

APPLICATIONS FOR FIRST REGISTRATION

The work involved in applying to bring land under the operation of the Registration of Titles Act can be very technical and all documents carry legal implications. Most persons use the services of an attorney-at-law. However persons can apply for first registration themselves, without the use of an attorney-at-law. The Land Titles Division cannot act as your legal advisor. Neither can we tell you how to prepare your application for first registration nor can we give you an opinion on any document before application is made. If you are in any doubt or difficulty we would recommend that applicants seek professional advice.

WHO CAN APPLY?

Section 28

1. The most common applications are by person(s) claiming to be the owner of the fee simple, either in Law or in Equity;

Examples (Not an exhaustive list)

- If you have purchased property;
- It was given to you as a gift;
- It was transferred as trustees on a creation of a trust;
- It was given to you by Assent from the executor/administrator on someone's death;
- You are the guardian of an infant or persons suffering from mental disease (in which case the Certificate of Title is issued in the name of the infant or such mentally ill person).

2. The Commissioner of Lands or other officer duly authorized in writing by the Minister, applying to bring land the property of the Crown under the operation of the Registration of Titles Act.
3. There are other categories of applicants but these entail complex legal technicalities and applicants are advised to seek professional guidance.

HOW TO APPLY?

You must complete the application for Registration form and send it to the Land Titles Division of the National Land Agency with the following:

- Original Deeds and documents proving ownership, example Conveyances, Probates, Letters of Administration, Assent to Devise, Transfers assignments;
- An up-to-date Certificate of Payment of Property Taxes;
- Statutory Declaration by the applicant to prove possession (this is a written statement confirmed by oath);
- Supporting statutory declarations to corroborate the claim of the owner from two independent persons who have known the land for at least 30 years and in cases where the applicant has no documentary proof of ownership, showing title for himself and predecessors in title for 40 years;
- Survey pre-checked Plan Diagram (if registering by plan) or a good quality sketch (if registering otherwise than by plan)
- Registration Fees.

THERE MAY BE OTHER DOCUMENTS DEPENDING ON THE FACTS OF EACH CASE.

WHERE TO SEND YOUR APPLICATION?

You may lodge your application with our offices in Kingston at 93 Hanover Street or Montego Bay, St. James at 3 Federal Avenue. Registration fees are paid when you submit your documents at the Land Titles Division. You will be issued a dated official receipt with a number imprinted on it, and the name of the person who lodged the application. The number printed on the receipt is your application number and must be quoted when making enquiries about your application. You must keep your receipt until your application is successfully completed.

THE APPLICATION FORM

The form of application for first registration can be downloaded from our website at www.nla.gov.jm.

PANEL ONE

A Corporate Body applies in its Corporate name and the Application may be so altered to enable the declaration to be made by an authorized officer of the Company. An application by a Corporate Body must be executed under the corporate seal affixed in accordance with the Articles of Association and duly attested. In the case of a Corporate Body only an attorney acting under a Power of Attorney under the Corporate Seal and recorded at the Island Record Office may bring an application for and on behalf of such corporation. (Section 28 proviso)

Panel One also provides two options for the nature of the application: whether it relates to land which has never been brought unto the Register; or to land which has already been registered. The applicant must elect which is applicable.

Sample Completed Form

By An Individual

<i>Give full name, address and occupation of the applicants</i>	I,
	Name JOHN DOE
	Address of 19 Save down Crescent, Mango Walk in the parish of St Elizabeth
	Occupation Farmer
<i>Please select if land already registered</i>	HEREBY APPLY to have the land hereinafter described brought under the operation of the Registration of Titles Law,
	<u>OR</u>
	HEREBY APPLY to be registered as the proprietor of lands hereinafter described, such lands having been brought under the operation of the Registration of Titles Act,
	and I/We declare:-

By A Corporate Body

<i>Give full name, address and occupation of the applicants</i>	WE
	Name JOHN DOE & SONS COMPANY LIMITED
	Address at 19 Save down Crescent, Mango Walk in the parish of St Elizabeth
<i>Please select if land already registered</i>	Occupation Limited Liability Company
	HEREBY APPLY to have the land hereinafter described brought under the

	operation of the Registration of Titles Law, <u>OR</u> HEREBY APPLY to be registered as the proprietor of lands hereinafter described, such lands having been brought under the operation of the Registration of Titles Act, and I, JOHN DOE, of 19 Save down Crescent, June Plum Walk, in the parish of Saint Elizabeth Director declare that I am a Director or Corporate Secretary (as the case may be) of the applicant Corporation and am authorized by resolution of the Board of Directors dated the [day], [month], [year] to make this declaration
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PANEL TWO

The applicant must state without ambiguity the right in which he claims, that is as owner in fee simple or in equity.

Section 30

The land must be described by:

- By Surveyors Plan or,
- By Metes and Bound ***EXCEPT in the special areas under the Registration of Titles Cadastral Mapping and Clarification (Special Provisions) Act where registrations by surveys diagram only is permitted.***

Surveyors Plan

The description of the land must follow the description as set out in the Diagram or Plan. The Name or Names by which the property is known, parish, precise area, Survey Department Examination Number, date of survey and the name of

the surveyor must be accurately stated. The Surveyors Diagram must set out the area of the land in metric units, and cannot be used unless the Director of Surveys has certified it (pre-checked).

Lands described by Metes and Bound

The land must be so described as to enable identification of the location of the parcel on the ground by reference to a landmark and must state the name or names by which the property is known as well as the parish in which it is located. The description must state the distances (in metric units) between and direction of the line of each boundary by reference to the points of the compass; if the boundary is not a straight line, the distances between each change of direction must be given. The description must give the names by which the abutting lands are known, the names of the abutting owners, and where the abutting land is registered land the Volume and Folio number of that land. The Land Valuation references number for the abutting properties must be given. If necessary the applicant should secure the assistance of a person versed in the art of land surveys.

BY SURVEY

<i>Please give full description of the land as on survey diagram, the survey plan number must be stated OR give clear description of the land stating the means of access and the distance in metric unit (more or less) along each boundary line . The name or names by which the parcel is known as well as the parish and the area of the parcel.</i>	That I am the owner of an estate in fee simple in possession in ALL THAT parcel of land part of part of Daveton in the parish of Westmoreland containing by survey 7814.45 square metres of the shape and dimensions and butting as appears by the pre-checked plan bearing Survey Department Number 112233 prepared by JAKE BROWN, Commissioned Land Surveyor from a survey done by him on the 12 September 2000
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BY METES AND BOUNDS

<i>Please give full description of the land as on survey diagram, the survey plan number must be stated OR give clear description of the land stating the means of access and the distance in metric unit (more or less) along each boundary line . The name or names by which the parcel is known as well as the parish and the area of the parcel.</i>	That I am the owner of an estate in fee simple in possession in ALL THAT piece or parcel of land situate in the Town of Falmouth in the parish of Trelawny part of Lot numbered 6 in the plan of the said Town containing by admeasurement along the North Western boundary Seventy three feet along the South Western boundary Sixty one feet along the North Eastern boundary fifty five feet bounding North Westerly on Falmouth Street North Easterly on a land now called Upper Harbour Street South Easterly on the lands next hereinafter described and South Westerly on lands now of Ms. Olivia Emanuel and of Elizabeth McGurie and also all that other parcel of land situate in Parade Street in the Town of Falmouth aforesaid containing by admeasurement along the South Eastern boundary one hundred and eighteen feet nine inches along the North Eastern boundary Thirty Eight feet along the South Western boundary Thirty Eight feet and along the North Western boundary one hundred and Eighteen feet nine inches and butting North Easterly on Upper Harbour Street South Westerly on Parade Street North Westerly on the land hereinbefore described and on land in the possession of Elizabeth McGurie and South Easterly on land in the possession of Mr. J.R. Delisser and of Mr. J.J. DaCosta
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IN ALL CASES there must be described a means of unimpeded access to the property. This will be manifest if one of the abutting boundaries is a Main Road, Parochial Road or Parochial footpath. Otherwise access from a reserved road or Right of Way must be described and proven. The reserved road or right of way must describe a terminal point on a public road and the points between which the main road or parochial road runs. Roads delineated in a plan of subdivision approved by a Local Authority are deemed as public ways unless otherwise stated.

PANEL THREE

The value declared must be the value of the land including all buildings and other improvements. The applicant should give an honest assessment of the value of the land with the improvements, in other words, the market value, or

the amount he would agree to accept on a sale at arms length. The REGISTRAR if not satisfied of the correctness of the value declared may require the applicant to produce a certificate of such value under the hand of a Valuer appointed under the Act (Section 18). The Valuers must state whether the parcel is completely enclosed and the nature of the enclosure e.g., wire fence, stone wall or as the case may be and whether he found any person other than the Applicant in OCCUPATION of the land.

<i>Please state the true and actual value of the land with all improvements thereon. The Registrar if not satisfied as to the correctness of the value may require the applicant to produce a certificate of value</i>	That such land, including all buildings and other improvements thereon is of the value of ONE MILLION Dollars and no more.
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PANEL FOUR

The deeds and documents set forth in the Schedule will be examined to ensure that the applicant falls into the category of persons entitled to apply. It will also be examined to determine if he is in possession of the land as an owner of the fee simple estate and whether or not he would be entitled to maintain and defend such possession against any other person claiming same.

<i>Deeds and Documents</i>	That the deeds, documents or other evidence on which I/We rely in support of my/our title to the said land are set forth in the Schedule hereto and to the best of my/our knowledge and belief, there are no deeds, documents or evidence invalidating my/our title to the said land.
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PANEL FIVE

If the land is mortgaged to secure a loan the details of the mortgage should be stated. The statement in this paragraph can be verified through submission of the deeds and other document enclosed under paragraph 3. The consent of a mortgagee will be required as a common law mortgage conveys the fee simple estate in the land to the mortgagee.

<i>Please state the particulars of any outstanding incumbrances or any other estate or interest</i>	That I/We am/are not aware of any mortgage or incumbrance affecting the said land or that any other person has any estate or interest therein at Law or in Equity, in possession, remainder, reversion, contingency or expectancy. SAVE AND EXCEPT Mortgage to Daveton Peoples Co-operative Bank Limited for an amount of Five Hundred Thousand Dollars (if applicable)
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PANEL SIX

The applicant must state the name and address of the person in occupation of the land and the nature of the occupancy. If there is no occupant the applicant should so state. A person resident abroad cannot be an occupant.

<i>Please state if the land is occupied, by whom and state their postal address and the nature of the occupancy example purchaser in possession or tenant. If land is unoccupied please state also. <u>A person resident abroad cannot be an occupant</u></i>	That the said land is occupied by me. OR The land is unoccupied OR The land is occupied by JANE BROWN as a tenant under Lease Agreement OR by HEZEKIAH ELIJAH and ADASSA his wife as purchasers in possession
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PANEL SEVEN

The names and addresses of the occupants of contiguous lands must be stated. It does not necessarily follow that the contiguous occupiers shown on a surveyor's diagram are the same as at the date of the application.

<i>Please state the names and postal addresses of all occupants contiguous to the land</i>	That the names and postal addresses, so far as is known to me/us, of the occupants of all lands contiguous to the said land, are as follows:- North: CINDRELLA SHAKESPEARE of Daveton Postal Agency, Westmoreland South: SNOW WHITE of Daveton Postal Agency, Westmoreland East: COMMISSONER OF LANDS 20 North Street, Kingsnton West: Parochial Road Westmoreland Parish Council, Great George Street, Savanna-la-mar, Westmoreland
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PANEL EIGHT

It does not necessarily follow that owners of the contiguous lands are the same as the OCCUPIERS.

<i>Please state the names and postal addresses of all owners contiguous to the land.</i>	The name and postal addresses, so far as is known to me/us, of the owners of all lands contiguous to the said land are as follows:- North: Cindrella Shakespeare of Daveton, Postal Agency, Westmoreland South: Vie Leebert of Daveton Postal Agency, Westmoreland East: Kaiser Bauxite Company, Discovery Bay, St. Anns Bay Post Office, St. Ann West: Westmoreland Parish Council, Great George Street, Savanna-la-mar, Westmoreland
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DIRECTION

If the Certificate of Title is to be registered in the name of the applicant then the NOMINEE CLAUSE MUST NOT BE USED. The Nominee clause is applicable ONLY where the Certificate of Title is to be registered in the name of a person OTHER THAN the Applicant. A direction to issue title in the name of a nominee and not for the value must be accompanied by the Voluntary Declaration of value furnished to the Stamp Commissioner and must be duly stamped for Stamp Duty and Transfer Tax. In all cases the consent of the Nominee to issue title in his or her name must be submitted.

If the Certificate of Title is to issued in the name of the applicant this clause must not be used. This clause is applicable only where the Certificate of Title is to be registered in the name of a person other than the Applicant. If so, please state their names, address, occupation and the desired tenancy. In all cases the consent of the nominee to issue Title in his name must be submitted.

**That I/We direct the Certificate of Title to be issued in the name of
HEZEKIAH ELIJAH and ADASSA his wife of Daveton Postal Agency,
Westmoreland, Farmer as JOINT TENANTS**

ATTESTATION

The application must be made and subscribed as set out in the form. The Application must be executed by the applicant, if within the island before the Registrar, or a Notary Public, or a Justice of the Peace, and if abroad, before a Mayor or Provost, Notary Public, Consul, Consular Agent or Justice of Peace. A Justice of the Peace attesting the application in Jamaica should affix his impress Seal.

STAMP DUTY

Section 174 -177 Registration of Titles Act

It is the duty of the Registrar of Titles to enquire into the nature of the transaction to ascertain the proper duty if (any) payable in respect thereof. He may require evidence to be produced to his satisfaction for this purpose. **THE REGISTRAR SHALL NOT SUBMIT ANY SUCH APPLICATION TO A REFEREE OF TITLES UNTIL THE DUTY HEREBY IMPOSED SHALL HAVE BEEN PAID AND DULY IMPRESSED ON SUCH APPLICATION.**

On every Application to being land under the operation of the Act or to re-register land by plan in respect of which the applicant directs the certificate of title to issue in the name of any other person stamp duty is chargeable and payable-

1. Where the direction operates or is intended to operate as a transfer upon the sale of the land for valuable consideration, one third of the *ad valorem* duty paid under the heading "Conveyances" in the Schedule to the Stamp Duty Act (\$55:00 per \$1000:00 of the consideration less \$10:00);
2. Where the direction operates or is intended to operate as a transfer of the land whether voluntarily or gratuitously or for good or valuable consideration other than a *bona fide* pecuniary consideration upon a sale, one third of the *ad valorem duty* payable under the heading "Settlements" in the Schedule to the Stamp Duty Act.

Section 175: Where on an application to bring land under the operation of the Act the Applicant claims to be the owner of the fee simple in EQUITY such Application shall be liable to the like Stamp Duty (if any) as under Section 174. The facts and circumstances from which it can be ascertained what amount of duty (if any) is payable on such Application shall be proved by a statutory declaration to the satisfaction of the Registrar, and the declaration shall be lodged with the Application.

The claim of an applicant **in equity arises** where the applicant cannot produce proof by way of formal conveyancing instruments and deeds to sustain his claim of the right to possession, which he can defend. Essentially the proof provided must be such as would sustain an action for specific performance. The provisions of the Statute of Frauds are relevant in these circumstances.

Section 175: The Stamp Duty payable under this section is payable in addition to the duty payable under Section 174 where the Applicant directs the certificate of title to be issued in the name of a nominee.

An applicant bases his claim **in law** where the chain of title comprising a chain of Conveyances, Probates, Letters of Administration, Assents, Vesting Orders, Court Judgments declaring the right of any transferee and other deed evidencing the right to title and which have been properly stamped under the Stamp Duty Act. In such cases the Application is not liable to stamp duty under Section 175. In appropriate cases the Conveyances will bear the Certificate of the Stamp Commissioner that Transfer Tax has been paid.

Care must be taken by the Applicant to give a full explanation of the absence of documentary proof of a title **in law**.

An application by the original grantee under a Certificate of Compliance issued under the Facilities for Title Act is a claim in law and is not liable to Stamp Duty other than in relation to a direction to issue title to a nominee.

Where the Application is refused any Stamp Duty paid under Section 174 shall be refunded.

Registration of Titles Cadastral Mapping and Tenure Clarification (Special Provisions) Act.

Applicants must study and understand the Registration of Titles Cadastral Mapping and Tenure Clarification (Special Provisions) Act. This Act has made important changes in the law of land ownership which simplifies the means of proving ownership and creates exemptions from payment of Stamp Duty, Transfer Tax and Registration Fees in the special areas declared by the Minister of Agriculture as set out in the Act. Proof of ownership has been reduced to proof of possession for a period of twelve [12] years or in the case of Crown lands sixty [60] years.

Exemption is also granted for the payment of Court fees in Probate and Administration of deceased estates and the Minister may grant exemptions from the provisions of the Development Control Laws in respect of subdivisions of land. These and other beneficial provisions

are set out in the Act and are designed to encourage land owners to register their titles.

The Act now applies to the parishes of Saint Catherine and St. Thomas and any applicant requiring assistance may direct their enquiries to the Land Administration and Management Programme [LAMP], Office of the Prime Minister, c/o Ministry of Agriculture, Hope Gardens, Kingston 6.

Miscellaneous

It is important that the Land Titles Division has your correct name and address. An incorrect name or address may mean that letters and notices sent by the Office are not received. A full and definite address must be given for parties residing outside the Island.

Applications and dealings lodged by an Attorney at Law or firm of Attorneys at Law must be accompanied by a letter or note signed by the Attorney at Law stating that he, she, or they act on behalf of the Applicant.

Applications lodged by the Applicant in person must be accompanied with a note enclosing an identification carrying a photograph of the Applicant and stating the TRN number.

Applications and dealings lodged by an agent for the Applicant must be accompanied by a Power of Attorney by the Applicant to the Agent authorising him or her to lodge and take up documents on behalf of the Applicant in that

Application or dealing, an identification carrying a photograph of the Agent and the Agent's TRN number. The Power of Attorney must be attested by a Justice of the peace stating that he has identified the Grantor from an identification bearing a photograph and state the TRN number of the Grantor.(See appendix). The Power of Attorney must be stamped under the Stamp Duty Act and recorded at the Record Office.

APPENDIX

Appointment of Agent

I, (name of applicant) of (Address, postal address and occupation or calling) (Tax registration number) in the parish of being the owner in fee simple in (description of land) do hereby APPOINT (name of Grantee) of (full address and postal address, and occupation or calling) (Tax Registration number and Identification) my attorney for the purpose only of lodging with the Registrar of Titles an application to bring the said land under the operation of the Registration of Titles Act (or to register land by plan or to be registered by virtue of the provisions of Section 85 of the Act as the case may be) and for taking up any documents or the Certificate of title in relation to this Application; AND I (name of Applicant) ratifying allowing and confirming all and whatever my Attorney shall lawfully do or cause to be done in the premises by virtue of these presents.

I HEREBY DECLARE that this Power of Attorney shall remain in full force and effect at all times and the Registrar of Titles shall not be bound to enquire as to whether I am still alive or whether this Power of Attorney is in force at the time of such transaction but shall be deemed to be in full force unless actual notice of my death or the revocation of this power of attorney shall have been received by the Registrar of Titles at the date of such transaction.

SIGNED SEALED and DELIVERED
by the said (name of Donor) in my
presence after I have read over this
Grant of power of Attorney to
(her/him) and explained the full effect
of this grant and I am satisfied he/she
fully understands the same and the
implications.

I further certify that the Donor
produced to me an identification
bearing the photograph of the Donor
No. (Passport or National Identity
Card) and Tax
Registration Card Number and
I am satisfied that the Donor is the
person signing this deed.

(Seal)
Justice of the Peace for the parish of

Statutory Declaration

I [*name of declarant*] do solemnly and sincerely declare that

AND I MAKE THIS solemn declaration conscientiously believing the same to be true and by virtue of the Voluntary Declarations Act

Taken and Acknowledged this

[*day*] of [*month*], [*year*]

Before me

[*name of the witness*]

Justice of the Peace for the parish of [*state parish*]