

**THE REGISTRATION OF TITLES, CADASTRAL
MAPPING AND TENURE CLARIFICATION
(SPECIAL PROVISIONS) ACT, 2005**
(Act 25 of 2005)

ARRANGEMENT OF SECTIONS

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JAMAICA

No. 25 – 2005

I assent,

[L.S.]

H. F. COOKE,
Governor-General.

13th day of October, 2005.

AN ACT to Make Special Provisions for Cadastral Mapping and Tenure Clarification in relation to the registration of titles to land in specified areas and for connected matters.

[*14th day of October, 2005*]

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

1. This Act may be cited as the Registration of Titles, Cadastral Mapping and Tenure Clarification (Special Provisions) Act, 2005. Short title.

2. In this Act—

Inter-pretation.

“application” means an application made pursuant to section 28, 54 or 85 of the Registration of Titles Act;

“beneficiary” means any person owning land within a project area;

“cadastral map” means a map, including a map prepared in digital format, showing the boundaries of land parcels within a specified region or locality;

“instrument” includes any document other than an application, prepared for lodgment in the Office of Titles or any document related to a grant of probate or letters of administration;

“plan” includes a map, plat or diagram;

“project area” means an area declared as such by the Minister pursuant to section 3;

“specified land” means any real property (whether already brought under the Registration of Titles Act or not) in the project area.

Power to declare a project area.

3. The Minister may by order declare an area to be a project area, so as to facilitate the expeditious and cost effective cadastral mapping and tenure clarification of that area as defined by a plan.

Power to exempt land.

4. The Minister may, by order, exempt any land from the operation of this Act.

Exemption from approvals, consents, transfer tax, stamp duties and fees.

5. Notwithstanding anything contained in any other enactment, where any specified land is being registered or transferred—

(a) if the laying out or subdivision of that land is necessary for that registration or transfer, the Minister may—

(i) by order declare that the Local Improvements Act, the Natural Resources Conservation Authority Act and the Town and Country Planning Act shall not apply in relation to that registration or transfer; and

(ii) impose a covenant on any title issued binding the land owner, his heirs, successors and assignees to contribute to the incremental development of infrastructure to the standard approved by all relevant agencies and authorities;

- (b) if that land comprises or is included in an agricultural unit within the meaning of the Land Development and Utilization Act, the Minister may by order declare that the approval of the Commission under section 20 of that Act need not be obtained for that registration or transfer;
- (c) the transfer, if not for monetary consideration, shall be exempt from any tax imposed by the Transfer Tax Act;
- (d) any contract or agreement to transfer that land not for monetary consideration, and any instrument necessary for the transfer, shall be exempt from the payment of any stamp duties, registration or recording fees which, but for this section, would have been payable on that contract, agreement or instrument;
- (e) if that land is passing on the death of an individual, that transfer shall be exempt from any tax imposed by the Transfer Tax Act;
- (f) the application shall be exempt from the payment of transfer tax, stamp duty and registration fees and may be submitted to the Registrar of Titles without reference to the Commissioner of Taxpayer Audit and Assessment;
- (g) no stamp duty shall be payable on any document related to the regularization and clarification of specified land, including but not limited to a fixed date claim form, probate or letters of administration.

6.—(1) Notwithstanding the provisions of the Registration of Titles Act, an application made in relation to any specified land shall be accompanied by a plan or cadastral map specifying the description of the land.

Registration
of title by
cadastral
map, etc.

(2) The Registrar of Titles may, in relation to an application, issue a title based on a cadastral map which has been—

- (a) certified by the Director of Surveys; and
- (b) deposited in the Office of Titles.

Power to make and confirm agreements, etc.

7. For the purposes of expediting the cadastral mapping and tenure clarification exercise in a project area, the Land Administration and Management Programme may, with the approval of the Minister, make or confirm such agreements and arrangements with any public sector agency, private company or individual, as the Minister may deem fit.

The Land Administration and Management Programme Fund.

8.—(1) There is hereby established a fund, to be called the Land Administration and Management Programme Fund (in this section referred to as “the Fund”).

(2) All sums received as fees from beneficiaries under this Act and such sums as may be allocated by the Government shall be paid into the Fund.

(3) The proceeds of the Fund shall be used to pay all applicable fees and charges and for the continuation of the National Cadastral Mapping and Tenure Clarification Programme.

(4) Accounts of the Fund shall be—

- (a) prepared in such form and manner and at such times as the Minister may direct;
- (b) audited by the Auditor-General.

(5) Any moneys and investments forming part of the Fund may from time to time be invested or realized, as the case may be, in accordance with the directions of the Minister responsible for finance.

(6) The Minister shall, not later than July 1 in each year, cause a report on the operations of the Fund in respect of the last preceding year and the auditor’s report thereon to be laid on the Table of the House of Representatives and of the Senate.

(7) The Minister shall establish a Board of Management to manage the Fund.

Adjudication Committee.

9.—(1) The Minister may appoint such Adjudication Committees as he considers necessary, to adjudicate issues concerning the rights and interests of any person in relation to any specified land.

(2) An Adjudication Committee may be appointed for a project area or a parish.

(3) The Minister shall appoint one of the members of each committee to be chairman thereof, and shall make regulations, subject to affirmative resolution, with regard to the constitution and the terms of reference of the committee.

10.—(1) A beneficiary may make an application if that beneficiary—

Title acquired
by
possession.

- (a) has purchased or received the land by way of gift, or is claiming through any person who has purchased or received the land by way of gift;
- (b) is in sole, open, quiet, undisputed continuous and undisturbed possession of the land, whether by himself, his servants, agent or tenants, for any period which, when added to any other period or periods of possession as aforesaid by his predecessors who hold the title in fee simple, amounts to at least twelve years or, where the property is owned by the Crown, sixty years; and
- (c) is in possession of the land on the date of the application.

(2) Subject to subsection (3), a beneficiary referred to in subsection (1) who—

- (a) has entered into possession of the land—
 - (i) under any contract or lease;
 - (ii) as one of the beneficiaries entitled to the land under the Wills Act or the Intestates' Estates and Property Charges Act; and

(b) is in possession of the land on the date of the application, shall not be prejudiced by having entered into such possession.

(3) Subsection (2) shall not apply if the beneficiary entered into possession of the land by virtue of being the agent of the person who is the owner in fee simple.

11.—(1) The Minister may by order, prescribe such fees and charges to be paid by the beneficiaries for any specified service.

Fees and
charges.

(2) A fee or charge prescribed pursuant to subsection (1) may be determined on the basis of the value of the property on the Property Tax Roll or on such other criteria as the Minister may determine.

(3) Any fee or charge payable by a beneficiary under the provisions of this Act which remains unpaid shall, in addition to any other remedy, be a first charge upon the property in respect of which such fees or charges are due and payable until payment or recovery of such fees or charges and interest thereon is made.

(4) A charge created pursuant to subsection (3) shall have priority over any other charge, encumbrance or lien save and except any other charge, encumbrance or lien created on the property in favour of the Crown by any other enactment.

Regulations. **12.**—(1) The Minister may make regulations for giving effect to the provisions of this Act and, without prejudice to the generality of the foregoing, may make regulations—

- (a) prescribing the form of any notice, order or other document required pursuant to this Act;
- (b) prescribing any other matter required by this Act to be prescribed.

(2) Any regulations made pursuant to subsection (1) shall be subject to negative resolution.

Amendment
of
Registration
of Titles Act. **13.** Subsection (1) of section 6 of the Registration of Titles Act is amended by deleting the word “four” and substituting therefor the word “ten”.