



THE PARLIAMENT OF
TRINIDAD AND TOBAGO

BILL ESSENTIALS

Date Introduced: 3 March, 2020

House: Senate

Minister: Attorney General and
Minister of Legal Affairs

Senate Bill No: 2 of 2020

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. 34, 2019–2020

7 MAY, 2020

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.....	5
Mode of Execution.....	5
Attestation of Deeds out of Trinidad and Tobago.....	6
Execution of Instrument by Marksman.....	6
Registration of Deed executed in accordance with Section 5B and 5C.....	7
Deed to have a Cover Sheet.....	7
PART III - CONTRACT FOR THE SALE OR OTHER DISPOSITION OF LAND.....	7
Form and content of contract for sale or other disposition of land to be registered... 7	7
Registration of contract for the sale or other disposition of land.....	8
Notice of variation or termination of contract for sale or other disposition of land... 9	9
PART IV – EXECUTION AND REGISTRATION OF REGISTRABLE DOCUMENTS.....	10
Form and content of registrable documents.....	10
Notice of execution of registrable document.....	11
Registration of registrable document.....	11
Application for extension of time.....	12
PART V – DUTY OF ATTORNEY-AT-LAW TO INFORM CLIENT OF OBLIGATIONS ETC.....	12
Duty of Attorney-at-Law to inform his client of obligations etc.....	12
Transitional Provisions.....	13
PART VI – PRIORITY OF DEEDS AND PROTECTION OF PURCHASERS AND MORTGAGEES.....	13
PART VII – PRODUCTION OF DEEDS IN EVIDENCE.....	14
PART VIII and IX – OFFENCES and MISCELLANEOUS PROVISIONS.....	14
Failure to comply with Section 15E, 15F(1) or 15H(1).....	14
Failure to comply with Section 15C(1) (2) or 15I(1) (2).....	14
Providing false information to the Registrar General.....	15
Defence.....	15
Limitation re: summary offences.....	15
Instruments of Trusts.....	16
Appeals.....	16
Amendment of Schedule.....	16
CONVEYANCING AND LAW OF PROPERTY ACT.....	17
Contract to precede Deed.....	17
Contracts for sale, etc. of land to be in writing and registered.....	17
Lands to be granted by registration.....	18
REAL PROPERTY ACT.....	18
Contract to precede instrument for conveyance.....	18
Memorandum of Transfer.....	18
Mode of execution and effect of instrument.....	19
Providing false information to the Registrar General.....	19
Defence.....	19
Limitation re: summary offences.....	19
STAMP DUTY ACT.....	20
Facts and circumstances affecting duty to be set forth in instruments.....	20
Fraud not specially provided for.....	20
REGISTRATION OF TITLE TO LANDS ACT.....	20
Interest in land to be created or disposed of in writing.....	20
Trusts.....	20
Effect of Caveat.....	21
REFERENCES.....	21

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, 2020¹** (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 deal with fraud that occurs with land dealings, to make provisions for transparency in respect of legal arrangements and beneficial ownership and also to meet our international requirements under Recommendation 25 and Immediate Outcomes 5 of the Financial Action Task Force Recommendations.
2. This Bill was introduced in the Senate by the Attorney General and Minister of Legal Affairs on March 3, 2020.
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).
5. Under **Clause 3 subparagraph (1)** which amends the existing Section 4(1):-

¹ <http://www.ttparliament.org/legislations/b2020s02.pdf>

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).

-  the word “four” would be deleted and substituted with the word “six” to increase the number of separate and distinct indexes kept by the Registrar General;
-  after the existing paragraph (d) the following new paragraphs would be inserted: “(e) contracts for the sale of land; (f) beneficial owners; and (g) registerable documents executed but not registered.” Thereby creating three additional separate and distinct indexes kept by the Registrar General.

6. Under **Clause 3 subparagraph (2)** a number of new subsections would be inserted. The proposed subsection (1A) inserted after subsection (1) would empower the Registrar General to keep another index for all instruments of trusts which are registered under the Registration of Deeds Act.
7. This index would be a closed index for the purpose of our 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.
8. This index would also be open to an officer of the police service of the rank of Superintendent or above attached to the financial investigations or fraud divisions for the sole purposes of investigating whether an offence has been committed under any written law, for the purpose of laying any information or the preferring of an indictment. It is also open to the Chairman of the Board of Inland Revenue and by order of the court.
9. Under **Clause 3 subparagraph (3)** which amends the existing Section 4(2):-
 -  the new paragraph (f) would be inserted after the existing paragraph (e) which would 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;
 -  the new paragraph (g) would require every beneficial owner to be entered in the index of beneficiaries;
 -  the new paragraph (h) would require every registerable document executed but not registered to be entered in the index of registerable document executed but not registered; and
 -  the new paragraph (i) would require every instrument of trust registered with the Registrar General to be entered in the index of Trusts.

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

10. Additionally, the new subsection (6) would be inserted after the existing subsection (5) which would set out the definitions for “beneficial owner” and “trust”. “Beneficial Owner”¹⁰ would have the meaning assigned to it under Section 337A of the **Companies Act**¹¹.
11. “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 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.
12. 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, by deleting the words “All” wherever it occurs and substituting it in each place with the phrase “Subject to section 4(1A), all” accordingly.
13. Paragraph (c) would amend the existing Section 7 by renumbering the existing Section 7 as Section 7(1) and to introduce a new subsection (2) after, to allow the Minister to amend the Schedule by Order subject to negative resolution so as to allow the schedule of fees¹² to be amended through delegated legislation while giving the Parliament some degree of scrutiny.
14. Finally, paragraph (d) would amend the Schedule of Fees to provide for the new administrative fees because of the new applications being proposed under this Bill. In Part A of the Schedule the following six (6) new paragraphs would be inserted after the existing Paragraph (j):-

(k) for the registration of a contract for the sale of land	\$100.00
(l) for late registration of a contract for the sale of land	\$2,000.00
(m) for late registration of a registrable document for the sale of land	\$2,000.00
(n) for variation or termination of a contract for the sale of land	\$100.00
(o) for notice of execution of a registrable document for the sale of land	\$100.00
(p) for applications	\$100.00

¹⁰ “beneficial ownership” includes ownership through a trustee, legal representative, agent or other intermediary

¹¹ **Chap 81:01:** http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/81.01.pdf

¹² Registrar General Act Schedule Part A

REGISTRATION OF DEEDS ACT

15. **Clause 4** of the Bill proposes to amend the **Registration of Deeds Act** in existing Sections 1, 2, 5A, 7, 13A and to add new sections 5B, 5C, 5D, 15A-15H and 22-27. A number of new headings are also being inserted into the Bill.
16. Paragraph (a) proposes to insert the first heading entitled **“Part I Preliminary”** before the existing Section 1. Paragraph (b) proposes to amend the existing Section 2 to insert two (2) new definitions of phrases being used in the Act namely “authorized clerk”¹³, “interest in land”¹⁴ and “Minister”¹⁵.
17. The definition of “qualified functionary is also being amended to remove the reference “to a conveyancer”:

“qualified functionary” means a Judge of the Supreme Court, a Justice, an Attorney-at-law, ~~a conveyancer~~ or the Registrar of the Supreme Court.
18. Under **Clause 4 subparagraph (3)** a new subsection would be introduced to provide for the definition of “registrable documents” which is to be used in Parts IV and V of the Act.
19. Paragraph (c) proposes to insert the words **“Part II”** before the existing heading **“Execution and Registration of Deeds”**. Paragraph (d) would correct the reference to the Land Surveyors Act by deleting the word “Ordinance” and substituting it with the word “Act” wherever it appears in Section 5A.
20. Paragraph (d) proposes to insert the new subsection (2) after the renumbered existing subsection (1). This new subsection (2) will provide that every registrable document executed in Trinidad and Tobago or elsewhere must satisfy all the requirements under this Act and be registered hereunder to be deemed valid and effectual in law and equity for all purposes including the creation, transfer or conveyance of land.
21. Paragraph (e) proposes to insert after the existing Section 5A, three (3) new sections.

Mode of Execution

22. **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

¹³ Any person authorised in writing by an Attorney-at-Law for a specific transaction (Form C - Schedule).

¹⁴ The lawful right as owner of land to hold the legal or equitable title to the land.

¹⁵ Legal Affairs Minister.

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

23. 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.
24. 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.
25. 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.
26. Furthermore, a qualified functionary¹⁶ 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

27. **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 Marksman¹⁷

28. **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.

¹⁶ 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.

¹⁷ 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

29. 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

30. 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.
31. Paragraph (h) seeks to renumber the existing section 13A as section 13A(1) and to delete the existing paragraph (g) in section 13A(1) and replace it with a new paragraph (g) and (h) to provide:-



(g) information on the authorised clerk;



(h) such other particulars as the Minister may prescribe by Order.

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

32. Paragraph (i) proposes to:
- i. insert a new Part II to deal with Contracts for the Sale or Other Dispositions of Land which would have three (3) new sections;
 - ii. a new Part IV that would deal with the Execution and Registration of Registrable Documents which would contain four (4) new sections; and
 - iii. a new Part V which would deal with the Duty of Attorneys-at-Law to inform their client of obligations etc. which would contain two (2) new sections.

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







33. **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 present 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.

34. Such contract for sale or other disposition of land must contain a record of the date and time of the execution of such contract for sale or other disposition of land and it must contain a provision setting out the agreed commencement date and time.

Registration of contract for the sale or other disposition of land

35. **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.
36. Additionally, where contracts for the sale or other disposition of land are exchanged, a document that complies with all the requirements (section 15A(1)) and reflecting the contents of the exchanged contracts must be registered within thirty (30) days of execution or within thirty days from the effective date of the contract.
37. A duly completed cover sheet (subsection 4) and the specified fee (Schedule – Registrar General Act) must accompany contracts for the sale or other disposition of land in order to be registered. Such required cover sheet must be in prescribed form (Form C – Schedule) and contain the following *inter alia*:-

-  Name of the Attorney and Admission Number;
-  Name of Parties to the Deed;
-  Date of execution or effective date;
-  Number of pages;
-  Reference to previous vendor's title Deed or Instrument; and
-  Information on Authorised Clerk.

38. 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 for the late registration of such document. Such application must be in prescribed form (Form D) i.e. it must be in writing, giving reasons to the Registrar General for the delay/late registration of the contract for the sale or other disposition of land, accompanied by the specified fee (Schedule - Registrar General Act).

39. 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, a notice of termination (Section 15C), has not been submitted and recorded by the Registrar General or it does not meet the formal requirements (section 15A(1)). 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.
40. Moreover, if any party wishes to register a contract for sale or other disposition of land within thirty (30) days of its execution or effective date and there is a subsisting similar contract which has been registered then the purchaser seeking such registration can apply to the Registrar General for the establishment of a priority list. Such priority list for registration would be based solely on the date and time, being either the date and time of execution or the effective date. Such application shall also operate as a temporary caveat on any further dealing with the land until the priority list is established by the Registrar General.
41. The Registrar General must furnish all affected parties with Notice of such priority list.
42. This provision would not apply to mortgages, releases, rectifications, confirmations, voluntary transfer of land without valuable consideration, 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

43. **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.

44. Where the parties to the sale or other disposition do not agree to the mutual termination of the registered contract then the aggrieved party or his attorney terminating the contract and wishing to record such termination/rescission must submit to the Registrar General within thirty (30) days of the termination, a notification that such contract has been terminated or rescinded (Form E – Schedule).
45. The Registrar General would record such notification and all parties to the contract for sale or other disposition of land must be informed in writing or electronically by the Registrar General.
46. Such notification must be in prescribed form and contain:-
 -  Name of the parties;
 -  Date of registration;
 -  Registration number issued by Registrar General;
 -  Particulars of the variation;
 -  Provision of contract under which terminated.
47. 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

48. **Proposed Section 15D** under New Part II requires an attorney-at-law to prepare a registrable document and to ensure 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). It should also be consistent with the terms of the contract for sale or other disposition of land including any variation that was submitted (under section 15C).
49. This provision would not apply to mortgages, releases, rectifications, confirmations, voluntary transfer of land without valuable consideration, 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.

50. Finally, in addition to any penalty made under new section 22, any registrable document made in breach of this section shall be deemed null and void.

Notice of execution of registrable document

51. **Proposed Section 15E** under New Part II 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 (Form F – Schedule).

Registration of registrable document

52. **Proposed Section 15F** under New Part II 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.
53. 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 (Form G) and inform the former client of any obligations that remain outstanding in respect of registration of the registrable document (Form H).
54. 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**¹⁸, has not been suspended from practice under Section 25 of the **Legal Profession Act**¹⁹ 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.
55. 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.

¹⁸ Chap 72:01: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/72.01.pdf

¹⁹ Chap 90:03: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/90.03.pdf

56. 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

57. **Proposed Section 15G** under New Part II 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 prescribed form (Form I) i.e. 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.
58. 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.
59. The Registrar General can only grant an extension for a period of ninety (90) days. The High Court 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 deemed fit.
60. 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.

61. **Proposed Section 15H** under New Part II 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 under this Act.

Transitional Provisions

62. **Proposed Section 15I** under New Part II 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.
63. 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 (Form L) and accompanied by the specified fee in the Schedule to the Registrar General Act.
64. 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.
65. 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 deem fit. Any person seeking a further extension can apply to the High Court at least one (1) month before the expiration of the existing extension.
66. 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





67. After existing section 16(2) the new subsection (3) provides that no Deed executed under this section passes title unless it is registered in accordance with this Act.

PART VII – PRODUCTION OF DEEDS IN EVIDENCE**PART VIII and IX – OFFENCES and MISCELLANEOUS PROVISIONS**

68. Paragraph (k) seeks to insert a new Parts VIII and IX after the existing Section 21. Part VIII would now provide for offences and would contain 5 new sections.


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




69. **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(1) 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. Such amount is subject to additional penalties based on the value of the registrable document as follows:-

-  **Eight hundred thousand dollars (\$800,000.00) or less – further penalty of five thousand dollars (\$5,000.00);**
-  **Eight hundred thousand dollars (\$800,000.00) + one (1) cent or more but less than one million dollars (1,000,000.00) – further fine of unpaid penalty + penalty equal to amount of unpaid penalty;**
-  **One million dollars (\$1,000,000.00) + one (1) cent or more but less than three million dollars (3,000,000.00) – further fine of unpaid penalty + penalty of ten thousand dollars (\$10,000.00) + further penalty of one thousand dollars (\$1,000.00) for every ten thousand dollars (\$10,000.00) or part thereof of the unpaid penalty exceeding such amount; and**
-  **Three million dollars (\$3,000,000.00) + one (1) cent or more – further fine of unpaid penalty + penalty of ten thousand dollars (\$10,000.00) + further penalty of one thousand dollars (\$1,000.00) for every ten thousand dollars (\$10,000.00) or part thereof of the unpaid penalty exceeding such amount.**

Failure to comply with Section 15C(1) (2) or 15I(1) (2)

70. **Proposed Section 23** would make it an offence for any person who fails to comply with Sections 15C (1) and (2), 15I(1) and (2). The penalty upon summary conviction would be a fine of five thousand dollars (\$5,000.00). Such amount is subject to additional penalties based on the value of the registrable document as follows:-

-  **Eight hundred thousand dollars (\$800,000.00) or less – further penalty of two thousand five hundred dollars (\$2,500.00);**

-  **Eight hundred thousand dollars (\$800,000.00) + one (1) cent or more but less than one million dollars (1,000,000.00) – further fine of unpaid penalty + penalty equal to amount of unpaid penalty;**
-  **One million dollars (\$1,000,000.00) + one (1) cent or more but less than three million dollars (3,000,000.00) – further fine of unpaid penalty + penalty of ten thousand dollars (\$10,000.00) + further penalty of one thousand dollars (\$1,000.00) for every ten thousand dollars (\$10,000.00) or part thereof of the unpaid penalty exceeding such amount; or**
-  **Three million dollars (\$3,000,000.00) + one (1) cent or more – further fine of unpaid penalty + penalty of ten thousand dollars (\$10,000.00) + further penalty of one thousand dollars (\$1,000.00) for every ten thousand dollars (\$10,000.00) or part thereof of the unpaid penalty exceeding such amount.**

Providing false information to the Registrar General

71. **Proposed Section 24** 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








72. **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

73. **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 may be instituted at any time within eighteen (18) months after the relevant date²⁰. A certificate of the date on which such evidence comes to the knowledge of the Registrar General would be conclusive evidence of that fact.
74. **New Part IX would provide for Miscellaneous Provisions.**

²⁰ “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.



Instruments of Trusts










75. **Proposed Section 27** establishes that all instruments of trusts made on or after the commencement of this Bill would be void unless it is 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 (Form M) within twelve (12) months of the commencement of this Bill.
76. 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.
77. 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

78. **Proposed Section 28** provides for appeals to the High Court from any decision of the Registrar to refuse to register a contract for the sale or other disposition of land under Section 15B(9), or refusal to accept a registrable document for registration under Section 15F(4) and 15I(6). The High Court may make any such order as it deems fit.

Amendment of Schedule

79. **Proposed Section 29** allows the Minister to amend the Schedule by Order. The Schedule is also amended by inserting the following new forms after the existing Form B:-
-  **Form C** – Document Cover Sheet;
 -  **Form D** – Application for Late Registration of Contract for Sale of Land;

-  **Form E** – Notice of Variation or Termination of Contract for Sale or other disposition of land;
-  **Form F** – Notice of Execution of Registrable Document;
-  **Form G** – Notice to Registrar General for cessation as Attorney-at-Law on record;
-  **Form H** – Notice of Client of obligations on ceasing to be Attorney on record;
-  **Form I** – Notice to Registrar General on Late Registration;
-  **Form J** – Notice of Extension of Period for Registration;
-  **Form K** – Acknowledgement of Information provided by former Attorney-at-Law;
-  **Form L** – Application for Late Registration of Registrable Document;
-  **Form M** – Particulars of Trusts in existence.

CONVEYANCING AND LAW OF PROPERTY ACT

80. **Clause 5** of the Bill seeks to amend the **Conveyancing and Law of Property Act**.
81. Paragraph (a) proposes to insert in section 2 a new definition of “interest in land” which shall mean the lawful right as owner of land to hold the legal title to the land.
82. Paragraph (b) proposes to insert after the heading “PART II SALES AND OTHER TRANSACTIONS CONTRACTS” a new Section 3A.

Contract to precede Deed

83. **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

84. 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.
85. Additionally, this Bill does not affect the law relating to part performance before the coming into force of that Act.

86. 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

87. 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

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

Contract to precede instrument for conveyance

89. Paragraph (a) proposes to insert in section 2(1) a new definition of “interest in land” which shall mean the lawful right as owner of land to hold the legal title to the land.

90. Paragraph (b) proposes to insert after the existing Section 61 and the heading “PART V TRANSFERS AND OTHER DEALINGS”, 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.

91. Such contract must be in accordance with Sections 15A, 15B and 15C of the Registration of Deeds Act.

Memorandum of Transfer

92. 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”.

93. 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 practising 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, information on the authorized clerk and any other particulars which the Registrar General may require.

94. 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

95. 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

96. Paragraph (d) proposes to insert a number of new sections after the existing Section 157.
97. **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

98. **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

99. **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 date²¹. A certificate of the date on which such evidence comes to the knowledge of the Registrar General would be conclusive evidence of that fact.

²¹ “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.

STAMP DUTY ACT

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

Facts and circumstances affecting duty to be set forth in instruments

101. 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

102. 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

103. **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

104. 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

105. 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 Caveat²²

106. 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.

REFERENCES**KEY LEGISLATION**

-  **Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property, Stamp Duty and Registration of Title to Land) (Amendment) Bill, 2020**
<http://www.ttparliament.org/legislations/b2020s02.pdf>
-  **Registrar General Act, Chap. 19:03:**
http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/19.03.pdf
-  **Registration of Deeds Act, Chap. 19:06**
http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/19.06.pdf
-  **Conveyancing and Law of Property Act, Chap. 56:01**
http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/56.01.pdf
-  **Real Property Act, Chap. 56:02**
http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/56.02.pdf
-  **Stamp Duty Act, Chap. 76:01**
http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/76.01.pdf
-  **Registration of Title to Land Act, Act No. 16 of 2000**
<http://laws.gov.tt/ttdll-web/revision/download/28925?type=amendment>

²² 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).

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, 2020



Legal Unit
Parliament Secretariat
Parliamentary Complex, Cabildo Building,
No. 23-27 St. Vincent Street, Port-of-Spain

May 7, 2020

Disclaimer: Bills Essentials are prepared to support the work of the Members of the Parliament of the Trinidad and Tobago and is not intended to address the specific circumstances of any particular individual. They are produced under time and resource constraints and aim to be available in time for debate in the Houses.

The views expressed in Bill Essentials do not reflect an official position of the Legal Unit, nor do they constitute professional legal opinion. Bill Essentials reflect the relevant legislation as introduced and do not canvass subsequent amendments or developments. To determine the official status of the Bill or follow its progress click here: <http://www.ttparliament.org/publications.php?mid=28&id=881>