

I assent.

(L.S.)

AGATHA BARBARA
President

3rd April, 1985

ACT No. IV of 1985

AN ACT further to amend the Land Registration Act, 1981.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives in this present Parliament assembled, and by the authority of the same, as follows:—

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| 1. (1) This Act may be cited as the Land Registration (Amendment) Act, 1985, and shall be read and construed as one with the Land Registration Act, 1981, hereinafter referred to as "the principal Act". | Short title. |
| (2) This Act shall come into force on such date as the Minister responsible for lands may by notice in the Gazette establish. | |
| 2. In section 11 of the principal Act, immediately after the words "or of any other law" there shall be inserted the words "relative to the registration of certain transfers in the Public Registry, and". | Amendment of section 11 of the principal Act. |
| 3. In the Maltese text of subsection (1) of section 13 of the principal Act, for the words "mid-data ta' l-Att" there shall be substituted the words "mid-data ta' l-att". | Amendment of section 13 of the principal Act. |
| 4. In the Maltese text of subsection (1) of section 15 of the principal Act for the words "jirregistraw it-titolu ghal kull art" there shall be substituted the words "jirregistra t-titolu ghal kull art". | Amendment of section 15 of the principal Act. |
| 5. In the English text of subsection (2) of section 24 of the principal Act for the words "the rights transferred or on application made" and "or an application made as aforesaid" there shall be substituted respectively the words "the rights transferred on application made" and "on an application made as aforesaid". | Amendment of section 24 of the principal Act. |
| 6. In section 28 of the principal Act, for the words "A charge shall not affect" there shall be substituted the words "Subject to the provisions of Part VA of this Act, a charge shall not affect". | Amendment of section 28 of the principal Act. |

Amendment of section 35 of the principal Act.

7. In the Maltese text of subsection (2) of section 35 of the principal Act, for the words "Każjoni depożitata skond dan l-Att" there shall be substituted the words "Kawzjoni depożitata skond dan l-Att".

Addition of new Part VA to the principal Act.

8. Immediately after Part V of the principal Act, there shall be inserted the following new Part VA:

"PART VA — CAUTIONARY CHARGES

Charges on land situate in a registration area but not registered.

35A. Land situate in a registration area, but which has not been registered may subject to the following provisions of this Part, be charged by agreement, by operation of law or by judgement to the same extent and in the same manner as if that land had been registered.

Registration of cautionary charges.

35B. (1) The charge referred to in section 35A of this Act, hereinafter in this Part referred to as a cautionary charge, shall be completed by the registrar entering on the register of cautionary charges the person in whose favour the cautionary charge is to subsist as the proprietor of such cautionary charge, the particulars of the charge and the particulars of the debtor and the land to be affected by the cautionary charge.

(2) A cautionary charge shall be subject to the condition that on the date of the application for its registration the debtor was an owner of the land subject to such cautionary charge and was not in any way incapacitated from charging the land, and shall effect the land subject to it only to the extent that the debtor is the owner of, or has an interest in such land.

Effect of cautionary charge.

35C. Subject to the provisions of subsection (2) of section 35B of this Act a cautionary charge registered as aforesaid shall affect any person acquiring the land to the same extent and in the same manner as if such land had been registered and the cautionary charge had been a charge in respect of that registered land.

When land subject to cautionary charge is registered.

35D. When the registrar receives an application for the registration of the land subject to the cautionary charge, he shall if the person applying for the registration is the debtor referred to in the cautionary charge or derives title from such a debtor who was the owner of such land and to the extent of such ownership, register the cautionary charge as a charge on the title to the land so registered and upon the registration of the land such cautionary charge shall, to the extent to which the land subject to it is registered, and subject to the provisions of this Part of this Act, be converted into a charge.

Applicability of certain provisions to cautionary charges.

35E. The provisions of subsection (2) of section 26 and sections 29, 30, 31 and 46 of this Act, shall *mutatis mutandis* apply to a cautionary charge as they apply to a registered charge.

Amendment of
section 40 of the
principal Act.

13. In section 40 of the principal Act for the words "proprietors of land or of a charge" and "land certificate or charge certificate" there shall be substituted respectively the words "proprietors of land or of a charge or of a cautionary charge" and "land certificate or charge certificate or cautionary charge certificate".

Amendment of
section 46 of the
principal Act.

14. In section 46 of the principal Act for the words "field plan or general map" there shall be substituted the words "filed plan or general map".

Amendment of
section 57 of the
principal Act.

15. In the English text of paragraph (l) of subsection (2) of section 57 of the principal Act, for the words "entered on the register" there shall be substituted the words "be entered in the register".

Passed by the House of Representatives at Sitting No. 241 of the 27th March, 1985.

DANIEL MICALLEF
Speaker

C. MIFSUD
Clerk to the House of Representatives