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No. 20 of 2017

Third Session Eleventh Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Registration of Titles to Land
Act, 2000

THE REGISTRATION OF TITLES TO LAND
(AMENDMENT) (NO. 2) BILL, 2017

Explanatory Notes

(These notes form no part of the Bill but are intended only to indicate its general purport)

Clause 1 of the Bill would provide for the short title of the Act for which this is the Bill.

Clause 2 of the Bill would provide for the interpretation of certain words and phrases used in this Act.

Clause 3 of the Bill would amend section 3 of the Act to delete the definitions of “Certificate of Title”, “court” and “restriction”, delete the definition of “Adjudication Officer” and replace with a reference to the Land Adjudication Act, amend the definition of “encumbrance” and include definitions for the phrases “Director of Surveys”, “Land Certificate”, “provisional title” and “Senior Assistant Registrar”.

Clause 4 of the Bill would amend section 5 of the Act to provide for the post of Senior Assistant Registrar.

Clause 5 of the Bill would amend section 6 of the Act to provide for the post of Senior Assistant Registrar, which aids transitional arrangements, as this post currently exists in the Registrar General’s department.

Clause 6 of the Bill would amend section 7 of the Act to provide for the post of Senior Assistant Registrar.

Clause 7 of the Bill would amend section 9 of the Act to provide for the post of Senior Assistant Registrar.

Clause 8 of the Bill would amend section 10 of the Act to provide for the post of Senior Assistant Registrar.

Clause 9 of the Bill would amend section 13 of the Act to provide for the creation of a condominium folio and to correct a typographical error.

Clause 10 of the Bill would amend section 14 of the Act to correct a reference to the Real Property Act and to provide for a clearer provision that it is the entry of a memorial in the folio endorsed by the signature of the Registrar that gives legal effect to first registration and not a signature on, or the registration of, an instrument or document. This establishes the principle that the folio reflects legal title to interests in land and ensures that searches are not made “behind the curtain” of registration.

Clause 11 of the Bill would amend section 19 of the Act to avoid any potential for misunderstanding that may arise from the term “separate folio”.

Clause 12 of the Bill would amend sections 24 and 25 of the Act to delete the references to “Certificate of Title” and to substitute the words “Land Certificate”.

Clause 13 of the Bill would amend section 29 of the Act to provide for the signature of the Registrar on the folio to give legal effect to registered dealings, as per clause 9.

Clause 14 of the Bill would amend section 30 of the Act to provide for rectification of the register by the Registrar of Lands in circumstances other than just material defects or inadequacies in instruments presented for registration. The amendment would provide, *inter alia*, for rectification due to late claims after adjudication sections have been finalised and closed in accordance with procedures laid down under the Land Adjudication Act. The clause would also provide a new subsection (3) which allows the Registrar to record a change of name or address on the Register upon application by the proprietor.

Clause 15 of the Bill would amend section 35 of the Act to provide for greater clarity, in that persons contracting with the registered proprietor must be cognizant of certain legal interests that are not shown on the register and the existence and nature of such “overriding interests” must be established by separate enquires.

Clause 16 of the Bill would amend section 44 of the Act to provide for the consistent use of the correct terminology in this section.

Clause 17 of the Bill would amend section 61 of the Act to correct a typographical omission in paragraph (b) and (b)(ii), by inserting the words “mines and”.

Clause 18 of the Bill would amend section 68 of the Act to correct a typographical error and to change the phrase “is guilty” to “commits”.

Clause 19 of the Bill would amend section 71 of the Act to provide, for the avoidance of any misunderstanding, that unlike the Real Property Act which uses certificates to establish title, this Act uses register folios, and as such, this section should refer to the register and not to certificates.

Clause 20 of the Bill would renumber section 73 as section 73(1) and inserting new subsections (2), (3) and (4). New subsection 73(2) would require that a “suspension period” of fourteen (14) days be given where there is an application for an official search and there is also an application for an additional registration of any instrument affecting the said land.

Subsection (3) would provide that a properly executed instrument shall have priority over any other instrument which may be presented for registration during the “suspension period”. Subsection (4) would provide that subject to subsection (3), any application for registration made during the suspension period other than that affecting the proposed dealing, shall have the same priority and be as effectual as if no stay of registration has been obtained.

Clause 21 of the Bill would delete the words “is guilty of” and substitute the word “commit”.

Clause 22 of the Bill would insert a new section 85 to provide that the Real Property Ordinance is repealed in respect of lands brought under the Act except where specific provision is made under the Act and that the Real Property Ordinance is not to apply to adjudicated land or interest registered in the Land Registry. The clause also provides that the reference to the terms “Real Property Ordinance”, “the Real Property Ordinance Registry” and “the Registrar of Deeds” in any legislation would now be read as a reference to “the Land Registry” or “the Registrar of Lands” as the case may be.

Clause 23 would make a consequential amendment based on the amendment of the term “adjudication officer” in section 2 of the Act.

BILL

AN ACT to amend the Registration of Titles to Land
Act, 2000

[, 2017]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:

1. This Act may be cited as the Registration of Titles Short title
to Land (Amendment) Act, 2017.

Interpretation 2. In this Act, “the Act” means the Registration of
Act No. 16 of Titles to Land Act, 2000.
2000

Section 3
amended

3. Section 3 of the Act is amended—

(a) by deleting the definition of “Adjudication Officer” and substituting the following new definition:

“ “adjudication officer” has the meaning assigned to it by section 2 of the Land Adjudication Act;”;

Act No. 14
of 2000

(b) by deleting the definition of “Certificate of Title”;

(c) by inserting after the definition “Charge” the following new definition:

“ “condominium” means housing consisting of a complex of dwelling units in which each unit is individually owned;”;

(d) by deleting the definition of “Court”;

(e) in the definition of “encumbrance”, by deleting the word “property” and substituting the word “land”;

(f) by deleting the definition of “restriction”;
and

(g) by inserting in the appropriate alphabetical sequence, the following definitions:

“ “Director of Surveys” means the officer holding the office of Director of Surveys referred to in the Civil Service Act;

Chap. 23:01

“Land Certificate” means a land certificate issued under section 24 and includes a certificate of lease;

Act No. 14
of 2000

“provisional title” means a title to land declared to be provisional under section 16 of the Land Adjudication Act;

“Senior Assistant Registrar” means a Senior Assistant Registrar appointed under section 5;”.

4. Section 5 of the Act is amended in subsection (1), by inserting before the words “Assistant Registrars” the words “Senior Assistant Registrars and” Section 5 amended.

5. Section 6 of the Act is amended in subsection (3), by inserting before the words “an Assistant Registrar” the words “a Senior Assistant Registrar or” Section 6 amended.

6. Section 7 of the Act is amended by inserting after the words “Deputy Registrar”, the words “, Senior Assistant Registrar” Section 7 amended.

7. Section 9 of the Act is amended by inserting after the words “Deputy Registrar” the words “, Senior Assistant Registrar” Section 9 amended.

8. Section 10 of the Act is amended by inserting after the words “Deputy Registrars”, the words “, Senior Assistant Registrars” Section 10 amended.

9. Section 13 of the Act is amended—

Section 13
amended

(a) in subsection (2)—

(i) in paragraph (c), by deleting the punctuation at the end of the paragraph and substituting the words “; and”; and

(ii) by inserting after paragraph (c), the following paragraph:

“(d) a condominium folio in respect of every condominium unit created in accordance with section 20.”; and

(b) in subsection (4), by inserting after the word “Act” the word “the”.

Section 14
amended

10. Section 14 of the Act is amended—

- (a) in subsection (1), by deleting the word “Ordinance” and substituting the word “Act”; and
- (b) by repealing subsection (2) and substituting the following subsection:

“ (2) The first registration of any parcel shall be effected by the preparation of a folio in accordance with section 13 and the signing by the Registrar of the particulars of the ownership and the particulars of encumbrances, if any, appearing thereon.”.

Section 19
amended

11. Section 19 of the Act is amended in subsection (2), by deleting the words “folio or”.

Sections 24 and 25
amended

12. Sections 24 and 25 of the Act are amended, by deleting the words “Certificate of Title” wherever they occur and substituting the words “Land Certificate”.

Section 29
repealed

13. Section 29 of the Act is repealed and the following section substituted:

“Instrument or document has legal effect and passes estate 29. An instrument or document evidencing a dealing has legal effect and passes an estate or interest in land when a memorial is endorsed on the folio under the signature of the Registrar.”.

Section 30
amended

14. Section 30 of the Act is amended by—

- (a) repealing subsection (1) and substituting the following subsection:

“Rectification by Registrar 30. (1) The Registrar may rectify the Register or any instrument presented for registration in the following cases:

- (a) in formal matters and in the case of errors or

omissions not materially affecting the interests of any proprietor;

- (b) in any case at any time with the consent of all persons interested;
- (c) where upon resurvey, an area shown in the Register is found to be incorrect, but in such case the Registrar shall first give notice to all persons appearing by the register to be interested or affected of his intention to rectify; and
- (d) upon receipt of any decision of any Court or the Land Tribunal.”; and

(b) inserting after subsection (2), the following new subsection:

“ (3) Upon proof of the change of the name or address of any proprietor, the Registrar shall, on the written application of the proprietor, make an entry in the Register to record the change.”.

15. Section 35 of the Act is amended by deleting the words “A person” and substituting the words “Subject to section 34(2), a person”.

Section 35
amended

16. Section 44 of the Act is amended—

Section 44
amended

- (a) in subsection (2), by deleting the word “restriction” and substituting the word “caveat”; and
- (b) in subsection (5), by deleting the words “is guilty of” and substituting the word “commits”.

Section 61
amended

17. Section 61 of the Act is amended—

- (a) in paragraph (b), by deleting the words “section 34 and” and substituting the words “section 34 as”; and
- (b) in paragraph (b)(ii), by inserting before the word “minerals” the words “mines and”.

Section 68
amended

18. Section 68 of the Act is amended by deleting the word “66” and substituting the word “67”.

Section 71
amended

19. Section 71 of the Act is amended in subsection (1)(b), by deleting the words “certificates of title” and substituting the word “folios”.

Section 73
amended

20. Section 73 of the Act is amended—

- (a) by renumbering section 73 as section 73(1); and
- (b) in section 73(1) as renumbered, by—
 - (i) deleting the words “Any person” and substituting the words “An Attorney-at-law who holds, or is deemed to hold, a valid practising certificate under section 23 or 26 of the Legal Profession Act or his clerk”; and
 - (ii) deleting paragraph (b);
- (c) inserting after section 73(1) as renumbered, the following new subsections:

“ (2) A person may, on making an application in the prescribed form and on paying the prescribed fee be entitled to a certified copy of any folio or part of the parcel index map or any plan or instrument filed in the Registry.

(3) A member of the public may search the electronic records in the

Land Registry to inspect any folio or any sheet of the parcel index map or any instrument or plan filed or conduct an electronic search in respect of any parcel of land.

(4) Where any person proposing to deal with registered land has, with the consent in writing of the proprietor, applied for an official search and has stated in his application the particulars of the proposed dealing, the registration of any properly executed instrument (hereinafter referred to as “the instrument”) affecting the land to be comprised in, or affected by the proposed dealing, shall be stayed for a period (hereinafter referred to as “the suspension period”) of fourteen days from the time at which the application for the search was made, and a note shall be made in the register accordingly.

(5) The instrument referred to in subsection (4) shall have priority over any other instrument which may be presented for registration during the suspension period, and shall be registered upon the expiration of the suspension period notwithstanding any caveat or other entry for which application for registration may have been made during the suspension period.

(6) Subject to subsection (5), any instrument or document for which an application for registration is made during the suspension period other than that affecting the proposed

dealing, shall be dealt with in the same manner, have the same priority and be as effectual as if no stay of registration had been obtained.”.

Section 81 inserted

21. Section 81 of the Act is amended by deleting the words “is guilty of” and substituting the word “commits”.

New section 85 inserted

22. The Act is amended by inserting after section 84 the following new section:

“References to Real Property Ordinance, the Real Property Ordinance Registry or the Registrar of Deeds
Chap. 56:02

85. (1) Except as otherwise provided in this Act, the Real Property Act is repealed in respect of lands brought under this Act and does not apply to adjudicated land or interests registered in the Land Registry.

(2) Unless the context otherwise requires, a reference in any written law to the Real Property Ordinance, the Real Property Ordinance Registry, the Registrar of Deeds or the Real Property Act in relation to any land or in relation to any dealing or instrument affecting any land, if the land is adjudicated land, shall be deemed to be a reference to this Act or to the Land Registry or to the Registrar of Lands, as the case may be.”.

Consequential amendment

23. The Act is amended by deleting the words “Adjudication Officer” wherever they occur and substituting the words “adjudication officer”.

Passed in the House of Representatives this 00th day of _____, 2017.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of ,
2017.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 20 of 2017

THIRD SESSION

ELEVENTH PARLIAMENT

REPUBLIC OF

TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Registration
of Titles to Land Act, 2000

Received and read the

First time

Second time

Third time