

CHAPTER 100

LAND INSTRUMENTS (PREPARATION AND REGISTRATION) LAW

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CHAPTER 100

LAND INSTRUMENTS (PREPARATION AND REGISTRATION) LAW

A Law to prohibit unqualified persons from drawing instruments affecting lands: and to regulate the registration of instruments and the filling of judgments affecting land in Enugu State. ANSL Cap 75

(27th August 1991)

PART 1 — PRELIMINARY

1. This law may be cited as the Land Instruments (Preparation and Registration) Law.

Short title

2. In this Law—

Interpretation

"certificate of purchase" means a certificate granted by a court certifying that the right, title and interest of a judgment debtor in certain immovable property has been sold to the person named in the certificate:

"Commissioner" means a document State Commissioner charged with responsibility for lands:

"instrument" means a document affecting land in Enugu State whereby one party (hereinafter called the grantor) confers, transfers, limits, charges or extinguishes in favour of another party (hereinafter called the grantee) or purporting to do so, any right or title to, or interest in Land in Enugu State, and a certificate of purchase and a power of attorney under which any instrument may be executed, but not, a will;

"local judgment" means judgment or decree of the Supreme Court, Court of appeal, the High Court, a Magistrate's Court or Customary Court whereby the title to land in Enugu State is or shall be affected or whereby the validity of any instrument registered under this Law is affected, "office" means the proper office of the land registry established under this Law;

"Privy Council Judgment" means a judgment of the Judicial Committee of Her Britannic Majesty's Privy Council determining an appeal from a local judgment together with the Order of Her Britannic Majesty's Privy Council giving effect of such judgment;

‘State grant’ includes a mining lease, mining right, water right or exclusive prospecting licence granted under the Minerals Act, and a timber licence granted under the forest Law, and every other grant, conveyance, lease or mortgage by or on behalf of the Government

PAR II — PREPARATION OF INSTRUMENTS

Endorsement
of name and
address on
instrument

3. Every person who shall draw or prepare any instrument shall endorse or cause to be endorsed thereon his name and address. Any person who contravenes the foregoing provisions shall be liable to a fine of ten naira.

Unqualified
persons not
to draw
instrument

4. No person other than a legal practitioner shall either directly or indirectly for or in expectation of any fee, gain or reward draw or prepare any instrument. Any person who contravenes the foregoing provision shall be liable to a fine of one thousand naira.

Certain
agreements
void

5. (1) An agreement entered into after the commencement of this Law to pay a fee or reward to any person, other than a legal practitioner, in consideration of such person drawing or preparing any instrument is void.

Fee or
reward
paid under
void
agreement
may be
recovered

(2) Any person who shall after the commencement of this Law pay to any person, other than a legal practitioner, any fee or reward for having after the commencement of this Law draw or prepared or agreed to draw or perforce any instrument, may sue for and recover the amount of such fee or reward from the person to whom the same was paid.

Saving for
instrument
drawn by
pubic
officers

6. Nothing in this Law shall apply to any public officer drawing or preparing an instrument in the course of his duty as such.

Power to
except any
class of
instrument

7. The Attorney-General may by order except from the provisions of this Law any class of instruments specified in such order

PART III—REGISTRATION OF INSTRUMENTS

8. (1) There shall be in Enugu State a land registry with an office or offices at such place or places as the Commissioner may from time to time direct.

Establishment of
land registry

(2) The registry shall be the proper office for the registration of all instruments including powers of attorney affecting land in Enugu State.

9.(1) The Commissioner shall from serving offices, appoint such number of registrar, deputy registrars and assistant registrars as may be necessary for the purpose of this Law,

Appointment of
registrar

(2) Subject to the directions of the registrar, a deputy registrar or an assistant registrar may do anything which by this Law is required or authorized to be done by the registrar

10. (1) There shall be kept at each office such registers, books and files as may be prescribed and a registrar shall, subject to the provisions of this Law, register therein in the prescribed manner all instruments required to be registered and delivered to him for registration, and shall file all local judgments and Privy Council judgments required or permitted to be filed and delivered to him for filing.

Registers
and
document
to be kept.

(2) All registers kept in the office of the land registry immediately before the commencement of this Law shall part of the register under this Law.

Instrument
executed after
the
commencement
of this Law

11. Subject to the provisions of this Law, every instrument executed after the commencement of this Law shall be registered

12. Subject to the provisions of this Law, every instrument executed before the commencement of this Law, and not already registered, shall be registered

Instrument
executed
before the
commencement
of this
Law

13. (1) No instrument executed in Nigeria after the commencement of this Law, the grantor, or one or more of the grantors, whereof is illiterate, shall be registered unless it has been executed by such illiterate grantor or grantors in the presence of a magistrate or justice of the peace and is subscribed by such magistrate or justice of the peace as a witness thereon.

(2) No instrument executed out of Nigeria shall be registered unless it has endorsed thereon or attached thereto a certificate of proof (as in Form A in the First Schedule or to the like effect) by one of the persons mentioned in (a) or (b) of subsection (3) as the case may be; or unless one of the subscribing witnesses thereto be one of such persons or unless the due execution thereof is otherwise certified to the satisfaction of the registrar, by one of such persons:

Provided that an instrument executed out of Nigeria by a person serving in the armed forces of the country on actual naval or military service may be registered if it has been executed in the presence of —

(a) the officer commanding the ship or other unit in which the person executing the instrument is serving, or

Proof of
instrument
executed out
of Nigeria
Form A First
Schedule.

(b) any other officer not below the rank of Lieutenant Commander in the Nigerian Naval Forces, or Major in the Nigerian Military Forces, and bears a statement that it has been executed on actual naval or military service.

(3) The persons referred to in subsection (2) shall be ---

(a) if such instrument is executed in any part of the Commonwealth or in any British protectorate, any judge, police officer, magistrate, justice of the peace, notary public or administrative officer resident therein.

(b) if such instrument is executed in any foreign country, any Nigerian consul or other accredited Nigerian representative resident therein.

14. (1) No instrument executed after the commencement of this Law, other than a power of attorney, shall be registered unless it contains a proper and sufficient description, and, subject to the regulations, a plan of the land affected by such instrument.

The decision of the registrar as to the adequacy of the description and plan of any land in any instrument for the purpose of identification shall be final, subject to any order of the High court

(2) No State grant executed after the 1st June, 1918, and no instrument executed after the said date affecting land the subject of a State grant executed after the said date shall be registered unless the plan of the land affected by such State grant or instrument is signed by a surveyor or is copy of a so signed.

(3) No instrument executed after the 1st June, 1918, having thereon or attached thereto a plan of the land affected shall be registered unless the plan is signed by a surveyor or is a copy of a plan which has been signed by a surveyor.

(4) In this section the term "surveyor" has the meaning assigned to it by the Survey Law

15. No instrument requiring the consent of the Governor or any public officer to the validity thereof shall be registered unless such consent be endorsed thereon or the registrar is otherwise satisfied that such consent has been given.

16. No instrument declared by any enactment repealed by this Law to be void shall be registered.

Endorsement of
consent of
Governor in the
case of certain
instrument

Validity of
instrument

Compliance
with the
requirements
of this or
prior Law

Description
and plan of
land affected

17. No instrument executed before the commencement of this Law shall be registered if it does not comply with the requirements of this Law or of the enactment in force at the date of execution thereof

18. No instrument endorsed on another instrument shall be registered unless the instrument on which it is endorsed is registered.

Registered o
instrument
endorsed on
another
instrument

19. (1) Any person desiring that any instrument shall be registered shall deliver the same together with a true copy thereof and the prescribed fee to the registrar at the office.

(2) The registrar shall, immediately after such delivery, place upon the instrument and upon the copy thereof a certificate, as in Form B in the First Schedule.

(3) Unless the instrument is one which is declared by this Law to be void or the registration of which is prohibited by this Law, the registrar shall compare the copy of the instrument with the original and if he shall find such copy to be a true copy and to comply with any regulations made under this Law and for the time being in force he shall certify the same by writing thereon the words "certified true copy" and appending his signature thereto.

(4) The registrar shall there upon register the instrument by causing the copy so certified to be pasted or bound in one of the register books and by endorsing upon the original instrument a certificate as in form C in the first Schedule; and upon such registration the year, month, day and hour specified in the certificate endorsed on the instrument in pursuance of subsection (2) shall be taken to be the year, month, day and hour at which the instrument was registered

(5) The original instrument shall thereafter, upon application, be returned to the person who shall have delivered it for registration

Provided that if application for the return of the instrument is not made within twelve months after the date of registration the registrar may destroy the instrument.

(6) Every instrument duly certified as having been registered at the Enugu registry or the Ibadan registry between the 30th day of September, 1949, and the date upon which the Land Registration (Amendment) Ordinance, 1948, came into operation shall be deemed for all purposes to have been registered at the hour in the day of the month and year specified in the certificate placed thereon in accordance with the provisions of subsection (2) of this section.

20.(1) When, upon examining an instrument and the copy thereof delivered to him for registration, the registrar shall find that such instrument is one which is prohibited by this

When
registration
to be
refused

Law or that the copy is not a true copy, or does not comply with any regulations made under this Law for the time being in force, he shall refuse to register such instrument and shall write in red ink across the certificates endorsed on the instrument and copy in pursuance of subsection (2) of the last preceding section the words "registration refused" and shall append his signature thereto and the title of the registry office concerned

Return of
reject
instrument

(2) Such instrument and copy thereafter, upon application, shall be returned to the person who shall have delivered it for registration:

Provide that if application for the return of the instrument and copy is not made within twelve months from the date on which they were delivered for registration the registrar may destroy them

Re-delivery
for
registration

(3) Nothing herein contained shall prevent an instrument the registration of which has been refused from being delivered again for registration provided that the provisions of section 19 are complied with, and that the instrument, if it was void by virtue of the provision of section 21 when previously delivered for registration, has ceased to be void owing to the time for registration having been extended by the registrar

(4) In the event of such subsequent delivery the procedure prescribed by registration shall be taken to be the year, month, day and hour of such subsequent delivery.

(5) When registration of an instrument is refused, the fee paid upon delivery for registration shall not be returnable, and in the event of the instrument being delivered again for registration the fee upon delivery shall be payable again.

21. Every State grant executed after the commencement of this Law and every instrument affecting land the subject of a State grant or whereby land is granted by a citizen of Nigeria to a non-Nigerian executed after commencement of this Law shall, so far as it affects any land, be void unless the same is registered within six months from its date (or, in the case of an instrument whereby land granted by a citizen of Nigeria to a Non Nigerian, from the date on which it receives the Governor 's consent)if executed elsewhere

Provided that the registrar may extend such periods whenever he shall be satisfied that registration has been delayed without default or neglect on the part of the person acquiring the right or interest in the lands in question.

Certain
documents void
for non-
registration

Inadmissibility i
evidence

22. No instrument shall be pleaded or given in evidence in any court as affecting any land unless the same shall have been registered

Provided that a memorandum given in respect of an equitable mortgage affecting land, in Enugu. State executed before the 1st day of July, 1994, and not registered under this law may be pleaded and shall not be inadmissible in evidence by reason only of not being so registered

23. Subject to the provisions of this Law every instrument registered under this Law shall, so far as it affects any land, take effect, as against other instruments affecting the same land, from the date of its registration as hereinafter defined in the proper office as specified in section 8 and every instrument registered before the commencement of this Law shall be deemed to have taken effect from the date provided by the Law in force at the time of its registration.

Loss of
priority

Effect of
registration

24. Registration shall not cure any defect in any instrument or, subject to the provisions of this Law, confer upon it any effect or validity which it would not otherwise have had

Instrument
to include
endorsements
thereon

25. For the purposes of registration an instrument shall be deemed to include all certificates and other matters endorsed thereon or attached thereto at the time it is delivered for registration

Registration
to be
deemed in
legal
custody and
to be
receivable
in evidence

26. All register books, registers and files of registered documents at the registry office shall be deemed to be in legal custody, and shall be receivable in evidence in any court and even the registrar shall produce or cause to be produced any register book, register or file of registered documents in his office, on subpoena or order of any court without payment for so doing unless the court shall direct otherwise.

Searches

27. The register shall allow searches to be made at all reasonable times in any register books, register or file of registered or filed documents in his custody.

Copies of
entries in
registers

28. (1) The registrar shall upon request give a certified copy of any entry in any such register book or register, or of any filed document.

(2) Every such certified copy shall be received in evidence, without any further or other proof in all civil cases.

Penalty for
false
statement

29. Any person who shall willfully make or cause to be made for the purpose of being inserted in any register under this Law any false statement touching any of the particulars

herein required to be known and registered shall be liable to a fine of one hundred naira or to imprisonment for two years.

30. Any person who shall willfully destroy or injure or cause to be destroyed or injured, any register books, register or filed document or any part thereof, or shall counterfeit or cause to be counterfeited any part of any such book, register or document or any certified copy thereof, or extract therefrom, or shall willfully insert or cause to be inserted in any such book, register, file, certified copy or extract of any such book, register or tile, knowing the same to be false in any part thereof or shall forge and counterfeit the seal of any registry office, shall be liable to imprisonment for seven years.

Penalty for
destroying or
falsifying
register

31. The Commissioner may by regulation prescribe shall be taken by the officers by or before whom the acts for which the fees are payable are done.

Fees

32. The Commissioner may, whenever he may think fit. remit or reduce the amount of any fee payable under this Law

Power to remit
fees

33. The Commissioner may make regulations —

Power to make
regulations
schedule

(a) for the governance and guidance of registrars and of all persons acting under them;

(b) prescribing the nature, size and shape of the paper or other substance to be used for copies of instruments delivered for registration and generally the manner in which such copies are to be prepared.

(c) excepting from the provisions of section 14 in so far as the said section relates to a plan, any class of instrument;

(d) excepting from the provisions of this Law any class of instrument;

(e) adding to or altering any of the forms given in the Schedule:

(f) generally for the purposes of this Law.

PART IV — FILING OF JUDGMENTS

34. (1) Within two calendar months from the date of even local judgment the registrar of the court by which such judgment has been pronounced shall transmit to the registrar, at such registry office as the Commissioner may from time to time direct, a certified true copy of the judgment together with a copy of any map or plan ordered to be filed in that court which the judgment refers, a copy whereof has not already been transmitted under the provisions of this Law. and any other map or plan ordered by the court to be transmitted.

Copy of local
judgment to be
transmitted with
plan

(2). No map or plan other than those specified in subsection (1) shall accompany or be attached to a copy of a judgment transmitted under the provisions of that subsection.

35. On receipt of the certified true copy of any local judgment and the map or plan specified in subsection (1) of section 34, the registrar shall file the same.

36. Failure to transmit or file any local judgment and any error in transmitting or filing any local judgment shall not affect the validity or effect of such judgment.

Registrar to
file copy of
judgment

Effect of
filing

es of court

37. The Chief Judge, with the approval of the Governor, may make rules of court for giving effect to sections 34, 35, and 36 of this Law in the High Court and magistrates' courts and in particular for requiring and regulating the filing in court of maps and plans in matters wherein the title to land in Enugu State or the validity of any instrument registered under this Law is or may be in issue.

SCHEDULE

FORM A Certificate of Proof

Section 13

This instrument was proved before me by the oath (or affirmation) of the within-named (grantor, grantee, or subscribing witness) to have been duly executed by the within-named (grantor).

GIVEN under my hand and seal this day of
.....20
(signed).....
(Office)

FORM B Certificate of Delivery to Registrar of Instrument

Section 19

This instrument was delivered to me for registration by A B of (state his residence and profession) at o'clock in thenoon, this day of
..... 20

.....
(Registrar)

FORM C

This instrument is registered as No.----- at page ----- in volume ----- of the Lands Registry in the office at

.....
(Registrar)

LAND INSTRUMENTS REGISTRATION REGULATIONS

1. These regulations may be cited as the Land Instruments Registration Regulations.
2. Copies of instruments delivered for registration under the Law shall be prepared on parchment or on stout paper of good and substantial quality, rectangular in shape, and the dimensions of such parchment or paper shall not exceed 28 centimeters in length by 24 centimeters in width (being the size known as post) and shall not be less than 33 centimeters in length by 21 centimeters in width (being the size known as foolscap), and such copies shall be so written or printed that a margin two inches wide be left blank on the left-hand side of the parchment or paper.

3. Section 14 of the Law, in so far as that section directs that an instrument shall not be registered unless it contains a plan of the land affected, shall not apply to the following instruments —

(a) In case of land, houses, or buildings for a term not exceeding three years (without a right of renewal).

(b) Instruments affecting land, the boundaries of which are defined in a plan attached to an instrument registered after the 1st of June, 1918, and referred to in the instrument presented for registration.

(c) Mining rights, water rights, or assignments of mining rights or of water rights.

(d) Any instrument affecting land which the Governor, by endorsement thereon, may except from the provisions of the said section.

(e) Leases of plots of lands forming part of a general layout recognized by the Chief Lands Officer, a plan of which showing the piers and layout has been deposited at the Ministry of Lands.

(f) Exclusive prospecting licenses which the Chief Inspector of Mines, by endorsement thereon, may exempt from the provisions of the said section.

4. A memorandum entered in a book kept by a customary court for recording therein the terms and conditions on which a stranger is allowed to occupy communal land shall be exempt from the provisions of the Law.

5. Licenses issued under the State Lands (Temporary Occupation) Regulations shall be excepted from the provisions of this Law.

6. All instruments recorded or filed in accordance with the provisions of by-laws made by a local government council in exercise of the powers conferred by the Local Government Law shall be excepted from the provisions of this Law.

LAND REGISTRATION (DIRECTIONS) NOTICE

MADE UNDER SECTION 8

1. This public notice may be cited as the Land Registration (Directions) Notice.

2. There shall be a registry office at Enugu, which shall be the proper office for the registration of all instruments affecting land in Enugu State.

LAND INSTRUMENTS REGISTRATION (FEES) REGULATIONS

1. These regulations may be cited as the Land Registration Fees Regulations.

2. The fees prescribed in the Schedule to these Regulations shall be taken by the officers by or before whom the acts for which the fees payable are done:

Provided that where the fees to be taken upon the delivery of an instrument require the consent of the Commissioner or any other public officer for the making thereof or for the doing of any act in connection therewith, delivery shall, for the purpose of computing fees only, be reckoned as from the date on which such consent is endorsed on the instrument.

SCHEDULE

FEES

		N	K
1	Upon delivery of an instrument for registration:		
	(a) Within sixty days of the date of execution if executed in Nigeria or within twelve months of the date of execution if executed elsewhere	100	00
	(b) After sixty days have elapsed since the date of execution if executed in Nigeria or after such time has elapsed since the date of execution if executed elsewhere	150	00
2	For every attestation of an instrument under section 13 in the sum of	50	00
3	For every search in the records for every half-hour or part	10	00
4	For a certified copy of any registered instrument (not including any plan thereof) for every 100 words		00
5	For a copy of any plan as determined by the registrar according to the amount of work involved, but not less than	1	00
6	For comparing, if required, any document with the register		25