

1966/25



THE LAND TRANSFER REGULATIONS 1966

BERNARD FERGUSSON, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 14th day of March 1966

Present:

THE RIGHT HON. KEITH HOLYOAKE, C.H., PRESIDING IN COUNCIL

PURSUANT to the Land Transfer Act 1952, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Land Transfer Regulations 1966.

(2) These regulations shall come into force on the 1st day of May 1966.

2. Interpretation—In these regulations the term “the Act” means the Land Transfer Act 1952.

PART I—ADMINISTRATION

3. Land Registry Offices—(1) In and for each district there shall be an office known as the Land Registry Office, which shall be open to the public for the transaction of business daily, except on Sundays, Saturdays, and the following days:

- (a) Any day falling during the period commencing on the 25th day of December and ending with the 1st day of January:
- (b) Where the 1st day of January falls on a Saturday, the 3rd day of January:
- (c) Where the 1st day of January falls on a Sunday, the 2nd day of January:
- (d) Good Friday:
- (e) Easter Monday:
- (f) Anzac Day:
- (g) The Sovereign’s birthday:
- (h) The holiday observed in the locality as Anniversary Day:
- (i) Labour Day:
- (j) Any other day on which the office is authorised by the State Services Commission to be closed:
- (k) Any other holiday.

(2) Every day on which pursuant to subclause (1) of this regulation the office is not required to be open to the public shall, in relation to any instrument or document that is required to be registered or deposited in the Land Registry Office or with the District Land Registrar, be deemed to be a holiday within the meaning of paragraph (a) of section 25 of the Acts Interpretation Act 1924 (which relates to the extension of the time for doing anything where the time prescribed in that behalf expires on a holiday).

4. Office hours—The hours during which the Land Registry Office shall be so open shall be from 9 a.m. to 4 p.m.

5. Books and indexes to be kept—In addition to the register and provisional register provided for by sections 33 and 50 of the Act, there shall be kept in and for each district the following books and indexes:

- (a) An application book, in which shall be entered particulars relating to all applications to bring land under the operation of the Act:
- (b) A journal book, in which shall be entered particulars of all instruments received for registration, referring to them by number in the order in which they are so received for registration:
- (c) A nominal index, in which shall be entered the names of all persons having any registered interest in land, together with the nature of the instrument creating the interest, the property affected, and the folium of the register:
- (d) A section index, in which shall be entered particulars of all land alienated from the Crown and subject to the Act, with the corresponding folium of the register:

Provided that any index may be kept in the pages of a book bound together or unbound, or upon cards regularly arranged, and any particulars required to be kept in a book may be kept by any other suitable means approved by the Registrar-General.

6. Printed forms—(1) Solicitors, licensed land brokers, persons acting on behalf of Government Departments, banks, and others approved by the Registrar may have their own forms printed. In every such case, two proof copies shall be forwarded to the Registrar for approval, one to be returned when approved and the other to be filed for reference.

(2) Paper of the best quality and of a size approved by the Registrar must be used for the printing of forms and for all instruments for registration. Inset sheets used with any form must be of the same size and of a good quality of paper.

(3) An approval fee shall be payable in respect of every transaction for which a form not previously approved is used.

7. Forms of instruments—(1) All applications to bring land under the Act and instruments for registration or entry on the register must be on forms in accordance with section 237 of the Act, and the parts of those forms which are not printed must be fairly and legibly written or typed. If typed, the original, and not a carbon copy, shall be retained in the Registry Office.

(2) In the case of instruments presented for registration in duplicate or triplicate, each part must be an exact replica of the other or others, both as to the body of the instrument and as to any declarations, consents, or other matters endorsed thereon or annexed thereto, and as to original signatures and seals relating to the execution, making, attestation, and verification thereof respectively:

Provided that where any such declarations, consents, or other matters are required only for evidentiary purposes to enable registration, the Registrar shall have a discretion to waive the aforesaid requirements in respect thereof.

PART II—REGISTRATION

8. Registrar may refuse to register instruments in certain cases—The Registrar may refuse to register any instrument—

- (a) Which purports to create estates or interests not capable of registration, or to deal with estates or interests not registered or not capable of registration:
- (b) Which purports to deal with land or other property not subject to the provisions of the Act:
- (c) Which purports to deal with matters not capable of inclusion in the register:
- (d) Which for any other reason is incapable of complete registration.

9. Registration as to part of land affected—Notwithstanding anything in regulation 8 hereof, an instrument dealing only with land subject to the provisions of the Act, whether the land is in one registration district or more than one, may, if the instrument is otherwise registrable or will or could be registrable at some future time in its present form, be accepted for registration as to part only of the land affected if a request for such partial registration is endorsed thereon and signed by the person presenting it for registration. A partially registered instrument may at the like request be subsequently accepted for registration as to the remainder or any other part of the land affected thereby, subject to payment in respect of each such registration of the same fees as if each registration were effected by a separate instrument.

10. Land in more than one registration district—Notwithstanding anything in regulation 9 hereof, where land situated in more than one registration district is being dealt with, the Registrar may require a separate instrument to be drawn up and duly executed for registration in each district affected.

11. Applications, etc., that do not become part of register—All applications, evidentiary documents, and other documents which do not upon registration become part of the register or which upon delivery to the Registrar do not require to be the subject of an entry on the register shall be fairly and legibly printed, written, or typed on paper of good quality and of a size approved by the Registrar.

12. Correction of errors—(1) The Registrar may refuse to register any instrument containing an erasure or alteration.

(2) Mistakes should be corrected by deleting the words or figures written in error and writing the correct words or figures above them.

(3) Where any such correction, interlineation, or addition affects or could affect the interests of the persons executing the instrument, it should be initialled by those persons and by the attesting witnesses. Where it affects or could affect the interests of the persons receiving the benefit under the transaction, it should be initialled by those persons or by the solicitor acting on their behalf under the transaction, as the circumstances may warrant.

13. Documents not to be altered while retained in office—Except where authorised by the Registrar, no alteration whatever shall be allowed to be made in any application or instrument during retention thereof in the office.

14. Documents not to be altered after registration—No alteration whatever may be made in any instrument after it has been registered.

15. Presentation for registration—Applications to bring land under the Act, and instruments, dealings, and other matters required to be registered or entered in the register or to be deposited, shall be presented by hand at the Land Registry Office by the person claiming thereunder or by some person acting on his or her behalf, between the hours of 9 a.m. and 0.30 p.m. or between the hours of 1.30 p.m. and 3 p.m.

16. Instrument not to be received if not in order—No application, instrument, dealing, or other matter shall be received for registration unless it complies in all respects with the requirements of the Act and of these and any other regulations for the time being in force thereunder, or if it is contrary to any other law or regulation in force, or if there appears to be fraud or improper dealing.

17. Certificate as to correctness of instrument—The certificate required by section 164 of the Act, if given by a solicitor, shall be signed by the solicitor in his own name and not in the name of any firm with which he may be connected, and shall show that he is acting for the party claiming under the instrument.

18. Production of duplicate certificate or instrument—No instrument the memorial whereof is required to be entered upon the duplicate certificate or other instrument of title shall be received for registration unless the duplicate is produced therewith or has been previously lodged for the purpose of registration, except—

- (a) When the Registrar dispenses with the production thereof under section 44 of the Act:
- (b) For the purpose of the giving of notice under section 211 of the Act for the production thereof:
- (c) In the case of any decree or order of any Court, or any Proclamation, Order in Council, or other instrument made or issued under any Act:
- (d) In any case in which it is provided by any Act that the production of the duplicate is not required.

19. Defective instruments: How dealt with—If after any application, instrument, or dealing has been received any defect, error, or omission is discovered therein, or if any caveat prevents the registration being proceeded with, the Registrar shall, when applying the provisions of section 25 or section 43 of the Act, forthwith give notice in writing of the defect, error, or omission or of the existence of the caveat, as the case may be, to the person by whom the application, instrument, or dealing was presented.

20. Return of certificates or instruments produced for registration of dealings—Every certificate of title, lease, or other instrument produced to the Registrar for the purpose of registering any dealing, and the duplicate or triplicate (if any) of every instrument presented

for registration, shall be returned only to the person by whom it was produced or presented, or to such other person as he may in writing direct.

21. Delivery of new certificate of title issued on request—Any certificate of title issued upon the application of any person or by the Registrar of his own volition for the balance or any part or the whole of the land included in any existing certificate of title or lease (Crown or otherwise) shall be delivered only—

- (a) To the person by whom the existing certificate of title or lease was produced to the Registrar; or
- (b) Where the identity or whereabouts of that person is not known, to the mortgagee (if any) of the land; or
- (c) To the person authorised in writing to receive it by the person by whom the existing title or lease was produced or by the mortgagee aforesaid, as the case may be.

22. Delivery of new certificate of title issued for portion transferred—Any certificate of title issued pursuant to section 93 of the Act upon the registration of any instrument of disposition of any land shall be delivered to the person by whom the instrument was lodged for registration, or to such other person as he may in writing direct.

23. General powers of Registrar as to delivery of documents—Nothing in regulations 20 to 22 hereof shall be construed to prevent the Registrar from delivering any certificate of title, lease, or other instrument to the registered proprietor thereunder or to any other person appearing to the Registrar to be entitled to receive it.

24. Caveats—In addition to the particulars required by section 138 of the Act, every caveat against dealings shall show how the estate or interest claimed is derived from the registered proprietor, and shall state whether it is intended to forbid the registration of instruments affecting the title of the registered proprietor altogether, or with exceptions; and if with exceptions, the exceptions shall be stated. A caveat so drawn shall not prevent the registration of any instrument or class of instruments specifically excepted from the operation thereof.

25. Notice to caveator of instrument presented for registration—On the request in writing of any person presenting for registration any instrument the registration whereof is prevented by a caveat, the Registrar shall give to the caveator the notice referred to in section 145 of the Act.

26. Change by caveator of address for service—At any time before the receipt by the Registrar of a request to give the notice referred to in regulation 25 hereof, the caveator may, by notice in writing to the Registrar, appoint another place or address within the district at or to which notices and proceedings relating to the caveat may be served or addressed instead of the place or address stated in the caveat.

27. Death of caveator—If a caveator dies while a caveat is still in force, the caveat may be withdrawn or a consent in terms of section 147 of the Act may be given by the legal personal representatives of

the caveator, and, if there are no such representatives, by the person or persons who appear to the Registrar to be properly entitled to the estate or interest protected by the caveat, subject, if the Registrar so requires, to his receiving a satisfactory indemnity against claims against the Crown or the Registrar arising out of his acceptance of the withdrawal or consent so given.

28. Powers of attorney—(1) The Registrar may decline to deposit any power of attorney or a duplicate or attested copy thereof, unless the original has been duly signed (or, if executed by a corporation, sealed), duly attested, and, if required by him, duly proved in accordance with sections 158 to 160 of the Act, or duly verified in accordance with section 166 of the Act.

(2) Every power of attorney or duplicate or attested copy thereof deposited with the Registrar shall be on paper of a size and quality approved by the Registrar.

PART III—SEARCHES

29. Searches—Any person may, without payment of any fee, search the register, the provisional register, the nominal index, and all registered and deposited instruments and plans at any time during the hours specified in regulation 4 hereof.

30. Assistance to persons searching—Reasonable assistance may be afforded by the officers of the Department to persons searching, but no search may be made by any such officer except by special arrangement approved by the Registrar-General of Land, and no responsibility shall be incurred for the accuracy of any information so obtained.

PART IV—PLANS

31. Deposit of plan—A person seeking to deposit a plan shall present it at the Land Registry Office in the like manner and within the same hours as instruments for registration.

32. Dealings not to be registered until plan deposited—No dealing in which the description of parcels involves reference to a plan intended to be deposited shall be accepted for registration until the plan has been approved by the Registrar and deposited, unless the dealing is one upon the registration of which the deposit of the plan is dependent.

33. Plan not to be altered after deposit—No alteration whatever shall be made in or to any plan after it has been deposited:

Provided that, with the consent of the Registrar, additional or corrective information distinguished as such may be marginally added.

34. Registrar may require plan to be deposited when application made under section 86 of Act for new certificate—Before issuing a certificate or certificates of title upon the application of any registered proprietor pursuant to section 86 of the Act, the Registrar may require a plan of the land comprised therein to be deposited in accordance with the requirements of section 167 of the Act.

35. Plan not to be deposited until appropriate consents given and other requirements complied with—No plan by way of subdivision and no plan showing new roads, streets, rights of way, access ways, service lanes, or land set apart as reserves, shall be deposited, unless the Registrar is satisfied that all necessary consents of or certificates by public officers, local bodies, or other persons have been given in accordance with the Municipal Corporations Act 1954 or Part II of the Counties Amendment Act 1961, as the case may require, and have not lapsed, and that all the requirements of the Public Works Act 1928 relating to the subdivision and sale of the land and to the provision, widening, and dedication of roads and streets have been complied with.

PART V—MISCELLANEOUS PROVISIONS

36. Fees—(1) Subject to these regulations, there shall be taken by the Registrar for the various matters specified in the First Schedule hereto the respective fees set out in that Schedule, and those fees shall be due and payable in advance.

(2) For the purposes of that Schedule, the expression “plan of survey” means a plan required to be in accordance with regulations relating to surveys and to be verified by the statutory declaration of a registered surveyor.

(3) Where two or more proprietors holding separate parcels of land under separate certificates of title or having different interests or shares in separate parcels of land combine in one instrument to deal with their respective parcels or shares, the same registration fees shall be payable in respect of the instrument as if each proprietor had executed a separate instrument.

(4) In any other case in which two or more operations are included in one instrument, the same fees shall be payable as if each operation were effected by a separate instrument.

37. Merger of estates or interests—The registered proprietor of any estate or interest claiming that the estate or interest has merged in a greater estate or interest of which he is also the registered proprietor may make an application to the Registrar to note the merger of the lesser estate or interest, and the application shall be supported by the statutory declaration of the registered proprietor or such other evidence as the Registrar considers necessary. The Registrar, on being satisfied that the merger has been effected at law and in equity, shall notify it upon the register and upon the appropriate instruments of title.

38. Change of name—Where it appears to the satisfaction of the Registrar that a registered proprietor has changed his, her, or its name, or that the name of a registered proprietor is incorrectly stated in the Registrar’s records, the Registrar may, on payment of the prescribed fee, endorse a memorial of the change of name or make the necessary corrections in his records, as the case may be:

Provided that no fee shall be payable where the correction of the Registrar’s records is rendered necessary by reason of a mistake made by the Registrar or by any of his officers.

39. Area of land or number of parcels or subdivisions on one title—

(1) The area of land or number of parcels or subdivisions which may be included in one certificate of title shall be in the discretion of the Registrar.

(2) The Registrar may, where the circumstances so warrant, issue a new certificate of title in respect of every allotment shown on a plan deposited under the Act or in respect of any two or more of such allotments.

40. Withdrawal of instrument lodged for registration or deposit—

(1) Any instrument lodged with the Registrar for registration or deposit may be withdrawn by the person by whom it was lodged, or by his duly authorised agent, at any time before the Registrar has signed the certificate of registration thereon as provided in section 40 (2) of the Act.

(2) The right to withdraw an instrument shall include the right to withdraw all instruments lodged in connection with it by the person aforesaid except such as, for other reasons, may be required to be retained by the Registrar.

(3) All fees paid in respect of the withdrawn instrument may be refunded or credited to the person by whom they were paid.

41. Instruments produced to enable registration of dealings—(1) Where any instrument is produced to the Registrar to enable the registration of any other instrument, the person producing it must supply, to the satisfaction of the Registrar, particulars of that other instrument.

(2) No instrument other than one of which particulars are so supplied shall be accepted for registration against or upon the strength of the produced instrument without the further authority of the person by whom it was produced, unless the Registrar considers that such acceptance is warranted by the circumstances.

(3) For the purposes of this regulation, an instrument lodged with any other instrument to enable it to be registered shall be deemed to have been produced for that purpose, and that other instrument shall be deemed to be an instrument of which particulars have been supplied as aforesaid.

42. Revocations—The regulations specified in the Second Schedule hereto are hereby revoked.

SCHEDULES

FIRST SCHEDULE

Reg. 36

FEES PAYABLE TO DISTRICT LAND REGISTRARS UNDER THE LAND TRANSFER ACT 1952

	£	s.	d.
1. Registering memorandum of transfer:			
(a) Where monetary consideration or value of the estate or interest transferred does not exceed £1,000	1	0	0
(b) For every other transfer	3	0	0
2. Registering memorandum of mortgage:			
(a) Where principal sum specified (exclusive of any further advances) does not exceed £1,000	1	0	0
(b) For every other mortgage	3	0	0

FIRST SCHEDULE—*continued*

	£	s.	d.
3. For any certificate of title or provisional certificate of title issued pursuant to section 87 of the Act	4	0	0
4. For any certificate of title issued other than pursuant to section 87 of the Act (but subject to section 235 of the Act)			No fee
5. For any leasehold certificate of title			No fee
6. Receiving applications to bring land under the Act and applications under section 3 of the Land Transfer Amendment Act 1963	4	0	0
7. Registering discharge of mortgage, encumbrance, or any other charge (including partial discharge)			No fee
8. Registering surrender of lease (including partial surrender)			No fee
9. Cancellation or withdrawal or lapsing of caveat (including partial cancellation, withdrawal, or lapsing), and any notice relating to any caveat			No fee
10. Registering, recording, or depositing any instrument lodged by or on behalf of the Crown where any fee charged would be payable directly or indirectly from the Consolidated Revenue Account			No fee
11. Noting any merger			No fee
12. Bringing forward on to a new lease, licence, or certificate of title, pursuant to sections 117 and 118A of the Act or any other enactment of like authority and effect, any encumbrances, liens, and interests to which any previous estate or interest in the same land was subject			No fee
13. Registering or depositing any instrument or dealing or entering notice of any matter not otherwise provided for and not otherwise exempted	1	0	0
14. Depositing any map or plan	2	0	0
15. Checking plans and diagrams:			
(a) For each lot comprised in any plan of survey	1	0	0
Provided that the maximum fee payable shall not exceed the sum of £50			
(b) For any plan not being a plan of survey	1	0	0
(c) For any diagram endorsed on a transfer or other instrument	1	0	0
(d) For the plan of any land vested in a local authority as defined in section 2 of the Public Works Act 1928, the fees shall be at the rate prescribed in paragraph (a) of this clause but shall not exceed the sum of	5	0	0
16. Certified copies:			
(a) For any two typewritten pages or part thereof	1	0	0
(b) For any four pages or part thereof supplied by photocopy or other reproduction processes		10	0
17. Issuing provisional lease or mortgage: The same fees as for a certified copy.			
18. Approving any form	1	0	0

SECOND SCHEDULE

Reg. 42

REGULATIONS REVOKED

Title	Serial No.
The Land Transfer Regulations 1948	1948/137
The Land Transfer Regulations 1948, Amendment No. 1	1949/111
The Land Transfer Regulations 1948, Amendment No. 2	1951/112
The Land Transfer Regulations 1948, Amendment No. 3	1955/26
The Land Transfer Regulations 1948, Amendment No. 4	1956/6
The Land Transfer Regulations 1948, Amendment No. 5	1957/255

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations consolidate, with some changes, the Land Transfer Regulations 1948 and the amendments of those regulations. The regulations are in the main a general redrafting of the 1948 regulations, the principal changes being—

- (a) Regulation 41 is a new provision. It provides that a person producing an instrument for the purpose of enabling registration of another instrument must supply particulars of that other instrument, and prohibits the registration against the produced instrument of any instrument other than that so specified, except with the consent of the person producing the instrument.
- (b) A new scale of fees is prescribed.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 17 March 1966.

These regulations are administered in the Department of Justice.