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TRANSCRIPTION AND MORTGAGE ACT

Cap 417 – 1 June 1864

Amended 20/11 (P19/11 – cio 11/11/11); 37/11 (15/12/11); GN 233/11(cio1/1/12); GN 174/12 (cio 15/10/12); 26/12 (cio 22/12/12); 1/13 (cio 18/4/13);26/13 (cio 1/1/14; 19/5/14); GN 52/15 (cio 5/415); 9/15 (P 11/15 (cio 2/7/15)); 18/16 (cio 7/9/16); 4/17 (cio 20/5/17); 11/17 (P53/17 – cio 15/1/18); 13/18 – P32/19 (cio 1/9/19); 13/19 (cio 2/9/19), partly NIF; 1/2020 (cio 23/3/2020); 7/2020 (cio 2/6/2020, 7/8/2020); 15/2022(cio 02/08/2022)

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TRANSCRIPTION AND MORTGAGE ACT

1. Short title

This Act may be cited as the Transcription and Mortgage Act.

2. Interpretation

In this Act—

“bar code” has the same meaning as in the Registration Duty Act;

[Inserted by s 29 of Act 26 of 2013 – Proclaimed GN 46/2014 proclamation No. 16 of 2014 cio 19 May 2014.]

“Conservator” means the Conservator of Mortgages;

“DCDB” means the Digital Cadastral Database kept and maintained in electronic form by the Ministry responsible for the subject of land surveys;

[Inserted 26/13 (cio 19/5/14).]

“MIPD” means the Movable and Immovable Property Database in which every registered, transcribed and inscribed document and every summary submitted under section 3B shall be kept and maintained in electronic form by the Conservator of Mortgages;

[Inserted 26/13 (cio 19/5/14); amended 4/17 (cio 20/5/17).]

“mortgage” means a *hypothèque* established under the Code Civil Mauricien;

[Amended 26/13 (cio 19/5/14).]

“RDDS” has the same meaning as in the Registration Duty Act;

[Inserted by s 29 of Act 26 of 2013 – Proclaimed GN 46/2014 proclamation No. 16 of 2014 cio 19 May 2014)

“Receiver” has the same meaning as in the Registration Duty Act.

[S. 2 amended by s. 29(a) of Act 26 of 2013 w.e.f. 19 May 2014.]

3. Documents to be transcribed

There shall be transcribed every— (a)
deed witnessing—

- (i) the transfer *inter vivos* of any immovable property;
- (ii) a declaration in relation to any immovable property;
- (iii) the renunciation to any right in relation to immovable property; and
- (iv) any pledge of immovable property (*antichrèse*) or any servitude or right of use (*droit d’usage*) or residence (*droit d’habitation*) in any immovable property;

- (b) judgment declaring the existence of any right in immovable property;
- (c) judgment of adjudication;
- (d) deed importing renunciation of any right specified in paragraph (a) (iv);
- (e) judgment declaring the existence of any right specified in paragraph (a) (iv);
- (f) deed witnessing the lease of rural property (*bail à ferme*);
- (g) deed or judgment witnessing the discharge or transfer of rent payable whether in cash or in kind under a rural property lease and not due under the lease at the date of payment;
- (h) deed witnessing the lease of house property (*bail à loyer*) of more than 3 years' duration;
- (i) deed or judgment witnessing the discharge or transfer of rent under a house property lease exceeding one year and not due under the lease at the date of payment;
- (j) affidavit or deed of notoriety setting out the heirs and beneficiaries of deceased owners of immovable property;
- (k) renunciation of a heir to his rights in a succession under article 784 of the Code Civil Mauricien made before the Master and Registrar;
[Amended 37/11 (cio 15/12/11).]
- (l) retraction of renunciation under article 790 of the Code Civil Mauricien;
[Amended 37/11 (cio 15/12/11).]
- (m) any deed or document witnessing the transfer or lease by way of crédit bail under article 1831 of the Code Civil Mauricien of movable and immovable property in such form and manner as may be prescribed;
[Inserted 37/11 (cio 15/12/11); amended 1/13 (cio 18/4/13).]
- (n) Certificate of Transfer of Undertaking issued under section 346A of the Companies Act;
[Inserted 1/13(cio 18/4/13).]
- (o) deed or document witnessing a request for erasure of inscription.
[Inserted 26/13 (cio 19/5/14).]

Amended s.10 (a) of Act 4 of 1999 w.e.f. 14 February 2000; s. 18 of Act 37 of 2011 w.e.f. 15 December 2011; s. 7(4) of Act 1 of 2013 w.e.f. 18 April 2013; s. 29(b) of Act 26 of 2013 w.e.f. 19 May 2014.]

3A. Electronic submission of deed or document

Any deed or document submitted electronically to the Conservator of Mortgages and saved in the MIPD, which has been signed by the parties with a digital signature in conformity with section 19 of the Electronic Transactions Act, shall be deemed to meet the requirements and to reproduce the contents of the original deed or document, as the case may be, for the purpose of this Act.

[S. 3A inserted by s. 52 of Act 9 of 2015 w.e.f. 2 July 2015.]

[Repealed and replaced Act 15 of 2022 (cio 02/08/22).]

3B. Submission of summary

- (1) Every Deed presented for registration and transcription or inscription shall be accompanied by a summary, duly filled in.

- (2) In this section –
 - (a) “Deed” means any deed witnessing –
 - (i) the sale or transfer of an immovable property;
 - (ii) a mortgage or a charge;
 - (iia) an acquisitive prescription under the Acquisitive Act 2018;
[Inserted 13/18 (cio 1/9/19).]
 - (iii) a lease;
 - (iv) a crédit-bail; or
 - (v) a seizure;
 - (b) “summary”, in respect of a Deed, means the appropriate form set out in the Sixth Schedule.
[S 3B inserted by s 27 of Act 4 of 2017 w.e.f. 20 May 2017];]

4. Transcription of document on death of landowner

(1) When an owner of immovable property dies, any heir, beneficiary or executor appointed *quoad* the succession, or the notary in charge of the succession, shall cause an affidavit or a notarial deed to be drawn up **within 3 months** from the date of death containing and having – *[Amended 20/11 (cio 11/1/11); 26/13 (cio 19/5/14).]*

- (a) in respect of the affidavit or notarial deed, the following features –
 - (i) the typeface shall be “Cambria” in regular style and shall have font size of 12 point, and the affidavit or notarial deed shall be printed on A4 size paper of not less than 90 grams;
 - (ii) every page shall be consecutively numbered on the bottom-right, page 1 of the total number of pages, page 2 of the total number of pages and so on and so forth and any annex thereto shall be numbered on the bottom-right, page 1 of the total number of pages, page 2 of the total number of pages and so on and so forth;
 - (iii) any date mentioned shall be in format DD/MM/YYYY; *[Repealed and replaced 20/11 (cio 11/11/11).]*

(aa) in respect of the deceased –

- (i) his first name or first names, in small letters, followed by his surname in capital letters, and his National Identity Card Number, where available, in format XXXXXXXXXXXXXXXX (14 characters);
- (ii) his date of birth in format DD/MM/YYYY, with a reference to the registered number of his birth certificate in format Birth Certificate No./Year of Registration of Birth and the Civil Status Office where the birth was registered;
- (iii) where applicable, his date of marriage in format DD/MM/YYYY, with a reference to the registered number of the marriage certificate in format Marriage Certificate No./Year of Marriage, the Civil Status Office where the marriage was registered and the matrimonial regime applicable to him at the time of the transfer;
- (iv) where applicable, his business registration number under the Business Registration Act in format XXXXXXXXXX (9 characters);
- (v) the first name or first names of the surviving spouse in small letters, followed by his surname in capital letters, his National Identity Card Number, where available, in format XXXXXXXXXXXXXXXX (14 characters), and, where applicable, his business registration number under the Business Registration Act in format XXXXXXXXXX (9 characters);
- (vi) in case any previous marriage has been dissolved, the first name or first names of his previous spouse in small letters followed by his surname in capital letters and his National Identity Card Number, where available, in format XXXXXXXXXXXXXXXX (14 characters); and
- (vii) the death certificate in format Death Certificate No./Year of Death;

[Inserted 20/11 (cio 11/11/11).]

- (ab) in respect of the immovable property, the address of the property and the title of ownership in format TV xxxx/xxx or TV XXXXXX/XXXXXX, the Parcel Identification Number(PIN) where available, together with a site plan showing the precise location; and

[Inserted 20/11 (cio 11/11/11); amended 9/15 (cio 2/7/15).]

(b) in respect of the heirs and beneficiaries—

- (i) their first name or first names in small letters followed by their surname in capital letters, profession, and their National Identity Card Number, where available, in format XXXXXXXXXXXXXXXX (14 characters); and

[Repealed and replaced 20/11 (cio 11/11/11).]

- (ii) their date and place of birth together with a reference to the registered number of their birth certificates and the civil status office where their birth was registered.

- (2) The affidavit or the notarial deed shall be presented to the Conservator **within 3 months** of the date of death for transcription in the manner provided for under sections 48 and 48A of this Act. *[Amended 26/13 (cio 19/5/14).]*

- (3) No affidavit or notarial deed shall be transcribed unless it contains information relating to at least one immovable property owned by the deceased at the time of his death, including the Transcription Volume Number (TV No.).

Amended by s. 20 (a) of Act 20 of 2009 w.e.f. 19 December 2009; s. 30 of Act 20 of 2011 w.e.f. 11 November 2011; s. 29(c) of Act 26 of 2013 w.e.f. 19 May 2014 s. 52 of Act 9 of 2015 w.e.f. 2 July 2015.]

4A. Format of deed scanned

Any deed scanned for the purpose of the RDDS shall be scanned in –

- (a) Portable Document Format (PDF);
- (b) 300 dots per inch (DPI) Image Resolution; and
- (c) text-searchable format by applying Optical Character Recognition (OCR).

[S. 4A inserted by s. 5 (b) of Act 4 of 1987 w.e.f. 1 January 1988; repealed by s. 29(d) of Act 26 of 2013 w.e.f. 19 May 2014; inserted by s. 52 of Act 9 of 2015 w.e.f. 2 July 2015.]

4B. No fee to be levied

No fee shall be levied for the transcription of the affidavit or notarial deed referred to in section 4.

[S. 4B inserted by s. 5 (b) of Act 4 of 1987 w.e.f. 1 January 1988.]

5. Documents not transcribed

- (1) Subject to subsection (2), no right in immovable property under a deed or judgment shall be maintained against a third party whose rights are secured by law over the immovable property to which the deed or judgment applies, unless the deed or judgment has been transcribed.
- (2) A right under a lease of house property which has not been transcribed may be maintained against third parties for a period not exceeding 3 years.

6. Judgments extinguishing real rights

- (1) Every judgment decreeing the cancellation (*résolution*), nullity or rescission, either in whole or in part, of a transcribed deed or judgment shall, within one month of the judgment becoming final, be entered in the margin of the register where the deed or judgment has been transcribed.
- (2)
 - (a) The attorney who obtained the judgment shall, under a penalty not exceeding 500 rupees and of damages, cause the entry to be made by transmitting a memorandum (*bordereau*) of it, prepared and signed by him, to the Conservator, who shall give a receipt.
 - (b) Where an attorney fails to comply with paragraph (a), an interested party may cause the entry to be made by any other attorney.

7. Certificate of transcription

The Conservator shall, at the request of any interested person, deliver a certificate of any transcription or entry specified in section 3.

8. Inscription by creditors

- (1) Subject to subsection (3), a creditor who has a mortgage or a privilege under article 2173, 2174 or 2178 of the Code Civil Mauricien and whose title is prior to the date of a document specified in section 3 may, not later than 14 days of the transcription of any such document, cause his rights to be inscribed against the previous owner.
- (2) No inscription taken outside the time limit specified in subsection (1) shall be valid.
- (3) A vendor or co-partner (*co-partageant*) of immovable property may, not more than 45 days from the date of the sale or partition and notwithstanding the transcription of any other deed in the interval, cause the privilege to which he is entitled under articles 2156 and 2158 of the Code Civil Mauricien to be inscribed.

9. – 10. —Repealed by [Act No. 8 of 1983]

11. Non-renewal of creditor's inscription

- (1) In case of sale on forcible ejection, creditors, who have their rights inscribed at the date of the adjudication, may be collocated on the division of the sale price, although their inscriptions have not been renewed **within the 40 years prescribed.**

[Amended 37/11 (cio 15/12/11).]

- (2) In the case of non-renewal, the creditor shall not sue the purchaser by way of *folle enchère*, nor have any right of recourse (*droit de suite*) against third parties (*tiers acquéreurs*).
- (3) Subsection (2) shall apply to every sale by order of a Court so far as regards the rights of *folle enchère* and of recourse, which rights the creditor shall lose **unless he has renewed his inscription within the prescribed 40 years.**

[Amended 37/11 (cio 15/12/11).]

12. —Repealed by [Act No. 8 of 1983]

13. Mortgage for credits opened

- (1) The owner of immovable property may grant on that property a mortgage for a fixed sum, for a credit opened to him, whether the amount is paid at once or by successive instalments.
- (2) The mortgage shall take rank from the date of its inscription, whatever be the dates of each successive payment which may be proved by written vouchers.
- (3) Where a credit specified in subsection (1) is opened and is renewable yearly wholly or partly for several consecutive years not exceeding 40 years in all, no fresh mortgage or inscription shall be required after each annual settlement.

[Amended 37/11 (cio 15/12/11).]

- (4) The mortgage given and the inscription taken, by virtue of the original deed opening the credit, shall guarantee, up to the amount of the inscription taken, the payment of the definitive balance proved by written vouchers as may be due at the expiry of the credit.

[S. 13 amended by Act 15 of 1988; s. 15 of Act 37 of 2011 w.e.f. 18 December 2011.]

14. Inscription not null for want of form

The omission of one or more of the formalities prescribed by the Code Civil Mauricien for the inscription of mortgages or privileges shall not *per se* involve the absolute nullity of the inscription, subject to the Court's power to annul the inscription or reduce the force and effect of it where any real prejudice has been caused by the omission.

14A. – 40. —*[Repealed by Act 8 of 1983.]*

41. Inscriptions dispensed from renewal

Notwithstanding article 2196–4 of the Code Civil Mauricien, the inscription taken against a guardian or the husband of a married woman—

- (a) may not be renewed while the guardianship or marriage is in force; and
- (b) must be renewed within one year following the end of the guardianship or the dissolution of the marriage.

42. Inscription after marriage or guardianship

Where a legal mortgage has not been renewed within the year following the end of the guardianship or the dissolution of the marriage, the mortgage inscribed shall, in regard to third parties, bear date only from the date of any inscription which may be taken after that time.

43. Transfers of wife's mortgage

- (1) No transfer or renunciation by a wife of her legal mortgage shall be valid unless it is embodied in authentic deed.
- (2) A person, in whose favour a transfer is made under subsection (1), shall only be vested with the mortgage as regards third parties from—
 - (a) the date of the inscription of the deed witnessing the transfer or renunciation; or
 - (b) in the case of a subrogation, the date on which an entry in respect of the subrogation is made in the margin of the register where the legal mortgage is inscribed.
- (3) No renunciation of a legal mortgage shall be inscribed except where the renunciation constitutes a subrogation.
- (4) Where a legal mortgage is on different days transferred to more than one person, the rights of those persons to the mortgage shall be determined by the dates of those inscriptions or entries.

44. – 45. —

46. Inscription of conditional deed of loan

A mortgage granted under a conditional deed of loan shall rank from the date of inscription irrespective of the date of payment.

47. Forcible ejectment

- (1) An adjudication made pursuant to a sale under the Sale of Immovable Property Act shall clear all legal mortgages not inscribed on the properties so sold.
- (2) Notwithstanding subsection (1), a guardian or subguardian may produce claims at the order for the distribution of the price of the immovable property sold in accordance with section 11 (1).

48. Authentic deeds and judgments

- (1) Where an authentic deed or judgment registered and recorded under section 34 of the Registration Duty Act is required to be transcribed, the Conservator shall, on payment of any fee referred to in section 56(2), cause the authentic deed or judgment recorded in the RDDDS to be transcribed in the MIPD.

[Repealed and replaced 26/13 (cio 19/5/14).]

- (2) (a) Where an authentic deed or judgment is transcribed under subsection (1), the Conservator shall –
 - (i) cause an electronic copy to be replicated and saved in the DCDB; and
 - (ii) cause the authentic deed or judgment, together with the particulars specified in subsection (4), to be forwarded to the person concerned through the RDDDS or to be delivered to him in person.
- (b) The authentic deed or judgment forwarded or delivered under paragraph (a) shall constitute proof of registration and transcription.

[Repealed and replaced 26/13 (cio 19/5/14).]

- (3) The deed or judgment required to be transcribed shall contain and have –
 - (a) in respect of the deed or judgment –
 - (i) the typeface “Cambria” in regular style and font size of 12 point and shall be printed on A4 size paper of not less than 90 grams;
 - (ii) every page consecutively numbered on the bottom-right, page 1 of the total number of pages, page 2 of the total number of pages and so on and so forth and any annex thereto numbered on the bottom-right, page 1 of the total number of pages, page 2 of the total number of pages and so on and so forth;
 - (iii) any date mentioned in format DD/MM/YYYY;
 - (iv) no abbreviation, interlineation, superscription and any word erased or scratched out has to remain legible;

- (v) on the recto of every sheet, a blank margin of 3 centimetres on the left and one centimetre on the top, right and bottom except that on the first and last sheets, the top margin shall be 10 centimetres;
- (vi) on the verso of every sheet, a blank margin of 3 centimetres on the right and one centimetre on the top, left and bottom;
- (vii) the marginal entry made at the end of the content of the deed;
- (viii) all annexes at the end of the deed and numbered consecutively on the bottom-right, page 1 of the total number of pages, page 2 of the total number of pages and so on and so forth; and
- (ix) where it contains marginal corrections which may be handwritten and words erased or scratched out, a certificate, to which the person shall affix his signature or his initials, setting out the number of marginal corrections made and the number of words erased or scratched out;

[Amended 26/13 (cio 19/5/14).]

(b) in respect of each party –

- (i) his first name or first names in small letters followed by his surname in capital letters and his National Identity Card Number, where available, in format XXXXXXXXXXXXXXXX (14 characters) and where applicable, a scanned image of a recent passport-sized photograph of him, printed in the deed;
- (ii) his occupation and the postal address of his residence;
- (iii) his date of birth in format DD/MM/YYYY, with a reference to the registered number of his birth certificate in format Birth Certificate No./Year of Registration of Birth and the Civil Status Office where the birth was registered;
- (iv) where applicable, his date of marriage in format DD/MM/YYYY, with a reference to the registered number of the marriage certificate in format Marriage Certificate No./Year of Marriage, the Civil Status Office where the marriage was registered and the matrimonial regime applicable to him at the time of the transfer;
- (v) where applicable, his business registration number under the Business Registration Act in format XXXXXXXXXXX (9 characters); and

(c) in respect of the immovable property –

- (i) the address of the property, the Parcel Identification Number (PIN) where available, together with a site plan showing the precise location;
- (ii) the area of land in format Xm2 up to 2 decimal places and the nature and description of the building, if any, on it, and where undivided rights are transferred, the fraction of the property sold;
- (iii) the price paid in format Rs X or other appropriate currency on the last transfer of the property and the title of ownership in format TV xxxx/xxx or TV XXXXXXX/XXXXXXX; and
[Amended 9/15 (cio 2/7/15).]
- (iv) the consideration and real value, of the property in format Rs X or other appropriate currency.

(4) The particulars referred to in subsection (2) shall be –

- (a) the time and date of registration of the transcription;
- (b) the title number;
- (c) the amount of duty paid;
- (d) the signature of the Receiver; and
- (e) the bar code.

[Repealed and replaced 26/13 (cio 19/5/14).]

(5) The Conservator may reject any deed or judgment which does not satisfy any of the requirements of subsection (3).

[Amended 26/13 (cio 19/5/14).]

(6) – *[Repealed 26/13 (cio 19/5/14).]*

(7) – *[Repealed 26/13 (cio 19/5/14).]*

[S. 48 amended by Act 37 of 1990; repealed and replaced by s. 30 of Act 20 of 2011 w.e.f. 11 November 2011; s 29(e) of Act 26 of 2013 w.e.f. 19 May 2014.]

48A. Transcription of private deeds

- (1) (a) Where a deed under private signatures registered and recorded under section 34 of the Registration Duty Act is required to be transcribed under this section, the on payment of any fee referred to in section 56(2), cause the deed under private signatures saved in the RDDS to be transcribed in the MIPD.

[Repealed and replaced 26/13 (cio 19/5/14).]

- (aa) This section shall not apply to a transfer of immovable property.

[Inserted 26/12 (cio 22/12/12).]

- (b) The deed to be transcribed under paragraph (a) shall satisfy the requirements of section 48(3) and (4).

- (2) (a) Where a deed under private signatures is transcribed under subsection (1), the Conservator shall cause the authentic deed or judgment, together with the particulars specified in section 48(4), to be forwarded to the person concerned through the RDDS or to be delivered to him in person.

- (b) The deed under private signatures forwarded or delivered under paragraph (a) shall constitute proof of registration and transcription.

[Repealed and replaced 26/13 (cio 19/5/14).]

- (3) The Conservator may reject any original deed which does not satisfy any of the requirements of section 48(3) and (4).

[S. 48A amended by Act 37 of 1990; repealed and replaced by s. 30 of Act 20 of 2011 w.e.f. 11 November 2011; ; s. 28 of Act 26 of 2012 w.e.f. 22 December 2012; s 29(f) of Act 26 of 2013 w.e.f. 19 May 2014 .]

48B. Transcription of deeds executed abroad

- (1) The transcription of a deed executed or a judgment obtained outside Mauritius shall be effected by filing in the Mortgage Office the original, or a certified copy, or a verbatim extract, of the deed or judgment which shall then be transcribed by the Conservator, by scanning and saving a scanned copy thereof in the MIPD referred to in section 48(1).

[Amended 26/13 (cio 19/5/14).]

- (2) The original or a certified copy, or a verbatim extract, of the deed or judgment referred to in subsection (1) shall be returned to the person who filed it after endorsement by the Conservator.

[S.48B repealed and replaced by s. 30 of Act 20 of 2011 w.e.f. 11 November 2011; s 29(g) of Act 26 of 2013 w.e.f. 19 May 2014.]

49. Transcription of deed of renunciation and retraction

- (1) (a) Where a deed of renunciation or retraction registered and recorded under section 34

of the Registration Duty Act is required to be transcribed, the Conservator shall, on payment of any fee referred to in section 56(2), cause the deed recorded in the RDDDS to be transcribed in the MIPD.

[Amended 26/12 (cio 22/12/12).][Repealed and replaced by s29 of Act 26 of 2013 – Proclaimed GN 46/2014 proclamation No.16 of 2014 cio 19 May 2014]

- (b) The deed to be transcribed under paragraph (a) shall satisfy the requirements of section 48(3) and (4).
- (2) (a) Where a deed of renunciation or retraction is transcribed under subsection (1)(a), the Conservator shall cause the deed of renunciation or retraction, together with the particulars specified in section 48(4), to be forwarded to the person concerned through the RDDDS or to be delivered to him in person.
- (b) The deed of renunciation or retraction forwarded or delivered under paragraph (a) shall constitute proof of registration and transcription.

Repealed and replaced by s 29 of Act 26 of 2013 – Proclaimed GN 46/2014 proclamation No. 16 of 2014 cio 19 May 2014]

- (3) The Conservator may reject any deed which does not satisfy any of the requirements of section 48(3) and (4).

[Amended 26/13 (cio 19/5/14).]

[S. 49 amended by Act 4 of 1999; repealed and replaced by s. 30 of Act 20 of 2011 w.e.f. 11 November 2011; s. 28 of Act 26 of 2012 w.e.f. 22 December 2012; s 29(h) of Act 26 of 2013 w.e.f. 19 May 2014.] Proclaimed GN 46/2014 proclamation No. 16 of 2014 cio 19 May 2014]

49A. Scanning of deeds

Any deed scanned for the purpose of the RDDDS shall be scanned in –

- (a) Portable Document Format (PDF);
- (b) 300 dots per inch (DPI) Image Resolution; and
- (c) text-searchable format by applying Optical Character Recognition (OCR).

[S. 49A inserted by s. 52 of Act 9 of 2015 w.e.f. 2 July 2015.]

50. Transcription of seizure

- (1) Where a memorandum of seizure registered and recorded under section 34 of the Registration Duty Act is required to be transcribed, the Conservator shall, on payment of any fee under section 56(2), cause the memorandum of seizure, together with the authority to seize and the usher's return recorded in the RDDS, to be transcribed in the MIPD.

(1A) For the purpose of subsection (1), an application shall be made in such form as the Conservator may approve.

[Inserted 9/15 (cio 2/7/15).]

- (2) (a) Where a memorandum of seizure is transcribed under subsection (1), the Conservator shall –
- (i) cause an electronic copy thereof to be replicated in the DCDB;
 - (ii) cause the memorandum of seizure, together with the particulars specified in section 48(4), to be forwarded to the person concerned through the RDDS or to be delivered to him in person.
- (b) The memorandum of seizure forwarded or delivered under paragraph (a) shall constitute proof of registration and transcription.

[S. 50 amended by Act 37 of 1990; repealed and replaced by s. 30 of Act 20 of 2011 w.e.f. 11 November 2011; s 29(i) of Act 26 of 2013 w.e.f. 19 May 2014; amended by s. 52 of Act 9 of 2015 w.e.f. 2 July 2015.]

51. – 52. — *Repealed by [Act No. 8 of 1983]*

53. Defences of creditors of possessor

Where the possessor of immovable property under the operation of the laws of prescription renounces his rights under those laws, his creditors or any person claiming under him, may sustain those rights of prescription.

54. Exemption from proportional duty

No proportional duty shall be levied by the Conservator on inscriptions of legal mortgage taken for or on behalf of married women or against a guardian.

55. Preservation of mortgages

The preservation of mortgages (*la conservation des hypothèques*) implies the performance of all formalities required by law for regularising, transcribing, giving effect to, or otherwise maintaining the validity of mortgage deeds.

56. Duties of Conservator

- (1) The preservation of all mortgages is vested in the Conservator.

(2) In addition to the preservation of mortgages, the Conservator shall transcribe, in the MIPD transfers of property and any other deeds required or allowed by law to be transcribed, and levy the fees and other payments accruing to the Consolidated Fund in connection with his duties. *[Amended 26/13 (cio 19/5/14).]*

(3) *–[Repealed 26/13 (cio 19/5/14).]*

(4) The Conservator shall make available for collection any deed or document within 6 hours of **the date of payment of any fees or other payment on the deed or document.**

[S. 56 amended by s. 37 (a) of Act 18 of 2008 w.e.f. 19 July 2008; s. 30 of Act 20 of 2011 w.e.f. 11 November 2011 Repealed and replaced by s 29 of Act 26 of 2013 – Proclaimed GN 46/2014 proclamation No. 16 of 2014 cio 19 May 2014]

57. —

58. Domicile of Conservator

- (1) The domicile (*domicile de droit*) of the Conservator shall be at the office of the Conservator and that domicile shall continue as long as the responsibility lasts, **even after he has ceased to hold office.**
- (2) Where the Conservator resigns, the resignation shall not be accepted until his successor has assumed office.

59. Repertoire to be kept by Conservator

- (1) In addition to the registers specified in articles 2196 to 2203 of the Code Civil Mauricien, the Conservator shall keep a register called the *Repertoire*, in which he shall enter in order of deposit, and under a special account opened in the name of every party affected by any deed, a summary of all inscriptions or other transactions concerning immovable property, together with a reference to the volume and number of the register in which the deeds have been copied or noted.

[Amended 26/13 (cio 19/5/14).]

- (2) The *Repertoire* under subsection (1) shall be kept and maintained electronically by the Conservator.

[S. 59 amended by s 29(k) of Act 26 of 2013 w.e.f. 19 May 2014]

60. Fees, dues and charges

All fees, dues and charges shall be paid in advance, and the Conservator's receipt for them shall be **written in words and figures on the deed in respect of which they are levied.**

61. Duration of inscriptions

- (1) Subject to section 41, an inscription shall be valid for a period of **40 years from its date.**

[Amended 37/11 (cio 15/12/11).]

- (2) An inscription may be renewed within the period specified in subsection (1) and such renewal shall be made in the form set out in the Third Schedule and shall have the same legal effect as an inscription.
- (3) Subsections (1) and (2) shall apply to inscriptions made *ex officio* by the Conservator.

[S. 61 amended by s. 20 (b) of Act 20 of 2009 w.e.f. 19 December 2009; s. 18 of Act 37 of 2011 w.e.f. 15 December 2011.]

62. Fees, dues and charges

- (1) Subject to section 63 (2) and subsection (2), the Conservator shall levy—
 - (a) the fees, dues and other charges set out in the Fourth Schedule; and
 - (b) where he delivers any document specified in the Fourth Schedule the fee specified in the Fifth Schedule.
- (2) The Government shall be exempt from payment of the fee mentioned in subsection (1) (b).
- (3) – *[Repealed by s 52 of Act 9/2015 [P11/2015 cio 2/7/2015]*

- (4) Notwithstanding subsections (1) and (3), where, in the case of transfer of a property under the Real Estate Development Scheme prescribed under the Economic Development Board Act 2017, duty under the Registration Duty Act is paid in any hard convertible foreign currency, the fees, dues and other charges leviable under this Act **shall be an amount in that foreign currency equivalent to the appropriate rupee amount specified in the Third and Fourth Schedules.**

[S. 62 amended by s. 3 of Act 28 of 1982 w.e.f. 27 November 1982; s. 30 of Act 20 of 2011 w.e.f. 11 November 2011; s. 52 of Act 9 of 2015 w.e.f. 2 July 2015; s. 42 of Act 11 of 2017 w.e.f. 15 January 2018.]

63. Fees for searches

- (1) The fees for searches in the mortgage or transcription books, or in the MIPD, shall be those set out in the Fourth Schedule.

Amended by s 52 of Act 9/ 2015 [P11/2015 cio 2/7/2015]

- (1A) Notwithstanding subsection (1), no fee shall, for the month of April 2020 or such other month as may be prescribed, be payable for searches in the mortgage or transcription books, or in the MIPD.
[Inserted 1/2020 (cio 23/3/2020).]

- (2) Searches made –
 - (a) on behalf of Government;

- (b) by –
- (i) the Bank of Mauritius established under the Bank of Mauritius Act and any of its subsidiaries;
[Amended 7/2020 (cio 7/8/2020).]
 - (ii) the Commission established under the Prevention of Corruption Act;
 - (iii) the Financial Services Commission established under the Financial Services Act;
 - (iv) the FIU established under the Financial Intelligence and Anti-Money Laundering Act;
 - (v) the Integrity Reporting Services Agency established under the Good Governance and Integrity Reporting Act 2015;
 - (vi) the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act; and
 - (vii) by such other entity as may be prescribed, shall be free of charge.
[Repealed and Replaced by s 57 of Act 18/2016 (cio 7/9/2016); Added by Act No 1 of 2020 (cio 16/05/2020)]
- (c) Subject to subsection (4), no search in the books, or in the MIPD shall be made without the written authority of the Conservator.
Amended by s 52 of Act 9/ 2015 [P11/2015 cio 2/7/2015]
- (3) A person to whom authority is refused under subsection (3) shall, on prepayment of the fees prescribed in the Fourth Schedule, be given by the Conservator such information as may be required by him from the books.
- (4) This section shall be in addition to, and not in derogation from, articles 2196 to 2203 of the Code Civil Mauricien.
- (5) Subject to subsections (4) and (7), the payment of the search fee, whether by the day, month or hour, shall entitle the person paying it to make the search either by himself or by his duly authorised agent or clerk.
Amended by s 52 of Act 9/ 2015 [P11/2015 cio 2/7/2015]
- (6) An authority under subsection (3) may, in case of misconduct by the person searching, be withdrawn by the Conservator.

- (7) A person aggrieved by a decision of the Conservator in refusing or withdrawing an authority under this section may appeal to the Minister against such refusal or withdrawal, as the case may be.

[S. 63 amended by s. 52 of Act 9 of 2015 w.e.f. 2 July 2015; s. 57 of Act 18 of 2016 w.e.f. 7 September 2016; s. 69 of Act 7 of 2020 w.e.f. 2 June 2020.]

63A. Online access to MIPD and Repertoire

- (1) The Conservator shall give online access to the MIPD and the *Repertoire*, on such conditions and on payment of such fees as may be specified in the Fourth Schedule.
- (2) The Minister may prescribe the categories of persons who will have access to the MIPD and *Repertoire*.

[S. 63A inserted by s 29(l) of Act 26 of 2013 w.e.f. 19 May 2014; s. 54 of Act 1 of 2020 w.e.f. 23 March 2020.]

63B. Publication of information on website

- (1) The Conservator shall publish, on his website, information on any immovable property transferred as per a deed of transfer registered with the Registrar- General.
- (2) The information referred to in subsection (1) shall include the date of registration of the deed and particulars of the immovable property, including its location and value declared in the deed, but excluding the name of the parties. *[Inserted by Act 13 of 2019]*

64. Regulations and remission

- (1) The Minister may make such regulations as he thinks fit for the purposes of this Act.
- (2) The Minister may, by regulations, amend the Schedules.
- (3) The Minister may, if he thinks fit, remit the whole or part of any fee, due or charge payable under this Act.

[S. 64 amended by s. 4 of Act 28 of 1982 w.e.f. 27 November 1982; s. 6 (b) of Act 15 of 1988 w.e.f. 1 July 1998.]

65. Recovery of fees, dues and charges

- (1) The recovery of fees, dues and charges leviable under this Act shall be by way of summons to show cause before a Judge in Chambers who shall decide the matter summarily.
- (2) No costs shall be awarded against the unsuccessful party other than the disbursements for stamps and for the issuing and service of the summons and execution of the order.
- (3) Where the claim is less than 50 rupees, the proceedings in connection with it shall be exempt from stamp and registration dues, and from all Court fees.
- (4) No appeal shall lie against the order except by leave of the Judge, and such order shall be a sufficient authority to the Registrar to issue a writ of execution on it.

First Schedule

[First Sch. repealed by Act 8 of 1983.]

Second Schedule

Repealed by [Act No. 37 of 1990]

Third Schedule

[Section 61 (2)]

FORM FOR RENEWAL OF INSCRIPTION

This form is submitted for the renewal of the inspection of the mortgage/conventional/fixed charge/floating charge/privilege* taken in the Office of the Conservator of Mortgages on in Volume No in favour of against for securing the principal amount of and accessories amounting to

Date:

Signature

**Delete whichever is not applicable*

[Third Sch. inserted by s. 20 (d) of Act 20 of 2009 w.e.f. 19 December 2009.]

FOURTH SCHEDULE

Sections 62 and 63)

TARIFF OF FEES, DUES AND CHARGES

		(Rs)
1.	(1) For transcribing any deed or document drawn by a notary	1,000
	(2) For transcribing a document witnessing the transfer of property by a bank or leasing company to a person pursuant to an arrangement entered into between the bank or leasing company and the person whereby the bank or leasing company initially purchased the property with a view to selling or transferring the same to that person .	Nil
	(3) For transcribing lease or sublease agreement, by a small planter, of land not exceeding 10 hectares, for agricultural use.	Nil
	(4) For transcribing a lease agreement in respect of State land for industrial or commercial purposes on production of a certificate from the Ministry responsible for the subject of lands, certifying that the lessee has opted for a new lease pursuant to section 6(1E) of the State Lands Act .	NIL
3.	(5) For transcribing any judgment of a Court, agreement or any other document	550
2	For inscribing –	
	(a) a mortgage or a privilege per bordereau by a notary	700
	(b) a fixed or floating charge (<i>sûreté fixe ou flottante</i>) in accordance with article 2202-10 or 2203-6 of the Code Civil Mauricien	700
	(c) a pledge (<i>gage sans déplacement</i>) in accordance with articles 2112 to 2119 of the Code Civil Mauricien	700
	(d) lease agreement by a leasing company	700
	(e) loan agreement of an amount of up to 100,000 rupees by the Development Bank of Mauritius to any person other than its employees .	100
	(f) loan agreement of an amount of up to 100,000 rupees by the National Agricultural Products Regulatory Office to growers of tobacco leaves .	100
	(g) loan agreement of an amount up to 100,000 rupees by the cooperative society to its members	100

3.	For the renewal of an inscription of mortgage or privilege by a notary	700
4.	For every entry in the margin of a transcription or an inscription in circumstances other than those referred to in item	400
5.	For final or partial erasure of a transcription or an inscription in circumstances other than those referred to in item	500
6.	For every entry in the margin of a transcription or an inscription, or for final or partial erasure of a transcription or an inscription – (a) in the circumstances where exemption or part of exemption has been granted in respect of a takeover or transfer of undertaking pursuant to sub-item (zb) of the Eighth Schedule to the Land (Duties and Taxes) Act; [(cio 7/8/2020).] (b) in respect of the transfer of shares, assets or property pursuant to subitem (zl) of the Eighth Schedule to the Land (Duties and Taxes) Act. [(cio 7/8/2020).] [RR 7/2020 (cio 2/6/2020, 7/8/2020).]	Nil
7.	For a certificate - (a) on a memorandum of seizure showing the day and hour at which it is presented (b) of refusal to transcribe a seizure on account of previous seizure (c) of transcription or non-transcription of a document (d) of an entry in respect of a transcription or inscription (e) of erasure of a transcription or of an inscription	200 200 200 200 200

	(f) showing whether a property is burdened or not with any inscription –	
	(i) every person specified	200
	(ii) or for every sheet of the certificate	200
	(iii) for every sheet of the copy of the inscription	200
8.	For making searches in the records in the custody of the Conservator of Mortgages per person –	
	(a) per day or fraction of a day	200
	(b) per month	2,000
9.	Storage fee for non-collection of notarial deed after the date specified in the written notification by the Conservator per deed, per month or part of the month	2,000
10.	Where exemption or part of exemption has been granted in respect of a takeover or transfer of undertaking pursuant to item (zb) of the Eighth Schedule to the Land (Duties and Taxes) Act, any document in relation to that takeover or transfer of undertaking, presented for transcription, Inscription or erasure of inscription as the case may be	NIL
11.	Any other document, not covered under items 1 to 10, presented for inscription, renewal of inscription or erasure of inscription, in respect of each original or copy	150

[Fourth Sch. amended by GN 185 of 1998 w.e.f. 1 January 1999; repealed and replaced by s. 30 of Act 15 of 2006 w.e.f. 7 August 2006; amended by s. 37 (b) of Act 18 of 2008 w.e.f. 19 July 2008; GN 7 of 2009 w.e.f. 10 January 2009; s. 20 (c) of Act 20 of 2009 w.e.f. 19 December 2009; s. 3 of GN 39 of 2011 w.e.f. 14 February 2011; GN 233 of 2011 w.e.f. 1 January 2012; GN 174 of 2012 w.e.f. 15 October 2012; repealed and replaced by s. 29(m) of Act 26 of 2013 w.e.f. 1 January 2014; GN 52 OF 2015 w.e.f. 5 April 2015; 54 of Act 13 of 2019 w.e.f. 2 September 2019; s. 69 of Act 7 of 2020 w.e.f. 2 June 2020 and 7 August 2020.]

Fifth Schedule
[Section 62]

**FEE For every sheet of a certified photocopy or printout
issued Rs 75**

[Fifth Sch. amended by GN 185 of 1998 w.e.f. 1 January 1998; repealed and replaced by s. 30 of Act 15 of 2006 w.e.f. 7 August 2006.][GN No. 174 of 2012];[Fifth Sch. amended by GN 185 of 1998 cio. 1 January 1998; repealed and replaced by s. 30 of Act 15 of 2006 cio. 7 August 2006.] [Amended Act 26 of 2013]

SIXTH SCHEDULE

[Section 3B]

SUMMARY

Summary Form A – sale/transfer of property

For official use

only

Title no.

Barcode

Application details

Nature of transaction

.....

Date of deed (dd/mm/yyyy)

.....

Name of notary

.....

Vendor's/transferor's details

Surname (*in block letters*)

.....

Name

.....

Name of corporate

body (*in block*

letters)

NIC no./BRN

.....

Address

(1) District

.....

(2) Village/town

.....

(3) Street

.....

Purchaser's/transferee's details

Surname (*in block letters*)

.....

Name

.....

Name of corporate

body (*in block letters*)
NIC no./BRN

Address
(1) District
(2) Village/town
(3) Street

Property details

Extent of property (m²)
PIN
Property description
Property address
(1) District
(2) Village/town
(3) Street

Value of property

Value of property (*consideration declared*) Currency
Real value of property
Currency

Situation hypothecaire

.....
.....

Subrogation/loan on the property purchased (if any)

Name of creditor (in
..... *block letters*)

NIC no./BRN
..... Address

(1) District

(2) Village/town

(3) Street

Amount of loan

Date of settlement of loan

.....
Date

.....
Signature

Summary Form B – Mortgage deeds/instrument of charges

For official use only

Title no.

Barcode **Application**

details

Nature of transaction
..... Date of deed (dd/mm/yyyy)

Name of notary/financial institution:

Creditor's details

Name of corporate body
(in block letters)

Surname
(in block letters)

Name
.....

NIC no./BRN
.....

Address

(1) District
.....

(2) Village/town
.....

(3) Street

Debtor's details

Name of corporate body
(in block letters)

Surname (in block letters)
.....

Name
.....

NIC no./BRN
.....

Address

(1) District
.....

(2) Village/town
.....

(3) Street
.....

Amount of loan

Amount
Currency

Mortgage/charge details

Details
.....
.....
.....

Mortgaged/charged property

Extent of property
(m²) PIN

Property
description

Property
address

(1) District
.....

(2) Village/town
.....

(3) Street
.....

Title no.
.....

Information related to mortgage/charge

Concurrence
de rang

Cession de priorité

Date of
settlement

.....

Date

.....

Signature

For official use only

Title no.

\

Summary Form C – Lease

Barcode

Application details

Nature of transaction

Date of Deed (dd/mm/yyyy)

Applicant
(notary/individual/corporate body/Govt of Mauritius)

Lessor's details

Surname (*in block letters*)

Name

Name of corporate body:
(*in block letters*)

NIC no./BRN

Address
(1) District

(2) Village/town

(3) Street

Lessee's details

Surname (*in block letters*)

Name

.....
Date

.....
Signature

corporate body
(in block letters)
NIC no./BRN

Address
(1) District
.....
(2) Village/town
.....
(3) Street
.....

Details of leased property

Extent of property (m²)
PIN

Property description
.....

Property address
(1) District
.....
(2) Village/town
.....
(3) Street
.....

Duration of lease

Fixed/unlimited
.....

Rental value

Total rental value of lease
Currency

Charges
Currency

**For official use
only**

Summary Form D – *Crédit-bail*

Title no.

Application details

Nature of transaction

Date of Deed (dd/mm/yyyy)

Name of financial institution

Crédit-bailleur's details

Name of corporate body:
(in block letters)

Surname *(in block letters)*

Name

NIC no./BRN

Address

(1) District

(2) Village/town

(3) Street

Crédit-preneur's details

Name of corporate body
(in block letters)

Surname *(in block letters)*

Name:

.....
NIC No./BRN
.....

Address

(1) District
.....

(2) Village/town
.....

(3) Street
.....

Amount of crédit-bail

Amount
Currency

Crédit-bail details

Details
.....
.....
.....

Leased property details

Property (*Movable/*immovable)
PIN

Property description
.....

Property address

(1) District
.....

(2) Village/town
.....

(3) Street
.....

Title no.
.....

Information related to *crédit-bail*

Concurrence de rang
.....

Cession de priorité

Date of settlement

.....

Date

.....

Signature

Summary Form E – seizure

For official use only

Title no.

Barcode

Application details

Nature of transaction
.....
Date of Deed
(dd/mm/yyyy)
Name of Attorney
.....

Plaintiff's details

Surname (*in block letters*)

Name
.....

Name of corporate body
(*in block letters*)

NIC no./BRN
.....

Address
.....

(1) District
.....

(2) Village/town

(3) Street
.....

Respondent's details

Surname:
(*in block letters*)

Name
.....

Name of corporate body
(*in block letters*)

NIC no./BRN
.....

Address
.....

(1) District
.....

(2) Village/town
.....
(3) Street
.....

Property details

Extent of property
(m₂) PIN
Property description
.....
Property address
(1) District
.....
(2) Village/town
..... (3) Street
.....
.....

Seizure details

Mortgage/Charge title no.
.....
Date of presentation of seizure
(dd/mm/yyyy)
.....
Date Signature

[Sixth Schedule added by s27 of Act 4 of 2017 w.e.f. 20 May 2017]