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DIFC

REAL PROPERTY LAW

DIFC LAW No. 4 of 2007

Amended and Restated

REAL PROPERTY LAW

TABLE OF CONTENTS

PART 1: PRELIMINARY	1
1. Title.....	1
2. Legislative authority.....	1
3. Application of this Law.....	1
4. Background to this Law.....	1
5. Purpose of this Law.....	2
6. Date of enactment.....	2
7. Date of commencement.....	2
8. Real property governed by this Law.....	2
9. Non-applicability of certain other laws.....	2
10. Concept of freehold ownership of real property.....	2
11. Interpretation.....	3
PART 2: ADMINISTRATION	4
12. Appointment of Registrar and other officers.....	4
13. Seal of office.....	4
14. Registrar shall establish and keep a real property register.....	5
15. Contents of Register.....	5
PART 3: THE REGISTER	6
16. Information Registrar shall record.....	6
17. Information Registrar may record.....	6
18. Duty to create instrument and lodge for registration.....	6
19. Registrar's duty to register instruments.....	8
20. Registrar shall give distinguishing reference to each registered instrument.....	8

21.	Order of registration of instruments	8
22.	Registration after death of party executing instrument	9
23.	Priority of registered instruments	9
24.	Instrument of postponement	9
25.	Conclusive evidence of information in Register	9
26.	Need for registration	9
27.	Effect of registration on interest	10
28.	Consideration not needed	10
29.	Conclusive effect of registration	10
30.	Quality of registered interests	10
31.	Exceptions to Article 30	11
32.	No title by adverse possession	12
33.	Nature and priority of unregistered interests	13

**PART 4: INITIAL REGISTRATION OF REAL PROPERTY AND
TITLES.....14**

34.	Creation of folio of Register	14
35.	Sale or initial lease occurring after commencement of this Law	14
36.	Sale or initial lease occurring before commencement of this Law	14
37.	Creation of folio on Registrar's initiative	14
38.	Creation of folio on primary application: general	15
39.	Creation of folio on primary application: units in buildings	16
40.	Cancellation of title documents	17
41.	Information to be included in folio	18

PART 5: JOINT HOLDERS.....20

42.	Registering life interests, reversions and remainders	20
43.	Registering co-owners	20
44.	Body corporate may hold real property as joint tenant	20
45.	Dissolution of body corporate joint tenant	20
46.	Severing joint tenancy	20

PART 6: TRANSFERS.....	22
47. Registering transfer.....	22
48. Effect of registration of transfer.....	22
49. Merger.....	22
50. Transfer of mortgaged lot.....	23
PART 7: EMINENT DOMAIN.....	24
51. Authority to compensate on just terms.....	24
52. Transfer under statutory vesting or grant.....	24
PART 8: LEASES.....	25
53. Lease of real property.....	25
54. Unregistered lease.....	25
55. Requirements for lease to be registered.....	25
56. Variation of registered lease.....	26
57. Whether lease, or variation of lease, binds mortgagee.....	26
58. Options to renew or purchase.....	26
59. Expiry of lease.....	26
60. Termination of lease following lessee's default.....	27
61. Surrendering a lease.....	27
62. Implied powers of lessors and termination for breach.....	27
PART 9: MORTGAGES.....	30
63. Right to mortgage.....	30
64. Requirements for mortgage.....	30
65. Mortgage as charge only.....	30
66. Submortgage.....	30
67. Registration of second or later mortgage.....	31
68. Variation of mortgage.....	31

69.	Discharge of mortgage.....	31
70.	Extent of discharge of mortgage.....	32
71.	Implied powers of mortgagees.....	32
72.	Exercise of power of sale.....	33
73.	Injunction to restrain power of sale.....	33
74.	Effect of transfer after sale by mortgagee.....	33
75.	Application of proceeds of sale.....	34
76.	Appointment of receiver.....	34
77.	Entry into possession.....	35
78.	Foreclosure.....	35
79.	Right to tack further advances.....	35
PART 10: STATUTORY CHARGES.....		37
80.	Registration of statutory charges.....	37
PART 11: EASEMENTS.....		38
81.	Easements in gross permitted.....	38
82.	Easements by prescription or implication.....	38
83.	Rights to support of real property and structures.....	38
84.	Implied easements for services in development.....	38
85.	Implied easements of way and other rights shown in subdivision plan	39
86.	Creation of easement by registration.....	40
87.	Requirements for easement.....	41
88.	Easement benefiting and burdening same registered owner's lots.....	42
89.	Variation or release of easement by parties.....	42
90.	Same person becoming registered owner of benefited and burdened lots.....	42
91.	Cancellation of easement.....	43
92.	Court order varying or extinguishing easement.....	43
93.	Right of way, right of footway, and party wall.....	44

94.	Easements created by Court order	45
95.	Contribution to repairs	46
PART 12: COVENANTS.....		47
96.	Covenants in gross permitted.....	47
97.	Positive covenants permitted.....	47
98.	Creation of covenant by registration.....	47
99.	Requirements for covenant.....	48
100.	Covenant benefiting and burdening same registered owner's lots.....	48
101.	Variation or release of covenant by parties.....	49
102.	Same person becoming registered owner of benefited and burdened lots.....	49
103.	Duration of covenant	50
104.	Court order varying or extinguishing covenant.....	50
PART 13: TRUSTS.....		52
105.	Dealing by trustee.....	52
PART 14: DECEASED ESTATES.....		53
106.	Registration of personal representative.....	53
107.	Dealings without registration of personal representative.....	53
108.	Notice of death or defeasance.....	53
PART 15: BANKRUPTCY.....		54
109.	Transmission on bankruptcy.....	54
PART 16: WRITS.....		55

110.	Request to register writ of execution.....	55
111.	How writ is registered.....	55
112.	Effect of registering writ of execution.....	55
113.	Cancellation of registration of writ.....	55
114.	Discharging or satisfying writ of execution.....	56
115.	Transfer of lots sold in execution.....	56

PART 17: CAVEATS..... 57

116.	Who may lodge a caveat?.....	57
117.	Requirements of caveat.....	57
118.	Recording a caveat.....	58
119.	Notifying caveat.....	58
120.	Effect of lodging caveat.....	58
121.	Withdrawal of caveat.....	59
122.	Lapsing of caveat.....	60
123.	Removal of caveat by Court order.....	61
124.	Cancellation of caveat by Registrar.....	61
125.	Further caveat.....	61
126.	Order for security.....	61
127.	Compensation for improper caveat.....	62
128.	Notices to caveator.....	62
129.	Right to injunction not affected.....	62

PART 18: INSTRUMENTS..... 63

130.	Execution of certain instruments.....	63
131.	Indicating consent when required for dealing.....	63
132.	Execution of instruments by corporations and natural persons.....	63
133.	Execution of instrument under power of attorney.....	64
134.	Registrar's discretion to reject instrument on certain grounds.....	64
135.	When instrument capable of registration.....	64

136.	Address for service to be provided.....	65
137.	Lodgement etc of instruments by electronic or other means.....	65
138.	Registrar’s power to correct obvious errors in instruments.....	66
139.	Registrar’s requisitions.....	66
140.	Rejecting instrument if requisitions not complied with.....	66
141.	Requiring plan of survey to be lodged.....	67
142.	Protection of persons under disability.....	67
143.	Standard terms documents.....	68
144.	Prescribed standard terms.....	68
145.	Covenants in registered instruments: successors in title implied.....	68
PART 19: SUBDIVISIONS.....		69
146.	Subdivision approval before dealing with part of lot.....	69
147.	Subdivision of buildings.....	69
PART 20: POWERS OF AND PROCEEDINGS AGAINST REGISTRAR.....		72
148.	General powers of the Registrar.....	72
149.	Registrar may correct Register.....	72
150.	Registrar may prepare and lodge caveat.....	72
151.	Registrar may state a case.....	73
152.	Registrar may demand fees.....	73
153.	Registrar may approve forms.....	73
154.	Registrar may be summoned for refusal to perform duty.....	73
155.	Protection from liability.....	74
PART 21: COMPENSATION FOR LOSS.....		75
156.	The assurance fund.....	75
157.	Compensation from assurance fund.....	75
158.	Time limit on claims against assurance fund.....	76

159.	Court order about deprivation, loss or damage	76
160.	Matters for which there is no compensation	77
161.	Subrogation	77
162.	Time limit for claims against assurance fund	78
PART 22: SEARCHES		79
163.	Entitlement to search Register	79
164.	Evidentiary effect of documents issued by Registrar	79
165.	Official searches	79
166.	Final official searches	80
PART 23: MISCELLANEOUS		81
167.	Words and expressions used in instruments under Law	81
168.	Reference to instrument is reference to instrument completed in approved form	81
169.	Service of notices	81
170.	Deemed receipt in certain cases	81
171.	Registrar's directives	82
172.	Offences against this Law	82
173.	DIFC Authority may make Regulations	83
SCHEDULE		84
1.	Rules of Interpretation	84
2.	Defined terms	85

~~REAL PROPERTY LAW~~

**A LAW TO GUARANTEE TITLE TO REAL PROPERTY AND INTERESTS IN
REAL PROPERTY IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE, AND
FOR RELATED PURPOSES**

PART 1 — PRELIMINARY

1. Title

This Law is the Real Property Law.

2. Legislative authority

This Law is made by the Ruler of Dubai.

3. Application of this Law

This Law applies to real property within the jurisdiction of the DIFC.

4. Background to this Law

(1) On 17 March 2003 His Highness Sheikh Mohamed Bin Rashid Al Maktoum, Vice President and Prime Minister of the United Arab Emirates and Ruler of Dubai, transferred to the DIFC certain real property on which the DIFC was to be situated in accordance with the Federal and Dubai laws to be later enacted to establish the DIFC as a financial free zone within Dubai.

(2) Pursuant to the terms of that transfer, the Authority has sold, or intends to sell or lease, parts of that real property.

5. Purpose of this Law

The purpose of this Law is to establish a system of registration for real property within the jurisdiction of the DIFC, and in particular:

- (a) to guarantee title to real property;
- (b) to facilitate dealings with real property; and
- (c) to define the powers and functions of the Registrar in relation to real property.

6. Date of enactment

This Law is enacted on the date specified in the enactment notice for the Law.

7. Date of commencement

This Law comes into force on the date specified in the enactment notice for the Law.

8. Real property governed by this Law

- (1) From the date on which this Law comes into force, all real property from time to time within the jurisdiction of the DIFC is governed by this Law.
- (2) Real property within the jurisdiction of the DIFC includes:
 - (a) the real property referred to in Article 4(1); and
 - (b) any real property later brought within the jurisdiction of the DIFC, by any method.

9. Non-applicability of certain other laws

- (1) Dubai real property laws do not apply to real property governed by this Law.
- (2) Nothing in the Law of Security (DIFC Law No. 8 of 2005) affects real property governed by this Law.

10. Concept of freehold ownership of real property

Subject to any other provision of this Law, freehold ownership of real property governed by this Law carries with it the same rights and obligations as ownership of an estate in fee simple under the principles of English common law and equity.

11. Interpretation

- (1) For the purposes of this Law, "real property" includes:
 - (a) real property, buildings, and items placed in, on or under the soil with the intention that they should remain in position permanently or indefinitely; and
 - (b) any interest in real property.
- (2) Unless the context indicates otherwise, a reference in this Law to real property is a reference to real property for which a folio of the Register has been created under the provisions of this Law.
- (3) The Schedule contains:
 - (a) Rules of Interpretation applying to this Law; and
 - (b) a list of defined terms used in this Law.

PART 2 — ADMINISTRATION

Chapter 1 — Appointment of Registrar

12. Appointment of Registrar and other officers

- (1) The office of Registrar of Real Property (in this Law called "the Registrar") is created as a corporation sole.
- ~~(2)~~ The Board of Directors of the DIFCA shall appoint a person to and may dismiss a person from the office of Registrar.
- ~~(3)~~ The Board of Directors of the DIFCA shall consult with the President prior to the appointment of or dismissing the Registrar.
- ~~(2)~~ The President is to appoint the Registrar.
- ~~(3)~~(4) The Registrar ~~must~~shall administer this Law.
- ~~(4)~~(5) The Board of Directors of the DIFCA ~~President~~ may also appoint one or more Deputy Registrars, Assistant Registrars, and other officers, to assist the Registrar.
- ~~(5)~~(6) Anything that may lawfully be done by the Registrar may lawfully be done by a Deputy Registrar or an Assistant Registrar.
- ~~(7)~~ The Registrar may, where he considers it appropriate to do so, delegate such of his functions and powers as may more efficiently and effectively be performed by his officers or employees and, with the approval of the Board of Directors of the DIFCA either generally or in relation to any particular matter, by any other person.
- ~~(6)~~(8) A person dealing with the Registrar's office may assume that acts done or records made have been done or made within authority.

13. Seal of office

- (1) The Registrar has a seal of office, bearing the words "Registrar of Real Property, DIFC".

- (2) Unless the contrary is shown, a document purporting to be issued by the Registrar and bearing the Registrar's seal or a likeness of that seal is to be taken to be issued by the Registrar's direction.

Chapter 2 — Establishment of Register

14. Registrar ~~must~~shall establish and keep a real property register

The Registrar ~~must~~shall establish and keep a real property register (in this Law called "the Register").

15. Contents of Register

- (1) The Register consists of:
- (a) folios of the Register;
 - (b) registered instruments;
 - (c) information recorded by the Registrar in accordance with Articles 16 and 17; and
 - (d) documents lodged with the Registrar that are not required to be registered.
- (2) The Register may be kept in any form (documentary or otherwise) the Registrar considers appropriate.
- (3) The Registrar may change the form in which the Register or a part of the Register is kept.

PART 3 — THE REGISTER

Chapter 1 – General

16. Information Registrar **mustshall** record

- (1) The Registrar **mustshall** record in the Register the information necessary to identify:
 - (a) every folio of the Register;
 - (b) every instrument registered under this Law, and when it was registered;
 - (c) every instrument lodged with the Registrar, and when it was lodged; and
 - (d) the name of each present and past registered owner and the nature of their interest.
- (2) The Registrar **mustshall** also record in the Register anything else required to be recorded in it by this or any other law.

17. Information Registrar may record

- (1) The Registrar may record in the Register anything the Registrar is permitted to record in it by this or any other law.
- (2) The Registrar may also record in the Register anything the Registrar considers should be recorded to ensure that the Register is an accurate, comprehensive and useable record of real property ownership.

Chapter 2 – Registration of instruments

18. Duty to create instrument and lodge for registration

- (1) In this Article, a reference to disposing of real property is a reference to dealing with real property in any way, including by transferring or creating an interest in real property.
- (2) A person who disposes of real property ~~must~~shall ensure that:
 - (a) the disposal is embodied in an instrument in the appropriate approved form; and
 - (b) the execution of the instrument by that person is in accordance with this Law.
- (3) A person in whose favour real property is disposed of:
 - (a) ~~must~~shall ensure that the disposal is embodied in an instrument in the appropriate approved form;
 - (b) ~~must~~shall ensure that the execution of the instrument by that person is in accordance with this Law; and
 - (c) ~~must~~shall do their best to ensure that:
 - (i) all necessary consents or approvals required for registration are obtained; and
 - (ii) if those consents or approvals are obtained, the instrument is lodged for registration as soon as practicable after completion of the transaction that gave rise to the disposal.
- (4) This Article applies to all disposals of real property, unless:
 - (a) there is no appropriate approved form; or
 - (b) the interest is a lease for a term not exceeding 1 year (including any option to renew, whether or not exercised).
- (5) Where paragraph (4)(a) applies, but the transaction is to be completed or finalised by the taking of a further step for which there is an appropriate approved form, then on the taking of that step the obligations under paragraphs (2) and (3) apply in relation to that approved form.

- (6) A person who breaches an obligation under this Article commits an offence against this Law.

19. Registrar's duty to register instruments

- (1) If a person lodges for registration an instrument that affects real property and that is in registrable form, the Registrar **mustshall** register it.
- (a) However, no instrument of title or other real property interest may be recorded unless and until the Registrar has been satisfied that the entire purchase price transfer from Purchaser to Seller, directly or indirectly, has been effected with the involvement of at least one duly licensed UAE or DIFC bank or bank that is duly licenced in a Recognised Jurisdiction.
- (2) An instrument is in registrable form if it relates to one or more lots and complies with the requirements of this Law for registration.
- (3) Paragraph (1) does not prevent a person from withdrawing an instrument before it is registered.

20. Registrar **mustshall give distinguishing reference to each registered instrument**

- (1) On registering an instrument affecting real property, the Registrar **mustshall**:
- (a) give the instrument a distinguishing reference sufficient to identify it; and
- (b) record the reference in the folio of the Register for the lot or lots concerned.
- (2) An instrument is registered when the Registrar records the distinguishing reference in the folio.

21. Order of registration of instruments

- (1) Instruments that are in registrable form **mustshall** be registered in the order in which they are lodged for registration.
- (2) For the purposes of paragraph (1), an instrument that is lodged for registration but is later withdrawn before registration or rejected by the Registrar, is not lodged until it is relodged.

- (3) Despite paragraph (1), if an instrument ("instrument 2") affecting a lot is lodged after another instrument ("instrument 1") affecting the lot, instrument 2 may be registered before instrument 1 if the registration of instrument 2 cannot affect any interest that a person might claim under instrument 1.

22. Registration after death of party executing instrument

The death of a person after signing an instrument but before the instrument is registered, does not, of itself, prevent registration of the instrument.

23. Priority of registered instruments

Registered instruments have priority according to when they were registered, not according to when they were executed.

24. Instrument of postponement

- (1) A registered interest may, by a registered instrument of postponement executed by all parties to the interest, be postponed to any other registered interest.
- (2) On registration of the instrument, the parties' interests rank in priority in the order expressed in the instrument.
- (3) An instrument of postponement binds only the parties to it.

25. Conclusive evidence of information in Register

The information about a registered instrument recorded in the Register is conclusive evidence of:

- (a) the registration of the instrument;
- (b) when the instrument was registered; and
- (c) the contents of the instrument.

Chapter 3 – Consequences of registration

26. Need for registration

Subject to this Law, an instrument does not transfer or create an interest in real property until the instrument is registered.

27. Effect of registration on interest

On registration of an instrument that is expressed to transfer or create an interest in real property, the interest:

- (a) is transferred or created in accordance with the instrument; and
- (b) vests in the person identified in the instrument as being entitled to the interest.

28. Consideration not needed

The benefits of registration apply to an instrument whether or not valuable consideration is given.

29. Conclusive effect of registration

Subject to this Law, the registration of a person as owner of an interest in real property is conclusive evidence that:

- (a) the person is the owner of that interest; and
- (b) the person's title to that interest is indefeasible.

30. Quality of registered interests

- (1) Subject to this Law, a registered owner holds the registered interest subject to all prior interests registered or recorded in the folio of the Register for the relevant lot but free from all other interests.
- (2) In particular, the registered owner:
 - (a) is not affected by actual or constructive notice of any trust or unregistered interest affecting the lot;
 - (b) is not affected by any interest that, but for this Law, might be held to be paramount or to have priority;
 - (c) is not affected by any error or informality in any application or proceedings; and

- (d) is not liable to proceedings for possession unless the proceedings are brought by a person claiming a registered interest in the lot.
- (3) However, paragraphs (1) and (2) do not apply:
 - (a) to an interest or matter mentioned in Article 31; or
 - (b) if there has been fraud by the registered owner in acquiring or holding the interest.
 - (c) if the Registrar has reasonable suspicion that either the motivation or intent of either Purchaser or the Seller in engaging in the underlying transaction was to participate in or further any money laundering or terrorism financing scheme.
- (4) For the purpose of this Article, knowledge that a trust or unregistered interest is in existence is not of itself to be regarded as fraud.

31. Exceptions to Article 30

A registered owner does not obtain the benefit of Article 30 in relation to the following interests or rights affecting the lot:

- (a) any exceptions, reservations, obligations or conditions that are customarily imposed on, or that are contained in, any disposition or grant (including any minha) by the Ruler;
- (b) any exceptions, reservations, covenants, obligations or conditions contained in the sale, or in any relevant lease, by the Authority;
- (c) any easement or public right of way in existence when the real property became governed by this Law;
- (d) any right (whether created before, on or after 17 March 2003) in favour of a public authority under any law;
- (e) any easement implied under Articles 84 and 85;
- (f) any statutory charge under Article 80;
- (g) any matter recorded by the Registrar under Article 39;

- (h) an equitable obligation binding the registered owner as a result of the registered owner's conduct;
- (i) subject to Article 54, the interest of a lessee in actual possession under a lease for a term (including any option to renew, whether or not exercised) not exceeding 1 year;
- (j) the interest of another registered freehold owner, if 2 or more folios of the Register exist for the same lot or part of the same lot (in which case the earliest-created folio prevails);
- (k) the interest of another registered owner, if 2 or more persons are registered as owners of the same interest (in which case the earliest-registered interest prevails).

32. No title by adverse possession

A person does not acquire any right or title to real property by any length of adverse possession.

Chapter 4 — Unregistered interests

33. Nature and priority of unregistered interests

- (1) Nothing in this Law prevents an unregistered instrument from operating as a contract or being otherwise enforceable according to its terms.
- (2) The lodgement of an instrument in registrable form for registration has the same effect as the lodgement of a caveat protecting the interest claimed under that instrument.
- (3) The benefit of paragraph (2) is lost if the instrument is withdrawn from registration.

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PART 4 — INITIAL REGISTRATION OF REAL PROPERTY AND TITLES

Chapter 1 — General

34. Creation of folio of Register

This Part sets out the circumstances in which folios of the Register are created in relation to real property governed by this Law.

Chapter 2 — Sale or initial lease after commencement of this Law

35. Sale or initial lease occurring after commencement of this Law

Where, after this Law comes into force, the Authority sells, or grants an initial lease of, real property governed by this Law, the Registrar ~~must~~shall, immediately following the sale or lease, create a folio of the Register for each lot comprised in the real property.

Chapter 3 — Sale or initial lease before commencement of this Law

36. Sale or initial lease occurring before commencement of this Law

Where, before this Law came into force, the Authority sold real property governed by this Law, the Registrar:

- (a) may, on the Registrar's own initiative, create the folio of the Register for each lot comprised in the real property; or
- (b) ~~must~~shall create a folio of the Register for each lot comprised in the real property following a primary application under Articles 38 or 39, if the requirements of those Articles are satisfied.

37. Creation of folio on Registrar's initiative

- (1) Before creating a folio of the Register on the Registrar's own initiative under Article 36(a), the Registrar ~~must~~shall:

- (a) notify the person who, from records available to the Registrar, appears to be the freehold owner of the real property; and
 - (b) require that person to produce for cancellation all title documents substantiating ownership of the real property.
- (2) The owner's inability or refusal to produce the documents in paragraph (1)(b) does not prevent the Registrar from creating the folio.

38. Creation of folio on primary application: general

- (1) Unless within 3 months after this Law comes into force the Registrar has made a notification under Article 37(1)(a), the persons listed in paragraph (2) ~~must~~shall, within 6 months of the coming into force of this Law, lodge a primary application with the Registrar to create a folio of the Register.
- (2) The persons are:
- (a) the person claiming to be the freehold owner of the real property; or
 - (b) the persons who collectively claim to be the freehold owners of the real property.
- (3) The persons in paragraph (2) may, before lodging the primary application, ask the Registrar to advise whether the Registrar intends to create a folio of the Register on the Registrar's own initiative under Article 36(a). If the Registrar replies in the affirmative, those persons need not lodge a primary application.
- (4) A primary application ~~must~~shall be:
- (a) in the form required by the Registrar; and
 - (b) accompanied by title documents and other evidences the Registrar may require.
- (5) A person who fails to comply with any obligation under paragraphs (1) or (4) commits an offence against this Law.
- (6) The Registrar may:

- (a) require the applicant to advertise or otherwise notify persons that the application has been made; and
 - (b) refer the application to a legally qualified person to investigate the title of the applicant or applicants.
- (7) If reasonably satisfied that the applicant is the freehold owner of the real property, or that the applicants collectively are the freehold owners of the real property, the Registrar ~~must~~shall grant the application by creating a folio of the Register.

39. Creation of folio on primary application: units in buildings

- (1) The obligation to lodge a primary application under Article 38 applies also in respect of real property on which a building is erected or is proposed to be erected, where:
- (a) the building is designed or intended to be divided into 2 or more units adapted for separate occupation or use;
 - (b) at the time of making the application, agreements exist for the sale or lease of one or more of the units;
 - (c) under DIFC law, the approval by the relevant authority of a subdivision plan is not required for the building or class of buildings;
 - (d) the Authority has assented through a notification authorising the subdivision of the building or the class of buildings to which it belongs; and
 - (e) the approved building plans:
 - (i) bear a certificate by the Registrar that the boundaries of all the units delineated on the approved building plans have been endorsed by the owner of the development as correct and in accordance with what that owner has sold or agreed to sell; and
 - (ii) contain all other certifications and information required by the Registrar.

- (2) Where the requirements of paragraph (1) are satisfied, the Registrar may, instead of creating a single folio of the Register for the real property on which the building is erected or proposed to be erected, create a folio of the Register for each unit in the building as if it were a separate lot.
- (3) Where the Registrar creates a folio of the Register for each unit, the Registrar ~~must~~shall:
 - (a) create a folio of the Register for any one or more common areas created under any building sales agreement, co-owners association constitution, master community declaration, or similar document;
 - (b) register as the freehold owner of those common areas the person or person the Registrar considers to be the freehold owner of those areas; and
 - (c) record in the folio for that unit that:
 - (i) ownership of the unit may be subject to the benefits and burdens created under any building sales agreement, co-owners association constitution, master community declaration, or similar document applying to the unit;
 - (ii) ownership of the unit may include a proportionate interest in any common property associated with the development of which the building forms part; and
 - (iii) an official survey of the unit may not have been carried out.
- (4) The provisions of Article 38, varied as the circumstances may require, apply to an application under this Article.
- (5) If there is a conflict between this Article and the provisions of the Strata Title Law (DIFC Law No. 5 of 2007), this Article prevails.

40. Cancellation of title documents

On creating a folio of the Register on a primary application, the Registrar:

- (a) may cancel all prior title documents or may return them to the person from whom the Registrar received them; and

- (b) mustshall not destroy the documents without the consent of the Authority.

Chapter 4 — Information to be included in folio of Register

41. Information to be included in folio

- (1) When creating a folio of the Register, the Registrar mustshall record in the folio:
 - (a) as the freehold owner, the person whom the Registrar considers to be entitled to be registered as the freehold owner; and
 - (b) as the owner of any other interest affecting the lot that is apparent to the Registrar or that is later brought to the Registrar's attention under this Article, the person whom the Registrar considers to be entitled to be registered as an owner of that interest.
- (2) Further, when creating a folio of the Register, the Registrar mustshall, if it is the fact, record in the folio that ownership of the lot:
 - (a) may be subject to the benefits and burdens created under any building sales agreement, co-owners association constitution, master community declaration, or similar document applicable to the lot; and
 - (b) may include a proportionate interest in any common property associated with the development of which the building forms part.
- (3) In addition to the information in paragraph (1), the Registrar:
 - (a) mustshall, in the case of a freehold owner who is a natural person, record the owner's date of birth; and
 - (b) may record any other information the Registrar considers appropriate.
- (4) Where a folio of the Register is created on a primary application:
 - (a) if the the real property is subject to a mortgage, the mortgagor is entitled to be registered as the freehold owner;

- (b) any mortgages affecting the real property that are registered under the Dubai Property Law are treated as mortgages registered under this Law, and enjoy the same priority between themselves as they enjoyed under the Dubai Property Law;
 - (c) the provisions of this Law concerning registered mortgages apply to those mortgages; and
 - (d) the freehold owner (except where paragraph (5) applies) ~~must~~shall promptly inform the Registrar of any interest affecting the real property which is known to the freehold owner and which is not already recorded under paragraph (1).
- (5) If, after application is made but before the folio is created, the person who is entitled to be registered as the freehold owner dies, the Registrar ~~must~~shall nevertheless register that person as the freehold owner.
- (6) A freehold owner who fails to comply with paragraph (4)(d) commits an offence against this Law.

PART 5 — JOINT HOLDERS

42. Registering life interests, reversions and remainders

The Registrar may register an interest for life and an interest in reversion or remainder.

43. Registering co-owners

- (1) When registering persons as co-owners of real property, the Registrar **mustshall** record whether they hold as tenants in common or as joint tenants.
- (2) Unless the Registrar records otherwise, tenants in common are presumed to hold in equal shares.
- (3) If an instrument does not show whether co-owners hold as tenants in common or as joint tenants, the Registrar **mustshall** record them as tenants in common in equal shares.

44. Body corporate may hold real property as joint tenant

A body corporate is capable of holding real property as joint tenant.

45. Dissolution of body corporate joint tenant

Where a body corporate is a joint tenant of real property at the time of its dissolution, the real property devolves on the other joint tenant or joint tenants.

46. Severing joint tenancy

- (1) A joint tenant of real property may unilaterally sever the joint tenancy by registered transfer to himself or herself.
- (2) The Registrar **mustshall** not register the transfer unless satisfied that a copy of the transfer was served on all other joint tenants at least 7 days before the transfer was lodged for registration.
- (3) On registration of the transfer, the joint tenancy is severed as regards the interest so transferred.

- (4) This Article does not limit other ways in which a joint tenancy may be severed.

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PART 6 — TRANSFERS

47. Registering transfer

- (1) Subject to paragraphs (2) and (3), real property, or a registered interest in real property, may be transferred by registering a transfer.
- (2) Except as provided in this Law or in any other law, a part only of a lot cannot be transferred.
- (3) Paragraph (2) does not prevent the acquisition of a part of a lot by a public authority by or under a law.

48. Effect of registration of transfer

- (1) On the registration of a transfer, all the transferor's rights, powers, privileges and liabilities in relation to the real property or the interest in the real property vest in the transferee.
- (2) Without limiting paragraph (1):
 - (a) the registered transferee of a mortgage is bound by and liable under the mortgage to the same extent as the original mortgagee;
 - (b) the registered transferee of a lease is bound by and liable under the lease to the same extent as the original lessee; and
 - (c) the transfer of the mortgage or lease does not, of itself, release the transferor from obligations under the mortgage or lease.
- (3) In this Article, "rights", in relation to a mortgage or lease, includes the right to sue on the terms of the mortgage or lease and to recover a debt or enforce a liability under the mortgage or lease.

49. Merger

- (1) The doctrine of merger applies on the registration of a transfer to give effect to a contract for the sale of real property.

- (2) Where on registration the interests of lessor and lessee vest in the same person, no merger occurs until there is also registered a surrender of the lease.

50. Transfer of mortgaged lot

- (1) If real property that is subject to a registered mortgage is transferred:
- (a) the transferee is primarily liable to comply with the terms of the mortgage; and
 - (b) the transferee ~~must~~shall indemnify the transferor against liability under the mortgage.
- (2) This Article does not apply to a transfer by a mortgagee in exercise of a power of sale.

PART 7 — EMINENT DOMAIN

51. Authority to compensate on just terms

If real property governed by this Law is acquired from a person by a public authority by or under a law, and that law does not provide the person with compensation on just terms, then the Authority is to provide the person with compensation on just terms.

52. Transfer under statutory vesting or grant

- (1) If real property has become vested in a person or public authority by or under a law, the Registrar:
 - (a) ~~must~~shall record in the Register any entries in relation to the real property that the Registrar considers necessary in connection with the vesting; and
 - (b) may cancel or create folios of the Register as the Registrar considers appropriate in consequence of the vesting.
- (2) The Registrar may exercise the powers conferred by paragraph (1):
 - (a) on application; or
 - (b) on the Registrar's own initiative.

PART 8 — LEASES

53. Lease of real property

- (1) Real property may be leased.
- (2) A lease may comprise one or more lots or parts of lots.
- (3) Where the term of the lease (including any option to renew, whether or not exercised) exceeds 1 year, the lease ~~must~~shall be registered. A lease for any other term may (but need not) be registered.

54. Unregistered lease

- (1) A lessor ~~must~~shall, within ~~7~~ 28 days of the date on which the lease is entered into, notify the Registrar of the identity of the lessee and provide any other details the Registrar requires.
- (2) If the lessor fails to comply with paragraph (1), then:
 - ~~(a) — the lessor commits an offence against this Law;~~
 - ~~(b) — the lessee may terminate the lease at any time after the 7 days without the need for prior notice;~~
 - ~~(c) — the lessee may recover from the lessor any loss the lessee suffers from the lease not remaining in force; and~~
 - ~~(d) — the lessee is not liable to the lessor for any loss suffered by the lessor as a result of the termination, but remains liable for rent for the period before the termination and for any breach of the lease committed before the termination.~~
- (3) A lessor complies with paragraph (1) if the lease is lodged for registration, in registrable form, within ~~7~~ 28 days of the date on which the lease was signed by all parties to it.

55. Requirements for lease to be registered

- (1) In order to be registered, a lease mustshall include a description sufficient to identify each lot or part lot to be leased.
- (2) Paragraph (1) does not limit the matters that the approved form of lease may require to be included.

56. Variation of registered lease

- (1) A registered lease may be varied by registering an instrument of variation of the lease.
- (2) However, the instrument of variation mustshall not:
 - (a) add or remove a party to the lease; or
 - (b) be lodged after the term of the lease (including as extended by any option to renew) has expired.
- (3) A lease as varied by registration of an instrument of variation continues in force according to its terms and is not surrendered by virtue of the variation.
- (4) This Article does not limit other ways in which a lease may be varied.

57. Whether lease, or variation of lease, binds mortgagee

- (1) A lease, or a variation of a lease, executed after the registration of a mortgage, does not bind the mortgagee unless the mortgagee consents to the lease or variation.
- (2) The Registrar may require evidence of the mortgagee's consent and may record the fact of the consent in the folio of the Register.

58. Options to renew or purchase

- (1) When registering a lease that contains an option to renew or purchase, the Registrar mustshall also record the existence of the option.
- (2) Registration of a lease containing an option to renew or purchase does not give the option any greater effect than it otherwise would have.

59. Expiry of lease

The Registrar may record in the folio of the Register that a registered lease has

expired.

60. Termination of lease following lessee's default

- (1) The Registrar may record in the folio of the Register that the lessor has terminated a registered lease following the lessee's default.
- (2) Before recording the termination, the Registrar may require supporting evidence to establish that the termination was lawful.
- (3) The recording of the termination does not release the lessee from liability for breach of a covenant, either express or implied, in the lease.
- (4) After the termination of a registered lease containing an option to renew or purchase:
 - (a) the Registrar need not enquire whether the option has been exercised; and
 - (b) a person dealing with the lessor need not enquire whether any unregistered interest has been created in exercise of the option.

61. Surrendering a lease

- (1) A registered lease may be wholly or partly surrendered by registering a surrender of the lease executed by the lessor and the lessee.
- (2) However, the Registrar ~~must~~shall not register the surrender unless every registered mortgagee of the lease and registered sublessee consents.
- (3) On registration of the surrender:
 - (a) the lessee's interest vests in the lessor; and
 - (b) any sublease is to be taken to be a direct lease from the lessor.
- (4) This Article does not limit other means by which a lease may be surrendered. If a registered lease is surrendered by other means, the Registrar may record the surrender in the folio of the Register on application by either lessor or lessee and supported by any evidence the Registrar may require.

62. Implied powers of lessors and termination for breach

- (1) In a lease of real property governed by this Law the lessor has the following implied powers:
 - (a) to enter the leased premises and view the state of repair (but only twice in each year of the term, at a reasonable time of the day, and on giving the lessee 2 days' prior notice);
 - (b) to enter the leased premises to carry out any repairs that the lessee should have (but has not) carried out under the lease; and
 - (c) to enter the leased premises to comply with any written law affecting the premises, or to comply with any notice that is given to the lessor or the lessee by any public authority and that requires repairs or work to be done (whether by the lessor or the lessee).
- (2) Any repairs, work or other acts which the lessor does under paragraph (1) ~~must~~shall be done without undue interference with the lessee's occupation and use of the premises.
- (3) The powers implied by paragraphs (1) and (2) may be varied or negated by express provision in the lease.
- (4) In addition to the powers under paragraph (1), the lessor has the implied power to re-enter the leased premises and terminate the lease in the following circumstances:
 - (a) where any rent due under the lease is more than 30 days overdue (even if no formal demand for payment has been made); or
 - (b) where any other term of the lease, whether express or implied, has been breached and the breach has continued for at least 30 days after the lessor has served notice on the lessee requiring it to be remedied.
- (5) The 30-day periods in paragraph (4) may be varied by express provision in the lease, but cannot be reduced.
- (6) This Article does not prevent a lessee from approaching the Court to seek relief against forfeiture of a lease, whether for non-payment of rent or for breach of any other term of the lease. The Court may grant relief against forfeiture on terms that the Court considers appropriate, or may refuse relief.

- (7) This Article is subject to any law imposing restrictions on a lessor's right to recover possession from lessees.

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PART 9 — MORTGAGES

Chapter 1 – General

63. Right to mortgage

- (1) Real property or a registered interest in real property (including a registered lease) may be mortgaged by registering a mortgage.
- (2) The provisions of this Part in relation to a mortgage of real property apply also to a mortgage of an interest in real property, so far as the circumstances permit.
- (3) Except as provided in this Law or any other law, a part only of a lot cannot be mortgaged.

64. Requirements for mortgage

- (1) In order to be registered, a mortgage ~~must~~shall include the following:
 - (a) a description sufficient to identify the real property;
 - (b) a description sufficient to identify the interest to be mortgaged; and
 - (c) a description of the debt or liability secured by the mortgage.
- (2) Paragraph (1) does not limit the matters that the approved form of mortgage may require to be included.

65. Mortgage as charge only

- (1) A mortgage of real property operates only as a charge on the real property for the debt or liability secured by the mortgage.
- (2) For the avoidance of doubt, the mortgagor is taken to have an equity of redemption.

66. Submortgage

- (1) In this Article, "submortgage" means the mortgage of a mortgage or the mortgage of a submortgage.
- (2) On the registration of a submortgage, and during the currency of the submortgage, all the powers and rights that the mortgagor of the mortgage could previously have exercised:
 - (a) may be exercised by the registered submortgagee; and
 - (b) may not be exercised by the submortgagor.
- (3) A submortgage does not affect the rights or liabilities of the registered owner until the registered owner is given notice of it.

67. Registration of second or later mortgage

- (1) The Registrar ~~must~~shall not register a second or later mortgage over real property unless all prior registered mortgagees consent to the registration.
- (2) The Registrar may require whatever information the Registrar considers necessary to demonstrate that the prior registered mortgagees have consented.

68. Variation of mortgage

- (1) A registered mortgage may be varied by registering an instrument varying the mortgage.
- (2) A variation cannot add a party to, or remove a party from, the mortgage.
- (3) A variation does not affect prior registered mortgagees, and does not affect subsequent registered mortgagees unless they consent.

69. Discharge of mortgage

- (1) A registered mortgage may be discharged by registering a discharge of mortgage.
- (2) A discharge of mortgage may discharge the debt or liability secured for:
 - (a) all or part of the mortgage; or
 - (b) one or more of the mortgagors.

- (3) The Registrar ~~must~~shall register a discharge of mortgage to the extent shown in the instrument.
- (4) On the discharge being registered:
 - (a) the mortgage is discharged; and
 - (b) the real property is released from the mortgage,to the extent shown in the discharge.

70. Extent of discharge of mortgage

Whether the discharge releases the mortgagor from any personal obligation to repay the debt or from any other liability secured by the mortgage is a matter of construction of the discharge.

Chapter 2 — Mortgagee's powers and remedies

71. Implied powers of mortgagees

- (1) A registered mortgagee of real property has the following powers on default by the mortgagor:
 - (a) to sell the whole or part of the real property or any interest in the real property by whatever means the mortgagee, acting reasonably, considers appropriate, including by tender, public auction or by private contract;
 - (b) to sever and sell fixtures apart from the balance of the real property;
 - (c) to sell any easement, right or privilege of any kind over or in relation to the real property;
 - (d) to enter into possession of the real property and receive the rents and profits from it; and
 - (e) to foreclose.

- (2) The powers may only be exercised in accordance with the provisions of this Chapter, but otherwise (and subject to paragraph (3)) may be supplemented, varied or negated by express provision in the mortgage.
- (3) A mortgagee may not exercise a power under paragraph (1) without first serving on the persons in paragraph (4) a notice giving the mortgagor 30 days in which to remedy the default. If within that time the default is remedied, then the mortgagee may not exercise a power for that default.
- (4) The persons on whom the notice ~~must~~shall be served are:
 - (a) the mortgagor;
 - (b) any guarantor or surety of the mortgagor; and
 - (c) any other registered mortgagee.

72. Exercise of power of sale

In exercising a power of sale, the mortgagee ~~must~~shall take reasonable care to obtain the market value for the real property at the time of the sale.

73. Injunction to restrain power of sale

- (1) The mortgagor is entitled to seek an injunction to restrain the exercise of the power of sale.
- (2) The Court may make the order it considers appropriate, including (if it considers it appropriate) that the sale may be restrained, without the mortgagor having to offer to redeem the mortgage.

74. Effect of transfer after sale by mortgagee

- (1) If a transfer in purported exercise of a power of sale by a registered mortgagee is lodged for registration, the Registrar need not enquire whether the power of sale was validly exercised.
- (2) On registration of the transfer, the mortgagor's interest vests in the transferee, free from liability under:
 - (a) the mortgage and (except where the transferee is the mortgagor) any mortgage registered after it; and

- (b) any other interest registered after it, except an interest to which the mortgagee has consented in writing, or to which the mortgagee is a party, or which for some other reason binds the mortgagee.
- (3) Registration of the transfer is not prevented by a caveat, if the caveat relates to an interest over which the mortgage has priority.

75. Application of proceeds of sale

- (1) A mortgagee who has exercised a power of sale ~~must~~shall apply the money received from the sale:
 - (a) to discharge any prior registered interests to which the sale is not made subject; or
 - (b) by paying into Court a sum to meet any prior registered interests.
- (2) Subject to paragraph (1), the mortgagee holds the money on trust:
 - (a) first, to pay all costs and expenses properly incurred in the sale or any attempted sale;
 - (b) second, to discharge the principal, interest, costs, and any other money and liability secured by the mortgage;
 - (c) third, to pay later registered interests in the order of their priority; and
 - (d) fourth, to pay any residue to the person who appears from the Register to be entitled to the mortgaged property or to be authorised to give receipts for the proceeds of its sale.

76. Appointment of receiver

- (1) If a mortgage (whether registered or not) entitles the mortgagee to appoint a receiver, and the mortgagee appoints a receiver, the receiver:
 - (a) may do anything in relation to the real property that the mortgagor could have done; and
 - (b) may act as the mortgagor's agent.

- (2) However, if the receiver sells the real property, the receiver is subject to the same duties and responsibilities as if the mortgagee were doing those things.

77. Entry into possession

- (1) In exercising the power to enter into possession of the real property and receive the rents and profits from it, the mortgagee has the same remedies for obtaining possession as a lessor has against a lessee whose lease has expired or whose rent is in arrears.
- (2) Where the mortgagee exercises the power under paragraph (1), the mortgagee's receipt in writing is a sufficient discharge for any rents and profits stated to be received, and any person paying them is not bound to inquire whether the mortgagee has properly exercised the power beyond the fact that the mortgage is registered.

78. Foreclosure

- (1) On application by a registered mortgagee, the Court may make an order for foreclosure.
- (2) If the Court makes an order for foreclosure, the Registrar ~~must~~shall register the order if requested by a party to the proceedings or directed by the Court.
- (3) On registration of the order, the mortgagor's interest in the real property vests in the mortgagee, free from all liability under mortgages or other interests registered after the mortgage, except for leases and other interests that bind the mortgagee.

Chapter 3 — Tacking of further advances

79. Right to tack further advances

- (1) Despite any other provision of this Law, a mortgagee (the "prior mortgagee") of real property may make further advances to rank in priority to later mortgages:
 - (a) where the prior mortgage expressly authorises the making of further advances (and regardless of whether the prior mortgagee has notice of the later mortgage); or

- (b) where the prior mortgage does not expressly authorise the making of further advances, if the later mortgagee agrees to further advances being made.
- (2) Paragraph (1) applies only where the prior mortgage is registered (but regardless of whether the later mortgage is registered).
- (3) For the purposes of paragraph (1), "further advance" includes the provision of further credit or accommodation (including on a current, revolving or continuing account), regardless of whether the mortgagor is a debtor or guarantor or surety for the further advance.

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PART 10 — STATUTORY CHARGES

80. Registration of statutory charges

- (1) A person or public authority with the benefit of a statutory charge over real property may apply to the Registrar to have the charge registered in the folio of the Register.
- (2) On receiving the application, the Registrar ~~must~~shall register the charge.
- (3) The Registrar ~~must~~shall give notice of the registration to all persons who have a registered interest in the real property.
- (4) Registration does not give the statutory charge any greater effect than it would have without registration.
- (5) In this Article, "statutory charge" means a charge on real property established by or under a law in force in the DIFC that:
 - (a) imposes a restriction on the use of or dealing with the real property;
or
 - (b) gives a right to a person to deal with the real property, including the right of sale.

PART 11 — EASEMENTS

Chapter 1 – General

81. Easements in gross permitted

- (1) This Law permits the creation of easements in gross (that is, easements without benefited real property).
- (2) In the construction of this Part, a reference to an easement includes a reference to an easement in gross, unless the contrary appears.

82. Easements by prescription or implication

- (1) Except as provided in this Law, easements cannot be acquired over real property by prescription or implication.
- (2) However, nothing in this Law affects the principles under which there are implied into an easement whatever ancillary rights are necessary for the effective enjoyment of the easement.

83. Rights to support of real property and structures

- (1) A person ~~must~~shall not excavate or develop real property in a way that adversely affects the stability of adjoining real property or structures on it.
- (2) A person who breaches paragraph (1) is liable to any person who suffers loss or damage as a result of the breach.

Chapter 2 — Implied easements in developments and subdivisions

84. Implied easements for services in development

- (1) Where 2 or more lots form part of the same development, there are implied under this Article easements for services that benefit and bind each lot.

- (2) The easements implied under this Article are easements for the passage of water, electricity, drainage, gas and sewerage through or by means of installations (including sewers, pipes, wires, cables or ducts), to the extent to which the installations are capable of being used in connection with the lot.
- (3) The easements implied under this Article include the right for the freehold owner of the benefited real property to enter the burdened real property at all reasonable times, and upon giving reasonable notice, to repair or renew the installations (but subject to the obligation to repair any damage caused to the burdened real property in the process of doing so).
- (4) The freehold owner from time to time of the benefited real property ~~must~~shall contribute a reasonable proportion of the cost of maintaining the installations, unless able to establish a legal entitlement to enjoy the easements free from the liability to contribute.
- (5) Paragraph (4) does not make a person liable to contribute to expenditure incurred at a time before becoming, or after ceasing to be, owner.
- (6) Unity of ownership of 2 or more lots does not destroy the easements implied under this Article.
- (7) The easements implied under this Article are enforceable without any need for registration. However, the Registrar may (but need not) make an appropriate recording in the Register about the existence of the easements.
- (8) This Article applies to real property governed by this Law, regardless of whether it is registered real property.

85. Implied easements of way and other rights shown in subdivision plan

- (1) Where the relevant authority has approved the subdivision of real property into 2 or more lots, and the approved subdivision plan sets apart real property for the purposes of the easements referred to in paragraph (2), there are implied under this Article in favour of each lot that is used or intended to be used as a separate parcel of real property, the easements referred to in paragraph (2).
- (2) The easements implied under this Article are:
 - (a) rights of way;

- (b) easements for drainage;
- (c) easements for party wall purposes; and
- (d) easements for the passage of water, gas, electricity, sewerage and telephone and other services to the lot,

over or under the real property set apart for those purposes on the subdivision plan, as are necessary for the reasonable enjoyment of the lot and of any building on it at any time.

- (3) The freehold owner from time to time of the benefited real property **mustshall** contribute a reasonable proportion of the cost of maintaining the infrastructure of the easements. However, the obligation to maintain party walls binds only the owners of the lots on which the party walls stand.
- (4) Paragraph (3) does not make a person liable to contribute to expenditure incurred at a time before becoming, or after ceasing to be, owner.
- (5) Unity of ownership of 2 or more lots does not destroy the easements implied under this Article.
- (6) The easements implied under this Article are enforceable without any need for registration. However, the Registrar may (but need not) make an appropriate recording in the Register about the existence of the easements.
- (7) This Article applies to real property governed by this Law, regardless of whether it is registered real property.

Chapter 3 — Registration of easements

86. Creation of easement by registration

- (1) An easement may be created over real property by registering a grant or reservation of easement.
- (2) When registering an easement, the Registrar **mustshall** record the easement:
 - (a) in the folio of the Register for the lot burdened; and

- (b) unless the easement is an easement in gross, in the folio of the Register for the lot benefited (if the lot benefited is registered real property).
- (3) The Registrar may register as an easement or an easement in gross a right to install and use pipes, cables or similar installations, even though the right amounts to exclusive possession or occupation of the area occupied by the pipes, cables or installations.
- (4) The Registrar may refuse to register as an easement an interest that, in the Registrar's opinion, does not comply with the requirements for a valid easement.
- (5) However, paragraph (4) does not apply to an interest which this Law recognises as a valid easement.

87. Requirements for easement

- (1) In order to be registered, an instrument creating an easement ~~must~~shall:
 - (a) indicate clearly the nature of the easement, the rights granted or reserved under it, and the extent of the real property burdened by the easement;
 - (b) if required by the Registrar, include a plan of survey identifying the lot or part of the lot to be burdened by the easement, and (unless the easement is an easement in gross) the lot to be benefited by the easement;
 - (c) in the case of an easement in gross, identify the persons having the benefit of the easement; and
 - (d) contain the consents of all registered mortgagees and registered lessees of the lot to be burdened by the easement.
- (2) This Article does not limit the matters that the approved form of easement may require to be included.

- (3) Where an easement relates to underground pipes, cables or other installations the locations of which are difficult to describe with precision, the Registrar may accept for registration an instrument that contains only a general description of the location.

88. Easement benefiting and burdening same registered owner's lots

An easement may be registered even if the lot benefited and the lot burdened by the easement have the same freehold owner.

Chapter 4 — Variation or extinguishment of easements

89. Variation or release of easement by parties

- (1) A registered easement may be varied or wholly or partly extinguished by registering a variation or release of easement.
- (2) Unless the easement is an easement in gross, the variation or release:
 - (a) ~~must~~shall be executed by the registered freehold owner of the lot benefited by the easement; and
 - (b) may (but need not) be executed by the registered freehold owner of the lot burdened by the easement.
- (3) The variation or release of an easement in gross:
 - (a) ~~must~~shall be executed by the person having the benefit of the easement; and
 - (b) may (but need not) be executed by the registered freehold owner of the lot burdened by the easement.
- (4) Subject to paragraph (5), a registered easement may be varied or released only if all registered mortgagees and lessees of the lot benefited by the easement consent.
- (5) Paragraph (4) does not apply to a lessee who, in the Registrar's opinion, does not receive a benefit from the easement.

90. Same person becoming registered owner of benefited and burdened lots

- (1) If the same person becomes the registered freehold owner of the lot benefited and the lot burdened by an easement, the easement is extinguished only if:
 - (a) that owner requests the Registrar to extinguish the easement; or
 - (b) the Registrar creates a single folio of the Register for the lots.
- (2) A registered easement is not extinguished merely because the freehold owner of the lot benefited by the easement acquires an interest, or a greater interest, in the lot burdened by the easement.

91. Cancellation of easement

- (1) The Registrar ~~must~~shall cancel the registration of an easement on being satisfied that:
 - (a) any period of time for which the easement was to subsist has expired; or
 - (b) an event on which the easement was to come to an end has occurred; or
 - (c) the easement has been abandoned.
- (2) Regardless of whether an easement has been abandoned, if an easement has not been used for at least 12 years, then:
 - (a) a person may apply to the Registrar to have the easement cancelled;
 - (b) if satisfied that the evidence supports the application, the Registrar may notify the registered freehold owner of the benefited real property (or, in the case of an easement in gross, the person having the benefit of the easement) that, unless the Registrar receives an objection to the application within 1 month of the notice, the Registrar intends to cancel the easement; and
 - (c) if the Registrar does not receive an objection within the 1 month, or if the Registrar does receive an objection within that time but considers it to be of insufficient merit, the Registrar may cancel the easement.

92. Court order varying or extinguishing easement

- (1) The Court may, on application by any person interested in real property burdened by an easement, make an order wholly or partly varying or extinguishing the easement.
- (2) The Court may not make an order under paragraph (1) unless satisfied that:
 - (a) by reason of a change in use of the burdened real property, as approved by the relevant authority, the continued existence of the easement will impede the development of the lot for public or private purposes; or
 - (b) the proposed variation or extinguishment will not materially injure a person entitled to the benefit of the easement.
- (3) When making an order under paragraph (1), the Court may order the applicant to pay compensation to any person entitled to the benefit of the easement.
- (4) An order under paragraph (1) binds all persons who are, or who may become entitled to, the benefit of the easement, regardless of whether they have been notified of, or participated in, the proceedings.
- (5) The Registrar may record the Court order in the folios of the Register for the burdened real property and (except in the case of an easement in gross) the benefited real property.

Chapter 5 — Meaning of certain types of easements

93. Right of way, right of footway, and party wall.

- (1) In the construction of an instrument creating a right of way over real property governed by this Law, the expressions "right of way" and "right of footway" have the following meanings, subject to contrary provision in the instrument:
 - (a) **Right of way:** Full right for the freehold owner of the benefited real property, and every person authorised by that owner, to pass and repass at all times and for all purposes, on foot or in vehicles, and with or without animals.

- (b) Right of footway: Full right for the freehold owner of the benefited real property, and every person authorised by that owner, to go, pass and repass on foot, at all times and for all purposes, and with or without animals.
- (2) In the construction of an instrument referring to a "party wall", that expression means (unless the contrary intention appears) a wall severed vertically and longitudinally with separate ownership of the severed portions, and with cross-easements entitling each of the persons entitled to a portion of the wall to have their building supported by the whole wall.
- (3) Where real property governed by this Law is transferred by a person entitled to create easements in relation to a wall built on the common boundary of that real property and adjoining real property, and the transfer describes the wall as a party wall, then the transfer, when registered, operates to create an easement for a party wall.

Chapter 6

94. Easements created by Court order

- (1) The Court may make an order imposing an easement over real property if the easement is reasonably necessary for the effective use or development of other real property that will have the benefit of the easement.
- (2) The Court may make an order under paragraph (1) only if satisfied that:
 - (a) use of the real property having the benefit of the easement will not be inconsistent with the public interest;
 - (b) the registered freehold owner of the real property to be burdened by the easement and each other person having a registered interest in that real property can be adequately compensated for any loss or other disadvantage that will arise from imposition of the easement; and
 - (c) all reasonable attempts have been made by the applicant for the order to obtain the easement or an easement having the same effect but have been unsuccessful.

- (3) The Court order is to specify the nature of the easement, and whatever information is required by Article 87 to enable the easement to be registered. The order may limit the times at which the easement applies.
- (4) The Court order is to provide for payment by the applicant to specified persons of any compensation the Court considers appropriate, unless the Court determines that compensation is not payable because of the special circumstances of the case.
- (5) The applicant ~~must~~shall pay the costs of the proceedings, unless the Court orders otherwise.
- (6) The easement may be varied or released in accordance with the provisions of Article 89.
- (7) Nothing in this Article prevents the easement from being varied or extinguished under Article 92.

Chapter 7 — Contributions to repairs

95. Contribution to repairs

- (1) Where an easement relating to real property governed by this Law contains a covenant obliging one or more persons to contribute to the cost of constructing or repairing the subject matter of the easement, the obligation binds not only those persons but also their successors in title as if they had been a party to the instrument creating the easement, for as long as the easement subsists.
- (2) However, a person's liability under paragraph (1) does not extend to expenditure made before the person became an owner, or after the person ceased to be an owner.

PART 12 — COVENANTS

Chapter 1 — General

96. Covenants in gross permitted

- (1) This Law permits the creation of covenants in gross (that is, covenants without benefited real property).
- (2) In the construction of this Part, a reference to a covenant includes a reference to a covenant in gross, unless the contrary appears.

97. Positive covenants permitted

- (1) This Law permits the creation of positive covenants as well as negative (restrictive) covenants.
- (2) In the construction of this Part, a reference to a covenant includes a reference to a positive covenant, unless the contrary appears.

Chapter 2 — Registration of covenants

98. Creation of covenant by registration

- (1) A covenant may be created over real property by registering the instrument containing the covenant.
- (2) When registering a covenant, the Registrar ~~must~~shall record the covenant:
 - (a) in the folio of the Register for the lot burdened; and
 - (b) unless the covenant is a covenant in gross, in the folio of the Register for the lot benefited (if the lot benefited is registered real property).
- (3) The Registrar may refuse to register a positive covenant that, in the Registrar's opinion, imposes unreasonable burdens on the real property.

- (4) The Registrar may refuse to register as a covenant an interest that, in the Registrar's opinion, does not comply with the requirements for a valid covenant.
- (5) However, paragraph (4) does not apply to an interest which this Law recognises as a valid covenant.

99. Requirements for covenant

- (1) In order to be registered, an instrument creating a covenant ~~must~~shall:
 - (a) indicate clearly the nature of the covenant and the rights created under it;
 - (b) include a description sufficient to identify the lot to be burdened by the covenant and (unless it is a covenant in gross) the lot to be benefited by the covenant;
 - (c) in the case of a covenant in gross, identify the person having the benefit of the covenant; and
 - (d) contain the consents of all registered mortgagees and registered lessees of the lot to be burdened by the covenant.
- (2) This Article does not limit the matters that the approved form of covenant may require to be included.

100. Covenant benefiting and burdening same registered owner's lots

A covenant may be registered even if the lot benefited and the lot burdened by the covenant have the same freehold owner.

Chapter 3 — Variation or extinguishment of covenants

101. Variation or release of covenant by parties

- (1) A registered covenant may be varied or wholly or partly released by registering a variation or release of covenant.
- (2) Unless the covenant is a covenant in gross, the variation or release:
 - (a) ~~must~~shall be executed by the registered freehold owner of the lot benefited by the covenant; and
 - (b) may (but need not) be executed by the registered freehold owner of the lot burdened by the covenant.
- (3) The variation or release of a covenant in gross:
 - (a) ~~must~~shall be executed by the person having the benefit of the covenant; and
 - (b) may (but need not) be executed by the registered freehold owner of the lot burdened by the covenant.
- (4) Subject to paragraph (5), a registered covenant may be varied or released only if all registered mortgagees and lessees of the lot benefited by the covenant consent.
- (5) Paragraph (4) does not apply to a lessee who, in the Registrar's opinion, does not receive a benefit from the covenant.

102. Same person becoming registered owner of benefited and burdened lots

- (1) If the same person becomes the registered freehold owner of the lot benefited and the lot burdened by a covenant, the covenant is extinguished only if:
 - (a) that owner asks the Registrar to extinguish the covenant; or
 - (b) the Registrar creates a single folio of the Register for the lots.

- (2) A registered covenant is not extinguished merely because the freehold owner of the lot benefited by the covenant acquires an interest in, or a greater interest in, the lot burdened by the covenant.

103. Duration of covenant

- (1) A covenant ceases to be enforceable 10 years after it was registered.
- (2) Where a covenant ceases to be enforceable under paragraph (1), the Registrar may record that fact in the folios of the Register for the lot burdened and (except in the case of a covenant in gross) the lot benefited.
- (3) Despite paragraph (1), any person having the benefit of the covenant may, before the covenant ceases to be enforceable, extend it by lodging with the Registrar an instrument of extension.
- (4) The Registrar ~~must~~shall record the extension in the folio of the Register for the lot burdened and (except in the case of a covenant in gross) the lot benefited.

104. Court order varying or extinguishing covenant

- (1) The Court may, on the application of any person interested in real property burdened by a covenant, make an order wholly or partly varying or extinguishing the covenant.
- (2) The Court may not make an order under paragraph (1) unless it is satisfied that:
 - (a) by reason of a change in use of the burdened real property, as approved by the relevant authority, the continued existence of the covenant will impede the development of the lot for public or private purposes; or
 - (b) the proposed variation or extinguishment will not materially injure a person entitled to the benefit of the covenant.
- (3) When making an order under paragraph (1), the Court may order the applicant to pay compensation to any person entitled to the benefit of the covenant.

- (4) An order under paragraph (1) binds all persons who are, or who may become entitled to, the benefit of the covenant, regardless of whether they have been notified of, or participated in, the proceedings.
- (5) The Registrar may record the Court order in the folios of the Register for the burdened real property and (except in the case of a covenant in gross) the benefited real property.

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PART 13 — TRUSTS

105. Dealing by trustee

Where a registered owner is a trustee, a person dealing with that trustee:

- (a) is entitled to assume that the trustee is the legal and beneficial owner, freed from all trusts;
- (b) need not enquire whether the trustee is acting in breach of trust;
- (c) is not affected by notice of the trust or the rights of the beneficiaries under the trust; and
- (d) is not liable under any rule relating to the knowing receipt of trust property.

PART 14 — DECEASED ESTATES

106. Registration of personal representative

- (1) A person may lodge an application to be registered as personal representative of a deceased registered owner.
- (2) If satisfied that the person is entitled to be so registered, the Registrar may register the person as owner in the capacity of personal representative.

107. Dealings without registration of personal representative

- (1) The Registrar may register a dealing by the personal representative of a deceased registered owner without requiring the personal representative to be registered, if the Registrar considers it unnecessary or impracticable to require the personal representative to be registered.
- (2) Before acting under paragraph (1), the Registrar may require whatever evidence the Registrar considers necessary to protect the interests of those whom the Registrar considers to be entitled to the deceased's estate.

108. Notice of death or defeasance

- (1) A person entitled to real property on the death of a joint tenant or life tenant may apply to the Registrar to record the death.
- (2) If satisfied that the death has occurred, the Registrar may make the appropriate recording in the folio of the Register to indicate that the deceased's interest has determined and that the real property has vested in the survivor or in the person entitled to the reversion or remainder.
- (3) Where this Law makes no express provision for recording the defeasance of an interest in real property, the Registrar may record the defeasance in the way the Registrar considers appropriate.

PART 15 — BANKRUPTCY

109. Transmission on bankruptcy

- (1) The Registrar may register a transmission of real property under a bankruptcy law only if a request to register the transmission is lodged.
- (2) A person registered by transmission under paragraph (1) is taken to be the registered owner for the purpose of any dealing with the real property.
- (3) Until registration of the transmission under paragraph (1), no interest vests in a person entitled under a bankruptcy law, but this does not prevent the person lodging a caveat.

PART 16 — WRITS

110. Request to register writ of execution

The Registrar ~~must~~shall register a writ of execution relating to real property if:

- (a) a request to register the writ is lodged by the judgment creditor for whose benefit the writ was issued, together with an official copy of the writ; and
- (b) the request is lodged within 6 months of the date of issue of the writ.

111. How writ is registered

The Registrar registers a writ of execution by recording the writ in the folio of the Register.

112. Effect of registering writ of execution

- (1) A writ of execution:
 - (a) does not bind or affect real property until it is registered; and
 - (b) binds or affects real property only if it is executed and put in force within:
 - (i) 12 months after the date it is issued; or
 - (ii) an extended time allowed by the Court.
- (2) A registered writ of execution takes effect as if it were a registered mortgage securing the amount payable under the writ. A sale under the writ is treated as if it were a sale by a registered mortgagee in exercise of a power of sale.

113. Cancellation of registration of writ

The Registrar ~~must~~shall cancel the registration of a writ of execution if:

- (a) a request to cancel is lodged by the judgment creditor for whose benefit the writ was issued; or

- (b) the Registrar is satisfied that the time or extended time for executing and putting the writ into force has expired.

114. Discharging or satisfying writ of execution

- (1) If a registered writ of execution has been satisfied or discharged, the Registrar may record that fact in the folio of the Register.
- (2) The Registrar may act under paragraph (1):
 - (a) on the Registrar's own initiative; or
 - (b) on application by a registered owner.

115. Transfer of lots sold in execution

If a lot is sold under a registered writ of execution, the appropriate registrar or officer of the Court may execute a transfer to the purchaser.

PART 17 — CAVEATS

Chapter 1 — Lodging caveats

116. Who may lodge a caveat?

- (1) A caveat may be lodged in relation to real property or a registered interest in real property (such as a registered lease or a registered mortgage) by any of the following persons or their agents:
 - (a) a person claiming an interest in the real property;
 - (b) the registered freehold owner of the real property;
 - (c) a person who has the benefit of an injunction restraining a registered owner from dealing with the real property.
- (2) A caveat may also be lodged by the Registrar under Article 150.

117. Requirements of caveat

- (1) A caveat lodged under Article 116(1) mustshall be in the approved form.
- (2) In addition to any other requirements in the approved form, a caveat mustshall state:
 - (a) the name of the caveator;
 - (b) the interest claimed by the caveator;
 - (c) the grounds on which the interest is claimed;
 - (d) the real property affected by the caveat and, if the caveat relates to part only of a lot, a description of the part;
 - (e) the registered interest affected by the caveat;
 - (f) the extent of the prohibition on dealings;

- (g) an address within the UAE where documents can be served on the caveator, including any documents in Court proceedings relating to the caveat; and
- (h) unless the Registrar dispenses with it, the name and address of:
 - (i) the registered freehold owner of the real property affected by the caveat; and
 - (ii) each person known to the caveator whose interest or whose claim to registration of an instrument may be affected by the caveat.

118. Recording a caveat

If a caveat is lodged that complies with Article 117, the Registrar **mustshall** record the caveat in the folio of the Register.

119. Notifying caveat

The Registrar **mustshall** give written notice of lodgement of a caveat to each person disclosed or known to the Registrar whose interest or whose claim to registration of an instrument may be affected by the caveat.

Chapter 2 — Effect of caveat

120. Effect of lodging caveat

- (1) A caveat prevents the registration of an instrument affecting the real property or interest in respect of which the caveat is lodged:
 - (a) to the extent stated in the caveat; and
 - (b) from the time the caveat was lodged.
- (2) Paragraph (1) has effect for a caveat until the caveat lapses or is withdrawn, removed or cancelled.
- (3) The lodging of a caveat does not prevent registration of the following:

- (a) an instrument specified in the caveat as an instrument to which the caveat does not apply;
 - (b) an instrument to the registration of which the caveator consents;
 - (c) an instrument executed by a mortgagee, if the mortgage was registered before the caveat was lodged;
 - (d) an interest that, if registered, would not affect the interest claimed by the caveator;
 - (e) an instrument that was lodged for registration before the caveat was lodged;
 - (f) an instrument that is withdrawn from registration.
- (4) For the purposes of paragraph (3), "mortgagee" includes a submortgagee.
- (5) Where the Registrar registers an instrument that does not completely dispose of the interest of the registered owner to which the caveat relates, the caveat remains in force as to the balance of that interest.
- (6) Subject to Article 125, the lodging of a caveat does not prevent the lodging of another caveat.

Chapter 3 — Withdrawal, lapsing and removal of caveats

121. Withdrawal of caveat

- (1) A caveat may be withdrawn by lodging a request to withdraw it.
- (2) The withdrawal takes effect at the time it is lodged.
- (3) The request may be lodged by:
 - (a) the caveator;
 - (b) where the caveator has died, the caveator's personal representative;
 - (c) where the caveators are joint tenants, by the surviving joint tenant or joint tenants;

(d) by any person authorised at law to act on the caveator's behalf.

122. Lapsing of caveat

(1) This Article applies to a caveat unless:

~~(a) it is lodged by the registered freehold owner;~~

~~(b) the consent of the registered freehold owner is deposited when the caveat is lodged;~~

~~(c)~~(a) it is lodged by the Registrar under Article 150; or

~~(d)~~ (b) it is lodged other than under this Part.

(2) A caveatee may serve on the caveator a notice requiring the caveator to start proceedings in the Court to establish the interest claimed under the caveat.

(3) The caveatee ~~must~~shall notify the Registrar of the service on the caveator, within 14 days of the service of the notice.

(4) If the caveatee has complied with paragraph (3), the caveat lapses 30 days after notice is served on the caveator.

(5) Despite paragraph (4), the caveat does not lapse:

(a) if the caveator has started appropriate proceedings and the Registrar has been notified of the proceedings; or

(b) if the caveator notifies the Registrar within 30 days of being served with the notice under paragraph (3) that the caveator does not want the caveat to lapse and that the caveator has started, or will start, proceedings to establish the interest claimed under the caveat.

(6) If a caveator has notified the Registrar under paragraph (5)(b) that the caveator will start proceedings, the caveat lapses 3 months after the notice under paragraph (2) was served on the caveator unless, within that time, the caveator provides the Registrar with evidence that the proceedings have been started.

(7) The Registrar may record in the folio of the Register that a caveat has lapsed.

123. Removal of caveat by Court order

- (1) A caveatee may at any time apply to the Court for an order that a caveat be removed.
- (2) The Court may make the order:
 - (a) regardless of whether the caveator has been served with the application; and
 - (b) on the terms it considers appropriate.

124. Cancellation of caveat by Registrar

- (1) The Registrar may cancel a caveat if a request to cancel the caveat is lodged and the Registrar is satisfied that:
 - (a) the interest claimed by the caveator has ceased or the caveator's claim to it has been abandoned, settled or withdrawn; or
 - (b) the nature of the interest claimed does not entitle the caveator to prevent registration of an instrument that has been lodged.
- (2) The Registrar ~~must~~shall notify the caveator of the Registrar's intention to cancel the caveat, at least 7 days before cancelling it.
- (3) Regardless of whether a request to cancel the caveat has been lodged, if an instrument that has been lodged will on being registered give full effect to an interest claimed in a caveat, the Registrar may cancel the caveat and register the instrument.

125. Further caveat

If a caveat lapses or is withdrawn, removed or cancelled, the caveator may not lodge another caveat for the real property on the same, or substantially the same, grounds except with leave of the Court.

126. Order for security

In proceedings in relation to a caveat, the Court may order the caveator to give undertakings, or lodge security, or both.

Chapter 4 — Improper caveats

127. Compensation for improper caveat

- (1) A caveator who lodges or continues a caveat without reasonable cause ~~must~~shall compensate anyone who suffers loss as a result.
- (2) In proceedings for compensation under paragraph (1):
 - (a) the caveator bears the onus of proving that the caveat was lodged or continued with reasonable cause; and
 - (b) the Court may include in any compensation a component for exemplary damages.

Chapter 5 — General

128. Notices to caveator

- (1) A notice to a caveator under this Part is sufficiently served if left at or sent to the address mentioned in Article 117(2)(g).
- (2) If the Registrar considers that a notice will not reach the caveator if served in the way mentioned in paragraph (1), the notice may be served in any other way the Registrar considers appropriate.

129. Right to injunction not affected

Nothing in this Part prevents a person from seeking an injunction to protect an interest in real property.

PART 18 — INSTRUMENTS

Chapter 1 — Manner of execution of, and reliance on, instruments

130. Execution of certain instruments

- (1) Subject to this Law, an instrument to transfer or create an interest in real property ~~must~~shall be executed by:
 - (a) the transferor or the person creating the interest; and
 - (b) the transferee or the person in whose favour the interest is to be created.
- (2) A total or partial discharge of a mortgage need only be executed by the mortgagee.

131. Indicating consent when required for dealing

If the consent of a person is necessary for any dealing with real property, the consent ~~must~~shall be:

- (a) written or contained on, or form part of, the relevant instrument; or
- (b) if the Registrar considers it appropriate, lodged with the relevant instrument.

132. Execution of instruments by corporations and natural persons

- (1) For a corporation, an instrument relating to real property governed by this Law is validly executed if it is executed in a way permitted by law.
- (2) Without limiting paragraph (1), if an instrument relating to real property governed by this Law is executed before the DIFC Registrar of Companies, a person is entitled to assume that it is validly executed.
- (3) For a natural person, an instrument relating to real property governed by this Law is validly executed if:
 - (a) it is signed by the person; and

- (b) the signature is witnessed in a manner approved by the Registrar, either for that instrument, or for instruments of that class, or for instruments generally.

133. Execution of instrument under power of attorney

- (1) An instrument relating to real property governed by this Law may be executed by a person's attorney duly authorised under a power of attorney, if the requirements of paragraph (2) are met.
- (2) The requirements are that:
 - (a) the power of attorney ~~must~~shall be in writing;
 - (b) the power of attorney ~~must~~shall be executed by the appointor in accordance with the provisions of Article 132; and
 - (c) the power of attorney, or a certified copy of it, ~~must~~shall be lodged with the Registrar.

134. Registrar's discretion to reject instrument on certain grounds

Before registering an instrument, the Registrar may require the person who lodged the instrument to provide information to satisfy the Registrar that:

- (a) the instrument was made in good faith;
- (b) the matters set out in the instrument are correct;
- (c) the person acquiring an interest under the instrument accepts ownership of that interest and is not under any legal disability; and
- (d) the person divesting ownership under the instrument is entitled to divest the interest and is not under any legal disability.

Chapter 2 – Suitability of instruments for registration

135. When instrument capable of registration

- (1) An instrument is able to be registered only if it:

- (a) complies with this Law;
 - (b) is in the approved form;
 - (c) appears on its face to be capable of being registered; and
 - (d) is accompanied by any form of application or other document, and payment of any applicable fee, that may be required by the Registrar or by this or any other law.
- (2) Despite paragraph (1)(b), the Registrar may register or record an instrument that is not in the approved form if:
- (a) there is no approved form; or
 - (b) the Registrar is satisfied that it is not reasonable to require the instrument to be in the approved form.

136. Address for service to be provided

- (1) An instrument lodged for registration mustshall specify an address in the UAE for the service of notices on any person taking under the instrument.
- (2) A person referred to in paragraph (1) mustshall ensure that the Registrar is notified of any change in the address for service.
- (3) The Registrar mustshall record in the Register:
 - (a) the address for service provided under paragraph (1); and
 - (b) any change of address provided under paragraph (2).

Chapter 3 — The process of registering instruments

137. Lodgement etc of instruments by electronic or other means

The Registrar may:

- (a) permit instruments to be executed;
- (b) permit instruments or documents to be lodged or deposited; and

- (c) correct instruments that have been lodged or deposited,
by any means, including electronic means.

138. Registrar's power to correct obvious errors in instruments

- (1) Where the Registrar considers that an instrument lodged for registration contains an obvious error, the Registrar may correct the error by noting the correction on the instrument.
- (2) The Registrar:
 - (a) may not act under paragraph (1) unless satisfied that the correction will not prejudice the rights of a person; and
 - (b) ~~must~~shall, as soon as practicable after making the correction, notify the person who lodged the instrument that the correction has been made.
- (3) An instrument corrected by the Registrar under this Article has the same effect as if the error had not been made.

139. Registrar's requisitions

- (1) Before registering or recording an instrument, the Registrar may serve on the person who lodged it a notice requiring:
 - (a) the instrument to be re-executed, completed or corrected, if the Registrar considers it to be defective, incomplete or incorrect; or
 - (b) the person to supply information or produce documents the Registrar considers necessary or appropriate in order to register or record the instrument.
- (2) The Registrar may require any information supplied or document produced under paragraph (1)(b) be verified by statutory declaration or other form of sworn statement.

140. Rejecting instrument if requisitions not complied with

- (1) If within 30 days of service of the notice under Article 139, or any extended period the Registrar considers appropriate, the person does not comply with the notice, the Registrar may reject the instrument and any instrument that depends on it for registration.
- (2) An instrument rejected under paragraph (1) loses its priority under Article 21.
- (3) Where the Registrar rejects an instrument under paragraph (1), the Registrar **mustshall** return it to the person who lodged it, and may endorse a note on the instrument that it has been rejected.
- (4) This Article does not prevent a rejected instrument being relogged after the notice has been complied with.

141. Requiring plan of survey to be lodged

- (1) If the Registrar considers that it is necessary or appropriate, the Registrar may require a person who lodges an instrument for registration or recording to lodge a plan, map or diagram of the lot or part of the real property to be affected by the instrument.
- (2) The plan, map or diagram **mustshall** comply with the Registrar's directives as to dimensions, scale and contents.

142. Protection of persons under disability

- (1) Where it appears to the Registrar that a registered freehold owner is a minor or under some other legal disability, the Registrar **mustshall** record the disability in the folio of the Register.
- (2) Where a disability is recorded under paragraph (1), the Registrar **mustshall** not register an instrument executed by that owner, unless:
 - (a) the Court has authorised the execution of the instrument; or
 - (b) the Registrar considers that execution of the instrument is within the registered freehold owner's legal capacity.

Chapter 4 — Standard terms incorporated into instruments

143. Standard terms documents

- (1) The Registrar or another person may lodge a standard terms document and may amend the document by lodging a further standard terms document.
- (2) The Registrar ~~must~~shall give each standard terms document a distinguishing reference.
- (3) All or part of a standard terms document lodged under paragraph (1) forms part of a registered instrument if the instrument says that it forms part of the instrument.
- (4) In this Article, "standard terms document" means a document containing provisions that are intended to be incorporated into a registered instrument.

144. Prescribed standard terms

Where the Authority has made Regulations under Article 173 prescribing standard terms and conditions for instruments, the terms and conditions are taken to be incorporated into instruments executed after the date the Regulations come into operation, unless varied or negated by express provision in the instrument.

Chapter 5 — Covenants in registered instruments

145. Covenants in registered instruments: successors in title implied

In instruments relating to real property governed by this Law, unless a contrary intention is expressed, covenants:

- (a) are deemed to be made by the covenantor and the covenantor's successors in title with the covenantee and the covenantee's successors in title; and
- (b) have effect as if those successors were expressly referred to.

PART 19 — SUBDIVISIONS

146. Subdivision approval before dealing with part of lot

Subject to Article 147, the Registrar ~~must~~shall not register an instrument affecting part only of a lot unless the Registrar is satisfied that in relation to the part:

- (a) the relevant authority has certified that its requirements relating to subdivision have been met; and
- (b) the boundaries and dimensions of the part accord with the boundaries and dimensions shown in a plan for that part lodged with and approved by the Registrar.

147. Subdivision of buildings

(1) Subject to paragraph (4), where the relevant authority has approved building plans which provide for the division of a building into 2 or more units adapted for separate occupation or use, the Registrar may, instead of creating a folio of the Register for the real property on which the building is erected or proposed to be erected, create folios of the Register for each unit in the building as if it were a separate lot, but only if the requirements of paragraph (2) are satisfied.

(2) The requirements referred to in paragraph (1) are that:

- (a) the Authority has assented through a notification authorising the subdivision of the building or the class of buildings to which it belongs;
- (b) under DIFC law, the approval by the relevant authority of a subdivision plan is not required for the building or class of buildings; and
- (c) the approved building plans:

- (i) bear a certificate by the Registrar that the boundaries of all the units delineated on the approved building plans have been endorsed by the owner of the development as correct and in accordance with what the owner has sold or agreed to sell; and
 - (ii) contain all other certifications and information required by the Registrar.
- (3) Where the Registrar acts under paragraph (1) and creates a folio of the Register for each unit, the Registrar ~~must~~shall:
 - (a) create a folio of the Register for any one or more common areas created under any building sales agreement, co-owners association constitution, master community declaration, or similar document;
 - (b) register as the freehold owner of those common areas the person or persons the Registrar considers to be the freehold owner of those areas; and
 - (c) record in the folio for that unit that:
 - (i) ownership of the unit may be subject to the benefits and burdens created under any building sales agreement, co-owners association constitution, master community declaration, or similar document applying to the unit;
 - (ii) ownership of the unit may include a proportionate interest in any common property associated with the development of which the building forms part; and
 - (iii) an official survey of the unit may not have been carried out.
- (4) Despite paragraph (1), if the Registrar considers that, in the interests of uniformity of title-holding in the DIFC, the building should be dealt with under the Strata Title Law (DIFC Law No. 5 of 2007), the Registrar may require that the building be subdivided in accordance with the requirements of that law and be dealt with under that law.

- (5) If the Registrar acts under paragraph (4), then if and when the requirements of the Strata Title Law are complied with, the Registrar ~~must~~shall cancel any folio or folios of the Register for the real property on which the building is erected or proposed to be erected, and create folios of the Register for the lots and common property in accordance with the provisions of the Strata Title Law.

DRAFT

PART 20 — POWERS OF AND PROCEEDINGS AGAINST REGISTRAR

Chapter 1 — Powers

148. General powers of the Registrar

The Registrar has the power to do whatever the Registrar considers necessary to carry out his or her functions under this Law.

149. Registrar may correct Register

- (1) The Registrar may correct the Register if satisfied that:
 - (a) the Register is incorrect; and
 - (b) the correction will not prejudice the rights of a registered owner.
- (2) The Register as corrected by the Registrar has the same effect as if the error had not been made.
- (3) For the purposes of paragraph (1)(b), the rights of a registered owner are not prejudiced if the registered owner acquired or has dealt with a registered interest with actual or constructive knowledge that the Register was incorrect.
- (4) Before taking action under this Article, the Registrar may give notice of the proposed action to any person the Registrar considers should be notified of it. However, no action lies against the Registrar for failure to give notice.

150. Registrar may prepare and lodge caveat

- (1) The Registrar may prepare and lodge a caveat over a lot:
 - (a) to prevent a dealing that, in the Registrar's opinion, may prejudice a person who has an interest in the lot; or
 - (b) to give effect to a Court order directed to the Registrar; or
 - (c) whenever the Registrar considers it appropriate to do so to protect the integrity of the Register.

- (2) The caveat may be in the form the Registrar considers appropriate.

151. Registrar may state a case

- (1) Whenever a question arises concerning the performance of Registrar's duties or the exercise of the Registrar's functions, the Registrar may state a case for the opinion of the Court.
- (2) The Court's decision binds the Registrar and any other parties to the case.
- (3) If the Court considers that the question is of public importance, the Court may order that the costs of the proceedings, or of some of the persons appearing in the proceedings, be paid out of the assurance fund.

152. Registrar may demand fees

- (1) The Registrar may demand and receive fees and charges.
- (2) The Registrar ~~must~~shall pay the fees and charges into the funds of the Authority.

153. Registrar may approve forms

The Registrar may approve forms for use under this Law.

Chapter 2 — Proceedings against Registrar

154. Registrar may be summoned for refusal to perform duty

- (1) A person who considers that the Registrar has refused to perform a duty under this Law may require the Registrar to state in writing the grounds of the refusal.
- (2) The Registrar ~~must~~shall state the grounds within 30 days of receiving the request.
- (3) On receiving the grounds, or if no grounds are received within the 30 days, the person may commence proceedings against the Registrar to substantiate those grounds or the refusal.

- (4) The Court may make the order it considers appropriate, and may give any directions it considers necessary for performance of the order.
- (5) The Court may make the order as to costs and expenses it thinks appropriate. Any costs or expenses payable by the Registrar are to be paid out of the assurance fund.

155. Protection from liability

The Registrar, or any person acting under the Registrar's authority, is not liable for anything done in good faith in the exercise or purported exercise of a power under this Law.

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PART 21 — COMPENSATION FOR LOSS

156. The assurance fund

- (1) This Article establishes the assurance fund.
- (2) The Authority ~~must~~shall pay into the assurance fund a proportion of the fees collected by the Registrar under this Law.
- (3) The Authority may make Regulations under Article 173 prescribing the proportion of the fees to be paid into the assurance fund.
- (4) If the amount to the credit of the assurance fund is inadequate to meet a claim, the deficiency is payable by the Authority.

157. Compensation from assurance fund

- (1) A person who is deprived of, or suffers loss or damage in relation to, real property because of the circumstances in paragraph (2), may make a claim against the assurance fund.
- (2) The circumstances are:
 - ~~(a) the fraud of another person;~~
 - ~~(b) (a) an error in the Register;~~
 - ~~(c) (b) tampering with the Register;~~
 - ~~(d) (c) loss, destruction or improper use of a document lodged or deposited with the Registrar or held by the Registrar;~~
 - ~~(e) (d) an omission, mistake, breach of duty, negligence or misfeasance of or by the Registrar or a member of the Registrar's staff; or~~
 - ~~(f) (e) the Registrar's exercise of a power in relation to an application or dealing with which the person had no connection.~~

- (3) Despite paragraphs (1) and (2), a claim against the assurance fund may not be made by a person who is able to recoup their loss or damage by an action for the recovery of:
- (a) real property;
 - (b) the proceeds of sale of real property;
 - (c) moneys secured by a registered mortgage;
 - (d) interests protected by a caveat recorded in the folio of the Register.

158. Time limit on claims against assurance fund

- ~~(1) Where a claim or a series of related claims against the assurance fund does not exceed in the aggregate \$5,000 or other prescribed amount, the Registrar may authorise payment from the fund, if satisfied that the claim is justified.~~
- ~~(2) The Registrar may not authorise the payment from the fund of a claim or a series of related claims exceeding in the aggregate \$5,000 or other prescribed amount, except on written authority of the President or by Court order.~~

Any claims pursuant to the terms of Article 157 shall be made before the expiry of the earlier of:

- (a) two years of the date of the cause; or
- (b) six months from the date of the claimant becoming aware of the cause of the claim.

159. Court order about deprivation, loss or damage

- (1) A person may apply to the Court for an order:
- (a) determining whether compensation is payable from the assurance fund under Article 157, and the amount of the compensation; or
 - (b) directing the Registrar to take action in relation to the deprivation, loss or damage.
- (2) The Court may make the order it considers appropriate.

(3) In considering the amount of compensation to be paid from the assurance fund, the Court ~~must~~shall take into account any contributory neglect, default or lack of caution by or on behalf of the claimant. Compensation shall be calculated on the basis of the lesser of:

- (a) actual direct loss; and
- (b) the current value of the property.

Any compensation payable shall not take into account any consequential or indirect loss.

(4) Without limiting paragraph (2), the Court may direct the Registrar to:

- (a) cancel or correct a folio of the Register or other information in the Register;
- (b) create a new folio of the Register; or
- (c) do anything else.

160. Matters for which there is no compensation

A person is not entitled to compensation from the assurance fund for deprivation, loss or damage occasioned by:

- (a) a breach of a trust or fiduciary duty (whether express, implied or constructive), including a breach of duty arising in the administration of the estate of a deceased person;
- (b) any incorrect description of boundaries;
- (c) any incorrect description of parcels or the dimensions of any lot, ~~where no survey has been carried out;~~
- (d) the Registrar's act in lodging a caveat under Article 150.

161. Subrogation

(1) When compensation is paid from the assurance fund, the Registrar, acting on behalf of the Authority, is subrogated to the claimant's rights against the person responsible for the deprivation, loss or damage.

- (2) Without limiting paragraph (1), the Registrar has rights of subrogation against persons (including legal practitioners, conveyancing agents and surveyors) who in the course of their professional duties have prepared documents for registration that have, in whole or in part, led to the loss, deprivation or damage.
- (3) If the Registrar exercises the right of subrogation under this Article, the Registrar ~~must~~shall pay any moneys recovered into the assurance fund.

162. Time limit for claims against assurance fund

- (1) No action lies against the assurance fund unless it is commenced within 12 years from the date of the deprivation, loss or damage.
- (2) However, the President may waive the 12-year limitation period.

PART 22 — SEARCHES

163. Entitlement to search Register

- (1) During normal business hours, the Registrar ~~must~~shall provide adequate access:
 - (a) to the Register; and
 - (b) to registered instruments or copies of them.
- (2) Access may be provided by way of certificate, statement, computer print-out or any other means the Registrar considers appropriate.
- (3) The Registrar shall provide access to the Register by way of an official search certificate Register where the request is in writing and accompanied by the prescribed fee.

164. Evidentiary effect of documents issued by Registrar

- (1) A document issued by the Registrar conveying information relating to real property is to be taken to be correct, unless the contrary is shown.
- (2) A document issued by the Registrar purporting to be a certified copy of a registered instrument is to be taken to be an accurate copy, unless the contrary is shown.

165. Official searches

- (1) A person may apply, on payment of the prescribed fee, for an official search to be made in the Register.
- (2) The Registrar ~~must~~shall make the search and issue the applicant with a certificate of the result.
- (3) A person for whom an official search is obtained, and who suffers loss or damage by reason of any error in it, may recover compensation from the assurance fund.

- (4) A legal practitioner acting for a person for whom an official search is obtained is not liable for any loss or damage that may arise from reliance on it.

166. Final official searches

- (1) A person who is in the course of acquiring an interest in real property may apply to the Registrar, on payment of the prescribed fee, for a final official search of the folio of the Register for the lot or lots concerned.
- (2) If satisfied that the applicant is in the course of acquiring an interest in the real property, the Registrar may issue the search to the applicant and record the date and hour on which it was issued.
- (3) The Registrar ~~must~~shall not register or record any instrument lodged in relation to the lot (other than an instrument lodged by, or on behalf of, the applicant) until 21 days after that date and hour, or until the registration of an instrument in favour of the applicant, whichever is the earlier.
- (4) On the expiration of that period of 21 days, or on registration of the instrument in favour of the applicant (whichever is the earlier), instruments affecting the lot are to be registered in the order directed by Article 21.
- (5) A person who has obtained a final official search is not entitled to obtain any further final official search for the same lot until the expiration of 21 days after the date and hour on which the earlier search was issued.

PART 23 — MISCELLANEOUS

167. Words and expressions used in instruments under Law

- (1) Words and expressions used in instruments registered under this Law have the same meanings as they have in this Law.
- (2) The application of paragraph (1) to an instrument may be displaced, wholly or partly, by a contrary intention appearing in the instrument.

168. Reference to instrument is reference to instrument completed in approved form

In this Law, a reference to a particular type of instrument for which there is an approved form is a reference to the instrument completed in the approved form.

169. Service of notices

- (1) A notice or document may be served on, or given to, a person by delivering it to:
 - (a) the person's address for service;
 - (b) in the case of an individual, the person's place of residence; or
 - (c) in the case of a corporation, the corporation's registered office or principal place of business.
- (2) A person's address shown in any instrument by which the person became the registered owner, or the address for service stated in any caveat lodged by the person, may be treated as the person's address for service.
- (3) A notice or document may also be served on, or given to, a person by means of fax transmission, and is to be treated as served or given on receipt of a confirmation by electronic or other means that it has been received.
- (4) This Article does not limit the way in which notices may be served in court proceedings.

170. Deemed receipt in certain cases

- (1) Where a notice or document is served or given in accordance with Article 169, on a day that is not a business day, or after 5pm on any day, then it is to be treated as being served or given on the next business day.
- (2) This Article does not apply to notices to be served in court proceedings.

171. Registrar's directives

- (1) The Registrar may issue directives, not inconsistent with this Law, relating to the requirements to be followed in relation to this Law.
- (2) In issuing the directives, the Registrar ~~must~~shall have regard to:
 - (a) the purpose of this Law; and
 - (b) the principle that a registered interest is not to be adversely affected except with the registered owner's consent.
- (3) Without limiting paragraph (1), the Registrar's directives may provide for:
 - (a) the form and content of and the requirements for instruments, documents and plans;
 - (b) the number of copies of instruments, documents and plans to be lodged;
 - (c) the need for lodging consents, certificates and other documents;
 - (d) the execution of instruments (including in electronic form);
 - (e) the practice of carrying forward registered interests onto new folios of the Register;
 - (f) the time and method of paying fees and charges; and
 - (g) the circumstances in which, and the methods by which, the Registrar publishes, or requires others to publish, notifications of actions the Registrar intends to take.
- (4) The Registrar's directives ~~must~~shall be complied with unless the Registrar dispenses with compliance.

172. Offences against this Law

A person who commits an offence against this Law is liable to any penalty specified under Regulations made under Article 173.

173. DIFC Authority may make Regulations

- (1) The Authority may make Regulations, not inconsistent with this Law, prescribing matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Law.
- (2) Without limiting the generality of paragraph (1), the Authority may make Regulations:
 - (a) prescribing standard terms and conditions for instruments;
 - (b) prescribing fees to be charged by the Registrar;
 - (c) prescribing that a contravention of, or a failure to comply with, this law or a Regulation is an offence; and
 - (d) regulating the Registrar's practice in relation to matters arising under this Law.
- (3) The Authority may also make Regulations providing for:
 - (a) the surrender to the Authority of real property or interests in real property in return for the grant of other real property or interests in real property, but not so as to prejudice the interests of registered owners;
 - (b) the bringing under this Law of real property that was not within the jurisdiction of the DIFC at the time that this Law came into force;
 - (c) a duty to notify and to pay fees in respect of transactions with shares in companies or units in unit trusts, regardless of the location of the company or trust, where the company or trust holds real property or rights to real property within the jurisdiction of the DIFC.
- (4) If there is an inconsistency between Regulations made by the Authority and directives issued by the Registrar, the Regulations prevail.

SCHEDULE

1. Rules of Interpretation

- (1) In this Law, unless the context requires otherwise, a reference to:
 - (a) a statutory provision includes a reference to the statutory provision as amended or re-enacted from time to time;
 - (b) a person includes any natural person, body corporate or body unincorporate, including a company, partnership, unincorporated association, government or state;
 - (c) an obligation to publish or cause to be published a particular document includes, unless expressly provided otherwise in this Law, publishing or causing to be published in printed or electronic form;
 - (d) a day means a calendar day;
 - (e) a business day means a normal working day in the DIFC;
 - (f) a calendar year means a year of the Gregorian calendar;
 - (g) the masculine gender includes the feminine;
 - (h) \$ is a reference to United States Dollars;
 - (i) the singular includes the plural and vice versa.
- (2) Headings in this Law do not affect its interpretation.
- (3) In this Law, a reference to registering or recording an instrument or information in the folio of the Register is a reference to registering or recording it in (or in the case of a folio kept in paper form, on) the folio of the Register for the lot or lots concerned.

2. Defined terms

In this Law, unless the context indicates otherwise:

Term	Definition
approved form	means a form approved by the Registrar;
assurance fund	means the fund constituted under Article 156;
Authority	means the Dubai International Financial Centre Authority, established under Dubai Law No 9 of 2004;
bankruptcy	includes a proceeding under a bankruptcy law, an insolvency law, or a law relating to the liquidation of corporations;
caveatee	means the registered freehold owner of real property described in a caveat, or the registered owner of a registered interest in real property described in a caveat, as the case may require;
caveator	means the person by whom or on whose behalf a caveat is lodged;
Centre	means the DIFC;
correct	used as a verb, includes correct by addition, omission or substitution;
Court	means the DIFC Court;
deposit	means file with the Registrar other than for registration or recording;
DIFC	means the Dubai International Financial

	Centre;
document	means paper or other material (including electronic material) containing writing, words, figures, drawings or symbols;
Dubai Property Law	means Dubai Law No 7 of 2006;
Dubai real property laws	means any Dubai laws relating to real property, including Dubai Law No 7 of 2006;
error	includes an error by omission;
fee	includes tax;
folio of the Register	means a folio of the Register created under this Law;
fraud	means a consciously dishonest act, and not mere constructive or equitable fraud;
instrument	includes: (a) a document that relates to or may be used to deal with a lot; (b) a map, survey or diagram; (c) an order of court;
interest	in relation to real property, means any interest in the real property, and any permanent structure or improvement (known in English law as a "fixture") on the real property;
law	includes legislation and subsidiary or delegated legislation;
lease	includes a sublease;
lot	means a separate, distinct parcel of real property for which a Centre survey lot

	number has been allotted;
minor	means a person under the age of 18;
mortgage	includes a charge on a lot or an interest in a lot for securing a debt or any other obligation;
prescribed	means prescribed under the Regulations made by the Authority under Article 173;
President	means the President of the DIFC appointed under Law No 9 of 2004, and includes any delegate of the President authorised to act in the President's name or place;
primary application	means an application made under Article 38 or Article 39;
purchaser	means a person who acquires an interest in real property, and includes a mortgagee and lessee; and purchase has a corresponding meaning;
real property	see Article 11;
real property governed by this Law	means the real property referred to in Article 8;
receiver	includes a receiver appointed under the Insolvency Law (DIFC Law No. 7 of 2004), including an administrative receiver;
Recognised Jurisdiction	a Recognised Jurisdiction for the purposes of Article 19 (1) (a) is one where a state or territory has effective anti-money laundering and anti-terrorism legislation in place which conform to the Financial Action Task Force directives;
register	in relation to a lot, interest, instrument or other thing, means record the particulars of

	the thing in the Register;
Register	means the Register established under Article 14;
registered real property	means real property for which a folio of the Register has been created;
registered owner	in relation to a lot, means a person recorded in the Register as owner of an interest in the lot, whether that interest is freehold or other than freehold;
Registrar	means the Registrar appointed under Article 12;
relevant authority	means the authority within the DIFC charged with the duty of implementing the policies and laws of the DIFC whose subject matter falls within its authority;
renew	in relation to a lease, includes extend;
rent	includes any amount due under a lease, whether or not described in the lease as rent;
transmission	means the passing of title to real property in any manner other than by transfer;
UAE	means the United Arab Emirates;
writ of execution	means a writ or warrant of execution after judgment in a court.