

REGISTRATION AND TRANSCRIPTION OF DEEDS AND INSCRIPTION OF MORTGAGES, PRIVILEGES AND CHARGES (RODRIGUES) ACT

Act 19 of 1997 – 22 December 1997

ARRANGEMENT OF SECTIONS

SECTION

- | | |
|--|---|
| 1. Short title | 11. Recovery of registration fee |
| 2. Interpretation | 12. Transcription of documents, inscription of mortgages, privileges and charges |
| 3. Application of Act | 13. No registration, transcription or inscription in both Rodrigues and Mauritius |
| 4. Registration of documents | 14. Offences |
| 5. Registration of documents witnessing transfer of immovable property | 15. Regulations |
| 6. Registration fee | 16. – 18. – |
| 7. Penalty for late registration | SCHEDULE |
| 8. Claim or refund of registration fee | |
| 9. Exemption from registration fee | |
| 10. Remission or refund of registration fee | |

REGISTRATION AND TRANSCRIPTION OF DEEDS AND INSCRIPTION OF MORTGAGES, PRIVILEGES AND CHARGES (RODRIGUES) ACT

1. Short title

This Act may be cited as the Registration and Transcription of Deeds and Inscription of Mortgages, Privileges and Charges (Rodrigues) Act.

2. Interpretation

In this Act—

“authorised officer” means the Island Chief Executive or a public officer authorised in writing by him to act as such;

“document” includes deed;

“immovable property” includes any right or interest in any immovable property;

“*institution agréée*” means any body specified in article 2202-2 of the Code Civil Mauricien or in any regulation made under the article;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“notary” has the same meaning as in the Notaries Act;

“registration fee”—

(a) means the registration fee specified in section 6; and

- (b) includes a penalty imposed under section 7; but
- (c) does not include a fine;

“transaction” means an operation which creates, declares the existence of, transfers or extinguishes a right or obligation.

3. Application of Act

This Act shall apply to Rodrigues only.

4. Registration of documents

(1) Subject to subsection (2), every document specified—

- (a) in Part I of the Schedule shall, within 14 days of the date of the transaction which it witnesses;
- (b) in Part II of the Schedule shall, within 14 days of the date on which it is drawn up,

be presented to the authorised officer for registration.

(2) Every document drawn up by a notary shall be presented to the authorised officer for registration within 3 months of the date of death of the testator.

(3) Every document specified in Part III of the Schedule may be presented at any time to the authorised officer for registration.

(4) Every deed specified in column 1 of the Schedule shall be presented to the authorised officer for registration by the corresponding person specified in column 2 of that Schedule.

5. Registration of documents witnessing transfer of immovable property

No document witnessing a transfer of immovable property, whether or not under condition precedent (*“bordereau”*), or a promise to transfer or acquire, or option given to transfer or acquire, an immovable property, shall be registered unless—

- (a) it contains—
 - (i) the full name and address of each party;
 - (ii) the situation and extent of the property;
 - (iii) the true value of the property; and
 - (iv) such other particulars as may be prescribed; and
- (b) at the time of presentation of the document for registration, section 48 or 48A, as the case may be, of the Transcription and Mortgage Act is complied with.

6. Registration fee

(1) Subject to this section, the authorised officer shall register the document specified in column 1 of the Schedule on payment of the corresponding registration fee at the rate specified in column 3 of that Schedule calculated on the corresponding basis specified in column 4 of that Schedule.

(2) Any registration fee payable which is less than a multiple of 5 rupees shall be increased to the next higher figure which is a multiple of 5 rupees.

(3) No document specified in column 1 of the Schedule shall be registered unless the registration fee has been paid.

7. Penalty for late registration

Where a document is presented for registration after the period specified in section 4, there shall be paid, in addition to the fee payable, a penalty representing 10 per cent of the registration fee.

8. Claim or refund of registration fee

(1) Subject to subsection (3), where the registration fee on a document has been underpaid, the amount underpaid shall be payable upon a claim being made by the authorised officer.

(2) (a) Subject to subsection (3), where the registration fee on a document has been paid in excess of the fee properly payable at the time of registration, an application may be made to the authorised officer for a refund of the amount paid in excess.

(b) Where the authorised officer is satisfied that the applicant is entitled to a refund, he shall order the refund to be made.

(3) No claim under subsection (1), and no refund under subsection (2), shall be made—

- (a) after the expiry of 5 years from the date on which the fee became payable; or
- (b) where the amount is less than 100 rupees.

9. Exemption from registration fee

Notwithstanding section 6, the Minister may, by regulations—

- (a) exempt a document from payment of registration fee; or
- (b) reduce the rate of registration fee on such conditions as he thinks fit.

10. Remission or refund of registration fee

The Minister may remit or order the refund of any registration fee on such conditions as he thinks fit.

11. Recovery of registration fee

(1) Where any registration fee has remained unpaid, the authorised officer may, in order to secure the recovery of the amount unpaid, inscribe a privilege for that amount on any immovable property belonging, or which may subsequently belong, to the debtor in accordance with the Inscription of Privileges and Mortgages Act.

(2) The Recovery of State Debts Act shall apply to the recovery of any registration fee and all the powers exercisable by the Accountant-General under that Act shall be exercised by the authorised officer.

(3) Any privilege inscribed under subsection (1) shall be erased by the authorised officer on payment of the amount due.

12. Transcription of documents, inscription of mortgages, privileges and charges

(1) Subject to subsections (2) and (3), any reference to the Conservator of Mortgages in—

- (a) Articles 2201 to 2201-7 of the Code Civil Mauricien;
- (b) the Transcription and Mortgage Act;
- (c) the Inscription of Privileges and Mortgages Act; and
- (d) the Affidavits of Prescription Act,

shall be construed as a reference to the authorised officer who shall, accordingly, exercise the powers and duties of the Conservator of Mortgages under those enactments.

(2) The fees, dues and charges payable under sections 60, 62 and 63 of the Transcription and Mortgage Act on a document shall not be payable.

(3) Any reference to the expression “election of domicile in Port Louis” in sections 4 and 6 of the Affidavits of Prescription Act may be construed as a reference to “an election of domicile in Port Mathurin”.

(4) For the purposes of section 4 (1) (b) of the Affidavits of Prescription Act, the Memorandum of Survey shall, at the request of the authorised officer, be drawn up by a Government Surveyor, subject to the payment by the person applying for the transcription of the affidavit of prescription of such fees as may be prescribed by the Minister to whom responsibility for the subject of land is assigned.

(5) The authorised officer shall, notwithstanding anything to the contrary in section 4 (2) of the Affidavits of Prescription Act, cause the notice referred to in that subsection to be published once in the *Gazette* and in 3 consecutive issues of 2 newspapers in circulation in the Island of Rodrigues.

13. No registration, transcription or inscription in both Rodrigues and Mauritius

(1) Subject to section 9A of the Road Traffic Act, no document specified in the Schedule and witnessing a transaction carried out within, and relating to any property or matter in, Rodrigues, shall be presented for registration, transcription or inscription otherwise than in accordance with this Act.

(2) Where—

- (a) pursuant to this Act, a document relating to a motor vehicle or trailer has been registered;

- (b) the document becomes subject to registration and to registration duty or fee pursuant to sections 9 and 9A of the Road Traffic Act; and
- (c) the registration duty or fee, if any, paid under this Act is less than the duty or fee payable pursuant to sections 9 and 9A of the Road Traffic Act,

the difference in duty or fee shall be paid upon registration of the document pursuant to sections 9 and 9A of the Road Traffic Act.

[S. 13 amended by Act 10 of 1998.]

14. Offences

Any person who contravenes this Act, or any regulations made under it, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2,000 rupees and to imprisonment for a term not exceeding 6 months.

15. Regulations

(1) The Minister may—

- (a) make such regulations as he thinks fit for the purposes of this Act; and
- (b) by regulations, amend the Schedule.

(2) Any regulations made under this section may provide for the levying of fees and charges.

16. – 18. —

SCHEDULE

[Sections 4 and 6]

PART I

Column 1 DEEDS	Column 2 PERSON RESPONSIBLE TO PRESENT DEED FOR REGISTRATION	Column 3 RATE OF REGISTRATION FEE	Column 4 BASIS FOR CALCULATING REGISTRATION FEE
1 Deeds drawn up by a notary—			
(a) transfer of immovable property	Notary	0%	True value of immovable property
(b) lease of immovable property	Notary	0%	Rental for whole period of lease
(c) deed of loan	Notary	0%	Amount of loan
(d) wills	Notary	0%	—
(e) any other deed	Notary	0%	—
2 Instruments creating a pledge in accordance with Articles 2112 to 2119 of the Code Civil Mauricien	Vendor or creditor	0%	Amount secured or amount of debt, whichever is higher
3 Instruments creating a fixed or floating charge in accordance with Articles 2202 to 2203-7 of the Code Civil Mauricien	<i>Institution agréée</i>	0%	Amount secured or amount of debt, whichever is higher
4 Deed of lease of State land	Ministry responsible for the subject of State land	0%	Rental for whole period of lease
5 Deeds drawn up under private signatures witnessing—			
(a) transfer of immovable property	Transferee	0%	True value of immovable property
(b) transfer, under condition precedent (" <i>bordereau</i> ") whether the condition has been fulfilled or not, of immovable property	Transferee	0%	True value of immovable property

SCHEDULE—continued

Column 1 DEEDS	Column 2 PERSON RESPONSIBLE TO PRESENT DEED FOR REGISTRATION	Column 3 RATE OF REGISTRATION FEE	Column 4 BASIS FOR CALCULATING REGISTRATION FEE
(c) promise to transfer or acquire, or option given to transfer or acquire, an immovable property	Transferee	0%	True value of immovable property
(d) lease of immovable property	Lessee	0%	Rental for whole period of lease
(e) loan agreement	Debtor	0%	Amount of loan
6 —			
7 —			

[Part I amended by Act 38 of 1999; Act 26 of 2000.]

PART II

Column 1 DOCUMENTS	Column 2 PERSON RESPONSIBLE TO PRESENT DOCUMENT FOR REGISTRATION	Column 3 RATE OF REGISTRATION FEE	Column 4 BASIS FOR CALCULATING REGISTRATION FEE
Memorandum of Survey by a Land Surveyor	Land Surveyor	0	—

PART III

Column 1 DOCUMENTS	Column 2 PERSON RESPONSIBLE TO PRESENT DOCUMENT FOR REGISTRATION	Column 3 RATE OF REGISTRATION FEE	Column 4 BASIS FOR CALCULATING REGISTRATION FEE
Any documents not specified in Part I or Part II	Person making use of the document	0	—

