1980

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Ontario
CHAPTER 445
Registry Act

1. In this Act,

(a) "certificate of amalgamation of loan corporations" includes a copy certified under the hand of the Registrar of Loan and Trust Corporations of the certificate of assent and declaration referred to in section 139 of the Loan and Trust Corporations Act and of any document mentioned in such certificate and a certificate issued for the purpose of registration under any Act of the Legislature authorizing or ratifying an agreement for the purchase and sale of the assets, or for the amalgamation of loan corporations;

(b) "certification area" means an area of land designated as such by regulation;

(c) "Director" means the Director of Land Registration appointed under section 6;

(d) "Director of Titles" means the Director of Titles appointed under section 9 of the Land Titles Act;

(e) "examiner of surveys" means the examiner of surveys appointed under section 13 of the Land Titles Act;

(f) "instrument" includes every instrument whereby title to land in Ontario may be transferred, disposed of, charged, encumbered or affected in any other way, and, without limiting the generality of the foregoing, includes any instrument mentioned in subsection 18 (6) and a Crown grant of Canada and of Ontario, a deed, conveyance, mortgage, assignment of mortgage, certificate of discharge of mortgage, assurance, lease, release, discharge, agreement for the sale or purchase of land, caution under the Estates Administration Act or renewal or withdrawal thereof, municipal by-law, certificate of proceedings in any court, judgment or order of foreclosure and every other certificate of judgment or order of any court affecting any interest in or title to land, and a certificate of payment of taxes granted under the corpo-
rate seal of any municipality by the treasurer, a sheriff's and treasurer's deed of land sold by virtue of his office, a contract in writing, every order and proceeding in bankruptcy and insolvency, a plan of a survey or subdivision of land, and every notice, caution and other instrument registered in compliance with an Act of Canada or Ontario;

(g) "land" means land, tenements, hereditaments and appurtenances and any estate or interest therein;

(h) "land registrar" means a land registrar appointed under section 8;

(i) "letters probate" includes letters testamentary or a similar grant based on a will proven before a court having jurisdiction in probate matters outside Ontario;

(j) "local description" means a description of land drawn in accordance with the regulations;

(k) "Minister" means the Minister of Consumer and Commercial Relations;

(l) "notarial" includes prothonotarial;

(m) "photographic film" includes any photographic plate, microphotographic film or photocopy negative;

(n) "plan of subdivision" means a plan by which the owner of land divides the land into areas designated on the plan, but does not include a plan under the Cemeteries Act or the Expropriations Act or any predecessor of such Acts;

(o) "prescribed" means prescribed by this Act or the regulations;

(p) "registered" means registered under this Act;

(q) "regulations" means the regulations made under this Act;

(r) "surveyor" means a member of the Association of Ontario Land Surveyors who is authorized under the Surveyors Act to engage in the practice of professional land surveying in Ontario;
(s) "will" means a will as defined in the *Succession Law Reform Act*. R.S.O. 1970, c. 409, s. 1; 1972, c. 1, s. 54 (1); 1978, c. 8, s. 1; 1979, c. 94, s. 1.

2. The Minister of Consumer and Commercial Relations is responsible for the administration of this Act. 1972, c. 1, s. 54 (2).

PART I

ORGANIZATION AND ADMINISTRATION

3. Subject to the *Land Titles Act*, after a certificate of the first registration of the owner under that Act has been registered as prescribed by that Act, this Act ceases to apply to the land mentioned in the certificate. R.S.O. 1970, c. 409, s. 3.

4.—(1) Subject to the provisions of this Act and except where otherwise expressly provided in any general or special Act or Order in Council, the registry divisions as they existed on the 14th day of April, 1925, are the registry divisions of the Province of Ontario for the purposes of this Act and no alteration in the boundaries of any riding, electoral district or municipality alters or affects the boundaries of any registry division. R.S.O. 1970, c. 409, s. 4 (1).

(2) The Lieutenant Governor in Council may, by regulation,

(a) combine two registry divisions into one registry division;

(b) divide a registry division into two or more registry divisions;

(c) annex a part of a registry division to an adjoining registry division;

(d) annex to a registry division land that is not part of any registry division; or

(e) designate the names by which registry divisions shall be known,

but there shall be at least one land registry office for each county, regional municipality and provisional judicial district. R.S.O. 1970, c. 409, s. 4 (2); 1972, c. 133, s. 2.
5.—(1) Subject to subsection (2), the land registry office for each registry division shall be located within the registry division. 1972, c. 133, s. 3, part.

(2) Notwithstanding subsection (1), the land registry office for the registry division of Toronto Boroughs may continue to be located in Toronto. 1979, c. 94, s. 2.

6.—(1) The Lieutenant Governor in Council may appoint a barrister and solicitor to be the Director of Land Registration.

(2) The Director of Land Registration has general supervision and control over land registry offices and the system for registration therein.

(3) The Director of Land Registration shall have a seal of office in such form as the Lieutenant Governor in Council approves. R.S.O. 1970, c. 409, s. 6.

7.—(1) The Director of Land Registration may appoint one or more Deputy Directors of Land Registration.

(2) Where the Director of Land Registration has more than one deputy, he shall designate one of the deputies as the Senior Deputy Director of Land Registration.

(3) A Deputy Director of Land Registration has and may exercise such powers and perform such duties of the Director of Land Registration under this or any other Act as are required by the Director of Land Registration.

(4) In addition to Deputy Directors of Land Registration appointed under subsection (1), the Director of Titles appointed under the Land Titles Act is, ex officio, a Deputy Director of Land Registration for the purposes of exercising the powers and performing the duties of a Deputy Director of Land Registration under this Act.

(5) Where the office of Director of Land Registration becomes vacant,

(a) the Deputy Director of Land Registration; or

(b) if there is more than one Deputy Director of Land Registration, the Senior Deputy Director of Land Registration,
may exercise the powers and shall perform the duties of the Director of Land Registration until a Director of Land Registration is appointed. 1979, c. 94, s. 3.

**LAND REGISTRARS**

8. (1) There shall be a land registrar for every registry division who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure. R.S.O. 1970, c. 409, s. 8; 1972, c. 133, s. 5 (1).

(2) There shall be at least one deputy land registrar for every registry division, and, where there is more than one deputy land registrar for a registry division, one of the deputies shall be designated as the senior deputy land registrar.

(3) The deputy land registrars and such other employees as are considered necessary for the administration of this Act shall be appointed under the *Public Service Act*. 1979, c. 94, s. 4.

(4) A deputy land registrar appointed under the *Public Service Act* shall act under the direction of the land registrar and when so acting may exercise the powers and perform the duties of a land registrar.

(5) A land registrar may appoint one or more assistant deputy land registrars who may exercise such of the powers and perform such of the duties of the land registrar in respect of his registry division as are specified in writing by the land registrar. 1980, c. 50, s. 1.

9. Every land registrar shall have a seal of office to be approved of by the Director. R.S.O. 1970, c. 409, s. 9; 1979, c. 94, s. 47 (1).

10. Where the office of land registrar becomes vacant, the deputy land registrar; or if there is more than one deputy land registrar, the senior deputy land registrar; or if there is no deputy land registrar, a person employed in a land registry office and designated by the Director, may exercise the powers and shall perform the duties of the land registrar until a land registrar is appointed. R.S.O. 1970, c. 409, s. 10 (3); 1979, c. 94, s. 47 (1).
11. Every land registrar, before he enters on the duties of his office, shall take and subscribe an oath in the prescribed form, which shall be transmitted by him to the Director. 1979, c. 94, s. 6, *part.*

12. The work of the office shall be conducted and carried on under the direction and immediate supervision of the land registrar. R.S.O. 1970, c. 409, s. 13; 1979, c. 94, s. 47 (1).

13.—(1) Every registry office, including every combined registry and land titles office, shall be known as a land registry office.

(2) The system of registration under this Act shall be known as the registry system. 1972, c. 133, s. 7.

14.—(1) In this section, "holiday" means,

(a) Saturday;

(b) Sunday;

(c) a day that is a holiday for civil servants as prescribed by the regulations under the *Public Service Act.* 1972, c. 133, s. 8.

(2) Except on holidays when they shall be closed, every land registry office shall be kept open during such hours as are prescribed and no instrument shall be received for registration except within such hours as are prescribed. 1979, c. 94, s. 7.

15.—(1) Upon receipt of a request thereof and the prescribed fee, a land registrar shall furnish an abstract in the prescribed form containing such information as is prescribed in respect of any land that is in his registry division. 1980, c. 50, s. 2.

(2) An abstract furnished by a land registrar under this section is *prima facie* evidence of the registration of the instruments of which extracts are included in the abstract. R.S.O. 1970, c. 409, s. 15 (7); 1979, c. 94, s. 47 (1).

16.—(1) Upon receipt of a request in writing and the prescribed fees, a land registrar,

(a) shall produce for inspection in his office during office hours any instrument registered in his office or any book of the office relating to any such instrument; and
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(b) shall supply a copy of the whole or a part of any instrument registered in his office. R.S.O. 1970, c. 409, s. 16; 1979, c. 94, s. 47 (1).

(2) Where a land registrar is unable to produce an instrument or book that is copied on microfilm, he shall produce the microfilm copy for inspection. 1980, c. 50, s. 3.

17.—(1) On request of any person, the land registrar shall furnish a certified copy, under his hand and seal of office, of any instrument or memorial deposited, registered, or filed and kept in his office.

(2) A judge of a court in Ontario may, for the purposes of a hearing, order a land registrar to produce any instrument or document in his custody where, in the opinion of the judge, a certified copy thereof is not sufficient.

(3) Upon receipt of an order under subsection (2) and the fee prescribed for a certified copy of the instrument or document required by the order to be produced, the land registrar shall prepare a certified copy of the instrument or document and deliver the original instrument or document to the person named in the order.

(4) The land registrar shall attach the order to the certified copy and shall file the copy in his office in place of the original instrument or document until the original has been returned.

(5) Notwithstanding subsection 54 (2) of the Evidence Act, an instrument or document produced by a land registrar under this section shall be returned to the custody of the land registrar after the final disposition of the cause or action to which it pertains. R.S.O. 1970, c. 409, s. 17; 1979, c. 94, s. 47 (1).

BOOKS OF OFFICE

18.—(1) The land registrar shall keep a by-law index in which he shall enter the registration number of every by-law registered after the 1st day of January, 1963, the number of the by-law, the name of the municipality and the title of the by-law.

(2) No by-law that directly affects the title to land shall be registered unless it contains a local description of the land affected.

(3) A by-law of a municipality may be registered by the production of a duplicate original or a copy of the...
by-law certified by the clerk of the municipality under its seal.

(4) An order of the Ontario Municipal Board or other instrument registered under section 63 shall be recorded in the by-law index.

(5) No entry in respect of an order of the Ontario Municipal Board or other instrument registered under section 63 or of a by-law shall be made in the general register index. R.S.O. 1970, c. 409, s. 18 (1-5).

(6) The following instruments when received for registration shall be registered as general registrations and, except as otherwise provided in this Act, shall not be recorded in the abstract index:

1. Wills.

2. Letters probate.

3. Letters of administration.


5. Certificates or certified or notarial copies of judgments or of court orders appointing or removing executors, administrators, guardians or trustees.

6. Certificates or certified or notarial copies of orders made under the Mental Incompetency Act.

7. Certificates under section 19 of the Change of Name Act.

8. Powers of attorney or revocations thereof.

9. General bars of dower.

10. Orders in council of Canada or Ontario, or certified copies thereof, not containing local descriptions.

11. Notarial copies of,

   i. letters patent or certificates of incorporation,

   ii. supplementary letters patent or certificates, or,

   iii. certificates of continuance.
12. Notarial copies of letters patent or certificates changing names of corporations or amalgamating corporations.

13. Notarial copies of certificates of amalgamation of loan or trust corporations.


15. Notarial copies of extra-provincial licences under Part VIII of the Corporations Act. R.S.O. 1970, c. 409, s. 18 (6); 1972, c. 133, s. 9; 1979, c. 94, ss. 8 (1), 47 (1).

(7) Where, under subsection (6), a notarial copy of an instrument is specified, there may be registered, in lieu of such notarial copy, a copy of the instrument certified by the proper officer of the government of Canada or Ontario. 1979, c. 94, s. 8 (2).

(8) Every land registrar shall keep an alphabetical index in the prescribed form of all general registrations, to be known as the “General Register Index”.

(9) The Director may, by written direction, require a land registrar to prepare and maintain a separate alphabetical index for any class of general registrations.

(10) All books, indexes, photographic film reproductions and other records used and kept in and for the purposes of a land registry office are the property of the Crown. R.S.O. 1970, c. 409, s. 18 (7-9); 1979, c. 94, s. 47 (1).

19.—(1) It is the duty of every land registrar to preserve the abstract index books and other records of his office in good repair.

(2) A land registrar may, when he considers it necessary, and shall, when so directed by the Director, cause,

(a) any book that is becoming obliterated or unfit for further use to be manually or mechanically copied or reproduced and, where portions of the entries in the book are missing, obliterated or cannot be deciphered, the missing details to be obtained, so far as possible, by examination of the instruments relating thereto and incorporated in the copy;

(b) plans and maps to be copied, repaired, restored, mounted, bound or otherwise preserved; and
(c) any book to be repaired,
in a manner approved by the Director.

(3) Where a book is copied or reproduced under clause (2) (a),
the land registrar shall certify the correctness of the copy.

(4) The certificate of a land registrar under subsection (3) is, to
the extent specified in the certificate, prima facie evidence that the
copy is a true copy of the original book, and such certified copy
shall be accepted and received as the original, but the land regis-
trar shall nevertheless carefully preserve the original book and
produce it upon demand.

(5) The Director may order as many counterparts or
copies of any abstract index book to be made as he
considers necessary for the public convenience, and may
order new abstract indexes to be made when the indexes
in use have become complicated or otherwise inconvenient.
R.S.O. 1970, c. 409, s. 19 (1-5); 1979, c. 94, s. 47 (1).

(6) Where an abstract index is copied, every instrument,
extcept an instrument to which section 62 applies, shall
be copied, and the land registrar shall carefully preserve the
original abstract index and produce it upon demand. 1972,
c. 133, s. 10; 1979, c. 94, s. 47 (1).

(7) Where a plan is copied under subsection (2), and the copy is
certified by the examiner of surveys as a true copy of the plan, or a
part thereof, as the case may be, the copy so made and certified has
all the force and effect of the plan or of that part of the plan of
which it is a copy. 1979, c. 94, s. 9.

20.—(1) The land registrar, in a book in the prescribed form,
called the "Abstract Index", shall enter under a separate and
distinct head each separate lot or part of a lot of land as originally
patented by the Crown, or that appears on any registered plan of
subdivision, judge's plan or municipal plan under section
85. R.S.O. 1970, c. 409, s. 20 (1); 1979, c. 94, s. 47 (1).

(2) Subject to subsection (3), the land registrar shall enter every
instrument that mentions such parcel or lot of land in the abstract
index in the prescribed manner under the proper heading of each
separate parcel or lot of land.

(3) The Lieutenant Governor in Council may make regulations
designating instruments to which subsection (2) does not apply and
governing the manner of making entries in the abstract index.
1979, c. 94, s. 10.
INSTRUMENTS THAT MAY BE REGISTERED

21.—(1) Except as otherwise provided in and subject to this Act and the regulations, any instrument within the meaning of clause 1(f) and any other instrument specifically permitted to be registered under Part I of this Act may be registered.

(2) Unless otherwise provided in this Act, any instrument that may be registered shall be registered upon and by delivery to and deposit with the land registrar of the instrument or of an executed duplicate or other original part thereof with all necessary affidavits.

(3) Subject to subsection (4), the registration of an instrument purporting to affect unpatented Crown land or land that has the status of unpatented Crown land has no effect under this Act. R.S.O. 1970, c. 409, s. 22 (1-3); 1979, c. 94, s. 47 (1).

(4) Subsection (3) does not apply,

(a) to a mortgage or other encumbrance made by the original nominee of the Crown or by a person through whom a person obtaining a grant of land from the Crown derived title, or to a lien affecting the land;

(b) to a plan of Crown land made under the *Public Transportation and Highway Improvement Act*, the *Public Lands Act* or any other Act of Ontario;

(c) to a lease of Crown land or of an interest therein or of any interest of the Crown in land under the *Mining Act* or the *Public Lands Act*;

(d) in the case of an instrument purporting to affect land, which when the instrument was registered was unpatented Crown land, if,

(i) a patent of the land is subsequently registered, or

(ii) a notice, which was issued by any competent governmental authority, in existence before or after the creation of the Province of Ontario, and which stated that the land was patented, is recorded in the land registry office;
(e) to an instrument affecting land that was unpatented Crown land at the time of registration of the instrument, where the instrument,

(i) was registered in compliance with an Act of Ontario, or

(ii) was registered as contemplated by an Act of Ontario and the instrument was either executed or approved on behalf of the Crown by a Minister or other person authorized by law so to do; or

(f) to a licence of occupation for the purpose of a pipe line as defined in the *Ontario Energy Board Act*, if the licence is accompanied by an affidavit of the licensee or his solicitor or, where the licensee is a corporation, an officer of or solicitor for the corporation stating that the land affected by the licence is to be used for that purpose, or to any instrument affecting a registered licence of occupation. R.S.O. 1970, c. 409, s. 22 (4); 1971, c. 61, s. 1.

(5) An instrument purporting to affect land covered by water shall not be registered unless the registry division in which the land is situate can be readily ascertained from the instrument. R.S.O. 1970, c. 409, s. 22 (5).

(6) An instrument that refers to an unregistered instrument or to an interest or claim dependent upon or arising out of an unregistered instrument shall not be registered under this Act. 1979, c. 94, s. 11 (1).

(7) Notwithstanding subsections (2) and (6), a notice of,

(a) a lease;

(b) a sublease;

(c) an assignment of a lease;

(d) a mortgage of a lease;

(e) an assignment of the lessor's interest in a lease;

(f) a determination or surrender of a lease;

(g) an agreement to lease; or
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(h) an option to lease,

may be registered if it complies with the regulations. R.S.O. 1970, c. 409, s. 22 (7); 1979, c. 94, s. 11 (2).

(8) Notwithstanding subsections (2) and (6), a notice of,

(a) an agreement of purchase and sale of land or an assignment thereof; or

(b) an option for the purchase of land or an assignment thereof,

may be registered if it complies with the regulations.

(9) Subject to subsection (10), the registration of a notice under subsection (8) expires one year after the date of its registration.

(10) The period of registration of a notice under subsection (8) may be extended from time to time by registering a renewal notice in the prescribed form and, unless the period is further extended, the registration of the renewal notice expires one year after the date of its registration.

(11) A notice registered under subsection (8) or (10) shall be accompanied by an affidavit of bona fides in the prescribed form. 1972, c. 133, s. 12.

22.—(1) An instrument that does not contain a local description of the land affected thereby shall not be registered, unless,

(a) the instrument is a plan;

(b) the instrument is to be registered as a general registration under subsection 18 (6);

(c) the instrument is a by-law that does not directly affect title to land;

(d) the instrument is a certificate of discharge purporting to completely discharge a mortgage to which subsection 51 (7) does not apply;

(e) the instrument has securely attached to it a declaration in the prescribed form made by a party to the instrument or by his solicitor, or by his
attorney under registered power of attorney, or by the heirs, executors or administrators of a party to the instrument, or, where the party is a corporation, by an officer thereof, stating that the instrument affects land within the registry division, and containing a local description; or

(f) the instrument is a judgment or order of the court or of a judge, or a certificate or certified or notarial copy of such judgment or order, and has securely attached to it a declaration in the prescribed form, made by one of the parties to the action or by his solicitor, stating that the instrument affects land within the registry division, and containing a local description.

(2) A registered instrument may be recorded or further recorded in the abstract index upon the registration of a declaration in the prescribed form made by any of the persons mentioned in clauses (1) (e) and (f). R.S.O. 1970, c. 409, s. 23.

23.—(1) In this section, “easement” means an easement, right-of-way, right or licence in the nature of an easement, profit à prendre or other incorporeal hereditament, but does not include such an easement arising by operation of law.

(2) Notwithstanding section 15 of the Conveyancing and Law of Property Act or any rule of law, an instrument purporting to convey an easement, made after the 1st day of January, 1967, does not, as against a bona fide purchaser who, for valuable consideration and without actual notice, purchases the servient tenement after the registration of the instrument, convey to the grantee any interest in the easement unless a local description of the affected part of the servient tenement is contained in the instrument by which the conveyance is made. R.S.O. 1970, c. 409, s. 24.

24.—(1) Where the first registered description of an easement is that contained in a condominium declaration and description, and the easement is expressly intended,

(a) to be an easement through the common elements and to benefit other land owned by the declarant; or

(b) to be an easement through other land owned by the declarant and to benefit the condominium property,
the easement is created for all purposes to the same extent as if it had been created by a deed and the declarant had not been the same person as the owner of the other land.

(2) Where, in a deed that is registered before the registration of a deed of any unit made by the declarant, an easement through land outside the condominium property is transferred by the declarant to the condominium corporation to be part of the common elements, the easement does not merge by operation of law.

(3) Where, in a deed that is registered before the registration of a deed of any unit made by the declarant, the common elements are made subject to an easement expressly intended to benefit other land owned by the declarant, the easement is created for all purposes as if the declarant had not been the same person as the owner of the other land.

(4) Where, in an instrument, an intention is expressed by a condominium corporation that an easement transferred to the corporation is to be part of the common elements, and any instrument in relation thereto required by the Condominium Act has been registered, the easement, upon registration of the instrument in which the intention is expressed, becomes part of the common elements.

(5) Section 29 of the Planning Act does not apply to an easement to which subsection (1) of this section applies, if the condominium description was approved or exempted under subsection 50 (2) of the Condominium Act, or a predecessor thereof.

(6) Except to the extent that rights governed by this section have been determined by a court, this section has retroactive application.

(7) In this section,

(a) "common elements" means common elements;
(b) "declarant" means declarant;
(c) "declaration" means declaration;
(d) "description" means description;
(e) "property" means property; and
(f) "unit" means unit,
as defined in the Condominium Act. 1980, c. 50, s. 4.
An instrument shall not be registered unless accompanied by an affidavit in the prescribed form of a subscribing witness, not being a party to the instrument, as to the execution of the instrument by each party who appears to have executed it. R.S.O. 1970, c. 409, s. 25 (1); 1979, c. 94, s. 12 (1).

Subsection (1) does not apply to,

(a) a will;

(b) a grant or lease from the Crown;

(c) an order in council;

(d) an instrument that purports to be executed by a Minister or an officer of the Government of Ontario or of Canada;

(e) the execution of an instrument by a corporation under its seal;

(f) a by-law of a municipality;

(g) a certificate of judicial proceedings;

(h) a plan or a plan and description in respect of expropriated land;

(i) an instrument under section 5 or 8 of the Public Transportation and Highway Improvement Act;

(j) a consent under section 29 of the Planning Act;

(k) a copy of an instrument certified under section 34;

(l) a certified or notarial copy of an instrument where such copy may be registered;

(m) a statutory declaration;

(n) a tax arrears certificate, redemption certificate or vacating certificate under the Municipal Affairs Act;

(o) a tax sale notice or redemption receipt under the Assessment Act;

(p) a notice or certificate under subsection 5 (2) of The Municipal and School Tax Assistance Act, being chapter 285 of the Revised Statutes of Ontario, 1970;
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(q) a notice of a security interest or certificate of discharge under the Personal Property Security Act; or

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(r) the execution of an instrument by a guarantor or surety.

R.S.O. 1970, c. 409, s. 25 (2); 1971, c. 61, s. 1; 1972, c. 1, s. 104 (6); 1979, c. 94, s. 12 (2-4).

(3) The Lieutenant Governor in Council may, by regulation, designate classes of instruments, in addition to those set out in subsection (2), to which subsection (1) does not apply. 1979, c. 94, s. 12 (5).

(4) An instrument may be registered notwithstanding that the given name or names of the subscribing witness making the affidavit is or are only set forth therein by initials or abbreviation and not in full. R.S.O. 1970, c. 409, s. 25 (4).

26. An instrument not purporting to convey the land therein mentioned, but which in its nature is, or purports to be, given as a security for the payment of a debt or liability incurred by the person executing it in respect of a purchase or delivery of goods or in respect of an advance or loan of money, shall not be registered unless an affidavit in the prescribed form is made on or securely attached to the instrument. R.S.O. 1970, c. 409, s. 26.

27.—(1) Every land registrar and deputy land registrar is ex officio a commissioner for taking affidavits for use under this Act and relating to land in his registry division. R.S.O. 1970, c. 409, s. 27 (1); 1979, c. 94, s. 47 (1).

(2) An affidavit, affirmation or declaration that complies with section 44 or 45 of the Evidence Act is sufficiently sworn, affirmed or made for the purposes of this Act. 1979, c. 94, s. 13.

28. Where under this Act proof for registration is required in the form of an affidavit, the proof may be in the form of an affirmation or solemn declaration complying with section 17 or 43 of the Evidence Act, respectively. R.S.O. 1970, c. 409, s. 28.

29. No person authorized to take affidavits shall take an affidavit of the execution of an instrument to which he is a party; nor shall such an affidavit be taken from a witness unless the witness has subscribed his name in his own handwriting as such witness. R.S.O. 1970, c. 409, s. 29.
30. Every subscribing witness is compellable, by order of a judge of the Supreme Court or of a county or district court, to make an affidavit or proof of the execution of an instrument for the purpose of registration, and to do all other acts necessary for that purpose, upon being paid or tendered his reasonable expenses therefor. R.S.O. 1970, c. 409, s. 30.

31. Where an instrument that is otherwise capable of registration is not accompanied by an affidavit of execution as required by this Act or is accompanied by an incomplete or defective affidavit of execution, any person who is or claims to be interested in the registration of the instrument may make proof before a judge of any county or district court of the execution of the instrument, and, where a certificate in the prescribed form is endorsed on the instrument and signed by the judge, the certificate shall be received in lieu of the affidavit. R.S.O. 1970, c. 409, s. 31.

32.—(1) The seal of a court of record affixed to an instrument of itself, and the seal of a corporation affixed to an instrument with the signature purporting to be the signature of the presiding officer, vice-president, manager, director, secretary, treasurer, attorney or other authorized person is sufficient evidence, for the purpose of registration, of the due execution of the instrument by the judge, or the officer of the court signing it, or by the corporation.

(2) Where an attorney empowered under section 281 of the Corporations Act, section 18 of the Business Corporations Act, or section 22 of the Corporations Act (Canada) executes an instrument under his seal on behalf of a corporation, subsection 25 (1) applies. R.S.O. 1970, c. 409, s. 32.

33.—(1) A judgment or order of a court or judge affecting land, other than an order or certificate endorsed on an instrument, may be registered in the land registry office of the registry division in which the land is situate by registering therein,

(a) a certificate signed by the proper officer of the court setting forth the substance and effect of the judgment or order;

(b) a copy of the judgment or order certified as such by the proper officer of the court;

(c) the original judgment or order under the seal of the court; or
(d) a notarial copy of the original judgment or order, certified copy or certificate, if the original judgment or order, certified copy or certificate is produced to the land registrar with the notarial copy for verification of the correctness of the notarial copy.

(2) No judgment or final order of foreclosure of a mortgage shall be registered except by way of a certificate thereof, under the seal of the court, that includes a local description and a reference to the registration number of the mortgage.

(3) An order discharging a mechanic's lien, or vacating a certificate of action under the Mechanics' Lien Act, shall be registered by registering the order or a certificate thereof, under the seal of the court, that includes a local description and reference to the registration number of every registered claim for lien and certificate of action affected thereby. R.S.O. 1970, c. 409, s. 33; 1979, c. 94, s. 47 (1).

34. There may be registered,

(a) a copy of an instrument certified under the hand and seal of the land registrar in whose office the instrument is registered;

(b) a copy of a power of attorney or other instrument executed by a corporation that confers upon any person authority to act for the corporation if the copy is certified by the proper officer of any department of the Government of Canada or Ontario in whose office the power of attorney or instrument is deposited; or

(c) a copy of an instrument registered under the Corporation Securities Registration Act, certified under that Act. R.S.O. 1970, c. 409, s. 34; 1972, c. 133, s. 13, part; 1979, c. 94, s. 14.

35. A copy of an instrument deposited under Part II of this Act or under The Custody of Documents Act, being chapter 85 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, certified by the land registrar in whose office the instrument is deposited, may be registered subject to the proof for registration required by this Act. R.S.O. 1970, c. 409, s. 35; 1979, c. 94, s. 47 (1).

36. A notarial copy of an instrument executed in the Province of Quebec, the original of which is filed in a notarial office according to the law of Quebec, and a
prothonotarial copy of an instrument executed in Quebec may be registered and shall be treated under this Act for all purposes as if it were the original instrument, and such notarial or prothonotarial copy with the seal of the notary or prothonotary attached shall be registered without any other proof of the execution of the original thereof. R.S.O. 1970, c. 409, s. 36.

37.—(1) A land registrar shall not register,

(a) a deed or other conveyance;

(b) an agreement of purchase and sale of land or an assignment thereof;

(c) an option for the purchase of land or an assignment thereof;

(d) a notice mentioned in subsection 21 (8);

(e) a mortgage or assignment thereof;

(f) a lease, a sublease, an agreement to lease, an option to lease, an assignment of the lessor's interest in the lease or any assignment thereof;

(g) a notice mentioned in clause 21 (7) (a), (b), (c), (d), (e), (g) or (h);

(h) a claim for a mechanics' lien or an assignment thereof;

(i) a notice of security interest under the Personal Property Security Act or an assignment thereof;

(j) a certificate of judgment or a final order of foreclosure of a mortgage;

(k) a vesting order; or

(l) a notice of lien under section 32 of the Condominium Act,

unless there is endorsed on the instrument the address for service of each person obtaining or claiming an interest in or in respect of land under the instrument.

(2) An address for service provided under this section may be changed by registering a notice in the prescribed form. 1979, c. 94, s. 15.

38. Where an instrument or an affidavit of execution is written wholly or in part in a language other than
English there shall be produced with the instrument or the affidavit of execution a translation into English, together with an affidavit by the translator stating that he understands both languages and has carefully compared the translation with the original and that the translation is in all respects a true and correct translation, and the land registrar shall not enter the instrument or affidavit in the language in which it is written but shall copy from the translation. R.S.O. 1970, c. 409, s. 38; 1979, c. 94, s. 47 (1).

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39. A judgment in foreclosure or a final order of foreclosure or an instrument purporting to be a conveyance of land under a power of sale contained in a mortgage shall not be registered until the mortgage and any assignment thereof have been registered. 1972, c. 133, s. 14.

40.—(1) No instrument purporting to be signed or executed by any person by attorney shall be registered unless, at or before the time of registration, the original power of attorney, or a copy thereof certified for registration under section 34, is registered in the same land registry office and the date of registration and registration number thereof are indicated in the body or margin of the instrument tendered for registration, but, when the power of attorney or a certified copy thereof cannot be produced, proof may be made before a judge of any county or district court of the execution of the instrument, and, upon a certificate in the prescribed form being endorsed on the instrument and signed by the judge, the land registrar shall, if the instrument is otherwise capable of registration, register the instrument and certificate.

(2) Where an instrument, signed or executed by any person by attorney, is registered, the land registrar shall enter a note of the fact of such signature or execution by attorney, giving the name of the attorney, on the abstract index and on all abstracts of title thereafter furnished by him relating to the land affected by the instrument.

(3) Subsection (1) does not apply to instruments purporting to be executed by attorneys or commissioners for the Canada Company, the Trust and Loan Company of Canada, the Scottish Ontario and Manitoba Land Company, the North British Canadian Investment Company, the North of Scotland Canadian Mortgage Company, Limited, or the Scottish American Investment Company. R.S.O. 1970, c. 409,
41.—(1) Subject to subsection (2), a deed, conveyance, mortgage, assignment of mortgage, lease, assignment of lease, release, quit claim or discharge of mortgage shall not be registered unless there is made on or securely attached to it an affidavit by each person or one of the persons, other than a corporation, making it, deposing that each person, other than a corporation, making the instrument was of the full age of eighteen years at the time of execution of the instrument. 1979, c. 94, s. 16 (1).

(2) Where an instrument referred to in subsection (1) is executed on behalf of a person under a power of attorney, the affidavit in respect of age referred to in subsection (1) shall be made by the attorney deposing that the person was of the full age of eighteen years at the time of execution of the power of attorney.

(3) Subsection (2) does not apply to an attorney executing an instrument on behalf of,

(a) a corporation; or

(b) a married woman solely for the purpose of barring or releasing her dower; or

(c) a spouse who, not as an owner and party, consents to or joins in the instrument for the purposes of section 42 of the Family Law Reform Act. 1979, c. 94, s. 16 (2).

(4) A plan of subdivision shall not be registered unless the age of every person, other than a corporation, who executes the plan as an owner or who, as mortgagee consents to the registration of the plan, is proven in the manner and form prescribed by the regulations to be of the full age of eighteen years at the time of execution of the plan. R.S.O. 1970, c. 409, s. 42 (3); 1971, c. 98, s. 4, Sched., par. 28.

(5) For the purposes of subsections (3), (6), (7) and (10), "spouse" means "spouse" as defined in clause 1 (f) of the Family Law Reform Act. 1979, c. 94, s. 16 (3).

(6) A deed, conveyance, mortgage, lease, assignment of lease, release, or quit claim that is made by a person, other than a corporation, in which no one joins as a spouse, shall not be registered unless there is made on or securely attached to it an affidavit by that person, or if the document is executed by an attorney, by that attorney, deposing whether the person was a spouse at the time of the execution of the instrument.

(7) A deed, conveyance, mortgage, lease, assignment of lease, release, or quit claim that is made by a person and in
which another person joins as a spouse shall not be registered unless there is made on or securely attached to it an affidavit by such person, or his or her spouse, or, if the document is executed by an attorney, by that attorney, deposing that they were spouses of one another at the time of execution of the instrument. 1978, c. 8, s. 2 (2).

(8) Where an affidavit required by this section is made by an attorney that is a corporation, the affidavit shall be made by an officer of the corporation.

(9) Where an instrument that is otherwise capable of registration is not accompanied by an affidavit as required by this section or is accompanied by an incomplete or defective affidavit and a person who is or claims to be interested in the registration of the instrument makes proof before a judge of any county or district court that an affidavit as required cannot be obtained conveniently and that the facts were as are required to be stated by the affidavit, the judge may dispense with the affidavit, and thereupon he shall endorse upon the instrument or securely attach to it his certificate, in the prescribed form, stating the facts that have been proven to his satisfaction, and the judge’s certificate shall be received in lieu of the affidavit. R.S.O. 1970, c. 409, s. 42 (7, 8).

(10) Subsections (1) and (4) do not apply,

(a) to a spouse who, not as an owner and party, consents to or joins in an instrument for the purposes of section 42 of the Family Law Reform Act;

(b) to an executor or administrator, the Public Trustee or any other person dealing with land in a representative capacity;

(c) to a minor who executes an instrument under the authority of a court of competent jurisdiction; or

(d) a person executing a mortgage as guarantor or surety. R.S.O. 1970, c. 409, s. 42 (9); 1978, c. 8, s. 2 (3); 1979, c. 94, s. 16 (5).

(11) Subsections (6) and (7) do not apply to a person executing an instrument in his capacity as Public Trustee, Official Guardian, trustee in bankruptcy, executor or administrator who is not selling for the purpose of paying debts of the estate, committee of a mentally incompetent person, sheriff, trustee of a religious institution or trustee of a
school board and any other person who may be designated by regulation. 1978, c. 8, s. 2 (4).

42. Where compliance with section 29 of the Planning Act is not apparent on an instrument, the instrument shall not be registered unless,

(a) a consent under section 29 of the Planning Act in respect of the instrument is attached thereto, endorsed thereon or registered in the same land registry office and the date of registration and registration number thereof are indicated in the instrument tendered for registration;

(b) an affidavit stating that such a consent is not required, and giving reasons therefor, made by one of the parties or by his solicitor, is attached thereto; or

(c) the land registrar is satisfied that section 29 of the Planning Act does not apply to the instrument. 1979, c. 94, s. 18.

43.—(1) In this section, “grantee” includes a grantee under a deed or other conveyance, a mortgagee or a person claiming an interest in land.

(2) An instrument executed on or after the 1st day of July, 1964, shall not be registered unless every grantee thereunder, other than a corporation, is described by his surname and by at least one given name in full. R.S.O. 1970, c. 409, s. 44 (1, 2).

(3) Notwithstanding subsection (2), where a mortgage is made or assigned to the trustee or trustees of a registered pension fund or plan within the meaning of subsection 248 (1) of the Income Tax Act (Canada) and the mortgage or assignment has attached thereto an affidavit made by one of the trustees or a solicitor deposing that the fund or plan is so registered, the mortgagee or assignee may be described in the mortgage or assignment as the trustee or trustees, naming the fund or plan, and the individual names of the trustee or trustees are not required. 1972, c. 133, s. 18, part.

(4) An assignment or discharge of mortgage made by the trustee or trustees mentioned in subsection (3) shall not be registered unless there is attached thereto an affidavit made by the trustee or, where there is more than one trustee, by one of them or by the solicitor for the trustee or trustees, deposing that the signing trustee is, or trustees are, authorized to execute the assignment or discharge. 1979, c. 94, s. 19.

(5) A mortgage in the form of a debenture or a similar instrument shall not be registered unless the name of the
person entitled to receive the money payable thereunder and to give a discharge thereof is set out in the instrument. 1972, c. 133, s. 18, part.

44.—(1) Except as provided by subsection (5), all instruments shall be numbered consecutively in order of time of being registered.

(2) Where two or more instruments affecting the same land are received at the same time, they shall, if capable of registration, be registered and numbered in the order requested by the person or persons from whom they are received.

(3) The year, month, day, hour and minute at which an instrument is registered shall be endorsed thereon.

(4) For the purpose of section 66, priorities shall, subject to subsection (5), be determined in accordance with the established registration numbers.

(5) A separate series of registration numbers may be used for plans of subdivision and for any other class of instrument that may be approved by the Director, and, for the purposes of section 66, priorities between instruments registered in different number series shall be determined in accordance with the time of receipt endorsed thereon. R.S.O. 1970, c. 409, s. 45.

45.—(1) Upon registration of an instrument, the land registrar,

(a) shall cause to be endorsed upon it and upon the duplicate thereof, if any, received with it a certificate in the prescribed form; and

(b) shall cause it to be recorded in the proper index or indexes and, except as provided by the regulations, shall cause it to be recorded on photographic film. R.S.O. 1970, c. 409, s. 46 (1); 1972, c. 133, s. 19 (1); 1979, c. 94, ss. 20, 47 (1).

(2) A certificate endorsed upon an instrument or duplicate under clause (1) (a) is receivable by any court as proof of registration of the instrument. R.S.O. 1970, c. 409, s. 46 (2).

(3) Every registered instrument is the property of the Crown and, subject to subsection 17 (2) and the regulations, shall be retained in the custody of the land registrar in his office.
(4) Notwithstanding subsection (3), a registered instrument may be temporarily transferred to the custody of the Director of Titles or a land registrar in connection with an application under the Certification of Titles Act or the Land Titles Act. 1972, c. 133, s. 19 (2); 1979, c. 94, s. 47 (1).

46. A land registrar shall register a Crown grant received by him under section 36 of the Public Lands Act that meets the requirements for registration set out in this Act and the regulations. 1979, c. 94, s. 21, part.

47. Where by any Act of Canada or Ontario an order in council or a certified copy thereof is required to be registered or deposited in a land registry office, the order or a certified copy thereof may be registered and recorded.

(a) in the case of an order that does not contain a local description, as a general registration; or

(b) in the case of an order that contains a local description, in the abstract index. R.S.O. 1970, c. 409, s. 49.

48.—(1) A will shall be registered by registering,

(a) the original will or a notarial copy thereof with,

(i) an affidavit sworn by one of the subscribing witnesses to the will proving the due execution thereof by the testator, and

(ii) an affidavit stating that the testator died on or about a specified date, sworn by any person who has personal knowledge of that fact, or a death certificate under the Vital Statistics Act in respect of the death of the testator;

(b) the letters probate, letters of administration with the will annexed or any grant based on a will given by a court outside Ontario having jurisdiction in probate matters or a notarial copy thereof; or

(c) an exemplification or certified copy of the letters probate, letters of administration with the will annexed or grant based on a will given by a court outside Ontario having jurisdiction in probate matters under the seal of the court that granted such letters or grant or a notarial copy of such exemplification or certified copy. R.S.O. 1970, c. 409, s. 50 (1); 1972, c. 133, s. 20 (1); 1979, c. 94, s. 22 (1).
(2) Where, at the time of registration of a notarial copy under this section, the will or other instrument is produced to the land registrar, he shall endorse his certificate of registration upon and return the will or other instrument. R.S.O. 1970, c. 409, s. 50 (3); 1979, c. 94, s. 47 (1).

(3) Whether letters probate or letters of administration have or have not been granted, no deed, grant, conveyance, mortgage, assignment of mortgage or other instrument purporting to convey, transfer or assign,

(a) any property standing in the name of a deceased person or held in trust for him or in the names of a deceased person and any other person;

(b) any property over which the deceased person had, at the time of his death a general power of appointment, notice of which appears in any register, book, document or instrument or on any abstract in the land registry office;

(c) any property in which the deceased person at the time of his death had any registered beneficial interest whatsoever,

shall be tendered for registration, unless the consent in writing of the Minister of Revenue is attached thereto or endorsed thereon, and until such consent is given, notwithstanding anything contained in the Estates Administration Act, any land so conveyed does not vest in the person beneficially entitled thereto or his assigns or any person claiming under him. R.S.O. 1970, c. 409, s. 50 (4); 1977, c. 8, s. 7 (1); 1979, c. 94, s. 22 (3).

(4) Notwithstanding subsection (3), the consent of the Minister of Revenue is not required to be attached to or endorsed on any deed, grant, conveyance, mortgage, assignment of mortgage or other instrument purporting to convey, transfer or assign any property that is property prescribed by the Minister of Revenue by regulations made under The Succession Duty Act, being chapter 449 of the Revised Statutes of Ontario, 1970 to be property that may be conveyed, transferred or assigned without the consent of the Minister of Revenue. 1977, c. 8, s. 7 (2).

(5) The Minister of Revenue may issue a certificate that all succession duties payable in respect of any land forming
part of the estate of a deceased person have been paid and satisfied or that security for such payment as required under *The Succession Duty Act*, being chapter 449 of the Revised Statutes of Ontario, 1970 has been given, and upon registration of the certificate, it is not necessary that subsection (3) be complied with in respect of the land described in the certificate if the date of registration and registration number of the certificate are indicated in the body or margin of the instrument tendered for registration.

(6) Where, at the time of registration of a certificate under subsection (5), a notarial copy thereof is produced to the land registrar, he shall endorse his certificate of registration upon and return the copy.

(7) Notwithstanding anything in this section, a consent under subsection (3) or a certificate under subsection (5) is required only once in connection with the same property in the same estate. 1972, c. 133, s. 20 (2); 1979, c. 94, s. 47 (1).

(8) Subsections (3) to (7) do not apply where the deceased person died prior to the 1st day of January, 1970 or after the 10th day of April, 1979. 1979, c. 94, s. 22 (4).

49. Letters of administration that under the *Estates Administration Act* affect land shall be registered in the same manner as a probate of a will. R.S.O. 1970, c. 409, s. 52.

50. An instrument purporting to convey or otherwise deal with land in any manner shall not be registered if executed by any person as devisee, legatee, executor or administrator of the estate of a deceased person who at the time of his death appears from the instrument to have been in any wise possessed of or interested in the land in question unless before the time of registration of the instrument the will or the letters probate of the will or the letters of administration under which the person executing the instrument claims to be entitled has or have been registered in the registry division in which the land in question is situate and the registration date and number thereof have been inserted in the body of the instrument or in its margin. R.S.O. 1970, c. 409, s. 53.

51.—(1) A certificate of discharge, in the prescribed form, of a registered mortgage, executed by the mortgagee, his executor, administrator or assignee, or by such other person as may be entitled by law to receive the money and to discharge the mortgage, may be registered. R.S.O. 1970, c. 409, s. 54 (1).
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(2) Subject to subsections (3), (4) and (5), where a certificate of discharge is tendered for registration, the registered duplicate mortgage and the registered duplicate of any assignment thereof shall be produced to the land registrar.

(3) Where one or more mortgages in addition to the mortgage being discharged were included in one assignment, it is not necessary to produce the registered duplicate assignment until the last of such mortgages is discharged.

(4) Where the certificate does not completely discharge the mortgage, subsection (2) does not apply.

(5) Where a duplicate mortgage or a duplicate assignment cannot be produced, a declaration by a person having knowledge of the facts, giving the reasons therefor, may be produced in lieu of the duplicate.

(6) The land registrar shall, with a stamp bearing the words "Discharged Registered", stamp each duplicate produced to him under subsection (2) across the certificate of registration, and shall return the duplicate to the person who produced it. 1972, c. 133, s. 22; 1979, c. 94, s. 47 (1).

(7) Where land is mortgaged and subsequently subdivided by a registered plan of subdivision, judge's plan, land registrar's compiled plan, or any other registered plan by which lots are created, any certificate of discharge of the mortgage shall contain a description of the affected land with reference to the plan. R.S.O. 1970, c. 409, s. 54 (5); 1979, c. 94, s. 47 (1).

52. Subject to section 54, where, after the registration of a mortgage, the name of the person or corporation entitled to receive the money and to discharge the mortgage has changed or been changed, an explanation of the change of name,

(a) shall, in the case of a change of name by order under the Change of Name Act or by supplementary letters patent or articles of amendment, be noted in the body or margin of the certificate of discharge, with reference to the registration number of the certificate of order, supplementary letters patent, or certificate of amendment;

(b) shall, if made by an Act of Ontario or of any other jurisdiction, be noted in the body or margin of the certificate of discharge, with reference to the Act; or

(c) shall, if made upon or in consequence of adoption, marriage, annulment or dissolution of marriage,
or in any other way, be set forth in a declaration, attached to the certificate of discharge, made by the person signing the certificate of discharge or by his solicitor. R.S.O. 1970, c. 409, s. 55.

53. — (1) Subject to subsection (2),

(a) a mortgage-of-a-mortgage; or

(b) a discharge of a mortgage-of-a-mortgage,

executed after the 1st day of January, 1971 shall not be registered. R.S.O. 1970, c. 409, s. 56 (1); 1972, c. 133, s. 23.

(2) Where, upon an application made to him, a judge of a county or district court is satisfied that there cannot be conveniently obtained and registered,

(a) an assignment of a mortgage containing a provision for reassignment to the assignor instead of a mortgage-of-a-mortgage; or

(b) an assignment of a mortgage-of-a-mortgage to the person entitled to redeem the mortgage-of-a-mortgage instead of a discharge of the mortgage-of-a-mortgage,

the judge may endorse his fiat on the mortgage-of-a-mortgage or discharge of a mortgage-of-a-mortgage, which may then be registered, notwithstanding subsection (1).

(3) A discharge, even though registered under subsection (2), executed by the person entitled to receive the money under a mortgage-of-a-mortgage, or by his executor, administrator, legal personal representative or assignee, does not operate as a discharge of the mortgaged mortgage unless,

(a) the right to discharge the mortgaged mortgage is conferred by the mortgage-of-a-mortgage, and such right is recited in the discharge;

(b) the mortgagor of the mortgage-of-a-mortgage has lost his right to redeem, by reason of foreclosure of or sale under the mortgage-of-a-mortgage, and the foreclosure or sale is evidenced by registered instruments; or

(c) upon an application made to him, a judge of a county or district court is satisfied that the discharge when registered has the effect of discharging the mortgaged mortgage and he makes an order
to that effect and the order is either endorsed on or attached to or registered after the discharge.

(4) Notwithstanding section 62, a land registrar shall not mark off the entry in the abstract index of a mortgage or instrument dealing with the mortgage if a mortgage-of-the-mortgage was registered and the only registered discharge relating to the mortgage was of the mortgage-of-the-mortgage, except where, having regard to the provisions contained in the mortgage-of-the-mortgage and to subsection (3), he is satisfied that the discharge had the effect of discharging the mortgaged mortgage. R.S.O. 1970, c. 409, s. 56 (2-4); 1979, c. 94, s. 47 (1).

54. Where a loan or trust corporation that has acquired the assets of another loan or trust corporation by amalgamation of such corporations desires to discharge any of the mortgages of such corporation and the certificate of amalgamation or a certified or notarial copy thereof has been registered, it is sufficient to set forth in the instrument to be registered the fact of the assent of the Lieutenant Governor in Council or the Governor in Council, as the case may be, to the amalgamation with the date of the certificate of amalgamation and its registered number, or a reference to the Act by which the loan or trust corporations were amalgamated or by which the agreement was ratified, and upon registration of the discharge the land registrar shall enter in the abstract index the particulars of amalgamation mentioned in the discharge. R.S.O. 1970, c. 409, s. 57; 1979, c. 94, ss. 23, 47 (1).

55.—(1) Where a mortgage has been paid off by any person advancing money by way of a new loan on mortgage on the same land and the mortgage so paid off or the discharge thereof is held by the mortgagee making the new loan, the discharge of the mortgage so paid off shall be registered within six months from the date thereof, unless the mortgagor has authorized, in writing, the retention of the discharge for a longer period.

(2) The registration does not affect the right, if any, of the mortgagee who may have paid off such mortgage, his assignee, or any person claiming under him, by purchase or otherwise, to be subrogated to the rights of the mortgagee whose mortgage debt has been so paid. R.S.O. 1970, c. 409, s. 58.

56.—(1) Where the person entitled to receive the mortgaged money and to discharge a registered mortgage is not the original mortgagee, he shall, at his own expense, cause to be registered before the registration of the certificate of discharge all the instruments or documents through which
he claims interest in and title to the mortgage money, and until those instruments or documents are registered the certificate of discharge shall not be registered.

(2) Where it is made to appear to the judge of a county or district court that any instrument or document through which any person claims interest in and title to mortgage money has been destroyed or cannot be found, the judge may, upon such evidence by affidavit or otherwise as he may consider proper, dispense with the registration thereof and thereupon shall endorse upon the certificate of discharge or firmly attach thereto his order directing the land registrar to register the certificate of discharge notwithstanding the failure to register the instrument or document, and the land registrar shall thereupon register the certificate of discharge.

(3) The certificate shall mention the date and the date of registration and the registration number of each of the instruments or documents through which the person executing the certificate claims interest in and title to the mortgage money, and the names of the parties thereto.

(4) This section applies to powers of attorney where the certificate of discharge or prior instrument or document is executed by attorney, except that it is sufficient in the certificate of discharge to state the date of each instrument, document or power of attorney and the names of the parties thereto, and to endorse on the certificate the date of registration and registration number of each instrument, document, or power of attorney, which endorsement shall be signed by the person who signed the certificate, or his attorney or agent, and the endorsement shall be deemed to be part of the certificate.

(5) Where the person whose duty it is to register such instruments or documents refuses or neglects to register them within fifteen days after payment of the mortgage money to him, the person entitled to redeem the mortgage may, on giving ten days notice in writing to the person so refusing or neglecting, apply in a summary manner to a judge of the county or district court of the county or district wherein the land or any part thereof mentioned in the mortgage is situate for an order directing that the person so refusing or neglecting shall within a time to be fixed by the judge register the instruments or documents at his own expense, and the judge, upon being satisfied by affidavit or oral evidence that the application is a proper one, may make the necessary order.
(6) On being satisfied of the due service of the notice the judge may proceed in the absence of the person so refusing or neglecting.

(7) The notice shall state that it is given in pursuance of this section. R.S.O. 1970, c. 409, s. 59; 1979, c. 94, s. 47 (1).

57. Where only part of the land mortgaged by a registered mortgage is to be discharged therefrom, a certificate of discharge, in the prescribed form, that includes a local description of the land, executed by the mortgagee, his executor, administrator or assignee, or by such other person as may be entitled by law to receive the money and to discharge the mortgage, may be registered. 1972, c. 133, s. 24, part.

58. A certificate of discharge that conforms to this Act and the regulations is, when registered, as valid and effectual as a conveyance to the mortgagor, his heirs or assigns of his original estate in the mortgaged land or in the part thereof described in the certificate, as the case may be. 1972, c. 133, s. 24, part.

59.—(1) In this section,

(a) “deed to uses” means a deed purporting to grant or convey land to such uses as the grantee may appoint, regardless of the method of appointment specified in the deed, and, until appointment or in default of appointment, purporting to grant or convey the land to the use of the grantee absolutely, and includes every such deed containing words of like import, but does not include a mortgage;

(b) “grantee to uses” means a grantee named in a deed to uses.

(2) A mortgage made by a grantee to uses does not exhaust his power of appointment.

(3) Notwithstanding the registration of a discharge of,

(a) a mortgage that was made by a grantee to uses; or

(b) a mortgage to which the land was subject when the grantee to uses became the grantee,

the grantee to uses may exercise his power of appointment as though the mortgage had not been made.
Application

(4) This section applies to,

(a) land conveyed by a deed to uses registered on or after the 1st day of January, 1967; and

(b) land conveyed by a deed to uses registered before the 1st day of January, 1967, but not conveyed or devised until after that day by the grantee to uses by a deed or will. R.S.O. 1970, c. 409, s. 62.

Discharge of mortgage seized under execution

60.—(1) Where a sheriff, bailiff of a small claims court or other officer, under a writ or warrant of execution against goods, seizes a mortgage belonging to the person against whose goods the writ or warrant has issued, on or affecting land in Ontario, the payment of the mortgage money in whole or in part to the sheriff, bailiff, or other officer by the mortgagor, or any other person or any person claiming under him, satisfies the mortgage to the extent of such payment.

Form of certificate of discharge

(2) After payment of the mortgage money or any part thereof, the sheriff, bailiff or other officer shall, at the request and expense of the person requiring it, give a certificate in the prescribed form under the hand and seal of office of the sheriff or other officer, or under the hand of the bailiff and the seal of the court of which he is bailiff.

Seal of court

(3) Upon the written request of the bailiff the clerk of the court shall affix to the certificate the seal of the court and he shall file the request of the bailiff in his office.

Effect of certificate

(4) The certificate when registered, if it is of payment in full of the mortgage, is as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor.

Effect of certificate of part payment

(5) The certificate when registered, if it is of payment of only a part of the mortgage money, is as valid and effectual in law as a release of the mortgage, as to such part, as if executed by the execution debtor. R.S.O. 1970, c. 409, s. 63 (1-5).

Notice of seizure of mortgage

(6) Where a mortgage has been seized by a sheriff or bailiff of the small claims court or other officer in the manner provided by law, and the seizure has been withdrawn, vacated or for any other reason set aside, the sheriff, bailiff or other officer under whose hand notice of seizure
has issued, may give a certificate directed to the land registrar in whose office the notice of seizure is registered, to the effect that the seizure has been withdrawn, vacated or set aside as the case may be. R.S.O. 1970, c. 409, s. 63 (6); 1972, c. 133, s. 25; 1979, c. 94, s. 47 (1).

61. Instruments of the nature mentioned in section 26 may be discharged, and the land affected thereby released given in therefrom, by registering in the proper land registry office a certificate of discharge in the prescribed form. R.S.O. 1970, c. 409, s. 64.

62.—(1) Where it appears from the abstract index that an instrument purporting to be a valid discharge of a mortgage or an instrument under section 26 has been registered for ten or more years, the land described in the mortgage or instrument, or that portion of the land described in the discharging instrument, as the case may be, is not affected by any claim under the mortgage or instrument or under any instrument relating exclusively there to. 1972, c. 133, s. 26, part; 1979, c. 94, s. 24 (1).

(2) Where it appears from the abstract index that an instrument purporting to be a valid discharge of,

(a) a certificate of lis pendens;
(b) a claim for a mechanics' lien;
(c) a certificate of action in respect of a mechanics' lien;
(d) a registered notice of a conditional sale contract;
(e) a registered gas or oil lease;
(f) a registered notice of security interest under the Personal Property Security Act,

has been registered for two or more years, the land described in the certificate, claim, notice or lease, or that portion of the land described in the discharging instrument, as the case may be, is not affected by any claim under the certificate, claim, notice or lease or under any instrument relating exclusively thereto. 1972, c. 133, s. 26, part; 1979, c. 94, s. 24 (2, 3).

(3) The land registrar may delete the entry in the abstract index,

(a) of any instrument to which this section applies;
(b) of a notice of the granting of a pension registered under section 13 of The Old Age Pensions Act, being chapter 258 of the Revised Statutes of Ontario, 1950, or any predecessor of that section.

4. Notwithstanding subsection (3), the land registrar shall not delete the entry of an instrument in the abstract index for a lot or part of a lot unless all the lot or part is free of claims under the instrument by virtue of the operation of subsection (1) or (2). R.S.O. 1972, c. 133, s. 26, part; 1979, c. 94, s. 47 (1).

63. Every order of the Ontario Municipal Board or other instrument whereby a city, town, village, township or improvement district becomes incorporated, or the boundaries of any municipality are enlarged, diminished or altered, shall be registered in the proper land registry office and shall be recorded in the by-law index under subsection 18 (1). R.S.O. 1970, c. 409, s. 67.

64. Where any provision of this Act requires or permits the registration of a certified or notarial copy of an instrument, the instrument may be registered instead of a copy. R.S.O. 1970, c. 409, s. 68 (1); 1979, c. 94, s. 25 (1).

REGISTRATION AND ITS EFFECT

65.—(1) After the grant from the Crown of land, and letters patent issued therefor, every instrument affecting the land or any part thereof shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration without actual notice, unless the instrument is registered before the registration of the instrument under which the subsequent purchaser or mortgagee claims.

(2) This section does not extend to a lease for a term not exceeding seven years where the actual possession goes along with the lease, but it does extend to every lease for a longer term than seven years. R.S.O. 1970, c. 409, s. 69 (1, 2).

(3) This section does not extend and shall be deemed never to have extended to,

(a) a by-law passed before the 6th day of April, 1954 under section 390 of The Municipal Act, being chapter 243 of the Revised Statutes of Ontario, 1950 or a predecessor of that section;

(b) a by-law passed after the 5th day of April, 1954 under section 390 of The Municipal Act, being
66. Priority of registration prevails unless before the prior registration there has been actual notice of the prior instrument by the person claiming under the prior registration. R.S.O. 1970, c. 409, s. 69 (3); 1980, c. 50, s. 6.

67. No equitable lien, charge or interest affecting land is valid as against a registered instrument executed by the same person, his heirs or assigns, and tacking shall not be allowed in any case to prevail against the provisions of this Act. R.S.O. 1970, c. 409, s. 71.

68. A registered mortgage is, as against the mortgagor, his heirs, executors, administrators, assigns and every other person claiming by, through or under him, a security upon the land comprised therein to the extent of the money or money’s worth actually advanced or supplied under the mortgage, not exceeding the amount for which the mortgage is expressed to be a security, notwithstanding that the money or money’s worth, or some part thereof, was advanced or supplied after the registration of a conveyance, mortgage or other instrument affecting the mortgaged land, executed by the mortgagor, his heirs, executors or administrators, and registered subsequently to the first-mentioned mortgage, unless before advancing or supplying the money or money’s worth, the mortgagor in the first-mentioned mortgage had actual notice of the execution and registration of such conveyance, mortgage or other instrument, and the registration of such conveyance, mortgage or other instrument after the registration of the first-mentioned mortgage, does not constitute actual notice. R.S.O. 1970, c. 409, s. 72.

69.—(1) The registration of an instrument under this or any former Act constitutes notice of the instrument to all persons claiming any interest in the land, subsequent to such registration, notwithstanding any defect in the proof for registration, but nevertheless it is the duty of a land registrar not to register any instrument except on such proof as is required by this Act. R.S.O. 1970, c. 409, s. 73 (1); 1979, c. 94, s. 47 (1).
Where subs. (1) does not apply

(2) Subsection (1) does not apply to an instrument entered in the by-law index or to an instrument registered as a general registration under subsection 18 (1) or (6) or under predecessors of those subsections,

(a) unless an entry of the instrument appears in the abstract index;

(b) unless an entry of a declaration under subsection 22 (2) or a predecessor of that subsection referring to the instrument appears in the abstract index; or

(c) unless the instrument is mentioned in a subsequentely registered instrument and an entry of the latter instrument or of a declaration referring thereto, as mentioned in clause (b), appears in the abstract index. R.S.O. 1970, c. 409, s. 73 (2); 1972, c. 133, s. 27 (1).

(3) The registration of a notice under section 107 or a declaration under subsection 22 (2) constitutes registration of the instrument referred to in the notice or declaration for the purposes of subsection (1) of this section.

(4) The registration of a notice under subsection 21 (7) or (8) constitutes notice only of the particulars contained in the notice.

(5) After the expiry of a notice registered under subsection 21 (8), the notice shall not constitute notice of the agreement, option or assignment or of any particulars referred to in the notice. 1979, c. 94, s. 26.

70. An instrument that is or purports to be a power of attorney or authority to sell land in which the commission, payment for services, or other remuneration of the attorney or agent is made a charge on the land, as against a subsequent purchaser or mortgagee for valuable consideration and as against the creditors of the person giving the power or authority, ceases to charge the land with the commission, payment for services, or remuneration after the lapse of one year from the making of the instrument. R.S.O. 1970, c. 409, s. 74.

71.—(1) Except in the manner hereinafter provided, after an instrument has been recorded, no alteration or correction shall be made to any entry previously made respecting the instrument. 1972, c. 133, s. 29, part.

(2) The land registrar shall immediately after becoming aware of any omission or error in recording cause to be made such
entries, alterations or corrections as are requisite, and a memorandum stating the date of every such entry, alteration or correction, and the memorandum shall be signed by the land registrar or his deputy. 1972, c. 133, s. 29, part; 1979, c. 94, ss. 27 (1), 47 (1).

(3) Where, after the registration of a plan, instruments affecting land within the plan were registered that did not conform and refer thereto, the land registrar shall, when he considers it necessary or when so directed by the Director, cause the instruments to be recorded in the proper abstract index in accordance with subsection (2). 1979, c. 94, s. 27 (2).

72. An instrument capable of and properly proved for registration and in respect of which the fees for registration have been paid shall be deemed to be registered when and as soon as it is delivered either personally or by mail to and received at his office during office hours by the land registrar, or some officer or clerk in his office on his behalf, and thereafter no alteration shall be made in the instrument. R.S.O. 1970, c. 409, s. 77; 1979, c. 94, s. 47 (1).

PLANS

73.—(1) A plan of subdivision shall not be registered unless it has been prepared by a surveyor and unless it complies with the regulations.

(2) An instrument that refers to a plan of subdivision shall not be registered unless the plan of subdivision is registered. R.S.O. 1970, c. 409, s. 78 (1, 2).

(3) The consent of the mortgagee to a plan of subdivision, when registered, discharges from the mortgagee any land dedicated by the owner as a public highway and any land designated as a reserve that is conveyed to the corporation of the municipality in which the land is situate. R.S.O. 1970, c. 409, s. 78 (4).

(4) The land registrar shall not register a plan of a subdivision of land for which a Crown patent has not issued unless the assent of the Minister of Natural Resources to the registration is endorsed on the plan. R.S.O. 1970, c. 409, s. 78 (6); 1972, c. 4, s. 12; 1979, c. 94, s. 47 (1).

(5) The land registrar shall not register a plan of subdivision of land unless every person who appears on the abstract index to be the owner of the land has endorsed the plan as owner and unless every person who appears by the abstract index to be a mortgagee of the land consents in writing, but nothing in this section shall be
deemed to require the consent to any such plan of the owner of an easement or right in the nature of an easement in respect of the land.

(6) Subsection (5) does not require the consent of a mortgagee unless the plan of subdivision dedicates part of the land to which the mortgage applies as a public highway. 1979, c. 94, s. 28 (3).

(7) No plan to which the Planning Act applies, except a plan registered under section 77 or 85 of this Act, shall be registered unless approved under the Planning Act. R.S.O. 1970, c. 409, s. 78 (8).

(8) Land dedicated by its owner for a street or public highway is not subject to any claim under Part III of the Family Law Reform Act by the spouse of the person by whom it was dedicated. 1980, c. 50, s. 7.

(9) A plan of subdivision of land that is within an area to which the Land Titles Act applies shall not be registered under this Act, subject to subsection 143 (2) of the Land Titles Act. 1972, c. 133, s. 30.

(10) Subject to the regulations, a plan of subdivision of land that is within a certification area shall not be registered under this Act unless,

(a) the title of the owner of the land has been certified under the Certification of Titles Act;

(b) the plan is accepted for registration within six months after the designation of the area in which the land is situate as a certification area; or

(c) certification under the Certification of Titles Act of the land included in the plan would, in the opinion of the Director of Titles, result in an unreasonable delay in registration of the plan. 1979, c. 94, s. 28 (5).

(11) A description as defined in the Condominium Act, in respect of land that is within an area to which the Land Titles Act applies but not within an area designated under subsection 143 (3) of the Land Titles Act shall not be registered under this Act. 1979, c. 94, s. 28 (6).

74.—(1) Subject to section 75, a deed or other conveyance or mortgage of land shall not be registered unless,

(a) the land is the whole part remaining to the owner of the land described in a registered conveyance to him;

(5) Where consent of mortgagee not required

(3) Approval under R.S.O. 1980, c. 379

(4) Claim under R.S.O. 1980, c. 152

(5) Where plans required to be registered under R.S.O. 1980, c. 230

(6) Where land in certification area R.S.O. 1980, c. 51

(7) Where description required to be registered under R.S.O. 1980, cc. 84, 230

Where reference plan required
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(b) the land consists of the whole of a lot, block, street, lane, reserve or common according to a registered plan of subdivision, judge's plan or municipal plan under section 85;

(c) the land is the whole of a “PART” according to a previously recorded reference plan; or

(d) the land is shown on a plan, to be known as a “reference plan”, prepared and deposited in accordance with the regulations. 1972, c. 133, s. 31, part; 1979, c. 94, s. 29.

(2) The land registrar, having regard to the circumstances, may order that subsection (1) does not apply in the case of a conveyance or mortgage mentioned in the order. 1972, c. 133, s. 31, part; 1979, c. 94, s. 47 (1).

75.—(1) Where an instrument submitted for registration contains a description of land that in the opinion of the land registrar is complex or vague, he may require a plan of the land to be deposited as a “reference plan” before accepting the instrument for registration. 1972, c. 133, s. 32, part; 1979, c. 94, ss. 30, 47 (1).

(2) Where the land registrar is satisfied that compliance with a requirement made under subsection (1) would be unreasonable, having regard to the circumstances, he may accept, in lieu of a reference plan, a sketch of the land prepared in accordance with the regulations. 1972, c. 133, s. 32, part; 1979, c. 94, s. 47 (1); 1980, c. 50, s. 8.

76. The Director may direct that a plan index book, in the form prescribed by him, shall be kept by the land registrar. R.S.O. 1970, c. 409, s. 80; 1979, c. 94, s. 47 (1).

77.—(1) The Director may direct the land registrar to subdivide any lot or designated area into such lots or blocks for abstract purposes as, having regard to conveyances registered upon such lots and otherwise, he may direct, and in such case an abstract index shall be prepared by the land registrar for each of such lots or blocks as if it had been originally a separate lot, and shall extend from any past or future date directed by the Director, and shall contain only those registrations that affect the subdivision to which the index relates. R.S.O. 1970, c. 409, s. 81 (1); 1979, c. 94, s. 47 (1), part; 1980, c. 50, s. 9.

(2) Where an abstract index is prepared under subsection (1), the Director may direct the land registrar to cause a plan
to be compiled showing the lots or blocks into which the designated area has been subdivided, and the compiled plan, bearing the title "Land Registrar's Compiled Plan", may be registered.

(3) Where the land registrar is unable to prepare an abstract or a compiled plan under this section without the assistance of a surveyor, he may, with the approval of the Director, engage a surveyor to assist in such preparation. R.S.O. 1970, c. 409, s. 81 (2, 3); 1979, c. 94, s. 47 (1), part.

(4) Where the original lines of the lots do not form the boundaries of such blocks, public streets or such other limits as the Director may direct shall be taken as the boundaries thereof. R.S.O. 1970, c. 409, s. 81 (5).

78.—(1) Where a plan of a subdivision of a lot or part of a lot has been or is registered, the land registrar, when directed so to do by the Director, shall prepare an abstract of all instruments affecting the part subdivided, and enter the same in the page or pages of the abstract index book immediately preceding the abstract as to the first lot on the plan.

(2) Whenever a further subdivision of any of the lots on a plan is made, the land registrar, when directed so to do by the Director, shall prepare and enter in like manner an abstract of all instruments affecting the part so subdivided from the registration of the previous plan. R.S.O. 1970, c. 409, s. 82; 1979, c. 94, s. 47 (1).

79. Subject to the regulations, no instrument referring to an unregistered plan shall be registered unless an instrument referring to the plan has been registered in respect of the same land, and, if the land registrar objects to the registration of an instrument on the ground that it refers to an unregistered plan, he may refuse to register the instrument unless the person desiring its registration refers the land registrar to the number of an instrument registered in respect of the same land referring to the unregistered plan. R.S.O. 1970, c. 409, s. 83; 1979, c. 94, s. 47 (1).

80.—(1) Where an instrument that does not conform and refer to the proper plan has been duly executed and any party thereto has died, or, where it would, in the opinion of the land registrar, be impossible or inconvenient to obtain a new instrument containing the proper description, the instrument may be registered if accompanied by an affidavit in the prescribed form annexed thereto or endorsed thereon.
(2) The land registrar shall thereupon enter the instrument in the abstract index in which the subdivision is entered under the lots designated in the affidavit, and no entry shall be made in the abstract index of the land before its subdivision. R.S.O. 1970, c. 409, s. 84; 1979, c. 94, s. 47 (1).

81.—(1) Where a parcel of land has been included in a registered plan of subdivision that was not signed by the owner of the parcel and the parcel is subsequently described in a registered deed or other conveyance as being within the plan, the plan is as binding upon the grantee of the parcel and all persons claiming under him as if the plan had been signed by the owner of the parcel.

(2) Subsection (1) does not affect the rights of a mortgagee whose mortgage was registered before the deed or other conveyance, mentioned in subsection (1), was registered. R.S.O. 1970, c. 409, s. 85.

82.—(1) The council of any municipality may apply to a judge of the county or district court of the county or district in which is situate the whole, or any part not being less than one-half, of the lands included in any plan, and the judge has power to make orders and directions,

(a) for the hearing of the application upon such notice as the judge may direct;

(b) to cancel or suspend in whole or in part any registered plan;

(c) to close, divert or alter any or all highways, roads, streets or lanes shown on any such plan, either temporarily or permanently, or pending the suspension of the plan;

(d) to provide that the lands or any part or parts thereof shown on any such plan shall thereafter, or pending such suspension or until further order of the judge, be known and described by the original township or other registration numbers or designations used prior to the registration of any such plan, or such other numbers or descriptions as to the judge may seem convenient;

(e) to impose such terms and conditions as to the judge may seem proper;
(f) to fix and determine the fees and charges to be imposed and collected by land registrars for all and any services under this section, and by whom the same shall be payable;

(g) to reinstate in whole or in part any plan suspended as aforesaid,

and the judge has power to make such further or other order, direction or disposition as he, in his discretion, may consider proper. R.S.O. 1970, c. 409, s. 86 (1); 1979, c. 94, s. 47 (1).

Appeal from order

(2) The Minister or any person affected by an order made under subsection (1) may appeal the order to the Divisional Court. R.S.O. 1970, c. 409, s. 86 (3).

Consent to order

R.S.O. 1980, c. 379

(3) An order under this section amending a plan that was approved under section 36, of the Planning Act or a predecessor thereof, where the plan was registered after the 27th day of March, 1946, shall not be made without the prior written consent of the Minister of Housing. 1972, c. 133, s. 33 (2); 1973, c. 120, s. 1.

Correction of plan

83. An error, defect or omission in a registered or deposited plan may be corrected in accordance with the regulations. 1980, c. 50, s. 10.

Unregistered plans of subdivision, etc.

84. Where land has been sold in accordance with or by reference to surveys or subdivisions that so differ from the manner in which the land was surveyed or granted by the Crown that parcels so sold cannot be easily identified unless the plan is registered, the plan shall be registered if still in existence and procurable for registration. R.S.O. 1970, c. 409, s. 88.

Municipal plans

85.—(1) Where land in a municipality has been sold under surveys or subdivisions made in a manner that so differs from that in which the land was surveyed or granted by the Crown that the parcels sold cannot be easily identified, and the plan has not been registered, the council of the municipality may cause a plan of the land to be made and, with the approval of the examiner of surveys endorsed thereon, registered, and the expenses of the preparation and registration of the plan may be paid in whole or in part by a special rate to be levied by assessment on the land comprised in the plan as described in a by-law to be passed for the purpose of levying such rate. R.S.O. 1970, c. 409, s. 89 (1); 1979, c. 94, s. 32 (1).
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A plan prepared under subsection (1) shall show such subdivisions of original lots as are shown by registered plans, and such as are not so shown but appear from the instruments relating to the land, with each of the lots as shown on the new plan numbered or lettered in such a manner that they may be readily identified.

(3) A plan under this section shall be prepared and registered in accordance with the regulations. R.S.O. 1970, c. 409, s. 89 (2, 3).

86.—(1) The Director may by a direction to be known as a "restraining order" designate any area of land as a subdivision plan area, and, after the registration of the direction, no instrument of a class mentioned in the direction affecting the land shall be registered,

(a) unless the instrument complies with the requirements of clause 29 (3) (a), (b), (c) or (d) of the Planning Act; or R.S.O. 1980, c. 379

(b) unless the written consent of the Director is endorsed thereon.

(2) The Director may in a direction under subsection (1) designate land that, although within a registered plan of subdivision, shall be deemed not to be within a registered plan of subdivision for the purposes of this section.

(3) A direction under this section, although registered, may be altered or withdrawn by direction of the Director, and such direction shall be registered and recorded in the abstract indexes of the land affected thereby. R.S.O. 1970, c. 409, s. 91 (1-3).

(4) Before altering or withdrawing a direction or consenting to permit the registration of an instrument, the Director,

(a) may require a consent within the meaning of subsection 29 (1) of the Planning Act to be attached to or endorsed on the instrument; or

(b) may require the land described in the instrument to be shown on a plan of survey attached to the instrument. R.S.O. 1970, c. 409, s. 91 (4); 1972, c. 133, s. 35.

(5) A direction under this section is exempt from the Regulations Act. R.S.O. 1970, c. 409, s. 91 (5).

(6) This section is repealed on a day to be named by proclamation of the Lieutenant Governor and all restraining orders and directions designating areas of land as subdivision plan areas made under this section or a predecessor thereof are rescinded on that day. 1979, c. 94, ss. 34, 50 (2), part.
87. A declaration and description, as defined in the Condominium Act, shall not be registered under this Act unless a certificate of title under the Certification of Titles Act showing the person by whom the declaration and description are being registered as the owner in fee simple of the land has been registered. 1979, c. 94, s. 35.

FEES OF LAND REGISTRARS

88.—(1) Where an Act requires or permits an instrument to be registered, deposited or filed in a land registry office or requires a land registrar to perform any service and no fees therefor are provided by this Act or the regulations or by any other Act of Ontario, the land registrar, in the absence of any express provision requiring him to perform such services gratuitously, is entitled to such reasonable fees therefor as the Director may fix, to be paid by the person requiring the service to be performed.

(2) Where an Act provides a fee for registration but does not provide a fee for additional entries where the instrument embraces more than one lot or parcel, the Director may, subject to the regulations, fix the fee to be paid to the land registrar in respect of each lot or parcel after the first. R.S.O. 1970, c. 409, s. 92; 1979, c. 94, s. 47 (1).

89.—(1) Where a dispute arises in regard to any question of fees under this Act, the land registrar shall forthwith submit the dispute to the Director, and shall thereupon notify the person interested or his agent of such submission, and the decision of the Director upon the question submitted is final, unless appealed from and varied upon appeal as hereinafter mentioned.

(2) Where, in the opinion of the Director, a fee payable under this Act is unduly excessive, having regard to all the circumstances, the Director may reduce the fee to such amount as he considers appropriate.

(3) All decisions given by the Director shall be in writing, and the appeal therefrom shall be to the Divisional Court in accordance with the rules of court. R.S.O. 1970, c. 409, s. 93; 1979, c. 94, s. 47 (1), revised.

90. Upon receiving an instrument for registration or a document or plan for deposit, the land registrar shall record it and the fee charged in a fee and receiving book in the form approved by the Director. 1979, c. 94, s. 36.
91. The Director shall, 

(a) make as often as practicable a personal inspection of the building in which each land registry office is kept, and of the books, deeds, memorials and other instruments in each office; 

(b) see that the proper books are provided, that they are in good order and condition, that the proper entries and registrations are made therein in a proper manner and in a due and proper form and order, that the indexes are properly kept, and that all the memorials and other instruments are duly endorsed, certified and preserved; 

(c) ascertain that the office is kept open at and for the proper times, and that it is at all times duly attended by the land registrar or his deputy; 

(d) settle on some uniform device for the official seals, and see that the land registrars supply themselves therewith; 

(e) inspect all new abstract and alphabetical indexes; 

(f) ascertain whether the proper plans required by this Act have been registered, and, where necessary, enforce the provisions of this Act as to the preparation and registration thereof, and instruct the Crown attorney to take proceedings for that purpose; 

(g) inform the land registrar how and in what manner he shall do any particular act or amend or correct whatever the Director may find amiss, and if he finds the work improperly performed, order a new book or books to be prepared and completed by the land registrar at his own expense; 

(h) perform such other duties as the Lieutenant Governor in Council may prescribe. R.S.O. 1970, c. 409, s. 97; 1972, c. 133, s. 36 (1); 1979, c. 94, s. 47 (1). 

92. Where the Director in the performance of his duties under this Act has occasion to make an inquiry or to determine any matter, he has the powers of a commission under [Powers of Commission]
Part II of the *Public Inquiries Act*, which Part applies to such inquiry or determination as if it were an inquiry under that Act. 1971, c. 50, s. 77.

93. Every land registrar shall transmit to the Director such particulars with reference to the business of his office as the Director may require. R.S.O. 1970, c. 409, s. 99; 1979, c. 94, s. 47 (1).

94. The Director may appoint a person to act as a deputy land registrar in any land registry office as directed by the Director, who shall be deemed to be the deputy land registrar therein during such period as the Director may designate. R.S.O. 1970, c. 409, s. 100; 1979, c. 94, s. 47 (1).

**PENALTY FOR ALTERING BOOKS OR DOCUMENTS**

95.—(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan, registered instrument or deposited document in any land registry office, or who makes any memorandum, word or figure in writing thereon, whether in pencil or in ink, or by any other means, or in any way adds to or takes from the contents of any such book, record, plan, instrument or document, and any person who removes or attempts to remove any such book, record, plan, instrument or document from a land registry office without lawful authority, is guilty of an offence and on conviction is liable to a fine of not more than $5,000. 1972, c. 133, s. 37; 1979, c. 94, ss. 40 (1), 47 (1).

(2) For the purpose of determining the last day to prosecute, the limitation period in respect of an offence under subsection (1) shall start at the time that offence is first discovered by the land registrar. 1979, c. 94, s. 40 (2).

**REGULATIONS**

96.—(1) The Lieutenant Governor in Council may make regulations,

(a) describing the registry divisions;

(b) 'prescribing the terms of employment of land registrars, deputy land registrars, clerks and other employees in land registry offices;

(c) for the management of land registry offices, including the registers, plans, instruments and other books, documents and records to be kept and the method in which fees and other receipts of the office shall be col-
lected, kept and accounted for; and conferring on the Director such powers as may be considered necessary for carrying out the provisions of this or any other Act relating to the duties of land registrars;

(d) prescribing the hours during which the land registry offices shall be kept open, and the hours during which instruments shall be received for registration;

(e) designating certification areas for the purpose of subsection 73 (10);

(f) governing the custody, disposition and destruction of instruments and records of land registry offices;

(g) governing the correction of errors, defects and omissions in registered and deposited plans;

(h) prescribing the manner in which sketches referred to in subsection 75 (2) are to be prepared;

(i) prescribing the minimum and maximum dimensions of instruments tendered for registration;

(j) respecting the quality of writing and material used in instruments tendered for registration and in duplicates and copies required by this Act;

(k) prescribing methods and standards of recording by photographic film and providing for the storage thereof;

(l) governing the content of alphabetical or deposit indexes and dispensing therewith in any registry division;

(m) designating instruments or documents or classes thereof to which clause 45 (1) (b) does not apply;

(n) requiring the payment of fees to land registrars upon the performance of any official function under this Act and prescribing the amounts thereof;

(o) prescribing forms and providing for their use;

(p) requiring, in connection with an instrument presented for registration, proof of compliance with any law that if not complied with might detrimentally affect the title or interest of a person claiming title or an
interest under the instrument, and governing the form and manner of presentation of such proof;

(q) prescribing anything that by this Act is required to be prescribed by the regulations;

(r) designating persons for the purposes of subsection 41 (1);

(s) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 409, s. 102 (1); 1978, c. 8, s. 3; 1979, c. 94, ss. 41, 47 (1); 1980, c. 50, s. 11.

(2) The application of any provision of the regulations made under subsection (1) may be limited to one or more registry divisions. R.S.O. 1970, c. 409, s. 102 (2).

97.—(1) Notwithstanding any provision of this Act or of the Land Titles Act, the Lieutenant Governor in Council may make regulations for standardizing the procedures in the land titles system and the registry system and for integrating the records of those systems in land registry offices where both systems are operated, and may limit the application of any provision of the regulations to one or more registry or land titles divisions. 1972, c. 133, s. 38.

(2) The Lieutenant Governor in Council may make regulations under this Act in respect of surveys, plans and descriptions of land and procedures related thereto for the purposes of the Boundaries Act, the Certification of Titles Act, the Condominium Act, the Land Titles Act and this Act, and may in such regulations specify the powers and duties of the examiner of surveys. 1979, c. 94, s. 42.

PART II

DEPOSITS

98. In this Part, “document” includes a plan of survey and any certificate, affidavit, statutory declaration or other proof as to the birth, baptism, marriage, divorce, death, burial, descendants or pedigree of any person, or as to the existence or non-existence, happening or non-happening of any fact, event or occurrence upon which the title to land may depend, a notice of sale, or other notice necessary to the exercise of any power of sale or appointment or other power relating to land, and a receipt for payment of money under a registered instrument. R.S.O. 1970, c. 409, s. 104; 1980, c. 50, s. 12.
99.—(1) A document may be deposited in the office of the land registrar of any registry division in which any land to which it relates is situate.

(2) The deposit of a document under this Part shall not be deemed a registration thereof and the admissibility or value of any document as evidence shall not be affected by the deposit. R.S.O. 1970, c. 409, s. 105; 1979, c. 94, s. 47 (1).

100. Upon every such deposit, the person making the deposit shall deliver to the land registrar a requisition in the prescribed form which shall be firmly attached to any number of documents not exceeding ten, and the land registrar shall sign a receipt upon the duplicate, if any, for the documents therein mentioned, and shall deliver the receipt to the person making the deposit. R.S.O. 1970, c. 409, s. 106; 1979, c. 94, s. 47 (1); 1980, c. 50, s. 13.

101.—(1) Upon receiving the requisition under section 100 and the documents therein mentioned, the land registrar shall cause the word “deposited” with the date and deposit number to be endorsed on the requisition.

(2) Deposits shall be numbered consecutively in order of time of receipt, in accordance with subsections 44 (1) and (5), as though they were instruments or a separate class of instruments. R.S.O. 1970, c. 409, s. 107 (1, 2).

(3) The land registrar shall enter in the abstract index against each lot or parcel mentioned in the requisition the words, “See Deposit No. . . . . . . . . . . . . . . . . . .”. and, where the requisition refers to only a part of a lot, the entry in the abstract index shall include a reference to the part of the lot. 1972, c. 133, s. 39; 1979, c. 94, s. 47 (1).

(4) The provisions of Part I applying to property in or custody of instruments apply to documents deposited under this Part or under The Custody of Documents Act, being chapter 85 of the Revised Statutes of Ontario, 1960, or any predecessor thereof. R.S.O. 1970, c. 409, s. 107 (6).

102.—(1) Sections 16 and 17 and clause 45 (1) (b) apply to every document deposited under this Part.

(2) In respect of a reference plan referred to in section 74 or 75 or in the regulations, the procedures prescribed by the regulations apply in lieu of the requirements set out in sections 100 and 101. 1979, c. 94, s. 44.
103.—(1) The deposit of a document under this Part shall be deemed a sufficient compliance with, and fulfilment of, any covenant or agreement entered into by any person to produce or allow the inspection of, or the making of, any copy of or extract from the document, and absolves any person liable for the production or custody thereof from any further liability in respect of such custody or production.

(2) An executor, administrator or trustee may reimburse himself out of the estate for any expense that he incurs in or about depositing any document that came into his possession or control as such executor, administrator or trustee. R.S.O. 1970, c. 409, s. 109.

PART III

INVESTIGATION OF TITLES

Interpretation

104. In this Part,

(a) "claim" means a right, title, interest, claim or demand of any kind or nature whatsoever affecting land set forth in, based upon or arising out of a registered instrument, and, without limiting the generality of the foregoing, includes mortgages, liens, easements, agreements, contracts, options, charges, annuities, leases, dower rights and restrictions as to the use of land or other encumbrances affecting land;

(b) "owner" means a person, other than a lessee or a mortgagee, entitled to a freehold or other estate or interest in land at law or in equity, in possession, in futurity or in expectancy. R.S.O. 1970, c. 409, s. 110; 1979, c. 94, s. 45.

105. A person dealing with land shall not be required to show that he is lawfully entitled to the land as owner thereof through a good and sufficient chain of title during a period greater than the forty years immediately preceding the date of such dealing, except in respect of claims referred to in subsection 106 (2). R.S.O. 1970, c. 409, s. 111.

106.—(1) A claim that has been in existence for longer than forty years does not affect land to which this Act applies unless the claim has been acknowledged or specifically referred to or contained in an instrument or a notice under this Part or under The Investigation of Titles Act, being chapter 193 of the Revised Statutes of Ontario, 1960, or any
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predecessor thereof, registered against the land within the forty-year period. R.S.O. 1970, c. 409, s. 112 (1).

(2) Subsection (1) does not apply to,

(a) a claim of the Crown reserved by letters patent or a claim of the Crown in unpatented land or in land for which letters patent have been issued, but which has reverted to the Crown by forfeiture or cancellation of the letters patent, or in land that has otherwise reverted to the status of unpatented Crown land;

(b) a claim of the Crown or of a municipality in respect of any public highway or lane;

(c) a claim of a corporation authorized to construct or operate a railway, including a street railway or incline railway, in respect of lands acquired by the corporation after the 1st day of July, 1930, and,

(i) owned or used for the purposes of a right of way for railway lines, or

(ii) abutting such right of way;

(d) a claim to an unregistered right of way or other easement or right that a person is openly enjoying and using;

(e) a claim to a freehold estate in land or an equity of redemption therein by a person shown by the abstract index for the land as being so entitled prior to any forty-year period and continuously shown by the abstract index for the land during the forty-year period and thereafter as being so entitled; or

(f) any claim imposed by a statutory enactment. R.S.O. 1970, c. 409, s. 112 (2); 1979, c. 94, s. 46.

(3) For the purposes of subsection (1),

(a) a wife's claim to an inchoate right to dower in land shall be deemed to be acknowledged in an instrument by which her husband alienates the land; and

(b) an instrument to which section 62 applies shall be deemed not to have been registered. R.S.O. 1970, c. 409, s. 112 (3); 1972, c. 133, s. 40.
107.—(1) Subject to subsection 21 (6), a person having a claim against land that is not barred under section 106 or a person on his behalf may register in the proper land registry office a notice, which shall set forth the claimant's full name and address, a local description of the land and a detailed statement of the claim verified by the affidavit of the person registering the notice.

(2) Notwithstanding subsection 106 (1) and subsection (1) of this section, a notice of a claim that has expired by virtue of the operation of subsection 106 (1) may be registered under subsection (1) of this section if there has been no intermediate registered dealing with the land, and such registration has the same effect as if done within the time limited by subsection 106 (1).

(3) The registration of a notice under subsection (1) does not validate a claim that has otherwise expired. R.S.O. 1970, c. 409, s. 113.

108. Where there is any conflict between the provisions of this Part and those of Part I or Part II or of any other Act or any regulation made thereunder or any rule of law, the provisions of this Part prevail. R.S.O. 1970, c. 409, s. 114.