

REGISTRATION ACT, 1908

INTRODUCTION

Object of the Act:

1. To ensure information about all deals concerning land so that correct land records could be maintained.
2. To proper recording of transactions relating to other immovable property.
3. Registration of other documents for more authenticity.
4. Registering authorities have been provided in all the districts for this purpose.

💡 Note that this registration is entirely different from registration of charge done by Registrar of Companies under Companies Act. If the charge relates to immovable property, registration with Registrar (appointed by State Government) under Registration Act and registration under Companies Act with ROC are **both required**.

Documents of which registration is compulsory - Registration of documents relating to immovable property is compulsory. Registration of will is optional. (List out names from your notes)

Documents not requiring registration - Some documents though related to immovable property are not required to be registered. These are given in section 17(2). (List out names from your notes)

Time of presentation for registration –

- a. Within 4 months from date of execution [section 23].
- b. Decree or order of Court can be submitted within four months from the day it becomes final.
- c. If document is executed by several persons at different times, it may be presented for registration within 4 months from date of each execution [section 24].
- d. If a document is executed abroad by some of the parties, it can be presented for registration within four months after its arrival in India [section 26].

👉 RE-REGISTRATION - If a person finds that a document has been filed for registration by a person who is not empowered to do so, he can present the document for re-registration within 4 months from the date he became aware of the fact that registration of document is invalid [section 23A].

Where document should be registered

1. Document relating to immovable property - in the office of Sub-Registrar of sub-district within which the whole or some portion of property is situated [section 28].
2. Other document can be registered in the office of Sub-Registrar where all persons executing the document desire it to be registered [section 29].
3. A Registrar can accept a document which is registerable with sub-registrar who is subordinate to him [section 30(1)].
4. Document should be presented for registration at the office of Registrar/Sub-Registrar.
5. In special case, the officer may attend residence of any person to accept a document or will [section 31].

Appearance before Registrar:

- ✓ All persons executing the document or their representatives, assigns or agents holding power of attorney must appear before registering officer [section 34(1)].
- ✓ They have to admit execution and sign the document in presence of Registrar, as required under section 58(1) (a). Appearance may be simultaneous or at different times [section 34(2)].

✓If some of the persons are unable to appear within 4 months, further time upto additional 4 months can be given on payment of fine upto 10 times the proper registration fee [proviso to section 34(1)].

✓If document relates to transfer of ownership of immovable property, passport size photograph and finger prints of each buyer and seller of such property shall be affixed to document. [Proviso to section 32A].

✓The Registrar is required to ensure that these are endorsed on the document.

Registration by Registering Officer (R/O)–

If the Registering Officer is satisfied that all the provisions are complied with and registration fees are paid, the registering officer will register the document [section 35(1)]. He will make necessary entries in the Register maintained by him.

Certification of registration - After all formalities are complete, the R/O will endorse the document with word 'Registered', and sign the same. The endorsement will be copied in Register. After registration, the document will be returned to the person who presented the document [Sec 61].



Effective date of document –

1. A document takes effect from its date of execution and not from date of registration. However, if the document states that it will be effective from a particular date, it will be effective from that date [section 47].

2. Document registered has priority over oral agreement - Any non-testamentary document registered under the Act takes effect against any oral agreement relating to the property.

The only exceptions are : (a) If possession of property (movable or immovable) is delivered on basis of such oral agreement and such delivery of possession is valid transfer under any law (b) Mortgage by deposit of title deeds takes effect against any mortgage deed subsequently executed and registered which relates to same property [section 48].

Effect of non-registration

1. It can not be acted on 2. Cannot be received as evidence of any transaction Thus, the document becomes redundant and useless for all practical purposes.

It can be accepted as evidence in criminal proceedings

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The greatest results in life are usually attained by simple means and the exercise of ordinary qualities. These may for the most part be summed in these two: common-sense and perseverance.

-Owen Feltham