



THE PARLIAMENT OF
TRINIDAD AND TOBAGO

BILL ESSENTIALS

Date Introduced: 5 April, 2019

House: House of Representatives

Minister: Attorney General and
Minister of Legal Affairs

HOR Bill No: 8 of 2019

Links: The links to the Bill, and its
progress can be found on the Bill's
home page through the Parliament's
website, www.ttparliament.org

BILL ESSENTIALS

BILL ESSENTIALS NO. 16, 2018–19

17 MAY, 2019

The Miscellaneous Provisions (Registrar General, Registration of Deeds,
Conveyancing and Law of Property, Real Property, Stamp Duty and Registration of
Title to Land) (Amendment) Bill, 2019

Table of Contents	
BACKGROUND	2
KEY FEATURES OF THE BILL	2
REGISTRAR GENERAL ACT	2
Indexes.....	2
REGISTRATION OF DEEDS ACT	4
Mode of Execution.....	4
Attestation of Deeds out of Trinidad and Tobago	5
Execution of Instrument by Marksman	5
Registration of Deed executed in accordance with Section 5B and 5C	6
Deed to have a Cover Sheet	6
PART III - CONTRACT FOR THE SALE OR OTHER DISPOSITION OF LAND	6
Form and content of contract for sale or other disposition of land to be registered	6
Registration of contract for the sale or other disposition of land	6
Notice of variation or termination of contract for sale or other disposition of land	7
PART IV – EXECUTION AND REGISTRATION OF REGISTRABLE DOCUMENTS	7
Form and content of registrable documents.....	7
Notice of execution of registrable document	8
Registration of registrable document	8
Application for extension of time	9
PART V – DUTY OF ATTORNEY-AT-LAW TO INFORM CLIENT OF OBLIGATIONS ETC.....	10
Duty of Attorney-at-Law to inform his client of obligations etc.....	10
Transitional Provisions.....	10
PART VI – PRIORITY OF DEEDS AND PROTECTION OF PURCHASERS AND MORTGAGEES.....	11
Deeds of gift and settlements to be registered within limited time.	11
PART VIII and IX – OFFENCES and MISCELLANEOUS PROVISIONS	11
Failure to comply with Section 15E, 15F(2) or 15H(1)	11
Failure to comply with Section 15C(1) or 15I(1).....	11
Providing false information to the Registrar General	11
Defence	11
Limitation re: summary offences	11
Instruments of Trusts	12
Appeals	12
CONVEYANCING AND LAW OF PROPERTY ACT	13
Contract to precede Deed	13
Contracts for sale, etc. of land to be in writing and registered	13
Lands to be granted by registration	13
REAL PROPERTY ACT	13
Contract to precede instrument for conveyance	14
Memorandum of Transfer	14
Mode of execution and effect of instrument	14
Providing false information to the Registrar General	14
Defence	15
Limitation re: summary offences	15
STAMP DUTY ACT	15
Facts and circumstances affecting duty to be set forth in instruments	15
Fraud not specially provided for	15
REGISTRATION OF TITLE TO LANDS ACT	15
Interest in land to be created or disposed of in writing.....	16
Trusts.....	16
Effect of Caveat.....	16

BACKGROUND

1. **The Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property, Stamp Duty and Registration of Title to Land) (Amendment) Bill, 2019¹** (hereinafter referred to as “**the Bill**”) seeks to amend the **Registrar General Act²**, the **Registration of Deeds Act³**, the **Conveyancing and Law of Property Act⁴**, **Real Property Act⁵**, the **Stamp Duty Act⁶**, and the **Registration of Title to Land Act⁷**, to address fraudulent land dealings, to make provisions for transparency in respect of legal arrangements and beneficial ownership and to meet international requirements under Recommendation 25 and Immediate Outcomes 5 of the Financial Action Task Force Recommendations.
2. This Bill was introduced in the House of Representatives by the Attorney General and Minister of Legal Affairs on April 5, 2019.
3. This Bill would come into effect on the date fixed by the President for proclamation.

KEY FEATURES OF THE BILL

REGISTRAR GENERAL ACT

Indexes

4. **Clause 3** of the Bill proposes to amend Sections 4, 5, 7 and the Schedule of the **Registrar General Act**. Firstly, the reference to the number of indexes⁸ that may be created by the Registrar from 4 indexes to 6 indexes would be changed. The two additional indexes under this subsection are indexes for contracts for sale of land and beneficial owners (which becomes necessary because of amendments to the **Companies Act** to deal with beneficial ownership).

¹ <http://www.ttparliament.org/publications.php?mid=28&id=833>

² **Chap 19:03:** http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/19.03.pdf

³ **Chap 19:06:** http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/19.06.pdf

⁴ **Chap 56:01:** http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/56.01.pdf

⁵ **Chap 56:02:** http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/56.02.pdf

⁶ **Chap 76:01:** http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/76.01.pdf

⁷ **Act No. 16 of 2000:** <http://laws.gov.tt/ttdll-web/revision/download/28925?type=amendment>

⁸ An **index** is usually kept in the Registrar’s office alphabetically listing by grantor, the volume and page number of the grantor’s recorded property transactions (Black’s Law Dictionary 9th Edition).

5. In addition, **Clause 3** will insert new (1A) to empower the Registrar General to keep an additional index for all instruments of trusts which are registered under the **Registration of Deeds Act**.
6. This index would be a closed index for the purpose of obligations under the Financial Action Task Force Recommendations and would only be accessed by the Director of the Financial Intelligence Unit of Trinidad and Tobago (the FIU) for the purpose of enabling the FIU to do its analysis under the **Financial Intelligence Unit of Trinidad and Tobago Act**⁹.
7. This new index would also be open to any officer of the police service of the rank of Superintendent or above attached to the financial investigations or fraud divisions for the following purposes:
 - investigating whether an offence has been committed under any written law,
 - laying any information; or
 - preferring of an indictment.

It is also open to the Chairman of the Board of Inland Revenue and by order of the Court.

8. **Clause 3** also amends Section 4(2) to require that the Index of Trusts be kept in alphabetical order based on the initial letter of the surnames of the trustees together with the given names and surnames in full length of every such person.
9. It also inserts definitions for “*beneficial owner*” and “*trust*”. “*Beneficial Owner*”¹⁰ would have the meaning assigned to it under Section 337A of the **Companies Act**.
10. “*Trust*” means a legal relationship created inter-vivos by a person, the settlor, wherein land has been placed under the control of a trustee for the benefit of a beneficiary or for a specified purpose. The land is not a part of the beneficial estate of the trustee and legal title to the land stands in the name of the trustee or in the name of another person on behalf of

⁹ Chap 72:01: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/72.01.pdf

¹⁰ “beneficial ownership” means— (a) the natural person on whose behalf a transaction is being conducted; or (b) the natural person who exercises ultimate effective control over a legal person or arrangement; (c) in respect of companies subject to this Act — (i) the natural person who ultimately owns or controls the company through indirect or direct ownership or control through other means , other than a company listed on a regulated market that is subject to disclosure requirements which ensure adequate transparency of ownership information; or ii) if no natural person is identified under paragraph (i) or if there is any doubt that the person identified in paragraph (i) with the controlling ownership interest is the beneficial owner , the natural person who exercises control of the legal person or arrangement through other means; (iii) if no person is identified under paragraphs (a), (b) or (c) (i) or (ii) or if there is any doubt that the person identified is the beneficial owner , the natural person who holds the position of senior managing official; and (d) in respect of legal arrangements such as — (i) trusts, the identity of the settlor , the trustee , the protector , the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over the trust including through a chain of control or ownership; (ii) other types of legal arrangements, the identity of persons in equivalent or similar positions.

the trustee and the trustee has the power and the duty, in respect of which he is accountable, to manage, employ or dispose of the land in accordance with the terms of the trust and the special duties imposed on him by law and includes any transfer of property previously subject to a trust.

11. Paragraph (b) would amend the existing Sections 5 and 6 to recognize that the index of trusts would not be open to the public as other indexes are.
12. The insertion of new **Section 7(2)** will empower the Minister to amend the Schedule of Fees by Order subject to negative resolution¹¹.
13. Finally, the Bill provides for the amendment of the Schedule of Fees to provide for the new administrative fees resulting from the new applications being proposed under this Bill. The new fees are as follows:

▪ registration of a contract for the sale of land	\$100.00
▪ registration of a contract for the sale of land	\$2,000.00
▪ registration of a registrable document for the sale of land	\$2,000.00
▪ variation or termination of a contract for the sale of land	\$100.00
▪ notice of execution of a registrable document for the sale of land	\$100.00
▪ for applications	\$100.00 ¹²

REGISTRATION OF DEEDS ACT

14. **Clause 4** of the Bill proposes the insertion of two (2) new definitions; namely, “*approved form*” and “*authorized clerk*”¹³.
15. The definition of “*qualified functionary*” is also being amended to remove the words “*a conveyancer*”.

Thus, a “*qualified functionary*” will now be defined as *a Judge of the Supreme Court, a Justice, an Attorney-at-Law, or the Registrar of the Supreme Court.*
16. A definition of “*registrable documents*” is also inserted via **Clause 4**

Mode of Execution

17. **Proposed Section 5B** would further reconcile procedural aspects under the Conveyancing and Law of Property Act with the processes and method of execution of a Deed under this Act. The new section would therefore provide for the mode of execution of documents

¹¹ Registrar General Act Schedule Part A

¹² New paragraphs (k) to (p)

¹³ Any person authorised in writing by an Attorney-at-Law in respect of a specific transaction.

inside and outside of Trinidad and Tobago and where it is executed by a company or corporation.

18. Where it is executed in Trinidad and Tobago, the Deed must be executed in the presence of at least one witness not being a party to the Deed and a qualified functionary and the Deed's signing and delivery are to be attested by one of those witnesses stating his name, abode or business address, profession or occupation or condition in life and by the qualified functionary stating his name and his qualifications.
19. However, where the Deed is executed outside of Trinidad and Tobago the execution must be in the presence of at least one witness not a party to the Deed and the signing is to be attested by one such witness stating his name, abode or business address, profession or occupation or condition in life.
20. Additionally, where the Deed is executed by a company or corporation the Deed is to be executed and attested in the manner required by any written law or the common law.
21. Furthermore, a qualified functionary¹⁴ is prohibited from subscribing to any deed unless it bears the signature of the Attorney-at-Law as having prepared the Deed.

Attestation of Deeds out of Trinidad and Tobago

22. **Proposed Section 5C** would provide for the attestation of Deeds executed outside of Trinidad and Tobago. For any Deed executed outside of Trinidad and Tobago (**Proposed Section 5B**), the affidavit or solemn declaration of the witness proving such execution shall be made and the making of same may be certified in a similar manner as that prescribed for Deeds executed out of Trinidad and Tobago under Section 10.

Execution of Instrument by Marksman¹⁵

23. **Proposed Section 5D** would provide for the execution of documents where the person is unable to sign and for an execution to be done using foreign characters or by the making of a mark. However, the Registrar may refuse to register any executed Deed for which a foreign character or mark is used unless there is a certificate on the Deed of an Attorney-at-Law, a Justice or a duly licensed interpreter, that he has explained or caused to be explained the true purpose of the Deed to such person signing the Deed and he is satisfied that the person understands same.

¹⁴ A qualified functionary is defined in the current law to be a Judge of the Supreme Court, A Justice, an Attorney-at-Law or the Registrar of the Supreme Court.

¹⁵ A **marksman** is a person who signs documents with some kind of character or symbol instead of writing his or her name (Black's Law Dictionary 9th Edition).

Registration of Deed executed in accordance with Section 5B and 5C

24. **Paragraph (f)** seeks to repeal the existing Sections 7 and 8 (now contained in Section 5A to 5D) and substitute a new Section 7 which would provide that where any Deed is properly executed and attested in accordance with sections 5B and 5C, then it may be registered under this Act.

Deed to have a Cover Sheet

25. **Paragraph (g)** proposes to amend the existing Section 13A by renumbering it as 13A(1) and by deleting the existing paragraph (g) and substituting it with a new paragraph (g) to allow the Minister by Order to prescribe further particulars for the cover sheet. However, subsection (2) would provide that the Registrar General must ensure that while the relevant information on the cover sheet is placed in the relevant index, that the personal information on the cover sheet is not open to the public.

PART III - CONTRACT FOR THE SALE OR OTHER DISPOSITION OF LAND

Form and content of contract for sale or other disposition of land to be registered

26. **Proposed Section 15A** under New Part II would require that every contract for sale or other disposition of land must be prepared by an Attorney-at-Law, must be in writing, must include all the terms of the contract expressly agreed upon by the parties for the sale or other disposition of land, must be signed by each party or their duly authorized agent for the sale or other disposition of land. Additionally, it requires the contract for the sale or other disposition of land must also be executed and signed in the presence of at least one (1) witness who isn't a party to the contract and it must include a preparation certificate signed by an Attorney-at-Law who prepared the contract for the sale or other disposition of land. This provision would also apply to an assignment of a contract for sale or other disposition of land and sub-contracts under a contract for sale or other disposition of land.

Registration of contract for the sale or other disposition of land

27. **Proposed Section 15B** under **New Part II** would require that every contract of the sale must be registered by an Attorney-at-Law or his authorized clerk within thirty (30) days of the execution of the contract and it must be accompanied by a completed coversheet and the relevant fee specified in the Schedule to the Registrar General Act. The Registrar General

can also request any additional information with respect to a contract for the sale or other disposition of land.

28. Additionally, if the contract for the sale or other disposition of land is not registered within the thirty (30) days as required, any party to the contract for the sale or other disposition of land or legal personal representative of the party can apply in writing, giving reasons to the Registrar General for the delay/late registration of the contract for the sale or other disposition of land, along with the fee specified in the Schedule of the Registrar General Act.
29. The Registrar General can refuse to register the contract for the sale or other disposition of land if a subsisting contract affecting the land exists, either its previous registration has not yet expired or a notice of termination (Section 15C), has not been submitted. However, where a subsisting contract as referred to expires, the Registrar General can proceed to register the contract for the sale or other disposition of land in accordance with this Act.
30. This provision would not apply to the transfer of land by deed of gift or assent or by the grant for a lease of a term less than three (3) years.

Notice of variation or termination of contract for sale or other disposition of land

31. **Proposed Section 15C** under New Part II would provide that where there is a variation or termination of a registered contract for the sale or other disposition of land and all the parties to the contract for sale or other disposition of land agree to the variation or termination, the purchaser must submit to the Registrar General a notice of the variation or termination within thirty (30) days of such variation or termination. Such notice must be in approved form and include the names of the parties, the date of registration, the registration number issued by the Registrar General, the particulars of the variation or termination and evidence that all other parties to the contract have agreed to the variation or termination in respect of the contract for the sale or other disposition of land.
32. Within fourteen (14) days of the receipt of such notice, the Registrar General must inform all parties to a contract for sale or other disposition of land, in writing, within thirty (30) days of receipt of such notice of variation or termination.

PART IV – EXECUTION AND REGISTRATION OF REGISTRABLE DOCUMENTS

Form and content of registrable documents

33. **Proposed Section 15D** would require that the contents of registrable documents for sale or other disposition of land must relate to a contract for sale or other disposition of land which had been registered (under section 15B) and it should be consistent with the terms of the

contract for sale or other disposition of land including any variation that was submitted (under section 15C).

Notice of execution of registrable document

34. **Proposed Section 15E** would require that the Attorney-at-Law who prepared the registrable document or his authorized clerk to submit to the Registrar General a notice of execution in approved form within fourteen (14) days of the execution of the contract for the sale or other disposition of land.

Registration of registrable document

35. **Proposed Section 15F** would require every registrable document to be registered with the Registrar General, within twelve (12) months/one (1) year of its signing and delivery by an Attorney-at-Law or his authorized clerk.
36. Additionally, where the Attorney-at-Law who submitted or authorized the submission of a notice of execution (Section 15G (1)) and who ceases to act as the Attorney-at-Law for the client in respect of the registrable document, such Attorney would within seven (7) days of ceasing to act as the Attorney, inform the Registrar General in writing of that fact and inform the former client of any obligations that remain outstanding in respect of registration of the registrable document.
37. The Registrar General is prohibited from accepting a registrable document for registration unless the Attorney-at-Law is registered with the Financial Intelligence Unit of Trinidad and Tobago established under the **Financial Intelligence Unit of Trinidad and Tobago Act**¹⁶, has not been suspended from practice under Section 25 of the **Legal Profession Act**¹⁷ and holds or is deemed to hold a valid practicing certificate under Section 23 or 26 of the **Legal Profession Act**, as the case may be. However, the Registrar General may also refuse to register a registrable document in respect of the sale of land, the contract for the sale or other disposition of land if the registrable document is registered in accordance with new Section 15B. Such former client who is informed of outstanding obligations under this subsection shall be liable for the registration of the registrable document in accordance with this Bill.

¹⁶ Chap 72:01: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/72.01.pdf

¹⁷ Chap 90:03: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/90.03.pdf

38. The Registrar General may accept a registrable document for the sale of land for registration if the contract for the sale or other disposition of land to which the registrable document relates was executed prior to the commencement of this Bill.
39. Lastly, the proposed subsection provides that a registrable document executed on or after the commencement of this Bill must be registered under this Act to be effectual for the creation, transfer or conveyance of lands.

Application for extension of time

40. **Proposed Section 15G** would provide for instances where there is a need for an Attorney-at-Law to apply to the Registrar General for an extension of time for the registration of a registrable document as a result of circumstances beyond the control of the Attorney, where the Attorney fails to register a registrable document or cause a registrable document to be registered. Such Attorney can within ten (10) months of its execution, apply to the Registrar General for an extension of time to register the registrable document. Such application must be in writing, must be made before the expiration of eleven (11) months from the date of execution of the registrable document, must include reasons for the failure to register the registrable document and such other information as required by the Registrar General and it must be accompanied by the specified fee in the Schedule to the Registrar General Act.
41. The Registrar General is required within fourteen (14) days of the receipt of such application for the extension, acknowledge receipt of the application in writing and indicate whether or not the extension is granted. If the Registrar General rejects the application then reasons for such rejection must be given in writing.
42. The Registrar General can only grant an extension for a period of ninety (90) days or such longer period as deemed fit. The Registrar General can also, on an application made at least one (1) month before the expiration of the extension, grant a further extension for such period as the Registrar General deems fit.
43. If the Registrar General rejects the application by the Attorney and the registrable document is not registered within the required time as specified (under Section 15F (1)) then the registrable document shall not be accepted or allowed for registration at a later date. However, if the extension is granted then the registrable document may be registered within the period of extension but would not be accepted for registration after the date for the extension has elapsed. A late registration fee as specified in the Schedule of the Registrar General Act must be paid to the Registrar General for a registrable document that is registered within the period of extension.

PART V – DUTY OF ATTORNEY-AT-LAW TO INFORM CLIENT OF OBLIGATIONS ETC.

Duty of Attorney-at-Law to inform his client of obligations etc.

44. **Proposed Section 15H** establishes the duty of the Attorney-at-Law retained in relation to the sale or other disposition of land to inform his client in writing of the obligations, timelines, fees and offences which apply to the transfer of the land and the Attorney must ensure that the client acknowledges such information in writing.

Transitional Provisions

45. **Proposed Section 15I** provides that where a registrable document is executed prior to the commencement of this Bill, and is not registered on, or before the commencement then the person with custody of the registrable document must, notwithstanding Section 15F, register it within twelve (12) months of commencement of this Bill. Additionally, notwithstanding Section 15F, the purchaser is liable for the registration of the registrable document.
46. If due to circumstances beyond his control a purchaser consequently fails to register a registrable document within the specified period, then he can apply to the Registrar General for an extension of time to register the registrable document. Such application must be in approved form and accompanied by the specified fee in the Schedule to the Registrar General Act.
47. Within fourteen (14) days of receipt of such application, the Registrar General must acknowledge receipt of the application in writing and indicate whether or not the extension is granted. However, where the Registrar General rejects the application he must provide reasons in writing for the rejection. Moreover, where the Registrar General rejects an application and the registrable document is not registered within the specified period then the registrable document shall not be accepted for registration.
48. Any extension granted by the Registrar General would be for a period of ninety (90) days or such longer period as the Registrar General may think fit. Where such an extension is granted, the registrable document must be registered before the expiration of the extension. For any such registrable document that is registered, the late registration fee specified in the Schedule to the Registrar General Act must be paid to the Registrar General.

PART VI – PRIORITY OF DEEDS AND PROTECTION OF PURCHASERS AND MORTGAGEES

Deeds of gift and settlements to be registered within limited time.

49. Paragraph (i) seeks to repeal the existing Section 18 of the Registration of Deeds Act to remove the requirement for Deeds of gifts and settlements to be registered within twelve (12) months.

PART VIII and IX – OFFENCES and MISCELLANEOUS PROVISIONS

Failure to comply with Section 15E, 15F(2) or 15H(1)

50. **Proposed Section 22** would make it an offence for an Attorney-at-Law to fail to comply with the requirements of new Sections 15E, 15F(2) or 15H(1). The penalty upon summary conviction would be a fine of ten thousand dollars (\$10,000.00) and imprisonment for six (6) months.

Failure to comply with Section 15C(1) or 15I(1)

51. **Proposed Section 23** would make failure to comply with Sections 15C (1), 15I (1) and (2) an offence. The penalty upon summary conviction would be a fine of ten thousand dollars (\$10,000.00) and imprisonment for six (6) months.

Providing false information to the Registrar General

52. **Proposed Section 24** creates the offence of knowingly providing false information to the Registrar General. The penalty upon summary conviction would be a fine of ten thousand dollars (\$10,000.00) and imprisonment for six (6) months.

Defence








53. **Proposed Section 25** establishes a defense in proceedings for an offence under the Act if the accused proves that he did not knowingly authorize, permit or acquiesce in the commission of the offence.

Limitation re: summary offences

54. **Proposed Section 26** would provide that notwithstanding any written law prescribing a time within which proceedings may be brought before a Court of summary jurisdiction, the time frame for commencing summary proceedings for an offence under this Act would be

extended to any time within seven (7) years from the commission of the offence or within eighteen (18) months after the relevant date¹⁸. A certificate of the date on which such evidence comes to the knowledge of the Registrar General would be conclusive evidence of that fact.

Instruments of Trusts

55. **Proposed Section 27** establishes that all instruments of trusts made on or after the commencement of this Bill would be void unless done by Deed and registered under this Act. Additionally, every trustee of a trust that is in existence prior to commencement of this Bill must submit to the Registrar General the particulars of such trust in approved form within twelve (12) months of the commencement of this Bill.
56. If any person fails to submit to the Registrar General the particulars of a trust to register it as required, the Registrar may refuse to register any dealings with respect to the land subject of the Trust. Any person affected by such decision can apply to the court for an extension of time for registration of the trust.
57. Every *inter-vivos* dealing or transaction affecting a trust of land or affecting land which is the subject of the trust, made on or after commencement of this Bill including:-
-  a disposition of a subsisting trust and an equitable interest in land which is the subject of a trust;
 -  a declaration of a trust;
 -  appointment of a trustee;
 -  retirement of a trustee;
 -  disclaimer of a trustee;
 -  delegation of duties of a trustee;
 -  variation of the terms and conditions of a trust;
- shall be void unless made by Deed and registered in accordance with this Bill.

Appeals

58. **Proposed Section 28** provides for appeals from any decision of the Registrar to refuse to register a contract for the sale or other disposition of land under Section 15B(6), to refuse to accept a registrable document for registration under Section 15F(4) and 15I(6), to reject an application for an extension to register a registrable document under section 15G(4), to

¹⁸ “relevant date” means the date on which evidence sufficient in the opinion of the Registrar General, to justify the institution of summary proceedings, comes to his knowledge.

reject an application for a further extension to register a registrable document under Section 15G(7) to the High Court. The High Court may make any such order as it deems fit.

CONVEYANCING AND LAW OF PROPERTY ACT

59. **Clause 5** of the Bill seeks to amend the **Conveyancing and Law of Property Act**.

Contract to precede Deed

60. **New Section 3A** provides that on or after the commencement of this Bill, every Deed for the conveyance of an interest in land shall be preceded by a contract for the sale or other disposition of that interest. However, this does not apply where the Deed of Conveyance was made prior to the commencement of this Bill. Additionally, this also does not apply to a Deed of gift, an assent or a grant of a lease for a term of less than three (3) years.

Contracts for sale, etc. of land to be in writing and registered

61. Paragraph (b) proposes to repeal the existing Section 4 and replace it with the new **Section 4** which provides that no action may be brought upon any contract for the sale or other disposition of land or any interest in land, unless the agreement upon which such action is brought, or some memorandum or note thereof, is in writing, and signed by the party to be charged or by some other person lawfully authorized by him. This applies to contracts made before the commencement of this Bill.

62. Additionally, this Bill does not affect the law relating to part performance before the coming into force of that Act.

63. Moreover, upon or after the commencement of this Act, all contracts for the sale of land must be in writing and registered in accordance with the Registration of Deeds Act, however this does not affect the law relating to the sale or other disposition of land or an interest in land by an order of a Court.

Lands to be granted by registration

64. **Paragraph (c)** seeks to amend Section 10 by repealing the existing subsection (1) and replacing it with a new subsection (1) the following new subsection to provide that all conveyances of land or of any interest in land is void for the purpose of conveying or creating a legal interest unless it is made by Deed and it is registered in accordance with PART IV of the Registration of Deeds Act, on or after commencement of this Bill.

REAL PROPERTY ACT

65. **Clause 6** of the Bill seeks to amend the **Real Property Act**.

Contract to precede instrument for conveyance

66. **Paragraph (a)** proposes to insert a new Section 61A to require that every instrument for the conveyance of an interest in land shall be preceded by a contract for the sale or other disposition of that interest, upon or after commencement of this Bill.
67. Such contract must be in accordance with Sections 15A, 15B and 15C of the **Registration of Deeds Act**.

Memorandum of Transfer

68. **Paragraph (b)** proposes to amend the existing Section 62 by renumbering it as section 62(1) and inserting a new subsection (2), (3) and (4). In the new Section 62(1) as renumbered, the words “may execute” would be deleted and substituted with the words “shall execute”.
69. **New Section 62 subsection (2)** would prohibit the Registrar General from accepting a memorandum of transfer for registration unless it meets the requirements of Sections 5, 5A to 5D and Parts IV and V of the **Registration of Deeds Act**. Additionally, every memorandum of transfer presented for registration must be accompanied by a cover sheet in duplicate, prepared by the Attorney-at-Law presenting the Deed, containing particulars such as the name of the Attorney-at-Law who prepared the memorandum, the date of the practicing certificate of that Attorney, the address of the firm or chambers of that Attorney, the current Certificate of Title reference, the registered proprietor of the property to which the memorandum relates, the opposite party, the date of execution of the memorandum and any other particulars which the Registrar General may require.
70. Lastly, the Registrar General must place such information referred to and contained in the cover sheet in the relevant index.

Mode of execution and effect of instrument

71. **Paragraph (c)** proposes to amend the existing Section 130 by deleting the words “Act or Ordinance” and substituting it with the words “written law” wherever it appears.

Providing false information to the Registrar General

72. Paragraph (d) proposes to insert a number of new sections after the existing Section 157.
73. **New Section 157A** would make it an offence for any person purporting to comply with this Act to knowingly provide false information to the Registrar General. The penalty upon summary conviction would be a fine of ten thousand dollars (\$10,000.00) and imprisonment for six (6) months.

Defence

74. **New Section 157B** establishes a defense in proceedings for an offence under the Act if the accused proves that he did not knowingly authorize, permit or acquiesce in the commission of the offence.

Limitation re: summary offences

75. **Proposed Section 26** would provide that notwithstanding any written law prescribing a time within which proceedings may be brought before a Court of summary jurisdiction, the time frame for commencing summary proceedings for an offence under this Act would be extended to any time within seven (7) years from the commission of the offence or within eighteen (18) months after the relevant date. A certificate of the date on which such evidence comes to the knowledge of the Registrar General would be conclusive evidence of that fact.

STAMP DUTY ACT

76. **Clause 7** of the Bill seeks to amend the **Stamp Duty Act**.

Facts and circumstances affecting duty to be set forth in instruments

77. Paragraph (a) proposes an amendment to the existing Section 16 to increase the penalty from **four hundred dollars (\$400.00)** to **twelve thousand dollars (\$12,000.00)** and to **imprisonment for twelve (12) months** for any person attempting to intentionally defraud the State by executing an instrument in which all the said facts and circumstances are not fully set forth or being employed or concerned in or about the preparation of an instrument, neglecting or omitting fully and truly to set forth all the said facts and circumstances.

Fraud not specially provided for

78. **Paragraph (b)** proposes an amendment to the existing Section 82 to increase the penalty from **fifteen thousand dollars (\$15,000.00)** to **thirty thousand dollars (\$30,000.00)** for any person who practices or is involved in any fraudulent act, contrivance or device not specially provided for by law, with intent to defraud the State of any stamp duty.

REGISTRATION OF TITLE TO LANDS ACT

79. **Clause 8** of the Bill seeks to amend the **Registration of Title to Lands Act**.

Interest in land to be created or disposed of in writing

80. **Paragraph (a)** amends the existing Section 26(2) by deleting all the words after the word “therein” and substituting it with the words “shall be by Deed in accordance with Section 27 of the Registration of Deeds Act.” which would provide for trusts to now be registered in accordance with the Registration of Deeds Act as opposed to being manifested and proved by some writing signed by any person able to declare such trust or will.

Trusts

81. **Paragraph (c)** proposes to amend the existing Section 55 by deleting the existing subsection (2) and substituting it with the new subsection (2) which would provide that a Deed of Trust must be registered in accordance with the Registration of Deeds Act.

Effect of Caveat¹⁹

82. **Paragraph (d)** proposes to amend the existing Section 79 by deleting the word “a trust or” and substituting the word “an” to remove any reference made to a trust not being protected by a caveat and to only deal with an unregistered interest being affected by a caveat.



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May 17, 2019

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¹⁹ A **caveat** is a formal notice or warning given by a party to a court or court officer requesting a suspension of proceedings (Black’s Law Dictionary 9th Edition).