

**THE CENTRAL REGISTRY ACT, 2008****ARRANGEMENT OF THE ACT**

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**A BILL  
entitled**

*An Act to repeal and re-enact the Public Registry Act and the Land Registration Act, and to establish one central registration system for the registration of all matters concerning the person or immovable property which require registration to have effect with regard to third parties.*

1. The title of this Act is the Central Registry Act, 2008.

Short Title.

**PART 1  
PRELIMINARY PROVISIONS**

2. In this Act, unless the context otherwise requires, the following expressions have the meaning hereby assigned to them –

Interpretation.

“annotation” means any observation or entry made by the registrar in the register, by way of providing information, in terms of article 58 of this Act;

“archives” includes all alpha-numeric documents and records in the possession of the Registrar

“certification” means a certificate issued under the registrar’s authority, certifying the status of the register, or furnishing proof of the existence, or of the contents of, any record kept at the Registry, including any extract or certificate required in terms of any other law;

“Commissioner” means the Commissioner of Land;

“common database” has the meaning given by article 21;

“databank” has the meaning given by article 10;

“database” means all those electronic systems which are compiled by the Central Registry for the better management of this Act, includes the common database mentioned in article 21 of this Act, and includes systems relating to civil status, notes, registrable acts, registers, certificates of title, and electronic versions of archives;

“day-book” means the roll of all the information recorded on a particular day in the database, as prescribed in article 27 of this Act;

“index” means the electronic indexes of all the notes and acts of civil status, filed in the Central Registry Office by reference to the person or persons mentioned in the note, to the locality of the immovable or title, or in any other manner as may be prescribed;

“immovable” or “immovables” means and includes all things rights and actions which are immovable by their nature or by reason of the object to which they refer, in accordance with articles 308 and 310 of the Civil Code;

“Malta” means the island of Malta, the island of Gozo and other islands of the Maltese Archipelago, including the territorial waters thereof;

“Minister” means the Minister responsible for the Central Registry;

“note” means the note of registration filed for the purpose of registering a registrable act in the Central Registry but does not include a priority notice;

“notice” means a notice in writing of any kind issued in terms of this Act;

“office” means the Central Registry Office which has the meaning given by article 4;

“Officer of the Registry” means those officers as specified in terms of article 18 of this Act;

“overriding interests” means the interests listed under article 57 of this Act;

“person” includes a body or other association of persons, whether such body or association is corporate or incorporate;

“prescribed”, unless otherwise indicated, means prescribed by regulations made under this Act;

“priority notice” means a notice filed in the Registry whereby an individual indicates any interest present and future in an immovable;

“qualification” has the meaning given by article 59;

“register” includes the day-book, the register of titles to immovable property, rights or burdens affecting the immovable, and other data or document forming part of the alphanumeric archive or of the electronic database;

“registrable act” has the meaning given by article 29 and article 30;

“Registrar General” means the public officer appointed by the Minister to take charge of the Central Registry Office pursuant to article 14 of this Act;

“Registry” means the Central Registry set up in virtue of article 8;

“rights over immovables” or words to that effect shall include all praedial easements as well as all rights, obligations and limitations imposed, in virtue of a registrable act, on an immovable, for the benefit of another immovable or owner thereof, notwithstanding that they are not specifically described as praedial easements;

“Supervisory Committee” means that committee established in terms of article 110 of the Notarial Profession and Notarial Archives Act; Cap. 55.

“Tribunal” has the meaning given by article 69.

**3.** References in any other law, to the Public Registry Act or the Land Registration Act, or to the respective registries established by the aforesaid Acts, as well as reference to the “Director of the Public References to the Public Registry Act And the Land Registration Act.

Registry” or the “Land Registrar” in respect of any matter done, or required to be done, under the said Acts or any other law relating to registration enrolment, certification or rectification, under the hereinmentioned Acts, shall be construed as a reference to this Act, or to the Central Registry, or the Registrar General, as the case may be.

## **PART 2 ADMINISTRATIVE PROVISIONS**

### **Title 1 THE CENTRAL REGISTRY OFFICE**

Central Registry  
Office.

**4.** (1) There shall be a Central Registry Office, under the overall management of the Registrar General, for the receipt and registration of acts, notes or other documents which by this Act or any other law are to be registered in the Central Registry.

Cap. 255.

(2) The Central Registry shall also be the Marriage Registry mentioned in subarticle (1) of article 2 of the Marriage Act.

Central Registry  
Branches.

**5.** (1) The Central Registry Office shall be situated in the island of Malta.

(2) A branch of the Office shall be situated on the island of Gozo with such functions and authority, as provided for, in this Act.

(3) The Minister may, by notice in the Gazette, establish other branches of the Office with such functions and authority of the Registry, as may be prescribed.

(4) Unless otherwise prescribed, a note, may be filed either in the Central Registry Office or in the Gozo branch, or in any other branch of the Office set up in terms of subarticle (3) hereof, as the Minister may from time to time, prescribe.

(5) References in this Act or any other law to the Central Registry Office, unless the context otherwise requires, shall include reference to any one, or all branches of the Registry, provided that, subject to article 7 of this Act, or unless otherwise prescribed, all the functions of the Central Registry Office shall be the responsibility of the Registrar General.

Functions of the  
Central Registry  
Office.

**6.** (1) The Central Registry Office situated in the island of Malta is responsible for the development, administration and control of the Central Registry.

(2) The functions of the Central Registry Office include:

(a) the preservation and safe custody of all notes, acts or other documents which, by this Act or any other law, are to be registered in the Central Registry;

(b) the receiving, filing and registration of registrable acts;

(c) the production and preservation of copies reproduced by electronic or by any other means, as may be prescribed;

(d) the security of the Registry, archives, databanks and databases, including the production of certificates and copies from the said Registry;

(e) the production and preservation of the centralised electronic index or indexes referred to in article 12;

(f) the production of certificates, reports and official searches as may be prescribed, which certificates, reports and official searches may be generated or transmitted by electronic means;

(g) anything related to the role of the Registry of Marriage.

7. (1) There shall be received and registered at the Gozo branch of the Central Registry, those notes which in terms of subarticle 4 of article 5 are filed at the Gozo branch: Gozo Branch.

(2) The Gozo branch shall also have all the functions of the Marriage Registry, referred to in subarticle (2) of article 4 of this Act, for all matters relating to marriages taking place in the island of Gozo.

## **Title II**

### **THE CENTRAL REGISTRY**

8. (1) There shall be a Registry, to be known as the Central Registry, which shall consist of the- The Central Registry.

- (a) Registry archives;
- (b) Registry Databank;
- (c) Registry Databases; and
- (d) Common Database.

9. (1) The archives shall consist of all the original paper-based documents filed at, or preserved in, the Registry. The Central Registry Archives.

(2) There shall be two archives, one in the island of Malta, for the custody and preservation of all notes filed in the Office situated in the island of Malta, and one in the island of Gozo for the custody and preservation of all notes filed in the Gozo branch.

(3) In the archives situated in the island of Malta there shall be deposited and preserved:

Cap. 16.  
Cap. 56.

(a) notes filed in the Office in Malta

Cap. 255.

(b) records and documents, including indexes, registers and volumes which up to the day of the coming into force of this Act were preserved in the Public Registry of Malta in terms of the Civil Code, the Public Registry Act, or the Marriage Act, or any other law; and

Cap. 296.

(c) the register, including the certificates of title, whether guaranteed or not, relating to immovables situated in the island of Malta, issued in terms of the Land Registration Act, the Condominium Act, as well as all documentation, relating thereto.

(4) In the archives situated in Gozo there shall, *mutatis mutandis*, be deposited and preserved all the documents mentioned in subarticle (3) hereof, as, up to the coming into force of this Act, were deposited or preserved at the Gozo branch.

(5) Any original document deposited in the archives, may not be removed therefrom without the concurrence of the Supervisory Committee and, where such concurrence is obtained, the registrar shall ensure that these documents are re-deposited in the registry as soon as the purpose for which they shall have been removed, shall have been served.

(6) (a) The archives shall be open to inspection by every officer of the registry during such times and days as may be prescribed.

(b) Subject to sub-article (2) of article 13, copies or extracts may be carried out from the document deposited in the archives upon the demand by any person, and in the manner as may be prescribed.

(7) Where branches are set up in terms of this Act, they may each retain their own archives;

(8) Where a discrepancy arises between a record held in the archives and that held in the Central Registry Database, unless proved otherwise, the record kept in the archive shall prevail.

**10.** (1) The Central Registry databank shall consist of electronic databanks accessed in a read-only format, as shall from time to time be compiled and, or prescribed by the Minister, such databank containing a reproduction of the notes, registrable act, or other document, as may be filed in terms of this Act, including those which, up to the coming into force of this Act, were kept at the Public Registry or the Land Registry in terms of any law. The Central Registry Databank.

(2) The databank shall be kept at the Registry in Malta or where the Registrar General directs and shall be administered and controlled by the Registrar, and shall include such databases as may be prescribed.

**11.** (1) The Central Registry Database shall mean those computerized systems as may be compiled or prescribed in terms of this Act. The Central Registry Database.

(2) Notwithstanding any other law, the contents of the database, once reported in the day-book, certificates and official searches, shall constitute the only evidence to prove, in regard to third parties, that a note or act of civil status has been registered.

(3) The database shall, unless circumstances dictate otherwise, be kept at the office in Malta, and shall be administered and controlled in the manner prescribed.

(4) There shall only be one central database, irrespective of whether the contents thereof were filed at, or are preserved at, the central registry office in Malta or its Gozo Branch or any other branch set up in terms of subarticle (3) of article 5 of this Act, provided that two or more back-ups shall be preserved, as the Registrar General, may from time to time determine.

(5) such back-ups shall be made at least at weekly intervals, and shall not be kept in the same building as that where the database is housed.

**12.** (1) All databases kept in terms of this Act shall have an index. The Index.

(2) The index or indexes of the register shall be accessible to the Supervisory Committee such that this Committee may examine the index or indexes at quarterly intervals, ensuring that the provisions of subarticle (1) of this article are adhered to in such a way that the registrar may comply with requests submitted in terms of subarticle (3) of article 82.

(3) For the purpose of subarticle (2), the Supervisory Committee shall yearly appoint one or two persons to be made known to the Registrar General.

Reports and Searches.

**13.** (1) The Registrar General shall produce or compile reports, certificates, copies, extracts and searches, and any other document in accordance with this Act or any other law.

(2) The Registrar General, on the recommendation of the Minister, may further produce or compile reports, certificates, copies, extracts, searches and any other document as may from time to time be required.

(3) The Minister may by notice in the Gazette establish which information may be accessed or is subject to privileged access, in accordance with this Act or any other law relating to privacy and confidentiality.

### **Title III OF OFFICERS AND OTHER STAFF**

Registrar General.

**14.** (1) The Registrar General shall head the Central Registry Office and all its branches, and shall receive on account of the Government, the fees levied in accordance with the tariff as may from time to time be prescribed, and in accordance with Part I of the Schedule to the Civil Code.

(2) The Registrar General shall have:

(a) the functions, powers and duties vested in him by the provisions of this Act;

(b) the functions previously assigned to the Director of the Public Registry and the Land Registrar in virtue of any other law;

(c) the direct responsibility of -

(i) the Central Registry; and

(ii) the Central Registry Office, the public officers and other employees attached to the said Office.

(3) During any vacancy in the office of the Registrar, or during his absence from Office, all the functions, powers and authorities, by this Act or by any other law, assigned to or conferred on the Registrar shall, be exercised by one of the senior officials mentioned in article 15 of this Act, or other public officer as the case may be, designated by the Minister to act as Registrar General:

Provided that the office of Registrar General may not be left vacant for a period exceeding six months.

(4) Subject to the provisions of this Act, the Registrar shall conduct the whole business of registration under this Act and shall prepare and cause to be printed or otherwise reproduced and circulated or otherwise promulgated such forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act.

(5) The Registrar may delegate to a Senior Official or officer referred to in article 15, any of the functions, powers or duties assigned to him under this Act or any other law.

(6) The Registrar General, in pursuance of this Act, may:

(a) administer an oath or take a solemn declaration for any of the purposes of this Act;

(b) examine under oath or solemn declaration any person appearing before him;

(c) by summons under his signature, require any person to:

(i) attend before him in relation to the registration of any title;

(ii) produce any map, survey, book or document held in his possession or custody, for inspection.

(7) Any person who, upon a request by the Registrar General and after the delivery to him of such summons or copy thereof as aforesaid, wilfully neglects or refuses:

(a) to attend;

(b) to produce such maps, surveys, books or documents; or

(c) to answer upon oath or solemn declaration such questions as are put to him by the Registrar General, shall for each refusal be guilty of an offence and shall, upon conviction, be liable to a fine (*multa*) not exceeding two hundred and thirty Euro.

(8) Notwithstanding the provisions of any law enjoining secrecy, a government department or parastatal agency shall upon the request of the Registrar General, furnish within the prescribed time, such information as may be necessary for the proper function of his office.

(9) Any person aggrieved by an act done by the Registrar General in relation to any matter that substantially affects the register, may appeal to the Court of Appeal, unless in terms of the provisions of this Act, the matter ought to be referred to the Tribunal.

Officials.

**15.** (1) The Registrar General shall be assisted in the performance of his duties by such officials as the Minister may prescribe:

(2) A person shall not be qualified to be appointed an Official with responsibility for matters relating to immovables, unless he is an advocate or a notary public in possession of a warrant to exercise such profession for the past three years.

Oaths of Office.

**16.** The Registrar General and the Public Officers appointed in terms of Article 15 shall, before assuming the duties of their office, take before the Attorney General an oath or solemn declaration of office as follows:

*'I..... promise and swear to observe faithfully all the laws of Malta relating to my office and to perform faithfully and with all honesty and exactness the duties of Registrar/ Official in the Central Registry Office to the best of my knowledge and ability. So help me God.'*

Acts in good faith.

**17.** (1) No person acting in good faith and under the authority of this Act, or under any order or general rule made in pursuance of this Act, shall be liable, in damages or otherwise, to any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith and with ordinary diligence in the exercise or supposed exercise of the powers of this Act, or any order or general rule made in pursuance of this Act.

(2) The Government shall not be liable, in damages or otherwise, for anything done or omitted to be done under this Act,

without prejudice to the provisions of this Act relating to indemnity payable hereunder.

**18.** (1) A practising notary public, including notaries mentioned in the proviso to paragraph (a) of subarticle (1) of article 14 of the Registry Notarial Profession and Notarial Archives Act, shall be deemed to be an Officer of the Registry, and in addition to the duties and responsibilities conferred on notaries in virtue of any other law, such Officer may carry out functions connected with this Act, including:

(a) the preparation and certification under his signature and rubberstamp, of documentation submitted to the Registry;

(b) declarations as to roots of title for the purpose of establishing title for the purposes of subarticle (3) of article 69 of this Act;

(c) declarations relating to matters of civil status or of civil life: and

(d) any other matter which the Minister may, from time to time prescribe

(2) A practising architect (*perit*), shall be deemed to be an Officer of the Registry and, in addition to the duties and Responsibilities conferred on architects (*periti*) in virtue of any other law, such Officer may carry out such functions connected with this Act, including the issuance, under his signature and rubberstamp, of any plan, survey, document, report or declaration to be used in any matter relating to immovables being registered or registered in the Registry.

**19.** There shall be a seal of the Central Registry and any documents which shall be so sealed shall be admissible in evidence and, unless the contrary is shown, shall be deemed, without further evidence, to be issued by or under the direction of the Registrar General.

### **PART 3 THE REGISTER**

#### **Title I GENERAL PROVISIONS**

**20.** The Registrar shall keep a Comdondatabase wherein there shall be preserved all notes, acts of civil status, including the accompanying documents, and all certificates, declarations, notices,

plans, reports, or other records drawn up, deposited, preserved or kept in the Registry, whether such records are composed of the alphanumeric records, forming part of the Central Registry archives, or whether such records are computerised versions forming part of the Central Registry databases.

The  
Commondatabase.

**21.** (1) The Commondatabase, which is the central repository, for government information about persons, addresses and organisations, including the inter-relationships between the subjects, shall form part of the register, provided that the registrar shall only make accessible therefrom, that information which is in the public domain.

Minister to regulate  
Commondatabase.

(2). Subject to any law relating to data protection, the Minister may regulate all matters relating to the Commondatabase, including those required:

(a) to ensure that the Commondatabase is kept up-to-date by those departments or organisations that own the several databases that make up the central repository of information;

(b) to standardise the format of the information that is collected;

(c) to determine modes of, and criteria for, processing the data;

(d) to determine the manner and the circumstances in which data contained in the Commondatabase may be provided to any person;

(e) to determine who may process and access the data;

(f) to direct the procedures to be used when data has been rectified;

(g) to ensure the security both of the database and the information housed therein; and

(h) generally to make regulations as are required for the better management of the Commondatabase, including the establishment of administrative fines and fees.

Misuse of  
information.

Cap. 440.

**22.** Any person who is aggrieved by a decision taken by the Registrar impinging on the subject matter of confidentiality, may appeal to the Data Protection Appeals Tribunal in terms of article 48 of the Data Protection Act.

23. Any person who:

Appeals in matters  
of confidentiality.

(a) accesses the register under false pretence;

(b) misuses or abuses information supplied;

(c) having been granted access for a specific purpose, makes use of the information for a different scope or purpose for private gain, shall, unless he proves to have acted in good faith, be guilty of an offence, without prejudice to any other liability he may incur under the Data Protection Act.

24. With reference to the Commondatabase, information means any “personal data” or other information extracted from the register, provided that the registrar shall only make accessible therefrom, that information which is in the public domain, unless the information is required by a Government Department, a Local Council, a government controlled agency, authority or body dealing with health, tax collection, or social security, or such other person or organisation as may be prescribed from time to time.

Information in the  
Commondatabase.

## Title II FILING AND REGISTRATION

25. (1) Registrable acts:

Filing.

(a) which, in terms of this Act or any other law, have to be registered in the Central Registry, shall be filed at the Registry by the person and within the time as may be prescribed;

(b) shall be drawn up in such manner and shall be accompanied by such documents and information as the Minister may from time to time prescribe:

Provided that when the Minister prescribes that the filing of notes is to be transmitted electronically, the acknowledgement mentioned in subarticle (4) may also be transmitted electronically.

(2) Subject to subarticle (1) and notwithstanding any other law, the Minister shall in the eventuality of non-performance or delay, impose those penalties as shall be prescribed, unless the person proves that such non-performance or delay was due to an extraneous cause not imputed to him.

(3) The obligation of any person or official to file a note, shall be deemed to have been complied with, if the note is submitted by

any other interested party instead of the person or official whose duty it is to file same. Nevertheless the person or official who fails to perform his obligations may still be subject to the penalties mentioned in the preceding subarticle as well any other action that may be taken in terms of this Act or in any other law for mere delay.

(4) Whenever any person or official files a note, the Registrar shall acknowledge same, immediately on receipt thereof, in the manner prescribed, and such acknowledgment shall constitute definitive proof that the obligation mentioned in subarticle (1) hereof has been complied with.

(5) (a) When a registrable act arises from a notarial deed, the relative note shall be filed by the Notary Public publishing the deed within fifteen days from the publication of the deed, provided that in addition to the electronic filing of the note mentioned in subarticle (1), the Minister may make rules empowering the Notary Public to give electronic notice of his intention, and such notice shall have the effect of a priority notice.

(b) Subject to subarticle (2), the Registrar shall make an annotation of such notice until the relative note is duly filed.

(6) In the instance when a registrable act arises from the delivery of a court judgment or decree:

(a) where the judgement or decree is *res judicata*, at the request of the party in whose favour the judgement or decree has been given, a Notary Public shall file a note within thirty days from the date of judgement or decree;

(b) notwithstanding the provisions of any other law, where the judgement or decree is not *res judicata*, such note may be filed by a Notary Public at the request of one of the parties, provided that the note shall state clearly that the judgement or decree is not final, and in such case, the note shall have the effect of a priority note.

(7) Where a registrable act arises from a decision of an arbitration tribunal, in terms of the Arbitration Act, the provisions of the preceding subsection shall *mutatis mutandis* apply.

(8) Where an executive title has been obtained, such title shall be deemed to be a registrable act within two months in terms of subarticle (6) of article 7.

(9) If the obligation to file a note does not arise either from this Act or from any other law, the right to file a note shall remain at the discretion of the beneficiary thereof, but shall remain without effect against third parties unless it is registered in the Central Registry.

(10) Acts of civil status shall be deemed to have been filed in the Central Registry when the relative act has been drawn up in accordance with Book First, Of Persons, of the Civil Code, and in accordance with the Marriage Act.

**26.** (1) Notwithstanding the provisions of subarticle (3) hereof, <sup>Registration.</sup> or of any other law, a note shall be deemed to have been registered in the Central Registry when it is entered in the day-book.

(2) On receipt of the note, as provided in article 27 hereof, the Registrar shall, within three working days from such receipt, proceed to deposit for preservation, the original note, including any documents and, or plans attached thereto, in the Central Registry archives.

(3) The Registrar shall preserve the said notes and acts, including all accompanying documents and plans, in accordance with their subject-matter, filing same consecutively in the chronological order in which they are received, enumerated in such manner as the Minister may prescribe.

(4) Within the same period of three working days from date of filing in any Central Registry Office, the Registrar shall register the said note in the applicable *database*.

(5) The Registrar shall cause to be kept such indexes as are mentioned in article 12 of this Act, and such indexes shall, unless otherwise prescribed, be drawn up within three working days from the registration in the database as prescribed in subarticle (4) hereof.

(6) Within a period of six months, the Registrar shall ensure that a copy of all notes and acts, including the accompanying documents, is prepared, provided that where the Registrar makes an electronic copy or back-up thereof, the provisions of this sub-article shall be deemed to have been complied with.

**27.** (1) On the close of each working day, the Registrar shall <sup>Day-book.</sup> cause to be printed that part of the day-book containing a roll of all information received on that particular day in the Central Registry database as may be prescribed.

(2) The day-book shall be accessible only to the Supervisory Committee, such that this committee may examine the electronic version of the day-book at quarterly intervals, ensuring that no two notes of the same nature are assigned the same numbers, ensuring also that no number is left unassigned.

(3) If any difficulty arises in connection with the provisions of sub-article (2) hereof, the Supervisory Committee shall give such advice or directions as it may deem fit, provided that any person aggrieved may appeal to the Tribunal for redress.

(4) (a) The print-outs mentioned in sub-article (1) hereof may be consulted by any interested party and shall be made available by not later than 9.00 a.m. of the first working day following the date of the print-out.

(b) Print-outs relating to notes filed during the previous thirty days may likewise be consulted, as may be prescribed.

Form.

**28.** (1) The Registrar shall not receive a note unless this is regularly drawn up and is accompanied by such documents, information and fees, as established in this act or as may be prescribed by the Minister from time to time.

(2) Notes shall be drawn in the prescribed manner and the Minister may prescribe different criteria for different purposes, provided that all notes must, notwithstanding any other law –

(a) be typewritten or computer-generated;

(b) be signed by the person filing the note in such a way as to make such person's identity easily identifiable provided that an electronic signature or mark, as may be prescribed, shall suffice;

(c) be drawn up in clear and legible characters and any corrections, substitutions, cancellations and additions by means of a postil at the foot thereof, in such a way that the words corrected, substituted or cancelled are to remain clearly legible;

(d) contain the particulars prescribed, provided that where any of the particulars cannot be known, the Registrar's approval is to be sought and where the Registrar is of the opinion that such particulars cannot be known a statement to this effect shall be entered, and the person filing the note or act shall sign such a declaration;

(e) contain the identity card or company registration number, of the persons involved in the transaction, and where no such number exists, any unique number as may be prescribed together with the title number or other unique identifier as may be prescribed.

(f) contain the title number of other unique identifier as may be prescribed, where reference to the note is already entered in the registry.

(3) Any question as to the regularity of the note shall, on the demand of the person filing the note, be determined by the Supervisory Committee, which Committee shall decide whether such note is drawn up according to law or otherwise direct the manner in which it shall be drawn up and such decision, which shall be taken within two months from referral by the person filing the registrable act, shall be final. Referral shall be made in terms of regulations as may be prescribed, provided that the Registrar shall make an annotation to the effect that the matter has been referred for the decision of the Committee herein referred to.

(4) The decision of the Supervisory Committee shall be annotated on the relevant note, and where the Committee decides that the note was regularly drawn up, it shall be registered as on the day when the annotation referred to under sub-article (4) was noted.

(5) Whenever a note or an act is filed electronically, the provisions of this Title shall, *mutatis mutandis* apply, provided that the Minister shall prescribe the manner and mode of such filing.

### **Title III** **REGISTRABLE ACTS**

**29.** (1) Registrable acts are those acts, certificates, declarations, notices, plans, reports, rights, interests or similar record or act, which in order to have effect against third parties must be registered in the Registry. Registrable acts.

(2) A registrable act, whether proprietary or personal, may be compulsory or voluntary.

(3) The Minister may also, as prescribed in this Act, declare acts, certificates, declarations, notices, plans, reports, rights, interests, or similar records or acts as declaratory registrable acts.

(4) A registrable act may be either proprietary, personal or both.

Compulsory  
registrable act.

**30.** (1) A compulsory registrable act is a registrable act which, in terms of this Act, or of any other law, must be registered in the registry for such act to have effect towards third parties.

(2) A compulsory registrable act save as may be prescribed in any other law can only arise in virtue of:

(a) a notarial deed or a document enrolled with, or annexed to, a notarial deed;

(b) a court judgement or decree, or final decision of a tribunal.

Declaratory  
registrable acts.

**31.** Save what is provided under subarticle (3) of article 29, the Minister may, from time to time, issue an order specifying that certain acts, rights or declarations are to be deemed declaratory registrable acts in a compulsory manner.

Voluntary  
registrable act.

**32.** A voluntary registrable act is a registrable act which may be registered in the Registry at the discretion of the beneficiary thereof.

#### **Title IV EFFECTS OF REGISTRATION**

Effect towards third  
parties.

**33.** (1) A registrable act of whatever kind, once entered in the Central Registry day book, shall be operative in regard to third parties.

(2) The acknowledgement mentioned in subarticle (4) of article 25 of this Act shall constitute proof that the person filing the note has in fact filed such note, but such acknowledgement shall not, in itself, be enough to make the registrable act effective towards third parties, saving any right to damages as may be due.

Extent of  
information.

**34.** Third parties shall be deemed to have been informed of the registrable act, only to the extent of the contents which appear on the face of the register, and where, in accordance with this Act or in terms of any law relating to data protection, access to information is limited, privileged or prohibited, third parties shall be deemed to have been informed only to the extent that the said information is available to them or to the extent as may result from the said register.

Right of action in  
case of prior  
registration.

**35.** If a registrable act, which arises after the coming into force of this Act, is not registered in the database, and a third party registers another registrable act related to the same personal or proprietary act in the said database, the beneficiary of the former registrable act shall forfeit all rights of action against the beneficiary of the latter registrable act.

**PART 4  
OF PERSONS**

**Title I  
PERSONAL REGISTRABLE ACTS**

**36.** The following acts of civil status or acts of civil life and matters ancillary thereto, are personal registrable acts:

Acts of civil status deemed to be registrable acts.

Cap. 16.

- (a) Act of Birth;
- (b) Act of Marriage;
- (c) Act of Death;
- (d) Adoption Decrees;
- (e) Acts of filiation and legitimation;
- (f) Appointments of Curators and Tutors, including their removal or substitution;
- (g) Inventories in so far as the immovables of the absentee, minor or incapacitated or interdicted person are concerned;
- (h) All court decrees or judgements relating to any matter mentioned in paragraphs (a) to (g) hereof and prescribed in the Civil Code, including any decree or judgement ordering the correction or substitution of any such act; and
- (i) Any other act as may be prescribed by law.

**37.** (1) The following shall also be deemed to be personal registrable acts:

Other personal registrable acts.

(a) the registration of the change of names or surnames in terms of any law;

(b) Any court judgement or decree, including judgement or decree granted by a court of foreign jurisdiction but which is recognised or confirmed in terms of the laws of Malta which:

Cap. 255.

- (i) affects the status of an individual;
- (ii) affects the individual's capacity or authority to contract or to make a will;

(iii) relates to personal separation; or

(iv) may be registered under the Marriage Act

Provided that the proviso to paragraph (e) of subarticle (1) of article 39 of the Act, shall *mutatis mutandis* apply;

Cap. 13. (c) any notarial deed of renunciation made by any person on taking of religious vows;

Cap. 16. (d) the act of emancipation in terms of article 9 of the Commercial Code;

(e) the mandate mentioned in subarticle (2) of article 1863 of the Civil Code, and the judicial letter revoking, terminating or renouncing the mandate in terms of Article 1886 of the Civil Code;

(f) the pleas of a declaration of bankruptcy of a person, or for the interdiction or incapacitation of an individual, including any subsequent judgement;

(g) notes of General Hypothec; and

(h) any public will or any publication of a secret will.

(2) The Minister shall prescribe the form and manner by which, and time limits within which, the acts mentioned in this article shall be registered.

(3) With respect to paragraph (e) of subarticle (1) of article 41, the registrar shall keep an index containing the names and surnames of the mandator and the mandatory with such particulars as mentioned in subparagraphs (i) and (ii) of paragraph (c), and subparagraph (iii) of paragraph (d), of subarticle (1) of article 28 of the Notarial Profession and Notarial Archives Act.

Annotation in relation to personal registrable act.

**38.** Any amendment, correction, note or other annotation which the registrar makes, or is required to make, in virtue of any law, in relation to anything mentioned in articles 40 and 41 of this Act, shall be deemed to be a personal registrable act.

**PART 5  
OF THINGS**

**Title I  
PROPRIETARY REGISTRABLE ACTS**

**39.** (1) The following are proprietary registrable acts. There shall be registered: Registrable  
proprietary acts.

(a) any *inter vivos* notarial act:

(i) transferring the ownership of immovables or rights over immovables by dissolving, rescinding or revoking any act having the effect of transferring the ownership of immovable property;

(ii) creating or varying any praedial easement, or any right over immovables or any right of usufruct, use or habitation relating to immovables, or containing any renunciation of such easement or right;

(iii) of emphyteusis or sub-emphyteusis or of reduction or redemption of ground-rent, or of renunciation or rescission relating thereto;

(iv) creating an annuity, in perpetuity or for a time as a real burden on immovables;

(v) imposing any burden, in perpetuity or for a time, on immovables;

(vi) of compromise affecting immovables or rights over immovables;

(vii) of partition of immovables;

(viii) of assignment of hereditary rights;

(ix) of declaration of transmission *causa mortis* in terms of the Duty on Documents and Transfers Act; Cap. 264.

(x) of declaration of transfer or transmission of immovables published pursuant to the division or amalgamation of companies in terms of the Companies Act; Cap. 386.

(xi) of declaration regarding the ownership to immovables or rights over immovables or affecting the ownership thereof;

(xii) which records a unilateral declaration by a spouse or an agreement between spouses that a particular property is the matrimonial home;

(b) any marriage contract, variation of or counter-declaration respecting any marriage contract, dowry, separation of property between spouses, or cessation of the community of acquests, whether the separation or cessation is consensual or not;

(c) any judicial act which interrupts prescription relating to immovable property in terms of article 2128 of the Civil Code;

(d) causes of preference among creditors including any cancellation, reduction, modification, subrogation or assignment thereof which in terms of the Civil Code require registration whether conventional, legal or judicial;

(e) any court judgement or decree, including judgements or decrees granted by a court of foreign jurisdiction but which is recognised or confirmed in terms of the laws of Malta, even if:

(i) it modifies, dissolves, rescinds or revokes any act having the effect of transferring the ownership of immovables or rights over immovables;

(ii) it directly adjudges the ownership of immovables or rights over immovables;

(iii) in terms of the law, the judgement or decree relating to immovable property should be registered in order to have effect with regard to third parties:

provided that this subarticle applies to judgements or decrees even if not *res judicata*, in which case the registrar shall, on being informed that the judgement or decree is not *res judicata*, enter an annotation to that effect and such annotation shall only be removed once the final judgment or decree is duly registered at the Central Registry;

(f) any award given in arbitration in terms of the Arbitration Act which refers to the same matters mentioned in subarticle (e) of this article;

(g) any judicial sale of immovables;

(h) the schedule of redemption of groundrent effected in accordance with article 1501 of the Civil Code, provided that where the redemption has been made in respect of properties transferred to Government in terms of the Ecclesiastical Entities (Properties) Act and the *directum dominium* had not yet been registered in terms of article 5 of the said Act, the registrar shall not register a subsequent transfer unless and until the *directum dominium* transferred to Government and the subsequent redemption have been noted on the register; Cap. 358.

(i) any requisition orders which are still effective in terms of the Housing Act, as well as the revocation thereof, provided that, notwithstanding the provisions of this Act, the Minister may prescribe the time within which such requisition orders have to be registered;

(j) any order or notice issued or revoked in terms of the Development Planning Act, and which, in terms of the said Act, has to be registered; Cap. 356.

(k) any conversion of a temporary emphyteusis into perpetuity in terms of the Housing (Decontrol) Ordinance, even if such conversion does not result from a public deed, provided that where, in terms of subarticle (6) of article 12 of the said Act, the emphyteuta or occupier, as described therein, did not require that a notarial deed be entered into, the emphyteuta who, after the coming into force of this Act, owns the immovable under title of perpetual emphyteusis, must register his title to the immovable within two years from the coming into force of this provision, unless in the meantime, the same immovable has been duly registered in terms of this Act by the said emphyteuta or another third party; Cap. 158.

(l) any order issued by a court in terms of the Criminal Code, the Dangerous Drugs Ordinance or the Prevention of Money Laundering, and also any order resulting from any other law, currently in force, purporting to prohibit the transfer or disposition of any movable or immovable property, so however that the order shall be indexed both under the particulars of the individual effected by the order as well as with reference to the geographical data of the immovable where the person or body issuing the order knows of the existence of such immovable; Cap. 9.  
Cap. 101.  
Cap. 373.

(m) a sworn application or a judicial act relating to the property of the immovable, provided that in such case, the registration is to be made with reference to the geographical data of the immovable in question;

(n) prohibitory injunctions, in which case the registration shall take effect by reference to the geographic data of the immovable property concerned;

Cap. 246.

(o) permits issued in terms of the Immovable Property (Acquisition by Non-Residents) Act;

(p) antichresis; and

(q) any other act as may be prescribed by law.

(2) Subject to what is stated in this Act or in any other law, the drawing up of an inventory, even if annexed to a notarial deed, shall not be deemed to be a registrable act.

(3) Any annotation or qualification, which the registrar may make, or is required to make, in the register, shall be considered as registrable acts.

(4) Any other act, which by virtue of the provisions of any other law must be registered at the Central Registry in order to have effect against third parties, shall be deemed to be a registrable act.

Voluntary  
registrable acts.

**40.** The following are voluntary registrable acts –

(a) promise of sale agreements concerning immovables or rights on immovables drawn up in a notarial deed or a private writing annexed or enrolled to a notarial deed;

(b) agreements concerning immovables drawn up in a notarial act or a private writing annexed or enrolled to a notarial act;

(c) notices filed by any interested party as may be prescribed;

(d) the declarations on the renunciation of an inheritance under article 860 of the Civil Code;

Cap. 398.

(e) an act which records or to which is annexed or enrolled any agreement drawn up in terms of the Condominium Act;

(f) on acquiring by prescription in terms of article 61 of this Act.

**41.** (1) The Minister may, from time to time, by order in the Gazette, declare acts or title to immovables or rights over immovables to be registrable acts, and such acts shall be known as declaratory registrable acts. Declaratory registrable acts.

(2) Without prejudice to the generality of sub-article (1), the Minister may make such order either:

(a) with reference to particular areas which shall be identified by reference to a map or maps included in the order or in such other manner as he may deem appropriate; or

(b) with reference to any person or group of persons; or

(c) with reference to the nature of the right in or over the immovable or categories of public deeds or registrable acts.

(3) The Minister may in any such order determine whether the declaratory registrable act is voluntary or compulsory. In the latter case, the Minister shall indicate the person obliged to register, and direct that a note of such registrable act shall be filed in the Central Registry Office within a period to be fixed in the order, which period shall in no case be of less than three months.

**42.** The Minister may, from time to time, by order in the Gazette, direct that all or any of the overriding interests affecting property that is registered or registrable, shall be declaratory registrable acts. Declaratory overriding interests.

**43.** (1) Where acts, or title to immovables, or rights over immovables, are declared to be registrable acts by virtue of article 31 of this Act, and the owner or presumed owner, is unable or unwilling to file the relative note within the time prescribed, the Registrar shall, without prejudice to any liability incumbent on any person under the said articles, file a note on behalf of unknown owners and such immovable shall be administered by the Commissioner of Land, hereinafter referred to as the Commissioner, on behalf of such unknown owners, as provided in subarticle (4) hereof. The Registrar shall each year publish a list of such property in the Gazette. Registration on behalf of unknown owners.

(2) Where an immovable is registered on behalf of unknown owners as prescribed in sub-article (1) hereof, the Registrar shall also

register any causes of preference, servitudes or other overriding interests, or any other right registrable in accordance with this Act as may affect such immovable, and of which he may be aware.

(3) Upon the lapse of thirty years from registration, unless, either the provisions of subarticle (5) hereof shall apply, or the registration shall have been successfully challenged, such immovable shall be registered with guaranteed title in favour of and in the name of the Government of Malta, free and unencumbered except for such causes of preference, servitudes or other overriding interests or other rights that were duly registered in accordance with subarticle (2) of this article:

Provided that if the cause of preference, servitude, other overriding interest or any other registrable right is in favour of an immovable which is itself registered on behalf of unknown owners, but with reference to such immovable, the period of thirty years mentioned in this subarticle has not yet elapsed, then the servient property shall be registered as subject to such cause of preference, servitude, other overriding interest or other right, which shall be extinguished only when the period of thirty years as established in this subarticle elapses also in respect of the dominant property.

(4) The administration mentioned in subarticle (1) of this article shall, notwithstanding any other law, include the right to enter such property and effect any alteration which an owner could execute over his own property, as well as the right to lease the immovable under fair and reasonable market conditions, provided that if the lawful owner successfully claims the property within the thirty year period mentioned in this article:

(a) all rents and benefits received by the Commissioner shall be refunded to the lawful owner after deducting therefrom all disbursements made and a ten per cent (10%) administration fee; and

(b) he shall be obliged to recognize the lessee for a nonrenewable period of eight years from the date of such registration.

Cap. 88.

(5) Without prejudice to the powers mentioned in subarticles (1) and (4) of this article, Government may also acquire such property by outright purchase, in terms of the Land Acquisition (Public Purposes) Ordinance, and the Registrar shall register the immovable with guaranteed title in favour of the Government, even if such property is registered on behalf of unknown owners or is being administered in terms of the previous subarticles of this article:

Provided that property, acquired by Government in virtue of sub-article (5) of this article may be re-transferred to any body corporate established by law, or to any partnership or other body in which the Government of Malta or any such body as aforesaid have a controlling interest or over which they have effective control and which is charged with the business of regeneration of vacant or unutilized property, immediately on the publication of the President's Declaration issued in virtue of sub-article (4) of article 22 of the said Ordinance, and in any such case, notwithstanding the provisions of the said Ordinance or of any other law, compensation may be made by way of shareholding in such entity, such shareholding being administered by the Commissioner until such time as the lawful owner registers his rights and interest in virtue of subarticle (4) of this article.

(6) If within the thirty year period mentioned in subarticle (3) of this article, the lawful owner successfully claims and proves his title to the immovable, the Registrar shall, unless the property has, in the meantime, been re-transferred to the company, foundation, entity, or department, mentioned in subarticle (4) hereof, or to any other third party acquiring therefrom, in which case the applicant may only lay claim to the shareholding mentioned in subarticle (5) hereof, cause that owner to pay the administrative fee referred to in subarticle (4) of this article, and to file a note, stating his claim and such note shall be accompanied by *prima facie* proof of title, together with an application in terms of article 45 of this Act:

(7) A person, who fails to file a note in the Registry in terms of article 31 of this Act, and as a result forfeits his rights in favour of a third party, shall not have any right or action for compensation under any law, or claim for indemnity under this Act, simply on the grounds that the registrar failed to register any registrable act on behalf of unknown owners in terms of subarticle (1) of this article.

(8) Rights registered on behalf of unknown owners shall, in like manner, pass in favour of the Government by title of *bona vacantia* upon the lapse of thirty years from their declaration, unless a guaranteed title has already been issued in favour of Government in virtue of the preceding subarticles.

(9) All payments and expenses due by or to the Government shall be due by, and paid to, the Commissioner.

**Title II**  
**EFFECTS OF REGISTRATION**

Titles.

**44.** (1) A person in whose favour a title to an immovable is, or rights over an immovable are, registered in the Central Registry shall, unless and until the contrary appears from the Register, be deemed to be the lawful owner of the said title or rights, in the manner, and to the extent, which appear on the face of the note effecting registration with all rights, privileges appurtenances and obligations belonging or appurtenant to the immovable, subject to the following:

(a) encumbrances and other rights, if any, already registered in the Central Registry;

(b) overriding interests as they affect the said immovable;

(c) the causes of preference registered in the Central Registry on the said immovable, and

(d) all other registrations affecting the said immovable, whether registered with the owner's consent or not, and including any annotations or qualifications, as remain uncontested.

(2) Rights over immovables arising from a registrable act and mentioned in the note shall form an integral part of the title to the immovable, and the owner, *pro tempore*, of the immovable, shall enjoy the immovable with the rights and subject to the obligations mentioned in the note.

(3) The registration of title to an immovable, or of rights over an immovable, in the Central Registry in accordance with subarticle (1) of this article shall not, until such title becomes a guaranteed title, affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the registered person, and subsisting or capable of arising at the time of the registration of the relative note.

Request for a  
Guaranteed title.

**45.** (1) Subject to the provisions of this Act, any person who has the right or obligation to register a registrable act which concerns the ownership of immovables or rights thereon, shall also have the right to make, in the note filed for the purposes of registration, a declaration by an officer mentioned in subarticle (1) of article 18, requesting the Registrar to issue in his favour a guaranteed title in terms of article 47.

(2) The declaration shall be such that the relative root of title is established and the officer may also include therein, a declaration

as to burdens, encumbrances, overriding interests, privileges and hypothecs including the ranking thereof such that, when the declaration goes beyond an exposition of the root of title, the registrar shall, on issuing the title as guaranteed title, make an annotation stating that the title is not subject to the overriding interests mentioned in article 56.

(3) The officer mentioned in subarticle (2) of article 18 may also make a declaration in so far as it affects the technical features of the immovable.

(4) The declaration mentioned in Article 18 (1) and (2) shall be accompanied by a statement verified by the officer, that to the best of his or her knowledge and belief, all deeds, wills and other documents and all causes of preference and overriding interests affecting the title which is subject of the application, and all facts material to such title or, as the case may be, facts relating to the technical details thereof, have been disclosed.

(5) The Registrar shall not process any declaration submitted by an officer who has been found guilty of a false declaration.

(6) When the title reflects the contents of the declaration, no indemnity shall be due if the title is rectified in terms of this Act, but any person or officer making a false declaration under this article, shall be guilty of an offence, and shall, moreover, be liable both to the payment of damages that may be due to any interested party, as well as to any other action that the Supervisory Committee, may deem fit.

(7) The declaration mentioned in subarticle (1) hereof may be submitted either with the note or at any time thereafter.

**46.** The preceding article shall not apply when a guaranteed title has already been registered. Declarations as to guaranteed titles.

**47.** When an application has been filed in accordance with article 45 hereof, unless an application for the interruption of prescription or other act having the same effect has been filed and registered in the Central Registry, the Registrar shall, upon the termination of ten years from the day when the registration became effective, issue in favour of the applicant a guaranteed title which warrants his ownership of the immovables or rights thereon, as described in the note. Provisions as to declarations.

**48.** In the case of transfer of immovables or rights thereon, the time periods mentioned in articles 47 and 52 of this Act shall commence Transfers.

to run from the date of registration of the note containing the first application, subject to the provisions of this Act, the Registrar shall issue the guaranteed title upon the termination of the ten years or thirty years, as the case may be, from the day when the registration became effective:

Provided that where the declaration mentioned in article 45 is submitted after ten years have elapsed from the day when the registration became effective, the ten year period mentioned in article 47 of this Act shall only commence to run from the date of filing of such declaration.

Where Government is party to the registrable act.

**49.** (1) Where an immovable or rights thereon are, according to any other law, to be registered with a guaranteed title, or are to be registered in favour of the Government of Malta, or where registration is sought pursuant to a transfer by the Government of Malta, the applicant shall make, in the note filed for the purposes of registration, an application to the Registrar to issue in his favour, a title which guarantees his ownership of the immovables or rights thereon as described in the note.

(2) Where such an application is submitted, the Registrar shall, notwithstanding the provisions of article 47 of this Act, issue a guaranteed title with immediate effect.

Effects of guaranteed title.

**50.** (1) Without prejudice to articles 56 and 76, a guaranteed title shall confer on the person so registered, *erga omnes*, an indefeasible title thereto which guarantees his ownership of the immovables or rights thereon as described in the note and which is not liable to be defeated except as provided in this Act, together with all rights, privileges and appurtenances belonging or appurtenant to the immovable, subject only to the following rights and interests, that is to say:

(a) the qualifications, encumbrances and other interests, if any, already registered in the Registry,

(b) the causes of preference registered in the Registry on the said immovable, and

(c) all other registrations affecting the said immovable registered with the consent of the owner or which are registered without his consent but remain uncontested by him in the manner prescribed by this Act, but free from all other rights and interests whatsoever.

(2) Any qualification to a guaranteed title in terms of article 63 shall not have any effect on the revocability of a guaranteed title. This shall not prejudice the enforcement of any right or interest registered in the Registry which results from the same qualification.

**51.** (1) The following persons only may be registered as proprietors of immovables or rights over immovables, that is to say - Persons entitled to be registered proprietors.

(a) the owner, the trustee, the dominus, the emphyteuta, the bare owner, the usufructuary;

(b) the person in whom the absolute possession of the property of an absentee and the absolute exercise of the rights depending upon his death have been granted by a judgement or order of the court; and

(c) the competent authority holding property in use and possession or on public tenure, or any assignee of such rights, and the person entitled to the acquisition rent or the recognition rent:

Provided that the holder of a legal usufruct may not be registered as proprietor, but may have his interest registered in the Registry.

(2) Tenants and other persons who enjoy personal rights over immovables including the promisees in a promise of sale agreement, as well as persons enjoying the right of use or habitation, shall have the right to register their interest in the Registry provided their rights arise from a registrable act.

**52.** (1) When any person who has the right to make a declaration in accordance with article 45 fails to include such declaration in the note filed to register the registrable act, or notwithstanding such declaration, fails to make or provide the documents which must accompany such application to the satisfaction of the Registrar General, unless an application for the interruption of prescription or other act having the same effect, has been filed and registered in the Central Registry, the Registrar shall, upon the termination of thirty years from the day of registration of the note, issue in favour of the applicant, a guaranteed title which guarantees his ownership of the immovables or rights thereon as described in the note.

(2) Article 48 shall *mutatis mutandis* apply to this article.

Incompatible registrations.

**53.** Where the contents of a note filed in the Registry are incompatible with a registration or registrations already made in the Registry, then subject to the provisions of Title VI of Part 5 of this Act, the Registrar shall proceed with the registration thereof, unless the immovable is registered with a guaranteed title, in which case the applicant may only seek the rectification of the register or indemnity as the case may be.

How immovables are to be registered.

**54. (1)** All immovables referred to in notes filed in the Central Registry shall be described also by reference to a plan, or other geographical representation or reference, as shall be prescribed.

(2) All such immovables shall have a unique title number and in the case of the transfer or hypothecation of part of the immovable mentioned in the title, or the division of such property into smaller units, a separate unique property number shall be given to each smaller unit, provided that the original title number may be retained, in respect of one of the part, or smaller units.

(3) The Registrar shall draw up a certificate of title, as shall be prescribed, for each property number and such certificate shall consist of all notes filed and registered in the Central Registry concerning the respective property number. The certificate of title shall also indicate if the title is guaranteed and any other qualifications which may affect the title.

### **Title III RESTRICTIONS**

Ranking of privileges and hypothecs.

**55.** Subject to the provisions established by law and to any entry to the contrary on the register, registered privileges and hypothecs affecting the same title shall, as between privileges and hypothecs of the same kind, and not enjoying any intrinsic priority, rank according to the order of the progressive number in which they are registered in the database, provided that the Registrar shall ensure that such registration reflects the chronological order of their filing.

**56. (1)** All registered immovables shall, unless under the provisions of this Act the contrary is expressed on the register, be deemed to be subject to such of the following overriding interests as may be for the time being subsisting in reference thereto, that is to say -

- (a) apparent easements;

(b) the rights of the Government to and over minerals, established or protected by law; and

(c) leases;

(d) general hypothecs and the benefit of separation of estates duly registered under the laws in force at the time such rights may have arisen and in such case, these shall be deemed to have existed as from the time of their original registration.

**57.** (1) Notwithstanding anything contained in this Act, for a period of five years from the coming into force of this Act, the heirs of a predeceased spouse may register their rights over property comprised in the community of acquests registered in the name of the other spouse, which rights shall be deemed to have existed from the date of the opening of succession of the predeceased spouse and shall be considered as overriding interests affecting the title, whether such title is guaranteed or not, if and to the extent that, they are re-registered within the same period of five years.

Overriding interests  
of limited  
duration.

(2) Notwithstanding anything contained in this Act, for a period of fifteen years from the coming into force of this Act, special privileges and special hypothecs on an immovable if such special privileges and special hypothecs had been duly registered in the Public Registry before the immovable so encumbered became comprised in a registration area in terms of the Land Registration Act, repealed by this Act, and in such case, these shall be deemed to have existed as from the time of their original registration, shall be overriding interests affecting the title, whether such title is guaranteed or not, if, and to the extent that, they are re-registered in the registry within the said period of fifteen years.

Provided that where any guaranteed title has already been issued in terms of the Land Registration Act, as free from easements, tithes or other burdens, and this fact had been duly noted on the title, such rights, tithes or burdens shall not be enforceable against the title issued as exempt from such rights, tithes or burdens

(3) The rights mentioned in subarticle (1) of this article which are re-registered within the said period of five years, must be accompanied by a declaration drawn up and signed by an Officer of the Registry, and such declaration shall include such documents as the Registrar may prescribe.

(4) Unless and until such time as the heirs of the predeceased spouse apply for registration of their interest in the immovable, the

surviving spouse shall, with regard to third parties, be deemed to be the sole proprietor of the immovable, and third parties who acquire from him shall for all purposes of law be deemed to have acquired the whole share of the immovable, so however that this shall be without prejudice to the rights of the heirs of the predeceased spouse to claim from the surviving spouse or from his heirs their share of the proceeds of the transfer.

(5) With regard to special privileges and special hypothecs encumbering the immovable, on re-registration, they shall retain the ranking they had prior to said re-registration in the Registry, as if the relevant provisions of this Act existed at the time the special privilege or special hypothec were duly registered in the Public Registry or Land Registry. Where, however, they are re-registered after the lapse of the said period of five years, they shall, notwithstanding any other law, rank only from the date of their re-registration in terms of subarticle (5) of article 28.

Annotations.

**58.** (1) The Registrar may, at his discretion, make any annotation to a title to reflect any relevant information he obtains either from a registrable act or from any other source.

(2) Without prejudice to the generality of the foregoing subarticle, the Registrar shall make such an annotation if there is a discrepancy between the note filed in terms of article 25 of this Act and the registrable act which gave rise to the filing of the note.

(3) If any person proves, to the satisfaction of the Registrar, that any such annotation is incorrect and should be modified or deleted, he may do so in the prescribed manner, and if the Registrar does not effect the changes required of him within the prescribed time, the procedure set out in Part 6 of this Act shall be followed.

Qualifications.  
Cap. 16.

**59.** (1) Where the Registrar is of the opinion that, in terms of the Civil Code, or of any other law, the title may only be established for a limited period of time, or is subject to a condition, reservation or restriction, he shall qualify such a title accordingly.

(2) If any person proves to the satisfaction of the Registrar that the latter has incorrectly qualified a title in terms of this article, he may, in the prescribed manner, demand that such qualification be removed.

(3) If the Registrar does not effect the corrections within the prescribed time, the procedure set out in Part 6 of this Act shall be followed.

**60.** (1) Any person who has entered into a promise of sale with the registered proprietor may apply to the Registrar to grant him a priority notice. Promise of sale.

(2) Any person who has entered into a promise of sale with the registered proprietor, which is not a registrable act in terms of article 40(a) of this Act, may deposit a copy of the promise of sale with the Registrar, and in the eventuality that a registration of another promise of sale or transfer on the same property is carried out, the Registrar shall be obliged to inform him accordingly.

(3) The parties to a promise of sale may expressly agree that the promise of sale be registered in terms of article 40(a) of this Act, and any promise of sale or other agreement which is subsequently registered with the Registrar shall be considered as null if not on consent being granted by the parties.

#### **Title IV OF PRESCRIPTION**

**61.** (1) Without prejudice to Article 56(a), any person claiming to be in the course of acquiring by prescription, or of having acquired by prescription in terms of the Civil Code, a title to the immovable, or any easement or real right therein, where such immovable is not registered, may apply to be registered as proprietor thereof by filing a registrable act together with a sworn declaration. Prescription and unregistered rights.

(2) The application referred to in subarticle (1) of this article shall have the same effect as an act interrupting prescription and, or claiming possession of the immovable.

(3) The provisions of this article shall also apply, *mutatis mutandis*, where the immovable or easement or real right therein, is acquired by the Government through forfeiture or as *bona vacantia*.

**62.** (1) Without prejudice to subarticle (3) of this article, any person claiming to have acquired by prescription, the title to an immovable or easement or real right registered with a guaranteed title, in the name of another person, in virtue of the provisions of article 2107 of the Civil Code, must apply to be registered as proprietor thereof by filing a registrable act in the prescribed manner.

(2) Notwithstanding any other law, a person claiming to have acquired by prescription, a title to an immovable, or easement or real right therein, registered with a guaranteed title in the name of another person, shall not be entitled to file the registrable act in the Registry,

unless the whole prescriptive period on which he rests his claim, inclusive of, should this be the case, the period or periods relative to his predecessors in title, is coterminous with the period during which the title has been registered in the Registry with a guaranteed title in the name of the present title-holder and, should this be the case, in the name of the latter's predecessors in title.

(3) Any interested party may file a registrable act intended to interrupt prescription, even if this is incompatible with a guaranteed title or other real right that is guaranteed, so long as the right giving rise to this action develops after the issue of the guaranteed title.

(4) The provisions of subarticles (1) to (3), both inclusive, of article 63, shall *mutatis mutandis* apply.

(5) The registrable act filed in virtue of subarticle (1) of this article can never be set up as proof of bad faith on the part of the applicant, unless where the declaration mentioned in subarticle (1) of article 63 is found to be false or negligently drawn up.

## **Title V PUBLIC LAND**

Streets.

Cap. 10.

**63.** Notwithstanding the provisions of this Act, and without prejudice to the rights and obligations emanating from article 20 of the Code of Police Laws, all streets and alleys, including those linking two existing roads, but not those leading to an internal development, already in existence at the time of the coming into force of this Act, or streets which, after the coming into force of this Act, are occupied by Government, or a body corporate or central agency acting on its behalf, be they levelled, asphalted or not, shall, for all intents and purposes be deemed to be public roads, and shall be deemed to belong to the Government:

Provided that any interested person may file for registration of his title to the street, on submitting proof of ownership as provided for in subarticle (2) of article 65.

Foreshore.

**64.** All the foreshore, up to fifteen metres from the existing shoreline, shall be deemed to be owned by Government of Malta, provided that any person may file for registration of his title, on submitting proof of ownership as provided for in subarticle (2) of article 65.

**65.** (1) Without prejudice to any guaranteed title issued in terms of the Land Registration Act, the ownership of the Government of Malta to the immovables mentioned in articles 63 and 64 hereof, is deemed to be a registrable act, and within a period not exceeding three years from the coming into force of this Act, the Commissioner of Land shall file the relative notes in the Central Registry, without need of proof of title, together with the application referred to in subarticle (1) of article 49 of this Act.

Government to register within three years.

(2) Within the same period of three years, any person, claiming to have a valid title which is in conflict with the Government's application, submitted in terms of articles 63 and 64 hereof, shall file an application, accompanied by a declaration signed by an Officer of the Registry, and the registrar shall, unless he is convinced of the claim, refer the matter to the Tribunal.

**66.** The Registrar shall not entertain any application submitted in terms of this Title, where the application is in conflict with a guaranteed title issued in terms of the Land Registration Act prior to the coming into force of this Act.

Conflict with guaranteed title. Cap. 296.

**67.** (1) Any person who enjoys encroachment rights on any property belonging to Government, whether such property is registered or not, may apply to the Commissioner of Land, and in such case, the Commissioner of Land shall file a note in the Central Registry asking the Registrar to annotate on the relative title, even when such title is a guaranteed title issued in the name of the Government, describing this encroachment and all the terms and conditions related thereto, and the Registrar shall make an annotation on the title.

Encroachment rights.

(2) Registration of an encroachment right shall not give to the user, any proprietary rights.

## Title VI CONFLICT RESOLUTION

**68.** (1) Subject to the provisions of this Act, the fact of an existing registration shall not preclude the registration of a new application on the same immovable having conflicting or different disposition.

Mediation and referral to Tribunal.

(2) In case of any conflict or difference between two or more registrations, or in case the Registrar refuses an application for a guaranteed title, the Registrar shall, within thirty days of the registration

of any conflicting or different registration or application, call a mediation meeting of all the parties concerned.

(3) If such mediation meeting fails to resolve the conflict or difference, the Registrar shall, within fifteen days, refer the matter to the Tribunal set up under this Act. The reference shall be made by the Registrar who shall, in the reference, identify the conflict or difference in question.

The decision of the Registrar to refer the matter to the Tribunal, shall not be subject to appeal or review by any Court.

Central Registry  
Tribunal Functions.

**69.** (1) There shall be a Central Registry Tribunal or Tribunals, each of which shall be composed of one lawyer from a list of Advocates published for this purpose in the Gazette, provided that no person may be so appointed unless he has practised his profession for at least seven years.

(2) The Minister shall also appoint a person to act as Secretary to the Tribunal or Tribunals.

(3) The Legal Officer shall be assisted:

(a) as to matters of fact as result from the register, by any of the persons mentioned in article 15 of this Act;

(b) as to interpretations of plans, by an Officer of the Registry holding an architects' warrant; and

(c) as to interpretations of deeds and roots of title, an Officer of the Registry holding a warrant of Notary Public.

(4) Members of the Tribunal shall be liable to be challenged in the manner as provided in section 734 of the Code of Organization and Civil Procedure. If any member so abstains, he shall be substituted by another officer or expert as the case may be.

Functions.

**70.** (1) The functions of the Tribunal is to gather all the documents relevant to the dispute and any evidence submitted by the parties either *viva voce* or through the procedure of affidavit. For this purpose the Tribunal shall have the competence to ex officio call for the submission from the parties of any document or evidence it may deem expedient for a full disclosure of the issue before it as well as to administer an oath or take a sworn declaration for the purposes of this Act.

(2) With regard to any order issued by a Court or competent authority, the Tribunal shall have no competence to deal with the merits of the order itself, but only with its application or registration.

**71.** (1) The Tribunal, at its first sitting, shall set out an agenda for the collection of all relevant documents and evidence, setting time limits for the filing of all proof, and setting down a time table for the hearing of any *viva voce* evidence it may deem necessary to hear. These time limits and time tables may only be changed by the Tribunal on a good cause being shown.

Procedure before  
Tribunal.

(2) Witnesses can be summoned before the Tribunal by means of a sub-poena. This sub-poena shall be prepared on the required form by the party requiring the witness, counter-signed by the registrar and filed in the registry of the First Hall of the Civil Court by the same registrar. Such sub-poena shall be governed *mutatis mutandis* by the rules regulating the warrant as found in the Code of Organization and Civil Procedure.

(3) Subject to it following the rules of Natural Justice, the Tribunal shall lay down its own procedure, and may even refuse to hear *viva voce* evidence if it deems it expedient or to avoid unnecessary delay. The Tribunal shall keep a record of all its proceedings and all oral evidence is to be taken down in writing. The Tribunal shall be vested with all the powers which are by law vested in the First Hall of the Civil Court.

(4) At the closure of the hearing, or at such later date as the Tribunal may determine, the Tribunal shall deliver an opinion. In its opinion the Tribunal shall identify in precise form the nature of the dispute or disputes between the parties and proceed to give its opinion for the solution of each dispute.

**72.** (1) Any party to the hearing, or any other interested third party, may, if he disagrees with the opinion of the Tribunal, within twenty days from delivery of the opinion, refer the matter to be determined by the First Hall of the Civil Court by means of an application. If the matter is not so referred, the opinion of the Tribunal shall be an executive title and shall be binding and conclusive on the parties and the registrar shall proceed to amend or alter the registrations accordingly.

First Hall of  
the Civil Court.

(2) If the matter is referred to the First Hall of the Civil Court, the registrar shall always be made a party to the proceedings and, once served with the summons, shall proceed to file in the registry of that Court all the records of the proceedings held before the Tribunal.

This record shall, for all intents and purposes of the law, form part of the proceedings before the First Hall of the Civil Court.

(3) The First Hall of the Civil Court shall have competence to decide not only on all matters discussed and determined by the Tribunal, but all matters ancillary and related thereto as may be brought before it.

(4) If during the hearing, the Court finds that the referral to it is vexatious, it may order the offending party to pay to the other parties a penalty not exceeding two thousand three hundred Euro. The same penalty may be imposed by the Court on the other party where the action that has given rise to the application is vexatious.

(5) The Court shall not allow the production of any document or any evidence which was not produced before the Tribunal, unless the Court is satisfied that the document or evidence required arose after the delivery of the opinion of the Tribunal, or that the party seeking its presentation was not aware and could not reasonably have been aware of such document or evidence. If the Tribunal had refused to hear the *viva voce* evidence, the said Court may hear such evidence itself, if it deems it expedient so to do for the resolution of the case before it.

(6) No appeal shall lie from the decision of the First Hall of the Civil Court.

## **PART 6 RECTIFICATION OF THE REGISTER**

Rectification of register in respect of acts of civil status.

**73.** (1) The register, in so far as it affects acts of civil status, may only be amended, corrected or rectified as provided for in Book First, Of Persons, of the Civil Code, so however that where a person requests the registration of the name or names which he shall have used or shall have been used for him by his family, and in the opinion of the Registrar, such name or names are those by which the person has been consistently called, in substitution of the name or names appearing on the relative act of birth as the name or names given to the deed and the name or names by which the child is to be called, the Registrar shall issue a notice in the Gazette and if there is no objection within fifteen days from the publication of such notice, he shall proceed to rectify the register.

(2) Where rectification of the register is done pursuant to a claim submitted in virtue of subarticle (2) of article 253 of the Civil Code or where the Registrar was not privy to the fact that gave rise to

the rectification, or where the provisions of subarticle (3) of article 77 of this Act apply, no indemnity shall be due.

**74.** (1) Without prejudice to subarticle (3) of article 44, in respect of proprietary rights, any title which is not guaranteed may only be rectified, as prescribed in this Act, within the period of ten years established in article 47 of this Act, so long as the declaration mentioned in subarticle (1) of article 45 has been submitted.

Rectification of titles which are not guaranteed.

(2) Such rectification shall include those instances when, in terms of Part 5 of this Act:

(a) there is an order to this effect by the Registrar, following successful mediation between the parties;

(b) following a definitive opinion of the Tribunal, there is no appeal; or

(c) the First Hall of the Civil Court delivers a definitive judgement following an appeal from the Tribunal's decision.

(3) Where the declaration mentioned in article 45 is not submitted during the ten year period mentioned in article 47, the title, which is not yet guaranteed, may be rectified on good cause being shown.

**75.** (1) A guaranteed title may only be rectified where it is proved to the Tribunal or, on appeal, to the First Hall of the Civil Court, that the title-holder or his predecessors in title were privy to the fraud, or to the negligence, which led to the issue of the guaranteed title:

Rectification of guaranteed titles.

Provided that a guaranteed title shall not be rectified if the present title-holder acquired the immovable or other real rights by an onerous title, and did not know, or had no reason to believe, that his predecessor or predecessors in title, were privy to the fraud, or negligence in obtaining the guaranteed title.

(2) A guaranteed title shall not be rectified after the lapse of five years from its issue.

**76.** The Registrar may, at any time, with the consent of all parties involved, rectify the register, whether the title is a guaranteed title or not, unless in the opinion of the Registrar, and subject to an appeal to the Court of Appeal in the prescribed manner, rectification will be of prejudice to third parties in good faith.

Rectification by consent.

Rectification  
and indemnity.

**77.** (1) When the rectification follows mediation or agreement between the parties, the parties directly involved will not be entitled to the payment of an indemnity.

(2) Subject as herein provided, a proprietor of any registered immovable or right therein, claiming in good faith under a forged disposition shall, where the register is rectified, be deemed to have suffered loss by reason of such rectification and shall be entitled to be indemnified under this Act.

(3) Where the rectification is ordered by the Court but the Registrar, before rectification, reflects the contents of the acknowledgment mentioned in subarticle (4) of article 25 of this Act, this fact shall be taken into account, and moreover, if the person seeking rectification is the same person who received the said acknowledgement, no damages shall be due.

(4) A court shall not make an order for the rectification of the register unless the registrar is a party to the proceedings in respect of which the order is made.

(5) The Registrar shall always give due notice, as may be prescribed, whenever a title is rectified.

## **PART 7 CERTIFICATES, REPORTS AND SEARCHES**

Acknowledgement  
and free copy.

**78.** The applicant who files any note or act shall, in addition to the acknowledgement mentioned in subarticle (4) of article 25, be entitled to a, once only, free copy of a certificate or title indicating the state of the register, to be issued as may be prescribed.

Information.

**79.** (1) Any interested party may, subject to what is stated in subarticle (2) of article 12 and subarticle (2) of article 13 of this Act and subarticle (4) hereof, seek copies, extracts and information from the register provided that such request is submitted in the prescribed form.

(2) The Registrar shall ensure that, subject to any act dealing with data-protection, enough reports are generated so as to ensure that the workings of the Registry are transparent and that the register reflects the applications duly filed at the Registry, from time to time.

(3) Third parties may, subject to the restrictions mentioned herein, seek information, request copies or extracts from the databases or archives, in the prescribed form, and the registrar shall, in such case,

generate a search result, as may be necessary, to ensure that the information requested is made available.

(4) The Minister may, by regulations prescribe that certain information is privileged, provided that –

- (a) matters relating to adoptions, legitimation and fostering,
- (b) the existence of a will during one's lifetime, and
- (c) any matter which, in virtue of any law relating to data protection law, qualifies as sensitive personal data, shall be deemed to be privileged and confidential information.

**80.** (1) Copies, extracts, certificates, reports and search results, even if computer-generated, issued under seal, either of the Registrar or of an Officer of the Registry, shall be admissible in evidence in all actions and matters, and between all persons and parties, to the same extent as the originals would be admissible, but any person suffering loss by reason of the inaccuracy of any such copy or extract shall be entitled to be indemnified under this Act, and no person shall be answerable in respect of any loss occasioned by relying on any such copy or extract. Validity of copies, extracts, etc.

(2) Notwithstanding the provisions of the preceding subarticle, the Registrar shall not be liable for the contents of the copies, extracts, the registrable act or note, except, as provided in this Act, in so far as a guaranteed title has been issued.

**81.** (1) If, in the course of any proceedings, before the Tribunal or a Court, in pursuance of this Act, any person, with intent to conceal the title or claim of any person, to substantiate a false claim, or to distort the information or achieve any material gain, suppresses, attempts to suppress, or is privy to the suppression of any document or fact, the person so suppressing, attempting to suppress, or privy to suppression shall be guilty of an offence under this Act. Fraudulent entries.

(2) If any person fraudulently procures or attempts to procure or is privy to the fraudulent procurement of any entry on, erasure from or alteration of the Register, database or archive, or any other document held at the Registry, issued by, or administered by the Registrar shall be guilty of an offence under this Act.

(3) Any entry, erasure or alteration so made by fraud shall be void, as between all persons who are parties or privy to the fraud but any other person, suffering loss by reason of any inaccuracy of a

certificate, copy, extract or search, even when such inaccuracy is the result of fraudulent action, shall be entitled to indemnification.

**82.** (1) An Officer of the Registry shall be entitled to consult the register, subject to the payment of the prescribed fee, and subject to such directions as the Minister or the Registrar may, from to time, prescribe, and where such Officer makes a declaration, as prescribed in this Act, based on the contents of the register, he shall not be liable to damages if the declaration is mistaken solely due to the content of the register.

(2) Privileged and confidential information shall, subject to the overriding provisions of the Data Protection Act, be accessible to:

(a) an Officer of the Registry or advocate, if such information is required for compliance with a legal obligation or necessary for the publication of a public deed; and

(b) a person carrying out historical, educational and cultural research, provided that if the person on whom information is being sought is alive, his written consent shall be sought.

(3) Any person may request an official search to establish the state of the register, and this search may be submitted both in respect of personal registrable rights as well as proprietary registrable rights.

## **PART 8 INSURANCE AND INDEMNITY**

Right to indemnity  
in certain cases.

**83.** (1) Where an error or omission has occurred in the register, but the register is not rectified, any person suffering loss by reason of such error or omission, shall, subject to the provisions of this Act, be entitled to be indemnified under this Act.

(2) Where any person suffers loss by reason of the loss or destruction of any document lodged at the registry or by reason of an error in any official search, he shall be entitled to be indemnified under this Act.

(3) In addition to any other provision of this Act, no indemnity shall be payable under this Act in any of the following cases:

(a) where the applicant has himself caused or substantially contributed to the loss by his fraud or violence;

(b) on account of costs incurred in taking or defending any legal proceedings without the knowledge of the Registrar; and

(c) if the certificate reflects the contents of the declaration mentioned in article 45, without prejudice to any action that the interested party may take against the Officer making the declaration.

(4) Where indemnity is paid for a loss, the Registrar, on behalf of the Government, shall be entitled to recover the amount paid from any person who has caused or substantially contributed to the loss by his fraud, violence, gross negligence or default, and shall be entitled to enforce any express or implied covenant, warranty or other rights which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which indemnity has been paid, and for this purpose, may require the Court of Appeal, to subpoena the person from whom the Registrar intends to recover the amount paid by way of indemnity, and in such case, notwithstanding any other law, the Court of Appeal shall subpoena the said person. Such subpoena shall be governed by the rules regulating the warrant as found in the Code of Organization and Civil Procedure.

(5) Any claim to indemnity under this Act shall be enforceable only if made within five years from the date on which the right to indemnity arises, and such period shall run against all persons:

Provided that where the person entitled to indemnity is a minor, the claim by him may be made within two years from the time he attains majority or within five years from the date on which the right to indemnity arises, whichever may be the later date.

(6) This article applies to the Government in like manner as it applies to a private person.

**84.** (1) There shall be an insurance fund to meet claims for indemnity payable under this Act.

(2) There shall be set aside and paid into the said fund at the end of each financial year such portion of the receipts from the fees, fines and penalties taken in the registry under this Act, as the Minister responsible for finance may, by order, determine. Insurance fund.

(3) The insurance fund shall be invested in such names and manner as the said Minister may from time to time direct.

(4) If the insurance fund is at any time insufficient to pay indemnity for any loss chargeable thereon, the deficiency shall, by virtue

of this Act and without further assurance, be charged on and paid out of the Consolidated Fund; but any sum so paid out of the Consolidated Fund shall be repaid out of the money subsequently standing to the credit of the insurance fund.

(5) Accounts of the fund shall be kept and be audited as public accounts, in accordance with such regulations as the Minister responsible for finance may from time to time make.

## **PART 9 MISCELLANEOUS PROVISIONS**

Power to make rules.

**85.** (1) Subject to the provisions of this Act, the Minister may make general rules for the purpose of regulating the manner, procedure or conditions in which or under which the provisions of this Act are to be carried out, for the purpose of regulating such matters as are by this Act required or authorized to be prescribed or in respect of which provision is to be made by rules, and generally for the purpose of regulating any matter connected with the establishment and management of the Registry.

(2) Without prejudice to the generality of the provisions of subarticle (1) of this article, rules made under this article may also be made for all or any one or more of the following purposes:

(a) for regulating the mode in which the register is to be made and kept;

(b) for prescribing the forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be produced in all proceedings in connection with any matter dealt with in this Act;

(c) for regulating the procedure on applications, the documents to be produced and the acknowledgements to be produced;

(d) for empowering the Registrar to order or conduct the survey of any immovable in connection with its registration under this Act;

(e) for regulating the custody and preservation of any documents from time to time coming into the hands of the registrar, with power to direct the destruction of any such documents where

they have become altogether superseded by entries in the register, or have ceased to have any effect;

(f) for carrying out the provisions of this Act with respect to compulsory, declaratory or voluntary registration;

(g) for the conduct of official searches, annotations, qualifications, priority notices, and such matters of a like nature as may be prescribed;

(h) for prescribing the way any notices required by this Act, are to be given;

(i) for regulating the issue and forms of certificates, and, if deemed desirable, for prescribing any special notification on the certificate to be given by way of warning when encumbrances, notices, and other adverse entries appear on the register;

(j) for prescribing the effect of priority notices;

(k) for providing for any matter ancillary to or consequential to the computerisation of the Registry.

**86.** (1) The Minister may, with the concurrence of the Minister responsible for finance, make orders with respect to the amount of fees payable for anything done or service rendered under this Act.

(2) The fee orders relating and incidental to this Act shall be changed from time to time so as to produce, as far as practicable, an amount sufficient to discharge the salaries and other expenses, including the annual contributions to the insurance fund, incidental to the working of this Act.

**87.** (1) A person guilty of an offence under this Act shall, on conviction, be liable to imprisonment for a term not exceeding four years or to a fine (*multa*) not exceeding eleven thousand Euro, or to both such imprisonment and fine.

(2) All fines and penalties due in virtue of this Act shall be due to the Registrar as a civil debt, constituting an executive title for the purposes of Title VII of the Code of Organization and Civil Procedure, as if payment of the amount of the fine had been ordered by a judgement of a court of civil jurisdiction.

Repeal Cap. 56  
and Cap. 296 and  
transitory  
provisions.

**88.** (1) The Minister may from time to time by Order establish that as from such date as may be determined in the Order, acts of civil status, and notes of enrolment and of registration of hypothecs and privileges heretofore entered in the Public Registry shall no longer be registered in the Public Registry but shall be registered in accordance with the provisions of this Act in the Central Registry.

(2) The Minister may from time to time by similar Order establish that from such time as may be established in the Order acts heretofore registrable in the Land Registry shall be registered in accordance with the provisions of this Act in the Central Registry.

(3) Orders made under sub-articles (1) and (2) may be made in relation to particular areas, or in relation to particular acts, notes, or registrations, or in relation to particular contracts, or in relation to a particular class or classes of contracts.

(4) The provisions of this Act shall not apply to the registration of any act unless an Order under the previous provisions of this Article has been made in relation thereto.

(5) Where by Orders made under the provisions of the foregoing sub-articles of this article the Minister has made the provision of this Act applicable to all the acts registrable under the Public Registry Act or under the Land Registration Act, as the case maybe, he may by Order bring into force the provisions of sub-articles (6) and (7) of this article, which articles shall not come into force until the issue of such an Order as aforesaid.

(6) The Public Registry Act is hereby repealed.

(7) The Land Registry Act is hereby repealed.

(8) Upon the coming into force of sub-article (6) or (7), as the case may be, of this article or upon the making of an Order with respect to any area, act, note, registration, contract or class of persons under sub-articles (1) or (2) hereof, any act which has been registered under the provisions of the Public Registry Act or the Land Registry Act, as the case may be, or which prior to such coming into force of the said sub-articles in Order should have been registered in the Public Registry or the Land Registry, where duly registered, shall be deemed to have been duly registered under this Act, and where no such registration has been made, may be registered in the Central Registry under the provisions of this Act, and the provisions of this Act shall in all cases apply thereat.

(9) Any action commenced against or by the Director of the Public Registry or the Land Registrar before the enactment of this Act under the laws referred to in sub-articles (6) or (7) or under any other law shall be continued against or by the Registrar General under the same procedures and before the same adjudicatory authorities applicable thereto before the enactment of this Act.

**89.** The Civil Code shall be amended as follows:–

Amendments to the  
Civil Code, Cap. 16.

(1) Article 253 thereof shall be amended as follows –

(a) in subarticle (1) thereof, for the words “It shall be lawful for”, there shall be substituted the words “Subject to what is stated in subarticle (2), it shall be lawful”;

(b) subarticle (2) thereof shall be substituted by the following –

“(2) Any person may apply in terms of article 74 of the Central Registry Act, for the registration of the name or names, which name or names the person shall have used or shall have been used for him by his family, and in respect of which it shall be proved, to the satisfaction of the officer examining the claim, that such was the name or names by which the person has been consistently called, in substitution of the name or names appearing on the relative act of birth as the name or names given to the child and the name or names by which the child is to be called:

Provided that prior to such substitution, a notice is issued in the Gazette, and if an objection is lodged or where the applicant is unsuccessful, the applicant shall be entitled to make an action, by way of appeal, as provided in subarticle (4) hereof.”;

(c) in subarticle (3) thereof, for the words “The action mentioned”, there shall be substituted the words “The application mentioned”;

(d) in subarticle (5) thereof, the words “or in subsection (4)” shall be deleted.

(2) In article 261, the words “of the Assistant Directors or” and the words “or an Assistant Director” shall be deleted.

(3) Article 306 shall be amended as follows –

(a) in subarticle (1), for the words “Any officer who holds a degree” to the words “who performs duties in the Public Registry” shall be substituted by the words “Any officer delegated in virtue of subarticle (5) of article 14 of the Central Registry Act”;

(b) in subarticle (2), the words “, without prejudice to the provisions of subsection (4) of this section” shall be deleted; and

(c) subarticles (4) and (5) shall be deleted.

(4) Article 1860 shall be substituted by the following:

“1860. If a mandate is granted by a private writing, the particulars of the mandator and the mandatory have to be such as to permit that the parties are identifiable. A copy of such private writing shall be deposited with the department, institution or organisation to which they refer, and such private writing shall be deemed to be extant until the department, institution or organisation is duly notified by the mandatory, the mandator or any other interested party.”.

(5) In subarticle (2) of article 1863, for the words, “must be expressed.”, there shall be substituted the words “must be expressed in writing, and enrolled with a public deed, and such fact shall be registered at the Central Registry in terms of article 37 of the Central Registry Act.”.

(6) Immediately after subarticle (3) of article 1887, there shall be added the following new subarticles:

“(3) The revocation mentioned in subarticles (2) and (3) of this article shall only apply as between the mandator and the mandatory, unless such revocation is duly registered in terms of paragraph (e) of subarticle (1) of article 37 of the Central Registry Act.

(4) Notwithstanding the provisions of any law, all mandates shall only be valid for a period of five years from the date when the mandate is given, provided that such mandates, which are in force at the time of the coming into force of subarticle (3) hereof, shall, on pain of nullity, be registered in accordance with the same subarticle, by not later than the 31<sup>st</sup> December, 2005.”.

(7) In subarticle (2) of article 2012 for the words “established by contract.”, there shall be substituted the words ”established by contract, provided that where the seller warrants the peaceful possession

of the thing sold, the hypothec is deemed to be of a legal nature and the provisions of paragraph (g) of subarticle (1) of article 37 shall apply.”.

(8) Immediately after subarticle (3) of article 2016, there shall be added the following new subarticle:

“(4) The further security mentioned in subarticle (1) of this article shall rank as from the date of the general hypothec, even though the special hypothec registered as further security would, except for the provisions of this subarticle, rank with or after any other hypothec duly registered in terms of this Code or of the Central Registry Act.”.

(9) The provisions of paragraphs (a) and (b) of Article 2042 shall be substituted by the following paragraphs:–

“(a) the particulars of the creditor, as prescribed, both in sub-paragraph (i) of paragraph (c) of subarticle (1) and in sub-paragraph (iii) of paragraph (d) of article (iii), of article 28 of the Notarial Profession and Notarial Archives Act;

(b) the particulars of the debtor, as provided in paragraph (a) hereof;”.

(10) In paragraph (a) of article 2065 for the words “and the year of the registration;”, there shall be substituted the words “assigned in terms of subarticle (2) of article 54 of the Central Registry Act;”.

(11) Article 2129 shall be amended as follows:

(a) the present article shall be renumbered as subarticle (1) thereof; and (b) immediately after subarticle (1) as renumbered there shall be added the following new subarticles:–

“(2) Where, however, the interruption refers to an immovable property, the interruption shall not be deemed to have commenced with regard to third parties, unless and until a copy of the demand, protest, other judicial act or other procedure imposed by the Civil Code or any other law, is duly enrolled with a public deed and an application to register such deed is submitted to the Central Registry in terms of article 25 of the Central Registry Act.

(3) Any person claiming a right registrable in terms of subarticle (2) of this article shall register his claim in the manner provided for in subarticle (2), by not later than the 31st December, 2005.”.

(12) In subarticle (1) of article 2140 the words “or holds a guaranteed title in terms of article 45 of the Central Registry Act,” shall be added after the words “for a period of ten years”.

Amendments of the  
Notarial Profession  
and Notarial  
Archives Act, Cap.  
55.

**90.** The Notarial Profession and Notarial Archives Act shall be amended as follows:-

(1) Article 28 thereof shall be amended as follows:-

(a) sub-paragraphs (i), (ii) and (iii) of paragraph (c) of subarticle (1) thereof, there shall be substituted the following:

“(i) the name and surname, the name and surname of father and the name and maiden surname of mother, the place of birth and place of residence, the profession or calling and the marital status of each of the parties, and the name and surname, and the identity card number, in numbers only of each of the witnesses and attestors, so however that the full surname, whenever required, shall be written out in block letters, provided that where any material particular is unknown or cannot be made known with the exercise of reasonable diligence, the notary shall make a statement of such fact, without prejudice to the provisions of paragraph (d) hereof, and where the parties to an act or any of them shall not appear personally, but shall be represented by an agent, the same shall apply with regard to the agents; and

(ii) whenever a notary draws up a deed giving rise to the execution of an act of extraordinary administration as defined in article 1322 of the Civil Code, the notary shall indicate in the deed that he has asked the party or parties to make a declaration stating which civil law institute applies to their marriage; provided that if the parties have been residing in Malta for at least three months, it shall be presumed that the community of acquests applies, and in such a declaration, where the property being transferred is a place of residence, the notary shall include, in such a declaration, a statement indicating whether the residence is the matrimonial home or not.”;

(b) in subparagraph (ii) of paragraph (f) of subarticle (1) thereof, for the words “as well as a detailed plan” to the words

“ establish its identity:” and the proviso thereto, there shall be substituted the words “so however that if the immoveable, whether urban or rural, has already been

registered at the Central Registry, the registration number mentioned in subarticle (2) of article 54 of the Central Registry Act, which may be written out in numbers, shall suffice, but where the immovable is not already registered, or where the act *inter vivos* does not relate to the immovable as registered or to only a part thereof, an indication of the site juxtaposition and a large scale plan, as prescribed in terms of the Central Registry Act, shall be annexed to the deed. ”.

(2) Article 50 shall be substituted by the following new article:

“50. Every notary receiving an act which is registrable under the Central Registry Act shall file the relative note in terms of articles 25 and 28 of the said Act, provided that no two notes may be typed or printed on the same page.”.

(3) Article 110 thereof shall be amended as follows:–

(a) in subarticle (1), for the words “and the Public Registry shall be exercised by a special court called the “Court of Revision of Notarial Acts”,” there shall be substituted the words, “and the Central Registry, shall be exercised by a Committee, to be known as Supervisory Committee, and such Committee shall, in addition to the functions assigned to it in terms of the Central Registry Act, also function as a special court, to be called the “Court of Revision of Notarial Acts”;

(b) for subarticle (2) thereof, there shall be substituted the following:–

“(2) The Committee shall consist of such members, called Visitors, as the Minister responsible for notarial affairs may appoint for such period as may be specified in their appointment. The Visitors, one of whom shall be appointed Chairman, shall be appointed from among such public officers or other persons as the Minister may deem fit:

Provided that a notary public shall not be appointed a Visitor unless he has resigned his office as provided in paragraph (d) of article 14 of this Act.”; and (c) in subarticle (3) thereof, for the words “one of whom at least shall be a retired judge or a retired magistrate” there shall be substituted the words “one of whom shall be the Chairman”.

**91.** The Code of Police Laws shall be amended as follows –

(1) Article 20 thereof shall be renumbered as article 20B.

(2) Immediately following the words “PART II, OF STREETS’ there shall be added the following new article:-

“20A. (1) All the streets and alleys, including those linking two existing roads but not those leading to an internal development, shall for all intents and purposes be deemed to be public roads.

(2) For the purposes of article 20B hereof, streets are described as non-government owned only in so far as the mutual rights and duties, as between those who, were it not for the provisions of article 20A of this Code would be considered as owners thereof, and the Government are concerned.”.

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### **Objects and Reasons**

The Central Registry Bill aims at consolidating into one law the separate pieces of legislation relating to the Public Registry and Land Registration operations, thereby eliminating the dichotomy between the two. In line with Government’s strategic objective of improved service delivery, the Bill establishes a one-stop central registration system for all matters concerning both property and civil status. The Bill also gives a legal basis to the functions carried out by the Civil Registration Department, in so far as the registration of acts and the common database administered by the Department are concerned.