

REMOVAL OF VEHICLES ETC. (LAGOS) ACT, 1964



ARRANGEMENT OF SECTIONS

Section

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| <ol style="list-style-type: none">1. Removal of vehicles from highways.2. Provision of removed vehicle parks, etc. by the Council.3. Reclaiming of removed vehicles.4. Disposal by court of unreclaimed vehicles, etc. | <ol style="list-style-type: none">5. Arrest without warrant of persons in charge of vehicles unlawfully used as taxis, etc.6. Interpretation, etc.7. Short title, extent and commencement. |
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1964, No. II

AN ACT TO PROVIDE FOR THE REMOVAL AND DISPOSAL OF VEHICLES LEFT ON HIGHWAYS; FOR THE ARREST WITHOUT WARRANT OF PERSONS IN CHARGE OF VEHICLES APPEARING TO BE USED UNLAWFULLY AS HACKNEY OR STAGE CARRIAGES; AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

[See section 7 (2)]

Commence-
ment.

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows:—

1.—(1) Where a motor vehicle is stationary on a highway, any police officer of or above the rank of inspector may, subject to subsection (3) of this section, cause the vehicle to be removed to a removed vehicle park if—

Removal of
vehicles from
highways.

(a) he has reasonable grounds for believing that the presence of the vehicle on the highway is in contravention of provisions of an enactment relating to the parking of vehicles; and

(b) he is of the opinion that the contravention should be investigated; and

(c) he has reasonable grounds for believing either—

(i) that the vehicle is not in a condition in which it can be moved under its own power; or

(ii) that no person authorised to drive the vehicle is in or in the immediate vicinity of the vehicle.

(2) A person acting in pursuance of the foregoing subsection as respects any vehicle may use such force as may be reasonably necessary for the purpose of removing the vehicle or of gaining access to any part of it in order to facilitate the removal of the vehicle.

(3) Where a police officer has given instructions for the removal of a vehicle in pursuance of subsection (1) of this section but—

(a) the vehicle has not been moved from its position in pursuance of the instructions; and

(b) a person claiming to be entitled to the custody of the vehicle gives to any person proposing to carry out the instructions an undertaking to remove it forthwith,

the instructions shall cease to have effect if the undertaking is fulfilled; but except as provided by the foregoing provisions of this subsection a person claiming to be entitled to the custody of a vehicle in respect of which such instructions have been given shall not be entitled to recover the vehicle otherwise than in pursuance of the following provisions of this Act.

Provision of removed vehicle parks, etc. by the Council.

2.—(1) It shall be the duty of the Council—

(a) to provide and maintain places in Lagos to which vehicles may be removed in pursuance of the foregoing section (in this Act referred to as "removed vehicle parks"), and to secure that an official in charge of each park is at all times present in the park when removed vehicles are in it;

(b) to provide suitable facilities (including equipment and persons to operate it) for the removal of vehicles in pursuance of the foregoing section;

(c) to make reasonable arrangements for the safe-custody of removed vehicles while they are in removed vehicle parks;

(d) to provide and maintain at the principal offices of the Council a record containing particulars of each removed vehicle and its contents and specifying the date of its removal, the park in which it is situated and whether an application in respect of the vehicle has been made to the court in pursuance of subsection (3) of section four of this Act; and

(e) to keep the record open during normal office hours for inspection free of charge by members of the public.

(2) The Council shall not be under any duty to protect removed vehicles otherwise than as mentioned in paragraph (c) of the foregoing subsection, and in particular shall not be under a duty to protect removed vehicles from damage attributable to sun, rain, wind or other physical conditions.

Reclaiming of removed vehicles.

3.—(1) A person who tenders to the official in charge of a removed vehicle park—

(a) such evidence as may be prescribed of his entitlement to the custody of a removed vehicle which is in the park; and

(b) the appropriate charges in respect of the vehicle and a receipt for the vehicle in the prescribed form,

shall, subject to the provisions of subsection (3) of this section and of any order under this Act previously made by the court, be entitled, on demand at the park at any time between the hours of eight o'clock in the morning and six o'clock in the following evening on any week-day (other than a public holiday) and with consent given on behalf of the Council at any other time, to have the vehicle delivered up to him at the park.

(2) In the foregoing subsection—
 "appropriate charges", in relation to a removed vehicle of any class means such sum as the Minister may by order specify as respects vehicles of that class; and

"prescribed" means prescribed by regulations made by the Minister; and the Minister shall so exercise his powers to make orders under this subsection as to secure that the sums specified by the orders will, in his opinion, not in the aggregate exceed the sums required, taking one year with another, to reimburse to the Council the cost of performing the functions imposed on the Council by this Act.

(3) Except so far as the court otherwise orders, subsection (1) of this section shall not apply in relation to a removed vehicle as respects which an application to the court has been made in pursuance of this Act.

4.—(1) If a removed vehicle is not disposed of in accordance with this Act within the period of one month beginning with the date on which it is removed in pursuance of this Act, the Council shall, as soon as reasonably practicable after the expiration of that period, cause to be published in two separate issues of the Gazette of the Federation, and of each of two daily newspapers circulating in Lagos, a notice containing particulars of the vehicle and stating that, unless the vehicle is otherwise disposed of in accordance with this Act before the expiration of the period of two months beginning with the date of the Gazette in which the notice is first published, the Council proposes to apply to the court for an order for the forfeiture of the vehicle to the Council.

Disposal by
 court of
 unreclaimed
 vehicles, etc.

(2) A person claiming to be entitled—

(a) to the benefit of a charge or lien on a removed vehicle apart from its contents; or

(b) to, or to the benefit of a charge or lien on, any contents of a removed vehicle,

may at any time before the making of an application in respect of the vehicle in pursuance of the next following subsection, apply to the court for an order protecting his interest in the vehicle or the contents, as the case may be; and on any such application the court may make such order as it considers just, including an order vesting the vehicle or its contents in any person on such terms as the court thinks fit.

(3) If, on an application in respect of a removed vehicle made by the Council after the expiration of the period of two months mentioned in subsection (1) of this section, the court is satisfied—

(a) that notices in accordance with that subsection have been published in respect of the vehicle; and

(b) that immediately before the removal of the vehicle in pursuance of this Act its presence on the highway from which it was removed was in contravention of provisions of an enactment relating to the parking of vehicles; and

(c) that no person claiming to be entitled to the custody of the vehicle or to any of its contents has taken the steps required by rules of court for the purpose of enabling him to oppose the application, or that every such person who has taken those steps has failed to establish his claim,

the court may order the forfeiture of the vehicle to the Council; and where such an order is made in respect of a removed vehicle, the vehicle (including its contents) shall, subject to the provisions of any relevant order made in pursuance of the last foregoing subsection, vest in the Council free from encumbrances, and the Council may retain it or dispose of it as the Council thinks fit.

(4) Where, on an application made to the court in pursuance of the last foregoing subsection in respect of a removed vehicle, any such person as is mentioned in paragraph (c) of that subsection establishes his claim to be entitled to the custody of the vehicle or to any of its contents, the court may make such order as it considers just, including an order vesting the vehicle or its contents in any person on such terms as the court thinks fit.

(5) Any application to the court under this section shall be made in accordance with rules of court.

5. Without prejudice to any other power of arrest exercisable by a police officer, any police officer may arrest without a warrant a person who, within the view of the officer, acts as the driver of a motor vehicle or as the driver's assistant in such circumstances that the officer reasonably believes that the vehicle is being used in contravention of any enactment relating to permits or licences for the use of vehicles as hackney or stage carriages within the meaning of the Road Traffic Act.

6.—(1) In this Act the following expressions have the meanings hereby assigned to them respectively unless the context otherwise requires, that is to say—

“the Council” means the Lagos City Council;

“the court” means the High Court of Lagos;

“enactment” has the same meaning as in section twenty-seven of the Interpretation Act, 1964;

“the Minister” means the Minister of the government of the Federation responsible for relations with the Council;

“motor vehicle” has the same meaning as in the Road Traffic Act;

“removed vehicle” means a vehicle removed in pursuance of section one of this Act; and

“removed vehicle park” has the meaning assigned to it by paragraph (a) of subsection (1) of section two of this Act.

(2) In this Act, references to a vehicle include references to any trailer or other thing attached to the vehicle and, except where the contrary intention appears and except in paragraph (a) of subsection (1) of section three, references to the contents of the vehicle.

(3) Nothing in this Act shall be construed as affecting the liability of any person to be convicted of or punished for an offence.

7.—(1) This Act may be cited as the Removal of Vehicles etc. (Lagos) Act, 1964, and shall apply to the Federal territory only.

(2) This Act shall come into force on such day as the Minister may by order appoint.

Arrest without warrant of persons in charge of vehicles unlawfully used as taxis etc.

Cap. 184.

Interpretation, etc.

1964, No. 1.

Short title, extent and commencement.

REGISTERED LAND ACT, 1964



ARRANGEMENT OF SECTION

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1964, No. III

AN ACT TO PROVIDE FOR THE MORE EFFECTIVE REGISTRATION OF LAND AND TITLES AND FOR MATTERS CONNECTED THEREWITH.

[Section 16(52)]

Commence-
ment.

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows:—

PART I.—ADJUDICATION AREAS AND RECORDS

1.—(1) If it appears to the Minister to be expedient to provide for the adjudication of interests in land or rights in land in the Federal territory and for the registration of titles thereto, the Minister may by order declare the whole or any part of the Federal territory to be an adjudication area for the purposes of this Act; and upon publication of the order in the Gazette, this Act shall apply to the adjudication area so declared and have effect accordingly.

Power to
prescribe
adjudication
areas, etc.
and effect
of order.

(2) An order under this section shall define the situation and limits of the adjudication area to which it relates either by means of a plan or by description; and shall provide that the demarcation of parcels and presentation of claims to interests in land or rights in land within the adjudication area may begin at any time after a period to be prescribed.

(3) Where by reason of an order made under this section this Act is to apply and lists of titles are prepared for the purposes of an adjudication, no instrument or other document whatsoever shall be registered under the Land Registration Act or the Registration of Titles Act as the case may be, before the compilation of the land register for the appropriate section of the adjudication area, without the consent in writing of a registration officer.

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(4) In this section, "interests in land" includes encumbrances.

2.—(1) There shall be appointed a fit person to be an adjudication officer for the purposes of this Act who shall be an officer of the High Court and shall have power to inquire into and adjudicate upon claims to land and interests in land within the adjudication area for which he was appointed or, subject to the terms of his appointment, for any adjudication area.

Appointment
and powers
of officers
engaged in
adjudication.

(2) An adjudication officer shall in respect of claims to land within an adjudication area have all the powers of a judge of the High Court, and shall exercise general control over all adjudications.

(3) There shall also be appointed for the purposes of demarcation of and registration of title to land subject to this Act, fit persons as demarcation officers and registration officers, who shall have the powers conferred upon such officers by this Part of this Act.

(4) Any demarcation officer may at all reasonable times enter upon land within an adjudication area for the purpose of demarcating or surveying land within such area; and for such purpose may require persons likely in his opinion to have the knowledge, to give information regarding the boundaries of any such land.

(5) Any registration officer for the purposes of an inquiry under this Part of this Act may administer oaths and issue summonses, notices, or orders requiring the attendance of persons or the production of documents which he may consider necessary for any adjudication of claims under this Part of this Act.

(6) An adjudication officer may if he thinks fit exercise all or any of the powers and duties conferred upon demarcation officers and registration officers by this Part of this Act.

Subdivision
of adjudica-
tion areas
and notice.

3.—(1) The adjudication officer may subdivide an adjudication area into adjudication sections and, where any such subdivision is made, separate notices in respect of each adjudication section shall be published by the adjudication officer in such manner as he thinks fit.

(2) A notice for publication under this section shall—

(a) fix a time within which persons claiming to be interested in land within the adjudication section are to present their claims; and

(b) require any person making a claim to land the boundaries of which are not defined with reasonable accuracy, to point out to a demarcation officer the boundaries or boundary marks of the land affected;

and as the case may require, the notice shall—

(c) specify as nearly as possible the situation and limits of the adjudication section;

(d) state that rights to and interests in land within the adjudication section will be ascertained in accordance with the provisions of this Part of this Act and where so ascertained shall be registered under this Act;

(e) state that rights to and interests in land within the boundaries of the adjudication section which are registered under the Registration of Titles Act will be brought on to the land register under this Act without requiring any formal application by persons interested;

(f) confirm that if the name of a person appears in the list of owners prepared by the registration officer under this Part of this Act in respect of land in the adjudication section affected by the Land Registration Act as unregistered land and published as a schedule to the notice, the claim will be investigated by the registration officer, without the necessity for any claim by any such person.

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Claims and
attendance.

4.—(1) Persons other than those named in the schedule to a notice published under section three of this Act claiming unregistered rights or interests in land within an adjudication section shall present their claims within the time limited by the notice.

(2) Any person required by an officer under this Part of this Act to attend for purposes of or incidental to an adjudication, may appear or be represented by a duly authorised agent at the time and place required by such officer; and the person appearing or so represented shall produce to, and in proper case be given, an official receipt by the adjudication officer for any document or paper affecting or relating to his claim to land within the adjudication section.

(3) The demarcation, registration or adjudication of land within an adjudication section may proceed or, if begun, may continue, notwithstanding the failure by any person to attend when required under this section.

(4) If an officer is satisfied in respect of any unregistered land in an adjudication section that claims are outstanding he may, if he thinks fit, require the attendance of any person appearing to be entitled, and deal with such land as if a claim had been duly made by or on behalf of any such person.

(5) Where a deceased claimant or owner is represented by one or more heirs or, in the case of separate group interests, by one or more of a group of heirs, in respect of a claim to land or an interest therein in any adjudication section, the appearance of such heirs or groups as the case may be in person or by duly authorised agents, shall, unless the adjudication officer otherwise directs, be deemed to be an appearance by all the heirs or groups.

(6) Any instrument which may be void or voidable under any other Act by reason only of the fact that it has not been registered or presented for registration within the time prescribed under any other Act, shall be deemed to create an equitable interest affecting land; and a claim may be made in respect thereof and shall have effect, and may be dealt with accordingly on any adjudication.

5.—(1) Subject to the provisions of this section, an action concerning land or rights therein in any adjudication section shall not be commenced in any court without the consent in writing of the adjudication officer.

Stay of actions.

(2) Where an action is commenced in any court before notice is given of intention to adjudicate upon claims under this Part of this Act the action shall, if it is one for the recovery of premises, be completed before the adjudication; but otherwise the action shall, subject to any direction of the court, be transferred to and be determined by the adjudication officer sitting as a court. If any action is so transferred, the fee payable in respect of the hearing before the adjudication officer shall be the fee which would have been payable to the High Court if the case had not been so transferred; and the fee shall be paid and credited accordingly.

6. Where an order is made declaring an adjudication area, the registrar of titles appointed under the Registration of Titles Act shall prepare a list of the titles registered under that Act and relating to land in the adjudication area, and shall provide the adjudication officer with such other information as the adjudication officer may from time to time require in respect of any such registered title.

List of previously registered titles to be prepared.
Cap. 181.

7. Subject to any directions which may from time to time be given by the adjudication officer, it shall be the duty of a demarcation officer—

Duties of demarcation officer.

(a) to see that the boundaries of each separate parcel of privately owned land and of public roads, rights of way and water, and of graveyards, (if not already demarcated by a physical feature), are properly demarcated or indicated;

(b) to submit to the adjudication officer, boundary disputes which the demarcation officer is unable to resolve;

(c) to demarcate the boundaries of all waste or unoccupied land;

(d) to prepare in respect of every adjudication section a plan (in this Act referred to as a "demarcation plan") showing thereon every parcel of land however owned, and marked so as to identify the parcels by means of a distinguishing number for each parcel;

(e) to show on the demarcation plan by means of a distinct colour or otherwise howsoever every parcel, the title to which is registered under the Registration of Titles Act.

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Special powers of demarcation officer.

8.—(1) In the performance of his duties, a demarcation officer may—

(a) if the boundary between separate parcels of land is curved or irregular or, in his opinion, if the boundary is otherwise inconvenient for the use of the land, re-align the boundary, and where necessary adjust the rights of the owners of the land affected by the exchange of land or by the payment of money ;

(b) demarcate any right of way necessary to give access to a public road in favour of any parcel of land completely surrounded by other parcels ;

(c) with the agreement of the owner or owners, group together in one or more parcels, separate areas of land owned by such owner or owners, if such grouping does not adversely affect the parcel of other persons.

(2) Where a boundary is re-aligned under this section the adjudication officer shall satisfy himself that the compensation is adequate, and in any proper case shall certify it as one in respect of which the person affected may appeal to the High Court.

Duties and powers of registration officer.
Cap. 99.

9.—(1) A registration officer shall, when appointed, examine with all convenient speed such of the records or instruments kept in the land registry under the Land Registration Act as he considers relevant to land in the adjudication area, or section thereof, as the case may be.

(2) If after such examination the registration officer is satisfied that any person has a claim to or any right or interest in unregistered land within an adjudication section, he may, in his discretion prepare for publication with the notice under section three of this Act a list of owners showing the names of all persons so far as are known to him, the parcels of land concerned, and the nature of the rights or interests to which any claims relate.

(3) After the time limited by the notice referred to in subsection (2) of this section has expired, the registration officer shall consider all claims presented in accordance with the notice or the schedule thereto and, after such investigation as he considers necessary, the registration officer shall prepare a record (in this Act referred to as "the adjudication record") in such form as the adjudication officer may approve in respect of every parcel of land shown on the demarcation plan which is not registered under the Registration of Titles Act.

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(4) If there are two or more claimants to any land or right in land within an adjudication section and the registration officer is unable to effect agreement between them he shall submit the case with particulars of the claim for hearing by the adjudication officer.

(5) The registration officer shall make any registration or re-registration and shall rectify the adjudication record in accordance with any order of the adjudication officer under this Act.

(6) The registration officer in the performance of his duties under this Act shall be subject to any general or special directions of the adjudication officer.

10.—(1) An adjudication record shall consist of forms each of which shall relate to a parcel of land within the adjudication section and contain the following particulars that is to say—

Contents of
adjudication
record.

(a) the number of the parcel of land as shown on the demarcation plan and its approximate area ;

(b) the name and description of the owner and the limitation (other than disability) on his power of dealing with the land ;

(c) if any owner or other person is under a disability, by reason of age, unsoundness of mind or otherwise howsoever the name of his guardian ;

(d) details of any lease, right of occupation, charge or other encumbrance or interest whatsoever amounting to less than ownership affecting the land, whether by virtue of customary law or otherwise, together with the name and description of every person entitled to the benefit thereof and particulars of any restriction on his power of dealing with it ;

(e) the fact that in any particular case the land is state land ; and

(f) the date on which the form is completed.

(2) Every form shall be signed by the registration officer and by the owner of the land or of any lease or charge or by the duly authorised agent of such owner, unless the adjudication officer in his discretion dispenses with the signature of the owner or his agent.

11.—(1) If the registration officer is satisfied when preparing an adjudication record—

Principles of
registration
for adjudica-
tion record.

(a) that the right or interest of any person in land is such as would entitle him to be registered under this Act as the proprietor of that land, the registration officer shall enter the name of that person accordingly : Provided that the exercise by any person of rights in or over one or more parcels of land shall not be construed as conferring upon such person rights of ownership in or over any greater extent of land than that in or over which the rights are exercised ;

(b) that no person is entitled to exercise rights of ownership over defined land or that the rights enjoyed by any person thereover would be insufficient to entitle such person to be registered under this Act as the proprietor of that land, the registration officer shall record the land as state land ;

(c) that the right or interest of any person in or over land which is privately owned or in or over state land would be insufficient to entitle such a person to be registered under this Act as the proprietor of that land, but would entitle any such person to the benefit of any other registrable interest, the registration officer shall record such right accordingly with a note of the limits within which the right may be exercised, the extent to which the benefit thereof may be dealt with, and such other particulars as may be necessary to define the nature, incidence and extent of the right.

(2) The registration officer shall, if land is owned by two or more persons, ascertain whether they hold as joint tenants or as tenants in common and, if as tenants in common and the shares are not equal, the share of each such owner.

(3) If the land is family land, the registration officer shall, subject to the next succeeding section of this Act,—

(a) register the names of all members of the family who are entitled to a share therein together with the size of the share of each such member ; or

(b) if the number of members of a family exceeds twenty or the majority of such members so requests, register the name of the family and the names of representatives of the family who jointly are to have the exclusive rights and powers and be the registered proprietors for the purpose of any dealing with the land or any part thereof or interest therein subject to this Act and to such restriction as, in any particular case, the registration officer may deem it necessary to impose.

Procedure
for
ascertaining
family repre-
sentatives.

12.—(1) Where in the case of family land not more than twenty names are submitted to the registration officer as the names of persons to represent a family, and no objection thereto is offered by any member of the family, the registration officer shall enter such names in the adjudication record as the family representatives.

(2) Where in the case of family land no names or more than twenty names are submitted, or where there is an objection to a member of the family, the registration officer shall refer the case to the adjudication officer for his opinion ; and after considering any custom prevailing within the family and the opinion of the adjudication officer, the registration officer shall appoint not more than twenty persons as family representatives.

(3) Where land is owned by a family and the adjudication officer is not satisfied that any custom exists in relation to the family land, the adjudication officer shall direct the holding of a family meeting not later than twenty-one days after delivery of the direction to the head of the family or his representative, requiring the family to elect not more than twenty persons to be the family representatives. The head of the family or his representatives shall cause all adult members of the family, so far as possible, to be notified accordingly, and when held, all adult members present at the family meeting shall be entitled to vote ; but the fact that any member of the family fails to receive notice of or to attend such meeting shall not invalidate the meeting. If the number of names of the persons elected as family representatives at the family meeting is not more than twenty, notice thereof with a list of the names with sufficient other information which the adjudication officer may reasonably require shall be forwarded by the head of the family or his representative to the adjudication officer not later than seven days after the meeting ; and if he is satisfied that the family meeting was properly held, the adjudication officer shall enter those names as the family representatives in the adjudication record.

(4) If no agreement is reached, the adjudication officer shall record the land as family land ; and when so recorded it shall have the effect of a caveat under this Act and no dealing with the land may be registered until such time as the family representatives are ascertained.

Notice of
demarcation
and registra-
tion.

13. At least six clear days before demarcation is to begin, the demarcation officer shall, as directed by the adjudication officer, give notice of the intended time and place of the demarcation and of registration thereafter to persons likely to be affected thereby.

14.—(1) The adjudication officer shall supervise every adjudication, and shall hear and decide—

Duties of the
adjudication
officer.

(a) any dispute as to ownership or as to boundaries of land within the adjudication area or as to any lease, charge or other encumbrance whatsoever affecting such land if the demarcation officer or the registration officer as the case may be has been unable to resolve the dispute ;

(b) any petition—

(i) in respect of an act or decision of a demarcation officer, or

(ii) to rectify an original entry in the adjudication record prepared by a registration officer under the provisions of section nine of this Act.

(2) The adjudication officer shall on the hearing of a dispute or petition under this section record the proceedings in such form as he thinks necessary, and the procedure on the hearing of a civil suit shall, as far as practicable be followed and the fees prescribed for any such hearing shall be the fees payable.

15. In the course of an adjudication, the adjudication officer may—

Special
powers of
adjudication
officer.

(a) give such instructions as he thinks necessary to implement the provisions of this Part of this Act relating to the procedure to be followed when demarcating or registering land within an adjudication area ;

(b) direct the owner of land to enclose it by means of a boundary wall, fence or hedge or prescribe the demarcation of the boundaries in some other permanent manner ;

(c) where persons, whether or not heirs of a deceased owner, jointly claim land as co-owners, order a partition of the land amongst such persons in accordance with an agreement approved by the adjudication officer or, if there is no agreement, as the adjudication officer may direct ;

and any person concerned or affected shall comply with the terms of any instruction, direction, or order, as the case may be, given or made by the adjudication officer.

16.—(1) The adjudication officer may act on any testimony sworn or unsworn, and may receive as evidence any statement, document information or matter which in his opinion may assist him to deal effectively with the matters before him, whether the same would, apart from this section, be legally admissible evidence or not.

Evidence.

(2) Subject to the foregoing provisions of this section, the Evidence Act shall apply to all proceedings before an adjudication officer in the same manner as if he were a court within the meaning of that Act.

Cap. 62.

17. It is hereby declared that a claim under this Part of this Act based on acquisition by adverse possession or prescription may be made ; and if it is accepted by the adjudication officer, it shall be registered in like manner as if it were an ordinary claim under this Act.

Adverse
possession
as basis of
claim.

18. The adjudication officer and the registration officer as the case may require shall retain all documents of title produced in respect of any claim :

Retention of
documents.

Provided that if any document of title produced to any such officer includes unregistered land not comprised in the claim, it shall be not retained; and the adjudication officer after endorsing thereon a note of the claim shall return the document to the person producing it.

Notice of completion of adjudication record.

19. Where the adjudication record in respect of any adjudication section has been completed, the adjudication officer shall sign and date a certificate to that effect, and unless a petition on appeal is filed, shall forthwith thereafter give notice of the completion of such adjudication record and of the place at which it may be inspected during office hours.

Correction of errors.

20. The adjudication officer of his own motion may at any time correct clerical errors or errors of a minor nature in the adjudication record.

Finality of registration.

21. Subject to any appeal under this Part of this Act, registration as entered in the adjudication record shall, after the expiration of thirty days from the date of the certificate of the adjudication officer, be final; and the Registrar of Land under this Act shall thereafter compile editions of the land register from such record.

Appeals.

22.—(1) Any person aggrieved by any act or decision of a demarcation officer or by any entry in the adjudication record made by the registration officer may at any time before notice of the completion of the adjudication record has been given, petition the adjudication officer in respect of any such act, decision or entry; and the provisions of section fourteen of this Act shall have effect, and the petition may be dealt with accordingly.

(2) Any person aggrieved by any act or decision of the adjudication officer may appeal to the High Court within thirty days from the date of the certificate given on completion of the adjudication record in respect of the adjudication section concerned, or within such extended time as the High Court, if it thinks necessary in the interest of justice, may allow.

PART II.—ORGANIZATION AND ADMINISTRATION

Land Registries and Officers

Land registration districts.

Cap. 181.

23.—(1) The Minister may at any time by order in the Gazette constitute the Federal territory or any adjudication area therein a land registration district; and upon the making of the order, all land affected by a final adjudication record as well as land duly registered under the Registration of Titles Act shall be included in the appropriate land registration district and may be registered accordingly under this Act.

(2) Until the Minister constitutes a land registration district under subsection (1) of this section, the land registration district which, immediately before the coming into operation of this Act was in existence in the Federal territory, shall be deemed to be the land registration district for the purposes of this section.

(3) The boundaries of any land registration district may at any time by order of the Minister be amended for the purpose of constituting any new land registration district or of adjustment of boundaries of any existing land registration district.

24. There shall be maintained in every land registration district a Land Registry which shall form part of the High Court and in which there shall be kept in accordance with the provisions of this Act—

Land
Registries.

- (a) a register of land to be known as the land register ;
- (b) a map to be known as the Land Registry map ;
- (c) parcel files containing the instruments, which support subsisting entries in the land register, and any filed plans and documents ;
- (d) a book in the prescribed form to be known as the presentation book in which shall be recorded all applications numbered consecutively in the order in which they are presented to the land registry ;
- (e) a record to be known as the mutation record ;
- (f) an index to be known as the Nominal Index in which shall be kept in alphabetical order a record of the names of the proprietors (other than banks, building societies and such corporations as the Registrar may from time to time direct) of land, leases and charges of any description with such information as to the parcels affected and necessary to identify ;
- (g) a power of attorney index.

25.—(1) There shall be appointed as a member of the Public Service of the Federation a fit person to be Registrar of Land and such person shall, under the general direction of the Chief Justice of Lagos have the control of and administer all Land Registries under this Act.

Appointment
of officers.

(2) There shall also be appointed as members of such public service a deputy registrar of land and in respect of every Land Registry such assistant registrars and other officers or employees as may be necessary for carrying out the provisions of this Act.

(3) The deputy registrar shall have all the powers of the Registrar under this Act ; but unless for any reason the Registrar is unable to exercise the power, a deputy registrar shall not have the power of delegation conferred by the next succeeding subsection.

(4) The Registrar may by instrument under his hand delegate to any assistant registrar any of the powers of the Registrar under this Act other than the power to delegate, and may at any time likewise revoke or vary any such delegation ; but the fact that the Registrar has delegated any power under this subsection shall not preclude the Registrar from himself exercising the power.

(5) The person holding office at the commencement of this Act as registrar of titles shall be deemed to have been appointed Registrar of Land under subsection (1) of this section ; and all other persons who at the commencement aforesaid are officers or employees of the land registry established under the Registration of Titles Act shall, unless the Public Service Commission otherwise directs in respect of a particular office or employment, be deemed to have been appointed to the like offices or positions under this Act.

Cap. 181.

26. The Registrar, and every assistant registrar to the extent to which any powers are delegated to him shall have and may exercise the following powers additional to any other powers conferred by this Act, that is to say—

General
powers of
Registrar.

(a) he may in respect of any particular parcel of land or encumbrance require the proprietor or any person to produce any instrument, certificate or other document or plan relating to the land, or encumbrance and the proprietor or other person as the case may be, shall produce the same ;

(b) he may summon a proprietor or other person interested to appear and give information respecting any land, encumbrance or other instrument, certificate, document, or plan relating to the land of the proprietor or encumbrance affecting the land, and the proprietor or other person as the case may require, shall appear and give the information ;

(c) he may refuse to register any deed or document presented to him if any instrument, certificate or other document or plan or information required by him to be produced or given is withheld or anything required by him to be done under this Act is not so done.

(d) he may administer oaths or affirmations and may require that any proceedings, information or explanation affecting registration to be verified on oath or affirmation ;

(e) he may order that the costs, charges and expenses incurred by him or by any other person in connection with any investigation or hearing held by him for the purposes of registration under this Act shall be borne and paid by such persons and in such proportions as he may think fit.

(2) Where the Registrar or any assistant registrar under this section is empowered to administer oaths or affirmations any such officer may take a statutory declaration under the Oaths Act 1963 in substitution therefor, and in any case where an oath or affirmation is administered or declaration is taken no oath fee or stamp duty as the case may be, shall be payable or be paid.

1963 No. 23.

Seal of office.

27. There shall be a seal of the Land Registry showing the Coat of Arms and such reference on the surround to the Land Registry as the Chief Justice of Lagos may approve in writing. Every instrument bearing the imprint of such seal shall be received in evidence by all courts and persons ; and, unless the contrary is shown, it shall be deemed, without further proof, to have been duly sealed and issued by or under the direction of the Registrar.

Land Registers

The land register.

28.—(1) The Registrar may divide a registration district into registration sections and open land registers for every such section ; and accordingly all land dealt with at the time of an adjudication in respect of a registration section which is included therein (whether or not also included in the adjudication record) shall be entered in the land register, and a parcel of land and every lease thereof shall together comprise editions of that part of the land register which relates thereto.

(2) The Registrar shall compile the land register in the following manner, that is to say—

(a) for every parcel of land or as the case may be any lease thereof registered under the Registration of Titles Act there shall be prepared editions showing all subsisting interests registered under that Act ;

Cap. 181.

(b) for every parcel of land included in an adjudication record under the provisions of Part I of this Act and not registered under the Registration of Titles Act—

(i) every person entitled in the adjudication record to ownership shall be registered as proprietor of the parcel recorded in his name therein subject to any limitation, restriction, or encumbrance affecting the parcel of land ;

(ii) where no owner has been found, the parcel shall be registered as state land subject to any rights or interests in respect of it shown in the adjudication record ;

(iii) in any other case, the person named in the adjudication record as entitled to the benefit of any rights or interests in any parcel shall, subject to any overriding interest under this Act affecting the right or interest, be registered accordingly.

(3) If the boundaries of a parcel of land are fixed otherwise than by a survey approved by the Federal Director of Surveys, the Registrar may in his discretion endorse and sign on the appropriate land register a note that it is issued limited as to parcels ; and where the register is so noted, the provisions of this Act as to rectification of boundaries shall have effect accordingly.

29.—(1) The Registrar shall as soon as may be after the opening of an edition of the land register under section twenty-eight of this Act, give notice in writing of the fact to all persons having registered interests in any land or lease included therein.

Notice of opening of land register to be given.

(2) On receipt of a notice under this section the owner of a title formerly registered under the Registration of Titles Act shall surrender his certificate of title to the Registrar and, if entitled, shall receive a land certificate under this Act in substitution for such certificate of title.

Cap. 181.

30. Registration of any instrument under this Act (other than of an instrument as the basis of title in respect of the bringing of land under this Act) shall on payment of the prescribed fees be effected by an entry in the appropriate edition of the land register made in such form as the Registrar may from time to time direct.

Manner of subsequent registration.

31. If the number or the nature of the entries so require or the Registrar thinks fit, the Registrar may at any time open a new edition of a land register in substitution for the existing edition. The substituted edition shall show subsisting entries ; and all other entries that have been determined or have ceased to have any effect shall be omitted.

New editions of the land register.

Maps, Parcels and Boundaries

32.—(1) There shall be compiled from the demarcation plans a map to be called the Land Registry map showing the boundaries of each parcel of registered land and such other information as the Registrar may direct or require ; and such map shall be drawn to a scale and comprise as many sheets as the Registrar thinks necessary.

Land Registry map.

(2) Where the Registrar divides a registration district into registration sections, he shall cause the division to be shown on the Land Registry map and identify the sections by distinctive names. Any registration section may be further divided by the Registrar into areas to be known as blocks, which shall be shown on the said map and be given distinctive numbers or letters, or a combination of numbers and letters, as the case may require.

(3) The Registrar may, at any time, combine or divide registration sections or blocks, or vary their boundaries.

(4) The parcels of land in each registration section or block shall be numbered consecutively and the name of the registration section and the number and letter of the block (if any) and the number of the parcel shall together be a sufficient reference to any parcel.

(5) A plan may at any time be filed in respect of any parcel to augment the information available from the Land Registry map; and the filing of such plan shall be noted where directed by the Registrar.

Power of Registrar to require surveys and amend boundaries, etc.

33.—(1) The Registrar may require a survey of any land to be made for the purposes of this Act and, subject to the provisions of this section, may with the agreement in writing of any person liable to be affected thereby, alter or replace the Land Registry map or any part thereof as a result of such survey.

(2) There shall be a form to be known as a mutation form, and no alteration of any boundary shown on the Land Registry map shall be made except as directed by the Registrar by means of a mutation form, which shall thereafter be filed in the Land Registry.

(3) Where the boundary of a parcel is altered, its parcel number shall be cancelled and it shall be given a new number.

(4) The Registrar may, at any time, direct the preparation of a new edition of the Land Registry map or any part thereof; and matter which the Registrar considers obsolete, may be omitted from any such new edition.

Boundaries on Land Registry map not conclusive.

34.—(1) The Land Registry map shall not be final and conclusive evidence as to the precise position of any boundary; and where any uncertainty or dispute arises as to the position of a boundary the Registrar, on the application of any interested party, shall give all persons appearing by the land register to be affected an opportunity of being heard; and on such evidence as he considers relevant, the Registrar shall ascertain and fix the position of the uncertain or disputed boundary by survey or by description as the case may require.

(2) Where the Registrar exercises his power under subsection (1) of this section, he shall make a note to that effect on the Land Registry map and in the appropriate editions of the land register and shall file such plan or description as may be necessary to record his decision.

(3) No court shall entertain any action or other proceeding relating to a dispute as to the boundaries of registered land unless the dispute has been dealt with in the first instance by the Registrar under this section.

Maintenance of boundary marks.

35.—(1) The Registrar may at any time by order in writing direct which of adjoining proprietors shall be responsible for the care and maintenance of a boundary mark; and when so directed, the proprietor designated shall maintain in good order the boundary marks on his land.

(2) Any proprietor responsible for the maintenance of boundary marks who allows a boundary mark to fall into disrepair or be destroyed or removed shall be guilty of an offence and liable on conviction to a fine of ten pounds.

(3) Any person who defaces, removes, injures or otherwise impairs any boundary mark unless authorised to do so by the Registrar in writing, shall be guilty of an offence and liable on conviction to a fine of twenty pounds or to imprisonment for a term of three months, or to both.

(4) Any person convicted of an offence under this section shall, whether or not any penalty therefor is imposed upon him, be liable to pay the cost of restoring such boundary marks; and the cost of the restoration may in proper case be recovered as a civil debt by any person responsible under this section for the maintenance of boundary marks on the land affected.

(5) For the purposes of this section, "boundary mark" includes any fence, hedge, stone, pillar, (whether survey pillar, peg, pin or tube) or wall or other mark whatsoever which serves to demarcate the boundary of land.

36. Subject to the provisions of this Act, where—

(a) contiguous parcels of registered land are owned by the same proprietor and are subject in all respects to the same rights and obligations, the Registrar on the application of such proprietor, may combine the parcels by closing the editions relating thereto and opening new editions in respect of the parcels resulting from such combination;

(b) the proprietor of unencumbered land applies for the division of it into two or more parcels and the Registrar is satisfied that the land is free from incumbrances and is suitable for such division, the Registrar shall give effect to the application by means of a mutation record and by the closing of any relevant edition and the opening of new editions in the land register.

37. It is declared that land below high water mark at ordinary spring tides shall in the case of any seaward or tidal river boundary be deemed to be excluded from any parcel of land in the land register unless the contrary is expressly noted in the relevant edition of the land register.

38.—(1) On the application of the proprietors of contiguous parcels of registered land who are desirous of subdividing or altering the boundaries thereof, the Registrar may if satisfied that all necessary consents in writing of other persons in whose names any right or interest in such parcels is registered and of any caveator have been given and are produced, and subject to the provisions of this section, give effect to the application by means of a mutation record and cancel the relevant editions relating to such parcels and prepare new editions in accordance with the scheme of subdivision or alteration of boundaries, as the case may require.

(2) If in the opinion of the Registrar any alteration of contiguous parcels under this section would involve substantial changes of ownership which should be effected by transfer under this Act without invoking the provisions of this section, he may, in his absolute discretion, refuse to give effect to the application.

(3) Where any boundary is subdivided or altered under this section, the new parcels shall, anything to the contrary in this Act notwithstanding, vest in the persons in whose names they are registered without further authority than this section.

Combina-
tions and
sub-
divisions.

Foreshore
not included
in title.

Alteration of
contiguous
parcels by
sub-
division, etc.

PART III.—EFFECT OF REGISTRATION

39.—(1) Subject to the provisions of this Act,—

Interest to
be conferred
by
registration.

(a) the registration of any person as the proprietor of any land shall not confer any right to minerals or mineral oils thereon or thereunder, but otherwise it shall vest in the person so registered the absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto ;

(b) the registration of any person as the proprietor of a lease shall vest in that person the leasehold interest described in the lease together with all rights express and implied and appurtenances attached thereto and subject to all agreements express or implied and all liabilities and incidents of a lease.

Cap. 120,
121.

(2) For the purposes of this section "mineral oils" and "minerals" have the meaning set out in the Mineral Oils Act and the Minerals Act.

Rights of
proprietor.

40.—(1) The rights of a proprietor, whether acquired on first registration or subsequently for valuable consideration or by an order of a High Court or any superior Court shall be rights not liable to be defeated except as provided in this Act ; and such rights shall be held by the proprietor, together with all privileges and appurtenances belonging thereto, free from all other interests and claims whatsoever, including those of the state, but subject—

(a) to any encumbrances and to the conditions and restrictions, if any, shown in the land register ;

(b) unless the contrary is expressed in the land register, to such liabilities, rights and interests as affect the same and are declared by this Act not to require notification on the land register.

(2) Nothing in this section shall be construed so as to relieve a proprietor from any duty or obligation to which he is subject as a trustee or family representative under this Act.

Voluntary
transfer.

41. Every proprietor who by transfer acquires any land or charge without valuable consideration shall hold the land or charge, as the case may be, subject to all unregistered rights and interests affecting the same to which they were subject when in the hands of his transferor, and subject also to the provisions of any law relating to bankruptcy and to the winding up provisions of the Companies Act ; but otherwise any such transfer shall, when registered, have in all respects the same effect as a transfer for valuable consideration.

Cap. 37.

Overriding
interests.

42.—(1) All registered land shall, unless the contrary is expressed in the relevant edition of the land register be subject to such of the following overriding interests as may for the time being subsist and affect the same that is to say—

(a) rights of way, rights of water and any easement or profit a prendre subsisting at the time of first registration under this Act ;

(b) rights of entry, search and user conferred by any other Act ;

(c) leases or agreements for leases for any term less than five years where there is actual occupation under the lease or agreement ;

(d) any tax or rate for the time being declared by law to be a charge on land or buildings erected thereon ;

(e) rights acquired or in process of being acquired by virtue of any enactment relating to the limitation of actions, or by prescription; and

(f) the rights of every person in possession or actual occupation of the land to which he may be entitled in right of such possession or occupation, save where enquiry is made of such person and the rights are not disclosed.

(2) The Registrar may in proper case direct registration of any of the liabilities, rights and interests referred to in subsection (1) of this subsection in such manner as he thinks fit; and to the extent to which registration is so directed, this section shall cease to have effect.

43. Every proprietor shall be deemed to have had notice of every entry in the land register relating to any land, or encumbrance acquired by him.

Entries to give actual notice.

PART IV.—CERTIFICATES AND SEARCHES

44.—(1) The Registrar shall, if requested by the proprietor of any land, issue to him a land certificate in the prescribed form showing all subsisting entries affecting that land. A land certificate when issued shall be prima facie evidence of the particulars set out in the relevant edition of the land register at the date of issue of such certificate, but shall not obviate the necessity for a search of the land register. Not more than one land certificate shall be issued in respect of each parcel.

Land certificate may be issued.

(2) Where there are more proprietors than one, the proprietors shall agree among themselves as to who is to receive the land certificate and, if they are unable to agree, the land certificate shall be retained in the Land Registry.

(3) If a land certificate is issued under this section the date of its issue shall be noted in the relevant edition of the land register.

45.—(1) Where a land certificate has been prepared and is not retained in the Land Registry, it shall be produced to the Registrar on the registration of any dealing with the land to which it relates, unless the Registrar for sufficient cause dispenses with its production.

Land certificate to be produced with dealings.

(2) Upon completion of the registration a note of the dealing shall be made on the land certificate, and if the Registrar thinks fit, the land certificate may be destroyed or be retained in the Land Register.

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

Lost or destroyed land certificates.

(2) The Registrar may require a statutory declaration under the Oaths Act 1963 that the certificate has been lost or destroyed; and if satisfied with the evidence as to the loss or destruction of the land certificate, and after publication in such manner as he may authorise, of notice of intention to do so, the Registrar may issue a new land certificate.

1963 No. 23.

47.—(1) Any person may apply in writing to the Registrar for leave to inspect any edition of the land register and any sheet of the Land Registry map or any instrument or plan filed in the Land Registry, during the hours of business, and leave may be granted on such conditions as the Registrar thinks fit.

Searches and copies.

(2) Any person may require an official search in respect of any parcel and upon prepayment of the prescribed fee shall be entitled to particulars of the subsisting entries in the edition relating thereto or to obtain a certified copy of any edition or part of the Land Registry map or of any instrument or plan filed in the Land Registry.

Registration as evidence of signatures, etc.

48.—(1) Judicial notice shall be taken of the signature of the Registrar, the deputy registrar and every assistant registrar by all courts and persons.

(2) Every copy or extract certified by the Registrar shall in any proceedings be received as prima facie evidence of the original entry in the land register, or of the Land Registry map or of any instrument or plan filed in the Land Registry, and of the matter and transactions therein recorded or registered.

(3) Save with the leave of a court, no process for compelling the production of any part of the land register or of the Land Registry map or of any instrument or plan filed in the Land Registry shall issue, and leave shall not be granted where a certified copy or other secondary evidence will suffice; and if a court issues any such process, the process shall show on its face that it was issued with the leave of the court.

PART V.—DISPOSITIONS

General

Subsequent dealings.

49.—(1) No land, lease or charge shall be capable of being disposed of except in accordance with the provisions of this Act and every attempt to dispose of such land, lease or charge otherwise, shall be ineffectual to create, extinguish, transfer, vary or affect any estate, right or interest, legal or equitable, in the land, lease or charge.

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

Protection of person dealing in registered land.

50.—(1) No person dealing or proposing to deal for valuable consideration with a proprietor shall be required or be in any way concerned—

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

(b) to see to the application of any consideration or any part thereof; or

(c) to search any register kept under the Land Registration Act or the Registration of Titles Act.

Cap. 99.
Cap. 181.

(2) Where the proprietor of land or of a lease or a charge is a trustee or a family representative he shall, for the purpose of any registered dealings, be deemed to be the absolute proprietor thereof and no disposition by such trustee or family representative to a bona fide purchaser for valuable consideration shall be defeasible by reason only of the fact that such disposition amounted to a breach of trust or breach of family law or custom.

51. If an instrument is presented for registration later than two months from the date of its execution an additional fee equal to the registration fee shall be payable for each two months which have elapsed since its execution; but in no case shall the additional fee payable exceed an amount that is more than five times the original registration fee payable.

Additional
fee for
delayed
registration

52.—(1) Where the Registrar is satisfied that any person, through his own wilful default, has failed to register an instrument, the Registrar may by notice in writing order such person to present the instrument for registration under this Act; and the registration fee shall upon receipt of the notice become due and payable whether or not the instrument is presented for registration.

Power to
compel
registration.

(2) Any person who, within one month of the service upon him of a notice under this section fails to comply therewith shall be guilty of an offence and liable on conviction to a fine of twenty pounds.

53.—(1) Interests appearing in an edition of the land register shall have priority according to the order in which the instruments creating them were presented for registration, irrespective of the dates of the instruments; and no person shall be concerned to see that registration is completed on the date of presentation of the relevant instrument.

Priority of
registered
interests.

(2) Instruments sent by post or under cover and received during the hours of business shall be deemed to be received simultaneously immediately before the closing of the office for that day; and those received between the time of closing and the next opening of the office for business shall be deemed to be received simultaneously immediately after such next opening.

(3) Where more instruments or applications than one and affecting or relating to the same land, lease or charge are presented on the same day or at so short an interval from each other that in the opinion of the Registrar a question of priority for registration between them arises, the Registrar may refuse registration until he has heard and determined the rights of the parties interested thereunder.

54. Nothing in or purporting to be done under this Act shall affect the provisions of any written law requiring or prescribing the consent of any authority to any dealing with or disposition of any land, lease or charge, and accordingly registration under this Act shall not validate any dealing otherwise invalid by any such written law.

Saving for
other laws.

55.—(1) Where any person proposing to deal with registered land has, with the consent in writing of the proprietor, applied for an official search and has stated in his application the particulars of the proposed dealing, the Registrar shall make an order staying registration of any instrument affecting the land to be comprised in the proposed dealing. An order so made shall stay registration for fourteen days from the time when application for the search was made, and the Registrar shall note the land register accordingly.

Stay of
registration

(2) If within the said period of fourteen days a properly executed instrument effecting the proposed dealing is presented for registration, such instrument shall have priority over any other instrument presented for registration after the time of application for the search; and such instrument may be registered notwithstanding any caveat or any other entry made in the land register during the said period, and the stay of registration shall lapse.

(3) Subject to the presentation of the instrument duly executed in respect of which the stay of registration was obtained and within the prescribed period, any other instrument and any caveat or application received in the Land Registry during such period, may be dealt with in the same manner, and shall have the same priority and be as effectual as if no stay of registration had been obtained.

Merger of registered interests.

56.—(1) Where on the registration of any disposition interests under this section vest in the same proprietor, the interests shall not merge before a surrender or discharge is registered or, as the case may require, the parcels are combined in one title or the titles are endorsed by the Registrar.

(2) The interests under this section are any of the following, that is to say—

(a) lessor and lessee;

(b) chargor and chargee;

(c) land burdened with an easement, profit a prendre or restrictive covenant, and land which benefits therefrom.

Dispositions by family representatives.

57. Where land is family land a disposition shall not be accepted if it is signed by a number of family representatives less than that appearing in the land register unless—

(a) it is executed by all the surviving family representatives; and

(b) it is supported by a statutory declaration under the Oaths Act 1963 made by the surviving family representatives to the effect that they have consulted all adult members of the family in accordance with family custom and that a majority of such adult members is in favour of the disposition.

1963 No. 23.

Leases

Term of leases.

58.—(1) Subject to the provisions of this or any other Act, the proprietor of land may lease it upon such conditions as he thinks fit to any person for a fixed or determinable term, or for a term which in itself is indefinite but may be determined by the lessor or the lessee by notice under this Act, or by mutual agreement.

(2) For the avoidance of doubt, any room or part of a building erected on land may be the subject of a lease and any such disposition shall be registrable accordingly.

Periodic tenancies.

59.—(1) Where in any lease the term is not specified and no provision is made for the giving of notice to determine the tenancy, the lease shall be deemed to create a periodic tenancy.

(2) Where the proprietor of any land permits the exclusive occupation of the land or any part thereof by any other person at a rent but without any agreement in writing, that occupation shall be deemed to create a periodic tenancy.

(3) For the purposes of this section, the term of a periodic tenancy shall be computed by reference to the date on which rent is payable, but in no case exceeding six calendar months; and accordingly a periodic tenancy may be determined by either party giving to the other notice expiring on the next succeeding day on which rent would, but for the notice, be owing and payable, and by payment of all rent due up to the expiry date of the notice.

60. A lease for a period of five years or more, or which is for a term less than five years but contains an option whereby the lessee can require the lessor to grant him either a further term or further terms which, with the original term, would exceed five years, shall be in the prescribed form. The lease shall be presented for registration in triplicate against the land as an encumbrance, and registration shall be completed by the opening of an edition of the land register in respect of the lease in the name of the lessee and by thereafter retaining one copy of the instrument in the Land Registry.

Registration
of leases.

61. When any land is subject to a charge, no lease of such land shall be registered without the previous consent in writing of the proprietor of the charge unless the charge otherwise expressly so provides.

Lease of
charged
land.

62.—(1) A lease may be made for a term to begin on a future date, not being later than twenty-one years from the date of the lease, but until registered, a lease for any such term shall be of no effect.

Reversionary
Leases.

(2) Any instrument purporting to create a lease to begin on a date more than twenty-one years after the date of the instrument shall be void.

63.—(1) Where a person, having lawfully entered into occupation of any land as a lessee, continues to occupy that land with the consent of the lessor after the determination of the lease, the person who so entered shall, in the absence of any evidence to the contrary, be deemed to be a tenant holding the land on a periodic tenancy and, subject to this or any other Act, the conditions of the determined lease, so far as they are appropriate to a periodic tenancy under this Act, shall continue to apply.

Holding
over.

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

64. Save as otherwise expressly provided in the lease, there shall be implied in every lease, agreements by the lessor with the lessee binding the lessor—

Agreements
implied in
leases on the
part of the
lessor.

(a) that so long as the lessee pays the rent and observes and performs the agreements and conditions contained or implied in the lease and on his part to be observed and performed, the lessee shall and may peaceably and quietly possess and enjoy the land during the term of the lease without any lawful interruption from or by the lessor or any person rightfully claiming through or under him;

(b) that the lessor will not use or permit to be used any adjoining or adjacent land of which he is the proprietor or lessee in any way which would render the land leased unfit or materially less fit for the purpose for which it was leased;

(c) where any flat or room is leased furnished or unfurnished, that he will keep the roof and main walls in repair ;

(d) where any dwelling-house, flat or room is leased furnished, that such dwelling house, flat or room is fit for habitation at the commencement of the tenancy.

Agreements implied in leases on the part of the lessee.

65. Save as otherwise expressly provided in the lease, there shall be implied in every lease, agreements by the lessee with the lessor binding the lessee—

(a) to pay the rent reserved by the lease at the times therein mentioned ;

(b) during the continuance of the lease, to pay all rates and taxes which may be payable in respect of the land leased not otherwise exclusively payable by the lessor under any written law ;

(c) in the case of agricultural land, to farm the same in accordance with the practice of good husbandry and to yield up the land at the end of the term in good heart ;

(d) except where a dwelling-house is leased furnished or a flat or room is leased furnished or unfurnished, to keep all buildings comprised in the lease in repair ;

(e) to permit the lessor or his agent with or without workmen or others at all convenient times and after reasonable notice to enter on the land and examine the state and condition thereof ;

(f) to repair or otherwise make good any defect or breach of agreement of which notice shall be given, within such reasonable period as may be specified in the notice.

Meaning of "in repair"

66. Where an agreement is contained or implied in any lease to keep any building in repair, the building shall be kept in the same state of repair as that in which an owner might reasonably be expected to keep his property, due allowance being made for the age, character and locality of the building at the commencement of the lease :

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

Forfeiture of lease.

67. Subject to the provisions of this Act as to relief against forfeiture and to anything to the contrary in a lease, the lessor thereof shall have the right to forfeit the lease if the lessee commits a breach of any agreement or condition express or implied in the lease ; and the right of forfeiture may be exercised—

(a) by entry upon and remaining in possession of the land affected where neither the lessee nor any person claiming through or under him is in occupation of the land ; or

(b) by action in the High Court.

Notice before forfeiture.

68. Notwithstanding anything to the contrary contained in any lease, a lessor shall not be entitled to exercise the right of forfeiture for the breach of any express or implied agreement or condition in the lease, until the lessor has served on the lessee a notice—

(a) specifying the particular breach complained of ; and

(b) if the breach is capable of remedy, requiring the lessee to remedy the breach within such reasonable period as may be specified in the notice ; and

(c) in any case, requiring the lessee to make compensation in money for the breach, and the lessee fails within a reasonable time thereafter to remedy the breach, if it is capable of remedy and, as the case may be, to make reasonable compensation in money.

69.—(1) A lessee upon whom a notice has been served under section sixty-eight of this Act or against whom the lessor is proceeding by action or re-entry to enforce his right of forfeiture, may apply to the High Court for relief, and the High Court having regard to the proceedings and conduct of the parties and the circumstances of the case may, if it thinks fit, grant or refuse relief; and relief if granted shall be upon such terms as the High Court may impose.

Relief
against
forfeiture.

(2) The High Court may, on application by any person claiming any interest in the property comprised in the lease or any part thereof as sublessee or chargee, make an order vesting the property or any part thereof as the case may require in such sublessee or chargee for the whole of term of the lease or any less term, upon such conditions as the High Court in the circumstances of the case may think fit.

(3) This section shall have effect notwithstanding any stipulation or agreement to the contrary in any lease, whether registered or not.

(4) For the purposes of this section a lease limited to continue as long only as the lessee abstains from committing a breach of agreement or condition shall be construed and take effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such breach.

70. Unless a notice under section sixty-eight of this Act has been served on the lessee, the agreements and conditions contained or implied in any registered lease may be varied negatived or added to, and the term of any lease may from time to time be extended by a memorandum executed by the lessor and the lessee for the time being and registered before the expiration of the then current term of the lease.

Variation
and
extension
of leases.

71. Where a lease is presented for registration and the Registrar is satisfied on such evidence as he may require that the lessee is the person registered as the proprietor of a prior lease in respect of the same land, he shall cancel the registration of the prior lease and register the new lease.

Substitution
of leases.

72.—(1) Subject to the provisions of his lease, the proprietor thereof if the lease is registered under this Act may sublet for any period less than the remainder of the period of his lease by an instrument in the prescribed form; and unless otherwise expressly provided, the provisions of this Act affecting leases, and parties thereto shall apply to subleases and parties thereto with such adaptations as are necessary.

Subleases

(2) There shall be implied in every sublease in addition to those implied by this Act in leases, an agreement by the sublessor that he will, during the continuance of the sublease pay so much of the rent reserved by the head lease and observe and perform the agreements and conditions thereof as relate to the land in the sublease.

(3) Where any sublessee has paid to the head lessor of the land the rent or any part of the rent payable by his sublessor in respect of the head lease, the sublessee shall be entitled to set off any sum so paid against the rent payable by him to his sublessor in respect of his sublease.

(4) If a lease is determined by operation of law or by surrender under any law relating to bankruptcy, any sublease of the lease shall also be determined.

Surrender
of leases.

73.—(1) A lease may be surrendered by an instrument of surrender in the prescribed form or by writing the word "Surrendered" with the date of surrender, on the original or the duplicate of other copy acceptable to the Registrar, and by the execution thereof by the lessor and the lessee. Upon presentation of such document duly executed and payment of the prescribed fee, the registration of the lease shall be cancelled and the interest of the lessee shall cease.

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

Determina-
tion of
leases.

74.—(1) Where a registered lease has been determined—

(a) by effluxion of time ; or

(b) by the happening of an event upon which the lease is expressed to determine ; or

(c) by lawful re-entry and recovery of possession ;

the lessor may apply in writing to the Registrar to cancel the registration thereof.

(2) An application under this section shall be supported by such evidence of the happening of the event and of the lawful re-entry as the Registrar may require, and if the Registrar is satisfied, he shall cancel the registration of the lease, and the land shall thereupon cease to be subject to the lease.

Charges

Form and
effect of
charges.

75.—(1) The proprietor of any land, lease or charge under this Act may by instrument create a charge thereover to secure the payment of a debt or other money or money's worth or the fulfilment of any condition, and the instrument creating the charge may be registered as an encumbrance ; but until registered, a charge under this Act shall not affect the interest of the proprietor in the land, lease, or charge.

(2) A charge under this section shall not operate as a transfer of the land charged, but shall have effect as a security only.

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

Second or
subsequent
charges.

76. The proprietor of land subject to a charge may create subsequent charges in the same manner as a first charge and the same provisions with all necessary changes shall apply thereto ; but a sale under any power express or implied in any such subsequent charge shall be subject to all prior subsisting charges.

77. Where a charge is created by a company which has its registered office or an established place of business in Nigeria, the charge shall not be registered under the provisions of this Act unless the Registrar is satisfied that the charge has been duly registered under the provisions of the Companies Act within the time therein prescribed or within such extended time as the High Court may allow.

Charges by companies.

Cap. 37.

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

(a) to pay the principal money on the day therein appointed and, so long as the principal money or any part thereof remains unpaid, to pay interest thereon or on so much thereof as for the time being remains unpaid at the rate and on the days and in manner therein specified;

Agreements implies in charges.

(b) to repair and keep in repair all buildings or other improvements upon the charged land and to permit the chargee or his agent, at all reasonable times until such charge is discharged and after reasonable notice to the chargor to enter upon the land and examine the state and condition of such buildings and improvement;

(c) to insure and keep insured all buildings upon the charged land against loss or damage by fire in the joint names of the chargor and chargee with insurers approved by the chargee to the full insurable value thereof;

(d) not to lease the charged land or any part thereof for any period longer than one year without the previous consent in writing of the chargee; and

(e) in the case of a lease, to pay the rent as and when required thereunder and to perform and observe the other agreement and conditions on the part of the lessee to be performed and observed and to keep the chargee indemnified against all proceedings, expenses claims on account of the non-payment of the said rent or any part thereof or the breach or non-observance of the said agreements and conditions, or any of them.

79. The amount secured, the rate of interest or the term of the charge may be varied by the registration of a memorandum of variation executed by the parties thereto, but no such variation shall affect the rights of the proprietor of any subsequent charge unless he has consented thereto in writing on the memorandum of variation.

Variation of charges.

80.—(1) Subject to the provisions of this section, if at any time before it has been sold in exercise of the power of sale conferred by this Act, or before the making of a foreclosure order, as the case may be, a chargor pays or tenders payment of all moneys due and owing under the charge at the time of payment or tender of payment or on fulfilment of any condition secured thereby, he shall be entitled to redeem the land charged; and any agreement or provision which purports to deprive the chargor of the right of redemption shall be void.

Right of redemption.

(2) If the chargor seeks to redeem the land charged before the date specified in the charge, he shall pay to the chargee, in addition to any other money then due or owing under the charge, interest on the principal sum secured thereby for the unexpired portion of the term of the charge.

(3) If the chargor seeks to redeem the land charged after the date specified in the charge, he shall give the chargee three months notice in writing of his intention to redeem the charge, or pay him three months interest in lieu thereof.

(4) If at any time the chargor is entitled and desires to repay the money secured by the charge but the chargee for any reason cannot be found, or the Registrar is satisfied that the charge cannot be discharged otherwise, the chargor may pay the amount due into the High Court to the credit of the chargee; and upon application in writing signed by the chargor and production of the receipt for the money paid into that court, the Registrar shall cancel the registration of the charge.

Notice in
case of
default.

81. If default is made in payment of the principal sum, or of any interest or other periodical payment or any part thereof, or in the performance or observance of any agreement, express or implied, in any charge and such default continues for one month thereafter, the chargee may serve on the chargor notice in writing requiring him to pay the money owing, or to perform and observe the agreement, as the case may be.

Power of
sale under
a charge.

82.—(1) If within three months after the service of a notice of default under this Act the chargor does not comply with it the chargee may, in good faith and having regard to the interests of the chargor, sell or concur with any other person in selling the charged land or any part thereof, together or in lots, by public auction for a sum payable in one amount or by instalments, subject to such reserve price and conditions of sale as the chargee thinks fit, with power to vary or to rescind any contract for sale and to resell by public auction without being answerable for any loss occasioned thereby.

(2) A transfer by a chargee in exercise of his power of sale shall be in the prescribed form, and the Registrar may accept it as sufficient evidence that the power has been duly exercised.

(3) Upon registration of such transfer the interest of the chargor as described therein shall vest in the transferee freed and discharged from all liability on account of such charge, or on account of any charge registered subsequently thereto.

Application
of purchase
money.

83. The purchase money received by a chargee who has exercised his power of sale shall, after discharge of any prior encumbrance to which the sale is not made subject, or if the chargees cannot be found, after payment into the High Court of a sum to meet any such prior encumbrances, be applied in the following order, that is to say—

(a) in payment of all costs and expenses properly incurred incidental to the sale or any attempted sale;

(b) in accordance with any express provision in the charge for disposing of such money and, in default of any such provision, in discharge of the money due to the chargee at the date of the sale;

(c) in payment of any subsequent charges in the order of their priority;

and the balance (if any) of the money received shall be paid to the person who, if the land or other interest had not been subject to any charge so paid off under this section and but for the transfer, would have been entitled as the proprietor to give a receipt for the sale.

84.—(1) If within three months after the service of a notice of default under this Act the chargor does not comply with it, the chargee may instead of exercising his power of sale, apply to the Registrar for the appointment of a receiver of the income, rents and profits of the charged property, or any part thereof; and the Registrar shall, on receipt of the application, appoint a fit person to be the receiver accordingly, and shall enter notice of the appointment in the land register.

Appoint-
ment and
duties, etc.
of receiver.

(2) A receiver appointed under this section shall be deemed to be the agent of the chargor for the purposes for which he is appointed; and the chargor shall be solely responsible for the acts or defaults of the receiver, unless the instrument of charge otherwise provides.

(3) A receiver shall have power to demand and recover by action or otherwise, all the income of which he is appointed receiver, in the name of the chargor, and to give effectual receipts for the same; and where a person pays money to a receiver under this subsection he shall not be concerned to enquire into the validity of the appointment of the receiver.

(4) A receiver may be removed upon the application of the chargor or of the chargee, and a new receiver may at any time be appointed by the Registrar after giving both chargor and chargee an opportunity of being heard; and notice of every removal of and new appointment of a receiver shall be entered in the land register.

(5) A receiver shall be entitled to retain out of any money received by him all costs, charges, and expenses incurred by him as receiver and, for his remuneration, a commission at such rate, not exceeding five *per centum* on the gross amount of all moneys received, as may be specified in his appointment. If no rate is specified in the appointment the rate of commission shall be five *per centum* on the gross amount of all moneys received or such other rate as the chargor and chargee agree or, in default of agreement, such rate as the High Court, upon the application of the receiver may allow.

(6) Where insurance money is paid to a receiver, he shall apply it in making good the loss or damage to the property charged and in respect of which the money is received; and subject thereto the receiver shall apply all money received by him in the order following that is to say—

(a) in discharge of all rents, rates, taxes and outgoings whatever affecting the charged property; and

(b) in reduction of all annual sums or other payments, and the interests on all principal moneys, having priority to the charge in right whereof he is receiver; and

(c) in payment of his commission, costs, charges and expenses and of the premiums on fire insurance or other insurance (if any) properly payable under the charge or as prescribed by this Act, and the cost of executing necessary or proper repairs directed in writing by the chargee; and

(d) in payment of the interest accruing due in respect of any principal money secured by the charge; and

(e) in or towards discharge of the money secured by the charge if so directed in writing by the chargee,—

and the balance, if any, of the money received by him shall be paid to the person who, but for the possession of the receiver, would have been entitled to receive the income of which he is appointed receiver, or who is otherwise entitled to the charged property, as the case may be.

Foreclosure.

85.—(1) Where in intended exercise of power of sale, land charged has been twice offered under the provision of this Act for sale by public auction at an interval of not less than six months between the offers, and the amount of the highest bidding was not sufficient to satisfy the money secured by the charge together with the expenses of the sale, the chargee may apply to the High Court for an order for foreclosure.

(2) The High Court shall, upon receipt of an application under subsection (1) of this section, cause notice to be printed once in each of three successive weeks in at least one newspaper published in Lagos, or published in Nigeria and circulating in Lagos offering such land for private sale, and appointing a time not less than one month from the date of the first of such advertisements, upon or after which if a sufficient amount has not been obtained by the sale of such land to satisfy the principal and interest secured and all expenses occasioned by such sale and the proceedings, the High Court will issue to the applicant an order for foreclosure.

(3) An order for foreclosure shall be forwarded for registration to the Registrar; and, when entered in the land register the order shall have the effect of vesting in the chargee the land mentioned therein freed and discharged from any interest of the chargor, and from any charge or encumbrance registered subsequent thereto, not being a lease or easement to which the chargee has consented in writing, and the debt secured by the charge shall be extinguished.

No right of entry into possession on default.

86. It is hereby declared that a chargee shall not be entitled to enter into possession of charged land or to receive the rents and profits thereof, by reason only of default made by the chargor in the payment of the principal money or of any interest or of any other periodical payment or of any part thereof, or in the performance or observance of any agreement, express or implied in the charge.

Discharge of charge.

87.—(1) A discharge, wholly or in part, may be made by an instrument in the prescribed form, or the word "Discharged" may be written on the instrument of charge; and when executed by the chargee a discharge may be registered under this Act.

(2) The discharge shall be completed by the cancellation in the land register of the charge, or part thereof as the case may be, and by filing the instrument in the Land Registry.

Satisfaction of charge.

88. Where in respect of any charge the Registrar is satisfied—

(a) that all money due has been paid to the chargee or to his credit, or

(b) that there has occurred the event or circumstances upon which the money secured ceases to be payable, and that no money is owing, the Registrar shall order the charge to be cancelled in the land register; and thereupon the land, lease or charge affected shall cease to be subject to the charge.

89. Any instrument of charge may provide for a chargee to make further advances or give credit to the chargor on a current or continuing account; but, unless such provision is noted in the land register, further advances shall not rank in priority to any subsequent charge without the consent in writing of the proprietor of the subsequent charge, and save as provided in this section, the right to tack is abolished.

Tacking and further advances.

90. A chargee shall have no right to consolidate his charge with any other charge unless such right is expressly reserved in the instruments of charge or in one of them and a note thereof is made in the land register against all the charges so consolidated.

Consolidation.

91. A land certificate may be deposited with any person with the intention of creating a lien over the land referred to therein; but a deposit so made shall have no effect to charge the land until a caveat, in the prescribed form, has been registered.

No lien by deposit only of land certificate.

Transfers

92.—(1) A proprietor may transfer his land or lease or charge by an instrument in the prescribed form; and the transfer shall be completed by registration of the transferee as proprietor of the land, lease or charge, and by filing the instrument in the Land Registry.

Mode of transfer.

(2) The transferee of a charge may call upon any person who executed the charge, or any person claiming through him, to execute the transfer for the purpose of acknowledging the amount due under the charge at the date of execution of the transfer.

93. No part of the land comprised in any title in the land register shall be transferred unless the proprietor has first subdivided the land and new titles have been opened in respect of each subdivision.

Transfer of part.

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

Implied covenants, etc., on transfer of lease.

(a) on the part of the transferor, an agreement that the rent, agreements and conditions on the part of the lessee to be paid, performed and observed have been so paid, performed and observed up to the date specified in the transfer or, if no such date is specified, the date of the transfer, and to indemnify the transferee in respect thereof; and

(b) on the part of the transferee, an agreement to pay the said rent as from the day following the date specified in the transfer or the date of the transfer, as the case may be, and to perform and observe the said agreements and conditions and to keep the transferor indemnified against all proceedings, claims and expenses on account of the non-payment of the said rent and the breach of any of the said agreements and conditions.

95.—(1) Upon the registration of a lease containing an agreement by the lessee that he will not transfer, sub-let, charge or part with possession of the land leased or any part thereof without the written consent of the lessors, the agreement shall be noted in the relevant edition of the land register and no dealing with the lease shall be registered until the consent of the lessor has been produced to the Registrar.

Restriction on transfer, etc., of lease if consent required.

(2) Any such agreement shall, notwithstanding any express provision to the contrary, be deemed to be subject to a proviso that the consent of the lessor shall not be arbitrarily or unreasonably withheld.

Implied covenants, etc., on transfer of charged land.

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

Easements, Restrictive Covenants and Profits a Prendre

Grants of easements.

97.—(1) The proprietor of land may, by an instrument in such form as the Registrar may approve, grant an easement thereover to the proprietor or lessee of adjoining or adjacent land for the benefit of that land.

(2) Any proprietor transferring or leasing land may, in the transfer or lease, reserve an easement for the benefit of adjoining or adjacent land retained by him.

(3) The instrument creating the easement shall indicate clearly—

(a) the nature of the easement, the period for which it is granted and any conditions, limitations and restrictions intended to affect its enjoyment;

(b) the land burdened by the easement and, if required by the Registrar, the particular part thereof so burdened; and

(c) the land which enjoys the benefits of the easement.

(4) The grant or reservation of the easement shall be completed by its registration in respect of both the land burdened and the land which benefits, and by filing the instrument in the Land Registry.

Restrictive covenants.

98.—(1) Any proprietor entitled to the benefit of a restrictive covenant (not being a covenant made between a lessor and lessee) with respect to the building on or other user of his land may apply to the Registrar to enter notice thereof in the land register; and the Registrar shall enter notice thereof by reference to the instrument containing the covenant and shall file the notice in the Land Registry.

(2) Unless it is noted in the land register against the title to the land intended to be burdened, the restrictive covenant shall not be binding on the proprietor of such land or any subsequent person acquiring the land.

(3) The fact that a restrictive covenant is noted in the land register shall not operate to validate any defect, and accordingly any such restrictive covenant, if defective, shall have no greater effect than if it had not been so noted.

Profits a prendre.

99.—(1) The proprietor of land may, by an instrument in such form as the Registrar may approve, grant a profit a prendre (in this Part of this Act unless the context otherwise requires, referred to as a "profit").

(2) The instrument shall indicate clearly the nature of the profit its term, and whether it is to be enjoyed—

(a) in gross, or as appurtenant to other land; and

(b) by the grantee exclusively, or concurrently with the grantor.

(3) The grant of a profit shall be completed by its registration as an encumbrance against the land affected and by filing the instrument in the Land Registry.

100.—(1) Upon production of a duly executed release in the prescribed form the registration of any easement, restrictive covenant or profit shall be cancelled and the easement, restrictive covenant or profit shall thereupon cease to have effect.

Release, etc.
of easements,
restrictive
covenants
and profits.

(2) On the application of any person affected thereby, the Registrar may cancel the registration of any easement, restrictive covenant or profit upon proof to his satisfaction,—

(a) that the period of time for which it was intended to subsist has expired; or

(b) that the event upon which it was intended to determine has occurred; or

(c) that it has been abandoned.

(3) A court on the application of any person interested in land affected by an easement, restrictive covenant or profit may order the extinguishment or modification in whole or in part of any such easement, restrictive covenant or profit on payment by the applicant in any proper case of compensation to persons thereby suffering loss, if the court is satisfied—

(a) that by reason of changes in the character of the property or of the neighbourhood or otherwise as the court thinks fit the easement, restrictive covenant or profit is or ought to be deemed obsolete, or that the continued existence of the easement, restrictive covenant or profit would impede the reasonable user of the land for public or private purposes without securing any real benefit to other persons or would, unless modified, so impede such user; or

(b) that the proposed discharge or modification will not adversely affect the persons or persons entitled to the benefit of the easement, restrictive covenant or profit, as the case may be.

Proprietorship and Partition

101.—(1) It is hereby declared that a sole proprietor may transfer land to himself for life with remainder to any other person, or may transfer any land, lease, or charge to himself and to any other person as joint proprietors or proprietors in common.

Registration
and
proprietor-
ship.

(2) No registration shall be made in favour of two or more persons unless it shows whether they are to hold as joint proprietors or proprietors in common; and if the tenure is as proprietors in common and the shares are not equal, the share of each proprietor shall be expressed in a vulgar fraction with a denominator not greater than twenty.

(3) Where there is doubt in any instrument presented for registration, joint proprietorship shall be presumed to have been intended by the parties unless the contrary is therein expressed.

102.—(1) If land or any lease or charge is owned jointly, no proprietor thereof shall be entitled to any separate share: and unless otherwise prescribed by this Act, dispositions may be made only by all the joint proprietors.

Joint
proprietors
and
convergence of
interest.

(2) On the death of a joint proprietor his interest shall vest in the surviving proprietors jointly, and upon proof, in such a manner as the Registrar may require, of the death of a joint proprietor the land register shall be amended accordingly.

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

(4) For the avoidance of doubt, it is declared that a joint proprietor of any land, lease or charge may transfer his interest therein to all the other joint proprietors, but shall not without the consent of all the other joint proprietors, transfer, lease or charge his interest to any other person.

Proprietorship in common.

103.—(1) Where land or any lease or charge is owned in common, each proprietor shall be entitled to a separate undivided share in the whole and on the death of such a proprietor his share shall be administered as part of his estate.

(2) No proprietor owning any land, lease or charge in common with any other person or persons shall deal with his undivided share otherwise than in favour of another proprietor in common of the same land, lease or charge without the consent in writing of the remaining proprietors thereof; but any consent required by this subsection shall not be arbitrarily or unreasonably withheld.

Partition.

104.—(1) An application in such form as the Registrar may approve for the partition of land owned in common may be made,—

(a) by any one or more of the proprietors; or

(b) by any person in whose favour an order for the sale of an undivided share in such land in execution of a decree has been made; and subject to the provisions of this or any other Act prescribing minimum areas or frontages or requiring the consent of any authority to a partition, the land shall be partitioned as agreed by the proprietors in common or, where there is no agreement, as the Registrar may by order direct.

(2) The partition of land shall be completed in the land register relating thereto by such entries as the Registrar may require and by filing the application together with the agreement of the order, as the case may be, in the Land Registry.

Power for Registrar to order sale.

105.—(1) Where for any reason land to be partitioned is unsuitable to be so dealt with, or the partition would adversely affect the proper use of the land, the Registrar shall, upon request in writing by any person claiming a registered interest and in default of agreement between the proprietors in common, value the land and the shares of the proprietors in common, and the Registrar may give effect to the request by ordering the sale of the land or the separation and sale of such shares by public auction or, as the case may require, may make such other order as he thinks fit.

(2) Any proprietor in common shall be entitled to purchase the land or any share or shares offered for sale under this section, either at the auction or by private treaty before the auction.

106.—(1) When land sought to be partitioned may be partitioned, but the share of any particular proprietor in common is or would be less in area than the minimum prescribed by any Act, the Registrar may add such share to the share of any other proprietor, or distribute such share amongst two or more other proprietors in such manner and in such proportions as, in default of agreement, he thinks fit.

Procedure where share is small.

(2) The Registrar shall assess the value of any share to be dealt with under the foregoing subsection, and thereafter may direct payment to the proprietor of such share by every proprietor receiving an addition to his share, of the value of such addition.

(3) An appeal to the High Court shall lie from any assessment and direction by the Registrar under this section, and subject thereto, the amount payable may by order of the Registrar, be secured by way of charge on the share of the person or persons liable to pay the value of the share affected.

Testamentary Dispositions, etc.

107. Nothing in this Act shall be construed to abridge or limit the right of any proprietor, other than a joint proprietor, under the law relating to testamentary dispositions to make a will disposing of his land, lease or charge on his death, or to affect the law of intestate succession.

Testamentary dispositions, etc., not affected.

PART VI.—INSTRUMENTS AND AGENTS

108.—(1) Dealings with any land, lease or charge under this Act shall be effected by instruments in the prescribed forms as printed for and issued by the Registrar or as the Registrar in any particular case may approve; and leases and charges shall when executed be presented for registration in triplicate.

Form of instruments.

(2) Every instrument shall, according to its nature, contain a true statement of the purchase price, or loan or other consideration; and the statement shall set out how much, if any of the purchase price, loan or other consideration has been paid or received, as the case may be.

109.—(1) Every instrument shall be executed by all parties thereto unless the Registrar dispenses with execution by any particular party as unnecessary in any particular case.

Execution of instruments.

(2) An instrument shall be deemed to have been executed—

(a) if signed by a natural person;

(b) if sealed with the common seal of a corporation affixed in the presence of and attested by its clerk, secretary or other permanent officer and by a member of the board of directors, council or other governing body of the corporation;

(c) in the case of a corporation not required by law to have a common seal, if signed by such persons as may be authorised in that behalf by any law or by the statute of the corporation or, in the absence of any express provision, by two or more persons duly appointed for that purpose by the corporation.

Proof of
execution.

110.—(1) Unless the Registrar under the powers conferred by this section dispenses with verification, the parties executing an instrument shall appear before the Registrar or such other person as he may require or approve and, if they are unknown to the Registrar or other person as aforesaid they shall be accompanied by a credible witness or credible witnesses as the case may require for the purpose of establishing identity.

(2) The Registrar or other person before whom any party appears shall satisfy himself as to the identity of the party so appearing before him; and after ascertaining that such party has freely and voluntarily executed the instrument, the Registrar or such other person, as the case may be, shall prepare and sign a certificate to that effect. Any such certificate may be endorsed on or attached to the instrument to which it relates.

(3) The Registrar may dispense with verification under this section—

(a) if he considers that it cannot be obtained or can only be obtained with difficulty and he is satisfied by other sufficient evidence that the instrument has been properly executed; or

(b) if to his knowledge the instrument has been properly executed; and where the Registrar dispenses with verification he shall note on the instrument his reasons for dispensing with the appearance of the parties.

(4) No instrument executed out of Nigeria shall be registered unless it has endorsed thereon or attached thereto a certificate that it has been signed in the presence of a judge, magistrate, justice of the peace, notary public, or any consul, Nigerian or foreign, as the case may be.

Instruments
to be
stamped:
Cap. 191.

111. No instrument liable for stamping shall be presented for registration or be registered unless it is duly stamped under the Stamp Duties Act or, as the case may require, it is endorsed as exempt from such duty by a commissioner under that Act.

Disposal
of
instruments.

112.—(1) Subject to the provisions of subsection (2) of this section, all instruments accepted by the Registrar shall be retained in the Land Registry for as long as they support a current entry in the relevant land register.

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

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

Minors and
registered
land.

113. It is hereby declared that the name of a person under the age of twenty-one years may appear in the land register on first registration or as a transferee or on transmission; but the fact that the name of any such person appears in the land register shall not be construed so as to authorise or permit any dealing with the land or any interest in land by such person during his minority, and if to the knowledge of the Registrar a minor is so registered, the Registrar shall enter a caveat accordingly.

114.—(1) Save as provided in subsection (3) of this section, no instrument executed by any person as agent for any other person shall be accepted by the Registrar unless the person signing it was authorized in that behalf by a power of attorney executed and verified in the manner prescribed for instruments by this Part of this Act.

Agents for
persons
under
disability.

(2) If an instrument is executed on behalf of some person by his attorney the original or, with the consent of the Registrar, an authenticated copy of the power of attorney shall be filed in the Land Registry.

(3) Where any person who, if not under disability, might have made any application, done any act or been party to any proceeding under this Act is a minor, a person of unsound mind or under any other disability, the guardian of such person, or, if there is no such guardian, then a person appointed in accordance with the provisions of any written law to represent such person, may make any application, do any act, and be party to any proceeding on behalf of any such person and shall generally represent any such person for the purposes of this Act.

(4) An instrument purporting to be signed on behalf of a person under disability shall not be accepted for registration unless the Registrar is satisfied that the person claiming to be the guardian is so entitled; and where he is not satisfied the Registrar may require production of sufficient evidence of the appointment of the person to act on behalf of the person under disability.

115.—(1) Where a power of attorney contains authority to deal with any land, lease or charge, the power of attorney shall be in the prescribed form and shall, upon the joint application of the donor and donee be filed in the Land Registry.

Power of
Attorney.

(2) The donor of a power of attorney filed under this section may at any time give notice to the Registrar in the prescribed form of the revocation thereof; and after noting the power of attorney, the Registrar shall file the notice in the Land Registry.

(3) Any interested person may in writing notify the Registrar that a power of attorney filed under this section has been revoked by the death, bankruptcy or disability of the donor or by the death or disability for any reason of the donee; and subject to the production to the Registrar of such evidence as he may require, the Registrar shall note the power of attorney accordingly and file the notice in the Land Registry.

(4) Nothing in subsections (2) and (3) of this section shall apply to a power of attorney given for value and expressed to be irrevocable.

(5) A power of attorney, which has been filed under this section and of which no notice of revocation has been given under this section shall be deemed to be still subsisting; and no disposition in purported exercise of the powers therein contained shall be defeasible by reason only that the power has been revoked, unless the person for the time being claiming under such disposition had actual notice of such revocation.

Transmission on death.

PART VII—TRANSMISSIONS, TRUSTS AND FAMILY REPRESENTATION

116.—(1) Subject to the provision of this section where a joint proprietor of any land, lease or charge dies, the Registrar shall delete the name of the deceased proprietor from the land register; and in the case of the death of any other proprietor his legal personal representative shall be entitled to be registered by transmission to the interest of the deceased proprietor.

(2) If the application is to delete the name of a joint proprietor, the applicant shall produce to the Registrar satisfactory evidence of such death.

(3) If the application is for registration as proprietor by transmission, the applicant shall apply on the prescribed form and produce therewith an office copy of probate of the will or letters of administration in the estate of the deceased proprietor, as the case may be; and the Registrar if satisfied, shall register the applicant in place of the deceased and shall add thereafter the words "as executor" or "as administrator" with such reference to the will or to the estate as the case may require and may, if he thinks it necessary, enter a caveat to protect the interests of beneficiaries.

Registration by personal representatives not on land register.

117. Notwithstanding the provisions of section one hundred and sixteen of this Act the Registrar, upon production to him of probate or letters of administration and without requiring registration of the executor or administrator by transmission may, if he thinks fit,—

(a) register any transfer by the executor or administrator in pursuance of the will or by way of distribution under intestacy or in pursuance of an agreement between the persons entitled thereto or of a contract entered into by the proprietor in his lifetime; or

(b) register any discharge of a charge of which the deceased person was the proprietor; or

(c) register any surrender of a lease of which the deceased person was the proprietor.

Applications for registration on death of proprietor, etc.

118.—(1) If the executor or administrator of a deceased proprietor fails or neglects to transfer any land, lease, or charge to the persons entitled thereto, or if such land, lease or charge is not for any reason registered in the name of the person entitled thereto, such person or any judgment creditor of such person or any person claiming an interest in such land, lease or charge may, at any time after the expiration of one year from the date of the grant of probate or letters of administration, apply to the Registrar for registration by transmission of the land, lease or charge in the name of the person entitled thereto.

(2) If application is made to the Registrar under this section, he may, if satisfied that the executor or administrator has had notice of the application and that the estate has been fully administered, allow the application; and the person entitled thereunder shall be registered accordingly.

Effect of transmission by death.

119. Where pursuant to a will or upon intestacy, any land, lease, or charge is registered in the name of or is acquired by the heir, beneficiary, executor, or administrator of a deceased proprietor, as the case may be, the person registered shall, for the purpose of any dealing with such land,

lease, or charge be deemed to have acquired it for valuable consideration, and the land, lease or charge may be dealt with accordingly; but until so dealt with the land, lease or charge shall be subject to all unregistered liabilities, rights, or interests affecting the title of, or created or imposed under the will of, the deceased proprietor.

120.—(1) A trustee in bankruptcy shall, upon application to the Registrar in the prescribed form accompanied by a certified copy of the order of court adjudging a proprietor bankrupt, or directing that the estate of a deceased proprietor be administered according to the law of bankruptcy, be registered as proprietor of any land, lease or charge in place of the bankrupt or deceased proprietor as the case may be and the entry to be made in the land register shall describe the trustee in bankruptcy as trustee of the property of (*name of proprietor*), a bankrupt.

Effect of transmission on bankruptcy.

(2) The provisions of section one hundred and nineteen of this Act shall apply to any trustee in bankruptcy as they apply to persons therein set out, but the doctrine of relation back shall have effect according to the laws of bankruptcy or the order of the court as the case may be, and not according to this Act.

121. Where the proprietor of any land, lease or charge is a company being wound up and the liquidator produces to the Registrar a certified copy of the resolution or order appointing him liquidator, together with an application in the prescribed form to have notice of the appointment entered in the appropriate land register the Registrar shall, if satisfied, enter notice thereof accordingly; and when so entered, the liquidator shall have the powers of disposition conferred on him by such resolution or order or by any written law in respect of any such land, lease or charge.

Effect of notice of liquidation.

122. Where the state or any person is entitled to any registered land under the provisions of any Act, or by virtue of any order or writ of execution, the Registrar shall, on the receipt of notice thereof in such form as he may require, register the state or such person as the proprietor thereof.

Registration of transmission by expropriation, etc.

123.—(1) Any person who acquires any land, lease or charge in a fiduciary capacity may be described by that capacity in the instrument of acquisition and be registered with the addition of the words "as trustee"; but otherwise particulars of any trust shall not be entered in the land register, and the fact that a person is registered as trustee shall not be construed as notice of, or require any person to enquire into particulars of, the trust.

Trust not to be entered on land register.

(2) Any instrument or certified copy thereof declaring a trust may be deposited with the Registrar for safe custody; but such instrument or copy when deposited shall not form part of the land register.

(3) Where the proprietor of land or of any lease or charge is a trustee, he shall hold the same subject to any unregistered liabilities, rights or interests to which the land, lease or charge is liable by virtue of the instrument creating the trust; but for the purpose of registration of any dealings, he shall be deemed to be the absolute proprietor thereof.

124. If two or more proprietors are entitled to be or are registered jointly as administrators or executors of a deceased person or otherwise as trustees, and the survivor of such proprietors would not be entitled to exercise alone the powers vested in them, the Registrar shall, upon request in writing or of his own motion, enter the words "no survivorship" in the appropriate land register.

Trustees with no survivorship.

Appointment of family representatives.

125.—(1) Where the name of a family has been registered in respect of any land but no family representatives have been appointed, the family may, at any time, hold a family meeting for the purpose of appointing not more than twenty persons to represent the family, and upon application in writing to him in that behalf accompanied by a list of names of the persons so appointed, the Registrar shall, if he is satisfied that such meeting was after due notice properly held, enter the names in the land register.

(2) If the registration of a disposition or transmission would result in the entry in the land register of more than twenty persons as proprietors of any land, lease or charge, the Registrar shall refuse the application unless partition is sought, and require the family to appoint representatives in the manner prescribed by this Act.

Removal and replacement of family representatives.

126.—(1) The Registrar, on proof to his satisfaction of the death of a family representative, shall delete the name of such representative from the land register.

(2) The Registrar on the application of any member of the family and after giving the remaining family representatives an opportunity of being heard, may delete from the land register the name of any family representative if he is satisfied that such family representative is by reason of mental or physical incapacity, absence or imprisonment, unable to act.

(3) If a family representative notifies the Registrar in writing that he no longer wishes to act as a family representative the Registrar shall delete his name from the land register and inform the remaining family representatives of the fact.

(4) Upon application in writing by a member of the family, the Registrar after such enquiries as he thinks fit, may amend the land register to add names to the list of family representatives but so as not to increase their number to more than twenty.

(5) The High Court, may at any time, on the application of a member of the family order the name of any family representative to be deleted from the land register, and the Registrar shall, upon receipt of a certified copy of the order, delete the name off accordingly.

(6) Notwithstanding the deletion from the land register of the names of any family representatives, while two or more family representatives remain thereon, they shall have all the powers of family representatives appointed under this Act; but nothing in this subsection shall be construed to prohibit a sole representative when duly appointed, from exercising the powers of family representative under this Act.

Effect of registration of family representatives.

127.—(1) Subject to any caveat entered in the land register, the family representatives shall, when registered, have the exclusive right of dealing with the family land, or with any lease or charge.

(2) Nothing in this Act shall relieve any person registered as the family representative from any duty, customary or otherwise, to consult other members of the family, and a person so registered shall be bound to exercise the powers vested in him by this Act on behalf and for the collective interest of the family; but any person dealing with him in good faith and for valuable consideration shall not be concerned to

inquire whether the family representative has complied with this subsection, and any such failure by the family representative shall not confer any right to indemnity under this Act.

PART VIII.—JUDGMENTS AND WRITS OF EXECUTION

128.—(1) Where a court issues a judgment or writ of execution affecting any land, lease or charge, a certified copy of the judgment or writ, as the case may be, shall be sent by the registrar of the court to the Registrar under this Act with particulars of the land, lease or charge affected thereby for registration against such land, lease or charge; but no judgment or writ of execution shall bind or affect the land, lease or charge, until it is registered.

Power to register judgments, etc.

129. While any judgment or writ of execution continues to be registered against any land, lease or charge, the Registrar shall not accept for registration any instrument in respect of such land, lease or charge, which is inconsistent therewith.

Effect of registration of judgment, etc.

130. Registration of a judgment or writ of execution shall be cancelled,—

Cancellation of registration of judgment, etc.

(a) at the request in writing of the judgment creditor or other person, for whose benefit the judgment or writ of execution was issued; or

(b) on proof to the satisfaction of the Registrar that the judgment or writ of execution has been satisfied, or has lapsed in accordance with any Act or rules of court for the time being in force.

131.—(1) Where under the provisions of section fifty of the Sheriff's and Civil Process Act a court within the meaning of that Act has granted a certificate on absolute sale to the person declared to be the purchaser of immovable property which is subject to this Act, that section shall have effect as if there were added after the word "interest" where it secondly occurs, the words "when duly registered under the Registered Land Act 1964"; and the said section shall, for the purposes only of this subsection, be deemed to be so amended accordingly.

Sale in execution. Cap. 189.

(2) The sheriff or other person authorised by him shall deduct from the proceeds of the sale the registration fee for the certificate to which the foregoing subsection relates; and shall forward such registration fee together with the certificate to the Registrar. Upon receipt thereof and the payment of stamp duty (if any), the Registrar shall enter in the relative land register the name of the person described in the certificate as purchaser of the land, lease or charge, as the case may be, and thereafter the Registrar shall file the certificate.

PART IX.—CAVEATS, ETC.

132.—(1) Any person claiming an unregistered right or interest in, or to have presented a bankruptcy petition against the proprietor of, any registered land, lease or charge, may lodge with the Registrar a caveat in the prescribed form; and when entered in the land register, no disposition of the land, lease or charge shall, save to the extent to which the caveat may permit or allow, be registered or any entry affecting the same made, until notice under this Act has been served on the caveator, and the caveat has lapsed or the caveator consents in writing to the registration.

Caveats generally.

1963, No. 23.

(2) A caveat shall set out briefly the right or interest claimed by the person lodging it; and the Registrar may require such person to support the claim by a statutory declaration under the Oaths Act 1963. Where he thinks it unnecessary or its purpose can be effected by the registration of an instrument under this Act he may reject the caveat; or if he is satisfied it was lodged to protect monetary advances, he may accept it if the circumstances of the case render it expedient to do so.

(3) The Registrar shall give notice in writing of any caveat to the proprietor whose land, lease or charge is affected thereby.

(4) So long as any caveat is subsisting in the land register, no registration inconsistent with the terms of the caveat shall be effected relating to the land, lease or charge affected thereby except with the consent of the caveator or by order of a court of competent jurisdiction.

(5) A caveat may be removed from the land register with the consent of the caveator or by an order of the Court, or by the Registrar under the next succeeding subsection.

(6) The Registrar may, on the application of any person interested together with the presentation of a registrable instrument, serve notice on the caveator warning him that his caveat will be removed at the expiration of the time stated in the notice; and at the expiration of the time stated, unless the caveator objects, the caveat shall lapse and the Registrar may remove the caveat from the land register. If the caveator objects to the removal of his caveat he shall notify the Registrar in writing of his objection within the time specified in the notice and the Registrar, after giving the parties an opportunity of being heard, shall make such order as to its removal or otherwise and as to costs as he thinks fit.

(7) A caveat entered by the Registrar under the powers conferred upon him by this Act shall be removable only with his consent, or by order of a court.

(8) Where a caveat has lapsed or been withdrawn under this section, the Registrar may refuse to accept a further caveat by the same person or anyone on his behalf in relation to the same matter as that protected by the previous caveat.

Other prohibitions on registration.

133.—(1) For the prevention of fraud or improper dealing or for other sufficient cause a court may, on the application of any interested person in its discretion prohibit or restrict the disposition of any land, lease or charge. Any order so made, may be registered against the appropriate land register and, while it continues to be registered, shall have effect according to its tenor.

(2) The Registrar on the application by any person claiming to be interested or of his own motion and after hearing any person desirous of being heard and making such enquiries as he thinks fit, may direct the entry of a caveat against the land register, or any interest therein, as the case may be.

(3) The Registrar may enter a caveat in the land register if it appears to him there is any limitation or restriction on the power of the proprietor to deal with land, or any lease or charge.

(4) Upon the entry of a caveat the Registrar shall give notice thereof to the proprietor affected thereby.

(5) So long as any caveat is subsisting in the land register, any registration against the land, lease or change therein inconsistent with the terms of the caveat shall not be made without an order of court.

(6) The Registrar at any time upon the application of any person interested or of his own motion, and after giving the parties affected thereby an opportunity of being heard, may order the removal or variation of any caveat entered by him under this section.

(7) Upon the application of any proprietor affected by a caveat under this section, and upon notice thereof to the Registrar, the High Court may order the caveat to be removed or varied, or the court make such other order, including an order as to costs, as it thinks fit.

PART X—ADVERSE POSSESSION AND PRESCRIPTION

134.—(1) Ownership of land may be acquired by peaceable, overt and uninterrupted adverse possession thereof—

- (a) against the state for a period of twenty years ; and
- (b) in any other case for a period of twelve years

(2) Any person claiming to have acquired land by virtue of the provisions of subsection (1) of this section may, after having advertised or given notice in such manner as the Registrar may direct, apply to the High Court for an order requiring him to be registered as the proprietor thereof.

135.—(1) Where it is shown that a person has been in possession of land or in receipt of the rents or profits thereof at a certain date, and such person is still in possession or receipt thereof, it shall be presumed that he has from that date, as to the land or the rents or profits as the case may be, been in continuous possession or receipt thereof until the contrary is shown.

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

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

(4) If a person, whose possession of land is subject to conditions imposed by or on behalf of the proprietor, continues in such possession after the expiry of the term during which such conditions subsist without fulfilment or compliance with them by such person and without any exercise by the proprietor of his right to the land, such subsequent possession shall be deemed to be peaceable, overt and uninterrupted adverse possession available for the purposes of this Act ; and in the application of this subsection—

(a) a tenancy at will shall be deemed to have determined at the expiration of a period of one year from the commencement thereof unless it has previously been determined, and

(b) a tenancy from year to year or other period shall be deemed to have determined at the expiration of the first year or other period, but where any rent is subsequently paid in respect of the tenancy, it shall be deemed to have determined at the expiration of the period for which the rent has been paid.

Acquisition of land by adverse possession.

Principles of possession.

(5) Where at any time during the period prescribed by this Part of this Act, the true owner is under any legal disability, the period of such disability shall not be counted unless a court upon application made to it by the claimant or the owner or other person interested, otherwise directs; and for the purposes of this subsection and the giving of a direction the court shall have power to hear and dispose of the case by motion of which notice has been given under rules of court.

(6) Possession of land shall be interrupted—

(a) by physical entry thereon by any person claiming it in opposition to the person in possession with the intention of causing interruption, and the possessor thereby loses possession; or

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

(c) by any acknowledgment admitting the claim made by the person in possession to any person claiming to be the proprietor thereof.

(7) A person holding land in a fiduciary capacity shall not acquire title to the land by adverse occupation against the beneficial owner thereof.

Acquisition
of easements,
etc., by
prescription.

136.—(1) Subject to the provisions of the next succeeding subsection, easements and profits a prendre may be acquired without registration by peaceable, overt and uninterrupted enjoyment thereof, if the land adversely affected thereby is state land, for a period of twenty years, and in any other case by such enjoyment for a period of twelve years.

(2) An easement or profit a prendre shall not be acquired by reason of enjoyment under the foregoing subsection unless the proprietor of the land burdened by such easement or profit a prendre knows or ought to have known of the enjoyment and might have prevented it by his own act.

(3) Any person claiming to have acquired any easement or profit a prendre by prescription under this section may, after notice thereof given in such manner as the Registrar may direct, apply to the High Court for an order directing entry of a record of the easement or profit a prendre, as the case may be, in the land register.

This Part not
to apply to
registered
land.

137. After land becomes subject to this Act, no title thereto by adverse possession shall be acquired, and no easement or profit a prendre thereover shall be acquired by prescription; and this Part of this Act shall cease to have effect as to any such land accordingly.

PART XI—REGISTERED LAND ASSURANCE FUND AND

RECTIFICATION OF LAND REGISTER.

Assurance
Fund.

138.—(1) There shall be established a fund to be called the Registered Land Assurance Fund (in this Act referred to as "the Assurance Fund") into which shall be paid all moneys collected under this Part of this Act; and subject to the provisions of this section, moneys in the fund shall be available for the payment of claims under this Act.

(2) No claim shall be admitted or allowed by the Registrar unless the claimant satisfies the Registrar that he has exhausted all rights of action against his predecessor in ownership before making a claim under this Part of this Act, and the claim is thereafter certified for payment by the Registrar and approved by the Minister. Where the amount is in dispute, a court may direct the claim to be so certified by the Registrar.

(3) Moneys in the Assurance Fund shall, for the purpose of control and management, be deemed to be part of the public funds of Nigeria, and subject to the provisions of the Finance (Control and Management) Act 1958; and accordingly that Act shall apply save that interest earned shall accrue to the Assurance Fund and not form part of the Consolidated Revenue Fund.

No. 33 of
1958.

Payment to
Assurance
Fund on
first
registration.

139.—(1) There shall be paid to the Registrar on the first registration after land is brought under the provisions of this Act, in addition to any registration fee such amount as may be prescribed, not exceeding in any case a rate of one halfpenny in the pound on the value of the land with all improvements existing thereon when so brought under this Act; and the Registrar may accept a certificate by the proprietor of the value for such purpose, or require a valuation to be made by a competent valuer.

(2) Moneys so collected which are additional to the registration fees, shall be paid by the Registrar into the Assurance Fund.

(3) Any certificate given under this section shall be deemed to be a declaration as to value, and shall be construed and have effect accordingly.

140.—(1) The Registrar may at any time with the consent of all persons interested, rectify entries in the land register; and of his own motion may amend the land register, or correct errors or supply omissions therein where they do not materially affect the interests of the proprietor, or where they relate to matters of form only.

Rectification
by Registrar

(2) Upon proof of the change of the name or address of any proprietor the Registrar shall, on the application in writing of the proprietor, amend the land register accordingly.

141.—(1) Subject to the provisions of subsection (2) of this section a court may in any of the following cases order cancellation or amendment of a land register—

Rectification
by court.

(a) where by mistake two or more persons have been registered as proprietors of the same land, lease or charge;

(b) where the court is satisfied that any registration (other than registration made pursuant to an adjudication record under this Act) has been obtained, made or omitted by fraud or mistake;

(c) where it is necessary to supply any material omission;

(d) where any person appears from the record to have acquired land or an interest in land by prescription under Part X of this Act; and upon production of a certified copy of the order and payment of the prescribed fee, the Registrar shall amend the land register accordingly.

(2) An entry in the land register shall not be cancelled or amended so as to affect adversely the title of a proprietor who is in possession unless such proprietor is a party or privy to the omission, fraud or mistake in consequence of which cancellation or amendment is sought, or has caused such omission, fraud or mistake or substantially contributed thereto by his act, neglect or default.

142.—(1) Subject to the provisions of this Act, any person suffering loss by reason of—

Right to
indemnity.

(a) any rectification of the land register under this Act other than in the case of acquisition by adverse possession or by prescription; or

(b) any mistake or omission in the land register which cannot be rectified under this Act, and the mistake or omission is one not arising in a first registration out of an adjudication record under this Act; or

(c) any error in a copy of or extract from the land register or from any instrument or plan certified under the provisions of this Act;

may claim against the Assurance Fund in proper case, and if there are insufficient moneys in the Assurance Fund, the Federal Minister of Finance upon application made by the Registrar and approved by the Minister may, if satisfied, authorise payment out of the Contingencies Fund subject to such conditions as he may prescribe.

Cf. 1958 No. 33.

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

Costs, etc., on any claim.

143. The Registrar when considering any claim against the Assurance Fund may take into account any costs and expenses properly incurred.

Restriction on claims in respect of surveys.

144.—(1) Where the boundaries of any registered land are defined without sufficient survey or by reference only to any survey of adjacent land and the land register is noted as limited as to parcels or to the like effect, no claim shall lie against the Assurance Fund in respect of any alteration in area by reason of the survey of such land made at any time thereafter.

(2) As between the state and a proprietor, no claim to compensation shall arise and no suit shall be maintainable on account of any surplus or deficiency in the area of any land disclosed by a survey forming the basis of the title and any subsequent survey of that land.

(3) As between a proprietor and any person from or through whom he acquired the land, no claim to compensation shall be maintainable on account of any surplus or deficiency in the area thereof disclosed by a survey showing a different area from that in any other survey, or from the area shown in the land register after a period of six months from the date of registration of the instrument under which the proprietor acquired the land.

Amount of indemnity.

145. Where a claim is allowed against the Assurance Fund in respect of the loss of land or any interest in land and there is no rectification of the land register, the amount paid shall not exceed the value of the land or interest at the time when the mistake or omission which caused the loss was made; and in any other case, the amount paid shall not exceed the value of the land or interest immediately before the time of rectification.

Power to enforce covenant where indemnity paid.

146. If indemnity is paid under this Part of this Act, the Minister may if he thinks fit, enforce any express or implied covenant or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which the indemnity has been paid.

PART XII—DECISIONS OF REGISTRAR AND APPEALS

147. If any question arises with regard to the performance of any duty or the exercise of any functions by this Act conferred or imposed on him, the Registrar may state a case for the opinion of the High Court; and when given, the opinion shall be binding upon the Registrar.

Power for Registrar to state a case.

148.—(1) Any person aggrieved by a decision or order of the Registrar, may, within one month from the date of the decision or order, give notice to the Registrar in the prescribed form of his intention to appeal to the High Court against such decision or order.

Appeal against decision of Registrar.

(2) On receipt of a notice of appeal, the Registrar shall prepare and send to the High Court and to the appellant, and any other person appearing by the land register to be affected by the appeal, a brief statement of the question in issue.

(3) The High Court after hearing all interested parties may make such order on the appeal as the circumstances may require, and any order made shall if there is no further appeal, be binding on the Registrar.

(4) An appeal shall lie from an order of the High Court to the Supreme Court and shall be made within such time as rules of court may prescribe in the case of appeals relating to land in civil cases, as nearly as may be.

(5) The costs of the appeal shall be in the discretion of the court making the order or disposing of the appeal as the case may be.

149.—(1) If an appeal to a court is pending the Registrar shall note the land register affected; and save as otherwise provided in this section, any disposition shall have effect subject to the outcome thereof.

Effect of notice of appeal on disposition.

(2) An appeal to a court shall not affect a disposition for valuable consideration registered before delivery of notice of the appeal to the Registrar.

(3) This section shall apply to an appeal from an order of a High Court to the Supreme Court as it applies to an appeal to the High Court.

150.—(1) The Chief Justice of Lagos may make rules prescribing the procedure to be followed in the conduct of appeals from decisions of the Registrar to the High Court of Lagos.

Power to make rules of court.

(2) The Chief Justice of Nigeria may, for the purposes of this Part, make rules prescribing the procedure to be followed in the conduct of appeal from the High Court.

PART XIII.—MISCELLANEOUS AND TRANSITIONAL

151.—(1) No instrument intended for registration shall be accepted under this Act, unless it is in the prescribed form or is in such other form as the Registrar may approve.

Certification of documents.

(2) Every such instrument shall have endorsed thereon a certificate to the effect that it is correct for the purposes of the Registered Land Act, and such certificate shall be signed by the party claiming interest thereunder or by his solicitor; and no instrument shall be accepted for registration if the certificate is not so signed. The making of any false certificate for the purposes of this Act shall be an offence for which the offender shall be liable on summary conviction to a fine of fifty pounds, and the court convicting may direct the removal from the land register of the instrument, if registered.

Registration
fees.

152.—(1) There shall be paid upon the first registration made after the bringing of land under this Act such fees in respect of the dealing therewith, additional to the contribution to the Assurance Fund under section one hundred and thirty-nine of this Act, as may be prescribed by regulations for registration of instruments under this Act.

(2) There shall be paid in respect of every instrument thereafter presented for registration or otherwise to be dealt with by the Registrar, such fees as may be prescribed by regulations under this Act.

(3) No instrument shall be accepted for registration or be deposited or filed after the preparation of the land register in respect of land subject to this Act, until the fees so prescribed for the instrument have been paid.

Addresses of
caveators
and others to
be given to
Registrar.

153. Any person who, under the provisions of this Act, submits a caveat or any instrument for registration, or appears on the land register as the proprietor of any land, lease or charge shall, if required, give to the Registrar in-writing a postal address for service within the Federal territory, and shall give notice in writing to the Registrar of any subsequent change in the address.

Services of
notices.

154. A notice under this Act shall be deemed to have been served on or given to any person—

(a) if it is served on him personally ; or

(b) if it is left for him at his last known address ; or

(c) if it is sent by registered post to him at his last known address.

Hearings and
opportunity
of being
heard.

155.—(1) Where a thing may be done after a hearing or after giving a person an opportunity of being heard before the Registrar, it shall be sufficient for the purposes of this Act if the person concerned—

(a) attends in person or by a legal practitioner or other agent, and is heard or states that he does not desire to be heard ; or

(b) having received notice appointing a place and time, not less than seven days after service, at which he will be heard with reference to the matter or thing in the notice, fails to attend the hearing.

(2) Notwithstanding the provisions of subsection (1) of this section, the Registrar in his discretion and whether or not the person concerned so attends or after notice given fails to attend, may adjourn the hearing from time to time ; and any such person may thereafter be heard at any subsequent meeting so adjourned.

(3) Where by this Act persons appearing by the land register or any document in the possession of the Registrar to be interested or affected are to be given an opportunity of being heard, it shall be sufficient if all persons who, according to any subsisting entry in the land register or by such document, as the case may be, appear to be so interested or affected, are given such an opportunity.

156. No officer of the Land Registry or officer engaged for the purposes of adjudication under Part I of this Act shall be liable to any action, suit or proceeding for or in respect of any act matter or thing in good faith done or omitted to be done in exercise or purported exercise of the powers conferred upon any such officer by this Act.

Indemnity
of officers.

157.—(1) Any person who—

Offences.

(a) knowingly misleads or deceives any person authorised under this Act to require information in respect of any land or interest in land ; or

(b) fraudulently procures, assists in fraudulently procuring or is privy to the fraudulent procurement of any land certificate or instrument, or of any entry, erasure or alteration in the land register, or in any form issued by the Registrar ; or

(c) fraudulently uses, assists in fraudulently using or is privy to the fraudulent using of any instrument or form purporting to be issued or authorised by the Registrar ; or

(d) fraudulently removes from the Land Registry any part of a land register or any instrument filed in the Land Registry or causes any defacement, obliteration, mutilation or unauthorized entry or alteration to be made thereto,

hall be guilty of an offence, and liable on conviction on indictment to a fine of five hundred pounds or to imprisonment for a term of three years, or to both, or liable on summary conviction to a fine of one hundred pounds or to imprisonment for a term of six months, or to both.

(2) If any person fails without lawful excuse to comply with any order or direction of an adjudication officer he shall be guilty of an offence and be liable on summary conviction to a fine of one hundred pounds or to imprisonment for a term of six months, or to both.

(3) If any person after delivery to him of a summons issued under this Act, wilfully neglects or refuses to attend in pursuance of such summons, or to produce any map, plan, instrument or other document which he is required to produce for the purposes of this Act, or to answer upon oath or otherwise any question which may be lawfully put to him by the Registrar or any other officer he shall be guilty of an offence and be liable on conviction to a fine of twenty pounds.

158.—(1) The Registrar may register any instrument notwithstanding the failure for any reason to pay the prescribed fee or any part thereof ; but in any such case a note of the fee or part of the fee remaining unpaid shall be entered in the land register, and the Registrar may refuse to register any further disposition of any land, lease or charge while a fee so noted is unpaid.

Additional
powers of
Registrar.

(2) The Registrar may, accept the amount of the consideration for the purpose of determining the registration fees payable as the value of any land under this Act ; or may appoint a valuer and act on his certificate of valuation.

159. Expenses incurred by the Registrar and unpaid fees shall constitute a debt and may be recovered in legal proceedings brought by the Registrar.

Recovery of
unpaid fees,
etc.

160. An order for the payment of money made by the Registrar in the exercise of any power conferred upon him under this Act shall be deemed to be an order of a court and be enforceable in like manner.

Enforcement
of Registrar's
orders of
payment.

Regulations.

161. Subject to the provisions of this Act, the Minister may make regulations prescribing—

- (a) the forms for use under this Act ;
- (b) the fees to be paid under this Act or on the use of forms submitted for approval ;
- (c) any other matter or thing, necessary for any of the purposes of this Act.

Registration of instruments in special cases.

162. Notwithstanding the provisions of this Act as to the requirements of form for any instrument, if the Registrar is satisfied that an instrument is otherwise in order for registration and was executed before the date of the constitution of the land register intended to be affected or was executed within six months after that date, he may register the instrument on payment of the appropriate fees and certification of the instrument as prescribed by this Act.

Restricted application of other Acts.

163.—(1) Where by reason of the declaration of an adjudication area this Act is to apply and a land register is opened for land brought under the provisions thereof, the Acts mentioned in the Schedule to this Act shall, with reference to any such land, cease to have effect.

(2) Where any land is subject to this Act nothing herein shall, unless the contrary intention is shown, be construed as permitting any act, matter or thing otherwise prohibited by any other Act, or as dispensing with the requirement of any Act which prescribes approval by any person to any act, matter or thing.

(3) In its application to the Federal territory, the Conveyancing and Law of Property Act 1881 of the United Kingdom shall, to the extent to which other provision is made by this Act, cease to have effect ; and in particular, the provisions of sections twenty-six, twenty-seven, twenty-nine and fifty-seven and of the Third and Fourth Schedules of the said Act (which together prescribed certain forms) shall, save as to the form of marriage settlement, be repealed.

Interpretation.

164.—(1) In this Act unless the context otherwise requires—

“adjudication area” means any area to which this Act is applied, and “adjudication section” means any subdivision thereof made for the purposes of an adjudication under this Act ;

“adverse possession” includes the receipt of rent by a person wrongfully claiming the land in reversion ;

“Assurance Fund” means Registered Land Assurance Fund established for the purposes of claims under this Act ;

“certificate of title” means a certificate of title issued under the provisions of the Registration of Titles Act ;

“charge” means an interest in land securing the payment of money or money's worth or the fulfilment of any condition and includes the interest in land known as mortgage, and “sub-charge” shall have the corresponding meaning ;

“chargee” means the proprietor of a charge ;

“chargor” means the proprietor of charged land or of a charged lease ;

“court” or “the court” means the High Court of Lagos and includes any court of superior jurisdiction ;

“demarcation officer” means an officer appointed under this Act to survey or otherwise mark out land within an adjudication area ;

“demarcation plan” means a plan prepared for an adjudication under this Act ;

"disposition" means any act performed *inter vivos* whereby the rights of persons in or over land or any lease or charge are affected otherwise than by an executory contract or agreement, and includes any acquisition by operation of law ;

"easement" means any right which may be the subject of a deed of grant attaching to land whereby the use by the proprietor of the land is or may be restricted, or the use without ownership or occupation of the land is or may be enjoyed by the proprietor of adjoining or adjacent land ;

"edition" with reference to the land register means the current title to land or to any lease thereof, as the case may be ;

"encumbrance" includes any lease or charge capable of being registered under this Act ;

"guardian" means any person under customary law or otherwise responsible for protecting the interest of any person under disability by reason of age, unsoundness of mind or other cause whatsoever ;

"the High Court" means the High Court of Lagos ;

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

"land" includes all things growing thereon and buildings and other things permanently affixed thereto, and where land is covered with water, the land itself, but does not include water, or any mine, minerals, mineral oil or mineral gas ;

"land certificate" means a certificate as evidence of ownership and other matters issued under this Act ;

"land register" means the current edition of the register of land evidencing ownership by a proprietor under this Act, and includes a register of any lease thereof and any former register compiled for the purposes of this Act, and references to registration or entries therein shall be references to registration or entries in the relevant edition of the land register ;

"land registration district" means a district constituted for the purposes of registration of land under this Act ;

"Land Registry map" means the map compiled from a demarcation plan and kept by the Registrar for the purposes of this Act ;

"lease" includes sublease but not an agreement for a lease ;

"lessee" means the holder of a lease ;

"lessor" means the proprietor of leased land ;

"Minister" means the Federal Minister for the time being charged with responsibility for registration of land ;

"mutation record" means a record of changes in the Land Registry map kept by the Registrar under this Act ;

"parcel" means any area of land separately shown on the Land Registry map ;

"powers" when used in reference to the Registrar and his subordinates, includes duties ;

"presentation book" means the book in which are recorded all applications for registration under this Act ;

"profit a prendre" means a right to enter on the land of another and take substance therefrom either of the soil or products of the soil ;

"proprietor" means the person registered under this Act as the owner of land or of any lease or charge ;

"registered land" means land registered under this Act ;

"registration officer" means the person appointed for the purposes of any adjudication under this Act ;

"Registrar" means the Registrar of Land under this Act and includes a deputy registrar and, to the extent to which he may be authorised by the Registrar, an assistant registrar ;

"registration section" means a division of a land registration district made by the Registrar on the Land Registry map ;

"transfer" means the acquisition of land, or any lease or charge by act of the parties and not by operation of law, and includes the instrument by which any such acquisition is effected ;

"transmission" means the acquisition of land or of any lease or charge by operation of law, and where land may be acquired compulsorily under any Act, includes any such acquisition ;

"valuable consideration" does not include any nominal consideration in money.

(2) References to registration means references to the making of any entry, note, or record in the land register under the provisions of this Act or, as the case may require, of the Registration of Titles Act, and cognate expressions shall have such extended meaning.

(3) References to an heir,—

(a) where used in relation to registered land which before or after the commencement of this Act is affected by customary law, or to other registered land if before the commencement of this Act, the proprietor or any person beneficially entitled has died or executed any deed or instrument importing a reference to an heir, or

(b) where used in relation to unregistered land the subject of an investigation under this Act,

shall be construed and have effect as if this Act had not been passed ; and in any other case the references shall be construed to refer to the personal representatives or other persons beneficially entitled.

(4) References to marriage expressed as consideration in any instrument, shall be construed as valuable consideration for the purposes of this Act.

165.—(1) This Act may be cited as the Registered Land Act, 1964, and shall apply to the Federal territory.

(2) This Act shall come into operation on a date to be fixed by the Minister by order in the Gazette.

SCHEDULE

Section 163(1)

Enactments Affected

Chapter	Short Title	Extent affected
14	Arotas (Crown Grants) Act	The whole Act
44	Crown Grants (Lagos) Act	The whole Act
45	Crown Lands Act.	Sections 31 and 33
61	Epetedo Lands Act	The whole Act
75	Glover Settlement Act	The whole Act
99	Land Registration Act	The whole Act
181	Registration of Titles Act	The whole Act