



LANDS & SURVEY DEPARTMENT
CAYMAN ISLANDS GOVERNMENT



Land Registry Procedure Manual

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Version 1.0



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Land Registry Procedure Manual

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Production

*Cayman Islands Lands & Survey
Department*

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Preface

This procedural manual describes current practice in the Land Registry. The form of many types of entry in the land register remains broadly similar to those described in the Manual of Registry Procedure put forward for the Cayman Islands Land Registry in 1981 by J.C.D. Lawrance OBE, but many aspects of Land Registry practice have moved forward since then, not least upon the computerisation of Land Registry facilities and the creation of dematerialised land registers along with the electronic tracking systems for instruments and surveys which have been submitted for registration. The registry has also responded to increasingly sophisticated dealings by applicants, improved survey methods and rapidly developing strata practice. For these reasons, the opportunity has been taken to restate contemporary Land Registry practice.

The manual is confined to procedural matters only. It covers not only those procedures with which all Registry staff are concerned but also addresses some procedures carried out by the Registrar. All procedures other than those laid down by law may be varied at any time by the Registrar, but strict adherence to a current code of procedure by all Registry staff is essential to the efficient, predictable and secure operation of the Registry. Many of the procedures contained in this manual are designed specifically to reduce the risk of mistake or fraud.

The manual is arranged in parts. After a short glossary of terms in Part I, Part II introduces the work of the Lands & Survey Department and describes the Land Registry and its functions. Part III explains the procedures for maintaining and updating the land register by giving effect to instruments. Part IV gives directions for the form of entries in land registers. The later chapters within Part IV deal with procedures for the maintenance of certain other records which by law must be maintained in the Land Registry. Part V describes the compliance checks to be carried out by the Land Registry when applications are submitted.

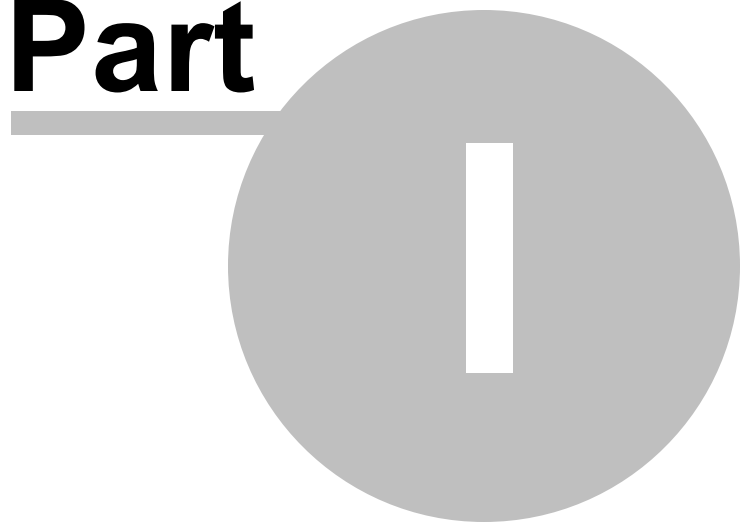
Dr S. A. A. Cooper
Registry Adviser
January 2010

This manual constitutes my directions for registry procedures. Part IV, issued under the authority of s.11(2) of the Registered Land Law (2004 Revision), gives my directions for the form of entries in land registers.

A. Kirchman
Registrar of Lands
January 2010

Land Registry Procedure Manual

Part



Glossary of Terms

1 Glossary of Terms

The following glossary is only a handy summary and should not be relied as comprising the full legal definition.

Appurtenance: a right which benefits and is appurtenant to (that is, attached to) land or a lease, even though the ownership of the land or lease may change.

Charge: an interest in land held as security for a loan or other obligation.

Consolidation: the right of a chargee, who holds more than one charge granted by the same chargor on other properties, to insist that the chargor shall not be allowed to redeem one charge without redeeming the other(s).

Dominant tenement: land to which is attached the benefit of a right, such as an easement, in another person's land.

Easement: a right enjoyed by the owner of land (the dominant tenement) over the land of another person (the servient tenement), such as a right of way over the other person's land. An easement, so long as it subsists, is appurtenant to (that is, attached to) the land comprising the dominant tenement and is an incumbrance on the land comprising the servient tenement even though ownership of the tenements may change.

Incumbrance: a claim, lien, or liability attached to land (thereby encumbering title to that land).

In gross: (used in relation to profits) a profit which burdens a servient tenement but is not attached to any dominant tenement.

Joint proprietorship: form of landholding where a parcel, strata lot, lease or charge is simultaneously vested in two or more proprietors and which passes on the death of one joint proprietor to the surviving joint proprietor(s). (Contrast proprietorship in common.

Lease: an instrument by which exclusive possession of land is granted by the lessor to a tenant (the lessee) for life or for a fixed maximum duration or from period to period.

Licence: a permission to do something on a person's land, which would otherwise be wrongful or illegal. (Licences are not registrable, but can be protected by the lodging of a caution: s.98 RLL)

Overriding interests: interests in land which 'override' the register because they have legal force even though they are not registered. (They are listed in s.28 RLL).

Prescription: the gaining of ownership or other rights over land by lapse of time. (In Cayman Islands by virtue of the Limitations of Actions Law - 12 years - and the Prescription Law in the case of easements and profits - 20 years.)

Profit: a right to take produce or part of the soil from the land of another person. A profit may be enjoyed 'in gross' (see above) or 'as appurtenant to other land or lease' (see appurtenance).

Proprietorship in common: form of landholding where a parcel, strata lot, lease or charge is simultaneously vested in two or more proprietors, each being entitled to an undivided share, expressed as a fraction of the whole, which on his or her death goes to the person appointed by the will or intestacy rules, not to the surviving proprietors. (Contrast joint proprietorship).

RLL: the abbreviation for the Registered Land Law (2004 Revision).

RLR: the abbreviation for the Registered Land Rules (2003 Revision).

Restrictive agreement: an agreement whereby one owner for the benefit of another owner restricts the use or development of his land in a particular way.

Servient tenement: land burdened by an easement or profit or restrictive agreement.

STRL: the abbreviation for the Strata Titles Registration Law (2005 Revision).

STRR: the abbreviation for the Strata Titles Registration Regulations (2006 Revision).

Tacking: the right of a chargee, who makes a subsequent advance, to 'tack' or add it to the original advance and recover both sums in priority to an intervening chargee.

Transmission: the involuntary passing of an interest in land by operation of law; for example, on compulsory acquisition, insolvency or death.

Voluntary transfer: a transfer made without any payment in exchange in money or otherwise. (A voluntary transfer is subject to the conditions in s.27 RLL).

Various types of document may be required by the Registrar of Lands as evidence to support applications. This manual makes reference to the following types of documents:

Copy: any reproduction or transcript in any form of a document. It need not be a reprographic or facsimile copy of the original but may be, for example, a copy written out by hand. The copy need not be certified as a true copy of the original.

Photocopy: any photographic or facsimile reproduction of a document. The photocopy need not be certified as a true copy of the original.

Certified copy: a copy (whether a photocopy or any other type of copy) of a document which is certified by a notary public to be a true copy of the original. The notary must sign and date the certificate, apply his or her notarial seal, and state the date of expiry of his or her notarial commission.

Office copy: a copy (whether a photocopy or other type of copy) of a public document in the custody of a public authority, which copy is made by an officer of the public authority and which bears the seal or stamp of the public authority and/or the signature of the officer of the public authority. One example is a photocopy of a court order to which the court office has applied the court seal; another example is a copy of a death certificate issued by the Registrar of Deaths and bearing his signature.

Statutory declaration: a declaration made in accordance with the Voluntary Declarations Law (1998 Revision). The Registrar of Lands may insist that any required information be given by statutory declaration (s.6 RLL).

Voluntary declaration: alternative name for a statutory declaration: s.3 Interpretation Law (1995 Revision).

Land Registry Procedure Manual

Part



The Lands & Survey Department

2 The Lands & Survey Department

2.1 Departmental Functions

The Lands and Survey Department comprises five service sections linked by a common dealing and involvement in land, and a sixth section providing administrative support services.

Section	Function
Land Registry	records all title records
Land Survey	carries out all Government survey work and regulates surveying practice on the islands
GIS Development	provides application development and coordinates deployment of geospatial solutions
GIS Production	provides cartographic (mapping) and database management services
Valuation & Estates	conducts valuations and manages land & government facilities
Lands Office (Cayman Brac)	There is a satellite Lands Office at Stake Bay on Cayman Brac.

An Administration/Finance section provides support to all departmental operations.

2.1.1 GIS Development

In 1991, the Lands & Survey Department commenced a programme to convert map data from manuscript to digital format as the first step in the computerisation of land records. Since that time other information in map, tabular and image format has been added to, stored in and accessed from what became known as the Land Information System (LIS). Most recently, as this system has evolved to incorporate a comprehensive role in the management of geographical information, and embraces more wide-ranging geo-data initiatives, the system now assumes the Geographical Information System (GIS) role, within which land related data forms a core part. The GIS provides an array of tools for query and analysis based on comprehensive data integration. GIS has become the fulcrum about which challenging environmental and developmental issues are being addressed, not only in

Cayman but worldwide. The Cayman Islands is a leader in this technology within the Caribbean, the department receiving the ESRI Special Achievement Award in 1999 and 2004.

The value of managing information in such a system has provided Lands & Survey, other government departments and the private sector, with a faster and more efficient means of discharging their duties. Such is the potential and the perceived long-term benefit of this technology that many of the schools in both Grand Cayman and Cayman Brac have been provided with GIS software for use both as a teaching medium and as a tool for project work.

Following the introduction of similar technology by major private sector organizations, particularly the Utility Companies, proprietary information can now be shared through this forum.

The immediate challenge to Lands & Survey is that of data and service delivery. The advent of the internet continues to raise client expectations with respect to access to information. Lands & Survey have acknowledged this through the development of this website. This will enable clients to perform their own searches and virtually any land-related query, based on up-to-date information, at an hour convenient to them. The Utility companies and other private organisations that depend on accurate base mapping on which to locate their facilities will be able to download digital map data to develop their own applications. Large format maps however will continue to be one of the mainstay products, and ongoing development of GIS and Internet technology will raise the awareness to new products and services.

The GIS is central to the department's ongoing reinvention programme of seeking new and innovative methods of delivering its services. It is also expected to play an active role within the various initiatives arising from the 'Vision 2008' strategic planning exercise.

2.1.2 GIS Production

Underpinning the day to day work of the department, the Production team maintains the wide array of databases necessary for map production and database query. Customised mapping continues to be one of the mainstay products, with new products and services becoming available on a regular basis.

Parcel database maintenance is one of the key roles performed, involving the constant editing of a database comprising over 30,000 parcels and their associated details or attributes. In conjunction with the input from the Survey & Land Registry sections, the parcel data changes are incorporated into the whole and the revised database made available to

display and query applications for ongoing use. The data is also converted to other formats in support of the partnership that Lands & Survey have with the Licensed Land Surveyors in the private sector.

2.1.3 Lands Office

The Department has a satellite office on Cayman Brac, staffed with a Land Registry Officer and a land survey team. This provides a land registry and surveying service for Cayman Brac and Little Cayman. Small surveys for the private sector are also undertaken in the Sister Islands.

2.1.4 Land Registry

The Land Registry came about at the end of a land adjudication process, undertaken by the Regional Cadastral Survey Team. This was a UK Government-sponsored initiative undertaken during the 1970s throughout the British West Indies, to replace the existing registration of deeds land administration systems (whereby the papers associated with land transactions were registered) with registration of title systems - whereby the land itself was registered. The most important single component of the new system was the government guarantee of title. Another important component was the assignment of individual parcel numbers, which were spatially referenced, to the different parcels of land. Land registration in the Cayman Islands, which is a combination of a written record and spatially referenced graphical maps, brought a certainty and finality to many questions of land ownership and was the foundation for the creation of the confidence necessary to allow for much of the economic development of the Cayman Islands in the last two decades of the twentieth century.

Today, the Land Registry is responsible for recording all land transactions in the three Cayman Islands. This role provides for the maintenance of an Oracle database of over 30,000 parcel registers defining ownership and other interests therein. The section comes under the control of the Registrar of Lands whose has sole responsibility for administration in accordance with the Registered Land Law (2004 Revision).

2.1.5 Land Survey

The Chief Surveyor heads the Survey Section and holds statutory powers that empower him to direct, supervise and control all cadastral surveys, including the authentication of legal cadastral surveys. He regulates the land surveying practice and is the authority for the preparation and publication of the official maps of the Cayman Islands.

The legal cadastre underpins the Cayman Islands Land Registration System. Cadastral

surveying is the process of mapping property boundaries to provide an unambiguous definition of the parcel extent and to maintain the Registry Maps. A legal requirement in the registration process, they can only be undertaken by Licensed Land Surveyors and Government Surveyors in accordance with the Land Surveyors Law and Land Survey Regulations for the Purposes of the Registered Land Law.

Legal surveys fall into two categories: Fixed Boundary and General Boundary Surveys. These are governed by stringent technical and legal requirements. In order to facilitate their efficient processing, Quality Assurance (QA) has been introduced. Quality Assurance is more proactive and efficient in regulating land surveying practices and processes. Although many benefits will be realized with the introduction of QA, one of the more obvious is the shorter through-put time of surveys. Immediate beneficiaries are Developers, Realtors, Creditors, Bankers and the general public that deals with land transactions. Government will also benefit by the more expedient collection of Stamp Duty and other legal fees.

In addition to legal surveys, the Survey Section carries out other types of surveys such as: Control Densification, Topographical, Engineering, Road, Volumetric and Hydrographic. The Cayman Islands is a coordinate-based, not a measurement-based system. Technological advancement in survey instrumentation, computer processing power and software developments have effectively positioned the Department as a leader in surveying expertise and consultancy.

Of special note is the rapid development of GPS technology that readily lends itself to a broad range of applications, including the measurement of storm surges, the monitoring of the rising sea level as a result of global warming, and beach monitoring to determine erosion and accretion.

2.1.6 Valuation & Estates Office

The Valuation & Estates Office (VEO) comprises Chartered Surveyors who are members of The Royal Institution of Chartered Surveyors - RICS - one of the most respected and high profile global standards and membership organisations for professionals involved in land, valuation, real estate, construction and environmental issues. The RICS is an independent, not-for-profit organisation and is required at all times to act in the public interest.

The VO carries out the following functions:-

- a) Stamp Duty: The assessment and adjudication of the valuation of land and buildings for Stamp Duty purposes under the Stamp Duty Law and Land Holding Companies Share Transfer Tax Law. The VEO has collated extensive records on all property transfers by

way of purchase or lease that have occurred on the three Cayman Islands.

- b) **Facilities Management:** As part of the VEO's management responsibilities the VEO provides a full facilities management function on behalf of Government. The VEO has a qualified Facilities Manager who is a member of the International Facility Management Association.
- c) **Compensation:** The VEO, acting as agents of the National Roads Authority, provide compensation estimates for road schemes. In accordance with the provisions of the Roads Law, the VEO working closely with the Survey Section negotiates and settles claims with land owners affected by new road schemes.
- d) **Management:** The VEO manages the Crown Estate, both owned and leased properties, carrying out lease renewals and rent reviews for other Government Departments, Ministries & Portfolios, and deals with licences, rights of way and easements.
- e) **Valuation:** All valuation work is undertaken by the VEO on behalf of the Government for the acquisition or disposal of properties under The Governor (Vesting of Lands) Law and the Land Acquisition Law.
- f) **Town Halls and Civic Centres:** The VEO is responsible for the upkeep and management of the Town Halls, Community and Civic Centres. These facilities are also available for hire to the general public and all bookings can be made through the office during the hours of 08.30 to 15.30.
- g) **Acquisition of Property and Leases:** The VEO acquires both land and buildings for the Government by way of agreement and also procures all rented accommodation for Government Departments.
- h) **Disposal and Letting of Crown Land:** All Crown properties that are surplus to Government requirements are sold or let by the VEO to the private sector.
- i) **General Property Advice:** The VEO is responsible for providing general professional property advice to Government Departments, the Statutory Authorities, Ministries and Portfolios.

2.2 Adjudication & Registration

2.2.1 The Registration Project

After extensive debates over land reform during the 1960s, a legal regime for the registration of land titles was enacted in the Cayman Islands as the Registered Land Law 1971. The model for the law was proposed by the former land tenure adviser to the UK's Foreign and Colonial Office, Rowton Simpson CBE. Simpson had first-hand experience of colonial land registration systems in Lagos and Sudan, and a good working knowledge of the land registration systems of many other countries, and he developed, with input from a great number of experts, a modern and simple scheme for title registration. This was enacted in Kenya as the Registered Land Ordinance 1963. Following closely the terms of the Kenyan Ordinance, a model colonial statute for registration of land titles, along with simplifications of other aspects of property law, was prepared. The model statute and its supporting legislation were enacted with only minor variations in all of the jurisdictions which are now British Overseas Territories of the Caribbean region.

Through the efforts of the Commonwealth Development and Welfare Scheme for the Adjudication and Registration of Land in the Turks and Caicos Islands, the Turks and Caicos Islands were the first Caribbean islands to enact and implement the model laws for the survey, adjudication and registration of title to land, based on the proposed model registration statute and supplemented by model statutes for adjudication of titles and for establishing rules of survey. The British Overseas Development Administration then set in train the Regional Cadastral Survey and Registration Project for the Caribbean through the British Development Division at Barbados, leading to almost identical new land administration systems in British Virgin Islands (1971), Cayman Islands (1972), Anguilla (1972), Antigua (1975). A similar scheme was implemented in Montserrat (1978) through the Development Division with assistance from the Department of Overseas Survey.

In the Cayman Islands, the Governor assented to the Land Adjudication Law, the Land Surveyors' Law and the Registered Land Law on 17th December 1971. This package of laws provided the legal framework for the comprehensive survey, adjudication and registration of title to lands in the Cayman Islands.

2.2.2 Cadastral Survey & Adjudication

Pursuant to the Land Adjudication Law, after investigation into the state of existing local land and survey records, lands were divided into adjudication areas. Within each adjudication area the public was notified of the imminent demarcation process and the need to make claim to the land, followed by the demarcation on the ground of the boundaries of all parcels of land claimed, and the survey of those boundaries. The claims of ownership and other rights in respect of each parcel were recorded and steps taken to adjudicate disputes. Once the various disputes were heard and the appeals disposed of, the final determination of ownership claims and other rights were used to compile an adjudication record for each parcel of land.

2.2.3 Boundaries

At adjudication, most boundaries were recorded on the Registry Map as demarcated boundaries. For some boundaries, however, it was not possible for the claimants and notified persons to point out to the demarcator the position of the boundary on the ground. In these cases, the line of the parcel's boundary was not determined by the demarcator. However, in order to provide an edge to the parcel, a boundary line (known as an 'undemarcated boundary') was nevertheless recorded. Such an undemarcated boundary was not intended to reflect an adjudicated legal boundary to the parcel; for this reason, the acreage of a parcel having an undemarcated boundary is not stated. In order to draw attention to the presence of an undemarcated boundary, its existence is recorded by a Note in the Proprietorship Section of all relevant land registers, and the boundary is represented by a pecked line on the Registry Map.

A standard procedure is employed in cases where a proprietor wants to convert an undemarcated boundary to a regular demarcated boundary. A licensed land surveyor must be engaged to carry out a boundary survey under the Land Surveyors Law, serving notices on neighbours under s.19(2) RLL to allow them the opportunity to agree to or object to the proposed demarcated boundary. If the proposed boundary is disputed, it will be resolved by a hearing before the Registrar of Lands. The procedures for dealing with an application to have a boundary demarcated are described [later](#).

2.3 First Compilation of the Land Registers

2.3.1 The Parcel Register

For each parcel of land whose title was adjudicated, a parcel register was opened and the contents of the adjudication record were then transcribed onto the land register in accordance with the Registered Land Law. By September 1977, the process was entirely complete. Occasionally in the course of resolving disputes it is still necessary to review a parcel's adjudication record, now administered by the National Archive.

2.3.2 Crown Land

Where no claim to a parcel was made, or where a claim to ownership failed to satisfy the minimum criteria set down in the Land Adjudication Law, the land was adjudicated as Crown land and registered as such, it having been reiterated in the Grand Court that in default of a valid claim to an estate in the land, ownership of land was vested in the Crown. In respect of certain Crown land parcels where claimants were unable to satisfy the Adjudicator of their claim, the land has subsequently been granted to the claimants following a Cabinet decision. The Governor-in-Cabinet has issued a minute stating that new applications for Crown land based on pre-adjudication claims will no longer be entertained after 14 February 1999.

Some of the land of the Cayman Islands falls outside the areas adjudicated and so no land register has been opened in respect of it. For example, the foreshore, the sea bed and the North Sound (all presumptively vested in the Crown), remain unregistered land.

2.3.3 Absolute Title

The first registered proprietor of a parcel was registered with one of two possible grades of title, Absolute or Provisional. Absolute grade was awarded where the claimant could show that he or she had been in possession for twelve years, or had a good documentary title (over twelve years old) which had not been ousted by another person's adverse possession of the land. In both cases, the Records Officer was also to be satisfied that the claimant would succeed in maintaining or defending such possession or title against any other person.

2.3.4 Provisional Title

Provisional grade of title was awarded where the claimant was in possession of land or had a right to a parcel but the Records Officer was not satisfied that the requirements for absolute title were fulfilled. In such a case, there would also be recorded the date of commencement

of possession, the particulars of any document derogating from the claimant's title, or such other relevant qualification that affected the title. Provisional Title can be converted to Absolute Title in two ways: by applying to the Registrar of Lands on the prescribed form and payment of the relevant fee and providing documentary evidence of ownership dating back twelve years, or twelve years after the date the Provisional Title was registered.

If registered with absolute grade of title, the registered proprietor gains rights which are comprehensively guaranteed by law. If registered with provisional grade of title, then the title of the registered proprietor benefits generally from a similar legal guarantee but subject to some specific exception or class of exception. This enables the Registrar to enter a proprietor on the land register where there is some query over the existence of some adverse right or interest affecting the land: the proprietor may be registered with a provisional grade of title without prejudice to the enforcement of the earlier right. If the holder of the earlier right later steps forward and makes good some claim to the adverse right, the register will be rectified to give effect to it. Conversely, the registered proprietor may at any time apply to the Registrar to be upgraded to absolute title, and if the registered proprietor is able to show that the qualification to which the provisional title is subject has ceased to have effect, or once the proprietor demonstrates twelve years of possession, then the title must be upgraded. Provisional titles were commonly encountered after the original compilation of the land registers pursuant to the adjudication records, but with the passage of time and the upgrading process, provisional titles are now rare but may still be issued when a title has been acquired by adverse possession.

2.3.5 Content & Form of Land Registers

Land registers are opened to record a person as proprietor of a parcel, a strata lot, or a lease. A lease must be registered with its own leasehold register if it is for a specified period exceeding two years, or for the life of the lessor or lessee, or if it contains an option for a further term or terms which, together with the original term, exceed two years. A lease for a shorter period may be accepted for registration with its own leasehold register but there is no statutory requirement on the Land Registry to do so. Each land register also identifies the relevant land by a unique Block and Parcel number, which is tied to the Registry Map.

The first land register for a parcel following adjudication reflected the adjudication of title and conferred on the named proprietor the ownership of the parcel. Registers for parcels of Crown land do not state the Crown to be the registered proprietor of the land, but instead the registered proprietor is left blank and a separate entry is made stating that the land is Crown land. When the Crown disposes of the land, a Transfer of Land Form (RLI) is signed

by the Governor of the Cayman Islands on behalf of the Crown.

A registered proprietor may hold the land as trustee, in which the registered proprietor may be recorded in the land register as holding the land in the capacity as trustee. The beneficiaries' rights are enforceable against the trustee but no details of the trust may be entered in the land register (s.121 RLL). Consequently, the beneficiaries' names must not be entered in the land register, and it is not necessary to show the beneficiaries on the transfer forms. If, however, a beneficiary is given particular rights by the trust deed which justify a restriction or restraining note, then a suitable entry may be made. An example would be an express clause in a trust deed which prohibited the trustees from disposing of the land without the consent of a named beneficiary. In this case, the named beneficiary could not be entered as proprietor, but a restriction or note could be entered prohibiting the disposition without the consent of the named beneficiary.

Two or more persons may be entered on a register as proprietors. There are two mechanisms for proprietors to be registered concurrently: registration as joint proprietors and registration as proprietors in common. The terms of the co-proprietorship are defined by law. Under the Registered Land (Prescription Under Section 99) Order (1999 Revision), the maximum number of proprietors is ten, and the maximum denominator of the shares is one hundred.

2.3.6 Incumbrances

The Registered Land Law (2004 Revision) allows the principal classes of subsidiary property rights affecting land to be registered in the Incumbrances Section of the land register for the parcel to which they relate. The recognised classes of registered incumbrances include: leases, charges, easements, profits, and restrictive agreements.

Leases

Each registrable lease also has its own separate leasehold register opened, and is legally guaranteed just like ownership of a parcel.

Charges

These are registered in the Incumbrances Section of the register for the parcel, strata lot or lease that has been charged.

Easements and Profits

These are entered in the Incumbrances Section of the register of the burdened land and in

the Property Section of the register of the benefitted land; as such, they too benefit from the legal guarantee of validity.

Restrictive agreements

(which are also known in practice as ‘restrictive covenants’, despite the fact that in the Cayman Islands there is no requirement that they be created by means of a covenant in a deed). These are also noted in the Incumbrances Section of the register for the land burdened. They differ from easements and profits as restrictive agreements are not registered but merely noted, and there is no guarantee of their validity: the note does not confer any greater force or validity on the restrictive agreement than it would have had if it had not been noted on the register.

2.3.7 Restraints

There are various matters that may lead to some restraint on a person’s power to make dispositions of their interest in land. These restraints can be entered in the register and are categorised according to the authority which gives rise to the entry: Inhibitions, Restrictions, Cautions and Notes.

Inhibitions

Inhibitions are entered on the register on the authority of an order of the court. Their effect is to inhibit for a particular time, or until the occurrence of a particular event, or generally until further order, the registration of any dealing with land. The Inhibition may be used, for example, to give effect to a court injunction freezing a defendant’s land assets.

Restrictions

Restrictions are similar in effect to Inhibitions. Restrictions are entered on the order of the Registrar of Lands for the prevention of fraud, improper dealing, or other sufficient cause. For example, where it is clear that the powers of a proprietor to deal with the land are limited, the Registrar may order (with or without an application by an interested party) the entry of a Restriction to prevent any improper dealing beyond the scope of the proprietor’s powers.

Caution

An application for the entry of a Caution may be submitted by a person who claims any unregistrable interest, is entitled to a licence, has presented a bankruptcy petition against the proprietor, or is a bank which has advanced money to the proprietor. The effect of the Caution is to forbid the registration of any disposition and the making of entries on the

register altogether, or to some specified limited extent. When the registration of a disposition contrary to the terms of the caution is proposed, the proprietor may first seek the consent of the cautioner to the proposed disposition. If the cautioner consents, the disposition is registered and the caution remains on the register. If the proprietor does not seek the cautioner's consent, or if the cautioner refuses to consent, then the proprietor may apply to the Registrar. The Registrar may then serve a notice on the cautioner warning him or her that the caution will be removed at the expiration of the time stated in the notice. If the cautioner neglects to object in response to this notice, the caution is removed and the proposed disposition may be registered. If the cautioner objects to the removal then a hearing is held by the Registrar to determine the matter.

Notes

In addition to Inhibitions, Restrictions and Cautions, there are a few miscellaneous matters which may be recorded on the register by way of a Note. Some of these may affect the disposition of registered interests in the land. For example, where a registered charge contains a clause prohibiting any disposition of the land by the proprietor without the consent of the chargee, this consent requirement may be protected on the register by a Note to that effect.

2.4 Subsequent Dealings

2.4.1 Dispositions of Registered Land

Having compiled the first registers in the form described above, the Land Registry is responsible for updating the registers whenever there is a change in circumstances, such as a sale of the land or the death of an owner. The style and content of most written orders to update the register are prescribed by law. They are known as instruments.

Unless special dispensation is obtained from the Registrar of Lands, every instrument must be signed by all persons shown on the register to be proprietors of the interest affected, and by all other parties to the instrument. In the simple case of a transfer of land from a seller who is registered proprietor to the buyer, this means the transfer form must be signed ('executed') by both seller and buyer, and witnessed by some other person, who does not have to be a Notary Public. This ensures that the Land Registry has on record the new owner's signature which will be used to verify any future dispositions.

The identity of the persons signing an instrument by way of execution must be verified. The person executing must appear before a 'prescribed person', such as a Notary Public, who undertakes the verification. The person verifying must be satisfied as to the identity of the person executing, and ascertain whether he or she freely and voluntarily executed the instrument. The person verifying must then complete a Certificate of Identification for this purpose on the disposition form. If the person executing is not known to the person verifying, then he or she must be accompanied by a credible witness who knows the person executing, for the purpose of establishing the identity of the person executing. The witness attests the execution of the instrument, and the name of the witness is inserted into the Certificate of Identification.

2.4.2 Transmissions of Registered Land

Apart from consensual dealings, title to land may pass under certain rules of law. This is known as transmission. It includes the automatic transmission of proprietorship on death from a deceased person to his or her executor; or the automatic transmission to the trustee-in-bankruptcy when a person is adjudged bankrupt. Special rules govern these two cases, but any person claiming to be entitled by transmission under any other law or order of court may apply to become registered by virtue of the transmission. The application must be supported by such evidence of entitlement as the Registrar requires.

When a company is struck off the Cayman Islands Companies Register, any land which it holds immediately becomes vested by operation of law in the Financial Secretary for the benefit of the Islands. The land may then be disposed of by the Governor in Council. Once the Registrar of Lands is apprised by the Registrar of Companies that a company has been struck off, the Registrar of Lands makes an order for the removal of the company's name from the Proprietorship Section of the land register. An entry is then made in the land register stating that the land is vested in the Financial Secretary. An application may, however, be made to the court for the reinstatement of the company on the Companies Register. This application must be brought within two years of being struck off, or up to ten years with the permission of the Governor-in-Cabinet. If successfully reinstated, the company is deemed to have continued in existence as if never struck off, and the court may give directions for placing the company and other persons in the same position as nearly as may be as if the company had not been struck off. This may include directions concerning any land formerly registered in the name of the company.

2.4.3 Instruments

Where a registered proprietor (or any other person entitled) wishes to sell land or carry out any other registered dealing with it, then the dealing needs to be reflected by a change in the register. In order to make such a change, the Land Registry requires a formal written document which represents the mandate to the Land Registry for the change to be made. This mandate takes the form of an 'instrument.'

'Instrument' means any document which is capable of leading to the creation or deletion of an entry in the register. It includes any dealing with the land, any Court orders and Registrar's orders affecting the land, and many other applications which will alter the register. Examples include: an application for rectification of a name on the register, change of provisional to absolute title, registration of rights acquired informally by prescription, official search and stay, and issue of a land certificate. An instrument is always required to support the making of any new entry or deletion of an entry or the making of a note in the register (such as a note of a restrictive agreement or a stay of registration).

For the most common dealings, the law provides that an instrument must be in prescribed form. The prescribed forms are found in the Registered Land Rules (Forms RL1 - RL29). Where the law does not require the instrument to be on a particular prescribed form, there some further forms in standard use that have been approved by the Registrar (Forms 30 - 41). Members of the public may obtain the prescribed forms and standard forms from the Land Registry counter or from the website www.caymanlandinfo.ky. Any form submitted by

an applicant which deviates from the prescribed and standard forms must in every case be passed to the Registrar for specific approval.

It should be noted that not all of the prescribed and standard forms are 'instruments' which lead to a change in a register. Form RL25, for example, is merely a simple written request to inspect a register.

2.5 Land Registry Records

2.5.1 Land Registers

The Registrar of Lands is under a statutory duty to maintain the land registers and update them in accordance with the various instruments. In addition, the Registrar is under a statutory duty to manage the following records.

2.5.2 The Registry Map

This is a map which was originally compiled from the mapping records established by the cadastral survey. It divides the islands into registration sections, blocks and parcels. The parcel identifies the approximate legal boundaries of one area of land held under a single title. Each register refers to the particular registration section and block and parcel number on the Registry Map, and it is this reference which enables a person to locate the boundaries on the Registry Map. The Registry Map does not show the boundaries of strata lots and leases, since the boundaries for these are shown on the strata plan and the filed plan respectively. The Registry Map is corrected and updated as necessary, for example upon the subdivision of a parcel or the combining of two parcels.

2.5.3 Parcel Files

Each parcel of land has its own parcel file containing the instruments which have been processed by the Land Registry in order to make the current entries on the register. Any filed documents and plans relating to the parcel are also stored here. The contents of all parcel files are available for inspection by the public and copies can be obtained upon payment of the prescribed fees.

2.5.4 The Instrument Record

This is a record of all applications to the Land Registry which will lead to the creation or deletion of an entry in a land register. Whenever an instrument is submitted for registration, it is entered in the electronic Document Tracking System and, after passing compliance checks, is entered in the Instrument Record and allocated an instrument number. This number records the priority of the instrument. There will be a short time period between the submission of the instrument and its final entry into the register, and the Instrument Record ensures that the priority of that instrument is preserved over any instrument which might be submitted to the Land Registry in the interim.

2.5.5 The Register of Strata Plans

When land is converted to a strata scheme, it is necessary to register a strata plan to provide a master plan for the strata scheme detailing the strata lots held by the proprietors. An individual strata lot register is opened for each strata lot within the strata scheme, and those strata lot registers are subject to the same procedures as any other land register. But the strata plan for the scheme as a whole is filed separately in the file of strata plans. Strata plans are available for public inspection and copies are available at the public counter.

2.5.6 The Register & File of Powers of Attorney

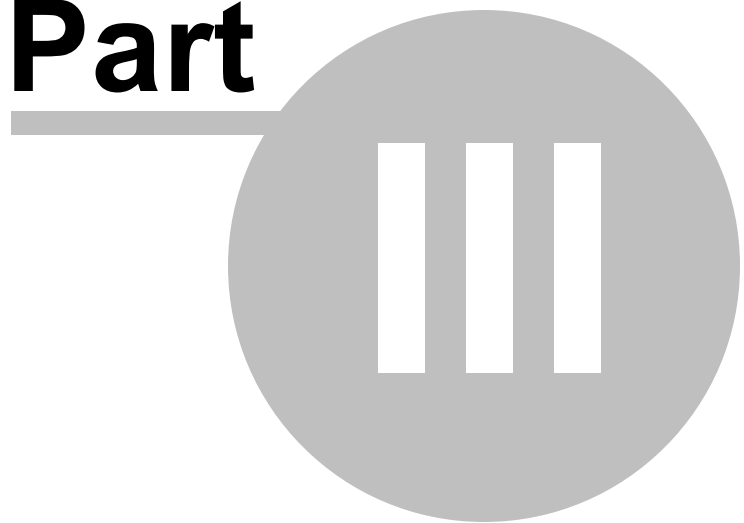
Before an instrument which has been executed by somebody under a power of attorney can be accepted by the Land Registry, the document setting up the power of attorney (or a copy of it certified by the Registrar) must be submitted to the Land Registry. Once submitted, the power of attorney is kept in the file of powers of attorney. An alphabetical register of all the persons who have granted powers of attorneys is also maintained to provide a convenient index.

2.5.7 The File of Letters of Administration

This file is maintained by the Land Registry, although there is no requirement under statute to do so. When applying for the registration of a dealing, a personal representative of a deceased person's estate may be required to submit their grant of representation to the estate. A copy is retained by the Land Registry and deposited in this file of letters of administration for future reference.

Land Registry Procedure Manual

Part



Registration of Instruments

3 Registration of Instruments

3.1 Collection of Instruments

This part will give an outline of the procedure followed when an instrument is presented to the Land Registry for registration. An instrument is any document which is capable of leading to the creation or deletion of an entry in a land register.

Instruments are presented at the Land Registry public counter, sent by post, or delivered to the Lands and Survey Reception desk. Often there will be multiple instruments given effect to a collection of transactions, such as discharge of existing charge, transfer, and creation of a new charge. In many cases, the instrument or instruments must be accompanied by other documents which prove some entitlement to have the instruments registered or justify the stamp duty payable.

The process of collecting in instruments depends on the manner of submission.

3.1.1 Where the Instrument is presented at the Land Registry Counter

The counter staff perform a preliminary set of compliance checks to see if the instrument appears to be in proper form, contains the relevant details and is supported by the necessary documents. The instrument is examined against the register and, if necessary, the Registry Map to detect any flaws in the instrument, for example, where the person named in the instrument as grantor does not match the name of the registered proprietor in the register. If there is such a problem which can be remedied by the parties, then the necessary corrections to the instrument can be made at the counter if the parties concerned are present.

If the parties are not present, or if there is some other problem that cannot be cured by the parties at the counter, then the instrument is rejected and returned to the applicant. The sort of problems that cannot be cured by the parties include any impediments shown in the register which prevent the grantor from carrying out the proposed dealing. Examples of impediments include a caution against dealings, and a note prohibiting dealings without the written consent of a chargee or a lessee. (For certain types of minor clerical omissions, the registry staff may retain the instrument and attempt to contact the parties to resolve the problem; if this is unsuccessful then the instrument will be returned.)

Once the instrument has been approved by the counter staff, a temporary receipt is issued for cash payments. The application is attached to a Document Submission Record which functions as a cover sheet and a record of the stages which the application passes through. The instrument and Document Submission Record are then taken to the reception desk for stamping with the date and time of submission for processing. An entry is made in the electronic Document Tracking System to show the instruments submitted, their date, the parcels affected and payments that have been received. No instrument number is allocated at this stage.

3.1.2 Where an Instrument is submitted by post or delivered directly to the Lands & Survey Department reception desk

It is attached to a Document Submission Record which is then stamped with the date and time. An entry is made in the electronic Document Tracking System. The instrument is not examined by the counter staff in these cases.

Whether an instrument is presented at the Public Counter, sent by post, or delivered to the Lands and Survey Reception desk, once it has been time stamped and entered in the document tracking system, the next stage in processing commences with compliance checking.

3.2 Compliance Checking

3.2.1 Procedure

The instrument is passed to the staff who carry out the process of compliance checking. The checking staff examine the instrument for compliance with legal requirements and ensure that there is nothing to prevent the registration of the instrument in accordance with the RLL.

If a major compliance problem is encountered, the instrument is not accepted, no instrument number is allocated, and an electronic Temporary Note is made indicating that the application is to be rejected for the reason specified. Major compliance problems include: the omission to present a necessary consent to dealing; the omission to obtain a necessary discharge or release of an incumbrance which prevents the dealing; the absence of a necessary signature on the instrument; and the failure to supply an outstanding land certificate.

If a minor compliance problem is encountered, the instrument may be accepted and an instrument number allocated. An electronic Temporary Note is made indicating that the application is to be returned to the applicant for the reason specified. But in this case, the instrument will still continue on to the Valuation & Estates Office and the Finance Section before the instrument is returned to the applicant. This is designed to ensure that all the problems with the submitted application can be identified at one time, and reduces the likelihood of having to return the instrument to the applicant several times in sequence as further flaws are discovered. Because of the possibility of instruments being lost in transit, the number of times the instruments are returned to the applicant is kept at a minimum. After the instrument has passed through the Valuation & Estate Office and the Finance Section, it will be returned to the applicant by the Admin Section, who also send a copy of the Documents Submission Record to the checking staff for filing.

Minor compliance problems include the failure to complete a certificate of identification, or a failure to state whether prospective co-owners will hold jointly or in common.

If compliance scrutiny by the checking staff reveals no impediment to registering the instrument, then the instrument's details are entered into the electronic Instrument Record, and an Instrument Number is generated for the instrument which determines its priority for

processing. The Instrument Number is then written on the original instrument. The acceptance of the instrument is noted in the Document Submission Record, and the panel for acceptance date at the foot of the instrument is completed.

It is very common to find several instruments being submitted simultaneously. For example, where land has been sold, the seller may need to discharge the existing charge on the property and then make the transfer, and the buyer may want to create a new charge over the property. All three instruments (discharge, transfer and release) may be submitted in the same bundle by the applicant. In cases where multiple instruments are being submitted, it is essential that they are processed in the proper order. The instrument numbers must be allocated according to the proper order for processing. If there are incompatible instruments, they must be returned.

3.3 Fees, Stamp Duty & Requisitions

3.3.1 Finance Section

Once checked, the application bundle goes to the Finance Section for confirmation that the registration fees, any fixed stamp duty, and any stamp duty on charges, have been correctly calculated and payment made.

If the instrument is not to be passed to the Valuation & Estates Office for ad valorem stamp duty assessment, then it will be processed immediately by the [Finance Section](#); otherwise, the instrument is passed directly from the Finance Section to the Valuation & Estates Office.

3.3.2 Stamp Duty Assessment

Those instruments received by the Finance Section which require assessment of stamp duty are sent to the Valuation & Estates Office before being returned to the Finance Section for confirmation and receipting.

The Valuation & Estates Office assesses stamp duty on dutiable instruments where the rate of duty is a percentage of value, known as ad valorem stamp duty. The commonest instruments liable to ad valorem stamp duty are transfers and leases of land. In the majority of cases, the calculation of stamp duty put forward by the applicant is accepted, but on occasions the Valuation & Estates Office makes a reassessment of the stamp duty owed. In these cases, the applicant is contacted and the instrument is held in suspension at the Valuation & Estates Office while the amount is settled. An electronic Temporary Note is made by the Valuation Officer indicating that a reassessment letter has been sent out to the applicant. The standard letter issued to the applicant indicates that the reassessed stamp duty must be paid within a period of forty-five days from the date of the last signature on the instrument. Penalties are imposed by the Stamp Duty Law in respect of late payment of stamp duty.

The Valuation & Estates Office may detect some flaw in respect of stamp duty other than the computation of the property value on which stamp duty is assessed. For example, the applicant may believe that he or she is entitled to a lower rate of stamp duty or may claim that he or she is entitled to a waiver of stamp duty, yet may not have supplied proper evidence to prove that entitlement. In these cases, the Valuation & Estates Office makes an electronic Temporary Note indicating that the application is to be rejected for the reason specified. The instrument is then returned to the checking staff who will then return the

bundle to the applicant and initiate the [requisition](#) process.

Once the amount of stamp duty has been assessed and settled, the Valuation & Estates Office marks the instrument, 'Approved for Stamp Duty'. Once payment is made by the applicant, the amount of the stamp duty paid is entered in the electronic Instrument Record, along with the date of the Valuation & Estates Office's receipt of the instrument and the date of its processing, and the relevant box on the Document Submission Record is signed off. The instrument is then returned to the [Finance Section](#).

If the Valuation & Estates Office approves the stamp duty calculation but the instrument is to be rejected for failing Land Registry compliance checks only, then the Valuation & Estates Office will indicate that the amount of stamp duty has been correctly calculated. The 'Approved for Stamp Duty' note is applied to the instrument, but any cheques submitted in payment will not be processed.

3.3.3 Finance Checking & Receipting

Once the Valuation & Estates Office has made its assessment, if applicable, the instrument is then returned to the Finance Section for processing in the normal manner.

The Finance Section calculates the amount of fees due for registration and ensures that payment has been submitted for the proper amount. Late fees are payable to the Land Registry for any instruments which are submitted after the statutory period for submission of instruments. The late fees begin to accrue in accordance with s.39 RLL if the instrument has not been submitted within 45 days from the signature of the first, or the only, party named in the instrument. The penalties for late payment of registration fees are separate from any penalties that may apply in respect of late payment of stamp duty.

If the Finance Section approves the fees calculation and the instrument is to be rejected for failing Land Registry compliance checks only, then the Finance Section will note on the application that the amount of fees has been correctly calculated, but any cheques submitted in payment will not be processed.

If, on the other hand, the registration fees have been calculated incorrectly by the applicant (or by the counter staff where the instrument was submitted over the counter), then the action taken depends on whether the instrument has already failed compliance checks.

If the compliance checking staff have already detected a flaw in the application and have

noted it on the standard requisition sheet, then the Finance Section will add the miscalculation to the list of requisitions. An electronic Temporary Note is made stating that there was an underpayment or overpayment, and that the instrument has been returned to the checking staff. The instrument is then returned to the checking staff who return the application with the requisition sheet.

But if no requisition is being made in relation to compliance checks, then the Finance Section does not return the instrument with a requisition on account of the miscalculation alone. Instead, the instrument will be retained and a note sent out informing the applicant of the miscalculation and providing a proper calculation of the amount due. If an overpayment has been made, then the cheque is returned to the applicant; in the case of underpayment, the cheque is retained and the balance is requested. A Temporary Note is made stating that there was an underpayment or overpayment, and that the instrument is being held in suspense while the fees letter goes out.

After any requisitions and fees issues have been resolved, any stamp duty assessment completed, and all payments made, then the Finance Section may proceed to the receipting process. This involves issuing a printed receipt which is attached to the instrument. The number of the receipt is marked on the instrument, and the panel for fees and stamp duty at the foot of the instrument is completed. The instrument is stamped by adhering a printed stamp duty slip to the rear of the instrument. The payment is then entered in the electronic Instrument Record and the Document Submission Record is signed off. The instrument has at that point completed its processing at the Finance Section and is returned to the checking staff. Once this stage has been completed, no further amendments may be made by the parties to the application; the application will be processed in its current form and any amendment would have to be made subsequently by way of an application for rectification of the register.

3.3.4 Requisitioning

In those cases where a problem exists which prevents the instrument from being registered, then the instruments and the other documents in the bundle submitted by the applicant are all returned to the applicant together with a Land Registry Requisition Form explaining the problem and the steps needed to remedy it. The checking staff retain the Document Submission Record and a copy of the Requisition Form, and an electronic Temporary Note is made to indicate that Land Registry is awaiting the response to the requisitions before the instrument is processed.

Once the requisitions have been complied with, the fact is noted in the Instrument Record and an Instrument Number is generated for the instrument, if not already issued.

3.4 Entry onto Register

3.4.1 Marrying

The parcel file for the land affected by the instrument is then pulled from storage. If the instrument affects two or more parcels, then all relevant parcel files will be retrieved. The instrument is temporarily stored in the inside cover of the parcel file to keep it with the relevant parcel file. The parcel file and instrument are then sent to the updating staff for entry on the register.

3.4.2 Updating

The instruments and parcel file are received by the updating staff who alter the electronic record of the register in accordance with the instruments. The appropriate entries and notes are typed on the register, and the relevant box on the Document Submission Record is signed off. The instruments and parcel file are then passed to the signing staff.

3.4.3 Signing

A member of the signing staff (senior officers on the Land Registry staff) then undertakes the following:

A double-check of all the checks that the checking staff undertake, namely, checks to ensure that the instrument was properly completed, that all the necessary supporting materials were present, and that there is nothing on the register to prevent the instrument from being entered on the register. The signing staff ensure that the updating staff made an alteration to the register which implemented the substance of the instrument and in the proper form. If there is any problem detected at this stage, the matter is returned to the checking staff who then perform the normal procedure - which usually involves returning the instrument with a Requisition Form to the applicant. The signing staff would then make an electronic Temporary Note indicating that the instrument has been returned to the checking or updating staff.

If everything is in order, the member of the signing staff goes into the electronic register and clicks on the appropriate command to verify the update. That enters the signer's electronic signature and date.

The signer then clicks on the appropriate command to generate the register. This is the process by which the verified update to the register is fixed and constitutes the formal,

issued register which is available to the public. Upon generation, a new edition of the register is automatically created, and the new edition number is automatically added to the top left corner of the property register along with the date.

The signing staff then access the electronic Instrument Record, and complete the final particulars to show that the instrument has been entered and verified. That concludes the computerised record of the progress of the instrument. The Temporary Note which refers to the outstanding instrument is deleted automatically.

The signing staff then manually sign the panel at the foot of the paper instrument form. If the application involved no pre-printed prescribed instrument form or standard instrument form, then a stamp is applied to the instrument which imprints an appropriate panel.

For certain instruments, the signing is undertaken by the Registrar. These include Inhibitions, Cautions and Restrictions other than standard planning and survey restrictions.

The original of the spent instrument is placed in the parcel file. A copy of the instrument is returned to the person submitting (in the case of duplicates or triplicates, the second, or second and third copies, are returned).

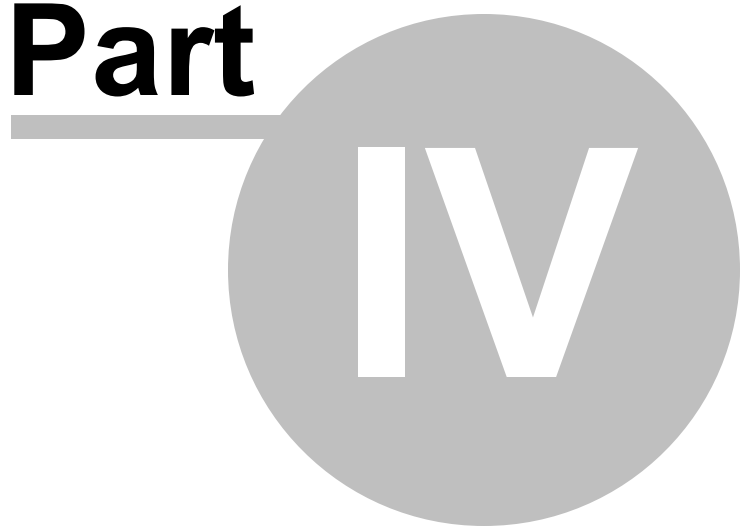
A copy of the new register is sent out to the applicant, if requested.

3.5 Processing other Applications

In addition to processing instruments leading to the creation or deletion of an entry in a land register, the Land Registry also receives from the public various written applications for other purposes. These include, for example, a request on Form RL25 to inspect a land register, a request on Form RL26 for a certified copy of a land register or an application on Form RL20 to lodge a power of attorney in the register of powers of attorney. These applications do not go into the Instrument Record, which is reserved for instruments which will affect a land register.

Land Registry Procedure Manual

Part



Directions for Entries in Land Registers

C - INCUMBRANCES SECTION

ENTRY No.	DATE	INSTRUMENT No	NATURE OF INCUMBRANCE	FURTHER PARTICULARS	SIGNATURE OF REGISTRAR
1	04/03/88	176/88	Easement	A 12-ft. pedestrian Right of Way in favour of 15B 186 as indicated on the Registry Map. (See 15B 181).	
2	19/5/92	42/89	Restrictive Agreement	Subject to the Restrictive Agreements in Instrument No. 42/89 filed in parcel 15B 212.	
3	31/8/98	760/98	Charge	Charge to secure CUS\$80,000.00. For interest rate and repayment date see filed Instrument. Note: Chargee has the right to tack and consolidate.	
4	31/8/98	760/98		Proprietors: AQUILA BANK, PO Box 493 GT, Cayman Islands.	

4.1 Land Registers

4.1.1 Description

The Land Register consists of separate pages, now in electronic form, which are called 'land registers'. There is one land register for every parcel shown on the Registry Map, one for every strata lot shown on a registered strata plan, and one for every registered lease or sublease of a parcel or of a strata lot. The format of these registers is prescribed by law (First Schedule, RLR).

No land register was opened in respect of public roads at adjudication and no parcel numbers were given to them, in order to simplify the process of demarcation and to avoid raising unnecessary disputes over the ownership of land running below public roads. Where land has been acquired for the purpose of a public road since adjudication, and there was already a land register open in respect of it, then a [note](#) is entered on the land register to indicate that the land has been taken for public road, and the land register is then closed (see [Non Statutory Notes](#) and [Closing Parcel Files](#)).

In contrast to public roads, each private road has its own land register and is given a parcel number. When a canal or lake is made on private land, the canal or lake is given its own land register and remains privately owned land.

4.1.2 Structure of Land Registers

The printed paper versions of a land register are illustrated by the samples given at the beginning of this part. Each register is divided into three parts: Property Section, Proprietorship Section and Incumbrances Section (s.9 RLL).

The Property Section describes the property. In paper land registers and electronic registers viewed in 'Counter Operations' mode, it is divided into the left panel, right panel, and the central appurtenances box. When viewing electronic land registers in 'Add / Update' mode, however, the information from the Property Section is divided between two separate panels: the Parcels panel and the Appurtenances panel.

The Property Section contains the reference number for the parcel, strata lot or lease. It shows the appurtenances benefitting the land, such as easements, profits which go with the land, and restrictive agreements. It also gives information on the status of the land: whether it is Crown land or privately owned; whether the grade of title is absolute or provisional;

and the origin of title.

The Proprietorship Section identifies the names and address of the registered proprietor of the land, lease or strata lot, and any restraints on his or her power to dispose of the property. Where there are two or more proprietors co-owning the land, an entry is made here stating whether they hold as joint proprietors or as proprietors in common. If they hold as proprietors in common, their respective shares are also entered here.

The Incumbrances Section contains particulars of all registrable rights adversely affecting the land, strata lot or lease described in the property section of the register. They include easement, profits, restrictive agreements and charges. Any rights of the chargee to tack and consolidate are also noted here.

4.1.3 Identifying Parcels

The full reference to any parcel (s.14 RLL) is the name of the registration section, the block map reference and the number of the parcel. In practice, as a result of the referencing system of block maps by grid square reference adopted in the Cayman Islands, the block reference and parcel number is sufficient reference. However, the addition of the registration section can be useful occasionally if an applicant presents the wrong block number or does not know it.

4.1.4 Numbering of Blocks

Block references are based on the Registry Map. The Registry Map for the whole land area of the Cayman Islands is divided into a number of registration sections, each of which is accorded an appropriate locality name; for example, West Bay NW; Little Cayman East. Registration sections are further divided into registration blocks. When first established in paper form, each separate sheet of the Registry Map comprised one block.

For purposes of referencing these block sheets, the land area of the Cayman Islands was originally divided into 20,000 ft. x 20,000 ft. grid squares, arbitrarily numbered 1 to 115 followed by the letter 'A'. Where an original grid square was subsequently divided due to the need for a larger scale registry map, the letter following the grid square number became B, C, D or E. Where yet a further division took place one of the letters F, G, H or J was added. Thus an original block may be referenced 13A (Plan Scale: 1/5,000). When divided, it might become, for example, 13E (Plan Scale: 1/2,500). On a second division it might become, for example, 13EH (Plan Scale: 1/1,250).

The exception to this system of numbering blocks occurs in the area known as George Town Commercial, where the pilot survey project was first carried out. Here, instead of a block number and letter, the block reference 'OPY' is used. Registry Map OPY was surveyed at a scale of 1:1,250

4.1.5 Numbering of Parcels

Parcels within each registration block were numbered consecutively from 1 in the adjudication process and retain the same numbers unless there has been a subsequent mutation (change of boundaries or subdivision of original block).

There is a parcel number for every separate parcel shown on the Registry Map other than a public road.

On the subdivision of an existing parcel, the new parcels created keep the block number of the original parcel but new parcel numbers are allocated. If it appears that the remainder of the original parcel is sufficiently large to accommodate further subdivision, then the new parcel comprising the remainder will be allocated a number which reflects the original parcel's block and parcel number with the suffix REMI.

4.1.6 Numbering of Strata Units

The reference for a strata lot is created by taking the parcel reference and adding the letter 'H' followed by the number of the strata lot as shown on the strata plan relating to the parcel, for example, West Bay Beach South 12C 194H20. The letter 'H' is used as an abbreviation for 'Horizontal', since a primary function of strata laws was to provide a convenient legal regime for the horizontal division of land.

'Sub-strata' lots (where a new strata plan is created over part of land which is already comprised in an existing strata plan) are given a second 'H' suffix; for example, West Bay Beach South 12C 394H1H1.

4.1.7 Numbering of Leases & Subleases

The reference for a lease of a parcel or part of a parcel or of a strata lot is created by taking the parcel reference and adding an oblique symbol followed by the number 1 for a first lease, 2 for a second lease, and so on. For subleases, a further oblique symbol is added after the lease reference and the number 1 for a first sublease, 2 for a second sublease of the same lease, and so on. For example:

a) Bodden Town 44B 325/1 (first lease)

- b) Bodden Town 44B 325/1/1 (first sublease of above lease)
- c) Bodden Town 44B 325/2 (second lease)
- d) West Bay Beach S 12C 194H20/1 (first lease of strata lot)

4.2 General Form of Entry

4.2.1 Method of Making Entries in Registers

All entries in registers are now made by entry in the electronic record of the land register, including electronic signatures by the signing staff.

4.2.2 Names of Persons

Names of all persons holding an interest in the land, strata lot or lease are typed in full in accordance with the relevant instrument. There must be no use of titles such as Mr, Mrs, Dr or Captain, as no titles may be used before or after any names, with the exception of the suffixes 'Senior', 'Junior', or 'III'. Initials may be entered on the register but only if there is a full surname and at least one full forename.

Names are typed in capital letters. But where a person is registered as executor, administrator, trustee, etc, his or her name is typed in lower-case letters. In the case of the trustee in bankruptcy, an administrator and an executor, the names of the person(s) on whose behalf he or she is acting also appear and are written in capitals. Examples:

- a) 'John Edward Smith as executor of the will of HENRY ADAMS (deceased).'
- b) 'The Trustee in Bankruptcy as trustee of the property of DENNIS SLATER, a bankrupt.'

In the case of trustees, however, the names of the beneficiaries must not be entered. For the form of entry, see [Transfer to Trustees](#).

4.2.3 Entry Numbers

Every separate entry in the proprietorship or incumbrances sections of a register must be accorded a separate entry number in sequence in the appropriate column, (except for certain Notes - see [Restraining Notes](#)).

4.2.4 Validity

No entry in the proprietorship or incumbrances sections of a register has validity until it is signed off and generated under the authority of the Registrar. It follows that Registry staff may refuse to accept new instruments presented which relate to an unsigned entry.

4.2.5 Date of Register Entries

The date of registration entered in the proprietorship and incumbrances section of a land register is the date on which the instrument was typed onto the register.

4.3 New Parcel Registers

4.3.1 Parcels Panel

When creating a new parcel register, the entries in the parcels panel are taken from the mutation form. The space headed 'Name of Parcel' is filled in only if a recognised and definitive name has been provided by the proprietor or in documents. For example: 'Ocean Club, Block A, Apt. 1.'

For new parcels created by mutation, all other entries must be copied from the original parcel register or registers from which the new parcels have been created; but for the origin of title, the entry for 'FIRST REGISTRATION' is not copied; instead, the number of the mutation (see [Mutation Form & Processing](#)) is entered after the words 'MUTATION NO.' There is otherwise no occasion on which the details in this panel can be varied when opening new parcel registers by mutation.

4.3.2 Appurtenances Panel

The appurtenances panel of a parcel register is for appurtenances, that is, rights which benefit the property and are attached to the land. They include the benefit of easements, restrictive agreements and profits other than profits in gross. Appurtenances are either reproduced in full or a reference made to a filed instrument (including the adjudication record, where appropriate) and they should never be summarised. For example:

- a) 'A pedestrian Right of Way over parcel 71A 99 as shown on the Registry Map.'
- b) 'The benefit of the Restrictive Agreement in instrument 321/07 filed in parcel 93C 87.'

On opening the new parcel registers created by mutation, all subsisting appurtenances shown on the previous edition or on the register of the parcel from which the new parcels were created must be copied unchanged onto the new registers, although if numbers of parcels have subsequently been changed by mutation or division of a block sheet, the new numbers should be shown.

4.3.3 Proprietorships Section

On opening the new parcel registers resulting from mutations, the first entry in the proprietorship section of the new registers is copied from the subsisting entry of the proprietor in the register of the parcel from which the new parcels are created. The copied entries include the date, instrument number (or the words 'A. Record' if the adjudication record is the source) and name and address of the proprietor(s). Except for partitions, the copied entries must be the same as in the old registers. Only the entry number may change. For the register entries when giving effect to a partition, see [Partition](#).

4.3.4 Incumbrances Section

On opening the new parcel registers created by mutation, all subsisting entries in the incumbrances section of the register of the parcel from which the new parcels have been created must be copied unchanged onto the new registers (except where an incumbrance, such as a right of way, burdened only part of the old parcel and does not affect the land comprised in a particular new register). The date, instrument number and details of the incumbrance must not be varied. Only the entry number may change. If an old entry contains a reference to a parcel whose number has subsequently been changed, then a reference is given to the number of the parcel file where the instrument is stored.

4.3.5 Processing a Mutation

For the procedures used to give effect to a mutation, see [Mutation Form & Processing](#).

4.4 Transfers

4.4.1 Transfer

To effect a transfer of the property comprised in a land register (whether a parcel, strata lot or registered lease), the name and address of the former proprietor are removed from the proprietorship section, the transfer's instrument number is entered, and the name and address of the new proprietor are entered with the next entry number in sequence. In the column headed 'Date', the date is given on which the instrument was entered into the land register (see [Date of Register Entries](#)).

It is not possible to register a transfer of part of the property comprised in a land register; there must first be a subdivision and new registers opened for each subdivision (s.86 RLL).

4.4.2 Name & Address

The name and address of the proprietor, along with any restraint on the proprietor's powers of disposition, are given in the proprietorship section of the parcel, strata lot and leasehold register. All names of proprietors must be recorded in full and typed in capital letters. For the procedure when executors, trustees, etc, hold the property on behalf of others, see [Names of Persons](#).

Proprietors' names must be followed in all cases by their address, typed in mixed-case letters, plus postal codes. The names and address together constitute a single entry and are given a single entry number.

4.4.3 Transfers to Proprietors in Common

When transfer is made to two or more persons in common, the name and address and share of the first proprietor is entered, and the three items are given one entry number. The process is then repeated for each of the remaining proprietors in common.

4.4.4 Transfer to Joint Proprietors

When a transfer is made to two or more persons jointly, their names and addresses follow on from each other, and the word 'and' is entered before the last name. The names of the joint proprietors are written in full even if they share the same surname. For example, 'John Brown and Mary Brown' is correct, but not 'John and Mary Brown'. The words 'as joint proprietors' is entered after the last name. The whole entry is given a single entry number.

4.4.5 Transfer to Partners

There is no special form of entry for registering two or more persons as partners of a partnership which owns the land. The applicants must simply select on the transfer form whichever form of co-ownership is appropriate to their circumstances.

If partnership land is to be held in the name of one or more nominated persons on behalf of the partners as a whole, then the nominated persons take the transfer as trustees, holding for the partners as beneficiaries. The nominated persons are entered as registered proprietors 'as trustees' but the identity of the beneficiaries is not mentioned on the register. (For trustees, see [Transfer to Trustees](#)).

4.4.6 Transfer by Proprietors in Common

When a proprietor in common transfers his whole share, only his or her name is removed. A new entry is then made in the name of the transferee with a new entry number.

If the transfer is of part only of a share, a new entry must also be made in the name of the transferor, showing the share remaining to him or her.

4.4.7 Transfer by Proprietor in Common to another Proprietor in Common

If a proprietor in common transfers the whole or part of his share to another proprietor in common of the same property, both transferor and transferee are removed. If the transfer is of a whole share, a new entry is made in the name of the transferee showing his total new share. If the transfer is of part of a share, two new separate entries are required: one in the name of the transferor showing the reduced share remaining to the transferor, and one in the name of the transferee showing the new total share of the transferee.

4.4.8 Proprietorship in Common share denominators

Where, as a result of transfers by proprietors in common, their shares are shown in different share denominators to such an extent that confusion might result, the Registrar may cause a new edition to be opened with all shares reduced to a common denominator.

The smallest share in which the share of a proprietor in common can be expressed is one-hundredth.

4.4.9 Transfer by Joint Proprietors

Where land is held by joint proprietors, dispositions may be made by all the joint proprietors (s.100(1) RLL) or by a joint proprietor releasing his or her interest to all the other joint proprietors (s.100(2) RLL).

On a transfer, all the names and addresses of the joint proprietors must be removed and their names entered afresh (see [Transfer to Joint Proprietors](#)), even though the effect of the transfer may only be to add an additional joint proprietor, to remove an existing joint proprietor or to substitute a new joint proprietor for an existing one.

4.4.10 Transfer by Personal Representative to himself as Beneficiary

A personal representative of a deceased proprietor may become registered as proprietor by transmission (see [Transmission on death in all other cases](#)). In such a case, the personal representative is registered in the proprietorship section in the style 'John Jones as administrator of the estate of HENRY ADAMS (deceased)' or 'John Jones as executor of the will of HENRY ADAMS (deceased)'. The person acting as personal representative may also be the person entitled to the property as beneficiary under the will or intestacy. In this case, once the deceased's estate has been administered, the personal representative gives effect to his entitlement by submitting a Transfer By Personal Representative Form (RL7) from himself 'as executor' or 'as administrator' to himself personally without any words qualifying his status. The register is then updated by entering the name without the words 'as executor' or 'as administrator' following the name.

4.4.11 Transfer to Trustees

If an instrument of transfer indicates that the transferee(s) acquires the property in a fiduciary capacity, the entry in the proprietorship of the transfer must contain the words 'as trustee(s)' after the name and address, but no other words are added relating to details of the trust. The Land Registry is not concerned with the operation of trusts. The identity of the beneficiaries must not be entered. (see [Names of Persons](#)) The document creating a trust may be deposited in the registry, in which case it is kept in the parcel file, but does not form part of the Land Register.

If two or more proprietors are registered jointly as trustees and the terms of the trust deed do not entitle the surviving trustee acting alone to exercise the powers of the trustees, then the Registrar must enter a restriction to that effect (s.122 RLL). Before a sale or other dealing for value can be effected, a single surviving trustee must first appoint a second trustee; this may be achieved by the single surviving trustee executing a transfer in favour of himself and the new trustee. It must be stated on the transfer form that the transfer is not for value but by way of appointment of a new trustee.

4.4.12 Transfer to Crown

If the Government acquires property by transfer, the former proprietor is removed, but no further entry is made in the proprietorship section of the land register. In the parcel panel, the reference to 'Private' is removed and replaced with the word 'Crown'.

4.4.13 Transfer by Crown

When Crown land is transferred to a private individual or company, the date (see [Date of Register Entries](#)), instrument number, and the name and address of the transferee, are entered in the proprietorship section, and the entry is numbered 1. In the parcel panel, the reference to 'Crown' is deleted and replaced with the word 'Private'.

4.5 Transmissions

4.5.1 Transmission on death of Joint Proprietor

If a parcel, strata lot or lease is held by joint proprietors and the death of one of them is proved to the Registrar, the deceased proprietor's name and address are removed and no other action is required.

4.5.2 Transmission on death of Joint Trustee

If there is no restriction entered on the register to prevent dealings by a sole surviving trustee (see [Transfer to Trustees](#)), then, on proof of the death of one of the joint trustees, the whole entry is removed and a new entry is made showing the surviving trustee(s).

If there is a restriction to prevent dealings by a sole surviving trustee, then no dealing can be registered until a second trustee is appointed and registered jointly with the surviving trustee (see [Transfer to Trustees](#)).

4.5.3 Transmission on death in all other cases

Where a proprietor or proprietor in common of a parcel, strata lot or lease has died and a personal representative makes an application to become registered proprietor on prescribed form RL19, the deceased's name and address are removed and an entry is made, with a new entry number, giving the name and address of the personal representative(s) and the words 'as executor of the will of' or 'as administrator of the estate of', as appropriate (see [Names of Persons](#)).

Note, however, that on production of a grant of probate or letters of administration, the Registrar may dispense with registration of the personal representative and register a transfer by the personal representative direct to the beneficiary (s.116 RLL). This procedure, allowing the personal representatives to transfer without becoming registered, is permitted only when they make the transfer to the person entitled under the will or the rules of intestacy, and not if they are transferring to any other person. In the column headed 'Date', the date of death of the deceased proprietor, if known, is entered when registering the new proprietor (s.117 RLL).

4.5.4 Transmission on Bankruptcy

When a proprietor of a parcel, strata lot or lease is adjudged bankrupt, the trustee in bankruptcy, on production of the court order, must be registered as proprietor in his or her

place. The court order is allocated an instrument number and entered in the instrument record. The bankrupt proprietor is removed, entering the instrument number of the court order. A new entry is then made (with a new entry number) giving the title and address of the trustee in bankruptcy, followed by the words 'as trustee of the property of . . . a bankrupt' (see [Names of Persons](#)).

4.5.5 Appointment of Liquidators and Receivers

On the appointment of liquidators over a corporation which is the registered proprietor of land, the corporation remains on the register as registered proprietor. On producing the resolution or court order appointing the liquidators, a Note is entered to indicate their appointment (see [Non Statutory Notes](#)).

When a receiver is appointed over property, no note or entry on the register is made. If submitted, the receiver's appointment may be filed in the relevant parcel file.

4.5.6 Transmission on Compulsory Acquisition

When a parcel, a strata lot or a lease is compulsorily acquired pursuant to statutory powers, or is compulsorily sold under the provision of a law or by order of court, then the register must be updated accordingly, on presentation of such evidence as the Registrar may require (s.120 RLL).

Where an order of the court awarding compensation is made, the order is submitted to the registry and it is used as the mandate to make transfer. The transfer instrument is a specially-drafted Form 40 prepared by the Registrar. The procedure is as for a normal transfer (see [Transfer](#)).

If it is the Government which acquires the property by transmission under compulsory powers, the former proprietor is removed, but no further entry is made in the proprietorship section of the land register. In the parcel panel, the reference to 'Private' is removed and replaced with the word 'Crown'.

4.5.7 Transmission on striking off a Company

When a company is struck off the Cayman Islands Companies Register, any land which it holds becomes immediately vested in the Financial Secretary for the benefit of the Islands. Once the Registrar of Lands is apprised by the Registrar of Companies that the company has been struck off, the Registrar of Lands makes an order for the removal of the company's name from the Proprietorship Section of the land register.

To give effect to the Registrar's order, an entry is then made in the proprietorship section of the register stating that the land is vested in the Financial Secretary. In the property section of the register, the entry is changed from 'Private' to 'Crown.'

4.6 Restraints

There are three types of restraint on dealings: inhibitions, restrictions and cautions. They arise in different ways. Inhibitions are orders of the Court. Restrictions are orders of the Registrar. Cautions are submitted by applicants. In addition to these restraints, there are also certain types of Note which may have the effect of restraining dealings with the property affected (see [Restraints](#)).

4.6.1 Restraints on Proprietors of Land, a Lease, or Strata lot

An Inhibition, Restriction or Caution is entered in the Instrument Record and given an instrument number in the same way as any other instrument. To register the restraints, the following entries are made in the proprietorship section: the date the instrument was made, the instrument number and, in the space headed 'name and address of proprietor(s)', the word 'inhibition', 'restriction' or 'caution' as appropriate. In the case of cautions, the name and address of the cautioner must be added immediately after the word 'caution'. If the terms of the restraint are simple, they can be added, but should not be abbreviated. They can be ascertained from the instrument in the unlikely event of the proprietor attempting to deal. Inhibitions, restrictions and cautions must be given a separate entry number.

For special procedures relating to the standard planning and survey restrictions, see [Planning & Survey Restrictions](#).

4.6.2 Common Restrictions

Some examples of the text of common restrictions are as follows:

- a) 'Restriction: No dealings unless by Order of the Court or Registrar of Lands.'
- b) 'Restriction: No dealings by minor until majority proved.'
- c) 'Restriction: Proposed Strata Plan: No dealings other than Charges except with the consent of the Registrar of Lands - see filed Instrument.'
- d) 'Restriction: No disposition without contemporaneous transfer of parcel
- e) 'Restriction: No transfer permitted without the consent of the Financial Secretary until a period of five years from the date hereof has elapsed.'

4.6.3 Planning & Survey Restrictions

For standard planning restrictions and survey restrictions, there are no entries for instrument number, entry number and date. The standard planning restrictions include the following: 'No dispositions until Certificate of Occupancy from Planning'; 'No dealings until planning conditions are met.' The standard survey restrictions include - 'No dispositions until the Chief Surveyor is satisfied that the survey is compliant to specifications.'

4.6.4 Restraining Notes

Apart from inhibitions, restrictions and cautions, other restraints on dealings may require a note on the register. An example is the note recording the limitations on the chargor's power to transfer following the creation of a charge: 'Not to transfer without consent of chargee (s.68 RLL)'. The notes are not accorded an instrument number, entry number or date, except for the note of a stay of registration. Fuller details on entering all types of notes are given in [Notes](#).

4.6.5 Restraints on Proprietors of Charges

The proprietor of a charge may be restrained from disposing of the charge by an inhibition, caution or restriction. The restraint must be entered in the incumbrances section where the chargee's name appears (not in the proprietorship section as in the case of restraints on proprietors of a parcel, a strata lot or a lease). The procedures for registering restraints on proprietors of charges are otherwise the same as for proprietors of a parcel, strata lot or lease (see [Restraints on Proprietors of Land, a Lease, or Strata lot](#)). The word 'inhibition', 'restriction' or 'caution' is entered in the 'Nature of incumbrance' column; the charge is identified by its entry number in the incumbrances section, and the name and address of the cautioner and brief details of or a reference to the instrument are entered in the 'Further particulars' column.

Similarly, if a proprietor of a charge creates a new charge over his existing charge (see [Charge of a Charge](#)), he cannot transfer the existing charge without the consent of the new chargee (unless the instrument creating the new charge specifically negatives the implied agreement in s.67(g) RLL). This constraint on the chargee's power to transfer must be noted (s.68 RLL). The wording of the note is the same as in [Restraining Notes](#), but the note must be made in the incumbrances section where the name of the proprietor of the charged charge appears. For details of the note, see [Wording & Positioning of Notes](#).

4.6.6 Variation of Restraints - Inhibitions & Restrictions

Variations of restraints are effected by registering a new order of the Court or the Registrar, as in [Restraints on Proprietors of Land, a Lease, or Strata lot](#), and deleting the former inhibition or restriction.

4.6.7 Deletion of Restraints - Inhibitions, Restrictions & Cautions

Cautions may be withdrawn by the cautioner or removed by order of the Registrar or Court. There is no prescribed form for withdrawal but a standard form is in use. For circumstances in which inhibitions may be removed, see s.126 RLL; for removal of cautions, see s.129 RLL; for removal of restrictions, see s.134 RLL. Removals must be authorised by an order of the Court or Registrar; they are entered in the Instrument Record just as any other instrument. Removals of inhibitions, cautions and restrictions are effected by deleting the reference to the restraint and entering the number of the instrument authorising the withdrawal or removal.

4.7 Notes

4.7.1 Noting the Register

The law requires certain matters to be noted on the register. Except for the note of a stay of registration, notes are not accorded an entry number, instrument number or date.

4.7.2 Wording & Positioning of Notes

There should be consistency in both the wording (which should be as brief as possible) and the positioning of notes on a register.

Topic	Statutory provision	Wording	Positioning
Filing a plan	s.14 RLL	'Plan filed'	Parcels panel (see Noting of Filed Plan and New Leasehold Registers - Parcel Panel)
Determination of a disputed boundary	s.17 RLL	'Disputed boundary determined'	Parcels panel
Fixing a boundary	s.18 RLL	'Boundaries fixed'	Parcels panel
Land certificates	s.31 RLL	'Issued' 'Reissued' 'Filed' 'Returned and destroyed' 'Returned and filed' 'Declared Lost' 'Found' In each case, add date and certificate number.	Parcels panel

Stay of registration	s.42 RLL	'Stay of registration: proposed transfer of land [or other dealing as appropriate] in favour of ____ . Expires 20-Sep-2007'	Proprietorship section (see Stay of Registration)
Restraints on lessee	s.47 RLL	'Not to transfer, sublease or charge without consent of lessor (s.47 RLL)'	Proprietorship section of leasehold register (see New Leasehold Registers - Proprietorship Section)
Restraints on chargor	s.68 RLL	'Not to transfer without consent of chargee (s.68 RLL)'	Proprietorship section of land or lease charged (see Restraining Note)
Restraints on proprietor of charge (where a charge is charged)	s.68 RLL	'Not to transfer without consent of chargee (s.68 RLL)'	Incumbrances section containing the charge charged and name of its proprietor (see Restraints on Proprietor of Charge)
Tacking	s.81 RLL	'Chargee has right to tack'	Incumbrances section (see Tacking & Consolidating)
Consolidation	s.82 RLL	'Chargee has right to consolidate'	Incumbrances section (see Tacking & Consolidating)
Tacking and consolidation	ss.81, 82 RLL	(If both rights are reserved): 'Chargee has right to tack and consolidate'	Incumbrances section (see Tacking & Consolidating)

Restrictive agreements	s.93 RLL	'Subject to restrictive agreement Instrument No. 4312/06'	Incumbrances section of parcel burdened.
		And if appropriate: 'Benefit of restrictive agreement Instr. No. 4312/79 filed in 99A 36'	Appurtenances panel of parcel benefitting (dominant tenement) (see Creation of Restrictive Agreement)
Appeals against decision of Registrar	s.148 RLL	'Appeal pending'	Proprietorship section
Strata lots	s.10(c)(iii) STRL	'Registers in respect of Strata Lots have been opened'	Incumbrances section of strata parcel register

4.7.3 Non Statutory Notes

Although not specifically required by the Registered Land Law, the Registrar has taken the opportunity of making other notes on the register where appropriate. Common non-statutory notes include the following.

Topic	Wording	Positioning
Undemarcated boundary	'Undemarcated boundary. See Registry Map.'	Proprietorship section
Appointment of liquidators	'Peter Smith and John Jones as joint Official Liquidators.'	Proprietorship section

Proposed road	'Proposed road - see Gazette No. ____, dated ____ (Boundary Plan No. ____)'	Proprietorship section
Parcel becomes a public road	'The whole of this parcel has been acquired by Government under the Roads Law'	Proprietorship section
Conjoined land	'No transfers except in conjunction with 1/10 share of 13B 121'	Proprietorship section

4.8 Stratas

4.8.1 Strata Instruments & Numbering

'Strata instruments' are instruments which lead to the registration of a new strata plan or to the amendment of an existing strata plan; they include a variation of unit entitlement, variation of bye-laws or notice of destruction. An instrument which affects only a strata lot (such as a transfer of a strata lot) is not a strata instrument as it merely affects a strata lot register and not the strata plan. 'Strata instruments' are dealt with separately from the instruments which lead to an entry in a land register.

Each strata instrument accepted for processing, including the strata plan application itself, is entered in the electronic Tracking System and allocated a strata instrument number (for example, S.1448) after having been subjected to compliance checks.

Upon the registration of a new strata plan, the strata plan is given a strata plan number (for example, S.P.516). Any subsequent strata instrument affecting the strata plan will be allocated a new strata instrument number (the S number), but the number of the strata plan (the SP number) is not varied.

4.8.2 Application to Register a Strata Plan

A strata plan may be prepared by an applicant in respect of not less than four self-contained units for residential or business purposes. The units may be detached buildings or divisions of buildings, or they may be divisions of a parcel. Full details of the requirements for strata plans are given in the Strata Title Registration Law.

In order to register a strata plan, an application letter is required from the applicant along with the forms required by the Strata Title Registration Regulations. The application letter must be signed by all registered proprietors of the land or lease over which the strata plan is to take effect, and must show their full names as recorded on the land register. The letter must state whether the scheme is phased development or not, and the consent of any chargees and cautioners must accompany the application.

The relevant certificate concerning development compliance must be completed by the planning authority and submitted and endorsed on the strata plan. Where the application is for a strata scheme over open land, then the second declaration in the certificate (confirming the issue of a Certificate of Occupancy) is inapplicable and is simply disregarded.

A strata plan movement log is attached to the application and an electronic Temporary Note is recorded with the register of the parcel affected to indicate that the strata plan has been submitted. The details of the application are entered in the electronic Survey Tracking System. These details include the nature of the application, which is entered as 'registration of strata plan'. Once the application is approved, the tracking system generates the next consecutive number for the strata plan. The fees for the application are collected and receipted. The Registry assigns reference numbers to the new strata lots that will be created under the Strata Plan.

The application is sent to the Chief Surveyor and GIS for authentication of the survey and confirmation of new strata lot numbers. The application is returned to the Registry, where the necessary entries are made in the strata parcel register and the new strata lot registers. The strata plan is then filed in the register of strata plans.

4.8.3 Procedure following Registration of Strata Plan

Once the strata plan has been registered, the land register for the land or lease over which the strata plan takes effect becomes known as the 'strata parcel register'. After registration of a strata plan (see [Application to Register Strata Plan](#)), various entries must be made in the strata parcel register. The procedures for these entries are given in [Entries in the Strata Plan Register](#).

Strata lot registers are then opened for each strata lot. The procedures required for these registers are given in [New Strata Lot Registers](#), [Transfer & Transmission of Strata Lots](#), [Processing strata instruments subsequent to the registration of a strata plan](#), and [Termination of Strata](#).

4.8.4 Entries in the Strata Plan Register

In the proprietorship section of the strata parcel register, the name of the proprietor is deleted and replaced by the name of the strata corporation in the form 'The Proprietors, Strata Plan No.____.'. The parcel now comprises only the common property of the strata. A restriction prohibiting indefinitely all dealings with the parcel without an order of the Court or the Registrar must be entered.

The registration of a strata plan also requires an entry to be made in the property section of the strata parcel register. In the 'Notes on Parcel' box, the following entry is made: 'Subject to Strata Plan No.____. The land comprised in this parcel consists only of the common

property.’

In the incumbrances section of the strata parcel register, the following note is entered: 'Registers in respect of Strata Lots have been opened.'

4.8.5 Phased Strata Development

It is often the case that the application to register a strata plan is submitted before all the buildings which are to be divided have been completed, and where the developer intends that the building on the parcel is to be completed in phases.

When there is phased strata development, in the property section of the strata parcel register, a note is made in the 'Notes on Parcel' box, stating that the parcel is 'Subject to phased strata development'. Strata lot registers are then opened for each strata lot contained in the current phase (see [New Strata Lot Registers](#)). As each new phase is started, the strata lots for that phase are opened.

Upon completion of the final phase, the note stating that the parcel is subject to phased development is removed and replaced by a note that the parcel is subject to the strata plan (see [Entries in the Strata Plan Register](#)). At this point, the name of the proprietor is deleted from the proprietorship section of the strata parcel register, and replaced by the name of the strata corporation. The parcel now comprises only the common property and a restriction prohibiting indefinitely all dealings with the parcel without an order of the Court or the Registrar must be entered.

4.8.6 The System for old Phased Strata Development

[Phased Strata Development](#) indicates the method of proceeding with a new phased strata development application. The former system in operation in the Land Registry for phased developments was slightly different, and during a transitional period continues to be applied to dealings with old phased strata developments that were established under the former system. Because of their continued relevance, the following paragraphs will indicate the procedures applied to phased development under the old system.

Under the old system, upon acceptance of the necessary strata instruments to set up a phased development, the strata parcel was subdivided in accordance with the phases and given a new parcel number. The strata plan was then given its strata plan number, and placed in the file of registered strata plans. The strata plan number was entered in the property section of the strata plan register, and the strata instrument signed off.

The phase subdivisions were accorded a temporary number; for example, if the new parcel number was 132, they would be numbered 132(a), 132(b), and so on. When a new phase subdivision register is opened, a restriction on dealing is entered, which will be removed when building of the relevant phase is completed. Strata lot registers are opened for each strata lot contained in that phase subdivision (see [New Strata Lot Registers](#)). When building on a phase subdivision is completed, an application is submitted to combine the phase subdivisions. Once the whole parcel is developed in accordance with the strata plan, the temporary numbers (a), (b), etc., are removed.

4.8.7 New Strata Lot Registers

When a new strata plan is registered, a new strata lot register must be opened for each strata lot identified on the strata plan. The following entries are necessary.

4.8.7.1 Parcel Panel

On opening the new strata lot registers, the following entries in the parcel panel are taken from the registered strata plan:

- a) Registration Section
- b) Name of Parcel
- c) Unit Entitlement
- d) Notes on Area

The reference number for the strata lot is also entered in the parcel panel. The reference number is determined by the method described in [Numbering of Strata Units](#).

The remaining entries in the parcel panel are copied from the strata parcel register, but instead of the words 'FIRST REGISTRATION' or 'MUTATION NO.', the words 'S.P. No.' and the number of the strata plan are entered.

4.8.7.2 Appurtenances Panel

In the appurtenances panel of each strata lot register, the following words are entered: 'The benefits as listed in the Bye-Laws and any amendments thereof'.

Any appurtenances shown on the strata parcel register are not copied onto the individual strata lot registers.

4.8.7.3 Proprietorship Section

The first entry in the proprietorship section must always be the name of the proprietor in the land register over which the strata plan was registered. This rule applies even though the strata corporation has been substituted as above in the strata parcel register for the name of the proprietor as owner of the common property and a restriction has been entered on dealings in the common property. (See ss. 10 and 11 STRL).

If the strata lots exist in a building, then the strata plan may be registered and strata lot registers opened prior to the issue of a Certificate of Occupancy. But in such cases, a restriction on dealings must be entered in each strata lot register to prohibit dealings until the Certificate of Occupancy is issued.

If the strata is an 'open land' strata, then the strata plan may be registered and strata lot registers opened prior to the Chief Surveyor's confirmation of the strata lot surveys. But in such a case, a restriction on dealings must be entered in each strata lot register to prohibit dealings until the Chief Surveyor is satisfied that the survey is compliant to specifications (see [Planning & Survey Restrictions](#)).

4.8.7.4 Incumbrances Section

The incumbrances section of each strata lot register contains particulars of all registrable rights adversely affecting the strata lot. All subsisting entries in the incumbrances section of the strata parcel register over which the strata plan takes effect must be copied unchanged onto the new strata lot registers; although a particular incumbrance affecting the parcel register may be omitted from a strata lot register if it does not affect that part of the land which is comprised in the new strata lot. When entering the incumbrance, the date, instrument number and details of the incumbrance must not be varied. Only the entry number may change. However, if an old entry contains a reference to a parcel whose number has subsequently been changed, the new parcel number is entered.

For procedures in relation to the entering of 'spread charges' over new strata lot registers, see [Spread Charge](#).

4.8.8 Transfer & Transmission of Strata Lots

For transfer and transmission of strata lots, see [Transfers](#), and [Transmissions](#).

4.8.9 Processing Strata Instruments subsequent to the Registration of a Strata Plan

Following the registration of a strata plan, further strata instruments may be submitted which lead to amendments to the registered strata plan. They include change of bye-laws, variation of details recorded on the strata plan, combination of strata lots, and combination of old phase subdivisions under the prior system for phased development (see [The System for old Phased Strata Development](#)). The strata instruments are numbered, entered in the electronic tracking system, and lead to an amendment written on the registered strata plan. They are ultimately filed in order of number in the file of strata plans.

4.8.10 Termination of Strata

The proprietors may terminate a strata by passing a unanimous resolution to that effect and lodging a notification with the Registrar (s.23 STRL). Where the proprietors want to terminate the existing strata and immediately replace it with a new strata plan, the Land Registry has on previous applications utilised a protocol which achieves this objective while protecting the rights of those affected by the termination.

4.9 Leases

4.9.1 Description

A lease may be created over a parcel or a strata lot, and a sublease may be created over an existing lease.

Registrable leases fall into two categories: leases which must be registered and leases which may be registered. A lease must be registered with its own leasehold register if it is for a specified period exceeding two years, or for the life of the lessor or lessee, or if it contains an option for a further term or terms which, together with the original term, exceed two years. A lease for a shorter period may be accepted for registration with its own leasehold register but there is no statutory requirement on the Land Registry to do so.

The registration of a new registrable lease involves two sets of procedures. First, a new leasehold register is created giving the details of the lease. Secondly, an entry is made on the existing register for the property over which the lease has been created, which may be a parcel register, strata lot register, or leasehold register. (This register will be termed the “superior register” in this chapter.)

4.9.2 Instruments & Copies

The instrument of lease (Form RL8) and the attached full lease (known as the ‘lease schedule’) must be submitted in triplicate (s.105 RLL). The instrument number allocated to the instrument of lease is written on the original of the lease schedule. After registration, the original is retained in the parcel file and the duplicate and triplicate copies of the lease will be returned to the lessor and lessee (or their respective agents).

4.9.3 New Leasehold Registers

4.9.3.1 Nature of Title Panel

On opening a new leasehold register, the word 'leasehold' is entered in the nature of title panel of the leasehold register.

4.9.3.2 Summary of Lease Panel

The summary of lease panel of a leasehold register is for a summary of the lease only, not for any appurtenances entered in the superior register. Only the required particulars, and no more, are entered. These items can be obtained from the instrument or lease. They are:

- a) lessor;
- b) lessee;
- c) rent;
- d) the term of the lease, along with any option to extend or renew (for options, see [Option to Extend or Renew Lease](#));
- e) date of commencement of the lease;
- f) any appurtenances benefitting the lease itself, such as a right of way given to the lessee.

4.9.3.3 Parcel Panel

The reference number of the lease is entered in the parcel panel. For the method of numbering leases, see [Numbering of Leases & Sub Leases](#).

If the lease is of the entire land comprised in the superior register, no further description is necessary. If, however, the lease is of part only, the part leased must be identified. This identification will be provided in the lease itself or attached to it (s.44 RLL). If it is not given, registration is refused. Appropriate identifications are entered in the parcel panel of the leasehold register. For example:

- a) 'The land described as plot 4 on the plan annexed to instrument 506/07.'
- b) 'The land delineated and edged in red on the plan annexed to instrument 403/07.'
- c) 'See filed plan.'

If the lease is of the entire land comprised in the superior register, the area shown in the superior register is copied. If the lease is of part only, the area of the part given in the lease or annexed plan is entered; if no area is stated in the application, the space is left blank. A lease will not be accepted for registration if its stated area exceeds the area recorded in the superior register which is affected by the lease.

4.9.3.4 Proprietorship Section

The name and address of the lessee, taken from the new instrument, are entered in the proprietorship section with a separate entry number.

Under the name of the proprietor of the lease, the words 'Not to transfer sublease or charge without consent of lessor (s.47 RLL)' are entered. This note is not given an entry number (see [Wording & Positioning of Notes](#)).

The note to restrain dealings by the lessee is made in every case unless the application for

registration contains a specific statement, either on the instrument or otherwise apart from the general clauses in the lease schedule, that:

- a) no such note is required; or
- b) the terms of the lease have removed the implied statutory restraint on dealings.

Registry staff therefore need not read all the clauses of the lease schedule in order to discover whether the statutory restraint on dealings has been removed.

4.9.3.5 Incumbrances Section

The incumbrances section of the new leasehold register contains particulars of registrable rights adversely affecting the new lease.

If there are any subsisting entries in the incumbrances section of the superior register from which the new lease has been created, they are not copied onto the new leasehold register.

4.9.4 Entries in the Superior Register

As well as creating the new leasehold register, a record of the existence of the lease must be added to the superior register which is affected by the new lease. In the incumbrances section of the superior register, the following items are entered with a single entry number: the date of registration (see [Date of Register Entries](#)), the instrument number, the word 'Lease' in the column headed 'Nature of incumbrance'. The lease reference number is entered in the column headed 'Further particulars', along with the name of the lessee. No details (such as the amount of rent) are entered on the superior register, as they will be shown on the leasehold register itself.

If the lease is of part only of the land comprised in the superior register, then in the column headed 'Nature of incumbrance' the words 'Lease of part' are entered. In the column headed 'Further particulars', after the lease's reference number, a brief reference to the part leased is added: for example, 'plot 4'; 'apartment 2'; 'see filed plan'. In the case of subleases, the above entries will be made only in the incumbrances section of the immediately superior leasehold register and not the incumbrances section of the parcel register.

4.9.5 Variation of Lease

A variation of the conditions of a lease during its current term requires an instrument executed by both parties. There is no prescribed form in the RLR, but the practice is to use the Lease Form (RL8) with appropriate modifications.

To register a variation, three steps are to be carried out.

- a) In the superior register, the words 'Variation of lease' (with a new entry number) are entered in the column headed 'Nature of incumbrance'. In the column headed 'Further particulars', the reference number of the lease being varied is entered and, if space allows, a brief summary of the variation(s) is given; for example, 'period extended to 31/05/2008' or 'rent increased to \$2500 per month'. If space is insufficient, the words 'for variation(s) see instrument' are entered.
- b) The variation is entered in the summary of lease panel of the leasehold register by removing the reference to the term varied and entering the substituted term.
- c) The variation must also be noted on the filed lease (and on the lessor's and lessee's copies, if presented).

4.9.6 Transfer & Transmission of Registered Lease

For transfer and transmission of registered leases, see [Transfers](#) and [Transmissions](#).

4.9.7 Surrender of Lease

The surrender of a lease requires an instrument in the prescribed form. Alternatively, one of the three copies of the lease must have the word 'surrendered' written on it and the inscription must be executed by both parties.

To register a surrender, the lease (and any registered variation of it) is removed from the incumbrances section in the superior register, and the number of the surrender instrument is entered (see [Instruments & Copies](#)). If there was no separate surrender instrument but the surrender was made by inscription on the lease, then the number of the inscribed surrendered lease is entered. The instrument or the inscribed surrendered lease must then be filed in the parcel file. A lease which is subject to a charge or sublease cannot be surrendered without the consent in writing of the proprietor of the charge or sublease (s.61 RLL).

Once a lease has been removed from the incumbrances section of the superior register, then the leasehold register in question must also be closed. The phrase 'Status-Closed' is entered in the Change Type panel of the leasehold register, and the Closed box is ticked.

4.9.8 Termination of Lease

The circumstances in which a lease terminates (as opposed to being surrendered) are contained in s.62 RLL. They include where:

- a) the period of the lease has expired;
- b) an event upon which the lease is expressed to terminate has happened;
- c) a lessor has lawfully re-entered;
- d) a notice duly given to terminate has expired and the lessor has recovered possession of the land leased.

The Registrar will not register a termination of his or her own motion, even if he or she knows that the period of a lease has expired, for the lease may be 'held over' (s.51 RLL).

The Registrar requires suitable evidence of legal termination. On accepting an application to terminate, the entry relating to the lease is deleted in the same manner as a surrender (see [Surrender of Lease](#)).

4.9.9 Option to Extend or Renew Lease

Where a registered lease confers on the lessee an option to extend or renew the lease, the existence of the right is noted on the leasehold register next to the 'term stated' in the summary of lease panel.

Once the lessee exercises the option to extend or renew, the lessee submits a Variation of Lease signed by both lessor and lessee, and the entries in the leasehold register are altered accordingly (see [Variation of Lease](#)). There is no prescribed Variation of Lease form in the RLR, but the practice is to use a Lease Form (RL8) with appropriate modifications.

4.10 Charges

The instrument of charge (Form RL9) and the attached full deed containing the terms of the agreement between chargor and chargee (known as the 'charge schedule') must be submitted in triplicate (s.105 RLL). The instrument number given to the charge instrument is written on the original of the charge schedule. After registration, the original is retained in the parcel file and the duplicate and triplicate copies are returned to the chargor and chargee (or their respective agents).

4.10.1 Registration of Charge

Registration of a charge requires entry of the charge and its proprietor in the incumbrances section, and notes as necessary to reflect certain terms of the charge.

4.10.2 Charge Type

In the incumbrances section of the register of the parcel, strata lot or lease charged, an entry is made in the 'Nature of incumbrance' column with a separate entry number. The text of the entry depends on the type of charge.

If any of the charges are floating charges, the charge is also described as such.

4.10.2.1 Charge

The word 'Charge' is entered.

4.10.2.2 Further Charge

If the application is to register a charge which secures a further sum on an existing charge by the same chargee, then the words entered are: 'Charge to secure a further sum of'

4.10.2.3 Second Charge

Also Third Charge, etc. If, while there is an existing charge, a charge is submitted which is expressly stated to be a second charge or third charge, etc, whether in favour of the first chargee or another chargee, then the words 'Second charge', or 'Third charge', etc, are entered.

4.10.2.4 Pari Passu Charge

This occurs if, while there is a subsisting charge, a second or subsequent charge is submitted (whether in favour of the same chargee or another chargee), which is expressly stated to be 'pari passu' with another identified charge or charges. Here, the identified charges rank equally. In this case, the words 'Pari passu charge' are entered and the charge or charges with which it ranks equally are stated.

4.10.2.5 Collateral Charge

These are not specifically mentioned in the RLL but the categorisation of a charge as a collateral charge is relevant to stamp duty. The collateral charge occurs where a person gives a primary security and also charges other property by way of collateral security for the same obligation. The primary security may be a debenture or bill of sale, or a registered charge over a parcel, strata lot, lease or charge. It is the applicant who chooses which is to be the primary security and which is to be collateral.

Where the primary security is a registered charge over a parcel, strata lot, lease or charge, the primary charge is simply entered as a 'Charge'. In the 'Further Particulars' column, there are entered the words 'Collateral held on' stating the reference numbers of all the land registers in which the collateral charges are registered. All the collateral charges are then entered in their respective land registers with the words 'Collateral charge' and in the 'Further Particulars' column, there is entered 'Collateral to' stating the reference number of the land register over which the primary charge is registered.

Where the primary security is a debenture, then all the charges entered in the land registers are collateral charges. Each charge is entered as 'Collateral Charge.' One of the land registers is selected as the parcel in whose parcel file the debenture will be filed: for this land register, in the 'Further Particulars' column of the Incumbrances Section, there is entered 'Collateral to filed debenture'. For all other land registers affected by the collateral charges, there is entered 'Collateral to Debenture filed with' stating the reference number of the land register in whose parcel file the debenture is deposited.

4.10.2.6 Spread Charge

If the creation of a strata scheme is proposed but there is a charge over the parcel, strata lot or lease to be developed, then before the strata scheme can be created, the registry first requires the chargee's consent. The chargee must provide consent to register the proposed strata plan, to release the charge from the parcel, strata lot or lease, and to spread the charge over the new strata lots that will be created. When the strata lot registers are opened and the charge is spread amongst the strata lots, the charge is noted in the incumbrances section of each strata lot as a 'Spread Charge'.

4.10.3 Details of Charge

In the 'Further particulars' column of the same entry, the summarised details of the charge are entered. For example 'Charge to secure US\$220,000.00. Interest rate 11% p.a. [or prime +2% p.a., or 5% p.a. above Bank's MLR for CI\$, etc, as appropriate]. Repayable on

01/05/2008 [or on demand, etc].’ The prescribed form provides space for these details to be given on it; however, it is sufficient if there is a reference to an attached charge schedule. It is not the duty of registry staff to extract these details from the charge schedule or to examine the charge schedule to ensure that they are contained in it. If the details are not given on an instrument which has been accepted, then this entry is made: ‘For interest rate see filed charge schedule.’ If the material is not obviously in the charge schedule, the word ‘unspecified’ is entered.

4.10.4 Tacking & Consolidating

If there is an express right shown on the instrument for the chargee to tack or consolidate or both, then the note required under ss.81 and 82 RLL is made. A chargee does not have an implied right under s.67 RLL to tack or consolidate, but if the instrument contains an express right to do so, the register requires noting. This is effected by inserting the words ‘Chargee has right to tack’ (or to consolidate, or both, where appropriate). This note is made, without entry number, immediately after the first entry relating to the charge and before the second entry identifying the proprietor of the charge (see [Wording & Position of Notes](#)). If the instrument form itself does not show this express right, no note is made; no reference is made to the filed charge schedule.

4.10.5 Proprietor of Charge

A further separate entry with separate entry number is then made to record the chargee as the proprietor of the charge. No entry is made in the ‘Nature of incumbrance’ column of this second entry. The words ‘Proprietor: [name]’ and the address are entered in the ‘Further particulars’ column. This second entry to show the proprietor is unnecessary in the case of further charges, since they can refer only to the proprietor of the original charge.

4.10.6 Restraining Note

A further note will almost always be required in the register to record the limitations on the chargor’s power to transfer (s.68 RLL). The words ‘Not to transfer without consent of the chargee (s.68 RLL)’ are entered in the proprietorship section of the parcel, strata lot or lease immediately below the name of the proprietor, and no entry number is given to the note (see [Noting the Register](#) and [Wording & Positioning of Notes](#)).

This note to restrain dealings by the chargor is made in every case unless the application for registration contains a specific statement, either on the instrument or otherwise apart from the general clauses in the charge schedule, that:

- a) no such note is required; or

b) the terms of the charge have removed the implied statutory restraint on dealings.

Registry staff therefore need not read all the clauses of the charge schedule in order to discover whether the statutory restraint on dealings has been removed.

4.10.7 Substituted Charge

Where the registered proprietor and chargee agree to transfer a charge from one parcel and substitute a different parcel, owned by the same proprietor, as security for the same loan, then they may submit an application for a substituted charge. The charge is removed from the incumbrances section of the land register for the first parcel and entered in the normal way in the land register for the second parcel. The charge is entered as 'Charge by way of substituted security'. The terms must otherwise remain the same; if the terms are to be varied in any other way, then the substituted charge must be immediately followed by a variation of charge on a separate instrument.

4.10.8 Variation of Charge

Variation of the terms of a charge during its currency requires an instrument of variation executed by both parties; a standard form is in use (Form 39). To register a variation, the words 'Variation of charge' are entered in the column headed 'Nature of incumbrance' in the incumbrances section, and given a new entry number. In the column headed 'Further particulars', a brief summary of the variation(s) is entered; for example, 'Sum secured increased to \$150,000', or 'Variation of interest from 13% to 12½% p.a.', or 'Charge repayable on 02/05/2008', if space permits. If not, then the words 'For variation(s) see instrument' are entered. The variation is also noted on the filed charge (and on the charger's and chargee's copies, if presented).

4.10.9 Transfer of Charge

Transfers of charges require an instrument in prescribed form. Charges are transferred in the same way as a transfer of a parcel, strata lot or lease (see [Transfers](#)), but the entry of the new proprietor must be made in the incumbrances section. The separate entry of the proprietor transferring the charge is removed and a new entry with new entry number is made. The words 'Transfer of charge' are entered in the column headed 'Nature of incumbrance'. The word 'Proprietor:' and the name and address of the new proprietor of the charge are entered in the column headed 'Further particulars'.

4.10.10 Charge of a Charge

A charge may be charged in the same way as a parcel, strata lot or lease by an instrument in prescribed form. Procedures for registration of a charge of a charge are the same as in

[Charges](#), but in the 'Nature of incumbrance' column, the words 'Charge of charge' are entered. In the 'Further particulars' column, the charge charged is identified by its entry number in the incumbrances section and brief particulars of it are entered. See [Restrains on Proprietor of Charge](#) for the appropriate restraining note.

4.10.11 Restraints on Proprietor of a Charge

Restraints on the disposition of a charge by the proprietor of the charge must be entered in the incumbrances section where the chargee's name appears, not in the proprietorship section as in the case of a restraint on the proprietor of a parcel, strata lot or lease.

The standard note recording the limitations on the chargee's power to transfer is as follows: 'Not to transfer without consent of chargee (s.68 RLL)'. The note is not given an entry number or date (see [Noting the Register](#) and [Wording & Positioning of Notes](#)).

4.10.12 Discharge of a Charge

Discharges of charges are registered by removing both the entry of the charge and the entry of its proprietor (and any variation of that charge) and entering the number of the discharge instrument. Charges may very occasionally be deleted in circumstances other than a discharge; see s.70(4), 75(4) and 80 RLL.

4.11 Easements, Profits & Restrictive Agreements

The creation of easements, restrictive agreements and profits may require two changes to land registers: first an entry or note in the appurtenances panel of the land benefiting (known as the dominant tenement), and secondly an entry in the incumbrances section of the burdened land (known as the servient tenement).

4.11.1 Creation of Easement

An easement is created:

- a) by an instrument of grant of an easement in prescribed form; or
- b) by a proprietor reserving in an instrument of transfer or in a lease an easement for the benefit of a parcel, strata lot or lease retained by him; or
- c) by granting in an instrument of transfer or lease the benefit of an easement for the parcel, strata lot or lease transferred or for the new lease that has been created.

4.11.2 Registration of Easement

To register a grant or reservation of an easement, the following steps are taken. In the 'Nature of incumbrance' column of the incumbrances section of the register for the land burdened by the easement (servient tenement), a reference is made to the instrument or the transfer or lease which creates the easement, and the words 'Grant of easement' or 'Reservation of easement' are added. In the column headed 'Further particulars', the reference of the parcel, strata lot or lease benefiting from the easement is entered, along with a brief description of the easement; for example, 'A 6-foot wide pedestrian Right of Way shown on Registry Map in favour of 24E 210'. If the description of the easement is lengthy it will usually be necessary to add, 'For further details see instrument'.

Easements are always 'appurtenant to land'. An entry of an easement in the incumbrances section of the register for the burdened land always requires a corresponding entry as an appurtenance in the appurtenances panel of the land benefitting (the dominant tenement). Easements are either reproduced in full or a reference made to a filed instrument. For example: 'A 30-ft vehicular Right of Way over parcel 71A 99 as shown on the Registry Map.'

4.11.3 Entry of Easement on Registry Map

The route of a right of way is shown on the Registry Map. As with any other alteration to the Registry Map, a new easement therefore requires the completion of a mutation form

unless the easement follows the route of an existing right of way already shown on the Registry Map.

4.11.4 Noting of Public Rights of Way

Public rights of way are shown on the Registry Map. There is no objection to noting the existence of a public right of way granted after first registration (for example, as a condition of planning consent) in the incumbrances section of the parcel burdened.

The applicant submits an instrument on the Dedication form (Form 41), which is processed in a similar way to any other instrument leading to an alteration in the register. An instrument number is allocated to it. The entry in the incumbrances section is worded in such a way as to make it clear that it is not a 'grant of easement'; for example, 'A 10-foot Right of Way to the general public over this parcel as shown on the Registry Map'.

Unlike a private easement, a public right of way is not appurtenant to any land and consequently there is no corresponding entry in the appurtenances panel of any other land register.

4.11.5 Creation of Profit

A profit may be either 'appurtenant to other land' or 'in gross' (see Glossary). Whichever form it takes, it may be enjoyed by the grantee exclusively, or by the grantee in common with the grantor. The instrument creating the profit indicates these points. Unless the instrument indicates that the profit is to be enjoyed in common, it is assumed that it is to be enjoyed by the grantee exclusively.

4.11.6 Registration of Profit

To register a profit, the words 'Grant of profit' are entered in the 'Nature of incumbrance' column of the incumbrances section of the land burdened.

The following entries are made in the 'Further particulars' column:

- a) If the profit is appurtenant to other land, the reference of the parcel, strata lot or lease benefiting from the profit is given, and a brief description of the profit if space allows, otherwise the words 'see filed instrument' are used. If the profit is to be enjoyed in common, the words 'enjoyed by grantor in common' are also entered.
- b) Since the profit is appurtenant to land, it must also be entered in the appurtenances panel of the register for the land benefiting from the profit, for example, 'The benefit of profit in

Instrument No. 6984/07 filed in parcel 24E 22’.

- c) If the profit is ‘in gross’, the name and address of the person benefiting from the profit is entered in the ‘Further particulars’ column. In other respects, the procedures are the same as for a profit ‘appurtenant to land’. Of course, if the profit is ‘in gross’, no entry must be made in the appurtenances panel of the property section of any other land which the person enjoying the profit ‘in gross’ may happen to own.

4.11.7 Creation of Restrictive Agreement

When an instrument of transfer contains a restrictive agreement by one proprietor restricting the use of his land for the benefit of the proprietor of other land, or when an instrument is presented other than on transfer, which creates such a restriction, then the restrictive agreement must be entered in the register. This is done by entering in the ‘Further particulars’ column of the incumbrances section of the land burdened by the restrictive agreement the words ‘Subject to restrictive agreement instrument no...’ and, if space permits, brief details of the restriction may be added. No entry number is given.

A note may also be made in the appurtenances panel of the property section of the register for the benefitting land in corresponding form, since restrictive agreements are appurtenant to land. For example, ‘The benefit of restrictive agreement instrument no. 384/07 filed in parcel 22D 127’ (see [Wording & Positioning of Notes](#)). The law does not specifically require restrictive agreements to be noted in this way, and the Registrar will exercise a discretion in this matter. For example, the benefit of restrictive agreements over many other properties in an estate may be refused in order to prevent the appurtenances panel of the land registers for estate parcels from becoming clogged with identical entries.

4.11.8 Release of Easement, Profits or Restrictive Agreement

Releases of easements, restrictive agreements and profits are registered by deleting the whole entry in the incumbrances section of the register for the land burdened (or the note in the case of restrictive agreements) and, where they are appurtenant to other land, by also deleting the entry of the appurtenance in the property section of the register for the land or lease benefiting. Easements, restrictive agreements and profits may occasionally be removed in circumstances other than a release: see ss.95 and 96 RLL.

4.11.9 Deletion of Easement, Profit or Restrictive Agreement

Easements, profits and restrictive agreements are removed by deleting the appurtenance and incumbrance and entering the number of the discharge instrument.

4.12 Upgrading Title

4.12.1 Conversion of Provisional to Absolute Title

Any interested person may apply on the prescribed form for converting the grade of title from Provisional to Absolute. The application is capable of leading to a change in the register and is therefore processed as an instrument in the normal way, with entry in the Instrument Record and allocation of an instrument number. The Registrar makes the decision on the application and the conversion is effected under s.29 RLL by a Registrar's order. To register the order, the word 'PROVISIONAL' in the parcel panel is replaced with the word 'ABSOLUTE'. Any words in the space headed 'Particulars recorded in para. 6 of adjudication record', are deleted and the instrument number of the Registrar's order is inserted. The application is subsequently filed in the parcel file.

4.13 Certificates & Searches

4.13.1 Land Certificates & Lease Certificates

Land certificates may be issued in respect of a parcel register or a strata lot register; and their equivalent, a lease certificate, may be issued in respect of a leasehold register where the lease is for a period of more than 25 years (s.31 RLL). Land certificates and lease certificates are not essential to the operation of the registration system; experience has shown that they hinder land transactions, and the Land Registry advises applicants against making a request for the issue of a new land or lease certificate.

Before accepting an application for a land or lease certificate, staff should note the following matters:

- a) A check should be made against the register to ensure that no certificate has already been issued. (If the applicant wishes to have a new certificate, the old certificate must first be surrendered for destruction and two corresponding notes will eventually be required in the register, see [Wording & Positioning of Notes](#))
- b) A check should be made to ensure that the application is made by the proprietor(s) himself or by an agent on his behalf, as only a proprietor is entitled to a certificate.
- c) If the land or lease is subject to a subsisting charge, the applicant should be informed that a land certificate or lease certificate cannot be given to the applicant while a charge is in place.
- d) Only one certificate can be issued in respect of any parcel, strata lot or lease. If the land, strata lot or lease is held jointly or in common, the application must indicate which joint proprietor or proprietor in common is to hold the certificate. If no indication is given, the application can be accepted if it is in order, but the certificate must be retained in the Registry (s.31 RLL).

If accepted, an application for a certificate is entered in the Instrument Record, the certificate is prepared and the seal impressed, and the appropriate note entered on the register (see [Wording & Positioning of Notes](#)). All subsisting restraints on disposition and incumbrances shown on the register on the date of the certificate must be entered on the

certificate in full. A certificate in respect of a strata lot must certify the proprietor's unit entitlement (that is, his or her share in the common property) in Part A of the certificate.

Where an issued land or lease certificate is held at the Land Registry, it is stored in the parcel file.

4.13.2 Registry Searches

Any person is entitled on payment of the prescribed fee to carry out a search of any register (s), sheet(s) of the Registry Map or filed document(s). The law provides for three methods of search:

- a) Inspection: applications on Form RL22
- b) Certified copies: application on Form RL23
- c) Official search (with stay of registration): application on Form RL24.

Inspection means examination of the register(s), map sheet(s) or document(s) at the counter. Inspections must be supervised by staff; only the document(s) specified in the application may be inspected and a separate fee is chargeable for each parcel inspected. A person inspecting may take notes or request a photocopy, but must not be allowed to make full written copies, thereby wasting the time of Registry staff. No inspection fee is incurred if a person inspects his own register; there is, however, a charge for making photocopies.

Certificates of official search (involving a stay of registration) are no longer issued and, as in many other countries, have been replaced by a certified copy of the register coupled with stay of registration.

4.13.3 Stay of Registration

An application for a stay of registration must be submitted on Form RL27. The written consent of the proprietor is required. The application requires the making of an entry in the register and must therefore be entered in the Instrument Record and given an instrument number. The stages in the processing of an official search application are the same as for any other instrument. For wording and positioning of the note of stay of registration, see para. 4.7.2. Unlike most notes, the instrument number of a stay of registration, its entry number and its date are entered on the register.

4.14 Registry Map, Mutations & Boundaries

4.14.1 Description of Registry Map

The Registry Map indicates the location, boundaries and number of every parcel separately owned in the Cayman Islands. Public roads are not accorded a parcel number and no land register is opened in respect of them (see [Description](#)).

The Registry Map does not indicate the location, boundaries and numbers of strata lots; these are indicated by the relevant registered strata plan, the number of which is entered on all strata lot registers. Nor does the Registry Map show boundaries of leases of parts of parcels.

The Registry Map also illustrates the approximate position of certain rights of way and other easements.

4.14.2 Maintenance of Registry Map

The Registry Map, which is a public record, is an integral part of the registration system. No alteration of the Registry Map can be made other than by the direction of the Registrar of Lands. Responsibility for maintenance of the Registry Map, however, is the responsibility of the Chief Surveyor, who may direct additional information to be recorded on the Registry Map.

4.14.3 Alteration of Registry Map

For procedures relating to the Registry Map, Registry staff will be concerned primarily with alterations of parcel boundaries, the cancellation of the old registers and the opening of the new registers with new parcel numbers.

Corrections, as opposed to alterations, of the Registry Map do not require a change of parcel numbering. Corrections may result from determination of disputed boundaries (s.17 (2) RLL), road widening or resurveys (s.15(l) RLL), which are likely to involve only minor adjustment.

An alteration of the Registry Map is required whenever any dealing is contemplated which involves the subdivision, combination, reparation, partition or prescription of part of a parcel. No such dealing can be registered until the Registrar orders the alteration of the Registry Map to reflect the changes of boundaries and new numbering of parcels. A change

of boundaries is termed a 'mutation' and alteration of the Registry Map to reflect the change can be effected only by an instruction of the Registrar in writing in the prescribed mutation form.

4.14.4 Cancellation of Old Parcel Numbers

The number of any parcel which is subject to any alteration of its boundaries (as opposed to the correction, demarcation or re-establishment of its boundaries) must always be cancelled and may never be used again.

4.14.5 Application for Subdivision, Combination or Reparcellation

If an application is presented which cannot be registered unless the boundaries of parcels have first been altered on the Registry Map, it is rejected and should be substituted by an application to subdivide, combine, reparable or partition, as the case may be.

Applications to subdivide, combine or reparable land must be submitted on the standard form (Form 32) along with the necessary survey material.

A survey movement log is prepared for the application, and the application is entered in the electronic Survey Tracking System, but no entry is made in the Document Tracking System. An electronic Temporary Note is recorded with the register of each parcel affected to indicate that the survey has been submitted.

4.14.6 Mutation Form & Processing

After satisfactory registry compliance checks, a mutation form is prepared by the Registrar and sent with the application to the Chief Surveyor for survey authentication. Once fees for survey and registration are paid, GIS Production then allocates to the mutation form a serial number in sequence; for example, M.1066. They also allocate parcel numbers to the new parcels. These numbers are added to the mutation form before it is returned to the Registrar.

Once the new parcel numbers have been allocated to the new parcels, new registers for the parcels can be opened. The application, including the mutation form, is then forwarded once again to the Chief Surveyor and used by GIS Production as the basis for updating the Registry Map.

4.14.7 Registration Procedures giving effect to Mutation

The old parcel registers are closed and their parcel files are marked 'CLOSED'. Each closed parcel file retains its position in the rack. Closed registers are not destroyed under the six years rule (see [Closing Parcel Files](#)).

In the new parcel registers, the origin of title in the parcel panel will be the mutation number. All subsisting entries from the old registers must be carried forward to the new registers unchanged (apart from the entry number), including the dates and instrument numbers as in the old register.

For subdivisions, combinations and reparcellations, a permanent note is entered in the Proprietorship Section of the new parcel registers to show the former parcel numbers. This facilitates reference to any instrument in the old parcel file, should the need arise.

If the mutation leads to an entire parcel becoming public road, then a note is made in the register for the parcel to that effect (see [Non Statutory Notes](#)). That is the final entry and the register is then closed.

The other general rules for creating new registers of parcels created by mutation are given in [New Parcel Registers](#).

4.14.8 Partition

Applications to partition land owned in common must be submitted on the prescribed form (RL19) along with the necessary survey material.

A survey movement log is prepared for the application. The application is entered in the electronic Survey Tracking System, but no entry is made in the Document Tracking System. An electronic Temporary Note is recorded with the register of the parcel affected to indicate that the partition application has been made and the partition application will also be entered in the Instrument Record.

After satisfactory registry compliance checks, a mutation form is prepared by the Registrar and sent with the application to the Chief Surveyor for survey authentication. Once fees for survey and registration are paid, GIS Production then allocates a mutation number to the mutation form. They also allocate parcel numbers to the new parcels. These numbers are added to the mutation form before it is returned to the Registrar.

Once the new parcel numbers have been allocated to the new parcels, the application to partition is allocated an instrument number and new registers for the parcels can be opened. The partition application, including the mutation form, is then forwarded once again to the Chief Surveyor and used by GIS Production as the basis for updating the Registry Map.

The old parcel register for the partitioned land is closed and its parcel file is marked 'CLOSED'. In the new parcel registers, the origin of title of the new registers will be the mutation number. All other subsisting entries (except the proprietors) from the old registers must be carried forward to the new registers. Apart from the entry number, these entries must be unchanged, including the dates and instrument numbers as in the old register.

The purpose of partition is to divide the land amongst the co-owners, therefore it is not appropriate to carry forward into the proprietorship section of each new register the names and addresses and shares of all the former co-proprietors. Instead, the name and address of each new sole proprietor is entered as entry number 1 in the proprietorship section of each new register. The instrument number for this entry is the instrument number which was allocated to the partition instrument. A permanent note is entered in the Proprietorship Section of the each new parcel register to show to the former parcel number. This facilitates reference to any instrument in the old parcel file, should the need arise.

4.14.9 Undemarcated Boundaries

For some boundaries, it was not possible at adjudication for the claimants and notified persons to point out to the demarcator the position of the boundary on the ground. In these cases, the line of the parcel's boundary was not determined by the demarcator. However, in order to provide an edge to the parcel, a boundary line (known as an 'undemarcated boundary') was nevertheless recorded. Such an undemarcated boundary was not intended to reflect an adjudicated legal boundary to the parcel. In order to draw attention to the presence of the undemarcated boundary, its existence is recorded by a Note in the Proprietorship Section of all registers sharing the boundary, and the boundary is represented by a pecked line on the Registry Map. No acreage is shown for a parcel having an undemarcated boundary.

4.14.10 Conversion to Demarcated Boundary

If a proprietor wants to convert an undemarcated boundary to a regular demarcated boundary, a licensed land surveyor must be engaged to carry out a boundary survey under the Land Surveyors Law, serving notices on neighbours under s.19(2) RLL to allow them the opportunity to agree to or object to the proposed demarcated boundary.

4.14.11 Processing the Application for Demarcated Boundary

An application for demarcated boundary is submitted on a standard form (Form 32), which must be accompanied by the necessary survey material.

A survey movement log is prepared for the application. The application is entered in the electronic Survey Tracking System. If the surveyor's proposed boundary is not contested by those served with the notices, then an electronic Temporary Note is recorded with the register of the applicant's parcel to indicate that the survey has been submitted.

After satisfactory registry compliance checks, a mutation form is prepared by the Registrar and is sent with the application to the Chief Surveyor for survey authentication. Once fees for survey and registration are paid, GIS Production then allocates to the mutation a serial number in sequence which is added to the mutation form before being returned to the Registrar.

The Note stating that there is an undemarcated boundary is removed from the Proprietorship Section of the applicant's register and the area of the parcel is entered in the Property Section. The application, including the mutation form, is then forwarded once again to the Chief Surveyor and used by GIS Production as the basis for updating the Registry Map.

4.14.12 Contested Application for Demarcated Boundary

If the proposed boundary is disputed, a Temporary Note of the dispute is recorded with the applicant's register. A survey movement log is prepared for the application and it is entered in the Survey Tracking System. After registry compliance checks, a mutation form is prepared by the Registrar and is sent with the application to the Chief Surveyor. Before the Chief Surveyor takes any action on the application, the dispute over the boundary will be resolved by a hearing before the Registrar.

If, at the hearing, the Registrar's decision approves the applicant's demarcated boundary, then the processing of the application in the normal way is resumed (see [Processing the Application for Demarcated Boundary](#)).

If, at the hearing, the Registrar finds the boundary to differ from that proposed by the applicant's survey, then the application is rejected. The applicant may then commission a new survey in accordance with the Registrar's findings, and submit a fresh application for demarcation.

4.15 Filed Plans

Although all parcels are shown on the Registry Map, provision is also made for filed plans to give information in the following circumstances:

- a) when the scale of the Registry Map is too small to represent the boundaries adequately;
- b) to record the Registrar's findings when a disputed boundary has been determined under s.17 RLL;
- c) when boundaries of a parcel have been fixed by the Registrar under s.18 RLL;
- d) when part of a parcel is leased (see [New Leasehold Registers - Parcel Panel](#)).

Filed plans are kept in the parcel file of the land or lease concerned. However, if the size or type of paper makes this impossible, they can be stored separately, but the necessary note (see [Wording & Positioning of Notes](#)) must refer to the number of the plan stored separately.

4.15.1 Noting of Filed Plan

The filing of a filed plan requires a note on the relevant register. The appropriate wording for each of the categories of filed plan mentioned in [Filed Plans](#) will be considered in turn:

- a) The wording is 'Plan filed', but if the plan is stored separately and not in the parcel file then its number must be indicated; for example, 'Plan filed (01/350).'
- b) The wording is 'Disputed boundary determined';
- c) The wording is 'Boundaries fixed'.

See [Wording & Positioning of Notes](#) for the positioning of the note on the register.

When part of a parcel is leased, no reference to the filed plan is entered on the parcel register, strata lot register or superior leasehold register which is affected by the lease. The existence of the filed plan is, however, recorded in the parcel panel of the leasehold register itself (see [New Leasehold Registers - Parcel Panel](#)).

4.16 Parcel Files

4.16.1 Description of Parcel Files

Each parcel register, strata lot register, and leasehold register has an associated parcel file. The parcel file consists of a folder in which is kept all instruments (including Court orders and Registrar's orders) authorising an entry in the register. Instruments are kept, so far as possible, in chronological order within their parcel file.

Where the parcel was brought onto the register as a result of adjudication proceedings, and therefore has its origin of title as 'First registration', the first document in the parcel file is the adjudication record.

4.16.2 Instruments affecting several Parcels

For instruments which create or affect easements, profits appurtenant to land or restrictive agreements, the instrument is relevant to both the land burdened and the land benefitting. The instrument is filed in the parcel file for the land burdened.

Where any other type of instrument or order affects two or more registers, it is filed in the parcel file of the parcel, strata lot or lease first mentioned on the instrument, and a photocopy of the instrument is filed in the parcel file of every other register affected. An entry is made on each register to show the parcel file where the original instrument is filed.

4.16.3 Documents kept in Parcel Files other than Instruments

Some documents other than instruments are kept in parcel files (including trusts deposited (s.121(2) RLL) and filed plans), but in general only instruments may be kept in parcel files. Correspondence must not be placed in parcel files, except for the standard letters sent out to notify chargees, proprietors, etc, that an entry such as a caution or restriction has been placed on the register.

4.16.4 Closing Parcel Files

Registers of parcels which have been subject to a mutation must be closed (see [Registration Procedures giving effect to Mutation](#)). The date and the instrument number or mutation number which led to the closure is entered. The parcel file is also closed by writing the word 'CLOSED' on it. Closed parcel files remain in their correct position according to their parcel number within the registration block, even though all instruments in them may have been destroyed under the six years rule.

4.17 Record of Proprietors

4.17.1 Purpose of the Record

The purpose of the record of proprietors' names is:

- a) to enable the registry to identify the location of a parcel, strata lot, or registered lease when an enquirer does not know the property's whereabouts or its reference number;
- b) to enable the registry to list all parcels, strata lots, and registered leases owned by a particular proprietor anywhere in the Cayman Islands; this is useful, for example, when the administrator of an estate of a deceased person has no knowledge or record of the deceased's various interests in land and seeks this information from the Registry.

4.17.2 Accessing the Record

The record is no longer held in separate paper index format. The record is accessed through the dedicated electronic search facility.

4.18 Register & File of Powers of Attorney

4.18.1 Numbering & Filing

Powers of attorney on the prescribed form (RL17) are not entered in the Instrument Record nor allocated an instrument number. Each power of attorney presented for registration is given the next power of attorney number in sequence, preceded by the letters PA and followed by the year; for example, PA183/07. Numbering starts at 1 for the first power of attorney presented in each calendar year. The original of the power of attorney, after entry in the register of powers of attorney, is filed in order of its PA number in the file of powers of attorney for the year, not in the parcel file. The relevant entries are also made in the electronic record of powers of attorney.

4.18.2 The Register

The register of powers of attorney is currently kept in two forms. There is both an electronic record and paper record which record essentially the same information. The electronic register is kept in chronological order of acceptance of powers of attorney; the paper register is kept in alphabetical order under the surname of the donor of the power.

The register contains the date, the PA number, the parcel, strata lot or lease affected (or 'General' if the power of attorney relates to all land), the name and address of the donor, followed below by the name and address of the donee. Registration of a power of attorney is effected by the Registrar signing the entry in the register of powers of attorney and signing the original of the power which is filed in the file of powers of attorney.

4.18.3 Revocation

Revocations of powers of attorney are submitted on the prescribed form (RL18), which states the PA number for the power of attorney which is being revoked. The revocation is entered in the electronic register of powers of attorney. In the paper register, the revoked power of attorney is struck out and overwritten with the word 'REVOKED'. The original of the revocation instrument is signed off and stapled to the power of attorney.

4.19 The Instrument Record

4.19.1 The former Application Book

The record of instruments submitted for registration at the Land Registry was formerly kept in paper form and known as the 'application book'. It contained a record of every instrument presented (including Court orders and Registrar's orders), in order of acceptance of the application, if it would have led to the creation or deletion of an entry on a land register. The application book recorded the serial number of the application; date; reference of the parcel, strata lot or lease affected by the application; name of grantor/applicant; name of grantee, if applicable; nature of the application (such as transfer; further charge; inhibition); monetary consideration involved, if applicable; stamp duty assessed and paid; registration fee paid; number of receipt; and signature of Registrar.

The application book has been superseded and its functions are now carried out primarily by electronic means. The systems for keeping track of instruments are now the Document Submission Record, the Document Tracking System, the Temporary Notes and the Instrument Record.

4.19.2 Tracking system entry, Temporary Notes and the Document Submission Record

The process for keeping track of an application commences on submission of the application. It is essential that the order in which applications are accepted, including postal applications, is scrupulously correct. This is achieved by stamping the instruments with the date and time upon receipt by post or delivery at the reception desk. The application is then entered in the electronic Document Tracking System.

Upon receipt of an instrument, and before it is subjected to compliance checks, an electronic Temporary Note is also recorded with the register affected, noting the fact of submission of the instrument and specifying its type and date.

The objective of monitoring the progress of the application is also assisted by the Document Submission Record which is attached to each application. This records the progress of the application through the various stages of processing. Much of the content of the Document Submission Record will also be recorded in electronic form through the [Instrument Record](#).

An application is not entered in the Document Tracking System and Instrument Record if it

will lead to an amendment of the Registry Map only and not to the creation or deletion of an entry in a land register other than the parcel number. Instead, the application in these cases will be entered in the Survey Tracking System. An example is an application for subdivision. Some types of application lead to both an amendment of the Registry Map and the creation or deletion of an entry in a land register. In these cases, the application will be entered in the Survey Tracking System and, after compliance checks, also in the Instrument Record. An example is an application for partition.

4.19.3 The Instrument Record

Once an instrument (including an order of the Court or the Registrar) is accepted for registration following compliance checks, it is entered in the Instrument Record. The details of the instrument are entered, including the grantor, grantee, transaction type, consideration, and reference number of the parcel, strata lot or lease which is affected. The Instrument Record also requires the 'date entered', which is the date on which the instrument was time-stamped at first submission.

If an application was rejected outright for failing compliance checks, and is later resubmitted in correct form, then the date entered is the date on which the instrument was time-stamped for the second time at re-submission.

When the Instrument Record is compiled, a unique instrument number is automatically generated. Instrument numbers are issued in order of acceptance, starting from 1 at the beginning of each calendar year and followed by the year; for example, 4063/07. The instrument number dictates the order in which the instrument will be processed, and therefore assures that the instrument will retain its priority over any later instruments, even if its actual entry onto the register is delayed.

If, after an instrument has been given an instrument number, it is returned to the applicant with requisitions but not outright rejected, then when the applicant resubmits the instrument it is time-stamped for a second time but retains its original instrument number and priority.

As the instrument passes through the various stages of processing, the Instrument Record is updated to include stamp duty assessed and paid, registration fee paid, number of receipt, and final signature of the Registrar.

4.19.4 Applications which will lead to a Register entry

In general, any instrument or order which will lead to the creation or deletion of an entry on the register must be entered in the Instrument Record; and, conversely, any application which will not lead to the creation or deletion of an entry on the register will not be entered in the Instrument Record. As an exception to this rule, no entry is made in the Instrument Record and no instrument number is allocated in respect of notes (see [Noting the Register](#)) or the standard [Planning and Survey Restrictions](#).

In the case of applications for searches or certified copies of the register, only those on Form RL27 which include a stay of registration under s.42 RLL are entered in the Instrument Record. Applications for land or lease certificates must be similarly entered, as the issue of a certificate is noted on the register.

4.20 File of Letters of Administration

4.20.1 Depositing a grant of representation

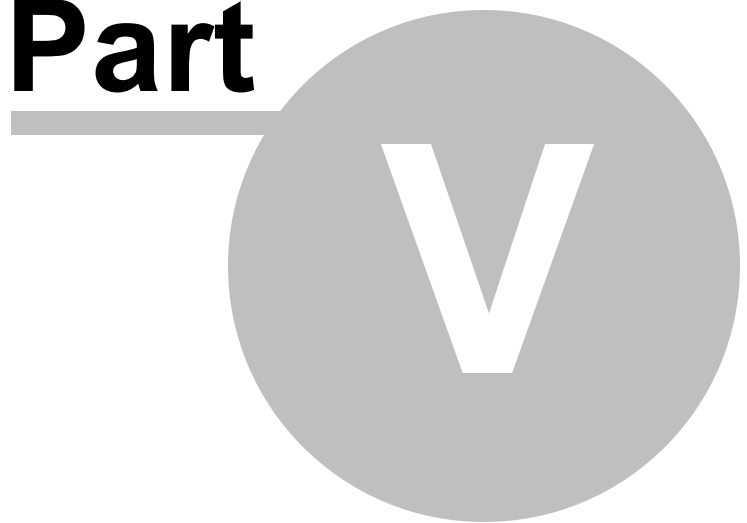
When a personal representative of a deceased person's estate first submits an instrument for registration, the grant of letters of administration or probate must be submitted. The Land Registry makes a copy of the grant and files it in chronological sequence in the file of letters of administration.

The filed grant is given a unique deposit number (known as the L/A Number). In order to communicate the L/A Number to the personal representative, it is written on the instrument which was submitted by the personal representative for registration, so it will appear on the duplicate of the instrument which is returned to the personal representative.

If the L/A Number is written on any instruments by which the personal representative carries out future dealings, these instruments can be registered without the personal representative having to supply a fresh copy of the grant of representation.

Land Registry Procedure Manual

Part



Compliance Checks

5 Compliance Checks

5.1 Scrutiny of Instruments & Supporting Materials

5.1.1 Processing

The processing of instruments is the core function of the Land Registry and it is important to the integrity of the land register and the public confidence in it that only instruments which are in proper registrable form are accepted for registration and used as the basis for altering the land register. To pursue this objective, an extensive programme of scrutiny of instruments is carried out by the counter staff, checking staff and signing staff. It is possible that a defective instrument may be overlooked and entered on the land register; if so, the error may be capable of being reversed under the rectification provisions of the Registered Land Law, but, if not, a person suffering loss may be eligible for compensation under the indemnity provisions of the Registered Land Law.

When processing an instrument which is capable of leading to the creation or deletion of an entry in a land register (whether a disposition, a transmission, a Court order or a Registrar's order), there are many matters to be scrutinised before the land register is finally amended. If the instrument is submitted by post, then the compliance checks are carried out by the checking staff and then again by the signing staff. If the instrument is presented at the counter, then the compliance checks are carried out by the counter staff, then again by the checking staff, and once more by the signing staff. The following matters are to be scrutinised.

5.1.2 Appropriate Form

For the most common dealings, the law provides that an instrument must be in prescribed form. The prescribed forms are found in the Registered Land Rules (Forms RLI - RL29). Where the law does not require the instrument to be on a particular prescribed form, there are some further forms in standard use that have been approved by the Registrar (Forms 30 - 41). Any form submitted as an instrument which is neither a prescribed form nor a standard form must not be accepted until approved by the Registrar.

When checking, the following queries should be raised:

Is the instrument presented on the correct prescribed form or standard form? If not, has the Registrar approved the form?

Has the instrument been submitted in duplicate or, where necessary for instruments relating to charges and leases, in triplicate?

5.1.3 Completion of Form

Once the appropriate form has been confirmed, it should be checked for completion:

Has the form been fully completed?

It is not worthwhile here to identify all of the possible omissions when checking the forms, but there are several omissions which are commonly encountered. For example, in a transfer to two or more persons, does the instrument indicate whether they are to hold jointly or in common? If they hold in common, have the shares been stated? This is also required on the instrument form for severance.

The space for the address of the transferor on a transfer form may be left blank, but of course the name and signature of the transferor are required.

If the instrument is dealing with a registered charge and the register shows multiple charges, has the instrument specified the entry number of the charge which is to be affected? If not, the instrument must be rejected and no instrument number allocated.

5.1.4 Compatability with Land Register and Temporary Notes

All instruments presented by post or at the counter should be examined first against the land register and, if necessary, the Registry Map. When reading the land register, the first question is whether the entries appearing on the land register are approved.

Have all the existing entries on the land register been finally signed off? If they have not yet been finally signed off then they do not form part of the land register.

When comparing the instrument against the land register, the following matters should be checked:

Is the registration section, block and parcel number correct?

If the grantor is entered on the land register in a special capacity (for example, 'as trustee' or 'as executor'), is the capacity correctly stated on the instrument?

Is any impediment shown in the register which would prevent the grantor from making the proposed dealing? This includes a caution, restriction or inhibition; and, in the case of a lessee or chargor, a note prohibiting dealing without written consent of the lessor or chargee; and, in the case of surrender of a lease, an entry showing that the lease is subject to a sublease or charge. In these cases the transaction can be processed if the relevant consent or withdrawal instrument is submitted at the same time.

If there is a stay of registration on the register, is the instrument of the type described in the stay, and is the instrument in favour of the person nominated in the stay?

If a land certificate has been issued, has it been surrendered with the instrument? If the instrument is a transfer, the land certificate will be destroyed; if the instrument is a charge, the land certificate will be retained and filed in the Land Registry until all charges are discharged.

If the instrument is expressed to be the creation of a first charge, second charge, third charge, and so on, is the stated number consistent with the number of charges already appearing on the register?

Is there a Temporary Note indicating that there is a prior instrument in the queue which is pending registration? If so, then the instrument is rejected and a requisition form is sent to the applicant indicating that there is a pending instrument.

If the instrument presented is a lease, is there any existing registered lease over the parcel which prevents registration of the new lease? If so, the new lease cannot be registered until the old lease is surrendered or terminated.

5.1.5 Execution of Instrument & Witnessing

The instrument itself should then be further scrutinised to ensure that it has been correctly executed.

Have all the parties to the instrument executed it? All the grantors and all the grantees must execute the instrument, unless the Registrar dispenses with execution by a particular party (s.106 RLL).

Is the form of execution made in accordance with the statutory rules for execution? This question requires a full consideration of the different modes of execution permitted under the Law (see below under the heading 'Execution and Notarisation of Instruments').

If the instrument is executed by a company through its officers, are the capacities of the signatories stated? For example, 'James Connor, Director of Redco Ltd' and 'Adelaide Jenkins, Secretary of Redco Ltd'.

If the instrument is executed by a company through its officers, are there signatures of at least two officers? If the signature of only one officer is given on account of the fact that the officer is the sole director of the company, the officer should state this on the instrument. The instrument may be accepted in reliance on this statement, although the registry may require further evidence to be submitted to confirm proper execution. On the other hand, where the instrument is executed by only one officer on behalf of a company but it is not accompanied by a statement that he or she is sole director, then the applicant should supply evidence that the officer was authorised to sign, such as a board resolution delegating to the officer the authority to execute the instrument.

Does the name of the grantor (usually the proprietor of the land, lease or charge) given on the instrument exactly match the land register entry? If there are multiple grantors, do all the names match the land register entries?

Is the spelling of the names of the parties correct? Even if there is only a minor discrepancy between the name on the instrument and the name on the land register (such as the presence or absence of a comma in a company name, or the omission of the word 'Limited'), then the instrument cannot be processed until the problem is resolved. The same applies if the applicant is a company and the name does not match the name appearing on the Certificate of Good Standing. In these cases, it is possible that the version of the name appearing on the land register was typed incorrectly. In order to check this, the original instrument in the parcel file should be consulted to ensure that the relevant name was correctly transcribed onto the land register when the entry was made. If it appears that the name was correctly copied onto the land register then the current application cannot proceed to registration.

Is the instrument signed in the proper place?

Have all the signatures in execution been witnessed? Next to the witness's signature, the witness should write out his or her name clearly in capitals.

Has the date of execution been written on the instrument?

Have the addresses of all grantees been stated?

If another person has signed the instrument on behalf of any of the parties, is there a subsisting power of attorney registered which empowers him or her to do so? If there is, note the number of the registered power of attorney on the instrument, if not already shown.

If there is no power of attorney on file, the instrument should be rejected and returned, and no instrument number accorded.

5.1.6 Notarisation of Instrument

Not only must all parties to the document execute it, but all the signatures in execution (except the Governor's) must also be verified in accordance with the RLL, commonly known as 'notarisation'. The notarisation of execution of a document provides the best possible means of guarding against impersonation or fraud, for Land Registry staff cannot possibly check that signatures of all parties are authentic.

Have all the signatures in execution of the instrument been notarised in accordance with the statutory rules for notarisation by a Certificate of Identification? This question requires a full consideration of the form of notarisation permitted under the Law (see below under the heading 'Execution and Notarisation of Instruments').

Is the Certificate of Identification printed on the same piece of paper as the instrument and not stapled or attached to it? An instrument cannot proceed to registration if the Certificate of Identification is on a separate sheet of paper.

Are the names of all the persons signing in execution the same as the names of the persons whose identity has been verified by a Certificate of Identification?

Have the Certificates of Identification been completed and signed by the person notarising?

Is the person notarising a person who is authorised to do so under the Registered Land

Rules?

If there is no Certificate of Identification, is it an instrument for which the Registrar has expressly dispensed with the requirement for verification? No notarisation is needed where the execution is made by a Cayman Islands bank which has, by agreement in advance, filed a letter listing the authorised signatories with specimen signatures.

5.1.7 Amendments

Any amendments must be signed.

If there are any amendments, have they all been signed or initialled by all the parties?

5.1.8 Attachments

Attachments must also be signed.

If there are any attachments, including plans, has each page been signed or initialled by all the parties?

5.1.9 Supporting Materials

In many cases, the instrument must be accompanied by supporting materials.

Is the instrument accompanied by the necessary supporting materials?

For example, when an executor or administrator seeks to be registered as proprietor of the land of a deceased proprietor, the applicant must support the instrument with proof of his or her appointment in the form of a copy of the grant of probate or letters of administration. A guide is given to explain what supporting materials are required for common types of application (see [Supporting Materials](#)).

5.2 Execution and Notatisation of Instruments

5.2.1 Execution

Having completed the explanation of the process of scrutiny, it is now possible to return to the issue of the modes of execution and verification (or 'notarisation') under the Registered Land Law.

Unless special dispensation is obtained from the Registrar of Lands, every instrument must be executed by all persons shown on the register to be proprietors of the interest affected and by all other parties to the instrument.

5.2.2 Execution by an Individual

An individual executes by his or her signature.

5.2.3 Execution by a Trustee

There is no special rule for trustees. They execute in the normal manner for individuals.

5.2.4 Execution by an Executor or Administrator of a Deceased Person's Estate

A personal representative executes in the normal manner.

5.2.5 Execution by a Chargee in Exercise of Power of Sale

When the instrument is a transfer made by a chargee in exercise of the chargee's power of sale, there is a dedicated form of transfer, Form RL4, Transfer by Chargee in Exercise of Power of Sale. Transferor and transferee execute the form in the normal manner.

5.2.6 Execution by Proprietors in Common

If the proprietors in common are collectively dealing with the land, all registered proprietors must execute the instrument. If it is a transfer, then Form RLI, Transfer of Land, should be used.

If a proprietor in common is transferring his or her share only, a special transfer form is used, Form RL6, Transfer of Undivided Share. All of the remaining proprietors in common must give consent to this type of dealing. The transferor executes the transfer, and the consent requirement is fulfilled by appending the signatures of the remaining proprietors in common to the form. By way of exception, the consents are not required when the transfer is in favour of one or more of the other proprietors in common.

Where land is transferred into the names of transferees as proprietors in common, the transfer must show the share of each proprietor. The share may not be expressed in fractions smaller than hundredths and there may be no more than ten registered proprietors in common.

5.2.7 Execution by Joint Proprietors

Subject to one exceptional case, a single joint proprietor may not deal with his or her interest. If a joint proprietor wishes to deal, it is necessary either to arrange for the dealing to be made collectively by all the joint proprietors, or to register a severance of the joint proprietorship (converting the joint proprietorship into a proprietorship in common) and then to deal with the severed share as a proprietor in common. Where the joint proprietor severs before transferring his or her severed share, the mode of transfer is as described for a proprietor in common. The exceptional case when a joint proprietor may deal with his or her interest is in the case of a transfer of the interest to all the other joint proprietors; in this case all the joint proprietors must execute the transfer, including the proprietor to whom the interest is transferred.

There can be no more than ten registered joint proprietors.

5.2.8 Execution under a Power of Attorney

Where a party to an instrument has authorised a person to execute the instrument under a power of attorney, the instrument is simply executed in the normal way by the donee of the power of attorney. The number of the power of attorney should be written on the instrument.

5.2.9 Execution through a Guardian or Representative

Where a legal disability prevents a person from executing an instrument, the instrument may be executed by the guardian of such person, or if there is no guardian, a representative appointed under a written law (s. 111 RLL).

5.2.10 Execution by a Liquidator

An instrument is executed by the liquidator by one of two alternative methods. First, the corporation in liquidation may execute the instrument by applying the corporation's common seal with attestation by the liquidator. Secondly, where the corporation in liquidation is not required by law to have a seal, then the instrument may be executed by the signature of the liquidator alone, which must be verified. The name of the liquidator who executes must be the same as that appearing on the register.

5.2.11 Execution by a Corporation not required to have a Seal

If a corporation is not required by law to have a seal (which is true of Cayman Islands ordinary, existing and exempt companies), then the necessary formalities for execution of an instrument are prescribed by s.106(2)(b)(ii) RLL. This provision allows two possible methods of execution. The first is by persons authorised under the corporation's constitution; the second is by persons specifically appointed by the corporation.

The first method applies where persons are authorised to execute instruments 'by any law or by the statute or charter of the corporation'. If so, then execution must be by the signature of such persons.

If no persons are authorised to execute the instrument on behalf of the corporation directly under any law or by the corporation's statute or charter, then the instrument may be executed by any person 'duly appointed in writing for that purpose by the corporation.' Evidence of the appointment must be produced to the satisfaction of the Registrar of Lands; usually the evidence takes the form of a minute of resolution of the governing body by which the authority to execute instruments on behalf of the corporation is delegated to specified signatories.

5.2.12 Execution by a Corporation whose Officers are Corporations

Many Cayman Islands companies are provided with administrative services by a separate institution. These services may include the provision of a corporate director and a corporate secretary to the company in question. The Registered Land Law does not specifically prescribe the formalities that are required where the corporation which is the party executing an instrument has a corporate director and a corporate secretary. In these cases, the authorised signatory acting for the corporate director and the authorised signatory acting for the corporate secretary may together provide the necessary personal signatures to accompany the seal of the corporation which is a party to the instrument. The capacity of the individual signing the instrument in execution should be noted immediately after his or her name (for example, 'John Russell, Director of Cimanco Directorship Services Ltd'; 'Peter Jones, Director of Cimanco Secretaryship Services Ltd').

5.2.13 Execution by a Strata Corporation

Although the common property in a strata title is said to be held by the members of the strata corporation as proprietors in common (s.13 STRL), it is the strata corporation itself which is registered as proprietor of the common property and which must execute any instrument affecting the common property (s.10 STRL).

The requisite formalities for the execution of an instrument by a strata corporation are given in standardised form in s.106(2)(b)(i) RLL. This provision requires the strata corporation's seal to be affixed to the instrument in the presence of and attested by the strata corporation's 'clerk, secretary or other permanent officer' and by a member of the executive committee. The capacity of the individual officer signing the instrument in execution should be noted immediately after his or her name (for example, 'James Fairweather, chairman of Executive Committee of Proprietors, Strata Plan 501').

Where the strata corporation plans to make a sale of part of the common property, there must first be a subdivision and a new land register opened in respect of the part to be sold. The transfer form affecting the common property (sealed as described above) must be accompanied by a certificate of compliance on Strata Form 8, which must be sealed with the seal of the strata corporation in the presence of the members of the Executive Committee.

Where the strata corporation plans to make a lease over part of the common property, the lease instrument affecting the common property (sealed as described above) must be accompanied by a certificate of compliance on Strata Form 8, which must be sealed with the seal of the strata corporation in the presence of the members of the Executive Committee.

Where the strata corporation grants an easement or creates a restrictive agreement over common property, then the appropriate Land Registry form (sealed as described above) must be accompanied by a certificate of compliance on Strata Form 9, which must be sealed with the seal of the strata corporation in the presence of the members of the Executive Committee.

For the amendment or variation of the strata corporation's bye-laws, Strata Form 11 is submitted, which must have the seal of the strata corporation and the executive committee signatures to attest the affixation of the seal.

5.2.14 Execution by The Crown

For land vested in the Crown, any disposition is signed by the Governor or his appointed delegate on behalf of the Crown. No witnessing or notarisation of the execution is necessary. The only delegation granted is to the Chief Valuation Officer for leases of less than one year in length and a rent of less than CI \$30,000 per annum.

5.2.15 Court Orders

In some cases, instruments giving effect to court orders are signed by the judge. These include Form RL10 (Charge by court order), Form RL12 (Discharge of Charge by court order), and Form RL13 (Variation of Charge by court order). In each case, the instrument must also bear the court seal and should be accompanied by an office copy, certified copy or photocopy of the court order.

In other cases, the applicant submits an office copy, certified copy or photocopy of the court order, the original of which must bear the signature of a Judge of the Grand Court and the court seal. The relevant instrument form, such as Form 40 (used for compulsory acquisitions, restrictions and inhibitions) will then be drawn up and signed by the Registrar on the strength of the court order.

5.2.16 Notarisation of Signatures in Execution

The identity of the persons signing an instrument by way of execution must be verified. The person executing the instrument must appear before a 'prescribed person' who undertakes the verification (otherwise known as 'notarisation'). The person notarising should insist that the person executing appears personally before him or her, however well known to the person notarising. The person notarising must be satisfied as to the identity of the person executing, and ascertain whether he or she freely and voluntarily executed the instrument. The person notarising then must complete a Certificate of Identification in the prescribed form issued by the Land Registry. A template for the Certificate of Identification is given on the reverse of the pre-printed instrument forms. If the instrument form is taken from the Lands and Survey website or Cayman Islands Government website, then it must be printed double-sided so that the Certificate of Identification forms the rear side of the instrument as the Land Registry will not accept a Certificate of Identification on a separate sheet of paper which has been stapled or attached to the instrument.

If the person executing is not known to the person notarising, then the person executing must be accompanied by a credible witness for the purpose of establishing his or her identity before the person notarising. The witness attests the execution of the instrument form, and the name of the witness is inserted into the Certificate of Identification.

Instead of the presence of a credible witness, the person notarising may rely on a passport or driving licence or Cayman Islands electoral card for establishing the identity of the person executing, in which case the document number is inserted into the Certificate of Identification.

The notarisation requirement applies to all signatures in execution of the instrument. Where the party executing the instrument is a corporation, the execution may occur by affixing the common seal in the presence of and attested by the signature of a director and the corporation's secretary. The signature of director and secretary are signatures in execution and so they must be verified. The Certificate of Identification should refer to the name of the person signing 'as authorised signatory of the corporation'.

Similarly, if the party executing the instrument has corporate directors and corporate secretary, the signatures of the individuals signing on behalf of the corporate directors and the corporate secretary must be notarised.

The prescribed persons who may undertake notarisation are:

- a) a Judge
- b) a Magistrate
- c) a Justice of the Peace
- d) a Notary Public
- e) the District Commissioner
- f) a person authorised to administer oaths under the Oaths Law (1996 Revision)
- g) the Registrar of Lands.
- h) other designated officers authorised by the Registrar of Lands.

Where the notarisation is undertaken by a Notary Public, the Land Registry also requires a statement of the date of expiry of the notary's commission.

Where undertaken by a Justice of the Peace, the Justice's stamp should be imposed; where the Justice has no stamp, then the Justice's name followed by the letters 'J.P.' is acceptable.

If executed abroad, the same notarisation procedure must be adopted, and the same form of the Certificate of Identification is required. If the instrument is executed in the Commonwealth, notarisation is to be performed by a judge, magistrate, justice of the peace, notary public, commissioner for oaths or administrative officer; otherwise the notarisation is to be performed by a British consular officer or pro-consul, notary public, or such other person or class of persons as the Governor may determine. Where the notarisation is undertaken outside the Cayman Islands, the person notarising must apply his or her stamp or seal and the date on which his or her commission expires should be stated on the document.

5.3 Supporting Materials

This guide identifies the form used for a particular type of instrument and specifies the supporting materials which will be required from the applicant. In order to determine what materials are required, follow these four steps:

STEP 1: Materials needed on account of the type of application

Identify the type of application and the appropriate instrument from using the table below. The table indicates what sort of supporting material is required for that particular type of application.



STEP 2: Materials needed on account of register entries

Some further material may have to be submitted because of the existence of some entry on the land register. They are identified in this section.



STEP 3: Materials needed on account of the status of parties involved

Identify the status of the parties involved in the application. If the parties are adults signing on their own behalf, then this step can be skipped. But other cases might require extra material, for example, when any party is a person under a disability, an exempted company, a foreign corporation, a strata corporation, or possesses other special status. Read through the section explaining what materials are required where that particular type of party is involved.



STEP 4: Materials needed on account of stamp duty

Read through the section specifying what supporting materials are required in order to ensure that stamp duty is calculated at the correct amount.

The requirements for supporting materials which are imposed at each step are described fully in the following pages.

5.3.1 Step 1 - Materials needed on account of the type of application

Identify the type of application and the appropriate instrument form using the table below. The table indicates what sort of supporting material is required for each particular type of application.

APPLICATION	FORM	SUPPORTING MATERIAL
Transfer of Land	Statutory Form RL1 (duplicate)	
Transfer of Lease	Statutory Form RL2 (duplicate)	
Transfer of Charge	Statutory Form RL3 (duplicate)	
Transfer by Chargee in Exercise of Power of Sale	Statutory Form RL4 (duplicate)	If the sale is approved by the Court, an office copy, certified copy or photocopy of the Court Order is required.
Transfer of Profit	Statutory Form RL5 (duplicate)	
Transfer of Undivided Share	Statutory Form RL6 (duplicate)	
Transfer by Personal Representative to Person Entitled under a Will or Intestacy	Statutory Form RL7 (duplicate)	If the personal representative is not already registered proprietor, submit an office copy, certified copy or photocopy of the Grant of Probate or Letters of Administration or resealed foreign grant.

		The transferee need not submit evidence of his or her entitlement under the will or intestacy.
Lease / Sublease	Statutory Form RL8 (triplicate)	<p>If lease or sublease of part of the parcel, submit an initialled plan or other description identifying the part leased or subleased, and state its area.</p> <p>It is recommended practice for the applicant to write on the RL8 form, or attach to the top of the lease schedule, a short note drawing attention to whether the lease adopts, varies or negates the statutory implied term not to transfer, charge or sublease without the lessor's consent (s.53 RLL). If such a restraint exists, the applicant should request that an appropriate Note be made in the leasehold register.</p> <p>If the terms of the lease schedule confer an option for the lessee to extend or renew the term, it is recommended practice to write on the RL8 form, or attach to the top of the lease schedule, a short note drawing attention to that fact and requesting that an appropriate entry be made in the leasehold register.</p>
Variation of Lease	Use Statutory Form RL8 with suitable changes (triplicate)	

Charge	Statutory Form RL9 (triplicate)	<p>It is recommended practice for the applicant to write on the RL9 form or to attach to the top of the charge schedule a short note drawing attention to whether the charge adopts, varies or negates the statutory implied term not to transfer without the chargee's consent (s.68 RLL). If such a restraint exists, the applicant should request that an appropriate Note be made in the register.</p> <p>If the terms of the charge schedule confer a right for the chargee to tack or consolidate or both, it is recommended practice to write on the RL9 form or attach to the top of the charge schedule a short note drawing attention to that fact and requesting that an appropriate Note be entered on the register.</p> <p>If the charge is collateral to debentures, a photocopy of the debenture instrument bearing the stamp duty must be submitted.</p>
Charge (by court order)	Statutory Form RL10 (triplicate)	
Discharge of Charge	Statutory Form RL11 (triplicate)	

Discharge of Charge (by court order)	Statutory Form RL12 (triplicate)	
Variation of Charge (by court order)	Statutory Form RL13 (triplicate)	
Surrender of Lease	Statutory Form RL14 (triplicate)	Submit written consent of proprietor of any charge or sublease affecting the lease (s.61(2) RLL).
Grant of Easement	Statutory Form RL15 (duplicate)	Photocopy of the Registry Map, supplemented by a plan, showing location of easement in red.
Grant of Profit	Statutory Form RL16 (duplicate)	
Release of Profit, Easement, or Restrictive Agreement	Statutory Form RL17 (duplicate)	For easements, a photocopy of the Registry Map supplemented by a plan showing location of easement to be discharged marked with red crosses.
Severance of Joint Proprietorship	Statutory Form RL18 (duplicate)	
Application for Partition	Statutory Form RL19 (duplicate)	Survey.

Power of Attorney	Statutory Form RL20 (duplicate)	The power of attorney may be created using the form RL20 itself. If not, submission of RL20 must be accompanied by the original power of attorney or a copy certified by Registrar (s.111(2) RLL).
Notice of Revocation of Power of Attorney	Statutory Form RL21 (duplicate)	
Application to be Registered as Proprietor by Transmission	Statutory Form RL22 (duplicate)	Office copy, certified copy or photocopy of Grant of Probate or Letters of Administration.
Caution	Statutory Form RL23 (duplicate)	<p>The written document, signed by the relevant party, which confers on the cautioner the interest which he or she claims (such as a contract or court order); or, if not applicable, a statutory declaration by the cautioner stating the basis for the claimed interest.</p> <p>If the caution is over part only of a parcel, it must include a reference to an initialled plan identifying the part.</p>
Notice of Intention to Appeal to the Grand Court	Statutory Form RL24 (duplicate)	
Application to Inspect	Statutory Form	

the Register	RL25	
Application for Certified Copy	Statutory Form RL26	
Application for Official Search	Statutory Form RL27 (duplicate)	
Certificate of Official Search	Statutory Form RL28	[Discontinued]
Mutation	Statutory Form RL29	[Completed by Land Registry staff]
Land Certificate	Registry Form 30	[Completed by Land Registry staff]
Certificate of Lease	Registry Form 31	[Completed by Land Registry staff]
Application to Combine or Subdivide or Reparcel or Demarcate an Undemarcated Boundary	Registry Form 32 (duplicate)	Survey. Where subdivision is for the purpose of building development, submit a plan of the proposed subdivisions prepared by a licensed surveyor and certified by the appropriate authority as conforming with the requirements of the planning law.
Application for Land and Certificate	Registry Form 33 (duplicate)	

Certificate of Lease		
Conversion of Title	Registry Form 34	Attach the details of the adjudication record, or reference to it.
Withdrawal of Caution	Registry Form 35 (duplicate)	
Deletion on Death of Joint Proprietor	Registry Form 36 (duplicate)	<p>Death certificate of deceased proprietor. For foreign death certificates, the certificate must be an office copy or certified copy.</p> <p>If the death certificate bears a name different from the name on the land register, a statutory declaration of identity is required.</p>
Rectification or Change of Name or Address	Registry Form 37 (duplicate)	<p>Proof of the name change is required. For name change of individual, proof may be by photocopy of passport, certified copy of deed poll, or office copy, certified copy or photocopy of marriage certificate, as appropriate. Where not available, a statutory declaration may be required from a person having knowledge of the facts.</p> <p>For name change of company, proof of change is by an office copy or certified copy of the change of name certificate. If there have been multiple name changes, then there must be a chain of certificates</p>

		going back to the name as stated on the land register, each one being registered in sequence. For change of address, no proof is needed.
Lost Land Certificate Notice	Registry Form 38 (duplicate)	Statutory declaration that the Land Certificate has been lost or destroyed (s.34 RLL). The newspaper page in which the advertisement was printed showing newspaper's date.
Variation of Charge	Registry Form 39 (triplicate)	Written consent of any subsequent chargees on the register if the variation affects their rights (s.69 RLL).
Blank Form	Registry Form 40	
Dedication	Registry Form 41 (duplicate)	Photocopy of the Registry Map indicating route of public right of way.
Transmission to Trustee in Bankruptcy	No form	A certified copy either of the court order by which the proprietor is adjudged bankrupt, or of the court order directing that the estate of a deceased proprietor be administered according to the law of bankruptcy (s.118(1) RLL).
Appointment of Liquidator	No form	Certified copy or photocopy of the resolution of appointment or an office copy of the order by which the

		liquidator is appointed (s.119 RLL).
Inhibition	No form	An office copy, certified copy or photocopy of the court's inhibition order (s.124(2) RLL).
Strata Plan	Strata Forms 1, 2, 4, 5, 6 (duplicate) for Grand Cayman; Strata Forms 1, 3, 4, 5, 7 (duplicate) for Sister Islands	Covering letter (signed by all registered proprietors in their full names as stated on the register) which states the block and parcel number and expresses the desire to register the accompanying strata plan, and stating whether it is for phased development or not. Fee for registration of strata plan, fees for registration of all strata lots, and if applicable fees for entry of restriction pending certificate of occupancy on each strata lot.
Notification of Destruction	Strata Form 10 (duplicate)	Either a certified copy of the unanimous resolution of destruction by the proprietors or an office copy of the court's declaration of destruction (Form 10, STRR).
Notification of Amendment or Variation of Bye-Laws	Strata Form 11 (triplicate)	

5.3.1.1 Duplicates & Triplicates

Forms must be submitted in duplicate or triplicate as indicated in the table. The top copy must bear the original signatures, but the second and third need only be photocopies of the original.

5.3.1.2 Late Fees

In addition to the standard registration fee, a penalty is payable if an instrument is presented for registration 45 days or more after the signature of the first or only party named in the instrument. The amount is calculated in accordance with s.39(3) RLL. Separate penalties are also prescribed for late payment of stamp duty.

5.3.1.3 Forms

There are no statutory prescribed forms or Land Registry standard forms for the following:

5.3.1.3.1 Creation of a Restrictive Agreement

If not being submitted with a transfer form on the occasion of a transfer, then a suitable instrument form should be drafted by the applicant which is signed by both parties and which bears the normal Certificate of Identification to verify each party's signature. If being submitted on the occasion of a transfer of land, then create the new Restrictive Agreement (s) on the transfer form. If insufficient space, refer on the transfer form to an attached Schedule of Restrictive Agreements which is initialled by all parties.

5.3.1.3.2 Renewal of a Search and Stay

It is the practice of some users to submit a Search and Stay application which has been amended by the user to indicate that it is for the renewal of an existing stay. Current Land Registry practice is to accept these amended forms and process them as a fresh Search and Stay application.

5.3.1.3.3 Withdrawal of a Search and Stay

No form is required to remove a stay of registration, as any documents submitted for registration during the priority period will be processed upon submission if they give effect to the transaction(s) specified in the original Search and Stay application.

5.3.1.3.4 Application for a digital plot of a Registry Map

No form exists for this, or a digital copy of a parcel-centred extract of the registry map / a copy of any filed plan / application to fix a boundary / application for a copy of a filed instrument.

5.3.1.3.5 Termination of a Lease

When requesting the termination of a registered lease, the landlord should apply by a signed letter. The letter must be accompanied by supporting evidence of the landlord's legal right to terminate. This will usually be in the form of a statutory declaration of the material facts or a court order. The content of the statutory declaration will depend on which particular ground of termination the landlord relies on. Where the landlord is relying on the expiry of

the lease period, then a standard template for the statutory declaration is available from the land registry. (If the landlord and tenant agree to terminate the lease, then the agreement constitutes a surrender and the application should be made on the Surrender of Lease Form RL14.)

5.3.1.3.6 Variation of an Easement

The form for the Grant of Easement, with suitable changes, may be used as a template.

5.3.1.3.7 Creation of an Option to Purchase

No form exists.

5.3.1.3.8 Exercise of an Option to Purchase

No Form exists.

5.3.1.3.9 Creation of an Option to Renew a Lease

No Form exists.

5.3.1.3.10 Exercise of an Option to Renew a Lease

No Form exists.

5.3.1.4 Two-step Transfer for Natural Love & Affection

The Stamp Duty Law allows a person to pay fixed stamp duty at \$50 instead of ad valorem stamp duty where a transfer is made between certain family members, such as parent to child, or sibling to sibling. Other relationships, such as uncle to niece, fall outside the stamp duty concession. In order to take advantage of the stamp duty concession in these cases, parties may find that it would be possible to transfer the land via a family member who is related to both transferor and transferee, so that each step would fall within the stamp duty concession. For example, an uncle wants to pass land to his brother's daughter. He could first transfer to his brother, and the brother could then transfer to his daughter. To avoid the need for two separate transfers in these types of cases, the land registry will accept a single transfer form from the current proprietor direct to the final recipient, without the need to transfer the land via the intermediate family member. Although the intermediate family member need not be a party to the transfer, the intermediate family member must be living at the time of transfer.

The transfer form must state that it is made 'in consideration of natural love and affection for my [niece, nephew, etc, as appropriate]', stating the family relationship between the transferor and transferee. The applicant must provide evidence of:

- a) the family relationship between the transferor and the intermediate family member; and
- b) the family relationship between the intermediate family member and the transferee.

Often the relevant birth certificates or marriage certificates showing the relationship will be satisfactory evidence, or a statutory declaration if they are not available. Where there has been a change of name, evidence of the change must be supplied.

Because the transfer is treated for stamp duty purposes as if it had passed first to the intermediate family member and then to the final transferee, the applicant must pay fixed stamp duty of \$50 on each of these two steps. However, only a single land registry fee of \$50 is payable for the registration of the transfer

5.3.1.5 Document Submission Record

Land Registry users are encouraged to complete a Land Registry Document Submission Record for submission with each application.

5.3.1.6 Land Registry preparation of Instruments

Where the instrument is to be prepared by the Land Registry, a further fee of \$50 is payable. But where the instrument, in the opinion of the Registrar of Lands, requires substantial addition to or variations from the prescribed form then the fee is such fee not exceeding \$150 as the Registrar may assess.

5.3.1.7 Standard for Filed Plans

Filed plans must comply with the following standards:

- a) The plan must be labelled with the block and parcel number and registration district, the number and name of the building if relevant, the floor level number if relevant, and the road name providing access.
- b) All measurements must be in feet.
- c) Measurements must not exceed one decimal place.
- d) Plan must be drawn to scale.
- e) Scale must be stated.
- f) Scale must be described as a numerical ratio (for example, 1:2500) and not as a scale of measurements (for example, '16 feet to one inch').
- g) Use at least 1:1250 scale for urban properties; use at least 1:2500 scale for rural properties.
- h) Do not reduce or enlarge plan by reprographic means after scale has been applied.
- i) Show orientation by the use of a north point.

- j) Unless all the land above and below the surface is included in an application, a plan of the surface on, under or over the land to be registered must be provided, together with sufficient information to define the horizontal and vertical extents.
- k) Do not mark the plan as being 'for identification only'.
- l) Show the general location by reference to suitable landmarks, such as roads or junctions.
- m) Show access drives or pathways.
- n) Identify the property clearly by colouring, hatching, cross-hatching or edging.
- o) If there is reference to any colouring, a black and white photocopy will not be accepted.
- p) Any edging must be of suitable thickness so that it does not obscure any other details.
- q) Different floor levels must be identified where relevant.
- r) Intricate boundaries must be shown by either a larger scale plan or an inset plan.
- s) No lettering smaller than font 8.
- t) Provide a key for any symbols used.
- u) All parties sign or initial the plan.

5.3.2 Step 2 - Materials needed on account of existing register entries

5.3.2.1 Land Certificate or Certificate of Lease

The relevant register will indicate if a Land Certificate or Certificate of Lease has been issued in respect of it. If a Land Certificate has been issued for a parcel of land, then it must be submitted with any application to register a dealing with the land, unless it is held on deposit at the Land Registry or the Registrar dispenses with its production. If a Certificate of Lease has been issued for a registered lease, then it must be submitted with any application to deal with the lease unless it is held on deposit at the Land Registry.

5.3.2.2 Caution - Letter of Consent

If there is a caution on the land register which restrains a proposed disposition, then the disposition must be accompanied by the consent of the cautioner.

The letter of consent must be addressed to the Registrar of Lands. It must state the name of the cautioner and identify the block and parcel number of the land against which the caution is noted. The letter must state the type of dealing and the name of the party whose dealing the cautioner consents to. The letter must be signed by the cautioner, and the Registrar requires that the signature be verified in the normal way by certificate of identification.

A cautioner who consents to the registration of a dealing also consents to the exercise of any powers that are conferred by virtue of that dealing. For example, where a cautioner

consents to the registration of a charge over the land, then there can be no objection by the cautioner when the chargee exercises its power of sale or leasing under the charge. Note, however, that any variation of the terms of the registered charge would require the further consent of the cautioner.

5.3.2.3 Note - Letter of Consent

There are various circumstances in which a Note is entered on the register to restrain dealings without the consent of particular person. Where there is such a Note, no dealing will be accepted unless it is accompanied by a letter of consent from the relevant person. The following are two common examples.

For a registered lease, there may be a Note on the leasehold register stating that the written consent of the lessor is required for certain dealings affecting the registered lease. To enable any such dealings to be registered, the applicant must submit a letter of consent addressed to the Registrar of Lands. It must identify the block and parcel number of the lease and state the nature of the dealing which is permitted. The letter must be signed by the lessor and the signature must be verified in the normal way by certificate of identification (s.47 RLL).

For land which is subject to a registered charge, there may be a Note on the register stating that the written consent of the chargor is required for certain dealings affecting the land. To enable any such dealings to be registered, the applicant must submit a letter of consent addressed to the Registrar of Lands. It must identify the block and parcel number of the land charged, and the entry number of the relevant charge, and must state the nature of the dealing which is permitted. The letter must be signed by the chargee and the signature must be verified in the normal way by certificate of identification (s.68 RLL).

5.3.2.4 Surrender of Lease - Letter of Consent

On an application for the surrender of a lease which is subject to a registered charge or sublease, the consent in writing of the chargee or sublessee is required (s.61(2) RLL). The applicant must submit a letter of consent addressed to the Registrar of Lands. It must identify the block and parcel number of the lease and state that the chargee or sublessee consents to its surrender. The letter must be signed by the chargee or sublessee, and the Registrar requires that the signature be verified in the normal way by certificate of identification.

5.3.2.5 Pari passu Charge - Letter of Consent

Where there is already on the register a prior charge and an applicant submits a pari passu charge which is to rank equally with the prior charge, then the pari passu charge will not be accepted unless it is accompanied by a letter of consent from the proprietor of the prior

charge.

The applicant must submit a letter of consent addressed to the Registrar of Lands. It must identify the block and parcel number of the land charged and the entry number of the prior charge which is to rank equally with the pari passu charge submitted. It must state that the prior chargee consents to equal ranking, and must name the pari passu charge applicant to whom the consent is given. The consent letter must be signed by the prior chargee and the signature must be verified in the normal way by certificate of identification (s.68 RLL). But if the letter of consent is supplied by a Cayman Islands bank or Cayman Islands utility company, then the signature need not be notarised if the letter is printed on the company's letterheaded paper.

5.3.2.6 Restrictions & Inhibitions

There may be further items required in order to comply with the terms of a Restriction or Inhibition before a proposed dealing can be permitted. For example, there is a standard restriction against all dealings with a strata lot in a building until a Certificate of Occupancy has been issued for the building; on the first transfer of the strata lot, the certificate must be submitted with the instrument.

5.3.3 Step 3 - Materials needed on account of the status of the parties involved

5.3.3.1 Cayman Islands Companies - Certificate of Good Standing

If the person taking under a disposition is a Cayman Islands company under the Companies Law, then a Certificate of Good Standing must be submitted. The original or a photocopy is accepted. Certificates of Good Standing are now required for all leases, regardless of the duration of the lease. The Certificate of Good Standing must have been issued during the current calendar year; but for applications submitted within the first two months of the year, a Certificate of Good Standing dating from the previous year is accepted.

There are several relaxations of this rule:

- a) If the person taking under a disposition is a newly-incorporated Cayman Islands company, then the company may submit a Certificate of Incorporation issued within the previous three months instead of a Certificate of Good Standing.

- b) No Certificate of Good Standing is required for a corporation where the instrument is a Discharge of Charge in favour of that corporation.
- c) No Certificate of Good Standing is required for a corporation which submits a Caution.
- d) The Registrar of Lands may dispense with the requirement for a Certificate of Good Standing for a corporation where the corporation is a local bank and the instrument is a Charge in favour of that corporation.

5.3.3.2 Cayman Islands Companies - Resolution or other authority for execution

Where an instrument is executed on behalf of a corporation by two or more signatories, no further evidence is normally required by the Land Registry.

Where the instrument is executed on behalf of a corporation by a single signatory, no further evidence is normally required by the Land Registry if the instrument bears a statement that the single signatory is the sole director of the corporation. Where the instrument is executed on behalf of a corporation by a single signatory without such a statement, then the applicant must submit a certified copy or photocopy of the resolution of the governing body of the corporation showing that the authority to execute the corporation's instruments has been delegated to the individual.

5.3.3.3 Cayman Islands Exempted Companies

If the person taking under a disposition is an exempted company, then the company must submit a photocopy of the letter from the Financial Secretary permitting the company to hold land.

5.3.3.4 Execution on behalf of a person under a disability

One person may act on behalf of another person who is a minor or a person of unsound mind or is under some other disability. In such a case, the person acting must be entitled to act in that capacity by virtue of having been appointed as guardian or as representative under the authority of some written law. If a document submitted to the Land Registry has been executed by such a guardian or representative, then supporting evidence must be submitted to show that the person claiming to be guardian is entitled to execute the document. This is normally achieved by submitting an office copy, certified copy or photocopy of the court order appointing the guardian or representative and indicating the power to dispose of land.

5.3.3.5 Strata Corporation

If a strata corporation makes a transfer or grants a lease of common property, the dealing must be accompanied by Strata Form 8 prescribed by the Strata Titles Registration Regulations (2006 Revision). If a strata corporation makes a grant of easement or restrictive agreement burdening the common property, the dealing must be accompanied by Strata Form 9 prescribed by the Strata Titles Registration Regulations (2006 Revision).

5.3.3.6 Foreign Corporation

If a foreign corporation is party to an instrument, then it must submit a Certificate of Registration issued by the Cayman Islands Registrar of Companies.

5.3.3.7 Transferee is Trustee

If the transferee is a trustee and wishes the fact of the trusteeship to be registered on the register, then a copy of the trust instrument may be submitted for filing but is not required. The details of the trust cannot be entered on the register. The section of the transfer form specifying the transferee must therefore avoid all reference to the beneficiaries of the trust.

5.3.4 Step 4 - Materials needed on account of the Stamp Duty requirements

5.3.4.1 Chattels

If the consideration stated in a disposition includes an amount which is attributable to chattels then, for stamp duty purposes, there must be a supporting inventory of chattels showing their separate values, their condition, and whether they are new or used. In general, the inventory should itemise the chattels individually, but where a group of chattels comprises similar items of low value then applicants should take a common sense approach to bundling the chattels together as a single item, such as 'Crockery and Cutlery.' If there are any chattels of unusually high value, they should be identified and an explanation given to justify the value.

5.3.4.2 Reduced Stamp Duty for Caymanians

Where an applicant claims a reduced rate of Duty on the basis of being Caymanian, the applicant must submit the materials specified from time to time by the Valuation & Estates Office. The materials must be originals or certified copies.

5.3.4.3 Reduced Stamp Duty for First Time Caymanian Purchasers

If the applicant claims to be entitled to the reduced rate of Duty on the basis of being a Caymanian first-time buyer, the applicant must submit the original letter to that effect from the Commissioner of Stamp Duty (currently the Financial Secretary) or a photocopy of it.

5.3.4.4 Natural Love and Affection - Fixed Stamp Duty

If the consideration is expressed to be for 'natural love and affection' in order to secure the fixed stamp duty of \$50 under the statutory exemption, then there must be proof of the relevant relationship, such as office copies or certified copies of the relevant birth certificates or marriage certificate.

5.3.4.5 Discretionary Concessions

If the applicant claims to be entitled to a concession or waiver of stamp duty under the discretionary powers of the Commissioner of Stamp Duty (currently the Financial Secretary), then the applicant must submit the original letter from the Commissioner of Stamp Duty (Financial Secretary) or a photocopy of it.

5.3.4.6 All waivers and abatements

All stamp duty waiver letters issued to an applicant must be submitted in order to take advantage of them. They must bear the exact name as set out in the applicant's proposed instrument; if there is any discrepancy, a statutory declaration of identity is required.

5.3.4.7 Stamp Duty paid on Purchase Agreements

Stamp Duty is payable on all Agreements for Sale / Purchase Agreements, however the Duty applied may be either a fixed amount of CI \$100 or the ad-valorem Stamp Duty payable on a Conveyance or Transfer. When submitting the transfer for registration evidence should be supplied that the stamp duty has already been paid. The purchase agreement and the receipt are suitable evidence.

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