

1915.
NEW ZEALAND.

LAND TRANSFER ACTS COMPILATION:

MEMORANDUM BY THE SOLICITOR-GENERAL.

Presented to both Houses of the General Assembly by Act.

LAND TRANSFER ACTS COMPILATION.

PURSUANT to section 2 of the Statutes Compilation Act, 1908, the Solicitor-General submits the following memorandum directing attention to the consequential and other alterations in, additions to, or omissions from the text, made by him in preparing the compilation of the Land Transfer Act, 1908, and its amendments:—

1908, No. 99—The Land Transfer Act, 1908:—

Long Title: The Long Title has been altered to read, “An Act compiling the Land Transfer Act, 1908, and its amendments.”

Section 1 (1): The Short Title is altered from the Land Transfer Act, 1908, to the Land Transfer Act, 1915.

(2): Subsection (2) is omitted. A saving clause to the same effect, but expressed in different terms, is included in the enacting Bill (clause 3).

Section 2: The definition of “former Land Transfer Act” has been extended to include the Land Transfer Act, 1908, and its amendments. The definition of “Surveyor-General” has been altered to accord with the present practice of appointments being made by the Public Service Commissioner pursuant to the Public Service Act, 1912. The definition of “transmission” has been omitted, and the definition contained in section 3 of the Land Transfer Amendment Act, 1913, has been substituted.

Section 3: The words “any former Land Transfer Act” have been substituted for “the Land Transfer Act, 1885,” so as to include the Land Transfer Act, 1908.

Section 4 (1): The words “who shall respectively be appointed by the Governor” have been omitted, as being inconsistent with the Public Service Act, 1912.

(2): For the same reason the words “there may be appointed” have been substituted for the words “the Governor may, if he thinks fit, appoint.” The amendments made by section 4 of the Land Transfer Amendment Act, 1913, have been incorporated.

Section 5: For the reason mentioned in the note to section 4, the words “There may also be appointed from time to time” have been substituted for the words “The Governor may from time to time appoint.”

Section 6: For the reason mentioned in the note to section 4, the words “Any person may from time to time be appointed” have been substituted for the words “The Governor may from time to time appoint.”

Section 8: The words “Public Service” have been substituted for the words “Civil Service”; for the reason mentioned in the note to section 4 the words “any such appointment may be cancelled” have been substituted for the words “the Governor may cancel any such appointment”; and the words “any new appointment may be made” have been substituted for the words “may make any new appointment.”

Section 11: The words “eighteen hundred and seventy-four” have been substituted for the words “one thousand eight hundred and seventy-four.”

Section 12: A reference to the First Schedule has been consequentially substituted for a reference to the “Second Schedule.”

Section 16: The words “eighteen hundred and seventy-one” have been substituted for the words “one thousand eight hundred and seventy-one.”

Section 17 (3): The words “eighteen hundred and eighty-nine” have been substituted for the words “one thousand eight hundred and eighty-nine.”

- Section 20 (1): A reference to the "Second Schedule" has been consequentially substituted for a reference to the "Third Schedule."
- Paragraph (j) is omitted, having been repealed by section 5 of the Land Transfer Amendment Act, 1913.
- Section 24: A reference to the "Second Schedule" has been consequentially substituted for a reference to the "Third Schedule."
- Section 35: Section 35 is omitted, having been repealed by section 6 of the Land Transfer Amendment Act, 1913; and that section, with the necessary modifications, has been substituted.
- Section 45 (1): For the reason mentioned in the note to section 4, the words "There may from time to time be appointed" have been substituted for the words "The Governor may from time to time appoint."
- Section 46: The references to an order of the Native Land Court are omitted, as superseded by sections 95 and 96 of the Native Land Act, 1909.
- Section 55: The words "eighteen hundred and seventy-four" have been substituted for the words "one thousand eight hundred and seventy-four."
- Section 56: This section is omitted as spent.
- Section 62 (1): A reference to the "Second Schedule" has been consequentially substituted for a reference to the "Third Schedule."
- Section 73: The amendments made by section 7 of the Land Transfer Amendment Act, 1913, have been incorporated.
- Sections 83 (1), 90 (1), 94 (1), 101, 102: References to the "Second Schedule" have been consequentially substituted for references to the "Third Schedule."
- Section 102: Subsection (2) is omitted, having been repealed by section 9 of the Land Transfer Amendment Act, 1913.
- Section 103: A reference to the "Fourth Schedule" has been consequentially substituted for a reference to the "Fifth Schedule," and a reference to the "Sixth Schedule" has been substituted for a reference to the "Seventh Schedule."
- Section 104: This section is omitted, having been repealed by section 10 of the Land Transfer Amendment Act, 1913, and that section, with the necessary modifications, has been substituted.
- Section 111: A reference to the "Fourth Schedule" has been consequentially substituted for a reference to the "Fifth Schedule."
- Section 113: The words "nineteen hundred and six" have been substituted for the words "one thousand nine hundred and six."
- Section 114: The amendments made by section 11 of the Land Transfer Amendment Act, 1913, have been incorporated.
- Section 116: The amendments made by section 12 of the Land Transfer Amendment Act, 1913, have been incorporated.
- Section 117: The amendments made by section 13 of the Land Transfer Amendment Act, 1913, have been incorporated.
- Section 124: This section is omitted, having been repealed by section 14 of the Land Transfer Amendment Act, 1913, and the section substituted by that section has been inserted.
- Section 125: This section is omitted, having been repealed by section 15 of the Land Transfer Amendment Act, 1913.
- Section 131: The reference to "Appendix A" has been omitted and a reference to "Appendix I" substituted.
- Sections 138, 146, 147: References to the "Second Schedule" have been consequentially substituted for references to the "Third Schedule."
- Section 151: The amendment made by section 16 of the Land Transfer Amendment Act, 1913, has been incorporated.
- Section 155: The amendment made by section 17 of the Land Transfer Amendment Act, 1913, has been given effect to.
- Sections 160, 162: References to the "Third Schedule" have been consequentially substituted for references to the "Fourth Schedule."
- Section 166: A reference to the "Sixth Schedule" has been consequentially substituted for a reference to the "Seventh Schedule."
- Section 169: The amendments made by section 18 of the Land Transfer Amendment Act 1913, have been given effect to.
- Sections 171 (1), 172: References to the "Seventh Schedule" have been consequentially substituted for references to the "Eighth Schedule."
- Section 173: This section is omitted, having been repealed by the Native Land Act, 1909.
- Sections 180, 181: These sections are omitted, having been repealed by section 19 of the Land Transfer Amendment Act, 1913; and that section, with the necessary modifications, has been substituted.
- Section 201: The amendments made by section 20 of the Land Transfer Amendment Act, 1913, have been incorporated.
- Section 216: A reference to the "Eighth Schedule" has been consequentially substituted for a reference to the "Ninth Schedule"; the amendment made by section 21 of the Land Transfer Amendment Act, 1913, has been incorporated.
- Section 220: A reference to the "Eighth Schedule" has been consequentially substituted for a reference to the "Ninth Schedule."

Section 221 (1) : For the reason mentioned in the note to section 4, the words "There may from time to time be appointed" have been substituted for the words "The Governor may from time to time appoint"; and the words "any such appointment may at any time be revoked" have been substituted for the words "may at pleasure revoke any such appointment."

(2.) A reference to the "Land Transfer Act, 1915," has been substituted for a reference to the "Land Transfer Act, 1908."

Section 222 (a) : A reference to the "Ninth Schedule" has been consequentially substituted for a reference to the "Tenth Schedule."

Section 223 : The amendments made by section 22 of the Land Transfer Amendment Act, 1913, have been given effect to.

Appendices : The headings "Appendix A," "Appendix B," and "Appendix C" have been omitted, and "Appendix I," "Appendix II," and "Appendix III" substituted. The object of this alteration is to avoid confusion with the references to Appendix A and Appendix B as used in the enacting Act.

Schedules :—

First Schedule : This Schedule has necessarily been omitted. The numbering of the succeeding Schedules is consequentially altered.

Second Schedule : The words "nineteen hundred and " have been substituted for "one thousand nine hundred and " in the first line of the certificate of title.

Third Schedule : Forms A, F, J, K : References to the "Land Transfer Act, 1915," have been substituted for references to the "Land Transfer Act, 1908."

Form B : The words "nineteen hundred and " have been substituted for the words "one thousand nine hundred and ."

Form L : This form is omitted, having been repealed by section 23 of the Land Transfer Amendment Act, 1913, and the form enacted by that section has been substituted. A reference to the "Land Transfer Act, 1915," has been substituted for a reference to the "Land Transfer Act, 1908."

Fifth Schedule : Clause (7) : The amendments made by section 23 of the Land Transfer Amendment Act, 1913, have been given effect to. A reference to the "Land Transfer Act, 1915," has been substituted for a reference to the "Land Transfer Act, 1908."

Clause (9) : A reference to the "Workers' Compensation Act, 1908," has been substituted for a reference to the "Workers' Compensation for Accidents Act, 1908."

Clause (12) : A reference to the "Land Transfer Act, 1915," has been substituted for a reference to the "Land Transfer Act, 1908."

Sixth Schedule : Form (2) : The amendments made by section 23 of the Land Transfer Amendment Act, 1913, have been given effect to.

Form (3) : This form has been omitted, having been repealed by section 23 (5) of the Land Transfer Amendment Act, 1913.

Ninth Schedule : A reference to the "Land Transfer Act, 1915," has been substituted for a reference to the "Land Transfer Act, 1908."

Tenth Schedule : The words "and upon the registration of an estate of freehold in possession derived by settlement, will, or intestacy" have been omitted after the words "Contribution to Assurance Fund upon first bringing land under this Act."

The words omitted were included in the Land Transfer Act, 1908, in error (see section 11 of the Land Transfer Act 1885 Amendment Act, 1889).

1913, No. 17—The Land Transfer Amendment Act, 1913 :—

The Title, enacting words, and the first section have been omitted from the compilation as unnecessary.

Section 2 (1) : Effect has been given to this subsection in clause 3 of the enacting Bill.

(2) : This subsection has been omitted as unnecessary.

Section 3 : Effect has been given to this section in clause 2 of the compilation.

Section 4 : Effect has been given to this section in clause 4 of the compilation.

Section 5 (repeal) is omitted from the compilation as spent.

Section 6 : This section, with the necessary verbal modifications, has been inserted as clause 35 of the compilation. The reference in subsection (6) to "the principal Act" has been omitted, and a reference to "this Act" substituted. Subsection (8) is omitted as spent.

Section 7 : Effect has been given to this section in clause 72 of the Bill.

Section 8 : The introductory words of this section have been omitted, and the new section 100A has been inserted as clause 100 of the compilation.

Section 9 (repeal) is omitted from the compilation as spent.

Section 10 : This section, with the necessary verbal modifications, has been inserted as clause 104 of the compilation. A reference to the "principal Act" has been omitted from subsection (1), and a reference to "this Act" substituted. The words "(whether made before or after the commencement of this Act)" have been omitted from the compilation as unnecessary. The reference to "the forms numbered (1), (1A), or (2) in the Sixth Schedule to the principal Act (as amended by this Act)" has been omitted, and a reference to "the forms numbered (1), (2), or (3) in the Fifth Schedule to this Act" substituted therefor. Subsection (5) has been omitted as spent.

- Section 11 : Effect has been given to this section in clause 114 of the compilation.
- Section 12 : Effect has been given to this section in clause 116 of the compilation. A saving clause limiting the operation of the amendments made by sections 9 and 12, so far as regards submortgages executed before the passing of the Amendment Act, 1913, is included in the enacting Bill (clause 3).
- Section 13 : Effect has been given to this section in clause 117 of the compilation.
- Section 14 : The introductory words of this section have been omitted, and the new section 124 has been inserted as clause 124 of the compilation.
- Section 15 (repeal) is omitted as spent.
- Section 16 : Effect has been given to this section in clause 150 of the compilation.
- Section 17 : Effect has been given to this section in clause 154 of the compilation.
- Section 18 : Effect has been given to this section in clause 168 of the compilation.
- Section 19 : Subsection (1), with the necessary verbal modifications, has been inserted as clause 178 of the compilation. The reference to the "principal Act" has been omitted, and a reference to "this Act" substituted. Subsection (2) is omitted as spent.
- Section 20 : Effect has been given to this section in clause 198 of the compilation.
- Section 21 : Effect has been given to this section in clause 213 of the compilation.
- Section 22 : Effect has been given to this section in clause 220 of the compilation.
- Section 23 (1) : The introductory words of this subsection have been omitted, and the new form has been inserted as Form L of the Second Schedule of the compilation.
- (2) : Effect is given to this subsection in clause (7) of the Fourth Schedule to the compilation.
- (3) : The introductory words have been omitted, and the new form (1A) has been inserted as Form (2) of the Fifth Schedule to the compilation.
- (4) : Effect has been given to this subsection in the Form (3) of the Fifth Schedule to the compilation.
- (5) : This subsection is omitted as spent.

A Schedule is attached hereto showing how each section of the Land Transfer Act, 1908, and the Land Transfer Amendment Act, 1913, has been disposed of in the compilation.

LAND TRANSFER ACTS COMPILATION.

SCHEDULE SHOWING HOW THE SECTIONS OF THE COMPILED ACTS ARE DISPOSED OF IN THE COMPILATION.

1908, No. 99—The Land Transfer Act, 1908.

Repealed Act. Section	Compilation. Clause	Repealed Act. Section	Compilation. Clause	Repealed Act. Section	Compilation. Clause
1	1	62	61	123	123
2	2	63	62	124	(d)
3	3	64	63	125	(e)
4	4	65	64	126	Clause 125
5	5	66	65	127	126
6	6	67	66	128	127
7	7	68	67	129	128
8	8	69	68	130	129
9	9	70	69	131	130
10	10	71	70	132	131
11	11	72	71	133	132
12	12	73	72	134	133
13	13	74	73	135	134
14	14	75	74	136	135
15	15	76	75	137	136
16	16	77	76	138	137
17	17	78	77	139	138
18	18	79	78	140	139
19	19	80	79	141	140
20	20	81	80	142	141
21	21	82	81	143	142
22	22	83	82	144	143
23	23	84	83	145	144
24	24	85	84	146	145
25	25	86	85	147	146
26	26	87	86	148	147
27	27	88	87	149	148
28	28	89	88	150	149
29	29	90	89	151	150
30	30	91	90	152	151
31	31	92	91	153	152
32	32	93	92	154	153
33	33	94	93	155	154
34	34	95	94	156	155
35	(a)	96	95	157	156
36	Clause 36	97	96	158	157
37	37	98	97	159	158
38	38	99	98	160	159
39	39	100	99	161	160
40	40	101	101	162	161
41	41	102	102	163	162
42	42	103	103	164	163
43	43	104	(c)	165	164
44	44	105	Clause 105	166	165
45	45	106	106	167	166
46	46	107	107	168	167
47	47	108	108	169	168
48	48	109	109	170	169
49	49	110	110	171	170
50	50	111	111	172	171
51	51	112	112	173	(f)
52	52	113	113	174	Clause 172
53	53	114	114	175	173
54	54	115	115	176	174
55	55	116	116	177	175
56	(b)	117	117	178	176
57	Clause 56	118	118	179	177
58	57	119	119	180	(g)
59	58	120	120	181	(g)
60	59	121	121	182	Clause 179
61	60	122	122	183	180

(a) Repealed by 1913, No. 17, section 6. (b) Section omitted as spent. (c) Repealed by 1913, No. 17, section 10 (5). (d) Repealed by 1913, No. 17, section 14. (e) Repealed by 1913, No. 17, section 15 (f) Repealed by 1909, No. 15, Schedule. (g) Repealed by 1913, No. 17, section 19.

SCHEDULE SHOWING HOW THE SECTIONS OF THE COMPILED ACTS ARE DISPOSED OF IN THE
COMPILATION—*continued.*

1908, No. 99—The Land Transfer Act, 1908—*continued.*

Repealed Act. Section	Compilation. Clause	Repealed Act. Section	Compilation. Clause	Repealed Act. Section	Compilation. Clause
184	181	201	198	218	215
185	182	202	199	219	216
186	183	203	200	220	217
187	184	204	201	221	218
188	185	205	202	222	219
189	186	206	203	223	220
190	187	207	204	224	221
191	188	208	205	225	222
192	189	209	206	226	223
193	190	210	207	227	224
194	191	211	208	228	225
195	192	212	209	229	226
196	193	213	210	230	227
197	194	214	211	231	228
198	195	215	212	232	229
199	196	216	213	233	230
200	197	217	214	234	231

1913, No. 17—Land Transfer Amendment Act, 1913.

Repealed Act. Section	Compilation. (a)	Repealed Act. Section	Compilation. Clause	Repealed Act. Section	Compilation. Clause
1	(a)	12	116	22	220
2	(b)	13	117	23 (1)	Sched. II,
3	Clause 2	14	124		Form L
4	4	15	(c)	23 (2)	Sched. IV,
5	(c)	16	Clause 150		Clause (7)
6	Clause 35	17	154	23 (3)	Sched. V,
7	72	18	168		Form (2)
8	100	19 (1)	178	23 (4)	Sched. V,
9	(c)	19 (2)	(d)		Form (3)
10	Clause 104	20	Clause 198	23 (5)	(e)
11	114	21	213		

(a) Omitted as unnecessary.
as unnecessary.
omitted as spent.

(b) Subsection (1) given effect to in clause 3 of enacting Bill.
(c) Omitted as spent.

(d) Subsection (2) omitted as spent.

Subsection (2) omitted
(e) Subsection

[Compiled by the Solicitor-General, under the provisions of the Statutes Compilation Act, 1908, pursuant to the resolution of both Houses of the General Assembly dated the 14th day of July, 1915.]

LAND TRANSFER.

ANALYSIS.

- Title.
1. Short Title. Property Law Act not to conflict with this Act.
 2. Interpretation.

Districts, Officers, &c.

 - 3 Existing districts continued. Governor may abolish or alter districts.
 4. Appointment of Registrar-General and other officers. Existing officers continued.
 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.

Land subject to Provisions of this Act.

 10. What lands subject to this Act.
 11. Special provision as to land under Native Land Act in certain cases.

Title in Substitution of Crown Grant

 12. Governor may by warrant direct issue of certificate of title in lieu of grant.
 13. Particulars to be specified in warrant, and to be conclusive evidence to Registrar.
 14. Certificate may be issued to person entitled at time of issue of warrant.
 15. Certificate to issue subject to existing incumbrances.
 16. Warrant not necessary for issue of certificate to persons entitled by virtue of Act of General Assembly.
 17. Warrant for issue of certificate in lieu of grant to fix antevesting date. Land to be under Act from such date.
 18. Reservation of road by Governor's warrant to have same effect as if reserved in Crown grant. Reservation of road in certificate of title not to vitiate the same.

Applications to bring Land under Act.

 - 19 Land may be brought under Act on application of person entitled.
 20. By whom applications may be made.
 21. Applicant to surrender title-deeds.
 22. Procedure on application.
 23. If all necessary parties concur, application to be gazetted.
 24. If applicant is original grantee, application to be forthwith gazetted.
 25. If necessary parties do not concur, Registrar may reject application, or may order service of notices.
 26. Notice of application to be posted in Land Registry Office of district.
 27. If no caveat lodged, Registrar may, after specified time, 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. On issue of certificate of title, previous title-deeds to be cancelled and retained by Registrar.
 31. Reversion on lease not extinguished by bringing land under Act.
 32. Registration of Crown grant under Deeds Registration Act not necessary where land brought under Act.

Registration.

 33. Registrar to keep Register.
 - 34 When grants, certificates of title, and instruments deemed registered. Definition of registered proprietor.
 35. Instruments to be in duplicate. Instruments entitled to priority according to date of registration.
 36. Memorial defined
 37. Memorial to be recorded on duplicate grant or other instrument. Certificate to be evidence of registration.
 38. Instruments not effectual until entry made in Register.
 39. Informal instruments not to be registered.
 40. Registrar may dispense with duplicate instruments in certain cases.
 41. Certified copies of Register to be evidence.
 42. Register to be open for search.
 43. Instrument not to be registered unless duly stamped.
 44. Where boundaries of district altered by including lands in other district, copies of original Registers to be evidence of dealings with lands so included.
- District Agents.*
45. Registration through District Agents. Priority of instruments so registered.
- Provisional Registration.*
46. Until Register duly constituted, land to be provisionally registered.
 47. When Register duly constituted, Provisional Register to be closed and memorials transferred to Register.
 48. Entries in Provisional Register to be evidence of title.
 49. Provisions of Act to apply to provisional registration.
 50. No dealings to be registered until payment of fees.
- Lost Title-deeds.*
51. Supreme Court may investigate cases of lost deeds.
 52. May make order for claimant to be registered as proprietor.
 53. Court to be guided by real justice.
- Outstanding Interests.*
54. Interests outstanding at time of bringing land under Act to be notified in Register.
 55. Interests registered under Deeds Registration Act to be recognized in certain cases.
 56. Assurance Fund not liable for loss sustained through neglect of claimant to register.
- Registered Proprietors.*
57. Persons jointly registered to be joint tenants.
 58. Estate of registered proprietor paramount.
 59. Registered proprietor protected against ejection except in certain cases.
 60. When land brought under Act title guaranteed to registered proprietor.
- Certificate of Title.*
61. Registered proprietor entitled to certificate of title.
 62. Existing incumbrances to be noted in certificate.
 63. Certificate, how to be dated. May be ante-dated.
 64. How memorial of easement to be recorded.
 65. Tenants in common entitled to separate certificates.
 66. Issue of certificate may be withheld for fourteen days in certain cases.
 67. Certificate not to be void though issued in name of person deceased.
 68. Certificate to be evidence of proprietorship.
 69. Instruments executed by person not actually registered.
 70. No unauthorized right to public road or reserve acquired by registration.
 71. Certificate not to be impeached.
 72. Certificate void in certain cases.
 73. Errors in Register may be corrected.

74. Holder of instrument obtained through fraud or error, or wrongfully retained, may be required to surrender it.
75. In default, may be summoned to Supreme Court.
76. Person refusing to surrender instrument may be committed to prison.
77. Court may order new certificate to issue.
78. Court may order former certificate of title to be cancelled.
79. Proprietor may claim single certificate in place of several.
80. Declaration may be made in case of loss of original certificate. Provisional certificate may be issued. Effect of provisional certificate.
81. Registrar may issue certificate of title to purchaser on sale for non-payment of rates.

Transfers.

82. Transfer by registered proprietor, how effected. Discretionary power of Registrar.
83. New certificate to transferee unnecessary if whole land transferred.
84. Certificate to be cancelled on transfer of portion of land only.
85. New certificates to be issued for portion transferred and for balance.
86. Certificate of title for balance of land not transferred may remain valid if sufficiently descriptive of such balance.
87. Estates for life, or in reversion, or remainder may be created. Certificate to issue for estate in possession only.
88. Implied covenant in transfer of equity of redemption.
89. Transfer of lease or mortgage.
90. Rights of transferee. Saving powers of Supreme Court to give effect to trusts.
91. Implied covenants in transfer of lease.
92. Memorandum of order of Court vesting estate or interest to be entered on Register.

Leases.

93. Leases, form of. Memorandum of lease may be registered.
94. Covenant for right of purchase.
95. Lease not binding on mortgagee without consent.
96. Surrender of lease.
97. Implied covenants on part of lessee.
98. Implied powers of lessor.
99. Re-entry by lessor.
100. Provision in case of lost lease.

Mortgages.

101. Mortgages, form of.
102. Mortgage to take effect as security only.
103. Covenants and conditions implied in mortgage.
104. Alteration of terms of mortgage by indorsement thereon.

Remedies of Mortgagee.

105. Mortgagee may, after default, enter into possession.
106. Mortgagee may distrain on tenant to the amount of his rent.
107. Receipt of mortgagee sufficient discharge.
108. Application of purchase-money.
109. Transfer by mortgagee.

Sale of Mortgaged Property by Registrar of Supreme Court.

110. Sale of mortgaged land by Registrar of Supreme Court.
111. Mortgagor may redeem at mortgagee's valuation.
112. Mortgagee may become purchaser.
113. Protection of *bona fide* purchaser.
114. Fees payable on application.
115. Registration of transfer.
116. Discharge of mortgage, how effected.

Absent Mortgagees.

117. Public Trustee may give discharge in certain cases.

Other Rights of Mortgagees.

118. Mortgagee to have remedies of a lessor for recovery of premises on default.
119. Right of mortgagee of lease not to be barred.
120. Mortgagee of leasehold after entry liable to lessor for rent.
121. Mortgagee to have custody of instrument of title.

Discharge of Annuity.

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

Transmission.

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

Trusts.

130. No entry of trusts to be made on Register except those specially authorized.
131. Transferor may apply for entry of "No survivorship" on Register.
132. Trustees registered as joint proprietors may similarly apply.
133. Effect of entry. Order of Supreme Court.
134. Procedure for that purpose.
135. Registrar may be nominated a trustee.
136. Beneficiary entitled to use name of trustee in prosecuting action. Indemnity to trustee.

Registration Abstract.

137. Registration abstract to enable dealings out of New Zealand.
138. After issue of abstract no entry to be made in Register.
139. Mode of procedure under registration abstract.
140. Entry upon abstract to have same effect as if on Register.
141. Certified entries on abstract to be evidence.
142. Proceedings upon return of abstract.
143. On transfer of fee original grant to be surrendered.
144. Procedure in case of loss of registration abstract.

Caveat.

145. Caveat against bringing land under Act.
146. Caveat against dealing with land under the Act.
147. Particulars to be stated in caveat.
148. Service of notices as to caveats.
149. Effect of caveat against bringing land under Act.
150. Effect of caveat against dealings.
151. Notice of caveat to be given to persons affected.
152. Procedure for removal of caveat.
153. Lapse of caveat against bringing land under Act.
154. Lapse of caveat against dealings.
155. Person entering caveat without due cause liable for damages.
156. Caveat may be withdrawn.
157. No second caveat may be entered.

Powers of Attorney.

158. Power of attorney available for dealings under Act.

159. Registered proprietor may deal with land under the Act by attorney.
 160. Power of attorney to be deposited with Registrar.
 161. Revocation of power of attorney.
 162. Seal unnecessary.
 163. The Property Law Act to apply.

Covenants implied in Instruments

164. Covenants for further assurance implied.
 165. Short covenants, form of.
 166. Implied covenants may be negatived, &c. Covenants to apply jointly and severally.
 167. Action for breach of covenant.

Execution of Instruments.

168. Instruments to be signed and attested.
 169. When instruments deemed to be attested.
 170. Questions to attesting witness, and certificate thereon.
 171. Acknowledgment by party to instrument, and certificate thereon.
 172. Married woman deemed *feme sole*.
 173. Corporation may execute under seal.
 174. Instruments to be received in evidence in Courts.
 175. Correctness of instrument to be certified. Fine for false certificate.

Verification of Instruments.

176. Verification of instruments executed out of New Zealand.

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177. Surveyor-General may make regulations for surveys. Surveyors to be licensed. Power to cancel surveyors' licenses.
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APPENDICES

- Appendix I.—Registration of trusts affecting public reserves and other public lands.
 Appendix II.—Provisions relating to dealings with land under the Canterbury Educational Reserves Sale and Leasing Act, 1876.
 Appendix III.—Registration of mortgages, &c., to unincorporated building societies.

Schedules.

AN ACT compiling the Land Transfer Act, 1908, and its Amendments. Title.

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

1. (1.) This Act may be cited as the Land Transfer Act, 1915.

(2.) The Property Law Act, 1908, shall, as regards land under this Act, be read and construed so as not to conflict with the provisions of this Act.

2. In this Act, and in all instruments purporting to be made and executed under this Act, if not inconsistent with the context,—

“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:

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

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

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

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

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

“Indorsement,” 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:

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

“Land” extends to and 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:

“Land Revenue Receiver’s receipt” includes any document, signed by competent authority, evidencing a contract for alienation of land by the Crown in fee-simple:

“Mortgage” means and includes 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;

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

(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 such charge;

Short Title.

Property Law Act not to conflict with this Act.

1908, No. 99, s. 1 (5)

Interpretation.

Ib., s. 2

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

“Mortgagee” means the proprietor of a mortgage :

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

“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 :

“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, 1908, or otherwise :

“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 consequent on the death or bankruptcy of a registered proprietor, or as his executor or administrator, or as trustee under a will or settlement, or by virtue of appointment or succession to any office.

1913, No. 17, s. 3

Districts, Officers, &c.

Existing districts continued.

1908, No. 99, s. 3

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 defined and existing at the time of the coming into operation of this Act, shall be land registration districts for the purposes of this Act.

Governor may abolish or alter districts.

(2.) The Governor 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.

Appointment of Registrar-General and other officers. *Ib.*, s. 4

1913, No. 17, s. 4

1912, No. 23, s. 60 (3)

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 to the above 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.

Existing officers continued.

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

Appointment of deputies.

1908, No. 99, s. 5

1912, No. 23, s. 60 (3)

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 such officer from any cause, or during the vacancy of any office by death or otherwise ; and 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.

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.

Offices may be held conjointly.
1908, No. 99, s. 6
1912, No. 23, s. 60 (3)

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 such person has been admitted as a barrister or solicitor of the Supreme Court, or has passed such special examination 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 land broker, or be in partnership with any person so practising.

Barristers or solicitors only to be appointed to certain offices.
1908, No. 99, s. 7

8. All persons heretofore appointed or hereafter to be appointed to any office as aforesaid shall hold such 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.

Officers to be subject to regulations of Public Service.
Ib., s. 8
1912, No. 23, s. 60 (3)

9. Every Registrar shall have and use a seal of office bearing the impression of the Royal 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 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 such Registrar, without further proof, unless the contrary is shown.

Registrar to have and use seal of office.
1908, No. 99, s. 9

Land subject to Provisions of this Act.

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

What lands subject to this Act.
Ib., s. 10

- (a.) All land which has already in any manner become 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 hereafter made under the provisions of any Native Land Act in force for the time being which has the effect of vesting such land in any person in freehold tenure:
- (d.) All land which hereafter becomes vested in any person for an estate in fee-simple in possession by virtue of any Act of the General Assembly.

11. Land over which the Native title has been extinguished since the constitution of the district within which the same is situate, but prior to the thirty-first day of August, eighteen hundred and seventy-four, shall come under the provisions of this Act upon the registration of a Crown grant, or certificate of title in lieu of grant.

Special provision as to land under Native Land Act in certain cases.
Ib., s. 11

Title in Substitution of Crown Grant.

12. No Crown grant shall be issued for any land subject to the provisions hereof; but in lieu of such grant the Governor shall, by warrant under his hand, direct the Registrar to issue a certificate of title for such land in the form in the First Schedule hereto; and every such certificate, when signed and registered, shall have the force and effect of a Crown grant.

Governor may by warrant direct issue of certificate of title in lieu of grant.
Ib., s. 12

Particulars to be specified in warrant, and to be conclusive evidence to Registrar.

1908, No. 99, s. 13

Certificate may be issued to person entitled at time of issue of warrant.

Ib., s. 14

Certificate to issue subject to existing incumbrances.

Ib., s. 15

Warrant not necessary for issue of certificate to persons entitled by virtue of Act of General Assembly.

Ib., s. 16

Warrant for issue of certificate in lieu of grant to fix antevesting date.

Ib., s. 17

Land to be under Act from such date.

Reservation of road by Governor's warrant to have same effect as if reserved in Crown grant.

Ib., s. 18

Reservation of road in certificate of title not to vitiate the same.

13. Every such warrant—

(a.) Shall specify the name and description of the person or persons entitled to such grant, and, if more than one, whether as joint tenants or tenants in common, and the date whereon the right to such 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 such 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.

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.

15. Every certificate of title to be issued as aforesaid shall be made subject to all incumbrances, estates, and interests appearing on the Provisional Register as affecting the land at the date of the issue of such certificate.

16. No warrant shall be necessary for the issue of a certificate of title to any person in whom any land has become and is or hereafter becomes vested 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.

17. (1.) The land comprised in any certificate of title issued or hereafter to be 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's warrant as the date of acquisition of title thereto; and such date shall, for all purposes whatsoever, be deemed the antevesting date, in the same manner as if such antevesting date had been inserted in a Crown grant of the said land.

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

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

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

(2.) 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.

Applications to bring Land under Act.

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 the operation hereof, 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 such 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.

Land may be brought under Act on application of person entitled.
1908, No. 99, s. 19

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

By whom applications may be made.
Ib., s. 20
1913, No. 17, s 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:

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 such land shall concur in such application:

(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 such application:

(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 such consent:

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

(e.) By the guardian of any infant, or the committee or guardian of any lunatic or person of unsound mind, making such application in the name of such infant, lunatic, or person of unsound mind:

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

(2.) But no application shall be received—

(g.) 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 such application with a view to bringing the entirety under this Act; nor

(h.) From the mortgagor of any land, unless the mortgagee consents to such application; nor

(i.) From the mortgagee of any land, except in exercise of a power of sale contained in the mortgage.

Applicant to
surrender title-
deeds.
1908, No. 99, 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 such instruments, and also, if required, an abstract of his title, and shall make and subscribe a declaration of the truth of the statements in such application, and shall append to such application a plan of the land applied for, showing the boundaries and relative position thereof.

Procedure on
application.
Ib., s. 22

22. Upon the receipt of such 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 such application, with the report of the Examiner, and shall confer with such Examiner thereon.

If all necessary
parties concur,
application to be
gazetted.
Ib., s. 23

23. If it appears to the satisfaction of the Registrar and Examiner that the land in respect of which such application is made is held by the applicant for the estate or interest specified in such 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 such application to be advertised in the *Gazette* and in one or more newspapers published in the district, and shall in 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 such land under this Act.

If applicant is
original grantee,
application to be
forthwith gazetted.
Ib., s. 24

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 Examiner may dispense with such advertisement, and in such 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 the Form B in the Second Schedule hereto.

If necessary parties
do not concur,
Registrar may reject
application, or
may order service
of notices.
Ib., s. 25

25. If it appears to the Registrar and Examiner that any person interested (other than as a lessee under a lease for years) is not a party to such application, or that the evidence adduced by the applicant in support of his claim or of any matters which he is required to prove is deficient in any essential particular, the Registrar and Examiner may either reject such application, or at discretion may limit a time, by advertisement as aforesaid, within which caveat may be lodged forbidding the bringing of such 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 twenty-three hereof, notice of such application be advertised at the cost of the applicant in any gazette or newspaper published in New Zealand or elsewhere.

Notice of appli-
cation to be posted
in Land Registry
Office of district.
Ib., s. 26

26. The Registrar shall, in addition to the notices aforesaid, cause notice of every such application as last 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 such notice addressed to each of the persons (if any) stated by the applicant to be in occupation of such 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 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 such 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 B aforesaid.

If no caveat lodged, Registrar may, after specified time, bring land under Act.

1908, No. 99, s. 27

28. If, however, 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 such service 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 such term, and upon proof of service of such notice, may, if no caveat has been lodged, bring the land under this Act by issuing a certificate in manner aforesaid.

In case of failure to serve notice, time may be extended.

Ib., s. 28

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 such case return to him, or to the person (if any) notified in such application as having a lien thereon, all instruments of title deposited by such applicant in support of his application.

Application may be withdrawn by consent of persons interested.

Ib., s. 29

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 such instrument relates to or includes any property other than the land included in such certificate of title, the Registrar shall, by indorsement thereon, cancel the same in so far only as relates to the land included in such certificate, and such instrument shall for all other purposes remain in full force and effect.

On issue of certificate of title, previous title-deeds to be cancelled and retained by Registrar.

Ib., s. 30

(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 or a Judge thereof.

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

Reversion on lease not extinguished by bringing land under Act.

Ib., s. 31

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 where land brought under Act.

Ib., s. 32

Registration.

33. Each Registrar shall keep a book to be called the "Register," and shall bind up therein duplicates of all grants of land and of all certifi-

Registrar to keep Register.

Ib., s. 33

cates of title to land within his district, and each grant and certificate of title shall constitute a separate folium of such 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.

When grants, certificates of title, and instruments deemed registered.

1908, No. 99, s. 34

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.

(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 such land.

Definition of registered proprietor.

(3.) 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.

Instruments to be in duplicate.

1913, No. 17, s. 6

35. (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.

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

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

Instruments entitled to priority according to date of registration.

(4.) Instruments registered in 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 registration, and not according to the date of each instrument itself.

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

(6.) 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 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.

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

Memorial defined.

1908, No. 99, s. 36

36. 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 such instrument for registration, and the names of the parties thereto, and shall refer by number or symbol to such instrument, and shall be signed by the Registrar.

Memorial to be recorded on duplicate grant or other instrument.

Ib., s. 37

37. (1.) Whenever a memorial of any instrument has been entered in the Register the Registrar shall (except in the case of transfer or

other dealing indorsed 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.

(2.) The Registrar shall indorse 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.) Such certificate shall be received in all Courts as conclusive evidence that such instrument has been duly registered.

38. (1.) No instrument shall be effectual to pass any estate or interest in any land under the provisions of this Act, or to render 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 such 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 such instrument, or by this Act declared to be implied in instruments of a like nature.

(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 indorsement, he shall register and indorse that instrument under which the person claims property, who presents to him the grant or certificate of title of such land for that purpose.

39. 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 such instrument is in accordance with the provisions hereof.

40. (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 transfer or other dealing with land within his district and under the provisions of this Act.

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

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

41. 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 in evidence for all purposes for which the original instrument might be put in evidence.

Certificate to be evidence of registration.

Instruments not effectual until entry made in Register. 1908, No. 99, s. 38

Informal instruments not to be registered. *Ib.*, s. 39.

Registrar may dispense with duplicate instruments in certain cases. *Ib.*, s. 40

Certified copies of Register to be evidence. *Ib.*, s. 41

Register to be open for search.

1908, No. 99, s. 42

Instrument not to be registered unless duly stamped.

Ib., s. 43

Where boundaries of district altered by including lands in other district, copies of original Registers to be evidence of dealings with lands so included.

Ib., s. 44

42. 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.

43. 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.

44. (1.) Where by an alteration heretofore or hereafter made in the boundaries of any registration district any land formerly comprised therein becomes or heretofore has become included in any other district all such copies of the Registers of the first-mentioned district, as by the Registrar thereof have been or hereafter may be deposited with and accepted by the Registrar of such other district, 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, and shall as regards the lands affected by the alteration of boundaries, be deemed to be the original Registers and be admissible in evidence as such.

(2.) This section shall extend to validate all entries heretofore made and all matters and things heretofore done which if made or done after the coming into operation of this Act would be valid and effectual.

(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.

45. (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 reception by the Registrar.

(3.) The Governor 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.

Provisional Registration.

46. Until a folium of the Register has been duly constituted for any land under this Act, all dealings, memorials, and entries affecting such land shall be provisionally registered as hereinafter provided, that is to say:—

(a.) For the purposes of provisional registration, and for the recording of all dealings and entries, the Land Revenue Receiver's receipt shall take the place of a Crown grant.

Registration through District Agents.

Ib., s. 45

1912, No. 23, s. 60 (3)

Priority of instruments so registered.

Until Register duly constituted, land to be provisionally registered.

1908, No. 99, s. 46

1909, No. 15, ss. 95, 96

(b.) Every such receipt 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.

(c.) The Registrar shall embody all such duplicates in a book hereinafter called "the Provisional Register," and each receipt or order shall form a separate folium thereof, and shall be numbered accordingly, and when so numbered shall be deemed duly registered.

47. (1.) So soon as the Register of any land is finally constituted the Registrar shall close the Provisional Register as to such land, and shall transfer to the Register the record of all memorials and entries affecting such land so far as may be necessary to preserve existing interests.

When Register duly constituted, Provisional Register to be closed and memorials transferred to Register. 1908, No. 99, s. 47

(2.) The Registrar shall also record the same on the duplicate grant, and 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 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.

48. 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 receipt or order of Court and all persons claiming through, under, or in trust for him, be conclusive evidence that the person named in such entry is seised or possessed of the estate or interest of which he is expressed to be the registered proprietor.

Entries in Provisional Register to be evidence of title. *Ib.*, s. 48

49. 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 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 receipt or order, and all persons claiming through, under, or in trust for him.

Provisions of Act to apply to provisional registration. *Ib.*, s. 49

50. 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 and for contribution to the Assurance Fund have been paid :

No dealings to be registered until payment of fees. *Ib.*, s. 50

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 such fees are capable of apportionment, shall be apportioned upon such evidence as the Registrar deems sufficient for that purpose, and the payment of the amount assessed shall discharge the land in respect whereof such assessment is made.

Lost Title-deeds.

Supreme Court may investigate cases of lost deeds.
Ib., s. 51

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

May make order for claimant to be registered as proprietor.
1908, No. 99, s. 52

52. (1.) Upon proof to the satisfaction of the Court of the fact of such loss or destruction as aforesaid, and that such instrument 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 such application has been 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 such instrument, and requiring the Registrar to register him as proprietor thereof, and the Registrar shall obey such order.

(2.) Such registration shall have the same effect as from the date thereof as if the original instrument had been duly registered; and such 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 such order.

Court to be guided by real justice.
Ib., s. 53

53. The Court shall, in hearing and deciding upon any case under the two last preceding sections, be guided by the real justice of such case, and shall direct itself by such evidence as may seem to it most suitable to the circumstances of such case.

Outstanding Interests.

Interests outstanding at time of bringing land under Act to be notified in Register.
Ib., s. 54

54. Leases, mortgages, incumbrances, 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.

Interests registered under Deeds Registration Act to be recognized in certain cases.
Ib., s. 55

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

(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.

Assurance Fund not liable for loss sustained through neglect of claimant to register.
Ib., s. 57

56. 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 Registrar-General or upon the Assurance Fund by reason of deprivation of such estate or interest consequent on bringing the land under this Act, unless such deed or instrument has been so registered, or unless the Registrar has been served personally with notice in writing of such claim, or has had actual personal knowledge thereof, and has omitted to recognize the same.

Registered Proprietors.

57. Subject to any Act of the General Assembly for the time being in force relating to the tenure of land by persons of the Native 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 such instrument, when registered, shall take effect accordingly.

Persons jointly registered to be joint tenants.
1908, No. 99, s. 58

58. 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 incumbrances, liens, estates, or interests as may be notified on the folium of the Register, constituted by the grant or certificate of title of such land, but absolutely free from all other incumbrances, liens, estates, or interests whatsoever—

Estate of registered proprietor paramount.
Ib., s. 59

- (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 misdescription 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 that may be erroneously included in the grant, certificate of title, lease, or other instrument evidencing the title of such registered proprietor by wrong description of parcels or of boundaries.

59. (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 to which he is so registered, except in any of the following cases, that is to say:—

Registered proprietor protected against ejectment except in certain cases.

- (a.) The case of a mortgagee as against a mortgagor in default;
- (b.) The case of a lessor as against a lessee in default;
- (c.) The case of a person deprived of any land by fraud, as against the person registered as proprietor of such land through fraud, or as against a person deriving otherwise than as a transferee *bona fide* for value from or 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 such other land, or of its boundaries, as against the registered proprietor of such other land, not being a transferee, or deriving from or through a transferee thereof *bona fide* for value:

Ib., s. 60

(e.) The case of a registered proprietor claiming under the instrument of title prior in date of 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 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 the registered proprietor or lessee of the land the subject of such action, any rule of law or equity to the contrary notwithstanding.

When land brought under Act title guaranteed to registered proprietor.
1908, No. 99, s. 61

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

Certificate of Title.

Registered proprietor entitled to certificate of title.
Ib., s. 62

61. (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 the Form B in the Second Schedule hereto, or as near thereto as the nature of the interest will permit.

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

Existing incumbrances to be noted in certificate.
Ib., s. 63

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

Certificate, how to be dated.
Ib., s. 64

63. (1.) Every certificate issued pursuant to any dealing under this Act shall bear even date with the registration of such dealing, unless such dealing has been originally entered on the Provisional Register, in which case the certificate shall bear even date with the registration of the Crown grant, or with the date of reception by the Registrar of the Governor's warrant for issue of a certificate in lieu of grant, as the case may be.

May be antedated.

(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 such proprietor in respect of the same estate or interest.

How memorial of easement to be recorded.
Ib., s. 65

64. Whenever any easement or incorporeal right, other than an annuity or rent-charge in or over any land under this Act, is created for the purpose of being annexed to, or used and enjoyed together with, other land under this Act, the Registrar shall enter a memorial of the instrument creating such easement or incorporeal right upon the grant or certificate of title of such other land, and such memorial shall, as from the date of entry thereof, have the effect of including such easement in such grant or certificate of title, as appurtenant to the land therein described.

Tenants in common entitled to separate certificates.
Ib., s. 66

65. 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:

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.

66. 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 such advertisement.

Issue of certificate may be withheld for fourteen days in certain cases.

1908, No. 99, s. 67

67. 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, such certificate shall not be void, but the land comprised therein shall devolve in like manner as if such certificate had been issued immediately prior to such death.

Certificate not to be void though issued in name of person deceased.

Ib., s. 68

68. 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 indorsed 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 such 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 such land for the estate or interest therein specified as from the date of such certificate or as from the date from which the same is expressed to take effect, and that the property comprised in such certificate has been duly brought under this Act.

Certificate to be evidence of proprietorship.

Ib., s. 69

69. (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 same may purport to have been executed at a time when the person executing the same was not actually registered as the proprietor of such land, estate, or interest.

Instruments executed by person not actually registered.

Ib., s. 70

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

70. 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 unauthorized right to public road or reserve acquired by registration.

Ib., s. 71

71. 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 such application or in the proceedings pursuant thereto.

Certificate not to be impeached.

Ib., s. 72

72. 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 such land, or any part thereof, at the time when such land was so brought under this Act, and continuing in such occupation 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 such adverse occupation did not exist.

Certificate void in certain cases.

Ib., s. 73

1913, No. 17, s. 7

Errors in Register
may be corrected.
1908, No. 99, s. 74

73. 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.

Holder of instru-
ment obtained
through fraud or
error, or wrongfully
retained, may be
required to sur-
render it.

Ib., s. 75

74. In case 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 indorsement has been made in error, or that any grant, certificate, instrument, entry, or indorsement has been fraudulently or wrongfully obtained, or is fraudulently or wrongfully retained, he may require the person to whom such 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.

In default, may
be summoned to
Supreme Court.
Ib., s. 76

75. (1.) In case such person refuses or neglects to comply with such request, or cannot be found, the Registrar may apply to a Judge of the Supreme Court to issue a summons for such person to appear before such Court or Judge and show cause why such grant, certificate, or other instrument should not be delivered up as aforesaid.

(2.) If such person when served with such summons neglects or refuses to attend before such Court or Judge at the time therein appointed, such Judge may issue a warrant authorizing and directing the person so summoned to be apprehended and brought before the Supreme Court or a Judge thereof for examination.

Person refusing
to surrender
instrument may
be committed to
prison.

Ib., s. 77

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

Court may order
new certificate to
issue.

Ib., s. 78

77. In such case, or in case such person has absconded so that the summons cannot be served upon him, the Registrar shall, if the circumstances of the case require it, issue to the proprietor of the said 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 such certificate of title or other instrument, and the circumstances under which the same was issued, and such other particulars as he deems necessary.

Court may order
former certificate of
title to be cancelled.
Ib., s. 79

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

Proprietor may
claim single
certificate in place
of several.

Ib., s. 80

79. (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 such proprietor a single certificate of title for the whole of such land, or several certificates, each containing portion of such land, so far as the same may be done consistently with any regulations for the time being in force.

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

80. (1.) In the event of any grant or certificate of title being lost, mislaid, or destroyed, the registered 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, incumbrances, or other matters affecting such land and the title thereto, to the best of the declarant's knowledge and belief.

Declaration may be made in case of loss of original certificate.

1908, No. 99, s. 81

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

Provisional certificate may be issued.

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

(4.) The Registrar before issuing such 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.) 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 such lost grant or certificate.

Effect of provisional certificate.

81. Where a transfer has, under section seventy-five of the Rating Act, 1908, been registered without production of the outstanding certificate of title, the Registrar may, if he is satisfied that such outstanding certificate cannot be got in and cancelled, issue a new certificate in the name of the purchaser without such cancellation, and for that purpose may cancel the existing folium of the Register.

Registrar may issue certificate of title to purchaser on sale for non-payment of rates.

Ib., s. 82

Transfers.

82. (1.) When land under this Act, or any estate or interest therein, is intended to be transferred, or any right-of-way or other easement is intended to be created, the registered proprietor may execute for the purpose of registration a memorandum of transfer in the Form C in the Second Schedule hereto, which memorandum shall, for description of the land 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.

Transfer by registered proprietor, how effected.

Ib., s. 83

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

Discretionary power of Registrar.

83. If any memorandum of transfer purports to transfer the whole of the land described in a grant or certificate of title for all the estate and interest therein of any registered proprietor, it shall not be necessary for the Registrar to cancel such grant or certificate; but the

New certificate to transferee unnecessary if whole land transferred.

Ib., s. 84

memorial of such transfer indorsed on such grant or certificate shall be as good evidence that the transferee named in such memorial is seized of all the estate and interest in the said land of the person whose interest is expressed to be transferred, subject as in such grant or certificate mentioned or thereon indorsed, as if a certificate of title had been issued for the same in the name of the transferee.

Certificate to be cancelled on transfer of portion of land only.
1908, No. 99, s. 85

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

New certificates to be issued for portion transferred and for balance.
Ib., s. 86

85. The Registrar, upon cancelling any grant or certificate by indorsement 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 such person a certificate of title for the untransferred balance of the land, or for any portion thereof.

Certificate of title for balance of land not transferred may remain valid if sufficiently descriptive of such balance.
Ib., s. 87

86. (1.) When any certificate of title is partially cancelled by indorsement 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 such certificate, and the same shall, as to such untransferred balance, remain in full force and virtue; provided that the memorial shall clearly define what portion of the land has been transferred.

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

Estates for life, or in reversion, or remainder may be created.
Ib., s. 88

87. (1.) The registered proprietor of land under this Act—

- (a.) May transfer such land to his wife; or
- (b.) If a married woman, may make such transfer to her husband; or
- (c.) May make a transfer to himself jointly with any other person or persons; and
- (d.) Create or execute any powers of appointment, or limit any estates, whether by remainder or in reversion, and whether contingent or otherwise, and for that purpose may modify or alter any form of transfer hereby prescribed.

Certificate to issue for estate in possession only.

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

Implied covenant in transfer of equity of redemption.
Ib., s. 89

88. In every transfer of land subject to a mortgage 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 such mortgage at the time and in manner therein specified for payment thereof, and to pay the principal sum when and as the same becomes due, and to keep harmless and indemnified the transferor in respect of 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 such mortgage expressed or implied.

89. (1.) A registered mortgage or lease may be transferred by memorandum of transfer as aforesaid, or by an instrument in the Form H in the Second Schedule hereto, which instrument may be indorsed upon the memorandum of mortgage or lease.

Transfer of lease
or mortgage.
1908, No. 99, s. 90

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

90. Such transferee shall thereupon become subject to and liable for all and every the same requirements and liabilities to which he would have been subject and liable if named in such instrument originally as mortgagee or lessee of such 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 other instrument, and to recover any debt, sum of money, annuity, or damages thereunder (notwithstanding 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 to vest the same at law as well as in equity in the transferee thereof:

Rights of transferee.
Ib., s. 91

Provided always that nothing herein contained 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.

Saving-powers of
Supreme Court to
give effect to trusts.

91. 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 such rent, or the breach or non-observance or non-performance of such covenants or any of them.

Implied covenants
in transfer of lease.
Ib., s. 92

92. 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 an office copy of such order, shall enter a memorandum thereof in the Register and on the outstanding instrument of title, and until such entry is made the said order shall have no effect in vesting or transferring the said estate or interest.

Memorandum of
order of Court
vesting estate or
interest to be
entered on Register.
Ib., s. 93

Leases.

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

Leases, form of.
Ib., s. 94

Memorandum of lease may be registered.

(2.) A memorandum of lease executed in the said Form D 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 shall be void by reason only of such memorandum not having been executed or registered.

Covenant for right of purchase.
1908, No. 99, s. 95

94. 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 such 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.

Lease not binding on mortgagee without consent.
Ib., s. 96

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

Surrender of lease.
Ib., s. 97

96. (1.) The surrender of a lease by agreement between the parties may be effected by indorsing thereon the word "surrendered"; and such indorsement, if signed by all necessary parties and attested, shall be 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.

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

Implied covenants on part of lessee.
Ib., s. 98

97. In every memorandum of lease there shall be implied the following covenants against the lessee, that is to say:—

(a.) That he will pay the rent thereby reserved at the times therein mentioned, and all rates and taxes which may be payable in respect of the demised property during the continuance of the lease:

(b.) That he will keep and yield up the demised property in good and tenantable repair.

Implied powers of lessor.
Ib., s. 99

98. In every memorandum of lease there shall also be implied the following powers in the lessor, that is to say:—

(a.) That he may, by himself or his agents, at all reasonable times, enter upon the demised property and view the state of repair thereof, and may serve upon the lessee, or leave at his last or usual place of abode in New Zealand or upon the demised property, a notice in writing of any defect, requiring him, within a reasonable time to be therein prescribed, to repair the same:

(b.) That in case the rent or any part thereof is in arrear for the space of six months, although no formal demand for payment has been made, or in case default is made in the fulfilment or observance of any covenant or condition, whether expressed or implied, in such lease on the part of the lessee, and is continued for the space of six months, or in case the repairs required by such notice as aforesaid have not been completed within the time therein specified, such lessor may re-enter upon and take possession of such demised premises.

Re-entry by lessor.
Ib., s. 100

99. (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 such re-entry, and of actual recovery of

possession, notify such re-entry upon the Register and upon the outstanding instrument of title, if produced to him for that purpose.

(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 such lease contained or implied.

(3.) Provided that unless such 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 such application by publication in the *Gazette* and in some newspaper published in the district before making any entry upon the Register.

100. (1.) The provisions of section *eighty* hereof shall, *mutatis mutandis*, apply to any memorandum of lease of which the outstanding duplicate has been lost, mislaid, or destroyed.

Provision in case of lost lease.
1913, No. 17, s. 8

(2.) The same provisions shall, *mutatis mutandis*, apply to any memorandum of lease of which the outstanding duplicate has become defaced or dilapidated and is surrendered to the Registrar for cancellation, but in such case the statutory declaration referred to in subsection one and the notices referred to in subsection four of the said section *eighty* shall not be necessary.

Mortgages.

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 the Form E or F in the Second Schedule hereto 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.

Mortgages, form of.
1908, No. 99, s. 101

(2.) The Form G in the Second Schedule hereto may be used in lieu of the said Form E.

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

Mortgage to take effect as security only.

103. (1.) In every mortgage under this Act there shall be implied the covenants, conditions, and powers set forth in the Fourth Schedule hereto, except in so far as is otherwise expressed in the mortgage.

Ib., s. 102
1913, No. 17, s. 9
Covenants and conditions implied in mortgage.

(2.) The covenant relating to insurance contained in the Sixth Schedule hereto shall not apply to such mortgages.

1908, No. 99, s. 103

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

(a.) The amount secured by the mortgage may be increased or reduced;

(b.) The rate of interest may be increased or reduced; and

(c.) The term or currency of the mortgage may be shortened, extended, or renewed,

Alteration of terms of mortgage by indorsement thereon.
1913, No. 17, s. 10

by a memorandum in such one of the forms numbered (1), (2), or (3) in the Fifth Schedule to this Act as is applicable,

(2.) The memorandum may include all or any of the matters mentioned in subsection one hereof, and in such 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 a subsequent mortgage shall not be binding on any mortgagee unless he has consented thereto in writing on such memorandum or instrument, but such consent shall render the said memorandum or instrument binding on the mortgagee so consenting, and shall be deemed to be notice to and shall be binding on all persons who may subsequently derive from him any interest in the mortgaged property.

Remedies of Mortgagee.

Mortgagee may, after default, enter into possession.
1908, No. 99, s. 105

105. 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 such land is effected under the power of sale given or implied in his mortgage.

Mortgagee may distrain on tenant to the amount of his rent.
Ib., s. 106

106. 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 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 such occupier or tenant, and to retain thereout the moneys so in arrear and all costs and expenses occasioned by such distress and sale:

Provided that no occupier or tenant occupying such land shall be liable to pay to any mortgagee a greater sum than the amount of rent which, at the time of making such distress, is then due from such 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 such rent.

Receipt of mortgagee sufficient discharge.
Ib., s. 107

107. (1.) The receipt or receipts in writing of the mortgagee shall be a sufficient discharge to the purchaser of the mortgaged land, estate, or interest, or of any portion thereof, for so much of his purchase-money as may be thereby expressed to be received.

(2.) Such purchaser shall not be answerable for the loss, misapplication, or non-application, or be obliged to see to the application of the purchase-money by him paid, nor shall he be concerned to inquire as to the fact of any default or notice having been made or given as aforesaid.

Application of purchase-money.
Ib., s. 108

108. The purchase-money to arise from the sale of any such land, estate, or interest shall be applied—

- (a.) Firstly, in payment of the expenses occasioned by such sale:
- (b.) Secondly, in payment of the moneys then due or owing to the mortgagee:

(c.) Thirdly, in payment of subsequent registered mortgages or incumbrances (if any) in the order of their priority; and the surplus (if any) shall be paid to the mortgagor as the case may be.

109. Upon the registration of any transfer executed by a mortgagee for the purpose of such sale, 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 such mortgage, or of any estate or interest registered subsequent thereto.

Transfer by mortgagee.
1908, No. 99, s. 109

Sale of Mortgaged Property by Registrar of Supreme Court.

110. (1.) Any present or future mortgagee of land may, at any time after he has become entitled to exercise the power of sale contained or implied in his mortgage, apply in writing to the Registrar who is acting within the land registration district in which the land intended to be sold is situate, or if that land is situate in more districts than one, then to the Registrar acting in any one of such districts, to conduct the sale of the whole or any part of the land comprised in the mortgage, and in such application shall state the value at which he estimates the land to be sold.

Sale of mortgaged land by Registrar of Supreme Court.
Ib., s. 110

(2.) The Registrar shall fix a convenient time (being not more than three months and not less than one month from the date of the application) and a convenient place for the sale, give such notice of the sale by advertisement in some newspaper circulating in the neighbourhood as he deems sufficient, approve of proper conditions of sale, employ an auctioneer, and do all other necessary acts for carrying out the sale.

(3.) For the purposes of this and the next succeeding five sections "Registrar" means the Registrar of the Supreme Court, and includes a Deputy Registrar where there is no Registrar or in any case where the Deputy may lawfully act for and on behalf of the Registrar.

111. At any time before the sale the mortgagor may pay to the mortgagee either the value of the land, as estimated by the mortgagee, or the amount due and owing under the mortgage, together with the expenses already incurred by the mortgagee in connection with the intended sale, and any moneys expended by him on or about the land subsequently to the time when he estimated the value thereof as aforesaid; and on such payment the mortgagee shall do the acts required by the twelfth clause of the Fourth Schedule hereto:

Mortgagor may redeem at mortgagee's valuation.
Ib., s. 111

Provided that where the sum so paid is less than the amount owing under the mortgage, the balance may be recovered from the mortgagor under the covenant to repay expressed or implied in the mortgage.

112. (1.) The mortgagee may be a bidder at any such sale conducted as aforesaid, and become the purchaser of the land or any part thereof.

Mortgagee may become purchaser
Ib., s. 112

(2.) In the event of the mortgagee being declared the purchaser the said Registrar shall, on demand by the mortgagee, execute a transfer of the land purchased, expressed to be made between the Registrar (describing him by his official description only) and the mortgagee, with or without the addition of any other parties, and containing a recital that such sale has been made under this section.

(3.) In such transfer the consideration to be stated shall be not less than the value of the land as estimated by the mortgagee as aforesaid.

(4.) A transfer in pursuance of any such sale may be made by the Registrar to any person whom the mortgagee in writing may appoint, instead of to the mortgagee, and shall have the same force and effect in favour of the person to whom it is made as it would have had if made to the mortgagee.

(5.) Where any sale made under the provisions of the Land Transfer Act, 1885, has not been completed by the execution of a proper transfer, the transfer may be made in the same manner and with the same effect as if such Act had continued in force, and for the purpose only of completing such sale such Act shall continue in force accordingly.

Protection of *bona fide* purchaser.
1908, No. 99, s. 113

113. Any transfer executed by the Registrar upon a sale made after the first day of January, nineteen hundred and six (being the date of the coming into operation of the Property Law Act, 1905), shall, in favour of any person (other than a mortgagee purchasing under the last preceding section, or any person appointed by him) claiming by, through, or under such transfer (including a person claiming under a transfer to the mortgagee) in good faith and for valuable consideration, be conclusive proof that all the provisions of this Act relating to the sale have been complied with, and that all things have happened and all times have elapsed to authorize such transfer to be made.

Fees payable on application.
Ib., s. 114
1913, No. 17, s. 11

114. (1.) In respect of every application under section one hundred and *ten* hereof there shall be paid to the Registrar by the mortgagee, in addition to the reasonable expenses of and incidental to the sale,—

Where the land is sold, a fee of one-eighth per centum where the purchase-money does not exceed two hundred pounds, and where the purchase-money exceeds that sum one-quarter per centum on the remainder of the purchase-money, but in no case shall such fee be less than one pound nor more than twenty pounds.

(2.) In any case where the land sold is sold subject to a mortgage, the moneys secured by the mortgage shall be deemed to be “purchase-money” within the meaning of this section.

Registration of transfer.
1908, No. 99, s. 115

115. (1.) Every transfer made and executed in favour of the mortgagee or by his direction as aforesaid may be registered under this Act.

(2.) Upon such registration the land, or the estate or interest of the mortgagor therein expressed to be transferred, shall vest in the transferee freed and discharged from all liability on account of the mortgage under which such power of sale has been exercised, or of any estate or interest registered subsequent thereto.

Discharge of mortgage, how effected.
Ib., s. 116

116. (1.) Upon the production of any memorandum by indorsement 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 such mortgage from the whole or any part of such principal sum or annuity, the Registrar shall make an entry in the Register and on the outstanding instrument of title, noting that such mortgage is discharged wholly or partially.

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

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

(4.) 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 submortgagee. 1913, No. 17, s. 12

(5.) 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 the mortgage.

Absent Mortgagees.

117. (1.) Where any mortgagee is absent from New Zealand, or is dead, and, so far as the mortgagor is aware, there is no person in New Zealand authorized to give a discharge of the mortgage debt at or after the time appointed for the redemption of the mortgage, the Public Trustee, on tender to him of the mortgage-debt, and on proof to his satisfaction that the amount tendered is the whole amount due under the mortgage, may receive the same in trust for the mortgagee or other person entitled thereto. Public Trustee may give discharge in certain cases. 1908, No. 99, s. 117 1913, No. 17, s. 13

(2.) Upon presentation of the receipt of the Public Trustee for the amount of the said mortgage-money and interest, the Registrar shall make an entry in the Register discharging such mortgage, stating the day and hour on which such entry is made.

(3.) Such entry shall be a valid discharge for such mortgage, and shall have the same force and effect as is hereinbefore given to a like entry when made upon production of the mortgage with the receipt of the mortgagee.

(4.) The Registrar shall also indorse on the grant, certificate of title, or other instrument as aforesaid, and also on the memorandum of mortgage, whenever those instruments are brought to him for that purpose the several particulars hereinbefore directed to be indorsed upon each of such instruments respectively.

(5.) The production of the Public Trustee's receipt for the mortgage-moneys shall be sufficient authority to the person in possession of the instruments of title to the mortgaged property to deliver the same to the mortgagor.

(6.) A Judge of the Supreme Court may, in a summary way, order any person in possession of the instruments of title to the mortgaged property to deliver them to the mortgagor on production of the Public Trustee's receipt for the mortgage-moneys, and on payment of all proper charges (if any).

Other Rights of Mortgagees.

118. 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 time specified by this Act or otherwise provided in such instrument, have all the like remedies for obtaining possession of the mortgaged land as are by law Mortgagee to have remedies of a lessor for recovery of premises on default. 1908, No. 99, s. 118

given to a landlord against a lessee or tenant whose term is expired or rent in arrear.

Right of mortgagee of lease not to be barred.
1908, No. 99, s. 119

119. 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 such mortgagee pays all rent in arrear and all costs and damages sustained by the lessor or person entitled to exercise such 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 of leasehold after entry liable to lessor for rent.
Ib., s. 120

120. Every mortgagee of leasehold land under this Act, or any person claiming the said land as a purchaser or otherwise from or under such mortgagee, after entering into possession of the said land or the rents and profits thereof, shall, during such 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 said land, or the person for the time being entitled to the said lessor's estate or interest in the said land, to the same extent as the lessee or tenant was subject to and liable for prior to such mortgagee or other person entering into possession of the said land or the rents and profits thereof.

Mortgagee to have custody of instrument of title.
Ib., s. 121

121. 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.

Discharge of Annuity.

On death of annuitant, discharge of annuity may be entered.
Ib., s. 122

122. Upon proof of the death of the annuitant, or of the occurrence of the event or circumstance upon which, in accordance with the provisions of any instrument executed for the purpose of securing an annuity or continuing payment, such annuity or payment shall cease to be payable; and upon proof that all arrears thereof have been paid, satisfied, or discharged the Registrar shall make an entry in the Register of such satisfaction or discharge, and shall indorse 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 incumbrance.

Transmission.

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

123. (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 such transmission registered.

Particulars to be stated in application.

(2.) 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 such application shall be verified by the oath or statutory declaration of the applicant.

Procedure on application for transmission.
1913, No. 17, s. 14

124. (1.) If on 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.

(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.

125. 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 such will or settlement to be beneficially interested in the estate or interest the subject of such transmission.

Caveat may be entered on behalf of beneficiaries under any will or settlement.

1908, No. 99, s. 126

126. 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 such lease, shall enter in the Register the particulars of such refusal.

Transmission to mortgagee on bankruptcy of lessee.

Ib., s. 127

127. Such entry shall operate as a transfer on sale, and the interest of the bankrupt in such lease shall thereupon vest in such mortgagee.

Entry to operate as transfer on sale.

Ib., s. 128

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

Transmission to lessor in default of mortgagee applying.

Ib., s. 129

129. 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 such 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, the date of the marriage and where solemnized, and the date and hour of the production to him of the evidence of such marriage.

Particulars of marriage of female proprietor to be registered.

Ib., s. 130

Trusts.

130. (1.) Except as provided in Appendix I to 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.

No entry of trusts to be made on Register except those specially authorized.

Ib., s. 131

(2.) Trusts affecting land under this Act may be declared by any deed or instrument; and such 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.

131. 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 such transfer.

Transferor may apply for entry of "No survivorship" on Register.

Ib., s. 132

132. Any persons registered as joint proprietors of any land, estate, or interest under this Act may, by writing under their hands,

Trustees registered as joint proprietors may similarly apply.

Ib., s. 133

authorize the Registrar to enter the words "No survivorship" upon the grant, certificate of title, or other instrument evidencing their title to such estate or interest, and also upon the duplicate of such instrument.

Effect of entry.
Order of Supreme
Court.
1908, No. 99, s. 134

133. After 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 said land, estate, or interest without obtaining the sanction of the Supreme Court, or a Judge thereof, by an order on motion or petition.

Procedure for that
purpose.
Ib., s. 135

134. (1.) Before making any such order the Court or Judge 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 order should not be issued.

(2.) Thereupon the said Court or Judge in such order may give directions for the transfer of such 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 such land, estate, or interest, or in the proceeds thereof.

(3.) Upon such order being deposited with the Registrar he shall make such entries and perform such acts as may be necessary for the purpose of giving effect to such order.

Registrar may be
nominated a trustee.
Ib., s. 136

135. (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, such proprietor, in the instrument or deed declaring such 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 such trustees.

(2.) It shall thereupon be the duty of such Registrar for the time being to act as such trustee, so far as relates to the transfer of such land, estate, or interest.

Beneficiary entitled
to use name of
trustee in prosec-
uting action.
Ib., s. 137

136. (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, such person shall be bound to allow his name to be used as a plaintiff or defendant in such action by any beneficiary or person claiming an estate or interest in the said land.

Indemnity to
trustee.

(2.) In every such case the person entitled or interested as such trustee shall be entitled to be indemnified in like manner as a trustee would before the coming into operation 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.

Registration Abstract.

Registration
abstract to enable
dealings out of
New Zealand.
Ib., s. 138

137. Every Registrar, upon the application of any registered proprietor of land within his district, shall grant to such proprietor a registration abstract, in the Form I in the Second Schedule hereto, enabling him to transfer or otherwise deal with his estate or interest in such land at any place without the limits of New Zealand for any period not exceeding twelve months from the date of such abstract,

and shall at the same time enter in the Register a memorandum recording the issue of such abstract, and indorse on the outstanding duplicate of title a like memorandum.

138. From and after the issuing of any such registration abstract no transfer of or other dealing with the estate or interest in respect of which such registration abstract is issued shall be entered in the Register until such abstract has been surrendered to the Registrar to be cancelled, or the loss or destruction of such abstract proved to his satisfaction.

After issue of abstract no entry to be made in Register.
1908, No. 99, s. 139

139. Whenever any transfer or other dealing is intended to be effected under any registration abstract, a memorandum of transfer or such other instrument as the case may require shall be prepared in form hereinbefore prescribed, and shall be produced to some one of the persons appointed as persons before whom the execution of instruments without the limits of New Zealand may be proved.

Mode of procedure under registration abstract.
Ib., s. 140

140. Upon memorial of such instrument being entered upon the registration abstract and authenticated by the signature of such authorized person, such instrument shall be held to be registered, and such transfer or other dealing shall be as valid and binding to all intents as if the same had been entered in the Register by the Registrar of the district within which the land is ; and such authorized person as aforesaid shall record the like memorial on the outstanding duplicate of title.

Entry upon abstract to have same effect as if on Register.
Ib., s. 141

141. A certificate of registration indorsed on the instrument of which the memorial has been so entered, and signed by such authorized person and sealed with his seal, shall be received in all Courts as conclusive evidence that such instrument has been duly registered.

Certified entries on abstract to be evidence.
Ib., s. 142

142. Upon the return of any registration abstract to the Registrar he shall record in the Register, in such manner as to preserve their priority, the particulars of every transfer or other dealing recorded thereon, and shall file in his office the duplicates of every memorandum of transfer or other instrument executed thereunder which may for that purpose be delivered to him, and shall cancel such abstract, and note the fact of such cancellation in the Register.

Proceedings upon return of abstract.
Ib., s. 143

143. If a freehold estate in such land, or in any part thereof, is transferred, the grant or certificate of title shall be delivered up to the Registrar, who shall thereupon proceed as is hereinbefore directed for the case of the transfer of an estate of freehold.

On transfer of fee, original grant to be surrendered.
Ib., s. 144

144. Upon proof at any time to the satisfaction of the Registrar that any registration abstract is lost or so obliterated as to be useless, and that the powers thereby given have never been exercised, or if they have been exercised, then upon proof of the several matters and things that have been done thereunder, the Registrar may, as circumstances require, either issue a new registration abstract, as the case may be, or direct such entries to be made in the Register, or such other matter or thing to be done, as might have been made or done if no such loss or obliteration had taken place.

Procedure in case of loss of registration abstract.
Ib., s. 145

Caveat.

145. 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 the Form K in the Second Schedule hereto.

Caveat against bringing land under Act.
Ib., s. 146

Caveat against dealing with land under the Act.
1908, No. 99, s. 147

146. 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

(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 the Form L in the Second Schedule hereto.

Particulars to be stated in caveat.
Ib., s. 148

147. (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 such caveat may be served or addressed.

(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.
Ib., s. 149

148. 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.

Effect of caveat against bringing land under Act.
Ib., s. 150

149. So long as a caveat in the Form K 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 such application to withdraw the same except with the consent of the caveator or by leave of a Judge of the Supreme Court.

Effect of caveat against dealings.
Ib., s. 151
1913, No. 17, s. 16

150. So long as a caveat in the Form L 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 by such caveat, or issue any registration abstract in respect thereof:

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.

Notice of caveat to be given to persons affected.
1908 No. 99, s. 152

151. Upon the receipt of any caveat the Registrar shall notify the same 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 land under this Act, such caveat has been lodged.

Procedure for removal of caveat.
Ib., s. 153

152. (1.) Such applicant or registered proprietor may, if he thinks fit, summon the caveator, or the person on whose behalf such caveat has been lodged, to attend before the Supreme Court or a Judge thereof to show cause why such caveat should not be removed.

(2.) Such Court or Judge, upon proof that such person has been summoned, may make such order in the premises, either *ex parte* or otherwise, as to such Court or Judge seems meet.

Lapse of caveat against bringing land under Act.
Ib., s. 154

153. After the expiration of three months from the receipt thereof every caveat in the Form K shall be deemed to have lapsed, unless the person by whom or on whose behalf the same was lodged has within that time taken proceedings in any 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 Registrar from bringing the land therein referred to under this Act.

154. Except in the case of a caveat lodged by or on behalf of a beneficiary claiming under any will or settlement, or for the protection of any trust, or by the Registrar in exercise of the powers by this Act given to him in that behalf, every caveat in the Form L shall, 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, or interest protected thereby, be deemed to have lapsed as to such land, estate, or interest, or so much thereof as is referred to in such 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 or a Judge thereof, and such order is made and served on the Registrar within a further period of fourteen days.

Lapse of caveat
against dealings.
1908, No. 99, s. 155
1913, No. 17, s. 17

155. (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.

Person entering
caveat without due
cause liable for
damages.

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

1908, No. 99, s. 156

156. 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.

Caveat may be
withdrawn.
Ib., s. 157

157. 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 or a Judge thereof.

No second caveat
may be entered.
Ib., s. 158

Powers of Attorney.

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

Power of attorney
available for
dealings under Act.
Ib., s. 159

159. 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 the form numbered (1) in the Third Schedule hereto 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.

Registered
proprietor may deal
with land under the
Act by attorney.
Ib., s. 160

160. 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.
Ib., s. 161

161. (1.) The grantor of any revocable power of attorney may, by notice to the Registrar in the form numbered (2) in the Third

Revocation of power
of attorney
Ib., s. 162

Schedule hereto, revoke the same either wholly or as to the land specified in such notice.

(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 such 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.

Seal unnecessary.
1908, No. 99, s. 163

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

The Property Law
Act to apply.
Ib., s. 164

163. Subject to the foregoing provisions, the provisions of the Property Law Act, 1908, relating to powers of attorney shall apply to powers of attorney made or used under this Act.

Covenants implied in Instruments.

Covenants for
further assurance
implied.
Ib., s. 165

164. 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 such estate or interest to and with each and every person taking any estate or interest under such instrument—

(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 such 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 such person as last aforesaid to the estate or interest expressed or intended to be granted, created, or transferred.

Short covenants,
form of.
Ib., s. 166

165. Such of the covenants set forth at length in the Sixth Schedule hereto 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 the said Schedule for the case of each covenant respectively, be implied in such instrument as fully and effectually as if such 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.

Implied covenants
may be negatived,
&c.
Ib., s. 167

166. (1.) Every covenant and power implied or existing in any instrument by virtue of this Act may be negatived, modified, enlarged, or extended by express declaration in such instrument or indorsed thereon.

(2.) Every such covenant or power shall, subject to any such declaration as aforesaid, have the same force and effect and be enforced in the same manner as if it had been set out at length in such instrument.

Covenants to apply
jointly and
severally.

(3.) Where any such instrument is executed by more parties than one, such covenants as are by virtue of this Act therein implied or existing shall be construed to be several, and also to bind the parties or any two or more of them jointly.

167. In any action for a breach of any such 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 such action is brought did so covenant precisely in the same manner as if such covenant had been expressed in words in such instrument, any law or practice to the contrary notwithstanding.

Action for breach of covenant.
1908, No. 99, s. 168

Execution of Instruments.

168. (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 the instrument is executed in New Zealand such 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.

Instruments to be signed and attested.
Ib., s. 169
1913, No. 17, s. 18

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

When instruments deemed to be attested.
1908, No. 99, s. 170

169. 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 such officers, or before a notary public, Justice of the Peace, or a solicitor 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.

170. (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.
Ib., s. 171

(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 such attesting witness your own handwriting?

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

(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 such witness proves such signature as aforesaid shall indorse upon such instrument a certificate in the form numbered (1) in the Seventh Schedule hereto.

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

171. If the person executing such instrument is personally known to the Registrar, Justice, or other person as aforesaid he may attend and appear before such Registrar, Justice, or other person and acknowledge that he did freely and voluntarily sign such instrument; and upon such acknowledgment the Registrar, Assistant Registrar, or any deputy of such officer, Justice, or other person shall indorse on such instrument a certificate in the form numbered (2) in the Seventh Schedule hereto.

Acknowledgment by party to instrument, and certificate thereon.
Ib., s. 172

172. A married woman shall, for the purpose of any dealing by her under this Act, be deemed a *feme sole*.

Married woman deemed *feme sole*.
Ib., s. 174

173. A corporation, in lieu of signing any instrument, may execute the same by affixing thereto the common seal of the corporation

Corporation may execute under seal
Ib., s. 175

or the official seal for use in New Zealand, or by attorney appointed under such common or official seal; and such seal affixed to any instrument shall be sufficient proof to the Registrar that the same was affixed under proper authority, and that such instrument is binding on the corporation whose seal it bears.

Instruments to be received in evidence in Courts.
1908, No. 99, s. 176

174. 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.

Correctness of instrument to be certified.
Ib., s. 177

175. (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 indorsed 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 such instrument, or by a licensed land-broker or a solicitor of the Supreme Court employed by such applicant or party.

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

Fine for false certificate.

(3.) Every person who falsely or negligently certifies to the correctness of any such application or other instrument is liable therefor to a fine not exceeding fifty pounds; and such fine shall not prevent the person who may have sustained any damage or loss in consequence of error or mistake in any such certified instrument, or any duplicate thereof, from recovering compensation from the person by whom or on whose behalf the same has been certified.

Verification of Instruments.

Verification of instruments executed out of New Zealand.
Ib., s. 178

176. (1.) Every instrument of any kind heretofore or hereafter duly executed out of New Zealand shall, so far as regards the execution thereof, be admissible in evidence in any Court of justice in New Zealand, and before any officer or person having by law or consent of parties authority to hear, receive, and examine evidence in New Zealand, if such execution is verified in any of the following ways, that is to say:—

(a.) Where the instrument is executed in any part of the British dominions other than New Zealand, then either—

(i.) In accordance with the provisions in that behalf of the Imperial Act now known by the Short Title of the Statutory Declarations Act, 1835; or

(ii.) In accordance with the law in force in that part of the British dominions where the verification takes place as to verifying the execution of instruments to be used abroad:

(b.) Where the instrument is executed in any foreign country, then if it purports to have been executed before a British Minister or Consul exercising his functions in that country, and to be sealed with his seal of office (if any), or if there is indorsed thereon or annexed thereto a declaration of the due execution thereof purporting to be made by an attesting witness thereto before any such Minister or Consul as aforesaid, and to be sealed as aforesaid.

(2.) It shall be presumed that any seal or signature impressed, affixed, appended, or subscribed on or to any document tendered in

evidence under this section 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 the law under which it purports to have been made, unless the party objecting to the admission of the document proves the contrary.

(3.) In this section—

“ Consul ” includes a Consul-General, Consul, Vice-Consul, Acting-Consul, Proconsul, and Consular Agent :

“ Minister ” includes an Ambassador, Envoy, Minister, Chargé d’Affaires, and Secretary of Embassy or Legation.

Surveys.

177. (1.) The Surveyor-General may, with the approval of the Governor in Council, make such regulations as he thinks necessary for insuring the accuracy of plans and surveys required under this Act, and may cancel and alter such regulations when and as necessary.

Surveyor-General may make regulations for surveys.
1908, No. 99, s. 179

(2.) No person shall be permitted to practice as a surveyor under this Act unless specially licensed for that purpose by the Surveyor-General.

Surveyors to be licensed.

(3.) The Surveyor-General may, with the approval of the Governor, revoke, either absolutely or for such time as he thinks fit, the license of any surveyor licensed under this Act upon the ground of negligence, incompetence, or misconduct on the part of such surveyor.

Power to cancel surveyors' licenses

(4.) Any person whose license is so cancelled shall cease to be a surveyor licensed under this Act from and after the day when a notification of such cancellation is gazetted.

178. On any application to bring land under the provisions of this Act, or for a new certificate on the 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, the Registrar may require the applicant to deposit in the Land Registry Office of the district a plan of the land or subdivision or portion 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 licensed surveyor in such form as the regulations prescribe; and until such requisition is complied with the Registrar shall not be bound to proceed with the application.

Plans to be deposited in certain cases.
1913, No. 17, s. 19

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

Deposit not to operate as dedication of roads.
1908, No. 99, s. 182

(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 such plan was fully set out thereon.

180. (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 such taking and of the date thereof, together with a sufficient plan of such road so far as the same affects land under this Act.

Land taken for roads to be defined on Register.
Ib., s. 183

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

(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 such Act otherwise provided for.

Cost of survey for correction of plans, &c., to be paid out of Assurance Fund. 1908, No. 99, s. 184

181. The cost of any survey authorized by the Surveyor-General for correction of any Land Transfer plan or certificate shall be borne and be paid by the Assurance Fund upon the certificate of the Surveyor-General that such survey has been duly made and was necessary for the purpose aforesaid.

Surveyor-General or person authorized by him may enter land to make survey. *Ib.*, s. 185

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

(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

(b.) May do all things necessary for such survey in accordance with the regulations for the time being in force, or for any inspection, repair, or alteration thereof.

(2.) Before entry such surveyor shall, when practicable, give reasonable notice to the owner or occupier of the land, and, if required by such owner or occupier, produce and show the authority under which he claims to enter as aforesaid.

(3.) Any person wilfully preventing or obstructing any survey authorized as aforesaid, or destroying, effacing, or removing any survey pegs or marks relating thereto, is liable to a fine not exceeding twenty pounds, to be recoverable in a summary way before any two or more Justices, and is also 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 the limits of such district.

Additional Powers of Registrar.

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

(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 such application, and, if necessary, to attend and give any information or explanation concerning the same:

(b.) He may 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 indorsed for the purposes

Registrar may require production of instruments. *Ib.*, s. 186
For his information.

For indorsements.

of this Act to produce such instrument within a reasonable time to be fixed by such notice, and to deposit the same in the Land Registry Office of his district for such time as may be necessary for the making of such indorsement or entry :

- (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 same, 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 the same for cancellation ; and upon such cancellation a new certificate shall be issued to the person entitled thereto upon payment of the prescribed fee :

For cancellation

Provided that the Registrar may at his discretion remit such 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, coverture, lunacy, unsoundness of mind, or absence 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 persons as hereinbefore mentioned, 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 such land or otherwise in any certificate of title or other instrument, or for the prevention of any fraud or improper dealing :

May enter caveats

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

May administer oaths.

184. (1.) 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—

Not producing instruments when required by Registrar.

- (a.) To produce, surrender, or deposit any instrument, or to allow the same to be inspected ; or

1908, No. 99, s. 187

- (b.) To give any explanation which he is hereinbefore required to give—

he is liable to a fine not exceeding five pounds for each day during which such refusal or neglect continues.

(2.) Such fine may be recovered at the suit of the Registrar in any Court of competent jurisdiction, and the offender shall, in addition thereto, be liable to make compensation to any person who has sustained loss or damage by reason of such refusal or neglect.

Assurance Fund.

185. (1.) Upon the first bringing of land under this Act upon application of the proprietor, there shall be paid to the Registrar the sum of one half-penny in the pound sterling upon the value of the land brought under the Act.

Assurance Fund to be levied by percentage on value of land.

Ib., s. 188

(2.) Such value shall be ascertained by the oath or solemn affirmation of the applicant or proprietor.

(3.) If the Registrar is not satisfied as to the correctness of the value so declared or sworn to, he may require a certificate of such value

Valuation by sworn valuator.

under the hand of a sworn valuator, which certificate shall be received as conclusive evidence for the purpose aforesaid.

(4.) All sums collected under the foregoing provisions shall be paid to the Public Account, to the credit of an account to be called "The Land Assurance Fund Account."

Assurance Fund to be paid to separate account.

Compensation for mistake or misfeasance of Registrar.
1908, No. 99, s. 189

186. Any person—

(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

(b.) Who is deprived of any land, or of any estate or interest in land, through the bringing of the same under the Land Transfer Acts, or by the registration of any other person as proprietor of such land, or by any error, omission, or misdescription in any certificate of title, or in any entry or memorial in the 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 such land, estate, or interest—

may bring an action against the Registrar-General, as nominal defendant, for recovery of damages.

Recovery of damages and costs.
Ib., s. 190

187. In case the plaintiff recovers final judgment against such nominal defendant, then the Court or Judge before whom such action is tried shall certify to the Minister of Finance the fact of such judgment and the amount of damages and costs recovered; and the said Minister thereupon, and upon the receipt of a warrant under the hand of the Governor, shall pay the amount of such damages and costs to the person recovering the same, and charge the same to the account of the Assurance Fund.

Notice of action to be served on Attorney-General and Registrar-General.
Ib., s. 191
Minister to pay claim if admitted.

188. (1.) Notice in writing of every action against the Registrar-General, 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 such action.

(2.) If the aforesaid officers concur that such claim ought to be admitted, as to the whole or any part thereof, without suit or action, and jointly certify to that effect, the Governor may issue his warrant to the Minister of Finance for payment accordingly.

Costs if action continued after admission.

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

Liability of plaintiff for costs.
Ib., s. 192

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

In case of fraud compensation paid and costs, how recovered.
Ib., s. 193

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

(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

(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—

the amount of such 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 such fraud, 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 estate.

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

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

(4.) All costs incurred by the Registrar-General with the sanction of the Attorney-General in prosecuting, testing, or defending any claim or action under this Act shall be paid out of the Assurance Fund.

191. (1.) Where any amount has been paid out of the Assurance 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 real or personal estate within New Zealand, the said Court or a Judge thereof, upon the application of the Registrar-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 Registrar-General as nominal defendant, may allow the Registrar-General to sign judgment against such person forthwith for the amount so paid out of the Assurance Fund, together with the costs of the application.

Judgment for such moneys may be signed against absconders, &c.

1908, No. 99, s. 194

(2.) Such 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.

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

Judgment may be recovered at any time.

Ib., s. 195

193. The Assurance Fund 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 :—

Assurance Fund not liable in certain cases.

Ib., s. 196

- (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 such disability was disclosed on the instrument by virtue of which such person was registered as proprietor ; or
- (e.) By the improper exercise of any power of sale or re-entry.

Value of land at time of deprivation to be measure of damages.

1908, No. 99, s. 197

194. (1.) No person shall, as against the Registrar-General or the Assurance Fund, 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 such land, estate, or interest at the time of such deprivation, together with the value of the messuages and tenements erected thereon and improvements made thereto (if any) prior to the time of such deprivation, with interest at the rate of five per centum per annum to the date of judgment recovered.

(2.) In case the Assurance Fund for the time being is insufficient to satisfy any claim, the deficiency shall be paid out of the Consolidated Fund, and shall be a first charge upon the Assurance Fund.

Limitation of actions.

Ib., s. 198

195. No action for recovery of damages as aforesaid shall lie or be sustained against the Registrar-General unless such action is commenced within the period of six years from the date when the right to bring such action accrued; but any person being under the disability of coverture, infancy, unsoundness of mind, or a absence from New Zealand may bring such action within three years from the date on which such disability ceased.

Plaintiffs to be nonsuited if laches proved.

Ib., s. 199

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

Protection of Purchasers.

Purchaser from registered proprietor not to be affected by notice.

Ib., s. 200

197. Except in the case of fraud, no person contracting or dealing with or taking or proposing to 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 such registered owner or any previous registered owner of 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, and the knowledge that any such trust or unregistered interest is in existence shall not of itself be imputed as fraud.

No liability on bona fide purchaser or mortgagee.

Ib., s. 201

198. (1.) Nothing in this Act shall be so interpreted as to render subject to action for recovery of damages, or for possession, or to deprivation of the estate or interest in respect to 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 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 such fraud or error consists in wrong description of the boundaries or of the parcels of any land, or otherwise howsoever.

(2.) This section shall be read subject to the provisions of sections *seventy* and *seventy-two* hereof. 1913, No. 17, s. 20

Appeal.

199. If the Registrar refuses to perform any act or duty which he is hereby required or empowered to perform, or if the proprietor or other claimant of any land, estate, or 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, the person deeming himself aggrieved may require the Registrar to set forth in writing the grounds of such refusal, direction, or decision. Appeal to Supreme Court from decision of Registrar.
1908, No. 99, s. 202

200. Such person may, if he thinks fit, summon the Registrar to appear before the Supreme Court to substantiate and uphold the grounds of such refusal, direction, or decision as aforesaid, such summons to be issued under the hand of a Judge of the said Court, and served upon the Registrar six clear days at least before the day appointed for hearing. Summons to Registrar to appear.
Ib., s. 203

201. Such summons shall be heard by the said Court; and upon the hearing 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 such 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.
Ib., s. 204

202. All expenses attendant upon any such proceedings shall be borne and paid by the person initiating the proceedings, unless the Court or Judge orders that the same be paid out of the Assurance Fund, which such Court or Judge is hereby empowered to do. Expenses of appeal.
Ib., s. 205

203. 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 such decision shall be binding upon such Registrar and Examiner. Registrar-General to decide between Registrar and Examiner of Titles.
Ib., s. 206

204. (1.) In every case in which an appeal may be had to the Supreme Court or a Judge thereof 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 such 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.
Ib., s. 207

(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.

205. 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 decision; and the said Court shall give its judgment thereon as if such question had been raised in due form upon an appeal from the decision of the Supreme Court. Registrar-General may submit questions for decision of Court of Appeal.
Ib., s. 208

Ordinary rules and regulations of procedure to apply. 1908, No. 99, s. 209

Rules of procedure. *Ib.*, s. 210

206. 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.

207. Any three or more of the Judges of the Supreme Court, of whom the Chief Justice shall be one, may from time to time make rules and orders for regulating proceedings in the Supreme Court under this Act:

Provided that such rules and orders shall be subject to the approval of the Governor in Council.

Offences.

Offences under the Act. *Ib.*, s. 211

208. (1.) Every person who—

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

commits an indictable offence and is liable to a fine not exceeding five hundred pounds, or, at the discretion of the Court before which the case is tried, to imprisonment with or without hard labour for any period not exceeding three years.

(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 such fraud.

Crimes under the Act. *Ib.*, s. 212

209. Every person commits a crime who—

- (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 such officer is by this Act or any former Land Transfer Act expressly or impliedly authorized to affix his signature; or
- (b.) Stamps, or procures to be stamped, or assists in stamping any document with any forged seal of any Registrar; or
- (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 such person; or
- (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

- (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.

210. Every person who 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 is guilty of perjury. Perjuries under the Act.
1908, No. 99, s. 213

211. Every person convicted of a crime or perjury under this Act is liable to imprisonment with hard labour for any term not exceeding four years. Punishment.
Ib., s. 214

212. No proceeding or conviction for any Act hereby declared to be an offence or a crime or perjury shall affect any remedy which any person aggrieved or injured by such act may be entitled to at law or in equity against the person who has committed such act, or against his estate. Conviction not to affect civil remedy.
Ib., s. 215

Land-brokers and Valuers.

213. (1.) The Registrar-General may, with the sanction of the Governor, license fit and proper persons to be land-brokers for transacting business under this Act, and, with like sanction, may from time to time prescribe the charges recoverable by such brokers for such business by any scale not exceeding the charges specified in the Eighth Schedule hereto ; and for every such license may charge and receive the fee of five pounds annually. Registrar-General, with sanction of Governor, may license persons as land-brokers.
Ib., s. 216

(2.) Every such license shall continue in force until the thirty-first day of December next after the date thereof. 1913, No. 17, s. 21

214. Before granting any such license the Registrar - General shall take a bond from the person to whom the license is to be issued in the sum of one thousand pounds, with two sureties each in the sum of five hundred pounds, conditioned that such person shall duly and faithfully act in the capacity of such licensed land-broker in accordance with this Act. Bond required before grant of license.
1908, No. 99, s. 217

215. Any license granted as aforesaid may be revoked by the Registrar-General, with the sanction of the Governor, 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. Licenses may be revoked.
Ib., s. 218

216. Any person who, not being the holder of a license as a land-broker 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 fee or reward under this Act, or wilfully and falsely pretends to be entitled to transact such business, is for each offence liable to a fine not exceeding fifty pounds. Acting without license.
Ib., s. 219

217. If any person licensed as a land-broker knowingly and wilfully charges more than the sums mentioned in the aforesaid scale, or in so far as such scale does not extend, then more than the sums mentioned in the Eighth Schedule hereto, his license shall be cancelled, and he shall be incapable of being again licensed as a land-broker for two years. License of land-broker making unlawful charges cancelled.
Ib., s. 220

Valuators may be appointed.
1908, No. 99, s. 221
1912, No. 23, s. 60(3)

Oath to be taken by valuers.

218. (1.) There may from time to time be appointed qualified persons to be valuers under this Act, and any such appointment may at any time be revoked.

(2.) Every person appointed as a valuator, or who has been already so appointed, may be required to take the following oath before a Judge of the Supreme Court or District Court, or before any officer appointed for that purpose by the Governor:—

“I, A. B., do swear that I will faithfully and to the best of my ability make any valuation required of me under the provisions of the Land Transfer Act, 1915.”

(3.) In the case of a valuator appointed under any former Land Transfer Act, and holding office on the coming into operation of this Act, the oath taken by him under such former Land Transfer Act shall be deemed to have been taken under this section.

Miscellaneous.

Governor in Council may fix and alter fees under the Act, and make regulations.
1908, No. 99, s. 222

219. Subject to the express provisions of this Act, the Governor may from time to time, by Order in Council gazetted, make regulations—

(a.) Prescribing and altering the fees which may be taken by Registrars under this Act; except only that the fees to be taken in respect of the several matters specified in the Ninth Schedule hereto shall not exceed the amounts specified in such Schedule; also

(b.) Regulating the practice and conduct of business under this Act; also

(c.) Prescribing the qualifications necessary in the case of persons to be appointed to offices under this Act.

Printed forms to be supplied and used.
Ib., s. 223
1913, No. 17, s. 22

220. No application or instrument for which a form is prescribed by any of the Schedules to this Act shall be received or registered unless written upon a printed form supplied by the Stamp Office or approved by the Registrar, unless such application or instrument is executed under circumstances which, in the opinion of the Registrar, reasonably excuse the omission to use such printed form.

Registrar-General may sanction variations from scheduled forms.
1908, No. 99, s. 224

221. 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.

Description of person in special character to include legal representatives.
Ib., s. 225

222. 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 such person.

Forms may be used with necessary variations.
Ib., s. 226

223. (1.) Where a form in any of the Schedules hereto is directed to be used, such 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 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.

224. 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 the same may be sued for and recovered, in the name of the Attorney-General, 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.

Prosecution of offences.
1908, No. 99, s. 227

225. 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 such proceeding is taken to deposit with the Clerk of the Court in which such proceeding is to be taken a reasonable sum as security for any costs or expenses which may be incurred by the Registrar in relation to such proceeding or consequent on any failure therein, and to sign an undertaking to pay such costs or expenses.

Registrar may require indemnity for costs.
Ib., s. 228

226. All discretionary powers vested in Registrars, save only such as are expressly required to be exercised in conjunction with an Examiner of Titles, shall be exercised subject to such regulations as may be made under this Act.

Discretionary powers of Registrars.
Ib., s. 229

227. 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 a Judge of the Supreme Court, which order shall not be made unless such Judge is satisfied that such attendance or production is necessary, and that the required evidence cannot be given by certified copy of such Register or instrument.

Registrar not bound to attend Court or produce Register without Judge's order.
Ib., s. 230

228. 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.

Officers not personally liable.
Ib., s. 231

229. The special provisions contained in the several Appendices I, II, and III annexed to this Act are hereby enacted, and shall be deemed to form part of this Act.

Special provisions in Appendices enacted.
Ib., s. 232

230. Where by any unrepealed Act any act, matter, or thing is authorized to be done, or any memorial is authorized or directed to be registered under any former Land Transfer Act, such act, matter, or thing may be done, or such memorial registered, under this Act, unless the same is inconsistent with the express provisions hereof.

Acts authorized under former Land Transfer Act may be done under this Act.
Ib., s. 233

231. Where in any unrepealed Act, or in any deed, instrument, or other document, made before the coming into operation of this Act, reference is made to any former Land Transfer Act, such 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.

References to former Land Transfer Act to apply to this Act.
Ib., s. 234

APPENDICES.

APPENDIX I.

Public Reserves and other Public Lands.

Registration of trusts affecting public reserves and other public lands.

(1.) The grantee or other person or body corporate in whom any land under this Act now is or hereafter becomes vested as a public reserve shall hold such land subject to the trusts expressed or declared of and concerning the same in the Crown grant or in any certificate of title following the terms of such grant.

(2.) If, after the registration of the Crown grant, 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 such reserve is situate shall notify to the Registrar the particulars of such trust or of such alteration, revocation, or substitution, as the case may be.

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

(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 such person or body corporate to be held accordingly; and a reference to such first-mentioned Act in the memorial of such transfer or any certificate of title issued thereupon shall be notice of the capacity in which such land is held, and of all trusts expressly affecting the land by virtue thereof.

(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 such dealing is manifestly inconsistent with such trust.

APPENDIX II.

Canterbury Educational Reserves.

Provisions relating to dealings with land under the Canterbury Educational Reserves Sale and Leasing Act, 1876.

(1.) Every receipt issued by the Land Board of 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 Board shall transmit one copy thereof to the Registrar.

(2.) The Registrar shall include such receipt in the Provisional Register-book of his district, as if the same was a receipt by an ordinary Receiver of Land Revenue for the purchase-money of Crown lands; and, until the issue of a certificate of title for the same as hereinafter mentioned, all dealings with such land by the purchaser, and by those claiming through or under him, shall be entered on the Provisional Register only.

(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 such receipt ; but, until the issue of a certificate of title for the same, no other dealings whatever with the said land shall be registered save and except such as are hereinbefore authorized to be entered on the Provisional Register.

(4.) Upon the registration of a Crown grant for the said land, and of a duly executed transfer to the purchaser, the Registrar shall cancel such grant as to the land transferred, and issue a certificate of title for the same 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 on the Provisional Register.

APPENDIX III.

Unincorporated Building Societies—Mortgages.

(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.

Registration of mortgages, &c., to unincorporated building societies.

(2.) Land under this Act shall be mortgaged to such societies only by memorandum of mortgage made to such 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 such mortgages.

(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 such instrument, he shall register the same, 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 same, nor that such instrument was executed in contravention of the rules of the society or the terms of the mortgage.

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, 1915.

Dated at this day of , 19 .

A. B.

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

C.D.,

[Occupation and address].

FORM B.

Sections 24, 27, 61.

Reference { Vol. , folio . Register-book :
 { Transfer No. . 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 , witnesseth that is seised of an estate in fee-simple, subject to such reservations, restrictions, incumbrances, liens, and interests as are notified by memorial underwritten or indorsed 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.

FORM C.

Section 82.

MEMORANDUM OF TRANSFER.

I, A. B., being registered as the proprietor of an estate [*Here state nature of the estate or interest*], subject however to such incumbrances, liens, and interests as are notified by memorandum underwritten or indorsed 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 hereto 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 D.

Section 93.

MEMORANDUM OF LEASE.

I, A. B., being registered as proprietor of an estate [*Here state nature of the estate or interest*], subject however to such incumbrances, liens, and interests as are notified by memorandum underwritten or indorsed 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, 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*].

Section 101.

FORM E.

MEMORANDUM OF MORTGAGE.

I, A. B., being registered as proprietor of an estate [*Here state nature of the estate or interest*], subject however to such incumbrances, liens, and interests as are notified by memoranda underwritten or indorsed 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 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*].

Section 101.

FORM F.

MEMORANDUM OF INCUMBRANCE 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 incumbrances, liens, and interests as are notified by memoranda underwritten or indorsed 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 incumbrance, 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 rent-charge*] hereinafter mentioned, do hereby incumber the said land for the benefit

of the said C. D. with the sum [annuity or rent-charge] 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 rent-charge intended to be secured; the interest, if any; and the events on which such sum, annuity, or rent-charge shall become and cease to be payable; also any special covenants or powers, and any modification of the powers or remedies given to an incumbrancee by the Act*]. And, subject as aforesaid, the said C. D. shall be entitled to all powers and remedies given to an incumbrancee by the Land Transfer Act, 1915.

In witness whereof I have hereunto signed my name this day of A. B.

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

E. F.,
[Occupation and address].

FORM G.

Section 101 (2).

MEMORANDUM OF MORTGAGE.

- (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.

Section 89.

FORM H.

TRANSFER OF MORTGAGE, INCUMBRANCE, OR LEASE TO BE INDORSED ON ORIGINAL MORTGAGE, INCUMBRANCE, OR LEASE.

I, the within-mentioned C. D., in consideration of £ , this day paid to me by X. Y., of , the receipt of which sum I do hereby acknowledge, hereby transfer to him the estate or interest in respect to which I am registered proprietor, as set forth and described in the within-written security, together with all my rights, powers, estate, and interest therein.

In witness whereof I have hereunto subscribed my name this day of C. D., Transferor.

Signed by the above-named C. D. as transferor, in the presence of—

E. F.,

[Occupation and address].

Accepted—X. Y., Transferee.

Signed by the above-named X. Y. as transferee, in the presence of—

G. H.,

[Occupation and address].

Section 137.

FORM I.

REGISTRATION ABSTRACT.

New [Royal Arms.] Zealand.

[Copy of Grant or Certificate of Title.]

PURSUANT to an Act of the General Assembly of New Zealand, shortly intituled the Land Transfer Act, 1915, this registration abstract is issued for the purpose of enabling the registered proprietor to deal with the above-described land at places without the limits of New Zealand, and shall continue in force from the date hereof until the day of , or until the same is earlier surrendered to me for cancellation.

In witness whereof I have hereunto signed my name and affixed my seal this day of , 19 .

M. N.,

District Land Registrar of the District of .

Sections 145, 149,
153.

FORM K.

CAVEAT FORBIDDING LANDS TO BE BROUGHT UNDER THE ACT.

To the District Land Registrar of the District of .

TAKE notice that I, , of , claiming estate or interest [*Here state the nature of the estate or interest claimed, and the ground on which such 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, 1915, 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 L.

CAVEAT FORBIDDING REGISTRATION OF DEALING WITH ESTATE OR INTEREST.

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 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 some Judge thereof, or until the same has lapsed under the provisions in that behalf contained in section 154 of the Land Transfer Act, 1915. Sections 146, 150, 154
1913, No. 17, s. 23

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*].

THIRD SCHEDULE.

FORM (1.)

Section 159

POWER OF ATTORNEY.

I, A. B., of , being registered as proprietor of an estate [*Here state nature of the estate or interest*], subject however to such incumbrances, liens, and interests as are notified by memorandum underwritten or indorsed 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 (2.)

Section 161

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*].

FOURTH SCHEDULE

COVENANTS, CONDITIONS, AND POWERS IMPLIED IN MORTGAGES.

(1.) THAT the mortgagor will pay to the mortgagee the principal sum mentioned in the mortgage, with interest thereon, in accordance with the provisions of such mortgage.

(2.) That the mortgagor will forthwith insure and, so long as any money remains owing on the security, will keep insured against loss or damage by fire all buildings and erections for the time being situate on the land described in the mortgage; such insurance to be effected in the name of the mortgagee, and in some insurance office in New Zealand to be approved by the mortgagee, and to be for the full insurable value of such buildings and erections as aforesaid; and will deliver the policy or policies of such insurance, or cause the same to be delivered, to the mortgagee, who shall be entitled to the exclusive custody thereof, and will duly and punctually pay all premiums and sums of money necessary for the purpose of keeping every such insurance on foot; and will, not later than the forenoon of the day on which any premium falls due, deliver or cause to be delivered the receipt therefor to the mortgagee.

(3.) That the mortgagor will from time to time, so long as any money remains owing on the security, well and substantially repair, and keep in good and substantial repair and condition, all buildings or other improvements erected and made upon the said land: And that the mortgagee shall at all reasonable times be at liberty, by himself, his agents or servants, to enter upon the said land to view and inspect the said buildings and improvements.

(4.) That if the mortgagor fails to insure or keep insured the said buildings and erections as aforesaid, or to deliver or cause to be delivered any premium receipt as aforesaid, or to repair the said buildings and improvements, or to keep them in good and substantial repair and condition as aforesaid, then and in any such case, and as often as the same shall happen, it shall be lawful for but not obligatory on the mortgagee, at the cost and expense in all things of the mortgagor, to insure the said buildings and erections or any of them in such sum as aforesaid, or in any less sum, or to pay such premium, or to repair the said buildings and improvements and keep them in good and substantial repair and condition.

(5.) That in the event of the said buildings and erections or any of them being destroyed or damaged by fire, all moneys received by the mortgagee under any insurance in respect of such destruction or damage shall be applied, at his sole option, either in or towards rebuilding or repairing the buildings and erections so destroyed or damaged, or in or towards payment of the principal, interest, and other moneys for the time being covered by the security, notwithstanding that the same or any of them may not have accrued due under the terms of the mortgage:

Provided that if the mortgagee applies such moneys in or towards payment of the principal and other moneys as aforesaid, the mortgagor shall have the right to pay off the whole amount remaining due under the mortgage at any time within two months after such application has been made.

(6.) That all moneys expended by the mortgagee in and about effecting or keeping on foot any insurance as aforesaid, or in repairing or keeping in repair any of the said buildings and improvements as aforesaid, or in lawfully exercising or enforcing any power, right, or remedy in the mortgage contained or implied in favour of the mortgagee, shall be payable to him by the mortgagor on demand, and until paid shall be charged on the said land, together with interest at the rate agreed upon in the mortgage, computed from the date or dates of such moneys being expended.

(7.) That where the mortgagor makes default for the space of two months in payment of the principal sum and interest, or any part thereof, or in the performance or observance of any other covenant expressed or implied in the mortgage, and thereafter at least one month's notice in writing of his intention so to do has been given by the mortgagee to the mortgagor, or has been left upon the mortgaged property, or at the mortgagor's usual or last known place of abode in New Zealand, the mortgagee may sell the mortgaged property, or any part thereof, either altogether or in lots, by public auction or by private contract, or partly by the one and partly by the other of such modes of sale, and subject to such conditions as to title or evidence of title, time or mode of payment of purchase-money, or otherwise as the mortgagee thinks fit, with power to the mortgagee to buy in the mortgaged property or any part thereof at any sale by auction or to rescind any contract for the sale thereof, and to resell the same without being answerable for any loss or diminution in price, and with power to execute assurances, give effectual receipts

for the purchase-money, and do all such other acts and things for completing the sale as he may think proper : And also that the mortgagee may exercise such other incidental powers in that behalf as are conferred upon mortgagees by the Land Transfer Act, 1915 : And, lastly, that the mortgagee will apply the moneys arising from any such sale as aforesaid, in the first place in payment of the costs and expenses incidental to the sale or otherwise incurred in respect of the mortgage, and in the second place in satisfaction of the principal, interest, and other moneys for the time being owing under the mortgage, and in the third place in payment of the moneys owing under subsequent registered mortgages (if any) in the order of their priority ; and will pay the surplus (if any) to the mortgagor :

Provided that a purchaser at any sale as aforesaid shall not be answerable for the loss, misapplication, or non-application of the purchase-money by him paid ; nor shall he be obliged to see to the application thereof ; nor shall he be concerned to inquire whether any default has been made as aforesaid, or whether any notice has been given or left as aforesaid, or otherwise as to the necessity, regularity, or propriety of the sale ; nor shall he be affected by notice that no such default has been made or notice given or left as aforesaid, or that the sale is otherwise unnecessary, irregular, or improper.

(8.) That if and whenever the mortgagor makes default as mentioned in the last preceding covenant the mortgagee may call up and compel payment of all principal, interest, and other moneys for the time being owing under the mortgage, notwithstanding that the time or times therein appointed for the payment thereof respectively may not have arrived.

(9.) That the mortgagor will forthwith insure and, so long as any moneys remain owing on the security, will keep insured the mortgagee against any worker's charge on the said land obtaining priority over the mortgage under the Workers' Compensation Act, 1908, or any Act amending the same, the policy or policies of such insurance to be taken out in the name of the mortgagee, and to be expressed to be an absolute indemnity of the mortgagee against such risk ; and will, seven days at least before the same becomes due, pay all premiums and other moneys necessary for keeping such insurance on foot, and will forthwith deliver to the mortgagee the policy or policies of such insurance or insurances, and from time to time the receipt for every such premium.

(10.) That if the mortgagor fails to insure or keep insured the mortgagee against any worker's charge as aforesaid, it shall be lawful for but not obligatory on the mortgagee to pay all sums of money that may be requisite to effect such policy or policies as, in the opinion of the mortgagee, are necessary for the purpose of insuring the mortgagee against any worker's charge obtaining priority over the mortgage, and to pay all sums that may be necessary for the purpose of effecting such insurance, or paying the premium thereon or any renewal premium in respect thereof : And that the mortgagor will, whenever called upon to do so (but not at intervals of less than three months), supply a list of all wages paid by the mortgagor for work done on, about, or in any way relating to the said land.

(11.) That the mortgagor will forthwith, without any demand, pay to the mortgagee all sums of money expended by the mortgagee in paying and satisfying any such worker's charge as aforesaid, or in effecting such insurance, or in paying the said premium or renewal premiums thereon, with interest for the same respectively at the rate agreed on in the mortgage, computed from the time or respective times of the mortgagee's paying the same until repayment thereof, and that in the meantime such sums of money, with interest at the rate aforesaid, shall be added to the sum expressed to be secured by the mortgage.

(12.) That the mortgagee will, on payment by the mortgagor of all moneys due under the mortgage at the time and in the manner mentioned in the mortgage for payment of the principal sum, or at any time thereafter on payment of all moneys then due (three clear months' notice of the intention to pay the same having been given), return to the mortgagor the instrument of mortgage, having indorsed thereon or annexed thereto a memorandum of discharge as provided in section 116 of the Land Transfer Act, 1915, together with all instruments and documents deposited with the mortgagee on account of the mortgage.

(13.) The expressions "mortgagor" and "mortgagee" in the above provisions shall, where such meaning is not inconsistent with the context, extend to and include the executors, administrators, and assigns of the mortgagor and mortgagee respectively

Section 104 (1).

FIFTH SCHEDULE.

(1.) 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].

1913, No. 17, s. 23
(3).

(2.) 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].

(3.) 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].

Sections 103 (2),
165.

SIXTH 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 such joint names in some public insurance office, to be approved by such covenantee, against loss or damage by fire to the full amount specified in such 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 such loss or damage: Provided also that if default is made in the observance or performance of the covenant last above mentioned, 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 such buildings, tenements, and premises, and the costs and charges of such 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 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 such 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 husbandlike 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 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 timber-like trees standing and being upon the hereditaments and premises mentioned in the instrument, without the consent in writing of the covenantee.

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 such 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 license 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 license" 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 licenses 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 license" 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 license 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 license, or any new license, or the transfer of any license then existing and in force

SEVENTH SCHEDULE.

ATTESTATION OF INSTRUMENTS.

Section 170.

FORM (1.)

CERTIFICATE OF DISTRICT LAND REGISTRAR, JUSTICE OF THE PEACE, ETC., TAKING
DECLARATION OF ATTESTING WITNESS.

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].

Section 171.

FORM (2.)

CERTIFICATE OF DISTRICT LAND REGISTRAR, JUSTICE OF THE PEACE, ETC., BEFORE
WHOM INSTRUMENT MAY HAVE BEEN ACKNOWLEDGED BY THE PARTY EXECUTING
SAME.

APPEARED before me at _____, the _____ day of _____, 19____, A. B., of _____, the party executing the within instrument, and acknowledged that he did freely and voluntarily sign the same.

E. F.,
District Land Registrar [or Justice of the
Peace, or Notary Public].

EIGHTH SCHEDULE.

Sections 213, 217.

SCALE OF CHARGES FOR LAND-BROKERS.

For application to bring land under the Land Transfer Act, 1915, 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	¼th 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 incumbrance†—			
Where the value does not exceed £400	0	10	0
Where the value exceeds £400 but does not exceed £800	¼th 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 without registration abstract	0	10	0
Power of attorney with registration abstract	1	0	0

NINTH SCHEDULE.

Section 219.

MAXIMUM FEES PAYABLE FOR THE PERFORMANCE OF THE SEVERAL ACTS, MATTERS, AND THINGS HEREIN SPECIFIED.

For the bringing land under the provisions of this Act, to be paid over and above the cost of all advertisements herein prescribed to be in such case published—	£	s.	d.
When the title consists of a Crown grant, and none of the land included therein has been dealt with	0	2	0
When the title is of any other description and the value exceeds £300	1	0	0
When the title is of any other description and the value exceeds £200 and does not exceed £300	0	15	0
When the title is of any other description and the value exceeds £100 and does not exceed £200	0	10	0
When the title is of any other description and the value does not exceed £100	0	5	0
Contribution to Assurance Fund upon first bringing land under this Act—			
In the pound sterling upon the value of the land	0	0	½
Other fees—			
For every application to bring land under this Act	0	5	0
For every certificate of title	1	0	0
Registering memorandum of transfer, mortgage, incumbrance, or lease	0	10	0
Registering transfer or discharge of mortgage or of incumbrance, or the transfer or surrender of a lease	0	5	0
Registering proprietor of any estate or interest derived by settlement or transmission	0	10	0
For every power of attorney deposited	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, such cases being more in the nature of conveyancing.

† In the case of lease, and of annuity secured by incumbrance, ten years' rent, or ten years of such annuity, to be assumed as the value for the purpose of calculating the percentage.

	£	s.	d.
For every registration abstract issued	1	0	0
For cancelling registration abstract	0	5	0
For every revocation of power of attorney	0	10	0
Noting caveat	0	10	0
Cancelling or withdrawal of caveat, and for every notice relating to any caveat	0	5	0
For every search	0	2	0
For every general search	0	5	0
For every map or plan deposited	0	5	0
For every instrument declaratory of trusts, and for every will or other instrument deposited	0	10	0
For registering recovery by proceeding in law or re-entry by lessee	0	10	0
For registering vesting of lease in mortgagee, or other person entitled, consequent on disclaimer by Official Assignee in Bankruptcy, or other person lawfully entitled to disclaim same	0	10	0
For entering notice of marriage or death	0	10	0
For entering notice of writ or order of Supreme Court	0	10	0
For taking affidavit or statutory declaration	0	5	0
For the exhibition of any deposited instrument, or for exhibiting deeds surrendered by applicant proprietor	0	5	0
For certified copy, not exceeding five folios	0	5	0
For every folio or part folio after first five	0	0	6
For every notice to produce deeds or instruments	0	5	0
For every outstanding interest noted on certificate of title	0	5	0
When any instrument purports to deal with land included in more than one grant or certificate, for each registration memorial after the first	0	2	0

I, JOHN WILLIAM SALMOND, Solicitor-General, do certify that the foregoing compilation is a true and correct compilation of the Land Transfer Act, 1908, and the amendments thereof.

Given under my hand at Wellington, this day of August, 1915.

Solicitor-General.

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