

LAND TRANSFER BILL

EXPLANATORY NOTE

THIS BILL is a consolidation of the Land Transfer Act 1915 and its amendments now in force. It assembles the existing legislation into one Act, but, except as indicated in this Explanatory Note, makes no change in the law. Slight changes in formal phrasing have been made to accord with current drafting practice. For greater convenience of reference the order of the provisions of the Act of 1915 has to some extent been re-arranged; in particular, the sections dealing with leases and mortgages have been placed in the order in which the sections dealing with these matters appear in the Property Law Act 1908 and in the Property Law Bill which this Bill accompanies.

In *clause 9* provision is made for the substitution of the New Zealand Coat of Arms for the Royal Coat of Arms in the Registrar's seal. The *First Schedule* also provides for the use of the New Zealand Arms in certificates of title.

In *clause 20 (1)* references in the Land Transfer Act 1915 to lunatics and persons of unsound mind are replaced by references to mentally defective persons within the meaning of the Mental Defectives Act 1911, and provision is introduced relating to persons in respect of whom a protection order under the Aged and Infirm Persons Protection Act 1912 is in force.

The proviso to *subclause (1)* of *clause 36* is new, and provides that where an instrument affects land in several land registration districts the Registrar of each district to whom the instrument is presented for registration may require the presentation for filing in his office of either an additional executed copy or a copy certified as a true copy by the Registrar in whose district an executed copy has already been filed. The existing provision requires instruments (other than transfers) to be presented in duplicate, of which one part is retained in the Land Transfer Office and the other, after registration and entry of a memorial, returned to the person effecting registration. In future, where, for example, a mortgage affects land in two districts, it will require to be executed in triplicate so as to allow for one copy to be retained in each Land Transfer Office, otherwise a certified copy must be presented when the mortgage, after being registered in one district, is presented for registration in the other.

Clause 38 (4) provides that in the event of any difference between the copy of an instrument that is filed in the Land Transfer Office and the copy returned to the person effecting registration, the copy retained in the Land Transfer Office is to prevail.

In *clause 164 (3)* the existing provisions of section 175 (3) of the Land Transfer Act 1915 preserving the civil remedies of persons affected by a false or negligent certificate as to the correctness of an instrument have been omitted, as being already covered by section 355 of the Crimes Act 1908.

In *clause 165* the provisions of the Land Transfer (Foreign Governments) Act 1945 relating to the Government of any foreign State have been extended to apply to the Government of any overseas country.

In *clause 166* the existing provisions as to the verification of instruments executed out of New Zealand have been re-written, so as to bring the provisions into line with the existing constitutional position of the British Commonwealth of Nations.

Clause 167 re-enacts in an amended form section 178 of the Land Transfer Act 1915, which sets out the circumstances under which the District Land Registrar may call for the deposit of a survey plan. The section in its existing form does not apply where the estate of the registered proprietor is limited as to parcels, that is, where the title is not fully guaranteed as to position, area, or boundaries of the land. Thus, where the title is limited as to parcels the owner can subdivide and the District Land Registrar cannot require the deposit of a survey plan. This clause expressly applies to cases where the certificate of title is limited as to parcels. The clause also provides that, where land comprised in an ordinary certificate of title is subdivided without a survey plan being deposited and the Registrar issues a certificate of title limited as to parcels for part of the land, he may mark the partially cancelled certificate of title for the balance as limited as to parcels also.

Clause 197: Where a certificate of title is limited as to parcels or as to title, the estate of the registered proprietor is not fully guaranteed, and may be extinguished if some other person in adverse possession of the land at the date of its being brought under the Land Transfer Act has continued in such possession for the appropriate statutory period. The purpose of this clause is to enable the District Land Registrar, before removing the limitations as to parcels or as to title or registering any dealing against the land, to require proof that no other person has acquired title to the land by adverse possession.

Clause 216: Under section 199 of the Land Transfer Act 1915 there is a right of appeal against a decision of a District Land Registrar, but it is limited to matters within the functions of the District Land Registrar under the Land Transfer Act 1915. District Land Registrars have functions under other Acts also, and this clause gives a right of appeal in those cases as well.

Clause 227 is a new provision, and confers on Magistrates jurisdiction to deal summarily under the *Summary Jurisdiction Act 1952* with any of the offences specified in *clauses 225 and 226*.

The existing legislation contains several provisions requiring applications to the Supreme Court to be made either to that Court or to a Judge thereof, and in some instances specifies the form those applications are to take. The Bill prescribes a uniform method of proceeding in these cases, and specifies in each case that the application is to be made to the Court, but does not specify the manner in which the applications are to be made. As a result the Rules of Procedure of the Supreme Court will apply to all proceedings in that Court under the Bill.

In each case where an offence under the Bill is punishable on summary conviction, the clause provides that only Magistrates shall have summary jurisdiction.

Sections 218 and 226 of the Land Transfer Act 1915 and section 18 of the Finance Act 1924 have been omitted. Section 218 provides for the appointment of land valuers. No valuers have ever been appointed under that section, as all valuations required in the past have been made by the Valuation Department. Section 226 provides that all discretionary powers vested in Registrars are to be exercised subject to any regulations made under the Act. No regulations relating to discretionary powers of Registrars have ever been made. Section 18 of the Finance Act 1924 makes provision for payment of the additional expenses involved in the compulsory bringing of land under the

Land Transfer Act 1915 by the Land Transfer (Compulsory Registration of Titles) Act 1924. Nearly all land that was not under the Land Transfer Act 1915 has already been brought under that Act, and no additional expenditure or staff is now required in connection with the compulsory bringing of land under the Act.

The disposition in the Bill of existing provisions to be repealed and replaced, and the reasons for omission of existing provisions to be repealed without replacement, are shown in the subjoined Comparative Table.

The sources of the clauses of the Bill are shown in the marginal notes.

COMPARATIVE TABLE

1915, No. 35—THE LAND TRANSFER ACTS COMPILATION ACT 1915

Section of Act.	Clause of Bill or Reason for Omission.
1	Short Title.
2	Enactment and repeals
3	Savings
1st proviso	245 (4)
2nd proviso	245 (5)
Appendix A	List of repealed Acts
Appendix B	See below

1915, No. 35, APPENDIX B—THE LAND TRANSFER ACT 1915

Section of Act.	Clause of Bill or Reason for Omission.
1 (1)	Short Title
1 (2)	244
2 to 33	2 to 33
34 (1), (2)	34
34 (3)	35
35 (1), (2)	36
35 (3), (4)	37
35 (5) to (7)	38
36 to 39	39 to 42
40 to 48	44 to 52
49 to 61	54 to 65
62 to 64	67 to 69
65 to 80	72 to 87
81 to 86	89 to 94
87	95 (Superseded in part by 1936, No. 31, Part IV)
88	96
89	97 (1), (2)
90	97 (3)
91	98
92	99
93	115
94	118
95	119
96	120
97	Repealed by 1951, No. 84, s. 34 (2)
98	Repealed by 1951, No. 84, s. 35 (2)
99	121
100	88
101	101
102	100
103 (1)	Repealed by 1951, No. 84, s. 19 (2) (a)

1915, No. 35, APPENDIX B—THE LAND TRANSFER ACT 1915—*continued*

Section of Act.	Clause of Bill or Reason for Omission.
103 (2)	155 (2)
104	102
105	106
106	107
107	Repealed by 1951, No. 84, s. 32 (2)
108	104
109	105
110 to 115	Repealed by 1951, No. 84, s. 30 (1)
116 (1) to (3)	111
116 (4), (5)	114
117	Repealed by 1951, No. 84, s. 26 (2)
118	108 (1)
119	108 (2)
120	110
121	109
122	113
123 to 125	122 to 124
126, 127	125
128 to 130	126 to 128
131 to 136	130 to 135
137 to 144	Repealed by 1939, No. 7, s. 11 (1)
145 to 162	136 to 153
163	Repealed by 1951, No. 84, s. 38 (4)
164	154
165	155
166	Repealed by 1951, No. 84, s. 11 (2)
167 to 171	156 to 160
172	Superseded by 1936, No. 31, Pt. IV
173	161
174, 175	163, 164
176	166
177	Repealed by 1948, No. 4, s. 41 (1)
178 to 182	167 to 171
183	211
184	212
185	Spent
186	172
187	Superseded by 1950, No. 54, s. 24
188 to 198	173 to 183
199 to 211	216 to 226
212	Superseded by 1908, No. 32, s. 355
213	229
214 to 217	231 to 234
218	Omitted. See Explanatory Note
219 to 223	236 to 240
224	228
225	215
226	Omitted. See Explanatory Note
227	241
228	243
229	Superseded by inclusion of Appendices as clauses of Bill

1915, No. 35, APPENDIX B—THE LAND TRANSFER ACT 1915—*continued*

Section of Act.	Clause of Bill or Reason for Omission.
230	245 (2)
231	245 (2), (6)
App. I	129
App. II	53
App. III	162
1st Sched. ..	1st Sched., No. 1
2nd Sched., A ..	2nd Sched., A
B ..	1st Sched., No. 2
C ..	2nd Sched., B
D ..	K
E ..	C
F ..	D
G ..	E
H ..	Repealed by 1925, No. 20, s. 6 and Sched.
I ..	Repealed by 1939, No. 7, s. 11 (1)
K ..	2nd Sched., M
L ..	N
3rd Sched. (1) ..	2nd Sched., O
(2) ..	P
4th Sched. ..	Repealed by 1951, No. 84, s. 19 (2) (b)
5th Sched. (1) ..	2nd Sched., F
(2) ..	G
(3) ..	H
6th Sched. ..	4th Sched.
7th Sched. ..	5th Sched.
8th Sched. ..	6th Sched.
9th Sched. ..	Repealed by 1950, No. 24, s. 9 (2)

1920, No. 43—THE LAND LAWS AMENDMENT ACT 1920

Section of Act.	Clause of Bill.
30	50

1924, No. 32—THE LAND TRANSFER (COMPULSORY REGISTRATION OF TITLES) ACT 1924

Section of Act.	Clause, &c., of Bill or Reason for Omission.
1	Short Title, &c.
2 to 14	184 to 196
14A	197
15 to 26	198 to 210
27	55, 235
Sched.	2nd Sched., Q, R

1924, No. 64—THE FINANCE ACT 1924

Section of Act.	Reason for Omission.
18	See Explanatory Note

1925, No. 20—THE LAND TRANSFER AMENDMENT ACT 1925

Section of Act.	Clause of Bill or Reason for Omission.
1	Short Title, &c.
2	43
3	66
4	213
5 (1)	242, 2nd Sched., Form A
5 (2)	20 (3)
6 and Sched. ..	2, 50, 52, 53, 87 (6), 88, 90 (1), 97, 102, 128, 173

1930, No. 6—THE FINANCE ACT 1930			
Section of Act.			Clause of Bill.
53	..	..	60, 170, 175, 178, 179, 204, 235

1931, No. 5—THE FINANCE ACT 1931 (No. 2)			
Section of Act.			Clause of Bill.
25	..	..	60, 170, 175, 178, 179, 210

1936, No. 58—THE STATUTES AMENDMENT ACT 1936			
Section of Act.			Clause of Bill.
43	..	..	112

1939, No. 7—THE LAND TRANSFER AMENDMENT ACT 1939			
Section of Act.			Clause of Bill.
1	..	..	Short Title, &c.
2	..	..	7
3	..	..	70
4	..	..	116, 2nd Sched., L
5	..	..	117
6	..	..	103, 2nd Sched., J
7	..	..	105
8	..	..	Repealed by 1951, No. 84, s. 18 (2)
9	..	..	129
10	..	..	71
11 (1)	..	..	Repeals
11 (2)	..	..	141
12	..	..	143
13	..	..	230
14	..	..	214
1st Sched., M	..	..	2nd Sched., L
N	..	..	J
2nd Sched.	..	..	3rd Sched.

1945, No. 14—THE LAND TRANSFER (FOREIGN GOVERNMENTS) ACT 1945			
Section of Act			Clause of Bill.
1	..	..	Short Title, &c.
2 to 4	..	..	165

1947, No. 60—THE STATUTES AMENDMENT ACT 1947			
Section of Act.			Clause of Bill.
36	..	..	116 (4)

1949, No. 51—THE STATUTES AMENDMENT ACT 1949			
Section of Act.			Clause of Bill.
32 (1)	..	..	111
32 (2)	..	..	213

1950, No. 24—THE LAND TRANSFER AMENDMENT ACT 1950

Section of Act.	Clause of Bill or Reason for Omission.
1	Short Title, &c.
2	3
3	48
4	72
5	95
6	102
7	145
8	167
9 (1)	236
9 (2)	Repeal
9 (3)	Spent (<i>Cf.</i> cl. 245 (2))
Sched.	2nd Sched., I

1950, No. 65—THE LIMITATION ACT 1950

Section, &c., of Act.	Clause of Bill.
2nd Sched., in part	180

Hon. Mr. Webb

LAND TRANSFER

ANALYSIS

- Title.
1. Short Title and commencement.
2. Interpretation.

PART I

ADMINISTRATION

Land Registration Districts, Officers, &c.

3. Creation, alteration, and abolition of districts.
4. Appointment of Registrar-General and other officers.
5. Appointment of deputies.
6. Offices may be held conjointly.
7. Barristers or solicitors only to be appointed to certain offices.
8. Officers to be subject to regulations of Public Service.
9. Registrar to have and use seal of office.

PART II

LAND SUBJECT TO THIS ACT

10. What lands subject to this Act.
11. Special provision as to land under Maori Land Act.

Title in Substitution for Crown Grant

12. Issue of certificate of title in lieu of Crown grant.
13. Particulars to be specified in warrant.

14. Certificate may be issued to person claiming through person named in warrant.
15. Certificate to issue subject to existing encumbrances.
16. Warrant not necessary where persons entitled under Act, &c.
17. Warrant to fix antevesting date.
18. Reservation of road by warrant.

Voluntary Applications to Bring Land Under Act

19. How land may be brought under Act.
20. By whom applications may be made.
21. Applicant to surrender title deeds.
22. Procedure on application.
23. Notice of application to be gazetted.
24. If applicant is original grantee, notice may be dispensed with.
25. When Registrar may reject application or order service of notices.
26. Notice of application to be posted in Land Registry Office.
27. If no caveat lodged, Registrar may bring land under Act.
28. In case of failure to serve notice, time may be extended.
29. Application may be withdrawn by consent of persons interested.
30. Disposition of previous title deeds on issue of certificate of title.
31. Reversion on lease not extinguished by bringing land under Act.
32. Registration of Crown grant under Deeds Registration Act not necessary.

PART III

REGISTRATION

33. Registrar to keep register.
34. When instruments deemed registered.
35. Registered proprietor.
36. Instruments to be in duplicate.
37. Priority according to time of registration.
38. Registration procedure.
39. Contents of memorial.
40. Memorial to be recorded on duplicate grant or other instrument.
41. Instruments not effectual until entry in register.
42. Informal instruments not to be registered.
43. Where Registrar's requisition not complied with.
44. Registrar may dispense with duplicate instruments.
45. Certified copies of register to be evidence.
46. Register to be open for search.
47. Instrument not to be registered unless duly stamped.
48. Where boundaries of district altered, copies of original registers to be evidence.

District Agents

49. Registration through District Agents.

Provisional Registration

50. Until register duly constituted, land to be provisionally registered.
51. When register duly constituted, provisional register to be closed.
52. Entries in provisional register to be evidence of title.
53. Special provisions as to Canterbury educational reserves.
54. Application of Act to provisional registration.
55. No dealings to be registered until payment of fees.

Lost Instruments

56. Supreme Court may investigate cases of lost instruments.
57. Court may order claimant to be registered as proprietor.

Outstanding Interests

58. Interests outstanding to be notified in register.
59. Interests registered under Deeds Registration Act to be recognized.
60. Claims for loss through neglect of claimant to register.

Registered Proprietors

61. Persons jointly registered to be joint tenants.
62. Estate of registered proprietor paramount.
63. Registered proprietor protected against ejectment.
64. Title guaranteed to registered proprietor.

PART IV

CERTIFICATE OF TITLE

65. Registered proprietor entitled to certificate of title.
66. Certificates of title in respect of leasehold interests.
67. Existing encumbrances to be noted in certificate.
68. Certificate, how to be dated.
69. How memorial of easement to be recorded.
70. Removal of easements and profits *& profits* from register.
71. Removal of fencing covenants from title.
72. Tenants in common entitled to separate certificates.
73. Issue of certificate may be withheld in certain cases.
74. Certificate issued in name of deceased person not void.
75. Certificate to be evidence of proprietorship.
76. Instruments executed by person not actually registered.
77. No right to public road or reserve where unauthorized registration.
78. Certificate not to be impeached.
79. Certificate void in certain cases.
80. Errors in Register may be corrected.
81. Surrender of instrument obtained through fraud, &c.
82. Person failing to surrender instrument may be summoned to Court.
83. Person refusing to surrender instrument may be committed to prison.
84. Issue of new certificate of title, &c.
85. Court may order former certificate of title to be cancelled.
86. Proprietor may claim single certificate in place of several, or *vice versa*.
87. Issue of provisional certificate in case of loss of original.
88. Provision in case of lost lease or mortgage.
89. Issue of certificate of title on sale for non-payment of rates.

PART V

TRANSFERS

90. Transfer by registered proprietor, how effected.
91. New certificate to transferee unnecessary if whole of land transferred.
92. Certificate to be cancelled on transfer of portion of land only.
93. New certificates to be issued for portion transferred and for balance.
94. Certificate for balance not transferred may remain valid.
95. Estates for life, or in reversion, or remainder.
96. Implied covenant in transfer of equity of redemption.
97. Transfer of lease or mortgage.
98. Implied covenants in transfer of lease.
99. Memorandum of vesting order to be entered on register.

PART VI

MORTGAGES

100. Mortgage to take effect as security only.
101. Forms of mortgage.
102. Alteration of terms of mortgage by endorsement.
103. Variation of priority of mortgages.

Sale of Mortgaged Land

104. Application of purchase money.
105. Transfer by mortgagee.

Rights and Remedies of Mortgagees

106. Mortgagee may, after default, enter into possession.
107. Mortgagee may distrain on tenant to the amount of his rent.
108. Mortgagee to have remedies of a lessor for recovery of premises.
109. Mortgagee to have custody of instrument of title.

Liability of Mortgagee in Possession of Leasehold

110. Mortgagee of leasehold after entry liable for rent.

Discharge of Mortgage

111. Discharge of mortgage, how effected.
112. Discharge of mortgage where remedies thereunder are statute-barred.

Discharge of Annuity

113. On death of annuitant, discharge of annuity may be entered.

Submortgages

114. Submortgages.

PART VII

LEASES

115. Form and registration of leases.
116. Extension or variation of lease by memorandum of extension or variation.
117. Bringing down encumbrances on registration of new leases.
118. Covenant for right of purchase.
119. Lease not binding on mortgagee without consent.
120. Surrender of lease.
121. Re-entry by lessor.

PART VIII

TRANSMISSIONS, TRUSTS, CAVEATS, AND POWERS OF ATTORNEY

Transmissions

122. Person claiming under transmission may apply to have same registered.
123. Procedure on application for transmission.
124. Caveat may be entered on behalf of beneficiaries under will or settlement.
125. Transmission to mortgagee on bankruptcy of lessee.
126. Transmission to lessor in default of mortgagee applying.
127. Particulars of marriage of female proprietor to be registered.

Trusts

128. No entry of trusts to be made on register except as authorized.
129. Trusts of public reserves and other public lands.
130. Transferor may apply for entry of "No survivorship" on register.
131. Trustees registered as joint proprietors may similarly apply.
132. Effect of entry. Order of Supreme Court.
133. Procedure for obtaining order.
134. Registrar may be nominated trustee.
135. Beneficiary may use name of trustee in prosecuting or defending action.

Caveats

136. Caveat against bringing land under Act.
137. Caveat against dealing with land under Act.
138. Particulars to be stated in caveat.
139. Service of notices as to caveats.
140. Effect of caveat against bringing land under Act.

- 141. Effect of caveat against dealings.
- 142. Notice of caveat to be given to persons affected.
- 143. Procedure for removal of caveat.
- 144. Lapse of caveat against bringing land under Act.
- 145. Lapse of caveat against dealings.
- 146. Person entering caveat without due cause liable for damages.
- 147. Caveat may be withdrawn.
- 148. No second caveat may be entered.

Powers of Attorney

- 149. Power of attorney not invalidated by bringing land under Act.
- 150. Registered proprietor may deal with land by attorney.
- 151. Power of attorney to be deposited with Registrar.
- 152. Revocation of power of attorney.
- 153. Seal unnecessary.

PART IX

GENERAL PROVISIONS AS TO INSTRUMENTS

Covenants Implied in Instruments

- 154. Covenants for further assurance implied.
- 155. Short forms of covenant.
- 156. Action for breach of covenant.

Execution of Instruments

- 157. Instruments to be signed and attested.
- 158. When instruments deemed to be attested.
- 159. Questions to attesting witness, and certificate thereon.
- 160. Acknowledgment by party to instrument, and certificate thereon.
- 161. Corporation may execute under seal.
- 162. Unincorporated building societies.
- 163. Instruments as evidence in Courts.
- 164. Correctness of instrument to be certified.

Governments of Other Countries as Registered Proprietors

- 165. Governments of other countries may be registered as proprietors of land.

Verification of Instruments

- 166. Verification of instruments executed out of New Zealand.

PART X

PLANS AND SURVEYS

- 167. Plans to be deposited in certain cases.
- 168. Deposit not to operate as dedication of roads.

- 169. Land taken for roads to be defined on register.
- 170. Cost of survey for correction of plans, &c.
- 171. Surveyor-General or person authorized by him may enter land.

PART XI

GUARANTEE OF TITLE

Compensation for Loss or Damage

- 172. Compensation for mistake or misfeasance of Registrar.
- 173. Notice of action to be served on Attorney-General and Registrar-General.
- 174. Liability of plaintiff for costs.
- 175. Recovery of compensation paid and costs in case of fraud.
- 176. Judgment against absconders, &c.
- 177. Recovery of judgment against absconders, &c.
- 178. Crown not liable in certain cases.
- 179. Measure of damages.
- 180. Limitation of actions.
- 181. Plaintiffs to be nonsuited if laches proved.

Protection of Purchasers

- 182. Purchaser from registered proprietor not affected by notice.
- 183. No liability on *bona fide* purchaser or mortgagee.

PART XII

COMPULSORY REGISTRATION OF TITLES

- 184. Interpretation.
- 185. All private European land to be brought under this Act.
- 186. Application to bring land under this Act deemed to be made.
- 187. Applications to be dealt with as voluntary applications under this Act.
- 188. Special provisions as to applications under this Part.
- 189. Registrar may require surrender of instruments affecting title.
- 190. Registrar may issue ordinary or limited certificate of title.
- 191. Definition and form of limited certificate.
- 192. Notices of issue of certificate of title to be given.
- 193. Registrar's minutes of defects found in titles.
- 194. Searching of Registrar's minutes.
- 195. Limited certificate of title may be made ordinary.
- 196. Ordinary certificate of title not to issue till title good.
- 197. Registrar may require proof that estate of registered proprietor of limited title not extinguished.
- 198. Memorials on limited certificate of title to be evidence.

199. Application of Act to limited certificate of title.	220. Registrar-General to decide between Registrar and Examiner of Titles.
200. Applications by persons claiming title adverse to that of proprietor under limited certificate.	221. Primary appeal to Registrar-General if Registrar and Examiner the same person.
201. No right of action by proprietor under limited certificate against the Crown or the Registrar-General in certain cases.	222. Registrar-General may submit questions to Court of Appeal.
202. No dealings to be registered in certain cases.	223. Procedure.
203. Title to estate less than freehold evidenced by limited certificate.	224. Rules of procedure.
204. When interests excepted from guarantee extinguished.	<i>Offences</i>
205. Caveats in respect of applications under this Part.	225. Fraudulently procuring certificate of title, &c.
206. Trustees without power to sell.	226. Other offences under Act.
207. Restrictions on issue of ordinary certificate of title.	227. Summary trial of indictable offences.
208. Registrar may amend description of land in limited certificate of title.	228. Prosecution of offences.
209. No action against Crown in certain cases.	<i>Landbrokers</i>
210. Registration of deeds affecting land subject to this Part.	229. Power of Registrar-General to licence persons as landbrokers.
	230. Restrictions on licensing of landbrokers.
	231. Bond required before grant of licence.
	232. Licences may be revoked.
	233. Acting without licence.
	234. Making unlawful charges.
	<i>Miscellaneous</i>
	235. Fees.
	236. Governor-General in Council may make regulations.
	237. Printed forms to be supplied and used.
	238. Registrar-General may vary forms.
	239. Description of person to include legal representatives.
	240. Forms may be used with variations.
	241. Registrar not bound to attend Court or produce register without Court order.
	242. Persons qualified to take declarations.
	243. Officers not personally liable.
	244. Property Law Act 1952 to be subject to this Act.
	245. Repeals and savings.
	Schedules.

PART XIII

GENERAL PROVISIONS

Additional Powers of Registrar

- 211. Registrar may require production of instruments, &c.
- 212. Not producing instruments when required by Registrar.
- 213. Authority to destroy instruments of title after twenty years.
- 214. Transfer of instruments, &c., to libraries and museums.
- 215. Registrar may require indemnity for costs.

Rights of Appeal

- 216. Appeal to Supreme Court from decision of Registrar.
- 217. Notice to Registrar to appear.
- 218. Hearing of appeal.
- 219. Expenses of appeal.

A BILL INTITULED

AN ACT to consolidate and amend certain enactments relating to the registration and transfer of title to land.

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Land Transfer Act 1952, and shall come into force on the first day of 10 January, nineteen hundred and fifty-three.

Short Title
and
commencement.

Interpretation.
1915, No. 35,
s. 2
1925, No. 20,
s. 6

2. In this Act, and in all instruments purporting to be made and executed under this Act, unless the context otherwise requires,—

“ Bankruptcy ” means the vesting in any person or persons of any estate or interest of a debtor for the benefit of creditors generally, by deed of arrangement or otherwise, under authority of any Court of competent jurisdiction: 5

“ Crown grant ” means the grant of any land by the Crown, and includes certificates of title issued in lieu of grant: 10

“ Dealing ” means every transfer, transmission, mortgage, lease, or encumbrance of any estate or interest under this Act:

“ District ” means a land registration district under this Act: 15

“ Endorsement ”, in addition to its ordinary meaning, includes anything written upon or at the foot of any document for giving effect to any of the purposes of this Act: 20

“ Estate or interest ” means every estate in land, also any mortgage or charge on land under this Act:

“ Former Land Transfer Act ” means the Land Transfer Act 1915, the Land Transfer Act 1908, and the Land Transfer Act 1885, and all amendments of any of those Acts, and includes every Act repealed by those Acts: 25

“ Instrument ” means any printed or written document, map, or plan relating to the transfer of or other dealing with land, or evidencing title thereto: 30

“ Land ” includes messuages, tenements, and hereditaments, corporeal and incorporeal, of every kind and description, and every estate or interest therein, together with all paths, passages, ways, waters, watercourses, liberties, easements, and privileges thereunto appertaining, plantations, gardens, mines, minerals, and quarries, and all trees and timber thereon or thereunder lying or being, unless specially excepted: 35 40

“ Mortgage ” means any charge on land created under the provisions of this Act for securing—

(a) The repayment of a loan or satisfaction of an existing debt: 45

See Reprint
of Statutes,
Vol. VII,
p. 1162
1908, No. 99
1885, No. 57

(b) The repayment of future advances, or payment or satisfaction of any future or unascertained debt or liability, contingent or otherwise:

5 (c) The payment to the holders for the time being of any bonds, debentures, promissory notes, or other securities, negotiable or otherwise, made or issued by the mortgagor before or after the creation of that charge:

10 (d) The payment to any person or persons by yearly or periodical payments or otherwise of any annuity, rentcharge, or sum of money other than a debt:

15 "Mortgagee" means the proprietor of a mortgage:

"Mortgagor" means the proprietor of any estate or interest charged with a mortgage:

20 "Proprietor" means any person seised or possessed of any estate or interest in land, at law or in equity, in possession or expectancy:

"Registrar" and "Examiner" mean respectively the District Land Registrar and Examiner of Titles of the district within which any land to be dealt with or affected is situated:

25 "Registrar-General" means the Registrar-General of Land appointed under this Act:

"Surveyor-General" means the person holding office with that title under the Land Act 1948 1948, No. 64 or otherwise:

30 "The Land Transfer Acts" means this Act, and includes any former Land Transfer Act:

"Transmission" means the acquirement of title to an estate or interest by operation of law.

PART I

35 ADMINISTRATION

Land Registration Districts. Officers, &c.

3. (1) The several land registration districts constituted under or by virtue of any former Land Transfer Act, or by or under any special Act, as the same are
40 defined and existing at the commencement of this Act, shall be land registration districts for the purposes of this Act.

Creation, alteration, and abolition of districts.
1915, No. 35, s. 3
1950, No. 24, s. 2

(2) The Governor-General may from time to time, by Order in Council, alter the boundaries of any such district, or may abolish any such district by including the same within the limits of some other district or districts, or may declare any portion of any such district or any portions of two or more districts to be a new land registration district for the purposes of this Act under a name assigned to it by the Order in Council, and may assign a new name to any existing district in which the land or any part of the land comprised in a new district was formerly comprised.

Appointment of
Registrar-
General and
other officers.
1915, No. 35,
s. 4

4. (1) There shall be, for the purposes of this Act, an officer to be called the Registrar-General of Land; also, in and for each land registration district, an officer to be called the District Land Registrar.

(2) In addition there may be appointed in and for each or any district one or more Examiners of Titles, and one or more Assistant Land Registrars, which last-named officers shall in all respects act under and conform to the directions of the District Land Registrar, and, subject thereto, shall have all the powers and may exercise all the functions of the District Land Registrar, except such as are expressly required to be exercised in conjunction with the Examiner of Titles.

(3) All references in this Act to the Examiner of Titles shall be deemed to be references to any Examiner of Titles appointed for the district.

(4) All persons holding any of the above offices at the commencement of this Act shall be deemed to have been duly appointed under this Act.

Appointment
of deputies.
Ibid., s. 5

5. There may also be appointed from time to time a deputy to act in the place of any officer holding office under this Act, during the absence of that officer from any cause, or during the vacancy of any office by death or otherwise; and every such deputy, during the time he continues to act, shall have all the powers, duties, and responsibilities of the officer to whom he is deputy.

Offices may be
held conjointly.
Ibid., s. 6

6. Any person may from time to time be appointed to hold any of the aforesaid offices in conjunction, and to exercise the functions thereof concurrently.

7. Subject as aforesaid, no person shall be appointed to the office of Registrar-General of Land, District Land Registrar, or Examiner of Titles unless that person has been admitted as a barrister or solicitor of the Supreme Court, or is qualified to be admitted as a barrister or solicitor of the Supreme Court, or has passed the Law Professional Examination of the University of New Zealand, or has passed such special examination in the Law of Property and the Acts relating thereto as is prescribed by regulations under this Act: and no person so appointed shall, during tenure of office, practise either directly or indirectly as a barrister, solicitor, or landbroker, or be in partnership with any person so practising.
8. All persons heretofore appointed or hereafter to be appointed to any office as aforesaid shall hold that office subject to the provisions of any Act for the time being regulating the Public Service; and, subject thereto, any such appointment may be cancelled, and thereupon, or upon the death or resignation of any officer, any new appointment may be made as may be necessary.
9. (1) Every Registrar shall have and use a seal of office bearing the impression of the New Zealand Arms, and having inscribed in the margin the words "[*Name of district*] District Land Registrar, New Zealand"; and every instrument bearing the imprint of such a seal, and purporting to be signed or issued by a Registrar, or by his assistant or deputy, shall be received in evidence, and shall be deemed to be signed or issued by or under the direction of that Registrar, without further proof, unless the contrary is shown.
- (2) Nothing in this section shall affect the validity of any instrument (whether signed or issued before or after the commencement of this Act) bearing the imprint of the seal of the Registrar, notwithstanding that that seal bears the impression of the Royal Arms instead of the New Zealand Arms.

Barristers or solicitors only to be appointed to certain offices.

1915, No. 35, s. 7

1939, No. 7, s. 2

Officers to be subject to regulations of Public Service.

1915, No. 35, s. 8

Registrar to have and use seal of office.

Ibid., s. 9

PART II

LAND SUBJECT TO THIS ACT

What lands
subject to
this Act.

1915, No. 35,
s. 10
1947, No. 59,
Pt. I

10. The following land shall be subject to the provisions of this Act:—

- (a) All land which has already in any manner become 5
subject to the provisions of any former Land
Transfer Act:
- (b) All land hereafter alienated or contracted to be
alienated from the Crown in fee:
- (c) All land in respect of which any order is 10
hereafter made under the provisions of any
Maori Land Act in force for the time being
which has the effect of vesting that land in any
person in freehold tenure:
- (d) All land which hereafter becomes vested in any 15
person for an estate in fee simple in
possession by virtue of any Act of the
General Assembly.

Special
provision as to
land under
Maori Land
Act.

1915, No. 35,
s. 11
1947, No. 59,
Pt. I
1874, No. 15

11. Land over which the Maori title has been ex-
tinguished since the constitution of the district within 20
which the same is situate, but before the thirty-first
day of August, eighteen hundred and seventy-four (being
the date of the passing of the Land Transfer Act 1870
Amendment Act 1874), shall come under the provisions
of this Act upon the registration of a Crown grant, or 25
certificate of title in lieu of grant.

Title in Substitution for Crown Grant

Issue of
certificate of
title in lieu
of Crown grant.

1915, No. 35,
s. 12
1951, No. 60,
s. 8

12. (1) No Crown grant shall be issued for any land
subject to the provisions of this Act; but in lieu of a 30
grant the Governor-General may, by warrant under his
hand, direct the Registrar to issue a certificate of title
for the land in Form No. 1 in the *First* Schedule to this
Act; and every such certificate, when signed and
registered, shall have the force and effect of a Crown
grant. 35

1948, No. 64

(2) The provisions of this section and of sections
fourteen, seventeen, and eighteen of this Act are subject
to the provisions of section one hundred and sixteen of
the Land Act 1948, and the form of a certificate of title
may be varied as required by the operation of that 40
section.

13. Every such warrant—

- (a) Shall specify the name and description of the person or persons entitled to the grant, and, if more than one, whether as joint tenants or tenants in common, and the date whereon the right to the grant accrued, together with a description of the land sufficient to identify the same, the correctness of which shall be certified by the Surveyor-General, or by some person appointed by him for the purpose; and whether the land is intended to be held in trust as a public reserve or otherwise, or is subject to any road or other reservation or restriction; and
- (b) Shall be filed by the Registrar in his office for reference, and shall be conclusive evidence to the Registrar of the matters hereby required to be therein stated.

Particulars to be specified in warrant.

1915, No. 35, s. 13

14. If it appears on the provisional register that the estate of any person named in any warrant as entitled to a Crown grant has become vested in any other person claiming through the person named in the warrant, the Registrar may issue a certificate of title direct to the person appearing to be so entitled.

Certificate may be issued to person claiming through person named in warrant.

1915, No. 35, s. 14

15. Every certificate of title to be issued as aforesaid shall be made subject to all encumbrances, estates, and interests appearing on the provisional register as affecting the land at the date of the issue of the certificate.

Certificate to issue subject to existing encumbrances.

Ibid., s. 15

16. No warrant shall be necessary for the issue of a certificate of title to any person in whom any land has become vested, whether before or after the commencement of this Act, for an estate in fee simple in possession by any Act of the General Assembly or by any Proclamation or Order in Council under the express provisions of any such Act since the first day of March, eighteen hundred and seventy-one.

Warrant not necessary where persons entitled under Act, &c.

Ibid., s. 16

17. (1) The land comprised in any certificate of title issued in lieu of a Crown grant shall be deemed to have been subject to the provisions of the Land Transfer Acts as from the date fixed by the Governor-General's warrant as the date of acquisition of title

Warrant to fix antevesting date.

Ibid., s. 17

1947, No. 59, Pt. I

1951, No. 60, s. 8

thereto; and that date shall, for all purposes whatsoever, be deemed the antevesting date, in the same manner as if that antevesting date had been inserted in a Crown grant of the said land.

(2) The reference to an antevesting date in any certificate of title purporting to be issued in pursuance of any such warrant shall be conclusive evidence of that date, and that the same was fixed by the Governor-General's warrant, as in the certificate is set forth and stated.

1889, No. 29

(3) This section shall not be construed to validate or enable the registration under the Land Transfer Acts of any instrument executed before the sixteenth day of September, eighteen hundred and eighty-nine (being the date of the commencement of the Land Transfer Act 1885 Amendment Act 1889), by any Maori owner, so far as the instrument was not valid or capable of registration before that date.

Reservation of
road by
warrant.
1915, No. 35,
s. 18

18. (1) The reservation in any such warrant of any right of road, or right to take or lay off any road, shall, as from the date of the warrant, have the like effect as if the reservation had been contained in a Crown grant on the like date of the land the subject thereof.

(2) Every such reservation, and all rights existing by virtue thereof, shall be deemed sufficiently protected by the general reservation in any certificate of title of the right of the Crown to take and lay off roads under the provisions of any Act of the General Assembly, and no certificate of title shall be impeached on the ground of uncertainty or otherwise on account of any such reservation therein contained.

Voluntary Applications to Bring Land Under Act

How land may
be brought
under Act.
Ibid., s. 19

19. Land which has not become subject to this Act in any manner under the foregoing provisions may, if the same has been alienated or contracted to be alienated from the Crown in fee, be brought under this Act in manner hereinafter provided; but no application shall be received to bring under this Act land for which no Crown grant has been issued until the application has been approved by the Surveyor-General, or by some person appointed by him for the purpose, and has been assented to by the Governor-General.

20. (1) The Registrar of each district shall receive applications for the purpose aforesaid in Form A in the *Second* Schedule to this Act, if made by any of the following persons, that is to say:—

By whom
applications
may be made,
1915, No. 35,
s. 20
1925, No. 20,
s. 5 (2)

- 5 (a) By any person (claiming to be the person) in whom the fee simple of the land is vested in possession either at law or in equity:

10 Provided that, wherever trustees other than trustees of public reserves have no express power to sell the land which they seek to bring under this Act, the person claiming to be beneficially entitled to the land shall concur in the application:

- 15 (b) By any person claiming a life estate in possession, not being a lease for a life or lives:

 Provided that all persons claiming to be beneficially entitled in reversion or remainder shall concur in the application:

- 20 (c) By any person having power legally or equitably to dispose of the fee simple in possession, but, if subject to the consent of any other person, then with that consent:

- 25 (d) By any person or body corporate holding any land as a public reserve, but in that case subject to the trusts affecting the reserve:

- (e) By the guardian of any infant, making the application in the name of the infant:

- 30 (f) In the case of a mentally defective person within the meaning of the Mental Defectives Act 1911, being a patient within the meaning of that Act, by the Public Trustee or, as the case may be, the committee of his estate, making the application in the name of the mentally defective person:

See Reprint
of Statutes,
Vol. V, p. 743

- 35 (g) In the case of a person in respect of whom a protection order is in force under the Aged and Infirm Persons Protection Act 1912, by the manager of his estate, making the application in the name of the protected person:

Ibid., Vol. II,
p. 887

- 40 (h) By any agent holding a power of attorney authorizing the sale of a freehold estate in any land of an absent proprietor, and making the application in the name of the proprietor, unless the power expressly prohibits his so
45 doing.

- (2) No such application shall be received - -
- (a) From any person claiming to be entitled to an undivided share of any land, unless the persons who appear to be entitled to the other undivided shares of the said land join in the application with a view to bringing the entirety under this Act; nor 5
- (b) From the mortgagor of any land, unless the mortgagee consents to the application; nor
- (c) From the mortgagee of any land, except in exercise of a power of sale contained in the mortgage. 10

(3) Every application to bring any land under this Act made by or on behalf of a company or other body corporate incorporated in New Zealand shall be under the seal of the corporation. 15

Applicant to
surrender
title deeds.
1915, No. 35,
s. 21

21. Every applicant shall, when making his application, surrender to the Registrar all instruments in his possession or under his control constituting or in any way affecting his title, and shall furnish a schedule of those instruments, and also, if required, an abstract of his title, and shall make and subscribe a declaration of the truth of the statements in the application, and shall supply a plan of the land applied for, showing the boundaries and relative position thereof. 20 25

Procedure on
application.
Ibid., s. 22

22. Upon the receipt of any application the Registrar shall cause the title of the applicant to be examined and reported upon by the Examiner of Titles, and shall thereafter take into consideration the application, with the report of the Examiner, and shall confer with the Examiner thereon. 30

Notice of
application to
be gazetted.
Ibid., s. 23

23. If it appears to the satisfaction of the Registrar and Examiner that the land in respect of which the application is made is held by the applicant for the estate or interest specified in the application, and that all persons interested other than as lessees under a lease for years are parties to the application, the Registrar shall cause notice of the application to be advertised in the *Gazette* and in one or more newspapers published in the district, and shall in every such advertisement limit and appoint a time, not less than one month from the publication thereof in the *Gazette*, within which caveat may be lodged forbidding the bringing of the land under this Act. 35 40

24. If it appears that the applicant is the original grantee from the Crown, and that no instrument, matter, or thing affecting the title to the land other than the Crown grant has been registered, the Registrar and
 5 Examiner may dispense with the aforesaid advertisement, and in that case the Registrar may proceed forthwith to bring the land under this Act by issuing to the applicant, or to such person as he by writing under his hand directs, a certificate of title in Form No. 2 in the
 10 *First Schedule* to this Act.
25. If it appears to the Registrar and Examiner that any person interested (otherwise than as a lessee under a lease for years) is not a party to any application, or that the evidence adduced by the applicant in support of his
 15 claim or of any matters which he is required to prove is deficient in any essential particular, the Registrar and Examiner may either reject the application, or at discretion may limit a time, by advertisement as aforesaid, within which caveat may be lodged forbidding the bringing
 20 of the land under this Act, and in such latter case may direct that such notices shall be served by the applicant upon such persons and in such form and manner as the Registrar and Examiner deem necessary, and that, in addition to the advertisements prescribed in section
 25 *twenty-three* hereof, notice of the application be advertised at the cost of the applicant in any gazette or newspaper published in New Zealand or elsewhere.
26. The Registrar shall, in addition to the notices aforesaid, cause notice of every such application as last
 30 mentioned to be posted in a conspicuous place in the Land Registry Office of the district, and in such other places as he may deem expedient, and shall forward by registered letter through the Post Office a copy of the notice addressed to each of the persons (if any) stated
 35 by the applicant to be in occupation of the land, or to be occupiers or proprietors of land adjoining.
27. If, at the expiration of the time limited in respect of any application as aforesaid, it appears to the Registrar and Examiner that all necessary notices have been
 40 given, and that no caveat has been lodged, and if no sufficient cause to the contrary otherwise appears, the Registrar shall proceed to bring the land described in

If applicant is original grantee, notice may be dispensed with.
 1915, No. 35, s. 24

When Registrar may reject application or order service of notices.
 Ibid., s. 25

Notice of application to be posted in Land Registry Office.
 Ibid., s. 26

If no caveat lodged, Registrar may bring land under Act.
 Ibid., s. 27

the application under this Act, by issuing to the applicant, or to such person as he by writing under his hand directs, a certificate of title in the Form No. 2 aforesaid.

In case of failure to serve notice, time may be extended.
1915, No. 35,
s. 28

28. If it appears to the Registrar and Examiner, at the expiration of the time limited as aforesaid, that there has been a failure in the service of any notice, and that service thereof is essential, the Registrar and Examiner may either reject the application, or may limit and appoint a further time within which caveat may be lodged as aforesaid, and upon the expiration of that time, and upon proof of service of the notice, may, if no caveat has been lodged, bring the land under this Act by issuing a certificate in manner aforesaid.

Application may be withdrawn by consent of persons interested.
Ibid., s. 29

29. The applicant may, with the consent of the person (if any) in whose name the certificate of title has been directed to be issued, withdraw his application at any time prior to the issuing of the certificate; and the Registrar shall in that case return to him, or to the person (if any) notified in the application as having a lien thereon, all instruments of title deposited by the applicant in support of his application.

Disposition of previous title deeds on issue of certificate of title.
Ibid., s. 30

30. (1) Upon issuing a certificate of title bringing land under this Act, the Registrar shall cancel by stamp or otherwise the conveyance or other instrument through which the applicant derives his title; but, if any such instrument relates to or includes any property other than the land included in the certificate of title, the Registrar shall, by endorsement thereon, cancel the same in so far only as relates to the land included in the certificate, and that instrument shall for all other purposes remain in full force and effect.

(2) All instruments of title relating exclusively to the land shall be retained by the Registrar, and no person shall be entitled to the production thereof except upon the written order of the applicant, or of some person claiming through or under him, or upon the order of the Supreme Court.

Reversion on lease not extinguished by bringing land under Act.
Ibid., s. 31

31. The reversion expectant upon any lease shall not be deemed to have been extinguished in consequence of the land whereof that lease has been granted having been brought under this Act, and the person appearing upon the register as seised of the land described in the lease shall be held in every Court of law and equity to

be seised of the reversion expectant upon the lease, and to have all powers, rights, and remedies to which a reversioner is by law entitled, and shall be subject to all covenants and conditions therein expressed to be performed on the part of the lessor.

32. It shall not be necessary for any Registrar of Deeds to register any Crown grant that may be transmitted to him for registration under the Deeds Registration Act 1908 pending an application to bring the land comprised therein under this Act.

Registration of Crown grant under Deeds Registration Act not necessary.

1915, No. 35, s. 32

See Reprint of Statutes, Vol. VII, p. 1143

PART III

REGISTRATION

33. Each Registrar shall keep a book to be called the "register", and shall bind up therein a duplicate of every grant of land and of every certificate of title to land within his district, and each such duplicate grant and certificate of title shall constitute a separate folium of the register, and the Registrar shall record thereon the particulars of all instruments, dealings, and other matters by this Act required to be registered or entered on the register affecting the land included under each such grant or certificate of title distinct and apart.

Registrar to keep register. 1915, No. 35, s. 33

34. (1) Every grant and certificate of title shall be deemed and taken to be registered under the provisions and for the purposes of this Act so soon as the same have been marked by the Registrar with the folium and volume as embodied in the register.

When instruments deemed registered. Ibid., s. 34 (1), (2)

(2) Every memorandum of transfer or other instrument purporting to transfer or in any way to affect land under the provisions of this Act shall be deemed to be so registered so soon as a memorial thereof as hereinafter described has been entered in the register upon the folium constituted by the existing grant or certificate of title of the land.

35. The person named in any grant, certificate of title, or other instrument so registered as seised of or taking any estate or interest shall be deemed to be the registered proprietor thereof.

Registered proprietor. Ibid., s. 34 (3)

Instruments to
be in
duplicate.
1915, No. 35,
s. 35 (1), (2)

36. (1) Every instrument presented for registration shall (except in the case of a memorandum of transfer) be in duplicate, or, if the person presenting the same so requires, in triplicate, and shall be attested by a witness:

5

Provided that, where the instrument affects land in more than one district, the Registrar of each district to whom the instrument is presented for registration as to that part of the land that is situated in his district may require the presentation for filing in his office of either 10 an additional executed copy of the instrument or a copy of the instrument certified as a true copy by the Registrar in whose district an executed copy has already been filed.

(2) In the case of an instrument registered in 15 triplicate one part shall be marked "Triplicate," and it shall not be necessary to record on that part any memorial as provided by section *forty* of this Act.

Priority
according to
time of
registration.
Ibid., s. 35
(3), (4)

37. (1) Every instrument shall be registered in the order of time in which the same is presented for that 20 purpose.

(2) Instruments registered with respect to or affecting the same estate or interest shall, notwithstanding any express, implied, or constructive notice, be entitled in priority the one over the other according to the date of 25 registration, and not according to the date of each instrument itself.

Registration
procedure.
Ibid., s. 35
(5)-(7)

38. (1) On registration of any instrument the Registrar shall file the same or one part thereof (if in duplicate or triplicate) in his office and deliver the other 30 or others (if any) to the person presenting the same for registration.

(2) So soon as registered every instrument drawn in any of the forms provided in the Schedules to this Act, or in any form which for the same purpose may be 35 authorized in conformity with the provisions of this Act, shall, for the purposes of this Act, be deemed and taken to be embodied in the register as part and parcel thereof.

(3) Every such instrument, when so constructively 40 embodied and stamped with the seal of the Registrar, shall have the effect of a deed duly executed by the parties signing the same.

(4) Where there is any conflict between the part of any instrument filed in the office of the Registrar and any part delivered under subsection *one* of this section to the person presenting the instrument for registration, the first mentioned part shall prevail.

39. Every memorial entered in the register shall state the nature of the instrument to which it relates, the day and hour of the production of the instrument for registration, and the names of the parties thereto, and shall refer by number or symbol to the instrument, and shall be signed by the Registrar.

Contents of memorial.
1915, No. 35,
s. 36

40. (1) Whenever a memorial of any instrument has been entered in the register, the Registrar shall (except in the case of a transfer or other dealing endorsed upon a memorandum of lease or mortgage, as hereinafter provided) record the like memorial on the duplicate grant, certificate of title, lease, or other instrument evidencing title to the estate or interest intended to be dealt with or in any way affected, unless the Registrar, as hereinafter provided, dispenses with the production of the same.

Memorial to be recorded on duplicate grant or other instrument.
Ibid., s. 37

(2) The Registrar shall endorse on every instrument so registered a certificate of the date and hour on which the said memorial was entered in the register, and shall authenticate each such certificate by signing his name and affixing his seal thereto.

(3) Every such certificate shall be received in all Courts as conclusive evidence that the instrument has been duly registered.

41. (1) No instrument shall be effectual to pass any estate or interest in any land under the provisions of this Act, or to render any such land liable as security for the payment of money, but, upon the registration of any instrument in manner hereinbefore prescribed, the estate or interest specified in the instrument shall pass, or, as the case may be, the land shall become liable as security in manner and subject to the covenants, conditions, and contingencies set forth and specified in the instrument, or by this Act declared to be implied in instruments of a like nature.

Instruments not effectual until entry in register.
Ibid., s. 38

(2) If two or more instruments executed by the same proprietor, and purporting to transfer or encumber the same estate or interest in any land, are at the same time

presented to the Registrar for registration and endorsement, he shall register and endorse that instrument under which the person claims property, who presents to him the grant or certificate of title of the land for that purpose.

Informal
instruments not
to be
registered.
1915, No. 35,
s. 39

42. No Registrar shall register any instrument purporting to transfer or otherwise to deal with or affect any estate or interest in land under the provisions of this Act, except in the manner herein provided, nor unless that instrument is in accordance with the provisions hereof.

Where
Registrar's
requisition not
complied with.
1925, No. 20,
s. 2

43. (1) If any requisition made by the Registrar in respect of any instrument presented for registration is not complied with within such time as the Registrar may specify in that behalf in a notice forwarded by registered letter through the post to the person who presented the instrument, or to the person entitled under the instrument,—

- (a) The Registrar may refuse to complete or proceed with the registration of the instrument or to do any act or make any entry in relation thereto:
- (b) He may thereupon dispose of the instrument, together with all other documents lodged in connection therewith or such of those documents as he thinks fit, either by delivering the same to the person by whom the instrument was presented, or by sending the same by registered letter through the post addressed to that person, or addressed to the person entitled under the instrument, as the case may require:
- (c) The fees paid in respect of any such instrument, other than the fee for any new certificate of title that has not been prepared, shall be forfeited.

(2) Before disposing of any such instrument as aforesaid the Registrar shall make a precis of the instrument, containing the number and nature of the instrument, the names of the parties, and a description of the land intended to be affected, and shall attach thereto a copy of the requisition and of the notice aforesaid, and shall file the same in the manner in which the instrument would have been filed if it had been registered.

(3) The right of appeal from decisions of the Registrar provided for in this Act shall apply in respect of the exercise of the powers given to the Registrar by this section.

- 5 **44.** (1) The Registrar and Examiner, in case they see reasonable cause for so doing, may dispense with the production of any grant, certificate of title, lease, or other instrument for the purpose of entering the memorial by this Act required to be entered upon the
10 transfer or other dealing with land within his district and under the provisions of this Act.

Registrar may dispense with duplicate instruments.
1915, No. 35, s. 40

- (2) Where production has been dispensed with as aforesaid, then, upon the registration of the transfer or other dealing, the Registrar shall notify in the memorial
15 in the register book of his district that no entry of that memorial has been made on the duplicate grant or other instrument, and every such transfer or other dealing shall thereupon be as valid and effectual as if the memorial had been so entered:

- 20 Provided that before registering any such transfer or other dealing the Registrar shall give at least fourteen days' notice of his intention to register the dealing in the *Gazette* and in at least one newspaper published in the district.

- 25 **45.** The Registrar, upon payment of the prescribed fee, shall furnish to any person applying for the same a certified copy of any registered instrument affecting land within his district, and every such certified copy signed by him, and sealed with his seal, shall be received
30 in evidence for all purposes for which the original instrument might be put in evidence.

Certified copies of register to be evidence.
Ibid., s. 41

- 35 **46.** Any person may, upon payment of the prescribed fee, have access to the register for the purpose of inspection during the hours and upon the days appointed by regulation under this Act.

Register to be open for search.
Ibid., s. 42

- 47.** No Registrar shall register any instrument liable to stamp duty unless the same purports to have been duly stamped, but no registration shall be invalidated by reason of any error in this respect.

Instrument not to be registered unless duly stamped.
Ibid., s. 43

Where
boundaries of
district altered,
copies of
original
registers to be
evidence.

1915, No. 35,
s. 44

1950, No. 24,
s. 3

48. (1) Where by an alteration of the boundaries of any districts or by the constitution of a new district, whether before or after the commencement of this Act, any land formerly comprised in any district has become included in any other district, the Registrar of the district in which the land was formerly comprised shall deposit with the Registrar of the other district either the duplicates or copies of the duplicates of grants and certificates and documents of title in respect of that land, which shall thereupon be bound by the Registrar of the other district in the register kept by him under section *thirty-three* hereof, or, in the case of land comprised in any provisional register, under section *fifty* hereof, under such volume and folio numbers as he may assign thereto, and the register of the district in which the land was formerly comprised shall be amended accordingly.

(2) All such copies of the registers of the district in which any such land was formerly comprised as have been deposited with the Registrar of the said other district, whether before or after the commencement of this Act, shall, for all the purposes of the Land Transfer Acts, have and be deemed to have had the force and effect of the original registers.

(3) For the purposes of this section, "registers" includes all registers, record books, indices, and books of reference required to be kept under the Land Transfer Acts or by any regulations thereunder.

District Agents

Registration
through District
Agents.
1915, No. 35,
s. 45

49. (1) There may from time to time be appointed in and for each district fit and proper persons as District Agents, who may receive and transmit to the Registrar for registration any instruments the Registrar is required or empowered to register; and may also, on registration of any instrument, receive the same from the Registrar on behalf of the persons entitled to possession thereof.

(2) Instruments forwarded for registration through a District Agent shall, as between themselves, be entitled to registration in the order in which they are lodged with the Agent; but, as against all other instruments, shall be entitled to priority according to the time of actual receipt by the Registrar.

(3) The Governor-General in Council may from time to time prescribe fees to be taken under this section, and make such regulations with regard to the matters aforesaid as may be necessary or expedient.

5 *Provisional Registration*

- 10 50. Until a folium of the register has been duly constituted for any land under this Act, all dealings, memorials, and entries affecting that land shall be provisionally registered as hereinafter provided, that is to say,—
- 15 (a) For the purposes of provisional registration, and for the recording of all dealings and entries, a certificate under the hand of the Commissioner of Crown Lands to the effect that the purchase money has been paid, or the order of the Maori Land Court declaring that the lands shall be held in freehold tenure, shall take the place of a Crown grant:
- 20 (b) Every such certificate or order shall be issued in duplicate, and it shall be the duty of the person issuing the same to forward one duplicate to the Registrar of the district in which the land is situate:
- 25 (c) The Registrar shall embody all such duplicates in a book (hereinafter called the provisional register), and each certificate or order shall form a separate folium thereof, and shall be numbered accordingly, and when so numbered shall be deemed duly registered.
- 30 51. (1) So soon as the register of any land is finally constituted, the Registrar shall close the provisional register as to that land, and shall transfer to the register the record of all memorials and entries affecting that land so far as may be necessary to preserve existing
- 35 interests.
- (2) The Registrar shall also record the same on the duplicate grant, and all such memorials and entries and the dealings to which they relate shall thereafter take effect as if the same had been originally entered in the
- 40 register.
- (3) Every dealing the memorial or entry whereof has been either originally entered on or has been transferred to the register in manner aforesaid shall be deemed to be finally registered.

Until register duly constituted, land to be provisionally registered.

1915, No. 35, s. 46

1920, No. 43, s. 30

1925, No. 20, s. 6

1947, No. 59, s. 4

When register duly constituted, provisional register to be closed.

1915, No. 35, s. 47

Entries in
provisional
register to be
evidence of
title.

1915, No. 35,
s. 48
1925, No. 20,
s. 6

Special
provisions as
to Canterbury
educational
reserves.

1915, No. 35,
App. II
1880, No. 8,
s. 10
1920, No. 43,
s. 30
1951, No. 60,
s. 8

52. So long as land remains on the provisional register, no certificate of title other than a certificate in lieu of grant shall be issued in respect thereof, but every entry on the provisional register, if purporting to be duly made and signed, shall be received in all Courts of law and equity as evidence of the particulars therein set forth, and shall, as against the person named in the original certificate or order of Court and all persons claiming through, under, or in trust for him, be conclusive evidence that the person named in that entry is seised or possessed of the estate or interest of which he is expressed to be the registered proprietor. 5 10

53. (1) Every receipt issued by the Commissioner of Crown Lands for the Land District of Canterbury for the purchase money of land contracted to be sold under the provisions of the Canterbury Educational Reserves Sale and Leasing Act 1876, or any Act in amendment thereof or substitution therefor, shall be in duplicate, and the Commissioner shall transmit one copy thereof to the Registrar. 15 20

(2) The Registrar shall include the receipt in the provisional register book of his district, as if the receipt was a certificate under the hand of the Commissioner of Crown Lands evidencing payment of the purchase money of Crown lands; and, until the issue of a certificate of title for the same as hereinafter mentioned, all dealings with that land by the purchaser, and by those claiming through or under him, shall be entered on the provisional register only. 25

(3) Nothing in this Act shall be taken to preclude the registration in due form of any instrument requisite for giving effect to the provisions of any such Act as aforesaid and for vesting the land contracted to be sold as aforesaid in the purchaser named in the receipt; but, until the issue of a certificate of title for the land, no other dealings whatever with the land shall be registered save and except such as are hereinbefore authorized to be entered on the provisional register. 30 35

(4) Upon the registration of a Crown grant for the said land, or of a certificate of title issued pursuant to a warrant in lieu of grant or pursuant to a certificate of the Commissioner of Crown Lands and the Chief Surveyor, and of a duly executed transfer to the purchaser, the Registrar shall cancel that grant or certificate of title as 40

to the land transferred, and issue a certificate of title for the land to the purchaser or to such other person or persons, and subject to such memorials and entries thereon, as are necessary for giving effect to the dealings
 5 on the provisional register.

54. Subject to any special provisions herein contained, all provisions of this Act shall, so far as the circumstances of the case will admit, apply to land on the provisional register, and to the registration of instruments and
 10 other matters affecting the same, save that the estate or interest of a proprietor of any estate or interest on the provisional register shall be indefeasible only against the person named in the original certificate or order, and all persons claiming through, under, or in trust for him.

Application
of Act to
provisional
registration.
1915, No. 35,
s. 49
1925, No. 20,
s. 6

55. After the land has been transferred from the provisional register as aforesaid, no dealing having the effect of creating any new estate or interest shall be registered until all fees for the issue and registration of the Crown grant or certificate of title have been paid:

No dealings
to be registered
until payment
of fees.
1915, No. 35,
s. 50
1924, No. 32,
s. 27

20 Provided that where a part only of the land in any grant or certificate is dealt with, the fees payable in respect thereof, so far as those fees are capable of apportionment, shall be apportioned upon such evidence as the Registrar deems sufficient for that purpose, and
 25 the payment of the amount assessed shall discharge the land in respect whereof the assessment is made.

Lost Instruments

56. In case of the loss or destruction before registration thereof of any instrument executed by a registered
 30 proprietor for the purpose of creating, transferring, or otherwise dealing with any estate or interest in land under this Act, or any mortgage or encumbrance affecting land under this Act, the person claiming to be entitled to be registered as proprietor of any estate or interest
 35 by virtue of the lost instrument may make application to the Supreme Court to have his claim investigated and declared.

Supreme Court
may
investigate
cases of lost
instruments.
1915, No. 35,
s. 51

57. (1) Upon proof to the satisfaction of the Court of the fact of such loss or destruction as aforesaid, and
 40 that such instrument as aforesaid has not been wilfully destroyed by or with the connivance of the applicant, and that the applicant is entitled to be registered as aforesaid, and that due notice of the application has been

Court may
order claimant
to be
registered as
proprietor.
Ibid., ss. 52, 53

given to the registered proprietor of the land, estate, or interest intended to be affected, and to all other necessary parties, the Court may make an order defining and declaring the estate or interest of the applicant under the instrument, and requiring the Registrar to register him as proprietor thereof, and the Registrar shall obey the order. 5

(2) Every such registration shall have the same effect as from the date thereof as if the original instrument had been duly registered; and that instrument shall for the purposes of this Act be deemed and taken to have been in the terms or to the effect set forth in the order. 10

(3) The Court shall, in hearing and deciding upon any case under this section and the *last preceding* section, be guided by the real justice of the case, and shall direct itself by such evidence as may seem to it most suitable to the circumstances of the case. 15

Outstanding Interests

Interests
outstanding
to be notified
in register.

1915, No. 35,
3. 54

58. Leases, mortgages, encumbrances, or other estates or interests affecting the estate of the proprietor at the time of bringing land under this Act (hereinafter called outstanding interests), shall, so far as the same are disclosed in the application or can otherwise be ascertained, be notified on the register in such manner as to preserve their priority, and shall thereafter, notwithstanding variation in form, be dealt with as if the same or corresponding interests had been originally created under this Act, and every dealing therewith shall imply all powers, conditions, and covenants incident to dealings in the like form with land under this Act. 20 25 30

Interests
registered
under Deeds
Registration
Act to be
recognized.

Ibid., s. 55

1947, No. 59,
Pt. I

See Reprint of
Statutes, Vol.
VII, p. 1143

59. (1) Estates and interests existing by virtue of instruments registered under the Deeds Registration Act 1908 affecting land over which the Maori title has been extinguished since the constitution of the district within which the land is situate shall be deemed outstanding interests within the meaning of this Act, and shall be noted accordingly. 35

(2) No such estates or interests shall be so recognized if created prior to the antevesting date in the grant, or subsequent to the thirty-first day of August, eighteen hundred and seventy-four. 40

60. No person claiming any estate or interest by virtue of any deed or instrument which might have been registered against the land under any Act for the time being in force for the registration of deeds within New Zealand shall have any claim or action against the Crown by reason of deprivation of that estate or interest consequent on bringing the land under this Act, unless that deed or instrument has been so registered, or unless the Registrar has been served personally with notice in writing of the claim, or has had actual personal knowledge thereof, and has omitted to recognize the same.

Claims for loss through neglect of claimant to register.
1915, No. 35, s. 56
1930, No. 6, s. 53
1931, No. 5, s. 25

Registered Proprietors

61. Subject to any Act of the General Assembly for the time being in force relating to the tenure of land by persons of the Maori race, any two or more persons named in any Crown grant or in any instrument executed under this Act as transferees, mortgagees, or proprietors of any estate or interest, shall, unless the contrary is expressed, be deemed to be entitled as joint tenants with right of survivorship, and every such instrument, when registered, shall take effect accordingly.

Persons jointly registered to be joint tenants.
1915, No. 35, s. 57
1947, No. 59, Pt. I

62. Notwithstanding the existence in any other person of any estate or interest, whether derived by grant from the Crown or otherwise, which but for this Act might be held to be paramount or to have priority, the registered proprietor of land or of any estate or interest in land under the provisions of this Act shall, except in case of fraud, hold the same subject to such encumbrances, liens, estates, or interests as may be notified on the folium of the register constituted by the grant or certificate of title of the land, but absolutely free from all other encumbrances, liens, estates, or interests whatsoever,—

Estate of registered proprietor paramount.
1915, No. 35, s. 58

- (a) Except the estate or interest of a proprietor claiming the same land under a prior certificate of title or under a prior grant registered under the provisions of this Act; and

- (b) Except so far as regards the omission or **misd**escription of any right of way or other easement created in or existing upon any land; and
- (c) Except so far as regards any portion of land 5 that may be erroneously included in the grant, certificate of title, lease, or other instrument evidencing the title of the registered proprietor by wrong description of parcels or of boundaries. 10

Registered
proprietor
protected
against
ejectment.
1915, No. 35,
s. 59

63. (1) No action for possession, or other action for the recovery of any land, shall lie or be sustained against the registered proprietor under the provisions of this Act for the estate or interest in respect of which he is so registered, except in any of the following cases, 15 that is to say:—

- (a) The case of a mortgagee as against a mortgagor in default:
- (b) The case of a lessor as against a lessee in default: 20
- (c) The case of a person deprived of any land by fraud, as against the person registered as proprietor of that land through fraud, or as against a person deriving otherwise than as a transferee *bona fide* for value from or 25 through a person so registered through fraud:
- (d) The case of a person deprived of or claiming any land included in any grant or certificate of title of other land by misdescription of that other land, or of its boundaries, as against the 30 registered proprietor of the other land, not being a transferee or deriving from or through a transferee thereof *bona fide* for value:
- (e) The case of a registered proprietor claiming under the instrument of title prior in date of 35 registration, under the provisions of this Act, in any case in which two or more grants or two or more certificates of title, or a grant and a certificate of title, may be registered under the provisions of this Act in respect to the 40 same land.

(2) In any case other than as aforesaid, the production of the register or of a certified copy thereof shall be held in every Court of law or equity to be an absolute bar and estoppel to any such action against
 5 the registered proprietor or lessee of the land the subject of the action, any rule of law or equity to the contrary notwithstanding.

64. After land has become subject to this Act, no title thereto, or to any right, privilege, or easement in,
 10 upon, or over the same, shall be acquired by possession or user adversely to or in derogation of the title of the registered proprietor.

Title guaranteed to registered proprietor. 1915, No. 35, s. 60

PART IV

CERTIFICATE OF TITLE

15 65. (1) Every registered proprietor of an estate of freehold in possession in land under this Act shall be entitled to a certificate of title for the same in Form No. 2 in the said *First* Schedule to this Act, or as near thereto as the nature of the interest will permit.

Registered proprietor entitled to certificate of title. Ibid., s. 61

20 (2) No certificate of title shall issue for any undefined interest.

66. (1) In the case of any lease, including a lease forming a folium of the register book in the office of the Registrar, the Registrar may, if in his opinion the
 25 number or nature of the entries thereon or in the register book renders it expedient so to do, issue to the registered proprietor a certificate of title for his leasehold interest.

Certificates of title in respect of leasehold interests. 1925, No. 20, s. 3

(2) The certificate of title shall refer to the lessor's
 30 certificate of title, if any, and to the lease, and shall state the date of commencement and the length of term, or the date of expiry of the term, created by the lease, and shall in all other respects be, with the necessary modifications, in Form No. 2 in the said *First* Schedule
 35 to this Act, and shall be subject to the provisions of the lease and also to the provisions of this Act affecting leases.

(3) On the determination of the lease, otherwise than by effluxion of time, the certificate of title shall be
 40 cancelled by the Registrar by endorsement on the folium of the register book, and on the expiry of the term of the lease the certificate of title shall be deemed to be so cancelled.

(4) The Registrar shall enter a memorial of the issue of the certificate of title upon the lease and upon the outstanding duplicate thereof, and also upon the folium of the register book of the lessor's certificate of title (if any), and thereafter all dealings with or trans- 5 missions of the lease shall be registered on the certificate of title, and not on the folium of the register book of the lessor's certificate of title nor on the folium constituted by the lease nor on the outstanding duplicate of the lease.

(5) All the provisions of this Act with respect to 10 certificates of title shall, with the necessary modifications, apply to a certificate of title issued under this section in respect of a leasehold interest.

(6) No fee shall be payable for the issue of a certificate of title under this section in any case where the 15 unexpired period of the term of the lease does not exceed five years.

Existing
encumbrances
to be noted in
certificate.

1915, No. 35,
s. 62

67. The Registrar shall note upon every certificate, in such manner as to preserve their priority, the memorials of all unsatisfied mortgages, leases, and other 20 estates and interests, outstanding or otherwise, to which the land is subject at the time of issuing the certificate; and, in case of a certificate issued to a minor or person under other legal disability, the Registrar shall, in the certificate, state the particulars of that disability so 25 far as he has notice or knowledge thereof.

Certificate,
how to be
dated.

Ibid., s. 63

1951, No. 6,
s. 8

68. (1) Every certificate issued pursuant to any dealing under this Act shall bear even date with the registration of that dealing, unless the dealing has been originally entered on the provisional register, in which 30 case the certificate shall bear even date with the registration of the Crown grant, or with the date of receipt by the Registrar of the Governor-General's warrant for issue of a certificate in lieu of grant, or a certificate having the effect of a warrant under section *twelve* of 35 this Act, as the case may be.

(2) A certificate of title issued in the name of a registered proprietor in lieu of a cancelled certificate may be expressed to take effect as from the date of the certificate originally issued to that proprietor in respect 40 of the same estate or interest.

69. Whenever any easement or incorporeal right, other than an annuity or rentcharge in or over any land under this Act, is created for the purpose of being annexed to, or used and enjoyed together with, other
 5 land under this Act, the Registrar shall enter a memorial of the instrument creating that easement or incorporeal right upon the grant or certificate of title of the other land, and that memorial shall, as from the date of entry thereof, have the effect of including the easement or
 10 incorporeal right in the grant or certificate of title as appurtenant to the land therein described.
70. (1) Where any easement or *profit à prendre* has been determined or extinguished the Registrar shall, upon proof to his satisfaction of the determination or
 15 extinguishment, notify it upon the register, upon the duplicate copy of the instrument creating or evidencing the easement or *profit à prendre* (if it is produced to him for the purpose), and upon any other relevant instrument of title:
- 20 Provided that, unless the determination or extinguishment was by effluxion of time or merger, the Registrar, before making the entry in the register, shall give notice of his intention so to do to all persons appearing to him to be entitled to any interest under the easement or
 25 *profit à prendre*, or shall give at least one month's notice of his intention in the *Gazette* and in some newspaper published in the district where the land over which the easement or *profit à prendre* was granted is situated.
- 30 (2) The estate or interest of the registered proprietor of the easement or *profit à prendre* and of every person claiming through or under him shall, upon the making of the entry in the register, cease and determine, but without releasing any person from
 35 any liability to which he may be subject at the time of the entry.
71. On the application of any person having any registered estate or interest in any land that is subject to a registered covenant or agreement relating to
 40 fencing, the Registrar, if he is satisfied that there is

How
 memorial of
 easement to be
 recorded.
 1915, No. 35,
 s. 64

Removal of
 easements and
profits à
prendre from
 register.
 1939, No 7,
 s. 3

Removal of
 fencing
 covenants
 from title.
 Ibid., s. 10

no person who is or may become entitled to the benefit of the covenant or agreement, or that all the persons who are or may become so entitled have consented to the cancellation of the covenant or agreement, shall make an entry in the register and on any relevant instrument of title noting that the covenant or agreement is cancelled, and thereupon the covenant or agreement shall cease to have any effect. 5

Tenants in common entitled to separate certificates.
1915, No. 35, s. 65
1950, No. 24, s. 4

72. When two or more persons are entitled as tenants in common to undivided shares in any land, each such person shall be entitled to receive a separate certificate for his undivided share: 10

Provided that tenants in common shall not be bound to take separate certificates unless and until they require to make separate dealings with their respective interests and the Registrar, in his discretion, requires them to take separate certificates for those interests. 15

Issue of certificate may be withheld in certain cases.
1915, No. 35, s. 66

73. The Registrar shall not be bound to issue a certificate of title upon any application in respect of which notice is hereby required to be given by advertisement until after the expiration of fourteen days from the time limited in the advertisement. 20

Certificate issued in name of deceased person not void.
Ibid., s. 67

74. If any certificate, whether on the first bringing of land under this Act or otherwise, is issued in the name of a person who has previously died, the certificate shall not be void, but the land comprised therein shall devolve in like manner as if the certificate had been issued immediately prior to the death. 25

Certificate to be evidence of proprietorship.
Ibid., s. 68

75. Every certificate of title duly authenticated under the hand and seal of the Registrar shall be received in all Courts of law and equity as evidence of the particulars therein set forth or endorsed thereon, and of their being entered in the register, and shall, unless the contrary is proved by production of the register or a certified copy thereof, be conclusive evidence that the person named in that certificate of title, or in any entry thereon, as seised of or as taking estate or interest in the land therein described is seised or possessed of that land for the estate or interest therein specified as from the date of the certificate or as from the date from which the same is expressed to take effect, and that the property comprised in the certificate has been duly brought under this Act. 30 35 40

76. (1) No instrument purporting to deal with any land, estate, or interest under this Act shall be or be deemed to have been invalid or ineffectual by reason only that the instrument may purport to have been executed at a time when the person executing the instrument was not actually registered as the proprietor of that land, estate, or interest.

Instruments executed by person not actually registered. 1915, No. 35, s. 69

(2) Subsection *three* of section *seventeen* hereof shall extend and apply to this section.

77. No right to any public road or reserve shall be acquired, or be deemed to have been acquired, by the unauthorized inclusion thereof in any certificate of title or by the registration of any instrument purporting to deal therewith otherwise than as authorized by law.

No right to public road or reserve where unauthorized registration. Ibid., s. 70

78. No certificate of title shall be impeached or defeasible on the ground of want of notice or of insufficient notice of the application to bring the land therein described under this Act, or on account of any error, omission, or informality in the application or in the proceedings pursuant thereto.

Certificate not to be impeached. Ibid., s. 71

79. Any certificate of title issued upon the first bringing of land under this Act, whether upon application or by force of any statute or of the order of any Court, and every certificate of title issued in respect of the same land, or any part thereof, to any person claiming or deriving title under or through the first registered proprietor shall be void as against the title of any person adversely in actual occupation of and rightfully entitled to that land, or any part thereof, at the time when the land was so brought under this Act, and continuing in such occupation as aforesaid at the time of any subsequent certificate of title being issued in respect of the said land; but every such certificate shall be as valid and effectual against the title of any other person as if that adverse occupation did not exist.

Certificate void in certain cases. Ibid., s. 72

80. The Registrar may, upon such evidence as appears to him sufficient, subject to any regulations under this Act, correct errors and supply omissions in certificates of title or in the register, or in any entry therein, and may call in any outstanding instrument of title for that purpose.

Errors in register may be corrected. Ibid., s. 73

Surrender of
instrument
obtained
through fraud,
&c.
1915, No. 35,
s. 74

81. Where it appears to the satisfaction of the Registrar that any certificate of title or other instrument has been issued in error, or contains any misdescription of land or of boundaries, or that any entry or endorsement has been made in error, or that any grant, certificate, instrument, entry, or endorsement has been fraudently or wrongfully obtained, or is fraudently or wrongfully retained, he may require the person to whom that grant, certificate, or instrument has been so issued, or by whom it is retained, to deliver up the same for the purpose of being cancelled or corrected, as the case may require. 5 10

Person failing
to surrender
instrument
may be
summoned to
Court.
Ibid., s. 75

82. (1) In case any such person refuses or neglects to comply with that request, or cannot be found, the Registrar may apply to the Supreme Court for an order that the grant, certificate, or other instrument be delivered up as aforesaid. 15

(2) If that person when served with notice of the application neglects or refuses to attend before the Court at the time therein appointed, the Court may issue a warrant authorizing and directing the person so notified to be apprehended and brought before the Court for examination. 20

Person refusing
to surrender
instrument
may be
committed to
prison.
Ibid., s. 76

83. Upon the appearance before the Court of any person notified or brought up by virtue of a warrant as aforesaid, the Court may examine that person upon oath; and may order him to deliver up the grant, certificate of title, or other instrument as aforesaid; and upon his refusal or neglect to comply with the order, may commit him to any convenient prison. 25 30

Issue of new
certificate of
title, &c.
Ibid., s. 77

84. In any such case, or in case the said person has absconded so that notice of the application cannot be served upon him, the Registrar shall, if the circumstances of the case require it, issue to the proprietor of the land such certificate of title or other instrument as is herein provided to be issued in the case of any grant or certificate of title being lost, mislaid, or destroyed, and shall enter in the register notice of the issuing of that certificate of title or other instrument, and the circumstances under which it was issued, and such other particulars as he deems necessary. 35 40

85. Upon the recovery of any land, estate, or interest by any proceeding in any Court from the person registered as proprietor thereof, the Court may, in any case in which such a proceeding is not expressly
5 barred, direct the Registrar to cancel any certificate of title or other instrument, or any entry or memorial in the register relating to the land, and to substitute such certificate of title or entry as the circumstances of the case require, and the Registrar shall give effect
10 to the order accordingly.

Court may order former certificate of title to be cancelled.

1915, No. 35, s. 78

86. (1) Upon the application of any registered proprietor of land held under separate grants or certificates of title, or under one grant or certificate, the Registrar may issue to that proprietor a single
15 certificates of title, or under one grant or certificate, certificates, each containing portion of the land, so far as the same may be done consistently with any regulations for the time being in force.

Proprietor may claim single certificate in place of several, or *vice versa*.

Ibid., s. 79

(2) Upon issuing any such certificate the Registrar
20 shall cancel the grant or previous certificate, and shall note thereupon a reference to the certificate of title issued in lieu thereof.

87. (1) In the event of any grant or certificate of title being lost, mislaid, or destroyed, the registered
25 proprietor, together with other persons (if any) having knowledge of the circumstances, may make a statutory declaration stating the facts of the case, the names and descriptions of the registered owners, and the particulars of all mortgages, encumbrances, or other matters
30 affecting the land and the title thereto, to the best of the declarant's knowledge and belief.

Issue of provisional certificate in case of loss of original.

Ibid., s. 80

(2) The Registrar, if satisfied as to the truth of the declaration, may issue a provisional certificate of title, which provisional certificate shall contain an exact copy
35 of the original grant or certificate and of every memorandum and endorsement thereon, and shall also contain a statement of the circumstances under which the provisional certificate is issued.

(3) The Registrar shall at the same time enter in the register notice of the issuing of the provisional certificate and the date thereof, and the circumstances under which it was issued.

(4) The Registrar before issuing a provisional certificate shall give at least fourteen days' notice of his intention so to do in the *Gazette* and in at least one newspaper published in New Zealand.

(5) Every such provisional certificate shall be available for all purposes and uses for which the grant or certificate of title so lost or mislaid would have been available, and as valid to all intents as the lost grant or certificate.

(6) Instead of issuing a provisional certificate of title as herein provided, the Registrar, after giving notice similar to that provided for in subsection *four* hereof, may cancel the certificate of title by an endorsement on the existing folium of the register book, and may issue in lieu thereof a new certificate of title for the land.

Provision in
case of lost
lease or
mortgage.

1915, No. 35,
s. 100
1925, No. 20,
s. 6

88. (1) The provisions of the *last preceding* section shall, as far as they are applicable and with the necessary modifications, apply to any lease or licence, or memorandum of lease, or memorandum of mortgage of which the outstanding duplicate has been lost, mislaid, or destroyed.

(2) The same provisions shall, as far as they are applicable and with the necessary modifications, apply to any lease or licence, or memorandum of lease, or memorandum of mortgage of which the outstanding duplicate has become defaced or dilapidated and is surrendered to the Registrar for cancellation, but in that case the statutory declaration referred to in subsection *one* and the notices referred to in subsection *four* of the said *last preceding* section shall not be necessary.

Issue of
certificate of
title on sale for
non-payment
of rates.

1915, No. 35,
s. 81

See Reprint of
Statutes, Vol.
VII, p. 1010

89. Where a transfer has, under section eighty-one of the Rating Act 1925, been registered without production of the outstanding certificate of title, the Registrar may, if he is satisfied that the outstanding certificate cannot be got in and cancelled, issue a new certificate in the name of the purchaser without cancellation of the outstanding certificate, and for that purpose may cancel the existing folium of the register.

PART V

TRANSFERS

90. (1) When land under this Act, or any estate or interest therein, is intended to be transferred, or any
 5 right of way or other easement or any *profit à prendre* is intended to be created, the registered proprietor may execute for the purpose of registration a memorandum of transfer in Form B in the *Second* Schedule hereto, which memorandum shall, for description of the land
 10 intended to be dealt with, refer to the proper folium of the register, with such further description as may be necessary, and shall contain a precise statement of the estate or interest intended to be transferred or created. No easement or *profit à prendre* created as aforesaid in
 15 respect of any mortgaged or encumbered land shall be binding on the mortgagee except so far as he has consented thereto.

Transfer by registered proprietor, how effected.
 1915, No. 35, s. 82
 1925, No. 20, s. 6

(2) The Registrar may, at his discretion, dispense with the requirements of this section as to the mode of
 20 description of the land, estate, or interest intended to be dealt with, if he is satisfied that the description given is sufficient to identify that land, estate, or interest.

91. If any memorandum of transfer purports to transfer the whole of the land described in a grant or
 25 certificate of title for all the estate and interest therein of any registered proprietor, it shall not be necessary for the Registrar to cancel that grant or certificate; but the memorial of the transfer endorsed on the grant or certificate shall be as good evidence that the transferee
 30 named in that memorial is seised of all the estate and interest in the said land of the person whose interest is expressed to be transferred, subject as in the grant or certificate mentioned or thereon endorsed, as if a certificate of title had been issued for the same in the
 35 name of the transferee.

New certificate to transferee unnecessary if whole of land transferred.
 1915, No. 35, s. 83

92. If the transfer purports to transfer an estate of freehold in possession, not being a lease for a life or lives, in part of the land described in any grant or certificate, the transferor shall surrender that grant or

Certificate to be cancelled on transfer of portion of land only.
 Ibid., s. 84

certificate to the Registrar, and the endorsement thereon by the Registrar of a memorial of the transfer shall have the effect of cancelling the grant or certificate so far as relates to the land transferred.

New certificates to be issued for portion transferred and for balance.

1915, No. 35, s. 85

93. The Registrar, upon cancelling any grant or certificate by endorsement as aforesaid, shall issue to the transferee a certificate of title to the land transferred, and shall retain the partially cancelled grant or certificate, and when required by any person entitled thereto shall issue to that person a certificate of title for the untransferred balance of the land, or for any portion thereof. 5 10

Certificate for balance not transferred may remain valid.

Ibid., s. 86

94. (1) When any certificate of title is partially cancelled by endorsement thereon of a memorial of transfer of a portion of the land, the Registrar may, at his discretion, allow the person entitled to the untransferred balance of the land to retain the certificate, and the same shall, as to the untransferred balance, remain in full force and effect; provided that the memorial shall clearly define what portion of the land has been transferred. 15 20

(2) In the case of a transfer of a road line to Her Majesty the Registrar may mark the road line upon the plan on the certificate, or upon a new plan upon the certificate, and endorse a description of the road line upon the said certificate; and in any such case it shall not be necessary to issue a certificate for the road line, but the old certificate, or a new one, may be reissued without fee with the road line marked thereon, with a memorandum that the transfer has been registered. 25 30

Estates for life, or in reversion, or remainder.

Ibid., s. 87

1950, No. 24, s. 5

95. (1) The registered proprietor of land under this Act may create or execute any powers of appointment, or limit any estates, whether by remainder or in reversion or by way of executory limitation, and whether contingent or otherwise, and for that purpose may modify or alter any form of transfer hereby prescribed. 35

(2) In case of the limitation of successive interests as aforesaid the Registrar shall cancel the grant or certificate evidencing the title of the transferor, and shall issue a certificate in the name of the person entitled 40

to the freehold estate in possession for such estate as he is entitled to, and the persons successively entitled in reversion or remainder or by way of executory limitation shall be entitled to be registered by virtue
 5 of the limitations in their favour in that instrument expressed, and each such person upon his estate becoming vested in possession shall be entitled to a certificate of title for the same.

96. In every transfer of land subject to a mortgage
 10 there shall be implied a covenant on the part of the transferee to and with the transferor to pay the interest or other payments thereafter to become due by virtue of that mortgage at the time and in manner therein specified for payment thereof, and to pay the principal
 15 sum when and as the same becomes due, and to keep harmless and indemnified the transferor in respect of all such payments, and in respect of all liability on account of the future observance of the covenants and conditions on the part of the transferor in the mortgage
 20 expressed or implied.

Implied
 covenant in
 transfer of
 equity of
 redemption.
 1915, No. 35,
 s. 88

97. (1) A registered mortgage or lease may be transferred by memorandum of transfer as aforesaid.

Transfer of
 lease or
 mortgage.
 Ibid., ss. 89, 90

(2) Upon registration of any such memorandum of transfer the estate or interest of the transferor as set
 25 forth in the instrument, with all rights, powers, and privileges thereto belonging or appertaining, shall pass to the transferee.

1925, No. 20,
 s. 6

(3) The transferee shall thereupon become subject
 30 to and liable for all and every the same requirements and liabilities to which he would have been subject and liable if named in the instrument originally as mortgagee or lessee of the land, estate, or interest; and by virtue of every such transfer as is hereinbefore mentioned the right to sue upon any memorandum of mortgage or
 35 other instrument, and to recover any debt, sum of money, annuity, or damages thereunder (notwithstanding that the same may be deemed or held to constitute a chose in action), and all interest in any such debt, sum of money, annuity, or damages shall be transferred so as
 40 to vest the same at law as well as in equity in the transferee thereof:

Provided that nothing in this section shall prevent a Court of competent jurisdiction from giving effect to any trusts affecting the said debt, sum of money, annuity, or damages in case the transferee holds the same as a trustee for any other person.

5

Implied
covenants in
transfer of
lease.

1915, No. 35,
s. 91

98. In every transfer of a lease as aforesaid there shall be implied a covenant by and on the part of the transferee with the transferor that the transferee will thenceforth pay the rent by the said lease reserved, and observe and perform all the covenants in the said lease expressed or implied on the part of the lessee to be observed and performed; and will indemnify and keep harmless the transferor and his representatives from and against all actions, suits, claims, and expenses in respect of the non-payment of the said rent, or the breach or non-observance or non-performance of the said covenants or any of them.

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15

Memorandum
of vesting
order to be
entered on
register.
Ibid., s. 92

99. Whenever any order is made by any Court of competent jurisdiction vesting any estate or interest under this Act in any person, the Registrar, upon being served with a duplicate of the order, shall enter a memorandum thereof in the register and on the outstanding instrument of title, and until such an entry is made the said order shall have no effect in vesting or transferring the said estate or interest.

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PART VI

MORTGAGES

Mortgage to
take effect as
security only.
Ibid., s. 102

100. A mortgage under this Act shall have effect as security, but shall not operate as a transfer of the estate or interest charged.

30

Forms of
mortgage.
Ibid., s. 101

101. (1) Whenever any estate or interest under this Act is intended to be charged with or made security for payment of any money, the registered proprietor shall execute a memorandum in Form C or Form D in the *Second Schedule* to this Act as may be applicable to the case, and every such instrument shall contain a precise statement of the estate or interest intended to be charged, and shall, for description of the land, refer to the proper folium of the register, and shall give such other description as may be necessary.

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(2) Form E in the *Second Schedule* to this Act may be used instead of the said Form C.

102. (1) In the case of every mortgage under this Act—

Alteration of terms of mortgage by endorsement.

- (a) The amount secured by the mortgage may be increased or reduced;
- 5 (b) The rate of interest may be increased or reduced;
- (c) The term or currency of the mortgage may be shortened, extended, or renewed; and
- (d) The covenants, conditions, and powers contained or implied in the mortgage may be varied,
- 10 negatived, or added to—

1915, No. 35, s. 104
1925, No. 20, s. 6
1950, No. 24, s. 6

by a memorandum in such one of Forms F, G, H, and I in the *Second* Schedule to this Act as is applicable:

- Provided that it shall not be necessary for a mortgagor to execute a memorandum of reduction, or for
- 15 a mortgagee to execute a memorandum of increase, of the mortgage debt or of the rate of interest payable under a mortgage.

- (2) The memorandum may include all or any of the matters mentioned in subsection *one* hereof, and in that
- 20 case the said forms shall be modified accordingly.

(3) The memorandum may be registered in like manner as the original mortgage.

- (4) A memorandum or instrument varying the terms or conditions of any mortgage of land subject to
- 25 a subsequent mortgage shall not be binding on any mortgagee unless he has consented thereto in writing on that memorandum or instrument, but that consent shall render the said memorandum or instrument binding on the mortgagee so consenting, and shall be deemed
- 30 to be notice to and shall be binding on all persons who may subsequently derive from him any interest in the mortgaged property.

- 103.** (1) Notwithstanding anything to the contrary in section *thirty-seven* hereof, the priority between them-
- 35 selves of the mortgages affecting any land may from time to time be varied by a memorandum of priority in Form J in the *Second* Schedule to this Act and registered under this Act.

Variation of priority of mortgages.
1939, No. 7, s. 6

- (2) The memorandum of priority shall be executed
- 40 by the mortgagor and also by the mortgagee under every mortgage that, by the memorandum, is postponed to any mortgage over which it previously had priority.

(3) Where any mortgage so postponed is subject to a submortgage the memorandum of priority shall not be effective unless the submortgagee has consented thereto in writing on the memorandum.

(4) Upon the registration of the memorandum of priority there shall be implied in every mortgage so postponed the covenants, conditions, and powers set forth in the *Third* Schedule to this Act, except in so far as is otherwise expressed in the memorandum of priority.

(5) Upon the registration of a memorandum of priority the Registrar shall notify it upon the register and upon any relevant instrument of title.

(6) For the purposes of this section the term "mortgage" shall be deemed to include any registered lien, charge, or other security for the payment of money, and the terms "mortgagor" and "mortgagee" shall have corresponding meanings.

Sale of Mortgaged Land

Application of
purchase
money.
1915, No. 35,
s. 108

104. The purchase money to arise from the sale by the mortgagee of any mortgaged land, estate, or interest shall be applied—

- (a) Firstly, in payment of the expenses occasioned by the sale;
- (b) Secondly, in payment of the moneys then due or owing to the mortgagee;
- (c) Thirdly, in payment of subsequent registered mortgages or encumbrances (if any) in the order of their priority;
- (d) Fourthly, the surplus (if any) shall be paid to the mortgagor.

Transfer by
mortgagee.
Ibid., s. 109

1939, No. 7,
s. 7

105. Upon the registration of any transfer executed by a mortgagee for the purpose of any such sale as aforesaid, the estate or interest of the mortgagor therein expressed to be transferred shall pass to and vest in the purchaser, freed and discharged from all liability on account of the mortgage, or of any estate or interest except an estate or interest created by any instrument which has priority over the mortgage or which by reason of the consent of the mortgagee is binding on him.

Rights and Remedies of Mortgagees

Mortgagee
may, after
default, enter
into possession.
1915, No. 35,
s. 105

106. The mortgagee, upon default in payment of the principal sum, interest, annuity, or rent charge secured by any mortgage, or of any part thereof, may enter into possession of the mortgaged land by receiving the rents

and profits thereof, or may bring an action for possession of the said land either before or after entering into the receipt of the rents and profits thereof, and either before or after any sale of the land is effected
5 under the power of sale given or implied in his mortgage.

107. Besides his remedy against the mortgagor, every mortgagee shall be entitled, after the principal sum, interest, annuity, or rent charge, or any part thereof, has become in arrear for twenty-one days, and
10 after seven days have elapsed from the date of application for the payment thereof to the occupier or tenant, to enter upon the mortgaged land and distrain and sell the goods and chattels of that occupier or tenant, and to retain thereout the moneys so in arrear
15 and all costs and expenses occasioned by the distress and sale:

Provided that no occupier or tenant occupying the land shall be liable to pay to any mortgagee a greater sum than the amount of rent which, at the time of
20 making the distress, is then due from the occupier or tenant to the mortgagor, or to the person claiming the said land under the mortgagor, and any amount so paid shall be held to be *pro tanto* in satisfaction of the said rent.

25 108. (1) Every mortgagee of land under this Act shall, as against the mortgagor and those claiming through or under him, if default has been made in payment of the interest or annual or principal sum secured by any mortgage or any part thereof for the
30 time specified expressly or by statutory implication in the instrument, have all the like remedies for obtaining possession of the mortgaged land as are by law given to a landlord against a lessee or tenant whose term is expired or rent in arrear.

35 (2) No right of recovery of possession by any lessor or mortgagee of land under this Act shall extend to bar the right of any mortgagee of any lease or any part thereof who is not in possession, if that mortgagee pays all rent in arrear and all costs and damages sustained by
40 the lessor or person entitled to exercise that right of recovery, and performs all the covenants and agreements which on the part and behalf of the first lessee are and ought to be performed.

Mortgagee may distrain on tenant to the amount of his rent.

1915, No. 35, s. 106

Mortgagee to have remedies of a lessor for recovery of premises.

Ibid., ss. 118, 119

Mortgagee to have custody of instrument of title.
1915, No. 35,
s. 121

109. The mortgagee, or first mortgagee for the time being, of any estate or interest under this Act shall be entitled to the possession of the outstanding grant, certificate, or other instrument of title; or the same may by agreement be deposited with the Registrar for safe custody during the continuance of the security. 5

Liability of Mortgagee in Possession of Leasehold

Mortgagee of leasehold after entry liable for rent.
Ibid., s. 120

110. Every mortgagee of leasehold land under this Act, or any person claiming the land as a purchaser or otherwise from or under any such mortgagee, after entering into possession of the land or the rents and profits thereof, shall, during that possession and to the extent of any rents and profits which may be received by him, become and be subject and be liable to the lessor of the land, or the person for the time being entitled to the lessor's estate or interest in the land, to the same extent as the lessee or tenant was subject to and liable for prior to that mortgagee or other person entering into possession of the land or the rents and profits thereof. 10 15 20

Discharge of Mortgage

Discharge of mortgage, how effected.
Ibid., s. 116
(1)-(3)
1949, No. 51,
s. 32 (1)

111. (1) Upon the production of any memorandum by endorsement on the mortgage or otherwise, signed by the mortgagee and duly attested, discharging the land, estate, or interest from the whole or part of the principal sum or annuity secured, or discharging any part of the land comprised in the mortgage from the whole or any part of that principal sum or annuity, the Registrar shall make an entry in the register and on the outstanding instrument of title, noting that the mortgage is discharged wholly or partially. 25 30

(2) Upon the making of any such entry the land, estate, or interest mentioned or referred to in the memorandum shall cease to be subject to or liable for the principal sum or annuity, or for the part thereof noted in the entry as discharged. 35

(3) The outstanding duplicate of every mortgage wholly or partially discharged as aforesaid shall be surrendered to the Registrar to be cancelled or partly cancelled, as the case may be, unless the Registrar sees reasonable cause to dispense with its surrender. On the 40

surrender and cancellation of the outstanding duplicate of any mortgage wholly discharged as aforesaid, the Registrar shall file the cancelled duplicate in his office, and may destroy the duplicate previously so filed.

- 5 **112.** (1) Notwithstanding anything to the contrary in section *sixty-four* of this Act, on application made to the Supreme Court by the registered proprietor of any estate or interest in land that is subject to a registered mortgage, the Court, if it is satisfied that any
10 action by the mortgagee for payment of the moneys secured by the mortgage would be barred by the provisions of the Limitation Act 1950 or any other statute of limitation, and that but for the provisions of the said section *sixty-four* the remedies of the mortgagee
15 in respect of the mortgaged land would be likewise barred, may, in its discretion, make an order directing the mortgage to be discharged, and upon the production of an office copy of the order the Registrar shall enter a memorandum thereof in the register and on the out-
20 standing instrument of title, and when the entry is made the mortgage shall be deemed to be discharged.

Discharge of mortgage where remedies thereunder are statute-barred. 1936, No. 58, s. 43

1950, No. 65

- (2) Before making any order under this section the Court may direct such notice to be given by public advertisement or otherwise as it thinks fit, and may
25 direct any person to be served with notice of the proceedings.

- (3) By the same or another order the Court may order any person in possession of an instrument of title to the mortgaged property to deliver the title to the
30 registered proprietor on payment of such charges as the Court may, in its discretion, fix in the order.

Discharge of Annuity

- 113.** Upon proof of the death of the annuitant, or of the occurrence of the event or circumstance upon
35 which, in accordance with the provisions of any instrument executed for the purpose of securing an annuity or continuing payment, that annuity or payment shall cease to be payable; and, upon proof that all arrears thereof have been paid, satisfied, or discharged, the
40 Registrar shall make an entry in the register of the satisfaction or discharge, and shall endorse the same on the outstanding duplicate of title, if produced to him for that purpose, and shall, if the same is surrendered to him, cancel the instrument creating the encumbrance.

On death of annuitant, discharge of annuity may be entered. 1915, No. 35, s. 122

Submortgages

Submortgages.
1915, No. 35,
s. 116 (4), (5)

114. (1) A mortgage subject to a submortgage shall not be discharged, nor shall the terms thereof be varied, nor shall the power of sale contained or implied therein be exercised, without the consent in writing of the sub- 5 mortgagee.

(2) The consent of the submortgagee to the variation of the terms of a mortgage shall render the instrument making the variation binding on him and on all persons who may subsequently derive from him any interest in 10 the mortgage.

Part VII

LEASES

Form and
registration of
leases.
Ibid., s. 93

115. (1) When any land under this Act is intended to be leased or demised for a life or lives, or for any 15 term of not less than three years, the proprietor shall execute a memorandum of lease in Form K in the *Second* Schedule to this Act, and that instrument shall, for the description of the land intended to be dealt with, refer to the grant or certificate of title, or shall give 20 such other description as may be necessary.

(2) A memorandum of lease executed in the said Form K may be registered notwithstanding that the term thereof is less than three years, but no lease or agreement for lease for a less period than three years 25 shall be void by reason only that no such memorandum has been executed or registered.

Extension or
variation of
lease by
memorandum
of extension
or variation.
1939, No. 7,
s. 4
1947, No. 60,
s. 36

116. (1) The term of any lease may from time to time be extended by a memorandum of extension in Form L in the *Second* Schedule to this Act signed by the 30 lessor and the lessee for the time being and registered before the expiry of the then current term of the lease.

(2) Subject to the provisions of this section, the memorandum of extension shall have the same effect 35 as if it were a memorandum of lease for the extended term subject to the same covenants, conditions, and restrictions, with the necessary modifications, as are contained or implied in the lease. Upon the registration of the memorandum of extension the estate of the lessee thereunder shall be deemed to be subject to all 40 encumbrances, liens, and interests to which the lease is subject at the time of the registration of the memorandum of extension. For the purposes of this

subsection all references in any Act or in any agreement, deed, instrument, notice, or other document whatsoever to the lease or to the estate of the lessee thereunder shall, unless inconsistent with the context
5 or with the provisions of this section, be deemed to be references to the lease as varied by the memorandum of extension or to the estate of the lessee thereunder, as the case may be.

(3) The covenants, conditions, and restrictions
10 contained or implied in the lease may be expressly varied, negatived, or added to by the memorandum of extension.

(4) Notwithstanding that the term of the lease is not extended, the covenants, conditions, and restrictions con-
15 tained or implied in any lease may be expressly varied, negatived, or added to by a memorandum of variation in the said Form L (with the necessary modifications) signed by the lessor and the lessee for the time being and registered before the expiry of the then current
20 term of the lease.

(5) The memorandum of extension or memorandum of variation may be registered in the same manner as the original lease:

Provided that, notwithstanding anything to the
25 contrary in section *sixty-six* hereof, a memorial of a memorandum of extension or memorandum of variation of any lease in respect of which a certificate of title has been issued under that section shall be entered on all relevant instruments and on that certificate of title,
30 which shall have full validity and effect during the extended term.

(6) If the land affected by the memorandum of extension or memorandum of variation is at the time of the registration of the memorandum subject to any mort-
35 gage, the memorandum shall not be binding on the mortgagee unless he has consented thereto in writing on the memorandum.

117. (1) Where upon the registration of a lease the Registrar is satisfied that it is in renewal of or in
40 substitution for a lease previously registered, and that the lessee is the person registered as the proprietor of the prior lease at the time of the registration of the new lease or at the time of the expiry or surrender of the prior lease, whichever is the earlier, he shall, if
45 the lessee so requests and if the new lease is registered

Bringing down
encumbrances
on registration
of new leases.

1939, No. 7,

s. 5

not later than one year after the expiry or surrender of the prior lease, state in the memorial of the new lease that it is in renewal of the prior lease or in substitution for the prior lease, as the case may be. In every such case the new lease shall be deemed to be subject to all encumbrances, liens, and interests to which the prior lease is subject at the time of the registration of the new lease or at the time of the expiry or surrender of the prior lease, whichever is the earlier. For the purposes of this subsection all references in any Act or in any agreement, deed, instrument, notice, or other document whatsoever to the prior lease or to the estate of the lessee thereunder shall, unless inconsistent with the context or with the provisions of this section, be deemed to be references to the new lease or to the estate of the lessee thereunder, as the case may be.

(2) Upon the registration of a new lease in any case to which the *last preceding* subsection applies, the Registrar shall record on the new lease all encumbrances, liens, and interests to which it is deemed to be subject as aforesaid in the order of their registered priority.

(3) The provisions of this section are in addition to and not in derogation of the provisions of section one hundred and fourteen of the Land Act 1948, section thirty-six of the State Advances Corporation Act 1936, and any other enactment.

118. A right for or covenant by the lessee to purchase the land may be stipulated in a memorandum of lease; and in case the lessee pays the purchase money, and otherwise observes his covenants expressed and implied in the instrument, the lessor shall be bound to execute a memorandum of transfer, and to perform all other necessary acts for the purpose of transferring to the lessee the said lands and the fee simple thereof.

119. No lease of mortgaged or encumbered land shall be binding upon the mortgagee except so far as the mortgagee has consented thereto.

120. (1) The surrender of a lease by agreement between the parties may be effected by endorsing thereon the word "surrendered"; and that endorsement, if signed by all necessary parties and attested, shall be

1948, No. 64
1936, No. 12

Covenant for
right of
purchase.
1915, No. 35,
s. 94

Lease not
binding on
mortgagee
without consent.
Ibid., s. 95

Surrender of
lease.
Ibid., s. 96

noted on the register and on the outstanding certificate of title, and shall thereupon operate to vest all the estate and interest of the lessee in the person entitled to the reversion.

- 5 (2) No lease subject to mortgage or underlease shall be surrendered without the consent of the mortgagee or sublessee.

- 10 **121.** (1) In case of re-entry and recovery of possession of any leasehold premises, either by process of law or by exercise of any power of re-entry in the lease contained or implied, the Registrar shall, upon proof to his satisfaction of the re-entry, and of actual recovery of possession, notify the re-entry upon the register, and upon the outstanding instrument of title, if produced to him for that purpose:

Re-entry by
lessor.
1915, No. 35,
s. 99

- 15 Provided that, unless the re-entry and recovery of possession have been by formal process of law, the Registrar shall require notice of application to register the same to be served on all persons interested under the lease, or, failing such notice, shall give at least one calendar month's notice of the application by publication in the *Gazette* and in some newspaper published in the district before making any entry upon the register.

- 20 (2) The estate of the lessee, and of every person claiming through or under him, shall thereupon cease and determine, but without releasing him or them from liability in respect of the breach or non-observance of any covenant or condition in the lease contained or implied.

30

PART VIII

TRANSMISSIONS, TRUSTS, CAVEATS, AND POWERS OF ATTORNEY

Transmissions

- 35 **122.** (1) Any person claiming to be entitled to any estate or interest under this Act by virtue of any transmission may make application in writing to the Registrar to have that transmission registered.

Person
claiming under
transmission
may apply to
have same
registered.
Ibid., s. 123

- 40 (2) Every such application shall accurately define the estate or interest claimed by the applicant, and shall state, so far as is within the knowledge of the applicant,

the nature of every estate or interest held by any other person at law or in equity affecting the same, and that he verily believes himself to be entitled to the estate or interest in respect of which he applies to be registered as proprietor; and the statements in the application shall be verified by the oath or statutory declaration of the applicant. 5

Procedure on application for transmission. 1915, No. 35, s. 124

123. (1) If on any such application and upon the evidence adduced in support thereof it appears to the Registrar and Examiner of Titles that the applicant is entitled to the estate or interest claimed, the Registrar, with the concurrence of the Examiner, shall register the applicant as proprietor thereof. 10

(2) The person so registered as proprietor shall hold the estate or interest transmitted subject to all equities affecting the same, but for the purpose of any dealing therewith shall be deemed to be the absolute proprietor thereof. 15

Caveat may be entered on behalf of beneficiaries under will or settlement. Ibid., s. 125

124. Upon the registration of a transmission under any will or settlement, the Registrar and Examiner of Titles may direct a caveat to be entered by the Registrar for the protection of the interests of persons appearing by that will or settlement to be beneficially interested in the estate or interest the subject of the transmission. 20

Transmission to mortgagee on bankruptcy of lessee. Ibid., ss. 126, 127

125. (1) Upon the bankruptcy of the registered proprietor of any lease subject to mortgage under this Act, the Registrar, upon the application in writing of the mortgagee, accompanied by a statement in writing signed by the Official Assignee of the bankrupt's estate, certifying his refusal to accept the lease, shall enter in the register the particulars of the refusal. 25 30

(2) Every such entry shall operate as a transfer on sale, and the interest of the bankrupt in the lease shall thereupon vest in the mortgagee.

Transmission to lessor in default of mortgagee applying. Ibid., s. 128

126. If the mortgagee neglects or declines to make such application as aforesaid, the Registrar, upon application by the lessor, and proof of that neglect or refusal and of the matters aforesaid, shall enter in the register notice of the refusal of the Official Assignee to accept the lease, and any such entry shall operate as a surrender of the lease. 35 40

127. Upon the production of proof of the marriage of a female registered proprietor of any land, estate, or interest under this Act, accompanied by a statement in writing signed by that female proprietor to that effect, the Registrar shall enter on the register and also upon the outstanding duplicate of title the name and description of her husband, and the date and hour of the production to him of the evidence of the marriage.

Particulars of marriage of female proprietor to be registered.
Ibid., s. 129
1925, No. 20, s. 6

Trusts

128. (1) Except as provided in section one hundred and *twenty-nine* of this Act in relation to public reserves and other public lands, no entry shall be made in the register of any notice of trusts, and no such entry, if made, shall have any effect. For the purposes of this subsection a provision in any instrument to the effect that a person executing the instrument assumes liability only to the extent of any estate or interest of which he is a trustee shall not be deemed to be a notice of trust.

No entry of trusts to be made on register except as authorized.
1915, No. 35, s. 130
1939, No. 7, s. 9

- (2) Trusts affecting land under this Act may be declared by any deed or instrument; and that deed or instrument, or a duplicate or attested copy thereof, may be deposited with the Registrar for safe custody and reference, but shall not be registered.

129. (1) The grantee or other person or body corporate in whom or in which any land under this Act now is or hereafter becomes vested as a public reserve shall hold that land subject to the trusts expressed or declared of and concerning the same in the Crown grant, or warrant in lieu of grant, or a certificate having the effect of a warrant issued under section *twelve* of this Act, or in any certificate of title following the terms of that grant, warrant, or certificate.

Trusts of public reserves and other public lands.
1915, No. 35, App. I
1880, No. 8, s. 10
1951, No. 60, s. 8

- (2) If, after the registration of the Crown grant or the issue of any certificate of title, any trust is legally declared under the authority of any Act of the General Assembly of and concerning any such public reserve; either as an original trust or by way of substitution, or if any trust previously declared is by the like authority legally revoked or altered, the Commissioner of Crown Lands of the land district wherein the reserve is situate shall notify to the Registrar the particulars of the trust or of the alteration, revocation, or substitution, as the case may be.

(3) The Registrar shall thereupon enter a notification thereof in the register, and the new or altered trust or revocation, as the case may be, shall take effect, as to the land against which the entry is made, as from the date of the entry.

5

(4) Where, by any Act of the General Assembly, it is declared that land other than public reserves may be vested in any person or body corporate for any special purpose, or by virtue of any office, it shall be lawful to grant or transfer land under this Act to that person or body corporate to be held accordingly; and a reference to the first-mentioned Act in the memorial of transfer or any certificate of title issued thereupon shall be notice of the capacity in which the land is held, and of all trusts expressly affecting the land by virtue thereof.

15

(5) The disclosure of any trust under the provisions aforesaid shall have the effect of a perpetual caveat to restrain any dealing with the lands affected, so far as the dealing is manifestly inconsistent with that trust.

Transferor may
apply for
entry of "No
survivorship"
on register.
1915, No. 35,
s. 131

130. Upon the transfer of any land, estate, or interest under this Act to two or more persons as joint proprietors, the transferor may insert in the memorandum of transfer or other instrument the words "No survivorship", and the Registrar shall note the same in the register, and also enter the said words upon any certificate of title issued pursuant to that transfer.

20

Trustees
registered as
joint
proprietors may
similarly apply.
Ibid., s. 132

131. Any persons registered as joint proprietors of any land, estate, or interest under this Act may, by writing under their hands, authorize the Registrar to enter the words "No survivorship" upon the grant, certificate of title, or other instrument evidencing their title to that estate or interest, and also upon the duplicate of that instrument.

30

Effect of
entry. Order
of Supreme
Court.
Ibid., s. 133

132. After any such entry has been made and signed by the Registrar in either case as aforesaid it shall not be lawful for any less number of joint proprietors than the number then registered to transfer or otherwise deal with the land, estate, or interest without obtaining the sanction of the Supreme Court.

35

133. (1) Before making an order giving any such sanction, the Court shall, if it seems requisite, cause notice of intention so to do to be advertised in the *Gazette* and in at least one newspaper published in the district in which the land is, and shall appoint a time within which any person interested may show cause why such an order should not be issued.
- (2) Thereupon the Court in such an order may give directions for the transfer of the land, estate, or interest to any new proprietor or proprietors, solely or jointly, with or in the place of any existing proprietor or proprietors, or may make such order in the premises as the Court thinks just for the protection of the persons beneficially interested in the land, estate, or interest, or in the proceeds thereof.
- (3) Upon deposit of a duplicate of the order with the Registrar he shall make such entries and perform such acts as may be necessary for the purpose of giving effect to the order.
134. (1) If the registered proprietor of any land or of any estate or interest under this Act is desirous of transferring the same to two or more persons in trust, that proprietor, in the instrument or deed declaring the trust, may nominate and appoint the Registrar of the district within which the land is, by the style of his office, to be one of the trustees.
- (2) It shall thereupon be the duty of the Registrar for the time being to act as trustee, so far as relates to the transfer of the land, estate, or interest.
135. (1) Whenever a person entitled to or interested in land as a trustee would be entitled to bring or defend any action in his own name for recovering the possession of land under this Act, that person shall be bound to allow his name to be used as a plaintiff or defendant in any such action by any beneficiary or person claiming an estate or interest in the land.
- (2) In every such case the person entitled or interested as such trustee as aforesaid shall be entitled to be indemnified in like manner as a trustee would before the commencement of the Land Transfer Act 1885 have been entitled to be indemnified in a similar case of his name being used in any such action or proceeding by his *cestui que trust*.

Procedure for obtaining order.

1915, No. 35, s. 134

Registrar may be nominated trustee.

Ibid., s. 135

Beneficiary may use name of trustee in prosecuting or defending action.

Ibid., s. 136

1885, No. 57

Caveats

Caveat against
bringing land
under Act.
1915, No. 35,
s. 145

136. Any person having or claiming an interest in any land the subject of an application to bring the same under this Act may, at any time within the time limited for that purpose by advertisement as hereinbefore provided, lodge with the Registrar a caveat in Form M in the *Second* Schedule to this Act. 5

Caveat against
dealing with
land under
Act.
Ibid., s. 146

137. Any person—

(a) Claiming to be entitled to or to be beneficially interested in any land, estate, or interest under this Act by virtue of any unregistered agreement or other instrument or transmission, or of any trust expressed or implied, or otherwise howsoever; or 10

(b) Transferring any estate or interest under this Act to any other person to be held in trust— may at any time lodge with the Registrar a caveat in Form N in the *Second* Schedule to this Act. 15

Particulars to
be stated in
caveat.
Ibid., s. 147

138. (1) Every caveat shall be signed by the caveator or by his attorney or agent, and shall state with sufficient certainty the nature of the estate or interest claimed by the caveator, with such other information and evidence as may be required by regulations under this Act, and shall appoint a place or give an address within the district at or to which notices and proceedings relating to the caveat may be served or addressed. 25

(2) Every caveat shall be entered on the register as of the day and hour of the reception thereof by the Registrar.

Service of
notices as to
caveats.
Ibid., s. 148

139. Every notice relating to a caveat and any proceedings in respect thereof if served at the place appointed in the caveat, or forwarded through the Post Office by registered letter addressed as aforesaid, shall be deemed duly served. 30

Effect of
caveat against
bringing land
under Act.
Ibid., s. 149

140. So long as a caveat in Form M remains in force the Registrar shall not proceed with the bringing under this Act of the land affected thereby, nor shall it be lawful for the person making the application to withdraw the same except with the consent of the caveator or by leave of the Supreme Court. 40

141. So long as a caveat in Form N remains in force the Registrar shall not make any entry on the register having the effect of charging or transferring or otherwise affecting the estate or interest protected
5 by the caveat:

Provided that nothing herein shall prevent the completion of the registration of an instrument which has been accepted for registration before the receipt of the caveat.

142. Upon the receipt of any caveat the Registrar shall give notice thereof to the person against whose application to bring land under this Act or to be registered as proprietor consequent on any transmission, or to the registered proprietor against whose title to deal with
15 land under this Act, the caveat has been lodged.

143. (1) Any such applicant or registered proprietor, or any other person having any registered estate or interest in the estate or interest protected by the caveat, may, if he thinks fit, apply to the Supreme Court for an
20 order that the caveat be removed.

(2) The Court, upon proof that notice of the application has been served on the caveator or the person on whose behalf the caveat has been lodged, may make such order in the premises, either *ex parte* or otherwise,
25 as to the Court seems meet.

144. After the expiration of three months from the receipt thereof every caveat in Form M shall be deemed to have lapsed, unless the person by whom or on whose behalf the caveat was lodged has within that
30 time taken proceedings in some Court of competent jurisdiction to establish his title to the estate, interest, lien, or charge therein specified, and has given written notice thereof to the Registrar, or has obtained from the Supreme Court an order or injunction restraining the
35 Registrar from bringing the land therein referred to under this Act.

145. Except in the case of a caveat lodged by the Registrar in exercise of the powers by this Act given to him in that behalf, every caveat in Form N shall,
40 upon the expiration of fourteen days after notice given to the caveator that application has been made for the registration of any instrument affecting the land, estate,

Effect of caveat against dealings.

1915, No. 35, s. 150

1939, No. 7, s. 11(2)

Notice of caveat to be given to persons affected.

1915, No. 35, s. 151

Procedure for removal of caveat.

Ibid., s. 152
1939, No. 7, s. 12

Lapse of caveat against bringing land under Act.

1915, No. 35, s. 153

Lapse of caveat against dealings.

Ibid., s. 154

1950, No. 24, s. 7

or interest protected thereby, be deemed to have lapsed as to that land, estate, or interest, or so much thereof as is referred to in the notice, unless notice is, within the said fourteen days, given to the Registrar that application for an order to the contrary has been made to the Supreme Court, and unless such an order is made and served on the Registrar within a further period of fourteen days. 5

Person entering caveat without due cause liable for damages.
1915, No. 35,
s. 155

146. (1) Any person lodging any caveat without reasonable cause is liable to make to any person who may have sustained damage thereby such compensation as may be just. 10

(2) Such compensation as aforesaid shall be recoverable in an action at law by the person who has sustained damage from the person who lodged the caveat. 15

Caveat may be withdrawn.
Ibid., s. 156

147. Any caveat may be withdrawn by the caveator or by his attorney or agent under a written authority, and either as to the whole or any part of the land affected, or the consent of the caveator may be given for the registration of any particular dealing expressed to be made subject to the rights of the caveator. 20

No second caveat may be entered.
Ibid., s. 157

148. When any caveat in either of the forms hereinbefore provided has lapsed, it shall not be lawful for the Registrar to receive any second caveat affecting the same land, estate, or interest by the same person, or in the same right and for the same cause, except by order of the Supreme Court. 25

Powers of Attorney

Power of attorney not invalidated by bringing land under Act.
Ibid., s. 158

149. The bringing of land under this Act shall not invalidate any power of attorney previously executed, but that land may thereafter be dealt with under the power subject to the provisions hereof. 30

Registered proprietor may deal with land by attorney.
Ibid., s. 159

150. The registered proprietor of land under this Act, or any person claiming any estate or interest under this Act, may by power of attorney in Form O in the *Second Schedule* to this Act or in any usual form, and either in general terms or specially, authorize and appoint any person on his behalf to execute transfers or other dealings therewith, or to make any application to the Registrar or to any Court or Judge in relation thereto. 35 40

151. Every power of attorney intended to be used under this Act, or a duplicate or attested copy thereof, verified to the satisfaction of the Registrar, shall be deposited with the Registrar in manner provided by regulations under this Act, but for the purposes of this Act it shall not be necessary to register any power of attorney.

Power of attorney to be deposited with Registrar.

1915, No. 35, s. 160

152. (1) The grantor of any revocable power of attorney may, by notice to the Registrar in Form P in the *Second* Schedule to this Act, revoke the power of attorney either wholly or as to the land specified in the notice.

Revocation of power of attorney.

Ibid., s. 161

(2) No power of attorney shall be deemed to have been revoked by reason only of a subsequent power of attorney being deposited without express notice as aforesaid, nor shall any such revocation take effect as to instruments executed prior to the reception of the notice by the Registrar.

(3) No power of attorney shall be deemed to have been or to be revoked by the bankruptcy of the grantee or by the marriage of a female grantee.

153. No power of attorney made or used under this Act or any former Land Transfer Act shall be invalidated by reason of the power not having been created under seal.

Seal unnecessary.

Ibid., s. 162

PART IX

GENERAL PROVISIONS AS TO INSTRUMENTS

Covenants Implied in Instruments

154. In every instrument charging, creating, or transferring any estate or interest under this Act there shall be implied the following covenants by the party charging, creating, or transferring that estate or interest to and with each and every person taking any estate or interest under that instrument—

Covenants for further assurance implied.

Ibid., s. 164

(a) That the (implied) covenantor will do all such acts as may be necessary on his part to give effect to all covenants, conditions, and purposes expressly set forth in the instrument or by this Act declared to be implied in instruments of a like nature:

(b) That the (implied) covenantor will, at the request and cost of the person taking any estate or interest as aforesaid, execute all such further instruments as may be necessary for

further and better assuring and perfecting the title of the last mentioned person to the estate or interest expressed or intended to be granted, created, or transferred.

Short forms
of covenant.
1915, No. 35,
ss. 165, 103 (2)

155. (1) Such of the covenants set forth at length 5
in the *Fourth* Schedule to this Act as are intended to be
implied in any instrument executed for the purpose of
registration under this Act shall, if expressed in the
short form of words prescribed in that Schedule for
the case of each covenant respectively, be implied in that 10
instrument as fully and effectually as if those covenants
were set forth therein at length in the words of the said
Schedule with all such modifications as may be necessary
in order to adapt them to the instrument.

(2) The covenant relating to insurance contained in 15
the said *Fourth* Schedule shall not apply to a mortgage
under this Act except in so far as is otherwise expressed
in the mortgage.

Action for
breach of
covenant.
Ibid., s. 167

156. In any action for a breach of any implied 20
covenant, the covenant alleged to be broken may be set
forth in the statement of claim, and it may be alleged
that the party against whom the action is brought did
so covenant precisely in the same manner as if the
covenant had been expressed in words in the instrument,
any law or practice to the contrary notwithstanding. 25

Execution of Instruments

Instruments
to be signed
and attested.
Ibid., s. 168

157. (1) Every instrument executed for the purpose
of creating, transferring, or charging any estate or
interest under this Act shall be signed by the registered
proprietor and attested by at least one witness, and if 30
the instrument is executed in New Zealand the witness
shall add to his signature his place of abode and calling,
office, or description, but no particular form of words
shall be requisite for the attestation.

(2) Every instrument so executed shall, when regis- 35
tered, have the force and effect of a deed executed by
the parties signing the same.

See Reprint
of Statutes,
Vol. I, p. 1014

(3) This section shall be read subject to the pro-
visions of section three of the Official Appointments and
Documents Act 1919. 40

When
instruments
deemed to be
attested.
1915, No. 35,
s. 169

158. Instruments executed as aforesaid shall be held
to be duly attested, and the execution thereof may be
proved before a District Land Registrar, Assistant Land
Registrar, or any deputy of either of those officers, or
before a notary public, Justice of the Peace, or a solicitor 45

of the Supreme Court if the parties executing the same are resident within New Zealand, by the oath or statutory declaration of the parties executing the same, or of a witness attesting the signing thereof.

5 **159.** (1) If the attesting witness answers in the affirmative each of the questions following, that is to say:—

Questions to attesting witness, and certificate thereon.
1915, No. 35, s. 170

10 (a) Are you the witness who attested the signing of this instrument, and is the name [or mark] purporting to be your name [or mark] as attesting witness your own handwriting?

(b) Do you personally know , the person signing this instrument and whose signature you attested?

15 (c) Is the name purporting to be his signature his own handwriting, is he of sound mind, and did he freely and voluntarily sign the same?

—then the Registrar, Justice, or other person before whom that witness proves such signature as aforesaid
20 shall endorse upon the instrument a certificate in Form No. 1 in the *Fifth Schedule* to this Act.

(2) The questions aforesaid may be varied as circumstances require in case any person signs the instrument by his mark.

25 **160.** If the person executing the instrument is personally known to the Registrar, Justice, or other person as aforesaid he may attend and appear before that Registrar, Justice, or other person and acknowledge that he did freely and voluntarily sign the instrument;
30 and upon receiving that acknowledgment the Registrar, Assistant Registrar, or any deputy of that officer, Justice, or other person shall endorse on the instrument a certificate in Form No. 2 in the *Fifth Schedule* to this Act.

Acknowledgment by party to instrument, and certificate thereon.
Ibid., s. 171

35 **161.** A corporation, instead of signing any instrument, may execute the same by affixing thereto the common seal of the corporation or the official seal for use in New Zealand, or by attorney appointed under that common or official seal; and any such seal affixed to any instru-
40 ment shall be sufficient proof to the Registrar that the same was affixed under proper authority, and that the instrument is binding on the corporation whose seal it bears.

Corporation may execute under seal.
Ibid., s. 173

Unincorporated
building
societies.
1915, No. 35,
App. III

162. (1) Every unincorporated building society shall forward from time to time to each Registrar the names of the treasurer, trustee, or other officers in whom any property of the society within his district may by law be or become vested, and also notice of the death, resignation, or removal of existing and the appointment of new officers, also a copy of the rules of the society. 5

(2) Land under this Act shall be mortgaged to such societies as aforesaid only by memorandum of mortgage made to the said officers, denoted by their official denomination, and not by their own proper names, and the persons in whom the property of the society is for the time being vested shall be deemed to be the registered proprietors of those mortgages. 10

(3) When any instrument is presented for registration affecting the land included in any such mortgage, and purports to be executed by the persons in whom the property of the society appears to the Registrar to have been vested at the time of the execution of the instrument, he shall register the instrument, and no person claiming under any such instrument shall be affected by notice, direct or constructive, that the property of the society was not vested in the persons executing the instrument, nor that the instrument was executed in contravention of the rules of the society or the terms of the mortgage. 15 20 25

Instruments as
evidence in
Courts.
1915, No. 35,
s. 174

163. Every instrument registered under this Act shall, if purporting to have been executed in accordance with the provisions of this Act, be presumed to have been duly executed, and shall be received in evidence as such in any Court of law or equity, unless the contrary is proved. 30

Correctness of
instrument to
be certified.
Ibid., s. 175

164. (1) No Registrar shall receive any application for bringing land under this Act, or any instrument purporting to deal with or affect any estate or interest under the provisions hereof, unless there is endorsed thereon a certificate that the same is correct for the purposes of this Act, signed by the applicant or party claiming under or in respect of the instrument, or by a licensed landbroker or a solicitor of the Supreme Court employed by that applicant or party. 35 40

(2) A corporation may authorize any person to certify on its behalf.

(3) Every person who falsely or negligently certifies to the correctness of any such application or other instrument commits an offence, and is liable on summary conviction before a Magistrate to a fine not exceeding fifty pounds. 45

Governments of Other Countries as Registered Proprietors

165. (1) The Government of any overseas country shall be deemed to be and to have always been capable of being registered as the proprietor of any estate or interest in land under this Act in the same manner as if it were a body corporate.

Governments of other countries may be registered as proprietors of land.

1945, No. 14, ss. 2-4

(2) Any memorandum of transfer or other instrument purporting to transfer or in any way affect land under the provisions of this Act may be executed on behalf of the Government of any overseas country by the senior representative in New Zealand of that country.

(3) The fact that any such instrument that is presented for registration purports to have been executed on behalf of the Government of any overseas country by the senior representative in New Zealand of that country shall, in the absence of proof to the contrary, be sufficient evidence to the Registrar that the instrument has been executed under proper authority and is binding on the Government of that country.

(4) In this section—

“Overseas country” means any country other than New Zealand;

“Representative” means—

- (a) A diplomatic representative; or
(b) A High Commissioner or Consul or Consular Officer or Trade Commissioner who is resident in New Zealand solely for the purpose of performing his official duties.

30 *Verification of Instruments*

166. (1) Before accepting for registration or deposit any instrument duly executed elsewhere than in New Zealand, the Registrar may in his discretion require that the instrument be verified in some one of the following ways, that is to say:—

Verification of instruments executed out of New Zealand.

1915, No. 35, s. 176

(a) Where the instrument is executed in any foreign country, then—

(i) Before a Commonwealth representative exercising his functions in that country and to be sealed with his seal of office (if any), or by having endorsed thereon or annexed thereto a declaration of the due execution thereof

purporting to be made by an attesting witness thereto before any such Commonwealth representative as aforesaid, and to be sealed as aforesaid; or

(ii) By or before a Notary Public exercising his office in that country; or

(iii) In any case where the provisions of section nine of the *Evidence Amendment Act 1945* apply, in the manner provided in that section:

(b) Where the instrument is executed in any Commonwealth country, then—

(i) In a manner prescribed by paragraph (a) of this subsection for instruments executed in a foreign country; or

(ii) In the manner (if any) prescribed by the law of that country for the verification of instruments to be used abroad.

(2) In the absence of proof to the contrary, it shall be presumed that any seal or signature impressed, affixed, or subscribed on or to any document of verification of any such instrument submitted for registration or deposit is genuine, and that the person appearing to have signed or attested any such document had in fact authority to sign or attest the same, and that any such document was in fact made in accordance with any law under which it purports to have been made.

(3) In this section—

“Commonwealth country” means a country that is a member of the British Commonwealth of Nations; and includes every territory for whose international relations the Government of that country is responsible; and also includes the Republic of Ireland as if that country were a member of the British Commonwealth of Nations:

“Commonwealth representative” means a diplomatic representative, High Commissioner, Consular Officer, Trade Commissioner, or Tourist Commissioner of a Commonwealth country (including New Zealand), and includes any person lawfully acting for any such officer.

PART X

PLANS AND SURVEYS

167. (1) On any application to bring land under the provisions of this Act, or for a new certificate on any subdivision of or other dealing with the land comprised in any certificate or other instrument of title or any part thereof or for the untransferred part of the land comprised in any such certificate or other instrument of title, or for registration of any instrument affecting part only of the land comprised in any certificate or other instrument of title, the Registrar may require the applicant to deposit in the Land Registry Office of the district a plan of the land or subdivision or part thereof, as the case may be, which plan shall be in accordance with the regulations for the time being in force in that behalf, and shall be verified by the statutory declaration of a registered surveyor in such form as the regulations prescribe; and until the requisition is complied with the Registrar shall not be bound to proceed with the application.
- (2) Notwithstanding anything in the last preceding subsection, where the Registrar considers that, having regard to the value of the land to be comprised in the certificate of title or new certificate of title, as the case may be, it would be a hardship on the applicant to require him to deposit a plan of the land or subdivision or part, as the case may be, the Registrar, in his discretion, may exempt the applicant from complying with the provisions of that subsection and, where the land is comprised in an ordinary certificate of title, may, but only with the written consent of every registered mortgagee or lessee of the land, issue to the applicant a certificate of title limited as to parcels. Where in any such case an ordinary certificate of title is consequentially partially cancelled by the Registrar, he may endorse on the partially cancelled certificate a memorial that it is limited as to parcels, and it shall be deemed to be limited as to parcels accordingly.
- (3) The provisions of Part XII of this Act relating to certificates that are limited as to parcels shall, as far as they are applicable and with the necessary modifications, apply to every limited certificate issued by the

Plans to be deposited in certain cases. 1915, No. 35, s. 178

Registrar under subsection *two* of this section, and to every certificate upon which an endorsement that it is limited as to parcels is made under that subsection, as if it were a certificate limited as to parcels issued under that Part of this Act.

5

(4) This section shall apply with respect to any land comprised in a certificate that is limited as to parcels pursuant to the said Part XII.

Deposit not to operate as dedication of roads.

1915, No. 35,
s. 179

168. (1) The deposit of a plan of subdivision of any land shall not operate as a dedication for public purposes of roads shown on that plan, but a right of way over all such roads shall be appurtenant to every portion of the land in that subdivision, unless expressly excepted.

10

(2) Every instrument in which land is described by reference to a deposited plan shall take effect, according to the intent and meaning thereof, as if the plan was fully set out thereon.

15

Land taken for roads to be defined on register.

Ibid., s. 180

169. (1) Where a public road is taken or laid out over any land under this Act the Surveyor-General shall forward to the Registrar the particulars of that taking and of the date thereof, together with a sufficient plan of the road so far as it affects land under this Act.

20

(2) The Registrar shall thereupon proceed as may be necessary to have the road defined on the register, and on any deposited plan in his custody or under his control, and on the outstanding duplicate of title.

25

(3) This section shall not apply to the case of land taken for the purpose of roads under the provisions of any Act of the General Assembly if the mode of registration is by that Act otherwise provided for.

30

Cost of survey for correction of plans, &c.

Ibid., s. 181

1930, No. 6,
s. 53(4)

1931, No. 5,
s. 25(2)

170. The cost of any survey authorized by the Surveyor-General for correction of any Land Transfer plan or certificate shall without further appropriation than this section be borne and be paid by the Consolidated Fund upon the certificate of the Surveyor-General that the survey has been duly made and was necessary for the purpose aforesaid.

35

Surveyor-General or person authorized by him may enter land.

1915, No. 35,
s. 182

171. (1) The Surveyor-General, or any person authorized by him to make any survey required for the purposes of this Act,—

40

(a) May enter from time to time during the daytime upon any land, with such assistants as he thinks fit, for the purpose of making any survey which

- he is authorized to make, and may fix or set up thereon survey pegs, marks, or poles; or for the purpose of inspecting any such survey, or of altering, repairing, moving, or removing any survey peg, mark, or pole; and
- 5 (b) May do all things necessary for that survey in accordance with the regulations for the time being in force, or for any inspection, repair, or alteration thereof.
- 10 (2) Before entry every such surveyor shall, when practicable, give reasonable notice to the owner or occupier of the land, and, if required by that owner or occupier, produce and show the authority under which he claims to enter as aforesaid.
- 15 (3) Any person wilfully preventing or obstructing any survey authorized as aforesaid, or destroying, effacing, or removing any survey pegs or marks relating thereto, shall be liable on summary conviction before a Magistrate to a fine not exceeding twenty pounds, and
- 20 shall also be liable to make good any loss or damage thereby occasioned.
- (4) The Surveyor-General may delegate his powers and duties under this section to the Chief Surveyor of any district so far as the same are to be exercised within
- 25 the limits of that district.

PART XI

GUARANTEE OF TITLE

Compensation for Loss or Damage

172. Any person—
- 30 (a) Who sustains loss or damage through any omission, mistake, or misfeasance of any Registrar, or of any of his officers or clerks, in the execution of their respective duties; or
- 35 (b) Who is deprived of any land, or of any estate or interest in land, through the bringing of the land under the Land Transfer Acts, or by the registration of any other person as proprietor of that land, or by any error, omission, or misdescription in any certificate of title, or in any entry or memorial in the
- 40

Compensation
for mistake or
misfeasance of
Registrar.
1915, No. 35,
s. 186

register, or has sustained any loss or damage by the wrongful inclusion of land in any certificate as aforesaid, and who by this Act is barred from bringing an action for possession or other action for the recovery of that land, estate, or interest— 5

may bring an action against the Crown for recovery of damages.

Notice of action to be served on Attorney-General and Registrar-General.

1915, No. 35, s. 188

1925, No. 20, s. 6

173. (1) Notice in writing of every action against the Crown, and of the cause thereof, and of the amount claimed, shall be served upon the Attorney-General, and also upon the Registrar-General, one month at least before the commencement of the action. 10

(2) If those officers concur that the claim ought to be admitted, as to the whole or any part thereof, without suit or action, and jointly certify to that effect, the amount of the claim may, without further appropriation than this section, be paid out of the Consolidated Fund in whole or in part to the person entitled thereto in accordance with the certificate. 15 20

(3) If after notice of the admission has been served on the claimant, his solicitor, or agent, the claimant proceeds with his action, and recovers no more than the amount admitted, he shall not be entitled to recover any costs as against the Crown, and shall be liable to the Crown for the costs of defending the action in like manner as if judgment had been given for the defendant in the action. 25

Liability of plaintiff for costs.

1915, No. 35, s. 189

174. If in any such action judgment is given in favour of the Crown, or the plaintiff discontinues or becomes nonsuit, the plaintiff shall be liable to pay the full costs of defending the action; and those costs, when taxed, shall be levied by the Crown by the like process of execution as in other actions. 30

Recovery of compensation paid and costs in case of fraud.

Ibid., s. 190

1930, No. 6, s. 53 (3), (4)

1931, No. 5, s. 25(2)

175. (1) Where any sum of money has been lawfully paid out of the Consolidated Fund as compensation for any loss occasioned — 35

(a) By fraud, or by fraudulent omission, misdescription, or misrepresentation of any kind on the part of any proprietor in bringing land under any of the Land Transfer Acts; or 40

(b) By fraud on the part of any person causing or procuring himself to be registered as a proprietor under any of the Land Transfer Acts by virtue of any dealing with or transmission from a registered proprietor—

5 the amount of that compensation, together with all costs incurred in testing or defending any claim or action in relation thereto, shall be deemed a debt due to the Crown from the person legally responsible for that fraud,
10 fraudulent omission, misdescription, or misrepresentation, as the case may be, and may be recovered from him, or from his personal representatives, by action at law, in the name of the Registrar-General, or, in case of bankruptcy, may be proved as a debt due from his
15 estate.

(2) A certificate signed by the Minister of Finance, verifying the fact of any payment out of the Consolidated Fund, shall be *prima facie* proof that such payment was made as aforesaid.

20 (3) All moneys recovered in any action as aforesaid shall be paid to the credit of the Consolidated Fund.

176. (1) Where any amount has been paid out of the Consolidated Fund on account of any person who has absconded, or who cannot be found within the jurisdiction of the Supreme Court, and may have left any
25 real or personal estate within New Zealand, the Court, upon the application of the Attorney-General, and upon the production of a certificate signed by the Minister of Finance certifying that the amount has been paid in satisfaction of a judgment against the Crown, may allow
30 the Attorney-General to sign judgment against that person forthwith for the amount so paid out of the Consolidated Fund, together with the costs of the application.

35 (2) Such a judgment shall be final, and signed in like manner as a final judgment by confession or default in an adverse suit, and execution may issue immediately.

177. If any such person has not left real or personal estate within New Zealand sufficient to satisfy the amount
40 for which execution has been issued as aforesaid, the Crown may recover that amount, or the unrecovered balance thereof, by action against that person whenever he may be found within the jurisdiction of the Supreme Court.

Judgment
against
absconders, &c.
1915, No. 35,
s. 191

Recovery of
judgment
against
absconders, &c.
Ibid., s. 192

Crown not
liable in certain
cases.

1915, No. 35,
s. 193

1930, No. 6,
s. 53(4)

1931, No. 5,
s. 25 (2)

178. The Crown shall not under any circumstances be liable for compensation for any loss, damage, or deprivation occasioned by any of the following things, notwithstanding that effect may have been given to the same by entry on the register:—

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- (a) By the breach by a registered proprietor of any trust; or
- (b) By the same land having been included in two or more grants from the Crown; or
- (c) By the improper use of the seal of any corporation or company; or
- (d) By the registration of any instrument executed by any person under any legal disability, unless the fact of that disability was disclosed on the instrument by virtue of which that person was registered as proprietor; or
- (e) By the improper exercise of any power of sale or re-entry.

Measure of
damages.

1915, No. 35,
s. 194

1930, No. 6,
s. 53(4)

1931, No. 5,
s. 25(2)

179. No person shall, as against the Crown, be entitled to recover any greater amount for compensation in respect of the loss or deprivation of any land, or of any estate or interest therein, than the value of that land, estate, or interest at the time of that deprivation, together with the value of the messuages and tenements erected thereon and improvements made thereto (if any) prior to the time of that deprivation, with interest at the rate of five per cent per annum to the date of judgment recovered.

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Limitation of
actions.

1915, No. 35,
s. 195

1950, No. 65,
s. 35(2)

180. No action for recovery of damages as aforesaid shall lie or be sustained against the Crown unless the action is commenced within the period of six years from the date when the right to bring the action accrued; but any person being under the disability of infancy or unsoundness of mind may bring such an action within three years from the date on which the disability ceased.

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Plaintiffs to
be nonsuited if
laches proved.

1915, No. 35,
s. 196

181. The plaintiff in any such action, or the plaintiff in an action for the recovery of land, shall be nonsuited in any case in which the loss or deprivation complained of has been occasioned through the bringing of land under any of the Land Transfer Acts, if it is made to appear to the satisfaction of the Court before which the action is tried that the plaintiff, or the person

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through or under whom he claims title, had notice, by personal service or otherwise, or was aware that application had been made to bring the land under any of the Land Transfer Acts, and had wilfully, negligently, 5 or collusively either omitted to lodge a caveat or allowed a caveat to lapse.

Protection of Purchasers

182. Except in the case of fraud, no person contracting or dealing with or taking or proposing to 10 take a transfer from the registered proprietor of any registered estate or interest shall be required or in any manner concerned to inquire into or ascertain the circumstances in or the consideration for which that registered owner or any previous registered owner of 15 the estate or interest in question is or was registered, or to see to the application of the purchase money or of any part thereof, or shall be affected by notice, direct or constructive, of any trust or unregistered interest, any rule of law or equity to the contrary notwithstanding, 20 and the knowledge that any such trust or unregistered interest is in existence shall not of itself be imputed as fraud.

Purchaser from registered proprietor not affected by notice.
1915, No. 35,
s. 197

183. (1) Nothing in this Act shall be so interpreted as to render subject to action for recovery of damages, 25 or for possession, or to deprivation of the estate or interest in respect of which he is registered as proprietor, any purchaser or mortgagee *bona fide* for valuable consideration of land under the provisions of this Act on the ground that his vendor or mortgagor may have 30 been registered as proprietor through fraud or error, or under any void or voidable instrument, or may have derived from or through a person registered as proprietor through fraud or error, or under any void or voidable instrument, and this whether the fraud or 35 error consists in wrong description of the boundaries or of the parcels of any land, or otherwise howsoever.

No liability on *bona fide* purchaser or mortgagee.
Ibid., s. 198

(2) This section shall be read subject to the provisions of sections *seventy-seven* and *seventy-nine* hereof.

PART XII

COMPULSORY REGISTRATION OF TITLES

Interpretation.
1924, No. 32,
s. 2

184. In this Part of this Act, unless the context otherwise requires,—

“Applicant” means the person deemed by section one hundred and *eighty-six* of this Act to be the applicant: 5

“Application under this Part of this Act” means an application deemed to have been made as provided in section one hundred and *eighty-six* of this Act: 10

“Ordinary certificate of title” means a certificate of title in Form No. 2 in the *First* Schedule to this Act:

“The Registrar’s minutes” means the minutes of the Registrar referred to in section one hundred and *ninety-three* of this Act. 15

All private
European land
to be brought
under this Act.
Ibid., s. 3
1947, No. 59,
s. 2

185. (1) The Registrar shall continue with all convenient speed, but subject to the provisions of section *nineteen* of this Act with regard to land for which no Crown grant has been issued, to bring under this Act all land heretofore alienated from the Crown for an estate in fee simple and not already subject to this Act, so that all such land shall be brought under this Act as soon as may be. 25

(2) This section shall not apply to land over which the Maori title has not been extinguished.

Application to
bring land
under this Act
deemed to be
made.
1924, No. 32,
s. 4

186. As soon as the Examiner shall proceed, for the purposes of this Part of this Act, to examine the title to any land to which this Part of this Act applies, or the Registrar shall proceed to bring any such land under the provisions of this Act, application to bring that land under this Act shall be deemed to have been made by a person competent to make the application under this Act. 30 35

Applications
to be dealt with
as voluntary
applications
under this Act.
Ibid., s. 5

187. Except as hereinafter provided, the Examiner of Titles and the Registrar shall deal with all such applications in accordance with sections *nineteen* to *thirty-two* of this Act in respect of applications, and shall do all such acts in relation thereto as they, or either of them, ought to do in respect of applications under those sections. 40

188. (1) In respect of any application under this Part of this Act it shall not be necessary--

Special provisions as to applications under this Part.
1924, No. 32, s. 6

5 (a) That the applicant or any other person surrender the instruments of title, or furnish the schedule or abstract, or make the declaration, or supply the plan respectively referred to in section *twenty-one* of this Act:

10 (b) That any persons interested be parties to the application, or that notice of the application be advertised in the *Gazette* or in any newspaper:

(c) That the Registrar post or forward any notice required by this Act:

15 (d) For the Registrar to await the expiration of any time before issuing a certificate of title in respect of an application under this Part of this Act, but he may delay the issue of any such certificate of title for such cause as he thinks sufficient.

20 (2) An application under this Part of this Act shall not be capable of being withdrawn by the applicant.

(3) The applicant shall not be entitled to direct the issue to any other person of a certificate of title to be issued upon an application under this Part of this Act.

25 **189.** (1) The Registrar may at any time require every person having possession or control of any instruments constituting or in any manner affecting the title to the land the subject of an application to surrender the same to the Registrar.

Registrar may require surrender of instruments affecting title.
Ibid., s. 7

30 (2) Every person who refuses or neglects to surrender any such instrument within a reasonable time after being duly required to do so commits an offence against this Act, and shall be liable on summary conviction to a fine not exceeding five pounds for every day during
35 which the refusal or neglect is continued.

(3) The Registrar shall not deliver any certificate of title under the provisions of this Part of this Act to the person entitled to that certificate until all instruments constituting or in any manner affecting the previous title
40 of the applicant, and being in the possession or under the control of the applicant, have been surrendered to the Registrar.

Registrar may
issue ordinary
or limited
certificate of
title.

1924, No. 32,
s. 8

190. (1) The Registrar shall issue a certificate of title for the land the subject of any such application, in accordance with the provisions of this Act as qualified by this Part of this Act, in the name of the proprietor appearing to be entitled thereto.

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(2) If in respect of any land it appears to the Registrar and Examiner that the Registrar ought to have issued an ordinary certificate of title if application to bring that land under the provisions of this Act had been made by a person competent to make the same, and if the Registrar is satisfied that the applicant is in possession of the land, and that the position and boundaries of the land are sufficiently defined by the instruments of title or by any deposited plan or plans, the certificate of title shall be an ordinary certificate of title.

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(3) Save as provided in the *last preceding* subsection, the certificate of title to be issued under this Part of this Act shall be a limited certificate of title as hereinafter defined.

Definition and
form of limited
certificate.

Ibid., s. 9

191. (1) A limited certificate of title may be a certificate of title limited either as to description of parcels or as to title, or limited both as to description of parcels and as to title.

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(2) A limited certificate of title shall be in Form No. 2 in the *First Schedule* to this Act, with the addition, after the words "Certificate of Title Under Land Transfer Act", of the words "(Limited as to parcels)", or "(Limited as to title)", or "(Limited as to parcels and title)", as the case may require.

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Notices of
issue of
certificate of
title to be
given.

Ibid., s. 10

192. Notice of the issue of a certificate of title under the provisions of this Part of this Act shall be sent by the Registrar through the post by registered letter to every person having any estate or interest evidenced by that certificate of title or by any memorial endorsed thereon.

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Registrar's
minutes of
defects found
in titles.

Ibid., s. 11

193. (1) Before issuing a limited certificate of title the Registrar shall file with his records a minute signed by him clearly setting forth the acts or matters that ought to be done or proved, and the requisitions that ought to be complied with, in order to justify him in issuing an ordinary certificate of title. Those requisitions shall, if necessary, include a requisition for the

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surrender of the instruments of title referred to in section *twenty-one* of this Act, and may include a requisition for the deposit of a plan of a survey of the land.

5 (2) He shall thereupon send by registered letter a copy of the Registrar's minutes through the post to the proprietor of every estate or interest in the land as evidenced by the Deeds Register or the instruments of title.

10 (3) The Registrar may from time to time revise and amend the Registrar's minutes so as to indicate which of the acts or matters or requisitions therein referred to have been done or proved or complied with, and may alter or add to those minutes, but not so as to
15 prejudice the limited title of, or throw any onus upon, a purchaser or mortgagee, *bona fide* for valuable consideration, from the registered proprietor of the land, or of any estate or interest in the land, comprised in a limited certificate of title. All such revisions and
20 additions shall be authenticated by the signature of the Registrar.

25 **194.** The Registrar's minutes shall not form part of the register for the purposes of section *forty-six* of this Act, nor shall any person other than the registered proprietor, or a person authorized in writing in that behalf by the registered proprietor, be entitled to be informed of the contents or of the nature of those minutes except pursuant to an order of the Supreme Court.

Searching of
Registrar's
minutes.
1924, No. 32,
s. 12

30 **195.** (1) Upon the doing of such acts or the proof of such matters, and on compliance with such requisition or requisitions, as are set forth in the Registrar's minutes, to the satisfaction of the Registrar, he shall, at his discretion, either cancel the limited certificate of title and
35 issue, upon payment of the prescribed fee, an ordinary certificate of title, or constitute the limited certificate of title an ordinary certificate of title by the endorsement thereon of a memorial to the effect that the certificate of title has ceased to be a certificate of title limited as to
40 parcels or limited as to title, or limited as to parcels and title, as the case may be, and the certificate of title shall thereupon take effect in all respects as an ordinary certificate of title.

Limited
certificate of
title may be
made ordinary.
Ibid., s. 13

(2) If at any time it appears to the Registrar that by reason of lapse of time or for any other reason any act or proof or compliance set forth in the Registrar's minutes has become unnecessary, he may issue an ordinary certificate of title in lieu of a limited certificate of title, or may constitute a limited certificate of title an ordinary certificate of title in the manner provided in the *last preceding* subsection.

Ordinary
certificate of
title not to
issue till title
good.
1924, No. 32,
s. 14

196. Except as otherwise provided in this Part of this Act, so long as a certificate of title continues to be limited, no new certificate of title other than a limited certificate of title shall be issued in substitution therefor, or for any part of the land comprised therein, unless in the latter case the matters in respect of which it is limited do not affect the part of the land for which the new certificate of title is issued.

Registrar may
require proof
that estate
of registered
proprietor of
limited title not
extinguished.

197. The Registrar may, in his discretion, before—

- (a) Issuing an ordinary certificate of title in substitution for a certificate that is limited as to parcels or as to title or as to parcels and title; or
- (b) Constituting such a limited certificate of title an ordinary certificate of title; or
- (c) Removing the limitations as to title of a certificate that is limited as to parcels and title; or
- (d) Registering any dealing with the land comprised in a certificate that is limited as to parcels or as to title or as to parcels and title,—

require to be satisfied that the estate or interest of the registered proprietor has not become extinguished by the operation of the Limitation Act 1950 or any other statute of limitation.

1950, No. 65

Memorials on
limited
certificate of
title to be
evidence.
1924, No. 32,
s. 15

198. Every entry on a limited certificate of title, if purporting to be duly made and signed, shall be received in all Courts of law and equity as evidence of the particulars therein set forth, and shall, as against the person named in the original limited certificate of title for any land, and all persons claiming through, under, or in trust for him, be conclusive evidence that the person named in that entry is seised or possessed of the estate or interest of which he is expressed to be the registered proprietor.

199. (1) Except as otherwise provided in this Part of this Act, all the provisions of this Act shall, so far as the circumstances of the case will admit, apply with respect to the land comprised in a limited certificate of title, and to the registration of instruments and other matters affecting the land, save that the title of the proprietor of an estate or interest in any land comprised in a limited certificate of title shall be indefeasible only against the person named in the original limited certificate of title for that land, and all persons claiming through, under, or in trust for him:
- Provided that a limited certificate of title, and the memorials entered thereon of outstanding interests in the land comprised therein, shall be evidence or conclusive evidence, as the case may be, of the matters referred to in section *seventy-five* of this Act, subject only to—
- (a) The doing of the acts, and proof of the matters, and compliance with the requisitions set forth in the Registrar's minutes:
 - (b) The title to the land, or to any estate or interest in the land, of any person, the existence of which title, or the probable or possible existence of which, is set forth or indicated in the Registrar's minutes:
 - (c) The title of any person to or in any existing lease or agreement for a lease for a term not exceeding seven years from the date thereof:
 - (d) The title (if any) of any person adversely in actual occupation of, and rightfully entitled to, any such land or any part thereof.
- (2) Sections *sixty-two*, *sixty-three*, *sixty-five*, *seventy-five*, *seventy-nine*, one hundred and *eighty-two*, and one hundred and *eighty-three* of this Act shall, in their application to a limited certificate of title, be deemed to be modified accordingly.
- (3) Notwithstanding the provisions of section *sixty-four* of this Act, the issue of a limited certificate of title for any land shall not stop the running of time under the Limitation Act 1950 in favour of any person in adverse possession of that land at the time of the issue of the certificate, or in favour of any person claiming through or under him.

Application of
Act to limited
certificate of
title.

1924, No. 32,
s. 16

1950, No. 65

Applications by persons claiming title adverse to that of proprietor under limited certificate.
1924, No. 32, s. 17

See Reprint of Statutes, Vol. VII, p. 1253

No right of action by proprietor under limited certificate against the Crown or the Registrar-General in certain cases.
1924, No. 32, s. 18

No dealings to be registered in certain cases.
Ibid., s. 19

Title to estate less than freehold evidenced by limited certificate.
Ibid., s. 20

200. So long as any land continues to be comprised in a limited certificate of title any person claiming to be seised or possessed of an estate of freehold in that land or any part thereof—

- (a) By virtue of possession adverse to the title of the proprietor in whose name the certificate of title was issued; or
- (b) Under any title the existence of which, or the probable or possible existence of which, is set forth in the Registrar's minutes—

may make an application under the provisions of this Act as if the Land Transfer (Compulsory Registration of Titles) Act 1924 and this Part of this Act had not been passed and the limited certificate of title had not been issued. The Examiner and Registrar shall deal with every such application in the manner provided in this Act other than this Part, and if they are satisfied as to the grounds of the applicant's claim the Registrar shall in due course issue an ordinary certificate of title to the applicant, and shall call in and cancel or correct the limited certificate of title, as the case may require, under the powers conferred upon him by this Act for the correction of errors.

201. No action shall lie against the Crown or the Registrar-General by the registered proprietor of any land, or of any estate or interest in land, comprised in any certificate of title limited as to title by reason of the title or the priority of title of any person mentioned in paragraph (b) or paragraph (c) or paragraph (d) of the proviso to subsection *one* or in subsection *three* of section one hundred and *ninety-nine* of this Act.

202. Where by the Registrar's minutes the existence, or the probable or possible existence, of a title to any estate or interest in land is indicated, no dealing with that estate or interest shall be capable of being registered until the estate or interest, if capable of registration, is registered.

203. The registered title to any estate or interest less than freehold evidenced by a limited certificate of title or by a memorial endorsed thereon shall be deemed to be limited to the same extent as that certificate so long as

the certificate continues to be a limited certificate of title, and it shall not be necessary for the Registrar to place any notice of the limitation upon the instrument creating or evidencing that estate or interest.

- 5 **204. (1) After the expiration of twelve years from**
the date of the first certificate of title limited as to title
for any land,—

When interests
excepted from
guarantee
extinguished.

- 10 (a) Any claim, estate, or interest upon or in any
such land existing before that date and not
evidenced by the certificate of title of the land
or by a memorial endorsed thereon, including
the claim of any caveator in Form Q in the
15 *Second Schedule* to this Act, shall, except
the estate or interest of a person in actual
possession of and rightfully entitled to land,
and the estate or interest or claim of a person
in adverse possession of land, and except as
provided in section *sixty-two* of this Act, be
barred and extinguished:

1924, No. 32,
s. 21

1930, No. 6,
s. 53

1931, No. 5,
s. 25

- 20 (b) No action for the recovery of damages from the
Crown shall lie in respect of any claim, estate,
or interest referred to in the *last preceding*
paragraph:

- 25 (c) No person who is deprived of any such land, or of
any estate or interest in any such land, through
the bringing of the same under this Act by
virtue of this Part of this Act shall be entitled
to bring an action against the Crown for
recovery of damages:

- 30 (d) Every such certificate of title, or any certificate
of title issued in substitution therefor or for
any part of the land comprised therein, shall be
deemed to be no longer limited as to title, and
the Registrar may, unless the certificate of title
35 is limited also as to parcels, issue an ordinary
certificate of title for that land, or may consti-
tute the limited certificate of title an ordinary
certificate of title, and it shall thereupon take
effect in all respects as an ordinary certificate
40 of title.

- (2) The foregoing provisions of this section shall not
operate so as to extend any period after the expiration
of which any such claim or action would have been
barred, or any such estate or interest would have been
45 extinguished, by virtue of any other Act or law.

Caveats in
respect of
applications
under this
Part.

1924, No. 32,
s. 22

See Reprint
of Statutes,
Vol. VII,
p. 1143

205. (1) A caveat in Form M in the *Second* Schedule to this Act shall not be capable of being lodged in respect of an application under this Part of this Act, but any person entitled to lodge a caveat in the said Form M in the case of an application under Part II of this Act may register under the Deeds Registration Act 1908 a caveat in Form Q in the said *Second* Schedule at any time prior to the issue of a certificate of title in respect of the land to which the application under this Part of this Act relates. 10

(2) When the Registrar proceeds with an application in respect of any land against which a caveat in the said Form Q has been registered as aforesaid he shall include in the Registrar's minutes a minute in respect of the claim of the caveator. 15

(3) Any occupier of land the subject of an application under the provisions of this Part of this Act, and any adjoining occupier or proprietor, may, so long as any such land is comprised in a certificate of title limited as to parcels, lodge a caveat in Form R in the *Second* Schedule to this Act at any time after the issue of that certificate of title. 20

(4) The provisions of sections one hundred and *thirty-nine*, one hundred and *forty-three*, and one hundred and *forty-five* to one hundred and *forty-eight*, and of subsection *one* of section one hundred and *thirty-eight* of this Act shall, with the necessary modifications, apply to caveats in Form Q in the *Second* Schedule to this Act: 25

Provided that a caveat in the said Form Q shall not prevent the registration of any dealing with the land comprised in any certificate of title limited as to title. 30

(5) Notice of the issue of a certificate of title under the provisions of this Part of this Act shall be sent by the Registrar by registered letter through the post to the caveator of every caveat in Form Q in the *Second* Schedule to this Act registered against the land comprised in that certificate of title. 35

(6) Subject to the provisions of this Part of this Act, the provisions of this Act in respect of caveats in Form M in the *Second* Schedule to this Act shall, with the necessary modifications, apply to caveats in Form R in that Schedule. 40

206. When a certificate of title is issued under the provisions of this Part of this Act to trustees (other than trustees of public reserves) who have no express power to sell the land comprised in that certificate of title, it shall be the duty of the Registrar to register upon that certificate of title a memorial referring to this section, and to enter a Registrar's caveat for the protection of the interests of persons beneficially interested under the trust.
207. (1) The Registrar shall not be bound on an application in that behalf to issue an ordinary certificate of title, or to issue an ordinary certificate of title in lieu of a certificate of title limited as to parcels, or to constitute a certificate of title limited as to parcels an ordinary certificate of title—
- (a) Unless and until he is satisfied by the deposit of a survey plan, together with such other evidence as he may deem necessary, or by some other means, that no part of the land to which the application relates is held in occupation adverse to the title of the proprietor appearing by the Deeds Register and the instruments of title, or by the certificate of title limited as to parcels, as the case may be, to be entitled thereto:
- (b) Until he has given to the persons appearing to him to be occupiers or proprietors of adjoining land such notices as he deems necessary of his intention to issue or constitute such an ordinary certificate of title, and until the expiration of the time limited in any such notice.
- (2) The Registrar shall give such notices as aforesaid in any case in which it appears to him that the land, or part of the land, in respect of which an ordinary certificate of title is proposed to be issued or constituted is included in the title of an adjoining occupier or proprietor as evidenced by the Deeds Register or by a certificate of title limited as to parcels of the land of an adjoining occupier or proprietor.
208. The Registrar may from time to time, upon such evidence as he deems sufficient, amend the description of parcels in, or the plan upon, a certificate of title limited

Trustees
without power
to sell.
1924, No. 32,
s. 23

Restrictions
on issue of
ordinary
certificate of
title.
Ibid., s. 24 (1),
(2)

Registrar
may amend
description
of land in
limited
certificate
of title.
Ibid., s. 24 (3)

as to parcels, but not so as to exclude from that description any land of which the proprietor is in possession and to which he is rightfully entitled for the estate or interest evidenced by that certificate of title.

No action
against Crown
in certain cases.
1924, No. 32,
s. 25

209. No action for the recovery of damages shall lie against the Crown by the registered proprietor of land comprised in any certificate of title limited as to parcels, or by any other person, by reason of any error or omission in the description of the parcels of land comprised in that certificate of title. 5 10

Registration
of deeds
affecting land
subject to this
Part.
Ibid., s. 26
See Reprint
of Statutes,
Vol. VII,
p. 1143

210. Any deed affecting any land brought under this Act in pursuance of the provisions of this Part of this Act which might have been registered under the provisions of the Deeds Registration Act 1908 if neither the Land Transfer (Compulsory Registration of Titles) Act 1924 nor this Act had been passed may, if the deed bears date prior to, or within six months after, the date of the first certificate of title for that land, be registered under this Act notwithstanding that it is not an instrument in one of the forms prescribed by this Act. 15 20

PART XIII

GENERAL PROVISIONS

Additional Powers of Registrar

Registrar may
require
production of
instruments, &c.
1915, No. 35,
s. 183
1936, No. 31,
s. 13
1950, No. 65

211. Every Registrar, in addition to the powers herebefore vested in him, may exercise all or any of the powers following, that is to say:— 25

- (a) He may require the proprietor or other person making or concurring in any application under this Act to produce any deed or instrument in his possession or control relating to the land the subject of the application, and, if necessary, to attend and give any information or explanation concerning any such deed or instrument: 30
- (b) He may by notice require any person having in his possession or control any grant, certificate, or other instrument upon which any memorial or entry is required to be endorsed for the purposes of this Act to produce that instrument within a reasonable time to be fixed by the notice, and to deposit the instrument in the Land Registry Office of his district for such time as may be necessary for the making of that endorsement or entry: 35 40

- (c) He may, if in his opinion the number or nature of the entries on any folium of the register renders it expedient to close the folium, or if any document of title has become worn, defaced, or mutilated so as to justify his so doing, require the holder of the outstanding duplicate of title to surrender that duplicate for cancellation; and upon cancellation a new certificate shall be issued to the person entitled thereto upon payment of the prescribed fee:

Provided that the Registrar may at his discretion remit that fee except in case of wilful defacement or mutilation of any instrument:

- (d) He may enter caveats for the protection of any person who is under the disability of infancy or unsoundness of mind or is absent from New Zealand, or, on behalf of the Crown, to prohibit the transfer or dealing with any land within his district belonging or supposed to belong to any such person, and also to prohibit the dealing with any land within his district in any case in which it appears to him that an error has been made by misdescription of that land or otherwise in any certificate of title or other instrument, or for the prevention of any fraud or improper dealing:

- (e) He may administer oaths, or may take a statutory declaration in lieu of administering an oath.

212. If, upon requisition in writing made by a Registrar for any purpose mentioned in the *last preceding* section, any proprietor or other person without reasonable cause refuses or neglects—

- (a) To produce, surrender, or deposit any instrument, or to allow the same to be inspected; or
(b) To give any explanation which he is hereinbefore required to give—

- he commits an offence and is liable on summary conviction before a Magistrate to a fine not exceeding five pounds for each day during which his refusal or neglect continues; and the offender shall, in addition thereto, be liable to make compensation to any person who has sustained loss or damage by reason of his refusal or neglect.

Not producing instruments when required by Registrar.

1915, No. 35, s. 184

Authority to
destroy
instruments of
title after
twenty years.
1925, No. 20,
s. 4
1949, No. 51,
s. 32(2)
See Reprint
of Statutes,
Vol. VII,
p. 1143

213. The Registrar, with the express approval in every case of the Registrar-General, may, at his discretion, destroy any instruments of title registered under the Deeds Registration Act 1908, and lodged with any application under this Act, and may destroy one of the 5 duplicate copies of any lease registered under this Act, at any time after the expiration of twenty years from the date of the registration of those instruments of title, or the surrender of that lease, or the expiry of the term thereof respectively. He may also, with the like approval, 10 destroy any books the preservation of which is, in his opinion, unnecessary or inexpedient, not being books provided for by sections *thirty-three* and *fifty* of this Act, or any application book, journal, nominal index, or sectional index kept pursuant to regulations under this 15 Act.

Transfer of
instruments,
&c., to libraries
and museums.
1939, No. 7,
s. 14

214. Any Registrar, with the express approval in every case of the Registrar-General, may, at his discretion, deliver to the person for the time being in charge of the Alexander Turnbull Library, or of any 20 other library or museum approved for the purposes of this section by the Minister of Internal Affairs, any instruments, duplicate copies, or books that he may for the time being be authorized to destroy under the *last preceding* section. 25

Registrar may
require
indemnity for
costs.
1915, No. 35,
s. 225

215. Before proceeding to enforce any penalty under this Act for non-production of any deed or instrument the Registrar may require the person at whose instance the proceeding is taken to deposit with the Registrar of the Court in which the proceeding is to be taken a reason- 30 able sum as security for any costs or expenses which may be incurred by the first mentioned Registrar in relation to the proceeding or consequent on any failure therein, and to sign an undertaking to pay those costs or expenses. 35

Rights of Appeal

Appeal to
Supreme Court
from decision
of Registrar.
Ibid., s. 199

216. If the Registrar refuses to perform any act or duty which he is hereby required or empowered to perform under this Act or any other Act, or if the proprietor of or other claimant to any land, estate, or 40 interest is dissatisfied with the direction or decision of the Registrar and Examiner of Titles, or of the Registrar acting alone, in respect of any application, claim, matter, or thing under this Act or any other Act, the person

deeming himself aggrieved may require the Registrar to set forth in writing the grounds of his refusal, direction, or decision.

217. Any such person may, if he thinks fit, call upon the Registrar to appear before the Supreme Court to substantiate and uphold the grounds of such refusal, direction, or decision as aforesaid, by a notice served upon the Registrar six clear days at least before the day appointed for hearing.

Notice to Registrar to appear.
1915, No. 35,
s. 200

218. Upon the hearing by the Supreme Court of any proceeding under section two hundred and *seventeen* of this Act, the Registrar or his counsel shall have the right of reply, and the Court shall, if any question of fact is involved, direct an issue to be tried to decide that fact; and the Court shall thereupon make such order in the premises as the circumstances of the case may require, which order shall be binding upon the Registrar.

Hearing of appeal.
1915, No. 35,
s. 201

219. All expenses attendant upon any such proceedings shall be borne and paid by the person initiating the proceedings, unless the Court orders that the same be paid out of the Consolidated Fund, which the Court is hereby empowered to do.

Expenses of appeal.
Ibid., s. 202

220. When any question arises between the Registrar and Examiner of Titles with regard to the performance of any of the duties or the exercise of any of the functions by this Act conferred or imposed upon the Registrar which he is authorized or empowered to exercise or perform in conjunction or together with, or with the consent of, the Examiner of Titles, the Registrar shall state a case for the opinion of the Registrar-General; and thereupon the Registrar-General shall decide upon the matter, and his decision shall be binding upon the Registrar and Examiner.

Registrar-General to decide between Registrar and Examiner of Titles.
Ibid., s. 203

221. (1) In every case in which an appeal may be had to the Supreme Court under this Act from the decision of any Registrar acting also as Examiner of Titles, or of any Registrar in respect of any matter with which he is empowered to deal without the concurrence of an Examiner of Titles, the person dissatisfied with the decision may refer the same in the first instance to the Registrar-General, whose decision shall be binding on the Registrar.

Primary appeal to Registrar-General if Registrar and Examiner the same person.
Ibid., s. 204

(2) There shall be the like appeal to the Supreme Court from the decision of the Registrar-General as from the decision of a Registrar.

Registrar-General may submit questions to Court of Appeal.
Ibid., s. 205

Procedure.
1915, No. 35,
s. 206

Rules of procedure.
Ibid., s. 207
See Reprint of Statutes,
Vol. II, p. 96

Fraudulently procuring certificate of title, &c.
Ibid., s. 208

222. The Registrar-General may, by special case, submit for the decision of the Court of Appeal any question arising under this Act or any former Land Transfer Act which appears to him to require such a decision; and that Court shall give its judgment thereon as if the question had been raised in due form upon an appeal from the decision of the Supreme Court. 5

223. In the conduct of actions and proceedings under this Act in any Court the same rules shall apply and there shall be the same rights of appeal as are in force or exist for the time being in respect of ordinary proceedings in the same Court. 10

224. Rules may be made in manner provided by the Judicature Amendment Act 1930 for regulating proceedings in the Supreme Court under this Act. 15

Offences

225. (1) Every person commits an offence, and is liable on conviction on indictment to imprisonment for a term not exceeding three years or to a fine not exceeding five hundred pounds, who— 20

(a) Fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of any certificate of title or other instrument, or of any entry in the register, or of any erasure or alteration in any entry in the register, or in any instrument or form issued by the Registrar-General or any Registrar; or 25

(b) Fraudulently uses, assists in fraudulently using, or is privy to the fraudulent using of any form purporting to be issued or sanctioned by the Registrar-General; or 30

(c) Knowingly misleads or deceives any person hereinafter authorized to demand an explanation in respect of any land or the title to any land which is the subject of any application to bring the land under this Act, or in respect of which any dealing or transmission is proposed to be registered or recorded. 35

(2) Any certificate of title, entry, erasure, or alteration so procured or made by fraud shall be void as between all parties or privies to the fraud. 40

226. Every person commits an offence, and is liable on conviction on indictment to imprisonment for a term not exceeding four years, who—

Other offences
under Act.
1915, No. 35,
s. 209

- 5 (a) Forges, or procures to be forged, or assists in forging the seal of any Registrar, or the name, signature, or handwriting of any officer of the Land Registry Office, in cases where that officer is by this Act or any former Land Transfer Act expressly or impliedly authorized to affix his signature; or
- 10 (b) Stamps, or procures to be stamped, or assists in stamping any document with any forged seal of any Registrar; or
- 15 (c) Forges, or procures to be forged, or assists in forging the name, signature, or handwriting of any person whomsoever to any instrument which is by this Act or any former Land Transfer Act, or in pursuance of any power contained in any such Act, expressly or impliedly authorized to be signed by that person; or
- 20 (d) Uses, with an intention to defraud any person whomsoever, any document upon which any impression or part of the impression of any seal of any Registrar has been forged, knowing the same to have been forged, or any document the signature to which has been forged, knowing the same to have been forged; or
- 25 (e) Fraudulently, or with intent to defraud, uses or deposits, or seeks to use or deposit, under this Act any power of attorney, knowing the same to have been revoked, whether expressly or by death of the grantor; or
- 30 (f) Knowingly or wilfully makes a false oath or declaration concerning any matter or procedure made and done in pursuance of this Act or any former Land Transfer Act.
- 35

227. Any offence under either of the *last two preceding* sections may be dealt with by a Magistrate under and subject to the provisions of the *Summary Jurisdiction Act 1952* as if it were an offence in respect of which a Magistrate has summary jurisdiction under that Act.

Summary trial
of indictable
offences.
1952, No.

Prosecution of
offences.

1915, No. 35,
s. 224

228. Unless otherwise expressly provided, all offences against this Act may be prosecuted, and all fines or sums of money imposed or declared to be due or owing by or under this Act may be sued for and recovered, on behalf of the Crown before any Court having jurisdiction for punishment of offences of the like nature or for the recovery of fines or sums of money of the like amount. 5

Landbrokers

Power of
Registrar-
General to
license persons
as landbrokers.
1915, No. 35,
s. 213

229: (1) The Registrar-General may, with the sanction of the Governor-General, license fit and proper persons to be landbrokers for transacting business under this Act; and, with like sanction, may from time to time prescribe the charges recoverable by licensed brokers for any such business by any scale not exceeding the charges specified in the *Sixth* Schedule to this Act; and for every such licence may charge and receive the fee of five pounds annually. 15

(2) Every such licence shall continue in force until the thirty-first day of December next after the date thereof. 20

Restrictions on
licensing of
landbrokers.
1939, No. 7,
s. 13

See Reprint
of Statutes,
Vol. I, p. 22

Ibid., Vol. I,
p. 708

230: (1) No person shall be qualified to hold a licence as a landbroker under this Act if he is the holder of a licence as a land agent under the Land Agents Act 1921-22, or is a partner, agent, or servant of the holder of a licence under that Act, or if he is a director, officer, or servant of a company carrying on business as a land agent or of a building society incorporated under the Building Societies Act 1908, or is a partner of any such director, officer, or servant. 25 30

(2) Nothing in the *last preceding* subsection shall apply to any person who on the fourteenth day of September, nineteen hundred and thirty-nine (being the date of the passing of the Land Transfer Amendment Act 1939), was the holder of a licence as a landbroker and who but for subsection two of section thirteen of that Act would immediately thereupon have been disqualified from holding the licence, unless he thereafter ceased or hereafter ceases for a period exceeding six months to be the holder of a licence as a landbroker or establishes a place of business in any district in which at the last-mentioned date he had no place of business. 35 40

1939, No. 7

(3) If any person being the holder of a licence as a landbroker under this Act becomes disqualified under this section from holding the licence, the licence shall immediately thereupon be deemed to be revoked.

- 5 **231.** Before granting any such licence the Registrar-General shall take a bond from the person to whom the licence is to be issued in the sum of one thousand pounds, with two sureties each in the sum of five hundred pounds, conditioned that that person shall duly and faithfully act
10 in the capacity of a licensed landbroker in accordance with this Act.

Bond required before grant of licence.
1915, No. 35,
s. 214

- 15 **232.** Any licence granted as aforesaid may be revoked by the Registrar-General, with the sanction of the Governor-General, upon the ground of malfeasance or incapacity of the licensee, or in case the sureties or either of them becomes bankrupt, or leaves New Zealand, or desires to be discharged from his liability.

Licences may be revoked.
Ibid., s. 215

- 20 **233.** Every person commits an offence against this Act, and is liable on summary conviction before a Magistrate to a fine not exceeding fifty pounds, who, not being the holder of a licence as a landbroker under this Act, or of a certificate for the time being in force to the effect that he is on the roll of the Supreme Court as a barrister or solicitor thereof, transacts business for
25 fee or reward under this Act, or wilfully and falsely pretends to be entitled to transact any such business.

Acting without licence.
Ibid., s. 216

- 30 **234.** If any person licensed as a landbroker knowingly and wilfully charges more than the sums mentioned in the aforesaid scale, or in so far as that scale does not extend, then more than the sums mentioned in the *Sixth* Schedule to this Act, his licence shall be cancelled, and he shall be incapable of being again licensed as a landbroker for two years.

Making unlawful charges.
Ibid., s. 217

Miscellaneous

- 35 **235.** (1) Save as otherwise provided in this section, no fee shall be payable in respect of the bringing of land under this Act, except such fee as may be prescribed by regulations under this Act for advertising notices of applications under the provisions of this Act.
40 (2) The fee for the first certificate of title issued for any land brought under this Act shall be the sum of one pound five shillings. The fee shall not

Fees.
1924, No. 32,
s. 27
1930, No. 6,
s. 53(1)

be required to be paid until the certificate of title is required to be delivered by the Registrar to the person entitled thereto, or to be cancelled, or until a dealing with the land or with any estate or interest in the land comprised in that certificate of title is presented for registration. The provisions of section *fifty-five* of this Act, excepting the proviso thereto, shall apply to the said fee. 5

Governor-General in Council may make regulations.
1915, No. 35, s. 219
1950, No. 24, s. 9(1)

236. (1) Subject to the express provisions of this Act, the Governor-General may from time to time, by Order in Council, make regulations— 10

- (a) Prescribing and altering the fees which may be taken by Registrars under this Act;
- (b) Regulating the practice and conduct of business under this Act: 15
- (c) Prescribing the qualifications necessary in the case of persons to be appointed to offices under this Act.

(2) All regulations made under this section shall be laid before Parliament within twenty-eight days after the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session. 20

Printed forms to be supplied and used.
1915, No. 35, s. 220

237. No application or instrument for which a form is prescribed by this Act and set out in the *Second* Schedule to this Act shall be received or registered unless written upon a printed form supplied by or approved by the Registrar, unless the application or instrument is executed under circumstances which, in the opinion of the Registrar, reasonably excuse the omission to use the printed form. 25 30

Registrar-General may vary forms.
Ibid., s. 221

238. The Registrar-General may from time to time make such variations in the forms prescribed in the Schedules hereto as he deems necessary or expedient, and every form authenticated by his seal, or by the seal of the Registrar of the district within which the same is used, shall be taken to be a duly authorized form unless the contrary is proved. 35

- 239.** In any form under this Act the description of any person as proprietor, transferor, transferee, mortgagor, mortgagee, lessor, or lessee, or as trustee, or as seised of, having, or taking any estate or interest in any land, shall be deemed to include the heirs, executors, administrators, and assigns of that person.
- 240.** (1) Where a form in the said *Second Schedule* to this Act is directed to be used, the direction shall apply equally to any form to the like effect, signed by a Registrar or stamped with his seal, or which for the same purpose may be authorized in conformity with this Act.
- (2) Any variation from any such forms, not being in matter of substance, shall not affect their validity or regularity, but they may be used with such alterations as the character of the parties or circumstances of the case render necessary.
- 241.** No District Land Registrar shall be bound to produce in any Court of law or elsewhere than in the Land Registry for the district any register or other document in his custody as such Registrar, or to attend before any Court or elsewhere to give evidence as such Registrar, except by order of the Supreme Court, which order shall not be made unless the Court is satisfied that his attendance or the production is necessary, and that the required evidence cannot be given by certified copy of the register or document.
- 242.** Any declaration made for the purposes of this Act may be made before a District Land Registrar, or a Justice of the Peace, or a solicitor of the Supreme Court, or a notary public, or any other person authorized by law to take statutory declarations in New Zealand.
- 243.** No officer appointed under this Act, or whose appointment is hereby confirmed, shall be personally liable to any action or proceeding for or in respect of any act or matter *bona fide* done or omitted to be done by him in the exercise or supposed exercise of powers vested in him under this Act.
- 244.** The Property Law Act 1952 shall, as regards land under this Act, be read and construed so as not to conflict with the provisions of this Act.

Description of person to include legal representatives.
Ibid., s. 222

Forms may be used with variations.
Ibid., s. 223

Registrar not bound to attend Court or produce register without Court order.
Ibid., s. 227

Persons qualified to take declarations.
1925, No. 20, s. 5

Officers not personally liable.
1915, No. 35, s. 228

Property Law Act 1952 to be subject to this Act.
Ibid., s. 1 (2)

Repeals and
savings.

See Reprint
of Statutes,
Vol. VIII,
p. 568

Ibid., Vol. VII,
p. 1267
Ibid., Vol. VI,
p. 103
1948, No. 64
1915, No. 35,
(Compilation
Act), s. 3

1902, No. 17
1908, No. 99

1913, No. 17

245. (1) The enactments specified in the *Seventh* Schedule to this Act are hereby repealed to the extent therein indicated.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

(3) Any provision of the Land Transfer (Hawke's Bay) Act 1931, the Maori Land Act 1931, the Land Act 1948, or any other enactment that prevailed over the provisions of any enactment hereby repealed shall in like manner prevail over the corresponding provisions of this Act.

(4) In the case of any mortgage executed prior to the first day of January, nineteen hundred and three (being the date of commencement of the Land Transfer Amendment Act 1902), the provisions of the Acts in force on the commencement of the Land Transfer Act 1908 in respect to that mortgage shall continue to apply to that mortgage in so far as those provisions conflict with the provisions of this Act.

(5) In the case of any submortgage executed prior to the first day of March, nineteen hundred and fourteen (being the date of commencement of the Land Transfer Amendment Act 1913), the provisions of the Acts in force when that submortgage was registered shall continue to apply to that submortgage in so far as those provisions conflict with the provisions of this Act.

(6) Where in any document made before the commencement of this Act reference is made to any former Land Transfer Act, that reference shall be construed and shall operate as if it had been made to this Act, or to such of the provisions of this Act as correspond to those of the Act so referred to.

SCHEDULES

Schedules.

FIRST SCHEDULE

CERTIFICATES OF TITLE

Form No. 1

Certificate in Lieu of Grant

New [New Zealand Arms] Zealand

Section 12

1915, No. 35,
1st Sched.

Reference } Warrant No. Register book:
 } P.R. Folio Vol. , folio

CERTIFICATE OF TITLE UNDER LAND TRANSFER ACT

THIS certificate, dated the day of ; nineteen hundred and , under the hand and seal of the District Land Registrar of the Land Registration District of , being a certificate in lieu of grant under warrant of His Excellency the Governor-General in exercise of the powers enabling him in that behalf, witnesseth that is seised of an estate in fee simple (subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial underwritten or endorsed hereon; subject also to any existing right of the Crown to take and lay off roads under any Act of the General Assembly of New Zealand) in the land hereinafter described, as the same is delineated by the plan hereon, bordered , be the several admeasurements a little more or less, which said land is in the said warrant expressed to have been originally acquired by as from the day of , one thousand hundred , under , that is to say: All that parcel of land containing .

[L.S.] District Land Registrar.

Form No. 2

Certificate of Title (General Form)

New [New Zealand Arms] Zealand

Sections 24, 27,
65, 66

Reference } Vol. , folio Register book:
 } Transfer No. Vol. , folio

1915, No. 35,
2nd Sched., B

CERTIFICATE OF TITLE UNDER LAND TRANSFER ACT

THIS certificate, dated the day of , nineteen hundred and , under the hand and seal of the District Land Registrar of the Land Registration District of , witnesseth that is seised of an estate in fee simple, subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial underwritten or endorsed hereon; subject also to any existing right of the Crown to take and lay off roads under the provisions of any Act of the General Assembly of New Zealand, in the land hereinafter described, as the same is delineated by the plan hereon bordered , be the several admeasurements a little more or less, that is to say: All that parcel of land containing .

[L.S.] District Land Registrar.

SECOND SCHEDULE
FORMS OF DOCUMENTS

Form A

APPLICATION TO BRING LAND UNDER THE ACT

Section 20
1915, No. 35,
2nd Sched., A
1925, No. 20,
s. 5(1)

I, A. B., of _____, do declare that I am [or on behalf of _____, of _____, that he is] seised of an estate of freehold [Here state whether of inheritance or of a life estate, and whether held in trust] in all that piece of land situated in [Here state the situation], containing [Here state the area], be the same a little more or less (exclusive of roads intersecting the same, if any), with [Here state rights of way and other privileges or easements appertaining, and set forth a sufficient description to identify the land], which piece of land is of the value of £ _____ and no more, and is the town allotment [or country section, or is part of the town allotment, country section, or reserve] originally granted to _____, by grant dated the _____ day of _____, numbered _____ in the plan of the District [County, or Township] of _____, as delineated on the public maps of the district deposited in the _____ . And I do further declare that I am not aware of any mortgage, encumbrance, or claim affecting the said land, or that any person has any claim, estate, or interest in the said land, at law or in equity, in possession or in expectancy, other than is set forth and stated as follows: that is to say, [Here state particulars of mortgages, encumbrances, or other interests to which the land may be subject]. And I further declare that there is no person in possession or occupation of the said land adversely to my estate or interest therein; and that the said land is now [Here state name and description of occupier, or that the land is unoccupied]; and that [Here state the names and addresses of owners and occupiers of lands contiguous thereto]; and that there are no deeds or instruments of title affecting the said land in my possession or under my control other than those enumerated in the Schedule hereto or at the foot hereof. And I make this solemn declaration conscientiously believing the same to be true.

Dated at _____ this _____ day of _____ 19 ____ .
A. B.

Made and subscribed by the above-named A. B.
this _____ day of _____ 19 ____ , in the
presence of me, _____, District Land
Registrar [or Justice of the Peace or
Solicitor, or Notary Public, or other autho-
rized person].

I, A. B., the above declarant, do hereby apply to have the piece of land described in the above declaration brought under the provisions of the Land Transfer Act 1952.

Dated at _____ this _____ day of _____ 19 ____ .
A. B.

Signed by the above-named A. B. in the presence of—

C. D.,

[Occupation and address.]

SECOND SCHEDULE—continued

Form B

MEMORANDUM OF TRANSFER

Section 90

1915, No. 35,
2nd Sched., C

I, A. B., being registered as the proprietor of an estate [*Here state nature of the estate or interest*], subject, however, to such encumbrances, liens, and interests as are notified by memorandum underwritten or endorsed hereon, in all that piece of land situated in the District [County, or Township] of , containing [*Here state area*], be the same a little more or less (*exclusive of roads intersecting the same, if any*) [*Here state rights of way, privileges, or easements, if any, intended to be conveyed; and, if the land to be dealt with contains all that is included in an existing grant or certificate or lease, refer thereto for description of parcels and diagrams; otherwise set forth the boundaries in chains, links, or feet, and refer to plan delineated on the margin or annexed to the instrument, or deposited in the Registry Office, and refer also to the existing grant, certificate, or lease*], in consideration of the sum of £ paid to me by E. F., the receipt of which sum I hereby acknowledge, do hereby transfer to the said E. F. all my estate or interest in the said piece of land [*or a lesser estate or interest, describing the same*].

In witness whereof I have hereunto subscribed my name this day of .

A. B.

Signed by the above-named A. B., as transferor, in the presence of—

G. H.,
[Occupation and address.]

Form C

MEMORANDUM OF MORTGAGE

Section 101

1915, No. 35,
2nd Sched., E

I, A. B., being registered as proprietor of an estate [*Here state nature of the estate or interest*], subject, however, to such encumbrances, liens, and interests as are notified by memoranda underwritten or endorsed hereon, in that piece of land situated in the District [County or Township] of , containing [*Here state area*], be the same a little more or less (*exclusive of roads intersecting the same, if any*) [*Here state rights of way, privileges, or easements, if any, appertaining; and, if the land to be dealt with contains all that is included in an existing grant or certificate of title or lease, refer thereto for description of parcels and diagram; otherwise set forth the boundaries in chains, links, or feet, and refer to the plan thereof on margin of or annexed to the mortgage, or deposited in the Registry Office, and refer also to the existing grant, certificate, or lease*], in consideration of [*Here state circumstances of indebtedness, present or future, in respect of which the security is intended to be given*], do hereby covenant with the said E. F. that I will pay to him, the said E. F., the sum of £ on the day of . Secondly, that I will pay interest on the said sum at the rate of £ by the £100 in the year, by equal

SECOND SCHEDULE—continued

payments on the day of and on the day of
 in every year. Thirdly [*Here set forth special covenants,
 if any*]. And, for the better securing to the said E. F. the
 repayment in manner aforesaid of the said principal sum and
 interest, I hereby mortgage to the said E. F. all my estate and
 interest in the said land above described.

In witness whereof I have hereto signed my name this
 day of .

A. B., Mortgagor.

Signed by the above-named A.B., as mortgagor, in the
 presence of—

G. H.,
 [*Occupation and address.*]

Form D

Section 101
 1915, No. 35,
 2nd Sched., F

MEMORANDUM OF ENCUMBRANCE FOR SECURING A SUM OF MONEY

I, A. B., being registered as proprietor of an estate [*Here state
 nature of the estate or interest*], subject, however, to such
 encumbrances, liens, and interests as are notified by memoranda
 underwritten or endorsed hereon, in that piece of land situated
 in the District [County or Township] of , containing
 [*Here state area*], be the same a little more or less (*exclusive of
 roads intersecting the same, if any*) [*Here also state rights of
 way, privileges, or easements, if any, appertaining; and, if the
 land to be dealt with contains all that is included in an existing
 grant or certificate of title or lease, refer thereto for description
 of parcels and diagram; otherwise set forth the boundaries in
 chains, links, or feet, and refer to plan thereof on margin of or
 annexed to the memorandum of encumbrance, or deposited in the
 Registry Office, and refer also to the existing grant, certificate,
 or lease*], and desiring to render the said land available for the
 purpose of securing to and for the benefit of C. D. the sum of
 money [annuity or rentcharge] hereinafter mentioned, do hereby
 encumber the said land for the benefit of the said C. D. with the
 sum [annuity or rentcharge] of £ , to be raised and paid
 at the times and in the manner following—that is to say, [*Here
 state the times appointed for the payment of the sum, annuity,
 or rentcharge intended to be secured; the interest, if any; and
 the events on which that sum, annuity, or rentcharge shall
 become and cease to be payable; also any special covenants or
 powers, and any modification of the powers or remedies given to
 an encumbrancee by the Act*]. And, subject as aforesaid, the
 said C. D. shall be entitled to all powers and remedies given to
 an encumbrancee by the Land Transfer Act 1952.

In witness whereof I have hereunto signed my name this
 day of .

A. B.

Signed by the above-named A. B., as encumbrancer, in the
 presence of—

E. F.,
 [*Occupation and address.*]

SECOND SCHEDULE—continued

Form E

MEMORANDUM OF MORTGAGE

Section 101
1915, No. 35,
2nd Sched., G

- (a) Mortgagor:
- (b) Estate:
- (c) Land: [*Area and particulars.*]
- (d) Reference to title in Register:
- (e) Mortgagee:
- (f) Principal sum:
- (g) Date of advance:
- (h) Rate of interest:
- (i) How payable:
- (j) How and when principal sum to be repaid:
- (k) Special covenants or conditions.

And for the better securing to the said (e) the payment of the said principal sum, interest, and other moneys, I [*or we*] hereby mortgage to the mortgagee all my [*or our*] estate and interest in the said land above described.

As witness my hand [*or our hands*], this day of
19 .

(l) A. B., Mortgagor.

Signed by the said (m) A. B., as mortgagor, in the presence of (n)—

G. H.,
[*Occupation and address.*]

Directions for Filling up Above Form

(a) Here insert full name, residence, and occupation of mortgagor [*or mortgagors*], as thus: "A. B., of Wellington, farmer."

(b) Here insert "freehold in fee simple" or "leasehold" as the case may be.

(c) Here insert acreage, number of section and block, and name of survey district, city, town, or township in which the land is situated.

(d) Here insert number and folio of register.

(e) Here insert full name of mortgagee [*or mortgagees*].

(f) Insert amount.

(g) Fill in date.

(h) State rate agreed upon.

(i) Here insert "yearly", "half-yearly", "quarterly" or otherwise, as the case may be.

(j) Here insert date and mode of payment agreed upon.

(k) Here insert special covenants or conditions.

(l) Signature of mortgagor [*or mortgagors*].

(m) Name of mortgagor [*or mortgagors*].

(n) Signature of witness, stating place of abode and calling or description of witness.

SECOND SCHEDULE—continued

Form F

Section 102
1915, No. 35,
5th Sched.

MEMORANDUM OF INCREASE OR REDUCTION OF MORTGAGE DEBT

THE principal sum intended to be secured by the within- [or above-] written [or annexed] mortgage is hereby increased [or reduced] to £ : : .

Dated this day of 19 .

A. B., Mortgagor.

Witness to the signature of the said A. B. as mortgagor:

E. F.,

[Occupation and address.]

C. D., Mortgagee.

Witness to the signature of the said C. D. as mortgagee:

G. H.,

[Occupation and address.]

Form G

Section 102
1915, No. 35,
5th Sched.

MEMORANDUM OF INCREASE OR REDUCTION IN RATE OF INTEREST

THE rate of interest payable under the within- [or above-] written [or annexed] mortgage is hereby increased [or reduced] to £ per annum.

Dated this day of 19 .

A. B., Mortgagor.

Witness to the signature of the said A. B. as mortgagor:

E. F.,

[Occupation and address.]

C. D., Mortgagee.

Witness to the signature of the said C. D. as mortgagee:

G. H.,

[Occupation and address.]

Form H

Section 102
1915, No. 35,
5th Sched.

MEMORANDUM OF RENEWAL, SHORTENING, OR EXTENSION OF TERM OR CURRENCY OF MORTGAGE.

THE term or currency of the within- [or above-] written [or annexed] mortgage is hereby renewed, shortened, or extended to the day of 19 [or as the case may be].

Dated this day of 19 .

A. B., Mortgagor.

Witness to the signature of the said A. B. as mortgagor:

E. F.,

[Occupation and address.]

C. D., Mortgagee.

Witness to the signature of the said C. D. as mortgagee:

G. H.,

[Occupation and address.]

SECOND SCHEDULE—continued

Form I

MEMORANDUM OF VARIATION OF COVENANTS, CONDITIONS, AND POWERS OF MORTGAGE

Section 102
1950, No. 24,
s. 5(2) and
Sched.

The covenants, conditions, and powers contained or implied in the within- [or above-] written [or annexed] mortgage are hereby varied as follows [*Here state any variations agreed upon*]:—

Dated this day of 19 .
A.B., Mortgagor.

Witness to the signature of the said A. B. as mortgagor:

E. F.,
[*Occupation and address.*]

C. D., Mortgagee.

Witness to the signature of the said C.D. as mortgagee:

G. H.,
[*Occupation and address.*]

Form J

MEMORANDUM OF PRIORITY OF MORTGAGES

Section 103
1939, No. 7,
s. 6 and 1st
Sched., N

The priority of the following mortgages in so far as they affect the land described in the Schedule hereto is hereby varied as follows:—

Mortgage No. [or dated] in favour of E. F.
and securing the principal sum of £ shall rank as first
mortgage.

Mortgage No. [or dated] in favour of C. D.
and securing the principal sum of £ shall rank as second
mortgage.

[*Insert necessary additional particulars if there are more than two mortgages.*]

SCHEDULE

All that piece of land [*Here describe the land, referring to the existing grant, certificate, or other instrument of title.*]

Dated this day of 19 .

Signed by A.B., as }
mortgagor, in the } A. B., Mortgagor.
presence of— }
G.H.,

[*Occupation and address.*]

Signed by C. D., as }
mortgagee, in the } C. D., Mortgagee.
presence of— }

I. J.,
[*Occupation and address.*]

Form K

MEMORANDUM OF LEASE

Section 115
1915, No. 35,
2nd Sched., D

I, A. B., being registered as proprietor of an estate [*Here state nature of the estate or interest*], subject, however, to such encumbrances, liens, and interests as are notified by memorandum underwritten or endorsed hereon, in that piece of land

SECOND SCHEDULE—continued

situated in the District [County, or Township] of _____, containing [Here state area], be the same a little more or less (exclusive of roads intersecting the same, if any) [Here state rights of way, privileges, or easements, if any, intended to be conveyed. If the land to be dealt with contains all that is included in an existing grant or certificate of title, or lease, refer thereto for description and diagram; otherwise set forth the boundaries in chains, links, or feet, and refer to a plan thereof on margin of or annexed to the lease, or deposited in the Registry Office, and refer also to the existing grant, certificate, or lease], do hereby lease to E. F., of [Here insert description], all the said land, to be held by him, the said E.F., as tenant for the space of _____ years at the yearly rental of £ _____, payable [Here insert terms of payment of rent], subject to the following covenants, conditions, and restrictions [Here set forth all special covenants, &c., if any].

I, E. F., of [Here insert description], do hereby accept this lease of the above-described land to be held by me as tenant, and subject to the conditions, restrictions, and covenants above set forth.

Dated this _____ day of _____ 19 ____.

A. B., Lessor.

E. F., Lessee.

Signed by the above-named A. B., as lessor, in the presence of—

G. H.,

[Occupation and address.]

Signed by the above-named E. F., as lessee, in the presence of—

I. J.,

[Occupation and address.]

Form L

Section 116
1939, No. 7,
s. 4
1st Sched., M
1947, No. 60,
s. 36

MEMORANDUM OF EXTENSION OR VARIATION OF LEASE

THE term of lease No. _____ is hereby extended to the day of _____ 19 ____.

[If desired, add the following:—

The covenants, conditions, and restrictions contained or implied in the said lease are hereby varied as follows (Here state any variations agreed upon)].

Dated this _____ day of _____ 19 ____.

Signed by A. B., as
lessor, in the } A. B., Lessor.
presence of— }

G. H.,

[Occupation and address.]

Signed by E. F., as
lessee, in the } E. F., Lessee.
presence of— }

I. J.,

[Occupation and address.]

SECOND SCHEDULE—continued

Form M

CAVEAT FORBIDDING LANDS TO BE BROUGHT UNDER THE ACT

Section 136

To the District Land Registrar of the District of

1915, No. 35,
2nd Sched., K

TAKE notice that I, _____, of _____, claiming estate or interest [*Here state the nature of the estate or interest claimed, and the ground on which the claim is founded*] in lands described as [*Here state particulars of description from declaration of applicant*], in notice dated the _____ day of _____, advertising the same as land in respect to which claim has been made to have the same brought under the provisions of the Land Transfer Act 1952, do hereby forbid the bringing of the said land under the provisions of the said Act.

And I appoint _____ as the place at which notices relating hereto may be served on me.

Dated this _____ day of _____ 19 ____.

A. B.

Signed by the above-named A. B., as caveator, in the presence of—

C. D.,
[*Occupation and address.*]

Form N

CAVEAT FORBIDDING REGISTRATION OF DEALING WITH ESTATE OR INTEREST

Section 137

To the District Land Registrar of the District of

1915, No. 35,
2nd Sched., L

TAKE notice that I, [*Name of caveator*], of [*Occupation and address*], claiming estate or interest [*Here state the nature of the estate or interest claimed, and the ground on which claim is founded*] in [*Here describe land*], forbid the registration of any memorandum of transfer or other instrument affecting the said land until this caveat is withdrawn by me, or by order of the Supreme Court, or until the same has lapsed under the provisions in that behalf contained in section 145 of the Land Transfer Act 1952.

And I appoint [*Here state an address within the registration district*] as the place at which notices relating hereto may be served.

Dated this _____ day of _____ 19 ____.

Signed by the above-named A. B., as caveator, in the presence of—

C. D.,
[*Occupation and address.*]

Form O

POWER OF ATTORNEY

I, A. B., of _____, being registered as proprietor of an estate

Section 150

[*Here state nature of the estate or interest*], subject, however, to such encumbrances, liens, and interests as are notified by

1915, No. 35,
3rd Sched., (1)

SECOND SCHEDULE—continued

memorandum underwritten or endorsed hereon, in [*Here refer to Schedule for description and contents of the several parcels of land intended to be affected, which Schedule must contain reference to the existing certificate of title, or land grant, or lease of each parcel*], do hereby appoint C. D., of [*Address and occupation*], attorney on my behalf to [*Here state the nature and extent of the powers intended to be conferred, as whether to sell, lease, mortgage, &c.*] the lands in the said Schedule described, and to execute all such instruments and do all such acts, matters, and things as may be necessary for carrying out the powers hereby given, and for the recovery of all rents and sums of money that may become or are now due or owing to me in respect of the said lands, and for the enforcement of all contracts, covenants, or conditions binding upon any lessee or occupier of the said lands or upon any other person in respect of the same, and for the taking and maintaining possession of the said lands, and for protecting the same from waste, damage, or trespass.

[*Schedule referred to.*]

In witness whereof I have hereunto subscribed my name this
day of 19 . A. B.

Signed by the above-named A. B. in the presence of—

G. H.,

[*Occupation and address.*]

Form P

Section 152

1915, No. 35,
3rd Sched., (2)

REVOCATION OF POWER OF ATTORNEY

I, A. B., of , being registered as the proprietor of an estate [*Here state the nature of the estate*] in all that piece of land [*Here describe land, referring to the existing grant, certificate, or other instrument of title*], hereby revoke the power of attorney given by me to C. D., of [*Address and occupation*], dated the day of .

In witness whereof I have hereunto subscribed my name
this day of 19 . A. B.

Signed by the above-named A. B. in the presence of—

G. H.,

[*Occupation and address.*]

Form Q

Section 205

1924, No. 32,
Sched., No. 1

CAVEAT GIVING NOTICE OF ESTATE OR INTEREST IN RESPECT OF
APPLICATION UNDER PART XII OF THE LAND TRANSFER ACT
1952

To the District Land Registrar of the District of .

TAKE NOTICE that I, [*Name of caveator*], of [*Occupation and address*], claiming estate or interest [*Here state the nature of the estate or interest claimed and the ground on which the claim is founded*] in [*Here describe land by reference to plan to be endorsed hereon*], hereby give notice of that claim.

SECOND SCHEDULE—continued

And I appoint [*Here state address within the registration district*] as the place at which notices relating hereto may be served.

Dated this day of 19 .

Signed by the above-named A. B., as caveator,
in the presence of—C. D. [*Occupation and* } A. B.
address. }

Form R

CAVEAT FORBIDDING THE ISSUE OF AN ORDINARY CERTIFICATE OF TITLE, OR THE CONSTITUTION OF A CERTIFICATE OF TITLE LIMITED AS TO PARCELS AS AN ORDINARY CERTIFICATE OF TITLE

Section 205
1924, No. 32,
Sched., No. 2

To the District Land Registrar of the District of .

TAKE NOTICE that I, [*Name of caveator*], of [*Occupation and address*], claiming estate or interest [*Here state the nature of the estate or interest claimed and the ground on which the claim is founded*] in [*Here describe land by reference to plan to be endorsed hereon*], hereby forbid the issue of an ordinary certificate of title for the said land [*or the constitution of certificate of title limited as to parcels, Volume , folio , as an ordinary certificate of title*] until this caveat is withdrawn by me, or by order of the Supreme Court, or until the same has lapsed under the provisions in that behalf contained in the Land Transfer Acts.

And I appoint [*Here state an address within the registration district*] as the place at which notices relating hereto may be served.

Dated this day of 19 .

Signed by the above-named A. B., as caveator,
in the presence of—C. D. [*Occupation and* } A. B.
address. }

THIRD SCHEDULE

COVENANTS, CONDITIONS, AND POWERS IMPLIED, PURSUANT TO MEMORANDUM OF PRIORITY, IN MORTGAGES THEREBY POSTPONED

Section 103
1939, No. 7,
s. 6 and
2nd Sched.

(1) That the mortgagor will duly and punctually pay all principal, interest, and other moneys secured by and will perform and observe all the covenants and conditions contained or implied in any mortgage having priority to the postponed mortgage.

(2) That if the mortgagor makes default in the payment of any moneys secured by or in the performance or observance of any of the covenants and conditions contained or implied in any mortgage having priority to the postponed mortgage, it shall be lawful for but not obligatory upon the mortgagee to pay those moneys and perform or observe those covenants or conditions, and the provisions of paragraph (7) of the *Fourth Schedule to the Property Law Act 1952* shall, with the necessary

THIRD SCHEDULE—continued

modifications, apply with respect to all moneys so paid and all expenses incurred in performing or observing the covenants or conditions of the prior mortgage.

(3) That compliance with the provisions of any mortgage having priority to the postponed mortgage which relate to insurance against loss or damage by fire or earthquake shall be deemed, so far as it extends, to be compliance with any provisions as to such insurance contained or implied in the postponed mortgage.

(4) That any provisions in the postponed mortgage referring to any particular mortgage having priority thereto shall be deemed to refer to any mortgage at any time having priority to the postponed mortgage.

Section 155
1915, No. 35,
6th Sched.

FOURTH SCHEDULE

COVENANTS IMPLIED IN INSTRUMENTS

THE words "will insure" imply that the covenantor will insure, in the joint names of the covenantor and covenantee, and, so long as the term expressed in the instrument has not expired, will keep insured in those joint names in some public insurance office, to be approved by the covenantee, against loss or damage by fire to the full amount specified in the instrument, or, if no amount is specified, then to their full insurable value, all buildings, tenements, or premises erected on the land and of a nature or kind capable of being insured against loss or damage by fire; and that the covenantor will, at the request of the covenantee, hand over to and deposit with him the policy of every such insurance, and produce to him the receipt or receipts for the annual or other premiums payable on account thereof; and also that all moneys to be received under or by virtue of any such insurance shall, in the event of loss or damage by fire, be laid out and expended in making good the loss or damage: Provided also that if default is made in the observance or performance of the last mentioned covenant, it shall be lawful for the covenantee, without prejudice nevertheless to, and concurrently with, the powers granted him by the instrument or by this Act provided, to insure those buildings, tenements, and premises, and the costs and charges of that insurance shall, until the covenantor's liability under the instrument is discharged, be a charge upon the said land.

The words "paint outside every alternate year" imply that the covenantor will in every alternate year during the continuance of the term mentioned in the instrument paint all the outside woodwork and ironwork belonging to the hereditaments and premises mentioned in the instrument with two coats of proper oil colours in a workmanlike manner.

The words "paint and paper inside every third year" imply that the covenantor will in every third year during the continuance of the term mentioned in the instrument paint

FOURTH SCHEDULE—continued

the inside wood, iron, and other works, then or usually painted, with two coats of proper oil colours in a workmanlike manner, and also repaper with paper of equal quality such parts of the premises as are then papered, and also wash, stop, whiten, or colour such parts of the premises as are then whitened or coloured respectively.

The words "will fence" imply that the covenantor will, during the continuance of the term mentioned in the instrument, erect and put up on the boundaries of the land therein mentioned, or upon the boundaries upon which no substantial fence then exists, a good and substantial fence.

The word "cultivate" implies that the covenantor will at all times during the continuance of the term mentioned in the instrument cultivate, use, and manage, in a proper and husband-like manner, all such parts of the land therein mentioned as are or shall be broken up or converted into tillage, and will not impoverish or waste the same.

The words "That the lessee will not use the said premises as a shop" imply that the covenantor will not convert, use, or occupy the hereditaments and premises mentioned in the instrument, or any part thereof, into or as a shop, warehouse, or other place for carrying on any trade or business whatsoever, or permit or suffer the said hereditaments and premises, or any part thereof, to be used for any such purpose, or otherwise than as a private dwellinghouse, without the consent in writing of the covenantee.

The words "will not carry on offensive trades" imply that no noxious, noisome, or offensive art, trade, business, or occupation or calling shall at any time during the said term be used, exercised, carried on, permitted, or suffered by the covenantor in or upon the hereditaments and premises mentioned in the instrument, and that no act, matter, or thing whatsoever shall at any time during the said term be done in or upon the said hereditaments and premises, or any part thereof, which shall or may be or grow to the annoyance, nuisance, grievance, damage, or disturbance of the occupiers or owners of the adjoining lands and hereditaments.

The words "will not without leave assign or sublet" imply, subject always to *Part VIII of the Property Law Act 1952*, that the covenantor will not, during the continuance of the term mentioned in the instrument, assign, transfer, demise, sublet, or set over, or otherwise by any act or deed procure the lands or premises therein mentioned, or any of them, or any part thereof, to be assigned, transferred, demised, sublet, or set over unto any person whomsoever without the consent in writing of the covenantee first had and obtained.

The words "will not cut timber" imply that the covenantor will not cut down, fell, injure, or destroy any growing or living timber or timberlike trees standing and being upon the hereditaments and premises mentioned in the instrument, without the consent in writing of the covenantee.

FOURTH SCHEDULE—continued

The words "will carry on the business of a publican and conduct the same in an orderly manner" imply that the covenantor will at all times during the continuance of the term mentioned in the instrument use, exercise, and carry on in and upon the premises therein mentioned the trade or business of a licensed victualler or publican and retailer of spirits, wines, ale, beer, and porter, and keep open and use the messuage, tenement, or inn and buildings standing and being upon the land mentioned in the instrument as and for an inn or publichouse for the reception, accommodation, or entertainment of travellers, guests, and other persons resorting thereto or frequenting the same, and manage and conduct that trade or business in a quiet and orderly manner; and will not do, commit, or permit, or suffer to be done or committed, any act, matter, or thing whatsoever whereby, or by means whereof, any licence shall or may be forfeited, or become void, or liable to be taken away, suppressed, or suspended in any manner howsoever.

The words "will apply for renewal of licence" imply that the covenantor will from time to time during the continuance of the term mentioned in the instrument, at the proper times for that purpose, apply for and endeavour to obtain at his own expense all such licences as are or may be necessary for carrying on the trade or business of a licensed victualler or publican in and upon the hereditaments and premises mentioned in the instrument, and keeping the therein-mentioned messuage, tenement, or inn open as and for an inn or publichouse.

The words "will facilitate the transfer of licence" imply that the covenantor will, at the expiration or other sooner determination of the term mentioned in the instrument, sign and give such notice or notices, and allow such notice or notices of a renewal or transfer of any licence as may be required by law to be affixed to the therein-mentioned messuage, tenement, or inn, to be thereto affixed, and remain so affixed during such time or times as are necessary or expedient in that behalf; and generally will do and perform all such further acts, matters, and things as are necessary to enable the covenantee or any other person authorized by him to obtain the renewal of any licence, or any new licence, or the transfer of any licence then existing and in force.

FIFTH SCHEDULE

ATTESTATION OF INSTRUMENTS

Form No. 1

CERTIFICATE OF DISTRICT LAND REGISTRAR, JUSTICE OF THE PEACE,
ETC., TAKING DECLARATION OF ATTESTING WITNESS Section 159,
1915, No. 35,
7th Sched., (1).

APPEARED before me at , the day of 19 ,
C.D., of , a person known to me and of good repute,
attesting witness to this instrument, and acknowledged his
signature to the same; and did further declare that A. B., the
party executing the same, was personally known to him, the
said C. D., and that the signature of this said instrument is in
the handwriting of the said A. B.

E. F.,
District Land Registrar [or Justice of the Peace,
or Notary Public, or Solicitor of the
Supreme Court].

Form No. 2

CERTIFICATE OF DISTRICT LAND REGISTRAR, JUSTICE OF THE PEACE,
ETC., BEFORE WHOM INSTRUMENT ACKNOWLEDGED BY THE Section 160
1915, No. 35,
7th Sched., (2).
PARTY EXECUTING SAME

APPEARED before me at , the day of
19 , A. B., of , the party executing the within instru-
ment, and acknowledged that he did freely and voluntarily
sign the same.

E. F.,
District Land Registrar [or Justice of the Peace,
or Notary Public, or Solicitor of the
Supreme Court].

SIXTH SCHEDULE

Sections 229,
234
1915, No. 35,
8th Sched.

SCALE OF CHARGES FOR LANDBROKERS

For application to bring land under the Land Transfer Act 1952, where the land remains in the original grantee, although it may have been or still remains subject to lease or mortgage*—			£	s.	d.
Where the value does not exceed £400	.....		0	10	0
Where the value exceeds £400 but does not exceed £800	.....	$\frac{1}{8}$ th per cent			
Where the value exceeds £800	.....		1	0	0
For filling up and entering caveats, exclusive of any professional charges incident to litigation pending	.....		0	10	0
Memorandum of transfer, lease, mortgage, or encumbrance†—					
Where the value does not exceed £400	.....		0	10	0
Where the value exceeds £400 but does not exceed £800	.....	$\frac{1}{8}$ th per cent			
Where the value exceeds £800	.....		1	0	0
Whenever any implied covenant is modified, or any covenant, not being of those for which abbreviated forms of words are hereinbefore prescribed, is introduced in any instrument, extra	.....		0	5	0
Whenever any original section or allotment or parcel of land included in an existing grant or other instrument is broken in any dealing, extra	.....		0	10	0
Transfer of mortgage or lease or surrender of lease	.....		0	5	0
Power of attorney	.....		0	10	0

* These charges include filling up application, procuring declaration and signatures, procuring diagram from Land Office, and attendance and delivery at Registry Office. Where the title has not remained in the original grantee, an extra charge may be made proportioned to the trouble, those cases being more in the nature of conveyancing.

† In the case of lease, and of annuity secured by encumbrance, ten years' rent, or ten years of the annuity, to be assumed as the value for the purpose of calculating the percentage.

SEVENTH SCHEDULE**ENACTMENTS REPEALED**Section **245**

- 1915, No. 35—
The Land Transfer Acts Compilation Act 1915 (including the Land Transfer Act 1915). (Reprint of Statutes, Vol. VII, p. 1161.)
- 1920, No. 43—
The Land Laws Amendment Act 1920: Section 30.
- 1924, No. 32—
The Land Transfer (Compulsory Registration of Titles) Act 1924. (Reprint of Statutes, Vol. VII., p. 1253.)
- 1924, No. 64—
The Finance Act 1924: Section 18. (Reprint of Statutes, Vol. VII, p. 1254.)
- 1925, No. 20—
The Land Transfer Amendment Act 1925. (Reprint of Statutes, Vol. VII, p. 1263.)
- 1930, No. 6—
The Finance Act 1930: Section 53. (Reprint of Statutes, Vol. VII, p. 1266.)
- 1931, No. 5—
The Finance Act 1931 (No. 2): Section 25.
- 1936, No. 58—
The Statutes Amendment Act 1936: Section 43.
- 1939, No. 7—
The Land Transfer Amendment Act 1939.
- 1947, No. 60—
The Statutes Amendment Act 1947: Section 36.
- 1949, No. 51—
The Statutes Amendment Act 1949: Section 32.
- 1950, No. 24—
The Land Transfer Amendment Act 1950.
- 1950, No. 65—
The Limitation Act 1950: The Second Schedule, so far as it relates to the Land Transfer Act 1915.