

JAMAICA

No. 6 – 2020

I assent,

[L.S.]

PATRICK L. ALLEN,
Governor-General.

9th day of June, 2020.

AN ACT to Amend the Registration of Titles Cadastral Mapping
and Tenure Clarification (Special Provisions) Act; and for
connected matters.

[9th June 2020]

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) (Amendment) Act, 2020, and shall be read and construed as one with the Registration

Short title
and
construction.

of Titles Cadastral Mapping and Tenure Clarification (Special Provisions) Act, hereinafter referred to as the principal Act.

Amendment
of section 2
of principal
Act.

2. Section 2 of the principal Act is amended—

(a) in the definition of “application”, by deleting the words “section 28, 54 or 85” and substituting therefor the words “section 28, 28A, 54, 85 or 87A”;

(b) by inserting in its correct alphabetical sequence the following—

“adjudication certificate” means an adjudication certificate issued by an Adjudication Committee or the Director of Adjudication Services under section 8A or 9B;

“Adjudication Services Division” means the Adjudication Services Division referred to under section 8A;

“Adjudication Committee” means the Adjudication Committee established under section 9;

“adjudication record” means the adjudication record prepared in accordance with section 9A;

“Director of Adjudication Services” means a Director of Adjudication Services Division appointed under section 8A to perform the duties prescribed thereunder;

“land surveyor” has the meaning assigned to it under Land Surveyors Act;

“systematic adjudication area” means an area declared by the Minister under section 7C;

“voluntary registration application” means an application made by an applicant in respect of land outside of the systematic adjudication area;

- (c) in the definition of “beneficiary” by deleting the word “beneficiary” and substituting therefor the word “applicant”.

3. Section 5 of the principal Act is amended by inserting in paragraphs (c), (d) and (e), immediately before the semi-colon the words “, without reference to the Commissioner of Taxpayer Audit and Assessment”.

Amendment
of section 5
of principal
Act.

4. Section 7 of the principal Act is amended by deleting the words “Land Administration and Management Programme” and substituting therefor the words “National Land Agency”.

Amendment
of section 7
of principal
Act.

5. The principal Act is amended by inserting next after section 7 the following—

Insertion of
new sections
7A, 7B, and
7C in
principal Act.

“Functions of
Director
Land
Administration
and
Management.

7A.—(1) There shall be for the purposes of this Act, a Director of Land Administration and Management, who shall be an attorney-at-law of at least ten years experience in conveyancing.

(2) The Director of Land Administration and Management shall have the following functions as it relates to any project area—

- (a) exercise general supervision and control over the processing of voluntary registration applications;
- (b) process waivers pursuant to Section 5 of the Act;
- (c) issue instructions for advertisement of notices to adjudicate rights and interests in land;
- (d) refer disputes relating to the rights and interests in land to the Director of Adjudication Services for a determination of ownership in respect thereof;
- (e) certify applications for regularization and clarification.

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Tenure Clarification (Special Provisions)
(Amendment) Act, 2020*

Powers of
Director of
Land
Administration
and
Management
to summon.

7B.—(1) The Director of Land Administration and Management to whom any application is referred, may by summons under his signature, require the applicant or other party interested in any land under the operation of this Act, to appear at a time and place to be appointed in such summons to give an explanation concerning such land or any document affecting title thereto and to produce any deed of grant, Certificate of Title, Will, Mortgage or document in the applicant's or any other interested party's possession or control, affecting such land, or the title thereto.

(2) Where a summons is served under subsection (1), such summons shall be personally served on the applicant or the other party as the case may be.

(3) The Director of Land Administration and Management may examine upon oath (which oath the Director is empowered to administer) any such applicant or other party referred to under subsection (1) and any such applicant or other party who fails, refuses or neglects, to attend the summons for purpose of being examined, or to produce any such document, or to allow the same to be inspected, refuses or neglects to give any such explanation shall, on conviction in a Parish Court be subject to a fine not exceeding one million dollars.

(4) If the Director of Land Administration and Management determines the information or document withheld under this section appears to be material, the Director of Land Administration and Management, is not bound to proceed with the application.

7C.—(1) The Minister may on the recommendation of the Chief Executive Officer of the National Land Agency, declare any parcel of land in a project area to be a systematic adjudication area.

Minister may declare a systematic adjudication area on recommendation of National Land Agency.

(2) A recommendation made under subsection (1), shall include—

- (a) a diagram of the systematic adjudication area; and
- (b) the total number of parcels that are registered and unregistered in a systematic adjudication area.

(3) All exemption from approvals, consents, transfer tax, stamp duties and fees granted under section 5, shall automatically apply to land declared under this section, as a systematic adjudication area.”.

6. Section 8 of the principal Act is amended in subsection (2), by deleting the word “beneficiaries” and substituting therefor the word “applicants”.

Amendment of section 8 of principal Act.

7. The principal Act is amended by inserting next after section 8 the following—

Insertion of new sections 8A, 8B and 8C in principal Act.

“Duties of
Director of
Adjudication
Services.

8A.—(1) There shall be for the purposes of this Act, a Director of Adjudication Services, who shall be an attorney-at-law of at least ten years experience in conveyancing, and shall perform the following duties—

- (a) exercise general supervision and control over the adjudication process;
- (b) issue instructions for advertisements of notices to adjudicate rights and interests in land;
- (c) prepare notices in respect of each systematic adjudication area;

- (d) ascertain claims or interests in land in accordance with adjudication principles, under section 9A;
- (e) prepare the adjudication record;
- (f) issue notices of completion of the adjudication record;
- (g) display the adjudication record for a period of not less than thirty days;
- (h) review and determine objections to the adjudication record;
- (i) make alterations or corrections to the adjudication record;
- (j) issue adjudication certificates and direct the Registrar of Titles to issue Certificates of Title in accordance with the said adjudication certificate without reference to the Referee of Titles;
- (k) refer matters to the Adjudication Committee as provided for under section 9(1);
- (l) communicate to the applicant in writing the decision and grounds of such decision of the Director of Adjudication Services or of the Adjudication Committee.

(2) For the purposes of this section, the Director of Adjudication Services, may make a notice published in the *Gazette* prescribing—

- (a) the form of notices, the form of the adjudication record and the form of adjudication certification; and
- (b) the manner in which the adjudication record shall be displayed.

8B. Section 7B shall apply *mutatis mutandis* as it relates to any application under this Act.

Director of
Adjudication
Services
power to
summon
applicant or
other person
of interest.

8C.—(1) The Director of Adjudication Services may give authority in writing to any officer of the Adjudication Services Division to sign anything authorized or required by this Act to be signed by the Director of Adjudication Services.

Director of
Adjudication
Services may
authorize any
officer of
Adjudication
Services
Division to
sign on behalf
of its
Director.

(2) The Director of Adjudication Services may, in the instrument in which authority is given under subsection (1) to any officer—

- (a) require that such authority be exercised in accordance with the general or specific directions of the Director of Adjudication Services;
- (b) specify the period for which such authority shall be valid, so, however, that any such period may be extended from time to time, and any authority given under this section may be revoked at any time.

(3) Anything signed by an officer to whom authority is given under this section and in accordance with such authority, shall be valid and effectual as if it were signed by the Director of Adjudication Services.

(4) Notice of every authority given under this section and of every extension or the revocation thereof shall be published in the *Gazette*.

(5) Notwithstanding subsection (4), failure to publish the notice shall not affect the validity of the authority conferred, or any extension or revocation thereof as the case may be.”.

Amendment
of section 9
of principal
Act.

8. Section 9 of the principal Act is amended by inserting next after subsection (3) the following—

“ (4) The Chairman appointed under subsection (3) shall be an attorney-at-law.”.

Insertion of
new sections
9A, 9B, 9C,
9D, 9E, 9F
and 9G in
principal Act.

9. The principal Act is amended by inserting next after section 9 the following—

“Principles
of
Adjudication
and
preparation
of
Adjudication
Record.

9A.—(1) In preparing the adjudication record—

(a) where the Director of Adjudication Services is satisfied that the person to whom the application relates—

(i) is in sole open, quiet, undisputed, continuous, undisturbed possession, as proprietor of a parcel of land other than a parcel which is Crown Land, and has been in such possession, by himself or his duly authorized agent, his predecessors in title, for an uninterrupted period of twelve years or more; or

(ii) has a good title to the parcel and that no other person has acquired or is in the course of acquiring a title thereto under any law relating to prescription or limitation, and that the person would succeed in maintaining the title against any other person claiming the land or any part thereof,

the Director of Adjudication Services shall record the person as the owner of the parcel and declare the person’s title to be absolute;

- (b) where the Director of Adjudication Services is satisfied that rights existing in or over such land do not amount to ownership and are not such as to enable the Director of Adjudication Services, to proceed under paragraph (d) the Director of Adjudication Services shall record the land as Crown Land;
- (c) where the Director of Adjudication Services is satisfied that any land is subject to any right which is registrable as a lease, charge, easement or restrictive covenant under the Registration of Titles Act, the Director of Adjudication Services shall record such particulars that shall enable the right and the name of the person entitled to the benefit thereof to be registered;
- (d) where the Director of Adjudication Services is satisfied that a person is in possession of or has a right to a parcel of land, but is not satisfied that a person is entitled to be recorded under paragraph (a) as the owner of the parcel of land with absolute title, the Director of Adjudication Services may nevertheless record that person as the owner of the parcel of land, and declare his title to be a qualified title and shall record—
 - (i) the date on which the possession of that person shall be considered to have begun;
 - (ii) particulars of any deed, instrument or other document by virtue of which any right or

interest, adverse to, or in
derogation of the title of that
person might exist; or

- (iii) any other qualification which
affects the title.

(2) For the purposes of this section “good
title” means an interest in land where the applicant is
entitled to maintain and defend his possession against
any other person claiming the same or any part thereof.

Issuance of
Adjudication
Certificates.

9B. The Adjudication Committee shall issue an
Adjudication Certificate after a determination of a
matter under section 8A(k).

Inability of
Adjudication
Committee
to determine
title.

9C.—(1) Where the Adjudication Committee is
unable to determine absolute or qualified title, the
parcel shall be registered in the name of the Crown
and be held on trust by the Crown for a period of up
to twenty years unless it can be transferred to the
rightful owner pursuant to a duly issued Adjudication
Certificate or Court Order declaring ownership.

(2) After the expiration of the period referred
to under subsection (1) the land or parcel thereof
shall—

- (a) be deemed *bona vacantia* and shall
belong to the Crown; and
- (b) vest and may be dealt with in the same
manner as other *bona vacantia* accruing
to the Crown.

Staying of
suits.

9D.—(1) Notwithstanding any other enactment,
no action claiming an interest in land or rights to land
in a systematic adjudication area, shall be initiated in
any civil court, unless notice of the action has been
served upon the Director of Adjudication Services.

(2) Upon the application of any party interested in the subject matter of an action claiming an interest in land or rights to land in a systematic adjudication area instituted before the publication of the Notice referred to in Section 8A(b), the Court may stay the hearing of such action and refer it to the Director of Adjudication Services.

(3) The Director of Adjudication Services shall upon the completion of the adjudication process, advise the Court of the outcome.

Land
surveyors
functions
under this
Act.

9E. Notwithstanding any provision under the Land Surveyors Act, a surveyor shall—

- (a) carry out such survey and mapping as may be required in the execution of the adjudication process to the satisfaction of the Director of Surveys;
- (b) cause advertisement of notices in the manner prescribed by the Director of Adjudication Services—
 - (i) not less than ten days prior to the survey or mapping of land in a systematic adjudication area; and
 - (ii) at least two daily newspapers in circulation in Jamaica, at least once per week for two consecutive weeks and on the website of the National Land Agency;
- (c) adjust the boundaries of any land in the adjudication section or re-allot the same, with the consent in writing of the owners who may be affected by such adjustment or re-allotment;

- (d) make any reservation the surveyor considers necessary for the purpose of defining existing roads and paths or for the better drainage of any land;
- (e) make a declaration under the Voluntary Declaration Act, of such existing rights of way over any land in the systematic adjudication area and may direct the manner in which such rights of way are to be exercised and in such case the surveyor shall direct that such rights of way be recorded in the adjudication record in respect of the dominant land and the servient land; and
- (f) prepare or cause to be prepared a Cadastral Map of parcels of land in the systematic adjudication area.

Protection of
officers.

9F. Any officer appointed under this Act and any other person appointed for the purpose of the adjudication proceedings under this Act, shall not be liable to any action, suit or proceedings for or in respect of any act or matter done in good faith or omitted to be done in exercise or supposed exercise of the powers given by this Act or any regulations made thereunder.

Procedures
where
applicant is
dissatisfied
with
directions
given by
Director of
Adjudication
Services or
Adjudication
Committee.

9G.—(1) If the applicant is dissatisfied with the decision of the Director of Adjudication Services or the Adjudication Committee, the applicant may summon the Director of Adjudication Services or the Adjudication Committee, as the case may be, to appear before a judge to substantiate and uphold the grounds of his refusal or such directions as aforesaid, such summons to be issued under the hand of a judge and to be served upon the Director of Adjudication

Services or the Adjudication Committee (as the case may be) at least six clear days prior to the day appointed for hearing the complaint.

(2) Reference to a judge under subsection (1) means a judge of the Supreme Court or judge of the Parish Court.

Offences
against this
Act.

9H. If any person—

- (a) knowingly makes any false statement or declaration in any application to register land pursuant to this Act;
- (b) in any application to be registered as proprietor whether in possession, remainder, reversion or otherwise; suppresses, withholds or conceals, or assists or joins in or is privy to the suppressing, withholding or concealing from the Director of Land Administration and Management, Director of Adjudication Services or Chairman of an Adjudication Committee, any material document, fact or matter of information;
- (c) knowingly makes a false declaration required under the authority made in pursuance of this Act;
- (d) during the course of his examination before the Director of Land Administration and Management, Director of Adjudication Services or Chairman of an Adjudication Committee, knowingly gives false evidence; or
- (e) fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of any certificate

of title or instrument, or knowingly misleads or deceives any person hereinbefore, authorized to require information or explanation in respect to any land, or the title to any land declared under this Act,

commits an offence and shall on conviction before a Judge of the Parish Court be liable to a penalty not exceeding one million dollars or imprisonment for a term not exceeding one year.”.

Amendment
of section 10
of principal
Act.

10. Section 10 of the principal Act is amended—

- (a) in subsection (1), by deleting the opening words and substituting therefor the following—

“ (1) An applicant may make an application if that applicant—”;

- (b) in subsection (2), by deleting—

(i) the words “a beneficiary” and substituting therefor the words “an applicant”;

(ii) the word “beneficiaries” and substituting therefor the word “applicants”;

- (c) in subsection (3), by deleting the word “beneficiary” and substituting therefor the word “applicant”.

Amendment
of section 11
of principal
Act.

11. Section 11 of the principal Act is amended—

- (a) in subsection (1) by deleting the word “beneficiaries” and substituting therefor the word “applicants”;

- (b) in subsection (3), by deleting the words “a beneficiary” and substituting therefor the words “an applicant”.

- (c) by inserting next after subsection (4) the following—

“ (5) Where a charge prescribed by the Minister under this section affects any land under the Registration of

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Titles Act, the Director of Adjudication Services and the Director of Land Administration and Management, shall advise the Registrar of Titles of details of the charge, and the Registrar of Titles shall lodge a caveat against the Certificate of Title for the land described in the memorandum.”.

12. Insert next after section 11 the following—

“Minister
may amend
penalty or
fine by
order.

11A. The Minister may by order, subject to affirmative resolution, amend any penalty or fine imposed under this Act.”.

Insertion of
new section
11A in
principal Act.

13.—(1) The provisions of the enactment specified in the first column of the Schedule are amended in the manner specified in the respective amendments in the second column thereof.

(2) Each amendment shall be construed as one with the enactment specified in relation thereto.

Amendment
of
Registration
of Titles
Cadastral
Mapping
Regulations.

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SCHEDULE

(Section 13)

First Column	Second Column
Registration of Titles, Cadastral Mapping and Tenure Clarification (Special Provisions) (Adjudication Committees) Regulations, 2007	
Regulation 2	The principal Regulations are amended by renumbering the regulation as 2(1), and inserting next after paragraph (1), as renumbered the following— “ (2) The Minister shall appoint one of the appointed members under paragraph (1) to be Chairman of the Committee, and such Chairman shall be an attorney-at-law.”.
Regulation 3	1. Insert next after paragraph (3), the following as paragraph (3A)— AMENDMENTS TO BE MOVED IN THE HOUSE OF REPRESENTATIVES TO THE REGISTRATION OF TITLES CADASTRAL MAPPING TENURE CLARIFICATION (SPECIAL PROVISIONS) (AMENDMENT) ACT, 2020
Clause	Amendment
11	Delete from the Schedule, regulation 3 and regulation 11 and the entry in relation thereto, and substitute therefor the following— “Amendment of regulation 11. 1. The principal Regulations are amended in regulation 11, by inserting next after paragraph (3) the following— “ (3A) In the case of the Chairman’s absence from or

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Clause

Amendment

inability to act at any meeting, the members of the Committee shall elect from their number to act as Chairman of that meeting.

(3B) Where the Chairman is appointed under paragraph (3A), the Chairman shall be supported by the attorney of the Adjudication Services Division.”.

2. Insert in paragraph (4) immediately after the words “three members,” the words, “, including the Chairman”.

The principal Regulations are amended by inserting next after regulation 11, the following—

“Insertion of
new
regulation
11A.

“Powers of
the
Chairman to
summon.

11 A.—(1) The Chairman of the Committee to whom an application is referred may, by summons under his signature, request the applicant or other person interested in any land under the operation of the Act—

(a) to appear at a time and place to be appointed in such summons and give any explanation concerning such land or any document affecting title thereto; and

(b) to produce any deed of grant, certificate of title, will, mortgage or document in his possession or within his control affecting such land, or the title thereto.

Clause
—Amendment
—

(2) The Chairman is authorised to examine on oath or take or receive a voluntary declaration (which oath the Chairman is hereby empowered to administer and which voluntary declaration the Chairman is empowered to take and receive) any such applicant or other persons referred to under paragraph (1), and any such applicant or other person who fails, refuses or neglects to give explanation aforesaid, shall be liable on any such default to be summoned before a Judge to be dealt with in the case of a contempt of the Court.

(3) If the information or document withheld under this regulation appears to the Chairman to be material, the Chairman is not bound to continue the application.”.