

Gibraltar Land Titles Act 2011

This version is out of date

Principal Act

Act. No. 2011-06	<i>Commencement (LN. 2011/196) ss.1 & 9</i>	13.10.2011
	<i>All remaining sections</i>	24.10.2011 ¹
	<i>Assent</i>	10.2.2011

Amending enactments	Relevant current provisions	Commencement date
Act. 2015-13	ss. 2, 4(1), (2), (3), (4), 5(1), (3), 7(2), 9(d), (g), 11(2), (5), (5A), 11A	1.7.2015

¹ 24 October 2011 is appointed as the day the remainder of the Act comes into operation (and shall be deemed for all purposes connected to the Act, other than the making of Regulations under section 9, the date the Act comes into force and operation).

ARRANGEMENT OF SECTIONS

Section

1. Title and commencement.
2. Interpretation.
3. Registration of deeds and wills in the Land Titles Register.
4. Approval by the Registrar of Land Titles.
5. Priority of registered deeds and wills.
6. Certified copy of order of Court.
7. Presumption of due execution.
8. Certified copies.
9. Regulations for registration in the Land Titles Register.
10. Licence of Her Majesty to grants, etc not necessary.
11. Transitional and miscellaneous provisions applicable to deeds or wills executed before the coming into operation of this Act.
- 11A. Provisions applicable to deeds and wills executed after the coming into operation of this Act.
12. Repeal and revocations.

AN ACT TO PROVIDE FOR THE REGISTRATION OF DEEDS AND WILLS WHICH RELATE TO LAND SITUATE IN GIBRALTAR, THE MAINTENANCE OF A RECORD OF LAND TRANSACTIONS AND MATTERS ANCILLARY THERETO.

Title and commencement.

1.(1) This Act may be cited as the Gibraltar Land Titles Act 2011.

(2) This Act comes into operation on the day appointed by the Government by notice in the Gazette and different days may be appointed for different purposes.

Interpretation.

2. In this Act, unless the context otherwise requires—

“applicant” means the person applying for registration of a deed or will;

“deeds” include all instruments in writing other than wills or testamentary writings;

“lands” include messuages, tenements and hereditaments of any tenure, and to any part, share, estate, right, title or interest therein;

“Land Titles Register” means the record of documents registered under this Act administered by the Registrar of Land Titles;

“Registrar of Land Titles” means the person appointed by the Government by notice in the Gazette for the purpose of administering the Land Titles Register.

Registration of deeds and wills in the Land Titles Register.

3.(1) All deeds and wills executed before or after the coming into operation of this Act, which in any way affect or relate to any land situate in Gibraltar, shall be registered in the Land Titles Register in accordance with this Act.

(2) A deed must be registered under subsection (1)—

(a) where it was executed in Gibraltar, within six months from the date of execution;

(b) where it was executed outside Gibraltar, within eighteen months from the date of execution.

(3) A will must be registered under subsection (1)—

- (a) where the testator dies in Gibraltar, within six months from the day of his death;
 - (b) where the testator dies outside Gibraltar, within eighteen months from the day of his death.
- (4) Subsection (1) does not apply to any grant, demise, lease or conveyance of any land in Gibraltar where it is for a term of three years or less.
- (5) This section is subject to section 11 in the case of deeds and wills executed before the coming into operation of this Act.

Approval by the Registrar of Land Titles.

4.(1) Subject to sections 5 and 11, no deed or will shall be registered under this Act, or have any legal operation or effect, unless the registration is approved by the Registrar of Land Titles.

(2) The Registrar of Land Titles may refuse to register a deed or will in the Land Titles Register where—

- (a) he is not satisfied that it has been duly executed;
 - (b) in his opinion the application does not comply with the provisions of this Act;
 - (c) it has not been certified by the Commissioner of Stamp Duties under the Stamp Duties Act 2005;
 - (d) he has to make a decision on matters of priority of deeds or wills affecting any land in Gibraltar; or
 - (e) in his opinion the nature of the application requires consideration by the Supreme Court.
- (3) The Registrar of Land Titles may require evidence by way of an affidavit or otherwise to prove to his satisfaction that a deed has been duly executed.

(4) Where the Registrar of Land Titles refuses to register a deed or will in the Land Titles Register pursuant to subsection (2), he shall instruct an applicant to apply to the Supreme Court for an order for registration.

Priority of registered deeds and wills.

5.(1) Where any deed or will is subsequently registered after the time period specified in section 3, the priority of any interest in land affected by such registered deed or will shall be a matter for the Supreme Court to decide.

(2) In any case where such deed or will shall not have been registered within the time appointed it may be so registered and if so registered shall be subject to the provisions of this section.

(3) This section is subject to section 11 and section 11A.

Certified copy of order of Court.

6. Notwithstanding any other provisions of this Act, for the purposes of this Act a certified copy of a document which is an order of the Court the original of which is retained by the Court shall be deemed to be the original instrument, and in cases where such certified copy has been used as an original instrument it shall be deemed to be valid and of full effect.

Presumption of due execution.

7.(1) Any deed duly registered—

- (a) in the Supreme Court under the Land (Titles) Order, 1888;
- (b) in the Supreme Court under the Gibraltar Land Titles Act 1990 after the 31st day of December 1934 but before the coming into force of this Act; or
- (c) in the Land Titles Register under this Act,

shall in all proceedings be presumed to have been duly executed unless the contrary is proved.

(2) The Registrar of Land Titles is not liable for errors contained in documents supplied to him.

Certified copies.

8.(1) Any person may request a certified copy of or extract from any deed or will registered under—

- (a) the Land (Titles) Order, 1888;
- (b) the Gibraltar Land Titles Act 1990;
- (c) or under this Act.

(2) On receipt of a request under subsection (1) accompanied by the prescribed fee, the Registrar of Land Titles shall supply a certified copy or extract to the requesting person.

(3) Every such copy or extract so certified may be received in all proceedings as prima facie evidence of the contents of such deed or will and of the fact and date of registration shown thereon.

Regulations for registration in the Land Titles Register.

9. The Government may make regulations for the purpose of prescribing matters relating to the registration of deeds and wills in the Land Titles Register and without prejudice to the generality of the foregoing such regulations may provide for—

- (a) the forms of application for registration;
- (b) the form of the certificate of registration to be endorsed on the deed or will;
- (c) the making and binding of copies of deeds and wills;
- (d) any fees payable in connection with the making of entries in the Land Titles Register or the inspection of or taking of extracts from that Register;
- (e) the documents to be supplied to the Registrar of Land Titles in support of an application for an entry in the Register;
- (f) the form of the Register of Land Titles;
- (g) the creation of offences in respect of breaches of any provisions of the Act.

Licence of Her Majesty to grants, etc not necessary.

10. The express licence and authority of Her Majesty shall not be necessary for any grant or lease made by the Governor of any lands in Gibraltar belonging to Her Majesty, and no recital that such licence and authority has been given shall be necessary in any such grant or lease.

Transitional and miscellaneous provisions applicable to deeds or wills executed before the coming into operation of this Act.

11.(1) A deed or will duly registered—

- (a) in the Supreme Court under the Land (Titles) Order, 1888;
- (b) in the Supreme Court under the Gibraltar Land Titles Act 1990 after the 31st day of December 1934 but before the coming into force of this Act,

shall, for the purposes of this Act, be deemed to have been duly registered in the Land Titles Register on the date of its registration in the Supreme Court and such registration shall be deemed to have been with the approval of the Registrar of Land Titles.

(2) No deed executed prior to 8 November 1990 shall be registered under this Act or have any legal operation or effect unless the provisions of paragraph 4 of the Land (Titles) Order 1888 have been complied with and any approval of the Registrar of Land Titles has been signified by some memorandum in writing annexed to or endorsed upon such deed and signed by him.

(3) No deed executed on or after 8 November 1990 but before the coming into force of this Act, which concerns any grant, demise, lease or conveyance of land for a period exceeding three years, shall be registered under this Act or have any legal operation or effect unless it has been recorded in accordance with the Gibraltar Land Titles Act 1990 and has been endorsed to that effect by the Registrar of Land Titles.

(4) Subject to subsection (5), a deed or will, the registration of which in accordance with section 3 should have been completed before the date on which this Act shall have come into operation, and has not been so completed, shall be absolutely void and of no effect, so far as the same relates, or affects, or may be intended to affect any lands in Gibraltar.

(5) The Registrar of Land Titles may exercise his discretion and register a deed or will to which subsection (4) applies, unless he refuses to register under section 4(2) and instructs the applicant to apply to the Supreme Court for an order for registration under section 4(4).

(5A) In any case where a deed or will requires an application to the Supreme Court under subsection (5), the Supreme Court may order the registration of such deed or will, notwithstanding that the time appointed for the registration has elapsed, upon such terms as to cost and expenses as it in its discretion thinks fits.

(6) Any application made under subsection (5) shall be made to the Supreme Court and the Attorney-General shall be made a party to all such applications.

(7) A deed or will registered pursuant to an order of the Supreme Court made pursuant to such an application shall have the same effect and be as valid as if such deed or will had been registered within the time prescribed by the Land (Titles) Order, 1888 or the Gibraltar Land Titles Act 1990 (as appropriate).

Provisions applicable to deeds and wills executed after the coming into operation of this Act.

11A.(1) Subject to subsection (2), a deed or will the registration of which pursuant to section 3 should have been completed after the date this Act came into operation, and has not been so completed on the date the Gibraltar Land Titles (Amending) Act 2015 came into operation,

shall be absolutely void and of no effect, so far as the same relates, or affects, or may be intended to affect any lands in Gibraltar.

(2) The Registrar of Land Titles may exercise his discretion and register a deed or will to which subsection (1) applies, unless he refuses to register under section 4(2) and instructs the applicant to apply to the Supreme Court for an order for registration under section 4(4).

(3) In any case where a deed or will requires an application to the Supreme Court under subsection (2), the Supreme Court may order the registration of such deed or will, notwithstanding that the time appointed for the registration has elapsed, upon such terms as to cost and expenses as it in its discretion thinks fit.

(4) Any application made under subsection (2) shall be made to the Supreme Court and the Attorney General shall be made a party to all such applications.

(5) A deed or will registered pursuant to an order of the Supreme Court, shall have the same effect and be as valid as if such deed or will had been registered within the time prescribed by this Act.

Repeal and revocations.

12.(1) The Gibraltar Land Titles Act, 1990 is repealed.

(2) The Land Titles (Registration) Rules, 1991 are revoked.

(3) The Land Titles (Register) Regulations, 1990 are revoked.