Subsidiary Legislation made under s. 9.

GIBRALTAR LAND TITLES (REGISTER) REGULATIONS 2011

(LN. 2011/197)

Commencement **24.10.2011**

Amending enactments	Relevant current provisions	Commencement date
LN. 2015/105[1]	rr. 2(1)(b), 3, (a), (c), 4(2), 5, 7(2) & 7(5), 8(1), 9(1), (2), 11, 12, Sch. 3	9.7.2015

ARRANGEMENT OF REGULATIONS

Regulation

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[1] *Transitional provisions. - Where an application for registration of a document under the Gibraltar Land Titles Act 2011 has been commenced prior to the commenced of these Regulations, such application shall continue as though these Regulations have not been commenced.*

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Subsidiary 2011/197

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GIBRALTAR LAND TITLES (REGISTER) REGULATIONS 2011

Subsidiary 2011/197

In exercise of the powers conferred upon it by section 9 of the Gibraltar Land Titles Act 2011 and of all other enabling powers, the Government has made the following regulations–

Title and Commencement.

1. These regulations may be cited as the Gibraltar Land Titles (Register) Regulations 2011 and shall come into effect on the 24 October 2011.

Applications for registration.

2. (1) An application to register a deed or will in the Land Titles Register ("the Register") shall–

(a) be in the form provided for in Part 1 of Schedule 1 to these Regulations (or such other form as may be provided for such purpose by the Registrar with the approval of the Government);

(b) be delivered by hand at the offices of the Registrar of Land Titles ("the Registrar");

(c) be accompanied by the relevant deed or will;

(d) where duty is payable in relation to the deed or will under the Stamp Duties Act 2005–

(i) be accompanied by the appropriate amount of duty in the manner required by the Commissioner of Stamp Duties and all information required under that Act, or

(ii) be certified by the Commissioner of Stamp Duties as duly stamped; and

(e) be accompanied by the relevant fee.

(2) Unless the nature of the documents shall render it impossible, any document submitted for registration, shall–

(a) be on paper of durable quality and of A4 size;

(b) properly bound to the satisfaction of the Registrar; and

(c) have on each page a margin of not less than 4 centimetres wide to be left blank on the left side of the face of the paper and on the right side of the reverse thereof;

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(3) Any document submitted for registration, shall be accompanied by:

(a) an unbound copy thereof (which copy may be a photocopy acceptable to the Registrar); and

(b) an electronic copy thereof in a format acceptable to the Registrar; and

the unbound copy shall be endorsed by the person by whom it is submitted for registration that both it and the electronic version are true copies of the document submitted for registration and shall be retained by the Registrar; the endorsement by the person by whom it is submitted for registration shall be deemed as indemnifying the Registrar against any claims arising from the accuracy or otherwise of the copies so provided.

(4) A plan which forms part of a document submitted for registration, shall be–

(a) submitted with the document of which it forms part;

(b) accompanied by a copy thereof on paper or other material approved by the Registrar, coloured like the original and an electronic copy thereof in a format acceptable to the Registrar; and

(c) retained by the Registrar.

(5) If an application appears to be substantially defective it may be rejected on delivery and on such occasion regulation 7 (requirement to give notice) does not apply.

Receipt of application for registration.

3. On receipt of a document subject to an application for registration, the Registrar shall–

(a) issue a priority certificate stating the date and time of the application being submitted and the deed number assigned to the document submitted for registration;

(b) where the application includes duty payable under the Stamp Duties Act 2005, issue a receipt for the amount paid; and

(c) subject to these Regulations, within a period of 4 months register or refuse to register the document.

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Priority of applications.

4.(1) Subject to paragraph (2) applications shall have priority in accordance with the date and time set out in the priority certificate issued in respect of the document submitted for registration.

(2) Where one transaction is dependent upon another the Registrar may assume (unless the contrary appears) that the applicants have specified that the applications will have priority so as to give effect to the sequence of the documents effecting the transactions.

Determination of applications for registration.

5. The Registrar may refuse to register a document in accordance with section 4 of the Gibraltar Land Titles Act 2011.

Applications not in order.

6.(1) If an application is not in order the Registrar may, if he considers it appropriate to do so–

(a) request the production of any further documents or evidence or the giving of any notice;

(b) make such other request of the applicant as appears necessary to comply with the Act, the Stamp Duties Act 2005 and these regulations,

specifying a period (being not less than 14 days) within which the applicant must comply.

(2) Any time elapsed between the making of a request by or on behalf of the Registrar under this regulation and compliance with the same by the applicant shall not count towards the time limit set out in regulation 3(c).

(3) The Registrar may refuse to complete or proceed with an application, or to do any act or make any entry, until such documents, evidence or notices required by him under paragraph (1) have been supplied or given.

(4) If the applicant fails to comply with the requisitions within the period set by the Registrar under paragraph (1), the Registrar may cancel the application or may extend the period when this appears to him to be reasonable in the circumstances.

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(5) If an application appears to the Registrar to be substantially defective, he may reject it on delivery or he may cancel it at any time thereafter.

(6) Where a fee for an application is paid by means of a cheque and the Registrar becomes aware, before that application has been completed, that the cheque has not been honoured, the application may be cancelled.

(7) Where on examination by the Commissioner of Stamp Duties in accordance with the Stamp Duties Act 2005 it appears to him that an application for registration under this Act is not in order he may, on behalf of the Registrar, make a request under this regulation.

(8) In these regulations "substantially defective" may include where the document relates to a premises which does not have an individual address in the Valuation List prepared in accordance with Part XI of the Public Health Act.

Refusal of application.

7.(1) Where the Registrar intends to refuse to register a document, he shall serve on the applicant notice in writing stating that he is considering taking that decision and setting out–

(a) the reasons for the refusal; and

(b) where appropriate any material defect in the application or document that requires rectification before the document is resubmitted for registration.

(2) Where a material defect is identified the notice shall be referred to as a defects notice and be in the form set out in Part 2 to Schedule 1 to these Regulations (or such other form as may be issued for such purpose by the Registrar with the approval of the Government).

(3) An applicant on whom a defects notice is served may, within 14 days of service of the notice, submit written representations to the Registrar including any supporting documentation.

(4) The Registrar on receipt of any representation made under paragraph (3) shall consider the application afresh–

(a) within 14 days, or

(b) 14 days after the expiration of the 4 months set out in regulation 3,

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whichever is the latter.

(5) Where the Registrar, after considering any representations made under paragraph (3), refuses to register the document, he shall serve on the applicant notice in writing stating the reasons for his decision ("a rejection notice" in the form set out in Part 3 to Schedule 1 to these Regulations (or such other form as may be issued for such purpose by the Registrar with the approval of the Government)).

(6) Where the applicant fails to respond within 14 days of the service of the notice made under paragraph (1) the Registrar may refuse without the need to give further notice to the applicant.

(7) Where on examination by the Commissioner of Stamp Duties in accordance with the Stamp Duties Act 2005 it appears to him that an application for registration under this Act is not in order he may, on behalf of the Registrar, issue a defects notice or rejection notice as appropriate.

Appeals to the Supreme Court.

8.(1) Any person aggrieved by–

(a) the refusal to register a document; or

(b) the failure of the Registrar to deal with an application within the time prescribed;

may appeal to the Supreme Court.

(2) An appeal shall be instituted within 7 days of the notification to the appellant of the matter complained of, or in the case of an appeal under paragraph (1)(b) within 7 days of the expiration of the period prescribed by virtue of regulation 3(c) (taking into account any extensions to that period allowable under these regulations).

Powers of the Supreme Court.

9.(1) The Supreme Court may confirm the refusal of the Registrar to register a document or may direct the Registrar to take any action which, under the Act, he has power to take.

(2) A document's priority certificate shall remain in force until such time as the Supreme Court decides the appeal.

Registration.

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10. The Registrar, after satisfying himself that the deed or will was duly executed and, where necessary, attested and, in the case of a deed–

(a) has satisfied the relevant provisions of the Act, and

(b) has been certified by the Commissioner of Stamp Duties as duly stamped,

shall thereupon–

(i) make or cause to be made the appropriate entry in the Register; and

(ii) endorse or cause to be endorsed on the deed or will a certificate of registration in the form set out in Schedule 2 of these Regulations (or in such other form as may be issued for such purpose by the Registrar with the approval of the Government).

Return of deed or will.

11. After registration the deed or will shall be collected from the offices of the Registrar by the applicant.

Binding of copies.

12. The Registrar shall retain the copies of deeds or wills registered and may from time to time cause them to be bound in volumes.

Form of Register.

13. The Registrar shall keep the Register in the form determined by him to be the most appropriate to enable a record of deeds and wills to be maintained.

Fees.

14. The fees to be taken by the Registrar shall be the fees set out in Schedule 3.

Transitional provisions.

15.(1) Notwithstanding section 11(4) of the Act the Registrar may in his discretion register a document falling within that subsection without the requirement of there being an order of the Supreme Court if that document has been delivered to the offices of the Registrar of Land Titles (appointed

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under the Gibraltar Land Titles Act, 1990) before the date on which the Gibraltar Land Titles Act 2011 came into operation.

(2) A document registered in accordance with subregulation (1) shall be deemed to have been registered pursuant to an order of the Supreme Court for the purposes of section 11(7) of the Act.

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GIBRALTAR LAND TITLES (REGISTER) REGULATIONS 2011

SCHEDULE 1

Regulation 2

PART 1

FORM OF APPLICATION FOR AN ENTRY IN THE REGISTER

LPS Ref No.

Applicant's Ref No.

To the Registrar of Land Tiles

Application on behalf of
……
for the entry in the Register of a *Will/Deed of
……...……
dated……. ……
and made *by/between ……..* and
…….. of certain *Freehold/ Leasehold premises situate at
……..……
……...
and being *Freehold/Crown Property No. ……...……
in the General Plan of the City of Gibraltar.

Dated the …… day of …….

Name and Address ……..
of Applicant ……..
……..
……..
……..

Signature of applicant's
representative ……

Notes: An application must be accompanied by:-

1. The Deed referred to above.
2. Payment of Stamp Duty.
3. An electronic copy of the document.
4. An endorsed unbound copy of the document.
5. Payment of the Registration Fee.
6. Application for Commissioners Certificate.
7. Postage Stamps for the Certificate.

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* Delete as necessary

PART 2

Regulation 7(2)

DEFECTS NOTICE

Pursuant to Regulation 7(2) of the Gibraltar Land Titles (Register) Regulations 2011, I hereby serve notice that your application dated the _____ day of _____ 20_____ cannot be processed further for the following reasons:

_____

_____

_____

_____

_____

_____

Please note that you are entitled to respond, within 14 days of the date of service of this notice, with written representations to the Commissioner of Stamp Duties / Registrar addressing any material defects and including any supporting documentation.

Dated the _____ day of _____ 20_____

Signed:
Commissioner of Stamp Duties

Registrar of Land Titles

PART 3

Regulation 7(5)

REJECTION NOTICE

Pursuant to Regulation 7(5) of the Gibraltar Land Titles (Register) Regulations 2011, I hereby serve notice that your application dated the _____ day of _____ 20_____ cannot be processed for the following reasons:

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_____

_____

_____

_____

_____

_____

Dated the _____ day of _____ 20_____

Signed:

Commissioner of Stamp Duties

Registrar of Land Titles

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SCHEDULE 2

Regulation 10

FORM OF ENDORSEMENT OF REGISTERED DEED

Pursuant to the Gibraltar Land Titles Act 2011 I hereby certify the foregoing Deed has been recorded in the Land Titles Register.

Dated:

For and on behalf of the Registrar of Land Titles

SCHEDULE 3

Regulation 14

1. 1. Pursuant to section 3 of the Gibraltar Land Titles Act 2011, the fee for registration of a will or deed including the endorsement of a certificate of registration is £125.

1A. For all other registrations of a will or deed under the Gibraltar Land Titles Act 2011, the fee is £250.

2. Fees for miscellaneous services:

	£
for search of title	10.00
for a copy of any document or part thereof- (i) for each A4 page or part of a page (ii) for each A3 page or part of a page (iii) for each A2 page or part of a page (iv) for each A1 or larger page or part of a page	 0.25 0.50 0.75 1.00
Fee for certifying a copy to be a true copy of the original for each document.	5.00

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