

CAYMAN ISLANDS



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THE REGISTERED LAND (AMENDMENT) LAW, 2017

(LAW 36 of 2017)

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CAYMAN ISLANDS

Law 36 of 2017.

I Assent

Helen Kilpatrick

Governor.

18th May, 2017.

**A LAW TO AMEND THE REGISTERED LAND LAW (2004 REVISION)
TO MAKE PROVISION FOR THE REGISTRATION OF VOLUMETRIC
PLANS AND PARCELS; REGISTRATION OF POSITIVE COVENANTS;
THE DEDICATION OF LAND FOR PUBLIC USE; AND FOR
INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Registered Land (Amendment) Law, 2017. Short title and commencement

(2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet.

2. The Registered Land Law (2004 Revision), in this Law referred to as the principal Law, is amended in section 2 as follows - Amendment of section 2 - definitions

(a) by inserting in the appropriate alphabetical sequence, the following definitions -

“base parcel” means the parcel in relation to which a volumetric plan has been registered;

“volumetric parcel” means a parcel shown as such on a volumetric plan; and

“volumetric plan” means a plan that defines land using three-dimensionally located points to identify the position, shape and dimensions of each bounding surface and may contain one or more volumetric parcels consisting of or including volumetric space.”.

Amendment of section 21 - combinations and subdivisions

3. The principal Law is amended in section 21 as follows -

(a) in subsection (2) by deleting paragraph (ii) and substituting the following -

“(ii) subject to the consent of the lessee, no parcel which is subject to a lease shall be subdivided so as to subdivide the land comprised in such a lease;” and

(b) by inserting after section 21(2), the following new subsection -

“(3) Upon the application by a proprietor of a parcel for the division of his parcel into a base parcel and one or more volumetric parcels, in accordance with a volumetric plan, the Registrar shall -

- (a) file the volumetric plan and assign it a volumetric plan number;
- (b) open a new register in respect of each volumetric parcel shown on the volumetric plan; and
- (c) in respect of the register relating to the base parcel, note in the encumbrances section, the easements in favour of the volumetric parcels that have been opened;

Provided that -

- (i) nothing shall be done under this section which would be inconsistent with this or any other law;
- (ii) subject to the consent of the lessee, no parcel which is subject to a lease shall be subdivided so as to subdivide the land comprised in such a lease; and
- (iii) where a proprietor is subdividing his parcel for the purpose of a building development, the Registrar may require him to submit an authenticated survey

plan of the proposed subdivisions prepared by a surveyor authorised under the Land Surveyors Law (1996 Revision) and certified by the appropriate authority as conforming with the requirements of any planning law for the time being in force.”.

4. The principal Law is amended by inserting after section 21, the following section -

Insertion of new section
21A - division of land
for estate purposes

“Division
of land for
estate
purposes

21A. (1) Upon an application by the -

- (a) personal representative of an estate;
- (b) beneficiary of an estate; or
- (c) proprietors (where the parcel was previously transferred by a personal representative to persons entitled under a will or on intestacy),

for the division of a parcel into two or more parcels, the Registrar shall effect the division by closing the register relating to the parcel and opening new registers in respect of the new parcels resulting from the divisions and recording in the new registers all subsisting entries appearing in the closed register.

(2) An application under subsection (1) shall be accompanied by a plan prepared by a surveyor authorised under the Land Surveyors Law (1996 Revision).

(1996
Revision)

(3) For the avoidance of doubt, where a division of a parcel has been effected under this section, any application for development purposes in relation to any of the new parcels shall be subject to the requirements of any planning law for the time being in force.

(4) Cabinet may make regulations prescribing anything necessary or convenient for giving effect to the purposes of this section.”.

Amendment of Part II -
insertion of new
Division 3A -
volumetric plans and
volumetric parcels

5. The principal Law is amended in Part II by inserting after Division 3, the following Division -

“Division 3A - Volumetric Plans and Volumetric Parcels

A volumetric
parcel is land

22A. (1) A volumetric parcel shall be deemed for the purposes of sections 23 and 24 of this Law to be a parcel and for all purposes to be land and any volumetric parcel created may devolve or be dealt with in the same manner and form as any other land, the title of which is registered under this Law.

(2) The right to structural support and access shall be implied, subject to any express provision in a covenant registered against the title, in favour of every volumetric parcel.

Volumetric
plan can only
be registered
to one parcel

22B. One or more volumetric plans may be filed in relation to a parcel but a volumetric plan shall not be filed in relation to more than one parcel.

Title to
remain in
proprietor of
base parcel

22C. The title to the land, other than the land contained in the volumetric parcel, shall remain in the proprietor of the base parcel.

Cancellation
of a
volumetric
plan

22D. (1) Where the base parcel and all the volumetric parcels of a volumetric plan are in common ownership, the proprietor of the base parcel and volumetric parcels may apply in the prescribed form to the Registrar for that volumetric plan to be cancelled.

(2) If the Registrar is satisfied that an application is in order, the Registrar shall -

- (a) note in the Registers in respect of the volumetric parcels, that the volumetric parcels are closed;
- (b) note in the Register in respect of the base parcel-
 - (i) that title to the land comprised in the closed volumetric parcels reverts to the base parcel;
 - (ii) in the encumbrances section, the cancellation of any easements in favour of the volumetric parcels; and
 - (iii) that the Register for the base parcel is

closed; and

- (c) open a new Register in respect of the combined volumetric parcels and base parcel.”.

6. The principal law is amended in Part V by deleting the heading “**Division 5 - Easements, Restrictive Agreements, Profits and Licences**” and substituting the following heading “**Division 5 - Easements, Positive and Restrictive Covenants, Profits and Licences**”.

Amendment of Part V -
Division 5 - Heading

7. The principal Law is amended by repealing section 93 and substituting the following -

Repeal and substitution
of section 93 - restrictive
agreements

“Positive
and
restrictive
covenants

93. (1) A covenant may be -

- (a) a positive covenant; or
- (b) a restrictive covenant,

and if registered under this Law is enforceable against the covenantor and the covenantor’s successor in title by the owner or occupier of land benefitting from the covenant.

(2) Where an instrument, other than a lease or charge, contains a restrictive covenant by one proprietor restricting the building on or the user or other enjoyment of his land for the benefit of the proprietor of other land, and such instrument is presented to the Registrar, the Registrar shall note the restrictive covenant in the encumbrances section of the register of the land or lease burdened by the restrictive covenant, either by entering particulars of the restrictive covenant or by referring to the instrument containing the restrictive covenant and the Registrar shall file the instrument.

(3) Where an instrument, other than a lease or charge, contains a positive covenant by one proprietor mandating the building on or the user or other enjoyment of his land or other obligation for the benefit of the proprietor of other land, and the instrument is presented to the Registrar, the Registrar shall note the positive covenant in the encumbrances section of the register of the land or lease burdened by the positive covenant and in the property section of the land which benefits from the positive covenant, either by entering particulars of the positive covenant or by referring to the instrument containing the

positive covenant and the Registrar shall file the instrument.

(4) Unless it is noted in the register, a positive or restrictive covenant is not binding on any person acquiring the land or lease.

(5) Insofar as a positive or restrictive covenant is capable of taking effect, not only the proprietors themselves but also their respective successors in title shall be entitled to the benefit and subject to the burden of the covenant respectively, unless the instrument otherwise provides.

(6) A positive covenant shall not prevent a person from -

- (a) registering an interest under this Law;
- (b) exercising the person's rights under a registered interest; or
- (c) releasing or surrendering a registered interest.

(7) A proprietor of two or more parcels may enter into a positive or restrictive covenant with himself.

(8) Registration of a positive covenant has effect only in relation to a positive covenant registered after the coming into force of the Registered Lands (Amendment) Law, 2017.”.

Amendment of section 95 - release and extinguishment of easements, profits and restrictive agreements

8. The principal Law is amended in section 95 as follows -
- (a) by deleting the marginal note thereto and substituting the following marginal note “Release and extinguishment of easements, profits, positive and restrictive covenants”; and
 - (b) by deleting the words “or restrictive agreement” wherever they appear and substituting the words “, positive or restrictive covenants”.

Amendment of section 96 - discharge and modification of easements, profits and restrictive agreements

9. The principal Law is amended in section 96 as follows -
- (a) by deleting the marginal note thereto and substituting the following marginal note “discharge and modification of easements, profits, positive and restrictive covenants”;
 - (b) by renumbering section 96 as section 96(1);

- (c) by deleting the words “easement, restrictive agreement or profit” and substituting the words “easement, profit, positive or restrictive covenant”;
- (d) by deleting the words “or restrictive agreement” wherever they appear and substituting the words “, positive or restrictive covenants”;
- (e) in paragraph (b) by inserting after the words “such user” the words “to a different extent, from that which could reasonably have been foreseen by the original parties to the easement, profit, positive or restrictive covenant at the time of its creation; and”
- (f) by inserting after subsection 96(1) as renumbered the following subsection -

“(2) Notwithstanding subsection (1), nothing prevents modification of an easement, profit, positive or restrictive covenant by agreement between the persons interested in, or affected by, the benefitted and burdened land.”.

10. The principal Law is amended in Part V by inserting after Division 5 the following Division -

Amendment of Part V -
Insertion of Division 5A
- dedication of land for
public use

“Division 5A - Dedication Of Land For Public Use

Dedication of
land for public
use

98A. (1) A proprietor of land may, by an instrument in the prescribed form, dedicate his land for public use.

(2) The instrument creating the dedication shall specify clearly -

- (a) the nature of the dedication, the public use for which the land is dedicated, the period for which it is made (if any) and any conditions, limitations or restrictions intended to affect the enjoyment of the land; and
- (b) the land burdened by the dedication and, if required by the Registrar, the particular part thereof so burdened.

(3) The dedication of land for public use shall be completed by its registration as an encumbrance in the register of the land burdened and by filing the instrument.

Crown may dedicate land for road	98B. Subject to any other law, the Crown, through the Governor, may dedicate Crown land for public use as a road.
Land vest in the Crown	98C. Where land has been dedicated for public use under this Law that land vests in, or remains vested in, the proprietor of the land.
Discharge and modification of a dedication	98D. The court shall have power, on the application of any person interested in land affected by a dedication, by order, to wholly or partially extinguish or modify a dedication (with or without payments by the applicant of compensation to any person suffering loss in consequence of the order).
Meaning of public use	98E. For the purposes of this Division “public use” includes use as a public road, use for beach access or use for any other public purpose specified by Cabinet.”

Passed by the Legislative Assembly the 27th day of March, 2017.

Juliana O’Connor-Connolly

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.