

ABILL

ENTITLED

AN ACT to Amend the Registration of Titles Act; and for
connected matters.

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BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Registration of Titles (Amendment) Act, 2020, and shall be read and construed as one with the Registration of Titles Act, (hereinafter referred to as the principal Act) and all amendments thereto.

Short title
and
construction.

2. Section 3 of the principal Act is amended by inserting in the correct alphabetical sequence the following—

Amendment
of section 3
of principal
Act.

“ “Adjudication Certificate” has the meaning assigned to it under section 2 of the Registration of Titles Cadastral Mapping and Tenure Clarification (Special Provisions) Act;

“Adjudication Committee” has the meaning assigned to it under section 2 of the Registration of Titles Cadastral Mapping and Tenure Clarification (Special Provisions) Act.”.

Amendment of section 15 of principal Act.

3. Section 15 of the principal Act is amended by inserting next after paragraph (c) the following—

“ (d) He shall lodge a Caveat—

- (i) to protect a declaration of trust;
- (ii) to protect a charge for outstanding property taxes payable in respect of the land that is the subject of an application made pursuant to section 28A(1)(b).”.

Insertion of new sections 28A and 28B in principal Act.

4. The principal Act is amended by inserting next after section 28, the following—

“ *Registration of Land without Reference to the Referee of Titles Pursuant to Facilities for Titles Act and Registration of Titles Cadastral Mapping and Tenure Clarification (Special Provisions) Act*

Registration of land without reference to Referee of Titles.

28A.—(1) An application may be made to register land under this Act without reference to the Referee of Titles—

- (a) where a Certificate of Compliance is issued under the Facilities for Titles Act for a parcel of land—
 - (i) and the applicant is the person named in the Certificate of Compliance; or
 - (ii) where the applicant is the personal representative of the person named in the Certificate of Compliance;
- (b) where an Adjudication Certificate is issued under the Registration of Titles, Cadastral Mapping and Tenure Clarification (Special

Provisions) Act, by the Director of Adjudication Services or the Adjudication Committee, directing that an absolute or qualified title shall be issued by the Registrar; or

- (c) where made pursuant to a Court order under which the court has determined ownership.

(2) Upon receipt of an application under subsection (1)(a) and (c), the Registrar of Titles shall—

- (a) serve notice of such application via registered post on adjoining owners and on the registered owners as the case may be; and
- (b) direct the applicant to advertise the notice of an application made under this section in a newspaper in daily circulation throughout Jamaica, once per week for two consecutive weeks.

(3) Notwithstanding a direction under subsection (1)(b), the Registrar shall determine the terms and conditions under which a qualified title may be converted to an absolute title.

(4) The Registrar may issue a title pursuant to subsection (1)(a)(i) and (ii) and (c) on the expiration of twenty-one days from the date of the last advertisement under section 2(b), where the requirement under that subsection is met.

*Registration Pursuant to the Adjudication
Process under the Registration of Titles
Cadastral Mapping and Tenure
Clarification (Special Provisions) Act*

28B.—(1) The Registrar shall determine the documents to be submitted in support of an application made pursuant to section 28A.

Documents
to be
submitted
pursuant to
section 28A.

(2) Sections 29, 31, 33, 34, 36, 37, 86 and 87, shall not apply to section 28A.

(3) Where an applicant has directed that a certificate of title is to be issued in the name of a nominee, the Registrar shall at the direction of the applicant and consent of the nominee, issue the certificate of title to such person named in such direction and consent, which direction and consent shall be subject to the stamp duties prescribed in section 174.”.

Amendment
of section 29
of principal
Act.

5. Section 29 of the principal Act is amended by—

- (a) renumbering the section as section 29(1);
- (b) deleting from subsection (1) as renumbered, the words “and by a certificate from the proper officer that all quit rents and property tax affecting the land have been paid up to the date of the application”;
- (c) inserting next after subsection (1) as renumbered the following—

“ (2) Where provisional approval is granted, the applicant shall provide proof that all quit rents and property tax affecting the land, have been paid up to the date of the grant of provisional approval.”:

Repealing and
replacing
section 54

6. Section 54 of the principal Act is repealed and replaced by the following—

“Registration
by plan of
registered
land.

54.—(1) Upon submission of an application to re-register lands comprised in a certificate of title registered with reference to metes and bounds, the Registrar may amend the description of land from metes and bounds to a description referenced by a survey plan.

(2) The Registrar shall, on receipt of an application under this section proceed to issue a certificate of title without reference to the Referee of Titles.”.

7. The principal Act is amended by renumbering section 77 as section 77(1) and inserting next after subsection (1), as renumbered, the following—

Amendment of section 77 of principal Act.

“ (2) The Registrar shall cancel any existing certificate of title and re-issue a new certificate of title in accordance with the cadastral plan, where boundaries have been acquiesced under subsection 45(2) of the Limitations of Actions Act, without any requirement for the registration of an instrument of transfer or an application pursuant to subsection (1).”.

8. The principal Act is amended by inserting next after section 87, the following as section 87A—

Insertion of new section 87A in principal

“Application pursuant to adverse possession claims to include a direction to issue certificate of title in name of nominee. 87A. An applicant may direct that a certificate of title be issued in the name of a nominee, and the Registrar shall at such direction and with the consent of the nominee, issue the certificate of title to such person as shall be named in such direction and consent, and which direction and consent shall be liable to all applicable taxes.”.

9. Section 126 of the principal Act is amended by deleting the words “for the purpose of selling the same in allotments.”.

Amendment of section 126 of principal Act.

10. Section 155 of the principal Act is amended by renumbering the section as section 155(1), and inserting next after subsection (1) as renumbered, the following—

Amendment of section 155 of principal Act.

“ (2) Where a portion of the purchase price has not been paid, the purchaser or any person claiming through him, may pay the remaining portion to the Accountant General in trust for the vendor or any person entitled thereto, and any receipt issued by the Accountant General in relation thereto, shall be proof of payment of such moneys”.

(3) The Accountant General shall invest the monies received pursuant to subsection (2), in the same manner prescribed under section 123.

(4) Where any of the balance of the purchase money is outstanding as a result of an agreement in the memorandum of sale such amount shall be retained, then proof of that amount shall not be required to be submitted to the Registrar.

(5) Where a purchaser or any person claiming through the purchaser has paid the outstanding balance of the purchase monies as required under subsection (2), the purchaser or person claiming through the purchaser shall be entitled to apply to the Registrar upon proof of such payment and the Registrar shall direct the purchaser or any person claiming through him to advertise in the form prescribed by the Registrar in a newspaper in daily circulation throughout Jamaica, once per week for two consecutive weeks.

(6) The purchaser or any person claiming through the purchaser may apply for the Vesting Order, upon the expiration of six weeks after the first advertisement of the notice referred to under subsection (5) is published.”.

Amendment of section 178 of principal Act.

11. Section 178 of principal Act is amended by deleting all the words appearing after the words “to be registered,” and substituting therefor the words “such person commits an offence and shall on conviction before a Parish Judge, be liable to a fine not exceeding one million dollars and in default of payment thereof, to imprisonment for a term not exceeding six months and any certificate of title entry, erasure or alteration so procured or made by fraud is void as against all persons privy to such fraud.”.

Insertion of new section 178A in principal

12. The principal Act is amended by inserting next after section 178, the following as section 178A—

“Minister may amend penalty or fine by order. 178A. The Minister may by order, subject to affirmative resolution, amend any penalty or fine imposed under this Act.”.

Amendment to Eighteenth Schedule of principal Act.

13. The principal Act is amended in the Eighteenth Schedule by inserting next after item “Fee No. 8”, the following—

“Fee No. 8A On the lodging for the registration by plat or diagram \$15,000.00”.

- 14. Section 45 of the Limitation of Actions Act is amended by—**
- (a) renumbering the section as section 45(1);
 - (b) inserting next after subsection (1) as renumbered the following—

Consequential
amendment
to Limitation
of Actions
Act.

“ (2) Where boundaries are adjudicated upon pursuant to a systematic registration under the Registration of Titles Cadastral Mapping and Tenure Clarification (Special Provisions) Act, the boundaries shall be deemed to be acquiesced, notwithstanding any enactment to the contrary and provided the parties affected do not object to same.”.

MEMORANDUM OF OBJECTS AND REASONS

Cabinet considered the need for comprehensive land reform and reform of the related systems and procedure; the adjudication process; the long-standing problem of persons being unable to get titles in Government land settlement scheme and other land schemes, despite having completed payment for the land; the large numbers of persons occupying lands without being named on titles, sometimes for generations; public governance concerns in relation to disproportionately high staff costs for related project costs and the implications with respect to feasibility and sustainability; and the need to simplify procedures and reduce costs for lodging of caveats.

This Bill therefore seeks to give effect to the decision for—

- (a) implementation of an adjudication-centric and driven process for proving the ownership of land;
- (b) separation of the processes of planning and subdivision approval from the issuing of titles under the Registration of Titles Cadastral Mapping and Tenure Clarification (Special Provisions) Act; and
- (c) consequentially amending the Limitation of Actions Act to provide that where boundaries are adjudicated upon and pursuant to a systematic registration process are deemed to be acquiesced notwithstanding any enactment to the contrary and provided the parties do not object to same,

and is a companion to a Bill shortly entitled the Registration of Titles Cadastral Mapping and Tenure Clarification (Special Provisions) (Amendment) Act 2020.

ANDREW HOLNESS,
Prime Minister and Minister of
Economic Growth and Job Creation.

**A BILL
ENTITLED**

**AN ACT to Amend the Registration of Titles
Act; and for connected matters.**

**As introduced by the Honourable Prime Minister and
Minister of Economic Growth and Job Creation.**

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SECTION 3 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO AMEND

3. In this Act—

“annuity” shall mean a sum of money payable periodically and charged on land under the operation of this Act by an instrument thereunder;

“charge” shall mean the instrument creating and charging an annuity;

“Commissioner for taking affidavits” shall mean a Justice or other officer or person authorized to take affidavits in the several Courts of Jamaica;

“endorsed” shall include anything written upon, or in the margin, or at the foot of, any document;

“grantor” shall include the proprietor of land charged with the payment of an annuity;

“incumbrance” shall include all estates, interests, rights, claims and demands, which can or may be had, made or set up, in, to, upon or in respect of the land adversely and preferentially to the title of the proprietor;

SECTION 15 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO REPEAL AND REPLACE

15. The Registrar or the Referee to whom any application is referred may, by summons under his hand, require the proprietor or mortgagee or other person interested in any land under or proposed to be brought under the operation of this Act, in respect of which any transfer, lease, mortgage, charge or other dealing, or any discharge from any mortgage or charge, is proposed to be transacted or registered, or in respect of which any change of ownership by transmission is proposed to be or search certificate issued, to appear at a time and place to be appointed in such summons, and give any explanation concerning such land or any document affecting the title thereto, and to produce any deed of grant, certificate of title, will, mortgage or other instrument or document, in his possession or within his control affecting such land, or the title

...

...

...

The Registrar may also exercise the following powers and duties, that is to say—

- (a) He may administer an oath, and may take and receive the declaration of any person voluntarily making the same (in this Act called a statutory declaration).
- (b) He shall correct errors in the Register Book, or in entries made therein, or in duplicate certificates or instruments, and may supply entries

omitted to be made under the provisions of this Act; but in the correction of any such error he shall not erase or render illegible the original words, and he shall affix the date on which such correction was made or entry supplied, and initial the same; and every error or entry so corrected or supplied shall have the like validity and effect as if such error had not been made or such entry omitted; except as regards any entry made in the Register Book prior to the actual time of correcting the error, or supplying the omitted entry.

- (c) He shall, upon the direction of a Referee or when it shall appear to him necessary, lodge a caveat on behalf of Her Majesty, or on behalf of any person who shall be under the disability of infancy, coverture, lunacy, unsoundness of mind or absence from Jamaica, to prohibit the transfer or dealing with any land belonging or supposed to belong to any such person, and also to prohibit the dealing with any land in any case in which it shall appear that an error has been made by misdescription of such land, or otherwise, in any certificate of title, or in any instrument, or for the prevention of any fraud or improper dealing.

SECTION 29 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO AMEND

29. Every such application shall be accompanied by the deeds and documents or other evidence that the applicant relies on in support of his title, and by an affidavit containing such particulars as may be prescribed, and by the fees set forth in the Eighteenth Schedule as payable on making application under this Act, and by a certificate from the proper officer that all quit rents and property tax affecting the land have been paid up to the date of the application, and by a receipt or receipts from the proper officer showing that all succession duties that have become payable in respect of the land have paid;

Provided that if any such deed or documents are recorded it shall be sufficient for the applicant to give references to the same. The applicant may, if he conceives entitled to a qualified title only, state in his application the nature of the qualification subject to which he conceives himself entitled.

SECTION 54 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO AMEND

54.—(1) Any person entitled to sell land, which shall have been registered otherwise than by plat or diagram, may apply to have such land registered by plat or diagram.

(2) An application under this section shall in all respects be treated and dealt with as if it were an original application to register land. The duplicate certificate of title shall accompany the application, and the same shall be re-

tained and cancelled by the Registrar, and the original certificate of title shall also be cancelled by the Registrar, before the issue of a new certificate.

(3) The Referee, when communicating any provisional approval of the registration of such title to the Registrar, shall, besides giving such directions as are required in the case of original applications, direct the Registrar to cause notification of the application to be served on all persons other than the applicant who appear by the certificate of title to have any interest in the land.

SECTION 126 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO AMEND

126. Any proprietor subdividing any land under the operation of this Act for the purpose of selling the same in allotments shall deposit with the Registrar a map or diagram of such land exhibiting distinctly delineated all roads, streets, passages, thoroughfares, squares or reserves, appropriated or set apart for the use of purchasers and also all allotments into which the said land may be divided, marked with distinct marks or symbols, and showing the areas and declared to be accurate by a statutory declaration of a Commissioned Land Surveyor;

Provided always that when any such land is situated within any portion of a parish to which the provisions of the Local Improvements Act and any enactment amending the same shall apply the proprietor shall deposit with the Registrar copies, certified by the Clerk of the Board under that Act, of the map deposited with the Board and the resolution of the Board sanctioning the subdivision, and no transfer or other instrument effecting a subdivision of any such land otherwise than in accordance with the sanction of the Board shall be registered.

SECTION 155 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO AMEND

155. If the Registrar is satisfied upon production to him of sufficient evidence—

- (a) that land under the operation of this Act has been sold by the registered proprietor thereof; and
- (b) that the whole of the purchase money has been paid; and
- (c) that by virtue of such sale the purchaser or any person claiming through him has entered upon the land and taken possession thereof and the vendor or his representative has acquiesced in such entry and taking of possession; and
- (d) that the land cannot be transferred to the purchaser or any claiming through him either because the registered proprietor or his representative is dead or absent from Jamaica or cannot be found or because it is, for any other reason, impracticable to obtain the signature of the registered proprietor or his representative within a reasonable time,

the Registrar may in his discretion make a vesting instrument in the prescribed form and shall thereafter enter a memorandum thereof in the Register Book and issue a new certificate of title and the duplicate thereof in the name of the person in whom the instrument vests the land and that person shall become the transferee and the registered proprietor thereof.

SECTION 178 OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO AMEND

178. If any person wilfully makes any false statement or declaration in any application to bring land under the operation of this Act, or in any application to be registered as proprietor, whether in possession, remainder, reversion or otherwise, on a transmission, or in any other application to be registered under this Act as proprietor of any land, lease, mortgage or charge; or suppresses, withholds or conceals, or assists or joins in or is privy to the suppressing, withholding or concealing, from the Registrar or a Referee, any material document, fact or matter of information, or wilfully makes any false statutory declaration required under the authority or made in pursuance of this Act; or if any person in the course of his examination before the Registrar or a Referee, wilfully and corruptly gives false evidence; or if any person fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of any certificate of title or instrument, or of any entry in the Register Book, or of any erasure or alteration in any entry in the Register Book; or knowingly misleads or deceives any person hereinbefore authorized to require information or explanation in respect to any land, or the title to any land under the operation of this Act, or in respect to which any dealing or transmission is proposed to be registered, such person shall be guilty of a misdemeanour, and shall incur a penalty not exceeding one thousand dollars, or may at the discretion of the Court by which he is convicted, be imprisoned with or without hard labour for a period not exceeding two years; and any certificate of title, entry, erasure or alteration so procured or made by fraud shall be void as against all parties or privies to such fraud.