



BILLE UM CHLARU TEIDIL, 1941.
REGISTRATION OF TITLE BILL, 1941.

*Mar do tugadh isteach.
As introduced.*

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ÉIRE

BILLE UM CHLARU TEIDIL, 1941.

REGISTRATION OF TITLE BILL, 1941.

BILL

entitled

5

AN ACT TO AMEND THE LAW RELATING TO THE REGISTRATION OF THE TITLE TO LAND AND FOR THAT PURPOSE TO AMEND THE LOCAL REGISTRATION OF TITLE (IRELAND) ACT, 1891.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:— 10

PART I.

PRELIMINARY AND GENERAL.

- Short title and citation. 1.—(1) This Act may be cited as the Registration of Title Act, 1941.
- (2) The Local Registration of Title (Ireland) Act, 1891, and this Act may be cited together as the Registration of Title Acts, 1891 and 1941. 15
- Definitions and construction. 2.—(1) In this Act—
- the expression “ the Principal Act ” means the Local Registration of Title (Ireland) Act, 1891; 20
- the expression “ the Minister ” means the Minister for Justice.
- (2) The Principal Act and this Act shall be construed together and, accordingly, every word and expression to which a particular meaning is assigned by or in the Principal Act for the purposes of that Act shall, in this Act, have the meaning so assigned thereto. 25
- Short title of the Principal Act. 3.—The Principal Act, that is to say, the Local Registration of Title (Ireland) Act, 1891, may, in lieu of that title, be cited as the Registration of Title Act, 1891.
- Repeals. 4.—The enactments mentioned in the Third Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule. 30
- Expenses. 5.—The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. 35

PART II.

REGISTERING AUTHORITIES AND THEIR OFFICERS.

6.—(1) The Registrar of Titles shall be appointed by the Government and shall hold office at the pleasure of the Government.
5 ment.

The Registrar of
Titles.

(2) No person shall be appointed to be Registrar of Titles unless at the time of his appointment he is either a barrister-at-law or a solicitor who has practised his profession for not less than eight years.

10 (3) For the purpose of the next preceding sub-section of this section, service by a barrister-at-law or a solicitor in a situation in the Civil Service shall be deemed to be practice of his profession.

(4) Subject to the person appointed thereto being in good
15 health at the time of his appointment, the office of Registrar of Titles shall be a pensionable office within the Superannuation Acts for the time being in force, and there may be granted either to the Registrar of Titles on his retirement or to his legal personal representative on his death such superannuation and other allow-
20 ances and gratuities as might under the said Acts have been granted to such Registrar of Titles, if he had been appointed to the permanent civil service of Ireland with a certificate from the Civil Service Commissioners.

(5) Every Registrar of Titles shall hold his office on such
25 terms and conditions and shall receive, out of moneys provided by the Oireachtas, such remuneration as the Minister for Finance shall from time to time direct.

(6) The Registrar of Titles shall retire on attaining the age of sixty-five years, but that age of retirement may, in the case
30 of any particular Registrar of Titles, be extended by the Minister, with the concurrence of the Minister for Finance, to any age not exceeding seventy years.

(7) The person appointed under this section to be Registrar of Titles may also be appointed by the Government to be
35 Registrar of Deeds, and if so appointed, he shall be known as the Registrar of Deeds and Titles, but the foregoing provisions of this section shall continue to apply to him in the same manner as if he had continued to be only Registrar of Titles.

(8) So much of section 8 of a pre-Union Irish statute passed
40 in the 6th year of Queen Anne, chapter two, entitled " an Act for the Publick Registering of all Deeds, Conveyances and Wills ", etc., as amended by section 2 of the Registry of Deeds (Ireland) Act, 1832, as enacts that the Registrar of Deeds and assistant registrars shall, previously to entering upon the duties
45 of their respective offices, each enter into a recognizance in the manner and for the sum therein prescribed shall cease to have effect.

7.—(1) There shall be attached to the central office and to each local office such and so many officers and servants as the Minister
50 shall, from time to time, with the consent of the Minister for Finance, consider to be necessary.

Officers of
registering
authorities.

(2) Every officer and servant attached to the central office or to any local office shall hold his position on such terms and conditions and shall receive, out of moneys provided by the Oireachtas, such
55 remuneration as the Minister for Finance shall, from time to time, direct.

8.—(1) Subject to the direction and control of the Registrar of Titles in relation to such matters as shall be prescribed, every local office shall be under the management and control of the county
60 registrar of the county in which such local office is situate, and the

Local registering
authority.

business of such local office shall be transacted in the Circuit Court Office in and for that county.

(2) Every county registrar shall be a local registering authority for the purposes of the Principal Act, and references in that Act or in this Act to the local registering authority shall, notwithstanding anything contained in sub-section (7) of section 4 of the Principal Act, be construed as references to the county registrar. 5

(3) For the purposes of the Principal Act and this Act, the county of Cork and the county borough of Cork shall continue to be one county. 10

(4) This section shall have effect subject to the provisions of the next following section.

Exercise of powers of registering authorities.

9.—(1) All or any of the powers and duties conferred or imposed on the central registering authority by or under the Principal Act or this Act may be exercised and performed by such other officer or officers attached to the central office as the Minister may from time to time authorise in that behalf. 15

(2) All or any of the powers and duties conferred or imposed on any local registering authority by or under the Principal Act or this Act may be exercised and performed by such other officer or officers attached to the relevant local office as the Minister may from time to time authorise in that behalf. 20

Validation of the acts of certain persons.

10.—(1) Every person whose name is set out in the first column of the First Schedule to this Act shall, as from the date mentioned in the second column of the said Schedule opposite the mention of such person's name in the said first column, be deemed to have been validly and effectually appointed under sub-section (5) of section 4 of the Principal Act, as adapted by or under subsequent enactments, to have the control and management under that sub-section of the local office in the county mentioned in the third column of the said Schedule opposite the mention of such person's name in the said first column. 25 30

(2) No act or thing done by any person whose name is set out in the first column of the First Schedule to this Act on or after the date mentioned in the second column of the said Schedule opposite the mention of such person's name in the said first column and before the passing of this Act in execution or purported execution of the functions or duties of a local registering authority under the Principal Act in the county mentioned in the third column of the said Schedule opposite the mention of such person's name in the said first column shall be invalid, ineffectual, or open to challenge merely on the ground that such person had not been validly appointed to be the local registering authority in that county. 35 40

(3) It shall be lawful for every person whose name is set out in the first column of the First Schedule to this Act to continue, after the passing of this Act, to execute the functions and duties of the local registering authority in the county mentioned in the third column of the said Schedule opposite the mention of such person's name in the said first column until whichever of the following events first happens, that is to say:— 45 50

(a) the Minister by writing under his hand terminates the right of such person to execute the said functions and duties, or

(b) such person dies or resigns the right to execute the said functions and duties, or 55

(c) the expiration of twelve months, or such longer period as the Minister, with the consent of the Minister for Finance shall in any particular case allow, from the date of the passing of this Act,

and on and from the happening of whichever of those events first happens, the county registrar for that county shall become and be the local registering authority for that county under and in accordance with the next preceding section.

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PART III.

DIVERS AMENDMENTS OF THE PRINCIPAL ACT.

11.—Where any perpetual rent or other incorporeal hereditament of freehold tenure held in gross issues out of or otherwise affects any freehold registered land, then, notwithstanding anything contained in section 19 of the Principal Act, the following provisions shall have effect in relation to such rent or hereditament, that is to say:—

Amendment of section 19 of the Principal Act in relation to perpetuity rents.

15 (a) the registration under the Principal Act of the ownership of such land shall not, whether such rent or hereditament is or is not registered under the Principal Act as a burden thereon, have the effect of exempting any deed or other document relating to the title to such rent or hereditament (other than the deed or other document creating such rent or hereditament) from the provisions of the Acts relating to the Registry of Deeds;

25 (b) if the ownership of such rent or hereditament is registered under the Principal Act in a register kept under section 54 of that Act, such registration shall, on and from the date thereof and for so long thereafter as such rent or hereditament is so registered, exempt from the provisions of the Acts relating to the Registry of Deeds any deed or other document executed or coming into operation after the date of such registration which relates to the title to such rent or hereditament;

35 (c) such registration as is mentioned in the next preceding paragraph of this section of the ownership of such rent or hereditament shall not exempt from the provisions of the Acts relating to the Registry or Deeds any deed or other document relating to the title to any perpetual rent or other incorporeal hereditament (in this paragraph referred to as such superior rent or hereditament) of freehold tenure which issues out of or otherwise affects such rent or hereditament other than the deed or other document creating such superior rent or hereditament.

45 12.—Where a person is registered (whether before or after the passing of this Act) under section 40 of the Principal Act as the owner of a charge on land, the following provisions shall have effect by way of addition to the provisions of that section, that is to say:—

Additional provisions in respect of registered charges.

50 (a) when the principal money secured by the charge has become due, the registered owner of the charge or his personal representative may apply to the Court in a summary manner for possession of the land or any part of the land, and on such application the Court may, if it so thinks proper, order possession of the land or the said part thereof to be delivered to the applicant, and the applicant, upon obtaining possession of the land or the said part thereof, shall be deemed to be a mortgagee in possession;

(b) when a transferee from the registered owner of the charge is registered, under sub-section (6) of the said

section 40, as owner of the land, the charge and all estates, interests, burdens, and entries inferior to the charge shall be discharged.

Restriction on custody of land certificate by registered owner of a charge.

13.—(1) The registered owner of a charge shall not, merely by reason of his being such owner, be entitled to the possession of the land certificate in respect of the registered land which is subject to such charge. 5

(2) Every stipulation in relation to a registered charge on land (whether made before or after the creation of such charge) whereby the custody of the land certificate in respect of such land is to be given to the registered owner of such charge shall be void. 10

Avoidance of certain stipulations in contracts for sale or charge of registered land.

14.—Every stipulation in a contract for the sale or charge of registered land whereby the purchaser or intending chargeant is precluded from making requisitions in relation to burdens generally or any particular burden which, by virtue of section 47 of the Principal Act, may affect such land shall be void. 15

Additional burdens which without registration affect registered land.

15.—All registered land shall, in addition to the burdens to which it is subject by virtue of section 47 of the Principal Act, be subject to such of the following burdens as for the time being affect that land, whether such burdens are or are not registered, that is to say :— 20

(a) a perpetual yearly rent (in this section referred to as the superior rent) which is superior to another such rent (in this section referred to as the registered rent) registered as a burden on registered land and which, as between the said registered land and the registered rent, is primarily payable out of the registered rent in exoneration of such land; 25

(b) the covenants and conditions contained in the deed or other document creating the superior rent, in so far as such covenants and conditions affect such land. 30

Notice of trusts.

16.—(1) Save as is otherwise provided by the Principal Act or this Act, notice of a trust existing in respect of registered land shall not be entered in the register.

(2) Notwithstanding anything contained in section 63 of the Principal Act, it shall be and be deemed always to have been lawful for the registering authority to receive an instrument for the purpose of a registration although such instrument contains notice of a trust. 35

(3) None of the following persons shall, by reason merely of the receipt (whether before or after the passing of this Act) by the registering authority of an instrument for the purpose of a registration, be or ever have been affected with notice of any trust contained in or arising out of matters contained in such instrument, that is to say :— 40 45

(a) the registering authority;

(b) a registered transferee for valuable consideration of the registered land to which such instrument relates;

(c) a registered owner of a charge on such land created for valuable consideration; 50

(d) a person claiming an interest in such land created for valuable consideration and registered as a burden thereon.

(4) In this section the word "trust" includes express, implied, and constructive trusts. 55

17.—(1) A person of unsound mind not so found by inquisition may be represented for all or any of the purposes of the Principal Act by his committee or guardian (if any) appointed under the Lunacy Regulation (Ireland) Act, 1871, or if no such committee or guardian is so appointed, by a guardian appointed by the Court.

Persons of
unsound mind
and of weak mind.

(2) A person of weak mind who is temporarily incapable of managing his affairs may be represented for all or any of the purposes of the Principal Act by his guardian (if any) appointed under section 103 of the Lunacy Regulation (Ireland) Act, 1871, or if no such guardian is so appointed, by a guardian appointed by the Court.

18.—Where probate of a will or other testamentary instrument is granted (whether before or after the passing of this Act) to some or one only of several persons jointly named as executors (whether power is or is not reserved to the other executor or executors to prove), a sale or transfer of registered land to which Part IV of the Principal Act applies may, notwithstanding anything contained in sub-section (2) of section 86 of that Act, be made, without the authority of the court, by the executor or executors to whom such probate is so granted, and shall be as effectual as if all the persons named as executors had concurred therein.

Power of proving
executors to sell
or transfer
registered land
without the
authority of
the Court.

19.—Where, on the application of any person claiming to be registered as owner of freehold registered land to which Part IV of the Principal Act applies in succession to a deceased full owner of such land, the Court is satisfied—

Registration of
person entitled
to land in
succession after
lapse of six
years.

(a) that at least six years have elapsed since the death of the deceased full owner, and

(b) that the personal representatives of such owner are dead or out of the jurisdiction,

the Court may, if it think fit, notwithstanding anything contained in section 87 of the Principal Act, dispense the applicant from the necessity of raising further representation to the deceased full owner or of giving notice to his personal representatives, and may order that the applicant be registered as owner of the land.

20.—(1) This section applies to loss sustained by any person by reason of—

Compensation for
error, forgery or
fraud in a
register.

(a) the rectification by the Court of any such error in a register made by the registering authority or any of his officers as may be rectified under the Principal Act as amended by this Act, or

(b) any error (whether of misstatement, misdescription, omission or otherwise, and whether in a register or in a registry map referred to therein) made by the registering authority or any of his officers and not rectified by the Court, or

(c) any entry in or omission from a register caused or obtained by forgery or fraud, or

(d) any error in an official search carried out by the registering authority or any of his officers.

(2) Where any person sustains loss to which this section applies, and the loss is not caused or substantially contributed to by the act, neglect or default of himself or his agent, that person and also any person deriving title from him shall be entitled to compensation for that loss in accordance with this section.

(3) All compensation payable under this section shall be paid out of moneys provided by the Oireachtas.

(4) The following provisions shall apply to every claim for compensation under this section, that is to say :—

- (a) the claim shall be made in the prescribed manner to the central registering authority, and notice thereof shall be given to the Minister for Finance; 5
- (b) the central registering authority shall determine the claim and such determination shall be final, unless either the Minister for Finance or the claimant is dissatisfied with that determination, in which case either party may appeal, in the prescribed manner, to the Court; 10
- (c) no claim shall be entertained by the central registering authority after the expiration of six years from the time when the right to compensation accrued unless, on the expiration of such six years, the person entitled to claim was under disability, in which case the claim shall not be entertained after the expiration of two years from the termination of the disability, but the determination of the central registering authority to refuse or allow a claim under this paragraph shall be subject to an appeal in the prescribed manner to the Court; 15
- (d) for the purposes of the next preceding paragraph, the right to compensation shall be deemed to have accrued— 25
 - (i) in regard to any estate or interest in possession, on the date of the registration which occasioned the loss in respect of which compensation is claimed, or
 - (ii) in regard to any estate or interest in remainder or reversion, on the date when such estate or interest would, but for such registration as aforesaid, have fallen into possession; 30
- (e) the decision of the Court on an appeal under any of the foregoing paragraphs of this sub-section shall be final and binding on all parties to the appeal. 35

(5) Where compensation is paid under this section to any person,—

- (a) it shall be applicable in discharge of any incumbrances affecting the estate or interest of that person in the land or charge in respect of which the compensation is payable, and 40
- (b) the Minister for Finance shall have the same right to recover the amount of such compensation from any person who caused or derived advantage from the loss as the person who suffered the loss would have had if the loss were an injury caused to him by the first mentioned person. 45

Winding up of the insurance fund, and payment thereof into the Exchequer.

21.—(1) As soon as conveniently may be after the passing of this Act, the insurance fund shall be wound up, and for that purpose, the trustees of the said fund shall take all such steps as may be necessary to realise the investments in which the said fund is then invested, and to pay into or dispose of for the benefit of the Exchequer the net proceeds of such realisation in such manner as the Minister for Finance shall direct. 50 55

(2) So much of the Land Registration Rules, 1937, (S. R. & O., No. 264 of 1937), as provides for the payment to the trustees of the insurance fund of a portion of the total sum received on the sale of Land Registry stamps shall cease to have effect, and any

additional insurance fees payable under those Rules shall, while those Rules remain in force, in lieu of being paid to the said trustees, be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance shall direct.

(3) In this section, the expression " the insurance fund " means the insurance fund established under section 92 of the Principal Act.

22.—(1) Whenever it appears to the registering authority that an error which may be capable of rectification has been made in a registration in the register, the registering authority may enter in the register such inhibition against dealings with the land or the burden affected by such error as he shall think proper for the purpose of protecting the Central Fund against claims for compensation in respect of losses occasioned by registrations made after such error is discovered and before it is rectified.

Inhibition in consequence of discovery of error.

(2) An inhibition entered in the register under this section shall not affect any registration actually pending in the Land Registry when such inhibition is entered nor prevent the completion of such registration.

(3) Whenever the registering authority enters an inhibition under this section, he shall send notice of such inhibition and of the error because of which it was entered to all persons who appear from the register to be affected by such error and to such other (if any) persons as shall be prescribed.

23.—The several portions of the Principal Act mentioned in the first column of the Second Schedule to this Act are hereby respectively amended in the manner set out in the second column of that Schedule opposite the mention of each such portion in the said first column.

Minor amendments of the Principal Act.

FIRST SCHEDULE.

PERSONS DEEMED TO BE LOCAL REGISTERING AUTHORITIES IN CERTAIN COUNTIES.

Name of Person	Relevant Date	County
Derrick M. Martin ..	3rd February, 1933	Monaghan.
H. Turpin (Junior) ..	23rd November, 1933	Leix.
John J. Colbert	13th April 1934.	Waterford.

SECOND SCHEDULE.

MINOR AMENDMENTS OF THE PRINCIPAL ACT.

Portions of the Principal Act Amended	Particulars of Amendment
Section 34, sub-section (2) ..	By the deletion of the word "injury" and the insertion in lieu thereof of the word "injustice."
Section 35, sub-section (4) ..	By the deletion of the words "if the transferor shall so request."
Section 37, paragraph (2) ..	By the insertion, after the words "registered as full owner," of the words "or as limited owner."
Section 46, sub-section (3) ..	By the deletion of the words "date of such registry" and the insertion in lieu thereof of the words "date of such registration."
Section 53, subsection (1) ..	By the deletion of the word "court" and the insertion in lieu thereof of the words "registering authority."
Section 58, sub-section (1)	By the deletion of the words "un-registered owner of adjoining lands" and the insertion in lieu thereof of the words "owner of adjoining un-registered land."
Section 71, sub-section (1) ..	By the deletion of the words "a separate column of."
Section 84, sub-section (1) ..	By the insertion, after the words "vested in any person" of the words "as full owner."
Section 85, sub-section (2) ..	By the deletion, in paragraph (a), of the words "of law" and the insertion in lieu thereof of the word "laws."

THIRD SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter	Short Title	Extent of Repeal
54 & 55 Vict., c. 66	Registration of Title Act, 1891.	Sub-sections (5) and (6) of section 4; sections 5 to 7; sub-section (1) of section 11; sub-sections (2) and (3) of section 22; paragraph (2) of section 25; section 27; paragraph (d) of section 47; section 63; sub-section (2) of section 75; sections 92 and 93.
9 Edw. VII, c. 36	Local Registration of Title (Ireland) Act, 1909.	The whole Act.

REPORT OF THE COMMISSIONER OF THE GENERAL LAND OFFICE

BILL

AN ACT TO AMEND THE LAND ACT, 1924, IN RELATION TO THE

LANDS OF THE FEDERAL GOVERNMENT

ENACTED BY THE PARLIAMENT OF CANADA IN THE TWENTY-SEVENTH YEAR OF HER MAJESTY THE KING

1937

Éire.

BILLE UM CHLARU TEIDIL, 1941.

BILLE

(*mar do tugadh isteach*)

dá ngairmtear

Acht chun leasú do dhéanamh ar an dlí bhaineas le clárú an teidil chun tailimh agus chun leasú do dhéanamh ar an *Local Registration of Title (Ireland) Act, 1891*, chuige sin.

An tAire Dlíghidh agus Cirt do thug isteach.

Do hordúodh, ag Dáil Eireann, do chlóbhualadh, 3adh Mí na Nodlag, 1941.

BAILE ATHA CLIATH:
FOILLSITHE AG OIFIG AN tSOLATHAIR.

Le ceannach trí aon díoltóir leabhar, no díreach ó Oifig Díolta Foillseacháin Rialtais, 3-4 Sráid an Choláiste, Baile Atha Cliath.

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Éire.

REGISTRATION OF TITLE BILL, 1941.

BILL

(*as introduced*)

entitled

An Act to amend the law relating to the registration of the title to land and for that purpose to amend the *Local Registration of Title (Ireland) Act, 1891*.

Introduced by the Minister for Justice.

Ordered by Dáil Eireann, to be printed, 3rd December, 1941.

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