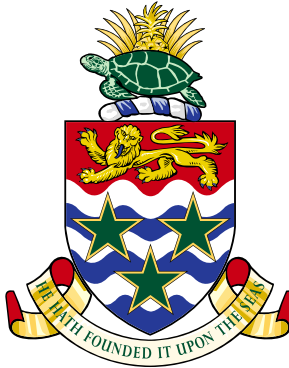


CAYMAN ISLANDS



REGISTERED LAND (AMENDMENT) BILL, 2020

Supplement No. 2 published with Legislation Gazette No. 68 dated 16th September, 2020.

A BILL FOR A LAW TO AMEND THE REGISTERED LAND LAW (2018 REVISION) TO ENHANCE THE PROCEDURES IN RELATION TO THE REGISTRATION AND DEDICATION OF PUBLIC RIGHTS OF WAYS, THE SERVICE AND WITNESSING OF DOCUMENTS AND THE EXTENSION OF A STAY OF REGISTRATION UNDER THE LAW; TO VALIDATE PUBLIC RIGHTS OF WAYS DEDICATED PRIOR TO THE COMMENCEMENT OF DIVISION 5A IN THE LAW; AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Education, Youth, Sports, Agriculture and Lands (EYSAL)



Memorandum of OBJECTS AND REASONS

This Bill amends the Registered Land Law (2018 Revision) (the “principal Law”) to enhance the procedures in relation to the registration and dedication of public rights of ways, the service and witnessing of documents and the extension of a stay of registration under the Law and to validate public rights of ways dedicated prior to the commencement of Division 5A in the Law. The Bill would also provide for incidental and connected purposes.

Clause 1 provides the short title of the legislation.

Clause 2 provides for the definitions of new terms to be inserted into the principal Law as a consequence of the amendments to the Law.

Clause 3 amends section 42 of the principal Law to enable the Cabinet to make an Order to temporarily extend the suspension period in respect of a stay of registration.

Clause 4 amends section 98A of the principal Law to provide for the validity of public rights of ways that were made by dedication prior to the inclusion of Division 5A in the Law.

Clause 5 amends section 98D of the principal Law to require a person to notify the Public Lands Commission, prior to making an application to Court under Division 5A, to discharge or modify a dedication of land (partially or wholly) for public use.

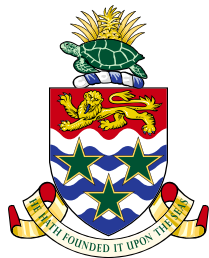
Clause 6 amends section 138(1) of the principal Law to clarify that the acquisition of easements and profits by prescription under that subsection is subject to section 2 of the Prescription Law (2018 Revision).

Clause 7 inserts in the principal Law new section 138A to provide for the registration of public rights of way.

Clause 8 inserts in the principal Law new sections 107A and 107B to respectively provide for the sending of information by electronic means and the remote witnessing of the execution of instruments using communication technology where the persons being witnessed are located in the Islands.

Clause 9 amends section 153 of the principal Law to provide additional modes for the service of notices under that section.

CAYMAN ISLANDS



REGISTERED LAND (AMENDMENT) BILL, 2020

Arrangement of Clauses

Clause	Page
1. Short title	7
2. Amendment of section 2 of the Registered Land Law (2018 Revision) - definitions.....	7
3. Amendment of section 42 - stay of registration	8
4. Amendment of section 98A - dedication of land for public use	8
5. Amendment of section 98D - discharge and modification of a dedication	9
6. Insertion of sections 107A and 107B - sending of information by electronic means; use of communication technology to provide for virtual verification of execution of instruments by authorized officials	9
7. Amendment of section 138(1) - acquisition of easements and profits by prescription	11
8. Insertion of section 138A - registration of public rights of way	11
9. Amendment of section 153 - service of notice	12

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ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Law may be cited as the Registered Land (Amendment) Law, 2020.

Amendment of section 2 of the Registered Land Law (2018 Revision) - definitions

2. The *Registered Land Law (2018 Revision)*, in this Law referred to as the “principal Law”, is amended by inserting in the appropriate alphabetical sequence, the following definitions —

“**authorized official**” means an official authorized to witness the verification of execution of instruments under section 107 of the Law, and includes —

- (a) the Registrar of Lands;

- (b) a notary public;
- (c) a Justice of the Peace;
- (d) a Commissioner of Oaths;
- (e) a Judge;
- (f) a Magistrate; or
- (g) such public officer or other officer as may be prescribed;

“communication technology” means any electronic device or process that facilitates communication of visual images and audio in real time between an authorized official and a remotely located individual, including a remotely located individual who has visual, hearing or speech impairment;

“electronic” has the meaning given in section 2 of the *Electronic Transactions Law (2003 Revision)*;

“electronic record” has the meaning given in section 2 of the *Electronic Transactions Law (2003 Revision)*;

“Public Lands Commission” means the Public Lands Commission established under section 4 of the *Public Lands Law (2020 Revision)*;

“remotely located individual” means an individual who is located in the Islands but who is not in the physical presence of the authorized official who is required to witness the verification of the execution of an instrument under the Law; and

“trackable service” means a service, whether by courier or otherwise, that allows for the address tracking of the delivery of documents or packages sent using this service.”.

Amendment of section 42 - stay of registration

3. The principal Law is amended in section 42 by inserting after subsection (1) the following subsection —

“(1A) The suspension period of fourteen days referred to in subsection (1) may be extended in the event of a disaster, as defined under section 2 of the *Disaster Preparedness and Hazard Management Law (2019 Revision)*, for such period as specified by Order made by the Cabinet in consultation with the Registrar.”.

Amendment of section 98A - dedication of land for public use

4. The principal Law is amended in section 98A by inserting after subsection (3) the following subsection —

“(4) All lands dedicated for public use prior to the commencement of Division 5A shall be deemed to be valid and considered to be



dedicated under Division 5A as if at the time of the dedication Division 5A in the *Registered Land Law (2018 Revision)* had been in force.”.

Amendment of section 98D - discharge and modification of a dedication

5. (1) The principal Law in section 98D is amended as follows —

- (a) by renumbering 98D as 98D(1); and
- (b) by inserting after subsection (1) as renumbered the following subsections —

“(2) Where a person interested in land affected by a dedication intends to file an application to the court under section 98D(1), the person interested shall serve a copy of the application on the Public Lands Commission, sixty days prior to filing the application with the court.

- (3) The court shall have regard to the submission of the Public Lands Commission in relation to any application to extinguish or modify a dedication of land (wholly or partially) for public use.”.

Insertion of sections 107A and 107B - sending of information by electronic means; use of communication technology to provide for virtual verification of execution of instruments by authorized officials

6. The principal Law is amended by inserting after section 107 the following sections —

“Sending of information etc. by electronic means

107A. (1) Notwithstanding any provision to the contrary in this Law, any information, particulars or other record required to be sent to the Registrar, or other authorized official under this Law, may be sent —

- (a) by electronic means to the email address provided by that person; and
- (b) in the form of an electronic record.

(2) The *Electronic Transactions Law (2003 Revision)* shall apply in respect of an electronic record sent under this Law.

(3) In this section, “**sent**” includes delivered, furnished, given and provided.

Use of communication technology to provide for virtual verification of execution of instruments by authorized officials

- 107B.** (1) Notwithstanding any requirement under any other law, an authorized official may, subject to the conditions set out in subsection (2), use communication technology to carry out virtually any act that is required to be performed by an authorized official under this Law.
- (2) Where any act by an authorised official under section 107B(3) is to be performed using communication technology, the following conditions shall apply —
- (a) the remotely located individual shall demonstrate that the individual is physically situated in the Islands;
 - (b) the remotely located individual shall transmit via facsimile, email or other electronic means, a legible copy of the relevant document in relation to which the acts to be carried out under this Law are to be performed by the authorized official;
 - (c) the authorized official may, after observing the signature or requisite act of the remotely located individual, verify the execution of the instrument by signing the transmitted copy of the document and returning it via facsimile, email or other electronic means;
 - (d) the authorized official shall record the details of the act of verifying the execution of the instrument in accordance with the Law and in so doing shall indicate that the act was performed in accordance with the Law; and
 - (e) where the remotely located individual is not personally known to the authorized official, the individual shall present valid photo identification to the authorized official during the real time interaction.
- (3) An authorized official who uses communication technology to —
- (a) verify the execution of an instrument, shall record, or cause to be recorded, the performance of the act; or
 - (b) perform an act under the Law other than the act of verifying the execution of an instrument, may, upon prior notification of the remotely located individual, record, or cause to be recorded, the performance of the act.”.



Amendment of section 138(1) - acquisition of easements and profits by prescription

7. The principal Law is amended in section 138(1) by deleting the words “the Prescription Law (1997 Revision)” and substituting the words “section 2 of the *Prescription Law (2018 Revision)*,”.

Insertion of section 138A - registration of public rights of way

8. The principal Law is amended by inserting after section 138 the following section —

“Registration of public rights of way

- 138A** (1) Where any person or the Public Lands Commission claims that a public right of way has been acquired pursuant to section 4 of the *Prescription Law (2018 Revision)*, the person or the Public Lands Commission may apply to the Registrar for registration of the public right of way.
- (2) Where the Registrar receives an application made under subsection (1), the Registrar —
- (a) on being satisfied as to the claim; and
 - (b) subject to such notices, advertisements and conditions as the Registrar may direct,
- shall, subject to subsection (3), register the public right of way as an incumbrance on the register of the land burdened by the public right of way referred to in subsection (1).
- (3) The Registrar shall not register the public right of way referred to in subsection (1) until —
- (a) the proprietor of the land burdened by the public right of way referred to in an application for registration under subsection (1); and
 - (b) such other interested parties as the Registrar may direct, have been notified of the proposed registration.
- (4) Where the proprietor of the land burdened by the public right of way referred to in subsection (1) objects to the registering of a public right of way as an incumbrance on the register of the land owned by the proprietor, the proprietor shall submit an objection in writing to the Registrar within sixty days of receipt of the notice.
- (5) Where the proprietor of the land burdened by the public right of way referred to in subsection (1) submits an objection under subsection (4), the Registrar shall —
- (a) cease all proceedings regarding the registration; and

- (b) notify the applicant and Public Lands Commission of the objection within thirty days of receipt of the objection, and the matter shall be dealt with under section 9(1) of the *Prescription Law (2018 Revision)*.
- (6) For the purposes of this section, a “**public right of way**” refers to the right of way acquired under section 4(1) of the *Prescription Law (2018 Revision)*.
- (7) The Cabinet may make regulations prescribing anything necessary or convenient for giving effect to the purposes of this section.”.

Amendment of section 153 - service of notice

9. The principal Law is amended in section 153 by repealing paragraph (c) and by inserting the following paragraph —
- “(c) sent by registered post or other trackable service to a person at the person’s last known address in the Islands or elsewhere and a receipt purporting to have been signed by the person has been received in return.”.

Passed by the Legislative Assembly the day of , 2020.

Speaker

Clerk of the Legislative Assembly

