833, shall, so far as regards the land affected by the will, take effect from the death of the testator if registered within

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

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

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

(5) In any other case, the instrument shall, except as otherwise expressly provided in sections 24, 25, 26 and 27, take effect from the date of its registration.

27. Copies or extracts may be put in evidence

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

(2) The party proposing to use the copy, extract or certificate in evidence in a civil case shall give notice of that intention in writing to the opposite party, and at the same time shall deliver to the appropriate party a copy of the copy or extract and of the certificate on the copy or extract.

(3) On proof of the service or on admission of the receipt of the notice and the 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 was taken.

Miscellaneous

28. Inspection of registers, books and records

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

29. Protection of registrars

An action shall not be brought against the chief registrar or a registrar in respect of anything done or omitted to be done by the registrar in good faith in the performance or supposed performance of a function under this Act.

30. Previously registered instruments

(1) The instruments duly registered or deemed to be duly registered in pursuance of a law in force prior to the commencement of this Act shall be retained by the registrars in charge of those instruments.

(2) An instrument duly registered under subsection (1) 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.

31. Kumasi Lands

The registers established under section 23 of the Kumasi Lands Ordinance (Cap. 145), constitute a register for the purposes of this Act of land vested in the Golden Stool and the Kumasi traditional area, and those registers, and key maps relating to that land, shall be transferred to, and kept in accordance with, article 267 of the Constitution.

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 a Court, the registrar of the Court shall give notice of the proceedings to the chief registrar who shall adjourn consideration of a 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 the necessary additional entries and cancellations and alterations in the register to give full effect to the judgment.

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 provision for the charging of fees for services performed under this Act and for the regulations of costs.

34. Offences for fraudulent transactions

A person who knowingly

- (a) purports to make a grant of a piece of land to which that person does not have 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,

commits the offence of a second degree felony and is liable in addition to any other punishment that may be imposed, to pay an amount of money equivalent to twice the value of the aggregate consideration received by that person.

35. Repeal and saving

*Spent.*²

36. Interpretation

In this Act, unless the context otherwise requires,

“**grantee**” includes a person taking or claiming an interest under an instrument;

“**grantor**” includes a vendor, donor, mortgagor, lessor, or any other person conveying, mortgaging, charging, or demising land;

“**instrument**” includes a writing affecting land situate in the Republic, and 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 Justice or a District Magistrate and a certificate of title signed by a judge under the State Property and Contracts Act, 1960 (C.A. 6);

“**Minister**” means the Minister to whom functions under this Act are assigned by the President;

“**registrar**” includes the chief registrar.

37. Commencement

*Spent.*³

SCHEDULE

FORM A

[Section 5]

OATH OF GRANTOR

I, A. B., of make oath and say that on the day of 20, 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 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, 20

Before me

2. The section provided that,

“(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.”

3. The section provided for the Act to come into operation on a day appointed by legislative instrument by the Minister. The Land Registry Act, 1962 (Commencement) Instrument, 1962 (L.I. 234) appointed the second day of November, 1962 as the day for the coming into force of the Act other than Part Four which came into force on the 1st day of May, 1965.

FORM B
[Section 5]

OATH OF GRANTEE OR WITNESS

I, N. M., of , make oath and say that on the day of 20 , 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 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 , 20

Before me

FORM C
[Section 5]

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 , 20

FORM D
[Section 10]

CERTIFICATE OF PROOF BEFORE REGISTRAR

On the day of , 20 , at o'clock in the , 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 , 20 , at o'clock in the , 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

FORM E—continued

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

Or

Given under my hand, I have 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 at
o'clock in the , this day of , 20.....

.....
Registrar

FORM G
[Section 18]

MONTHLY LIST

<i>No.</i>	<i>Date of receipt</i>	<i>Nature of Instrument</i>	<i>Situation of land</i>	<i>Date of instrument</i>	<i>Grantor</i>	<i>Grantee</i>	<i>Party registering</i>