



# LANDTRANSACTION AND REGISTRATION PROCESS IN THE NETHERLANDS

## 1. History

In the beginning of the 19th century, during the annexation by France, a system for the recording of deeds of conveyance in public registers was introduced. Also a Cadastre and land registry was introduced for the levies of property tax. After the departure of the French, this job was completed according to French regulations. This explains the resemblance with the French deed system. Deeds of conveyance are recorded in the public registers under unique document identification. The registrar does not guarantee a title. In the Netherlands the judge decides whether or by whom rights are acquired. His decision is based on the entries in the public registers, the validity of the contract and the competency towards delivery. Because the registers are public, everyone can assess for themselves through consultation who has what right. According to the original setup, the entire chain of recorded deeds had to be examined to enable this. If a defect was linked to the previous or the acquisition before the previous acquisition, the last deed could not grant the right of ownership. At the moment only the last deed is investigated to trace the name of the last owner. A third in good faith may trust on the validity of the last agreement (section 3:25 civil code). The competency towards delivery is guaranteed by the responsible notary public. The land registry original only included the names of assumed entitled persons who had to pay the tax. This inclusion as tax payer did not grant any right. In order to simplify the update of the land registry, it was determined that recorded deeds in public registers had to contain the parcelnumber that was used in the land registry. Also, it was decided that the same official must be responsible for both the land registry and the public registers. This official was named "hypotheekbewaarder or in English "mortgage keeper", a literal translation of the French "conservateur des hypothèques". This responsibility of one official illustrates the integration of land registry and public registers. This integration was expanded through the years. Mentioning the entitled person in the cadastral registration thereby acquired a meaning which goes further than just that of tax payer. That is why the Dutch land registry in fact displays some similarities with a registration of titles. This development is explained below.

## 2. Different types of rights

Dutch Law differentiates between personal rights which are only valid against the counter party in a contract and absolute rights, which is generally enforceable. The absolutely rights, in Roman right the so-called "actiones in rem" is hereafter called "rights " in rem". The number of these "in rem rights" is limited. Ownership or freehold is an "in rem right" but also some encumbrances are in rem rights. The encumbrances can be divided in independent and accessory rights. Independent "in rem rights" are usufruct, leasehold, and ownership of a building. Accessory rights are mortgage and easements. Mortgage right is accessory in the claim on a specific person. If the claim is paid off or if the duration of the loan is updated, the mortgage right expires and a new mortgage right must be established. Easements are accessory in the ownership of a specific piece of land. Also we have a Dutch type of



commonhold that is called apartment ownership. This right provides co-ownership of a building and the right to use a specific part of the building.

### **3. The system for Conveyancing**

Conveyancing of “in rem rights” takes place through the recording in the public registers of a copy or extract of a deed of conveyance (section 3:89 civil code). Since 1948, this must be a notarial deed. Prior to this, seller and buyer sign a purchase contract, that results in a personal right and a personal obligation towards the conveyancing. It is not as in France and Belgium that the buyer towards the seller can become the new owner. For that purpose the deed of conveyance has to be recorded in the public registers. Also then it is not certain whether the transfer of right is realised. Recording of the deed is namely only one of the conditions for acquisition of that right. Other conditions are a valid purchase contract and the competency to deliver.

#### **3.1. Valid agreement**

If an obligatory agreement was established under influence of deceit, coercion or error, it is not considered just that rights would be acquired based on this. Under Dutch Law it is therefore determined that the Judge can annul such an agreement. The consequence is that despite the recording of the deed of conveyance in the public registers, it can be decided afterwards that no right was acquired. However, this would be unfair if the ownership has since passed on to a third party. Therefore, in 1992 it was determined in the civil code that if the property has since passed on to a third party in good faith, the transfer could not be annulled based on an invalid obligatory agreement (section 3:88 civil code).

#### **3.2. Competency towards delivery**

Characteristic of a deed system is that the registrar leaves the evaluation regarding the judicial consequences of a recorded deed up to the assessors of the registers. In the Netherlands this is done by the notaries, who perform a prior investigation whether a prospective seller is entitled to the right to be transferred. In a real deeds system they would have had to examine the chain of recorded deeds. In Dutch practice, this however does not happen. Notaries only examine whether the intended seller was the acquisition party in the last deed. Other than this, they trust that their colleague has established the same in previous acquisitions etc. Should this however appear not to be the case, and the seller is incompetent because a previous seller was incompetent, the Professional Indemnity Insurance of notaries will refund the damage. In practice, this has never happened before. This is because the Dutch registrar does not act as passive as would theoretically be expected from the deed system. If the registrar receives a deed in which a seller transfers a right on a piece of property which he did not receive in a previous deed, the registrar may warn the acquiring party (section 3:19, subsection 4, civil code). The registrar may also lodge a complaint with the Chamber of Supervision of Notaries. Before commencing with these steps, the registrar discusses this with the involved notary. In practice, the notary will then withdraw his deed. Thus in fact the Dutch system for recording deeds in public registers



displays some similarities with that of a registration of titles in which the registrar rejects an application when the supposed transferor has no right to do so.

### **3.3. Recording of the purchase contract**

Since 2004, the obligatory purchase contract can also be recorded in the public registers. This registration does not result in the transfer of property, but for 6 months it blocks the possibility that the transfer is made to another than the purchaser. An encumbrance established by the seller does not work against the purchaser for 6 months. If transfer does not take place within 6 months, the protection of the purchaser is cancelled. Thereafter, for 3 years the seller cannot realise new protection by registration of a purchase.

### **4. Integration of land registry and public registers**

Since its implementation in 1832, the land registry has been integrated further and further with the public registers. The registrar initially used separate reference registers to retrieve recordings in public registers. Because the parcel number of the land registry also could serve as such a reference it was later decided to abolish the reference registers and to use the land registry as reference to the public registers. In 1992 the integration was followed in the official name of the registrar. According to the new Cadastre Act the name "mortgagekeeper" was replaced by keeper of land registry and public registers. Another example of the integration is the procedure for renewal of data in the cadastral registration. If the registrar suspects that the cadastral entitled person is another than the legal entitled person, he can make a proposal for renewal of the cadastral data. When the procedure, after objections and appeals has been completed, the findings of the registrar are documented in a notarial deed, which is recorded in the public registers. Thereafter, the cadastral registration is changed and after 10 years without objections the cadastral entitled person is legal entitled.

After each change of independent property rights in the land registry, interested parties receive a notice. They can make an objection and, if the registrar does not grant the objection, file an appeal with the court and thereafter file a cassation appeal with the Supreme Court. As a result of the foregoing, the cadastral registration has become so complete and reliable that it has acquired a large social significance. Municipalities and district water boards use data from the cadastral registration not only for the levy of taxes but also for expropriation and for imposing obligations to clean up polluted soil, for granting permits, etc. The land registry also is the decisive basic registration for all other public authorities. Since third parties may trust the correctness of the public registers, taken together with the fact that a correspondence between public registers and land registry often is almost certain, we study on an amendment to the civil code. This concerns a mention in the land registry that will allow third party purchasers to trust on the land registry. In case of such a mention the land registry will show many agreements with the absolute freehold from title systems in other countries.

### **5. Cadastral and legal boundaries**

The boundaries of cadastral parcels are intended to coincide with the boundaries of objects of rights



(hereafter called legal boundaries). Cadastral boundaries are established on the basis of co-ordinates, which are measured with respect to an x and y-axis. The x-axis runs horizontally, the y-axis vertically. The 0-point is located at the French town of Celle St. Cyr. New cadastral boundaries can be formed both before and after a transfer. When the parties choose to establish boundaries afterwards the deed contains a broad description. The legal boundary then is determined by the original intention of the parties when signing the deed, but afterwards it is difficult to give evidence of that. So in such cases in theory a system of general boundaries exists as we know in some other countries. Afterwards, when buyer and seller agree on a physical boundary, the surveyor of the Cadastre will make this physical boundary the new cadastral boundary. Because the original intention of the parties is decisive a possibility exists that the legal boundary differs from the physical and cadastral boundary. The most important reason for differences however is prescription. After undisturbed possession by a supposed owner and his legal predecessors for more than 20 years, the physical boundary becomes legal boundary. No recording of a deed or of a decision by the court is necessary. In practice the difference between legal and cadastral boundaries scarcely occurs in boundary disputes. The court basis itself on the assumption that cadastral boundaries are legal boundaries until evidence to the contrary is delivered.

## **6. The role of the Notary Public and the Registrar**

In The Netherlands, a deed of conveyance has to be a notarial one. The Notary Public will investigate whether the seller has obtained the right and is competent to make the transfer. He also checks on the identity of the concerned parties and whether limitations are applicable to the transfer. He handles the payment of the purchase price. Prior to the transfer, the purchaser and his mortgage bank will deposit the purchase price. After the Registrar has notified the Notary Public that he has received the deed, the Notary Public verifies whether liens and seizures are recorded at the last minute. If not, the Notary Public will handover the purchase price to the seller. The mandatory involvement of Notaries Public promotes electronic recording. Signatures of the parties are not required for the recording. The Association of Notaries Public itself ensures the reliability of the electronic signatures of notaries. This made it possible to electronically receive 40% of all deeds within half year of launching the electronic delivery system. Through the signature, the Notary Public accepts the responsibility for differences between the registered copy or extract and the original. Depending on the judicial fact to be certified and the type of real estate, the Notary Public also has to make a declaration stating that specific laws have been followed and that requisite permits have been granted.

The Registrar checks whether the required declarations and signatures have been submitted by the Notary Public; whether the document can be properly referred to, and whether the seller is registered in the land registry as the owner. If that is not the case, he will send a letter to the concerned parties, expressing his reservations about the legal consequences. The Land Registration Act lays down that the Registrar should be a lawyer (section 6 Cadastre act), and has an independent position. No appeal may be made to a higher official within the Land Registry against refusal of recording in the public registers and against the updating of the land registry. The court has the power to revoke the decisions of the Registrar. The board of directors of the Land Registry may give directives to the Registrar (section 7 Cadastre act). Since 2006 regional public registers and land registries are a part of national public



registers and a national land registry. Separate national public registers are still maintained for real estate, ships and aircraft. There are seven Registrars located at the head office of the land registry in Apeldoorn. Together, they are responsible for the national public registers and land registration. One of the Registrars is the Chief Registrar who distributes tasks and oversees the maintenance of uniformity.

In the Civil Code and Cadastre act, the (land)registers, in which the deeds are registered and made public, are named "public registers". Those registered deeds are used by the registrar to draw his own conclusions concerning the existence of titles. The (title)registration in which these conclusions are published is named basic registration cadastre. Because his responsibility concerns real estate as well as ships and planes he is the registrar on deeds and titles of real estate, ships and airplanes.

## Civil Code

Book 3:

Entries regarding registered property

Section 16.

1. Entries concerning the juridical status of registered property are made in public registers, kept for that purpose.
2. The law provides which public registers will be kept, the manner and place of making an entry, the kind and content of the documents to be filed with the registrar, the organization of the registers, the manner of registration and the consultation procedure.

Section 17.

1. In addition to facts which may be registered under other statutory provisions, the following facts may be entered in public registers:
  - a. juridical acts which modify the juridical status of registered property or which in any other way affect it;
  - b. successions involving registered property, including the succession by the State pursuant to section 879, paragraph 2, and the taking of possession pursuant to section 1175 of Book 4;
  - c. the fulfilment of a condition in a registered conditional juridical act, the arrival of an undetermined date, indicated in a term contained in a registered juridical act, and the death of a usufructuary of registered property;
  - d. regulations and other rules which have been established between joint title-holders in registered property;
  - e. judgments affecting the juridical status of registered property or the power to dispose of such property, provided that such judgments are provisionally enforceable, or provided that a declaration of the clerk of the court that there remains no ordinary means of appeal is presented, or that three months have expired since the date of the judgment and no ordinary means of appeal has come to his attention; and appeals lodged against the aforementioned judgments;



- f. the institution of actions and the submission of petitions to obtain a judicial decision concerning the juridical status of registered property;
  - g. executory and conservatory seizures of registered property;
  - h. name changes involving persons entitled to registered property;
  - i. prescription resulting in the acquisition of registered property or the extinction of a dismembered right which itself qualifies as registered property;
  - j. decisions of a public authority and judgments which annul, repeal or modify such a decision that has been registered pursuant to a specific statutory provision.
2. Leases<sup>1</sup> and other facts which create or extinguish merely personal rights cannot be registered in the absence of a specific statutory provision permitting it.

#### Section 18.

Where documents are filed by the registrar for entry in the registers, he issues a receipt to the person filing them, indicating the nature of the documents as well as the day, hour and minute of the filing.

#### Section 19.

1. An entry in the registers is made immediately upon filing, unless the registrar objects.
2. The entry is deemed to have taken place at the time of filing of the documents required for registration.
3. Upon the demand of the person filing, the registrar notes on the receipt the entry which has been made.
4. If the registrar suspects that the characteristics mentioned in the filed documents do not correspond to those which ought to appear for the registered property in question, or if he suspects that the juridical act to be registered has been performed by a person lacking the power of disposition or is incompatible with another juridical act, for the registration of which the necessary documents have been filed with him, he may bring this to the attention of the person filing the documents and to other interested parties.

#### Section 20.

1. Where the documents required for an entry are not filed, or where the filed documents do not conform to statutory requirements, or where another statutory requirement for registration has not been fulfilled, the registrar shall refuse to make the entry. He enters the filing of the documents in a register of provisional notations, along with a statement of his objections.
2. Where the refusal is not justifiable, the president of the district court, acting summarily, upon the demand of the interested party, orders the registrar to make the entry without prejudice to the jurisdiction of the ordinarily competent judge. The president may order that other interested parties, designated by him, be summoned. The order of the president is, of right, provisionally enforceable.
3. The registrar shall make the refused entry forthwith, upon the renewed request of the plaintiff who has obtained such an order.
4. If, within fourteen days from the original filing of the documents, the interested party has issued a summons for a summary proceeding to obtain the order referred to in paragraph 2, and if the



originally refused entry has as yet been made upon a renewed filing of the same documents within seven days from an order given in first instance, the entry is deemed to have taken place at the time of the original filing. The same applies if, upon a renewed filing, the registrar as yet proceeds to the registration within fourteen days, either from the original filing or from a summons which has been issued to him timely pending the dispute in first instance.

5. A fact, the existence of which only appears from a provisional notation in the sense of the second sentence of paragraph 1, is deemed not to be knowable by consultation of the registers, unless, pursuant to the preceding paragraph, it is deemed already to have been registered at the time of consultation.
6. The registrar cancels a provisional notation as soon as it is apparent that the conditions for application of paragraph 4 can no longer be complied with, or as soon as the registration has as yet taken place, taking into account the time of the original filing of the documents.

#### Section 21

1. The rank of entries pertaining to the same registered property is determined by the order in which they have been registered, unless a different order results from the law.
2. Where two entries are made at the same time and where they would lead to mutually incompatible rights of different persons to the same property, the rank shall be determined:
  - a. in the event that the deeds presented for registration have been executed on different days, by the order of those days;
  - b. in the event that both deeds, being notarial deeds and including notarial declarations, have been executed on the same day, by the order of the times of execution of those deeds or declarations.

#### Section 22.

Once a fact has been entered in the registers, the validity of the registration cannot subsequently be contested on the grounds that the formalities required for the registration have not been observed.

#### Section 23.

An acquirer of registered property may not plead good faith if, in doing so, he would invoke his ignorance of facts which would have been known to him by consultation of the registers.

#### Section 24.

1. If at the time of registration of a juridical act to acquire a right to registered property by particular title to registered property by particular title, a fact which is also susceptible of entry in the registers was not entered in reference to that registered property, this fact cannot be opposed to the acquirer, unless he knew it.
2. The first paragraph does not apply to:
  - a. facts which according to their nature are susceptible of entry in a register of civil status, a matrimonial property register or a successions register, even if the fact cannot be registered in a given instance because the law of the Netherlands does not apply to it;
  - b. placement under and termination of curatorship, entered in the register of curatorship;



- c. judgements entered in the bankruptcy register or in the register of receivership;
  - d. acceptance and rejection of a succession;
  - e. prescription.
3. Furthermore, the first paragraph does not apply to successions and testamentary dispositions which were not registered at the moment of the registration of the juridical act, but which were thereafter entered in the registers within three months of the death of the de cuius.

#### Section 25.

If, at the time of registration of a juridical act to acquire a right to registered property by particular title, a fact pertaining to that registered property was entered in the registers pursuant to an authentic deed in which this fact was authenticated by a civil servant, the inaccuracy of this fact cannot be invoked against the acquirer, unless he knew it or could have known of the possibility thereof by consulting the registers.

#### Section 26.

If, at the time of registration of a juridical act to acquire a right to registered property by particular title, an inaccurate fact pertaining to that registered property was entered in the registers, the inaccuracy of this fact cannot be invoked against the acquirer by a person who could reasonably have ensured the conformity of the registers with the reality, unless the acquirer knew the inaccuracy or could have known of the possibility thereof by consulting the registers.

#### Section 27.

1. A person who claims to have a right to registered property can summon all interested parties by public notice, and in addition, can summon individually each registered title-holder or seizer of the property to the hearing which declares that he is entitled to the right to which he lays a claim. Before making such a declaration, the judge may take measures and require the submission of evidence which he deems useful in the interest of title-holders who may not have appeared. Section 79, paragraph 1 of the Code of Civil Procedure does not apply. A declaration obtained by virtue of this section is not entered in the registers until the judgment has become final.
2. Opposition to the judgment is not permitted. Save the following exceptions, appeal and cassation are possible according to the ordinary rules. Section 335 of the Code of Civil procedure does not apply. The summons whereby appeal or cassation is lodged must, within eight days and on pain of disallowance, be entered in the register referred to in section 433 of the Code of Civil procedure. For interested parties who have not appeared, the appeal period starts to run as of the day of personal service of the judgment on them to the extent that they were registered, or by public summons if they were not. Cassation is only open to interested parties who have appeared.
3. With regard to interested parties who have not appeared and have not been summoned individually, the declaration which has been registered pursuant to paragraph 1 is presumed accurate until proven to the contrary. Any inaccuracy, however, cannot be invoked to the detriment of those who, unaware thereof, have succeeded by particular title to the person obtaining the judgment.



4. The public notice referred to in paragraph 1 is issued according to section 4 sub 7, paragraphs 2 and 3 of the Code of Civil Procedure. A public summons referred to in paragraph 2 is issued in the same manner, unless the judge takes measures pursuant to paragraph 1. The measures referred to in paragraph 1 may be the publication, repeatedly or not, of notices in one or more domestic or foreign newspapers, the content of which may be determined by the judge.

#### Section 28.

1. Where a registration has no effect, those who would otherwise have benefitted from the registration must, upon the request of a person having a direct interest, provide a written declaration thereof. Unless the registration pertains to a hypothec or a seizure, such declarations must mention the reasons why the registration is without effect.
2. Declarations referred to in paragraph 1 may be entered in the registers. Where the registration pertains to a hypothec or a seizure, these declarations, once registered, jointly authorize the registrar to cancel it.

#### Section 29.

1. Where the required declarations have not been provided, the district court declares the registration to be without effect upon the demand of a directly interested party. Where, in order to obtain this court order, a person who is entered in the registers, is summoned, all his successors, who have not made a new registration, have thereby also been summoned.
2. Before making such a declaration, the judge may take measures and require the submission of evidence which he deems useful in the interest of title-holders who have not appeared.
3. On pain of disallowance and within eight days from the time that they are initiated, opposition, appeal and cassation must be entered in the registers referred to in sections 85 and 443 of the Code of Civil Procedure. Section 79, paragraph 1 of said Code does not apply where all registered defendants have appeared. Where appeal rather than opposition is available to a registered defendant, the same applies to his successors who have not made a new registration. Contrary to section 81 of said Code, in any case the opposition period starts to run as of service of the judgment on the registered defendant, even if service is not in person; such service also begins the opposition period with respect to the registered defendant's unregistered successors, unless the judge has ordered that further measures be taken with respect to the foregoing and such order has not been complied with. Cassation is only open to interested parties who have appeared.
4. The judgment containing the declaration cannot be registered until it is final. If the registration which had no effect pertains to a hypothec or a seizure, the judgment, once registered, authorizes the registrar to cancel it.

#### Section 88.

Although an alienator lacks the right to dispose of property, the transfer of registered property, a nominative right or other property to which section 86 does not apply, is valid if the acquirer is in good faith and if the lack of the right to dispose results from the invalidity of a previous transfer, which itself did not result from the lack of the right to dispose of the alienator at the time.



Section 89.

1. Delivery required for the transfer of immovable things is made by notarial deed intended for that purpose and drawn up between the parties, followed by its entry in the public registers provided for that purpose. Either the acquirer or the alienator may have the deed registered.
2. The deed intended for delivery must clearly specify the title of transfer; accessory stipulations which do not concern the transfer may be omitted in the deed.
3. Where in a deed of delivery a person acts as procurator of one of the parties, the procuration must be clearly specified in the deed.
4. The provisions of the section apply mutatis mutandis to the delivery required for the transfer of other registered property.

Provisional translation

Extract of the

**LAND AND PUBLIC REGISTRY ACT  
(Kadasterwet)**

**CHAPTER 1 GENERAL PROVISIONS**

Section 6

At least two registrars shall be appointed by the Agency's administration as "Land and Public Registers Registrar",

2. The post of Registrar shall be open only to persons who:

- (a) on the basis of having passed the final examination of a university education in Law at a university or the Open University to which the Higher Education and Scientific Research Act relates, and has the right to use the title "meester". More detailed rules with respect to professional requirements may be laid down by means of a General Administrative Order;
- (b) have had an education of an equivalent nature which the Board of the Agency has declared to be adequate, or
- (c) are in the possession of an EC declaration as referred to in the General Act on the Recognition of EC Higher Education Diplomas or in the General Act on the Recognition of EC Vocational Training Qualifications.

3. Where a Registrar is engaged, absent or suspended, he shall be replaced by one of the other registrars in a manner to be decided by the Board of the Agency.

Section 7

1. Without prejudice to the provisions made by or pursuant to this or any other Act, the Registrar shall be charged with:



- (a) making entries in the public registers and making notes in them and
  - (b) the updating of basic land registry, the registry of shipping, the registry of aircraft
2. Concerning one or more of his competences the registrar may give mandate to or authorize one or more persons that belong to the staff of the agency. Giving mandate or authorization needs consent of the Board of the Agency as far as the mandate or the authorization concerns staff that is not active under the responsibility of the registrar.
3. The Board of the Agency shall appoint a registrar as chief registrar, who is charged with the division of proceedings between himself and the other registrars.
4. The Board of the Agency may give the registrar guidelines and directions concerning the work entrusted and the powers granted to him by or pursuant to this or any other Act.

## **CHAPTER 2 PUBLIC REGISTERS FOR REGISTERED PROPERTY**

### **Title 1 General Provisions**

#### Section 8

1. The public registers in which facts are recorded which are of importance for the legal status of registered property shall be:

- (a) the registers for recording facts relating to real estate, shipping and aircraft
- (b) the registers of provisional records in which the Registrar refuses to record by virtue of section 20 of Book 3 of the Dutch Civil Code are recorded and the objections raised are stated and in which notarial statements are entered in case of section 736 first subsection, second subsection c.

2. The Board of the Agency shall establish more specific rules concerning the form of the registers referred to in subsection 1. The Board of the Agency can at that differ between

- a. real estate and the rights to which this is subject and shipping and aircraft;
- b. in electronic of in other form kept parts of those registers.

As far as the enactment of the rules as stated in the first sentence, the second sentence, beginning, in relation to part a are enforced, the in or in virtue of this act adjusted rules concerning operations in the registers are applicable to the registers of the relating registered property. The Board of the Agency can establish more specific rules concerning the application of the rules in the third sentence.

3. The Board of the Agency shall determine by means of a regulation the cases in which registrars shall make notes in the registers, the nature of the notes and the way in which they are made, The Board of the Agency can at that stipulate the cases in which the note in the registers is realized by the officially immediate recording of a document that is signed by the registrar. Where the second sentence is applicable the Board of the Agency shall lay down the form of the document.



### **Part 3 Requirements for registration and the way in which this is effected**

#### Section 10a

For recording a fact in the public registers referred to in section 8, subsection 1 under points (a) a document must meet the requirements laid down in Title 2 of this Chapter, division 2, without prejudice of what is decided in a treaty or in this or an other act.

#### Section 10b

1. Documents as meant in section 10a have to be presented in paper or electronic form without prejudice of section 11a first until fourth paragraph and 11b fifth and sixth paragraph
2. In relation to documents that have to be recorded in paper form our Minister shall lay down rules concerning the changing of original text and the signing of such changes.

#### Section 11

1. If a document as referred to in section 10a is submitted in hard copy, a copy of that document bearing a certification as a true copy shall be submitted at the same time.
2. The registrar is not obliged to investigate the correctness of the certification referred to in Subsection (1). The Agency is not liable for any damage or loss that ensues if the copy is inaccurate or incomplete.
3. Rules will be laid down in a regulation by order of Our Minister to prescribe the form of the certification referred to in subsection (1) and, notwithstanding the provisions of or by virtue of any other Act, to prescribe the party that shall sign the certification.
4. Our Minister may prescribe in a regulation that a copy as referred to in Subsection (1) does not need to be submitted in certain special cases. In those cases the Agency shall make the copy of the document submitted for the purposes of registration. The Agency is liable for any damage or loss that ensues because the copy is incorrect or incomplete as a result of the copying process.
5. Rules will be laid down by Our Minister in a regulation with respect to the following:
  - a. the requirements to be met by drawings belonging to documents submitted in hard copy for the purposes of registration, and
  - b. in the event that subsection (7), first sentence applies, those cases where a copy of a drawing is submitted that is not on a form as referred to in Subsection (7), in which cases that copy shall bear a certification as a true copy to which subsections (2) and (3) shall apply by analogy.
6. The board of the Agency shall lay down rules to be followed when making and submitting the copy referred to in Subsection (1).
7. The board of the Agency may issue a regulation stating that the copy of the document as referred to in Subsection (1) shall be placed on a form provided by the Agency. In the event that the first sentence applies, the said regulation shall also prescribe the outline of the form in question and shall include rules regarding how to complete and submit the form.

#### Section 11a

1. A document as referred to in section 10a may only be submitted electronically for the purposes of registration if it is sent in a message together with the registration application, as referred to in



Section 11b(2), and the party submitting the document and the application complies with the rules laid down by the board of the Agency in a regulation with regard to the following:

- a. the format of the files to be sent electronically in the message to the registrar;
- b. the arrangement of those files;
- c. the exchange protocol for the messages referred to in the opening words;
- d. the measures taken to safeguard the integrity of those messages and to ensure that the integrity can be verified;
- e. the measures taken to safeguard the continuity and security of the system used to send these messages electronically;
- f. the method used to submit the electronic files that make up the message for the purposes of registration, and
- g. the method that the party intending to submit documents electronically for registration purposes uses to communicate that intention to the registrar, at the latest immediately before the said party submits the documents for the first time, the information to be provided on that occasion, and the method to be used to communicate any changes in that information as well as the time when those changes must be communicated.

The regulation referred to in the first sentence shall prescribe the conditions under which a person as referred to in (g) may request the registrar to establish a different exchange protocol for him, and the regulation shall also prescribe the way in which such a request may be made.

2. The registrar shall not accept a message sent to him electronically as referred to in subsection (1) if the party sending the message has not complied with the provisions of or pursuant to subsection (1). The board of the Agency shall prescribe the method to be used by the registrar to inform the party submitting the message that the message has not been accepted. The board shall also prescribe the deadline for informing that party and the method to be used to save messages as referred to in the first sentence. Section 20 of Book 3 of the Dutch Civil Code [Burgerlijk Wetboek] shall not apply to messages that are not accepted.

3. In the event that non-compliance with the provisions of or pursuant to subsection (1), with the exception of (g), results in more than one message from a submitting party not being accepted, the registrar may decide not to accept other messages sent to him by that submitting party after a deadline to be stated in the aforesaid decision. The board of the Agency shall prescribe the method to be used by the registrar to communicate his decision to the submitting party. The board shall also prescribe the deadline by which that communication shall take place and the content of the communication. section 20 of Book 3 of the Civil Code shall not apply to a message as referred to in the first sentence that is not accepted.

4. The board of the Agency shall lay down rules in a regulation to prescribe the procedure and conditions for the submitting party referred to in subsection (3) to prove on its hard copy application to the registrar that it is in a position to submit documents for registration purposes electronically in accordance with the rules referred to in subsection (1), parts (a) to (f). This regulation shall also prescribe the method by which such an application may be made. The registrar shall provide the applicant, with due speed, with a statement of the outcomes of the investigation referred to in the first sentence. The board of the Agency shall prescribe the content of this statement and the method used to send the statement. A statement as referred to in the second sentence shall render a decision as referred to in the third subsection null and void, providing the statement attests to the applicant having



demonstrated the ability to comply with the rules referred to in subsection (1), parts (a) to (f), when submitting documents for registration purposes electronically.

5. The board of the Agency shall lay down rules in a regulation regarding how a network manager can obtain a permanent connection to the system maintained by the Agency, as well as the conditions under which that connection may be provided, for the purposes of sending and receiving electronic messages in connection with the electronic submission of documents for registration.

6. The board of the Agency may lay down rules prescribing the cases, other than those referred to in subsection (2), in which a person referred to in subsection (1)(g), if one of the types of those cases indicated by him in his application occurs with regard to messages he sent as referred to in subsection (1), may request that the relevant application for registration be classified as withdrawn. The board of the Agency shall lay down rules in a regulation regarding the method to use when submitting the application referred to in the first sentence, the final deadline for submission, and the registrar to whom the application shall be sent.

#### Section 11b

1. If a document as referred to in section 10a is submitted electronically for registration purposes, the copy or verbatim extract shall bear an electronic signature as well as a certification stating that the content of the copy or extract is a full and accurate reproduction of the content of the document copied, or of the relevant parts of the document that form this extract, respectively. Section 11(2) shall apply by analogy.

2. If a document is submitted electronically for registration purposes, the party submitting the document shall also submit an electronic application for registration together with the document. An application as referred to in the first sentence may pertain to more than one document. The board of the Agency shall lay down rules in a regulation prescribing the form and content of that application.

3. Our Minister shall lay down rules by ministerial regulation prescribing the following:

- a. the form of the certification referred to in subsection (1), and
- b. whose electronic signature shall be added to documents as referred to in subsection (1).

4. Our Minister shall lay down rules in a ministerial regulation prescribing the cases in which and how the office, capacity or position of the person referred to in subsection (3)(b) must be included in a message as referred to in section 11a(1), first sentence. If the regulation referred to in the first sentence prescribes that the said office, capacity or position shall be stated as a specific attribute in the certificate on which the electronic signature is based, the regulation shall also prescribe the method to be used by the certifying party to confirm that the party in question held that office, had that capacity or occupied that position, or that the party was entitled to the office, capacity or position, at the time when the certificate was issued.

5. Section 11(5) shall apply by analogy with respect to drawings that are part of documents to be submitted electronically for registration purposes. Our Minister may lay down rules in a ministerial regulation prescribing the cases in which drawings and other documents that are part of a document to be submitted electronically may be submitted separately in hard copy for registration purposes. With respect to documents submitted electronically for registration purposes, Our Minister, insofar as the submitting party in seeking registration submits as evidence documents that will not be registered, may issue a ministerial regulation:

- a. prescribing the cases in which the said electronic submission may take place, and



- b. laying down rules governing documents to be submitted electronically.
6. In the cases to which a regulation as referred to in subsection (5), second sentence applies, and in the cases to which a regulation as referred to in subsection (5), third sentence does not apply:
  - a. the submission of drawings and other documents as referred to in subsection (5), second sentence in hard copy, and
  - b. the handing over of documents as referred to in subsection (5), third sentence in hard copy shall take place within the deadline to be specified in a regulation issued by Our Minister.
7. Our Minister shall issue a regulation prescribing how the submitting party shall add a unique identification to provide a mutual reference between a document to be submitted electronically for registration purposes and:
  - a. each document to be submitted in hard copy that is part of the aforementioned document, or
  - b. each document in hard copy that is handed over as evidence when submitting the aforementioned document but that is not included in the registration.The regulation referred to in the first sentence shall prescribe the composition of the aforementioned identification as well as how the registrar shall provide this identification to the submitting party on request.
8. The board of the Agency shall prescribe the period for which the documents submitted as referred to in subsection (5), third sentence, shall be kept, as well as the method of storage.
9. Section 11(7) shall apply by analogy.
10. Our Minister may issue a regulation prescribing the cases when and the circumstances in which, prior to submission, the Agency shall make an electronic copy of drawings and other documents belonging to a document to be submitted electronically for registration purposes and shall store the said drawings and documents under a unique identification solely to enable a reference to that identification, in a manner prescribed by the ministerial regulation, in the aforementioned document that is to be submitted at a later stage. A reference as stated in the first sentence shall cause the document referred to in the document submitted at a later stage for registration purposes to become part of that submitted document. Section 11(4), second sentence, (7), second sentence and section 11b(8) shall apply by analogy.

#### Section 14b

1. In the case of a registration as referred to in section 14 where the original document was submitted electronically for registration purposes, a new application for registration shall be required, stating in any event the identification number of the document that was originally submitted, and this new application shall include an electronic signature. If section 11b(5), second sentence applies and if, in the case referred to in the first sentence, documents belonging to the document originally submitted for registration purposes have been submitted in hard copy for registration purposes, these same documents shall be submitted again with the information added by the registrar of the original submission, as referred to in section 11c(1), notwithstanding subsection (2). section 11b(6) shall apply by analogy.
2. More detailed rules shall be laid down in a regulation by Our Minister with respect to the following:
  - a. the form and content of the application, as referred to in subsection (1), and whose electronic signature shall be added to that application, and



b. the cases in which a new submission as referred to in subsection (1), second sentence is not necessary.

3. In the cases referred to in subsection (1), first sentence, registration shall consist of deleting the provisional classification note in the relevant electronic part of the public registers and adding next to the document entry a note stating the date of the new submission and the fact that the document has the status "registered", as well as adding, in the cases referred to in subsection (1), second sentence, a note on the documents belonging to the document submitted electronically, which note shall be subject by analogy to the provisions concerning the note that was first mentioned in this subsection. The board of the Agency shall prescribe the form of the notes referred to in the first sentence.

4. Section 13(2) and (3) shall apply by analogy, on the understanding that the registrar, in the cases referred to in subsection (1), second sentence, shall place a note on the documents belonging to the document submitted electronically, said note being subject by analogy to section 13(1).

#### **SECTION 4 Provisional notes and proof of receipt**

##### Section 15

1. The entry referred to in Section 20 subsection 1 of Book 3 of the Dutch Civil Code shall be made in the register of provisional records for property to which the document presented relates, together with a mention of any objections raised and, if known, the name, place of residence and address of the person presenting the document...An electronic document shall be stated in the specific electronic part of the public registers with the annotation "not recorded". The Board of the Agency shall lay down the form of annotation meant in the first sentence.

### **CHAPTER 3 LAND REGISTER, MAP FILE, SUPPORTING DOCUMENTS AND NETWORK OF COORDINATE POINTS**

#### **Title 1 Land Register**

##### Section 48

1. The basic land registry shall make it possible to consult the public registers by means of:

- a. the cadastral code of the real estate and the apartment right and.
- b. the name of the owner or person with limited entitlement, with the exception, however, of those entitled to servitudes,

2. The land register shall contain:

- (a) the cadastral code of the real estate and the apartment right
- (b) the surname, first names, date of birth, legal domicile and address, and civil status of owners, entitlement persons with limited entitlement, or persons who put an attachment with respect to the real estate and, in the case of a legal entity the legal form
- (c) the legal designation of the limited rights to which the real estate are subject and of the attachment orders which have been imposed on those limited rights, as well as whether those



limited rights are the subject of administration and whether a condition as referred to in Section 252 of Book 6 of the Dutch Civil Code has been registered in this respect;

- (d) the cadastral code of the real estate and the size of the parcelplots,
- (e) limitations laid down by public authorities, decisions in appeal, judicial decisions and cancellations of these limitations, that are recorded according to the act on the knowableness of limitations by public authorities
- (f) data that under other legal provisions then section e are presented for recording in the public registers respectively registration in the basic land registry.
- (g) with respect to an owner or person with limited entitlement as meant in section b: reference to all documents relating thereto registered in the public registers or documents entered in the relevant register of provisional records ,
- (h) with respect to each parcel and apartment right, a reference to all documents relating thereto registered in the public registers) or documents entered in the relevant register of provisional records , together with information obtained or observations made by the Agency, as referred to in Section 54, subsection 1, under c and d
- (i) with respect to each parcel subject to a mortgage right the amount for which the mortgage has been created or, if this amount has not yet been fixed, the maximum amount that may be recovered on the basis of a mortgage on the property, together with the rate of interest, if known;
- (j) details concerning the actual condition of the real estate , a limited right to that property or apartment right concerning description , limitation, preferential treatment or identification, that are of interest for a legal transfer or cadastral map or concern the administration , the domicile of authorization of the owner or persons with limited entitlement, or persons who hold an the real estate attachment on , a limited right or apartment right
- (k) the share of joint owners, persons with limited entitlement as meant in section b in case of a community