

# CAVEATS UNDER THE NATIONAL LAND CODE 2020 (ACT 828)



## THERE ARE FOUR TYPES OF CAVEATS UNDER THE NATIONAL LAND CODE:

- Private caveats (sections 322 to 329);
- Lienholders' caveats (sections 281, 330 and 331);
- Registrar's caveats (sections 319 to 321); and
- Trust caveats (sections 332 and 333).

|                | Private Caveat   | Lienholder's Caveat  | Registrar's Caveat   | Trust Caveat  |
|----------------|--|--|--|---|
| <b>Example</b> | Entered by a purchaser after execution of the sale and purchase agreement and payment of the deposit towards the purchase price. | Entered by a bank where a customer (or a third party) has deposited his/her issued document of title or duplicate lease as security. | Entered by the registrar pursuant to the loan granted by the Government to a civil servant for the purchase of a residential property. | Entered by the registrar upon the application of a settlor who declares a trust over land in favour of specified beneficiaries. |

All caveats generally have the effect of prohibiting the registration, endorsement or entry of any instrument of dealing, any claim to any tenancy exempt from registration and any lienholder's caveat.

The prohibition does not extend to any dealing, claim, or lienholder's caveat **presented before** the caveat in question, **except in the case of a registrar's caveat.**

In other words, if you present an instrument of dealing (eg a charge) on 5 Jan 2023 and it has yet to be registered, you may find that it is blocked by a **registrar's caveat** entered on 6 Jan 2023, which is the **day after** your charge was presented. However, the charge would not be blocked by a private caveat entered on 6 Jan 2023.

Caveats do not create any security.

However, a lienholder's caveat is entered pursuant to the creation of a lien, and a lien is a security. Any person with whom the issue document of title to any land or any duplicate lease has been deposited as security, may apply for the entry of a lienholder's caveat. Where the holder of any lien has obtained judgment for the amount owing to him/her, he/she can apply to the court for an order for sale of the land or lease in question. Note the difference when compared with a charge – the lienholder must first **obtain judgment for the amount owing** to him/her, before he/she can apply to the court for an order for sale.

A private caveat lapses after six years, if not withdrawn earlier.

A lienholder may withdraw a lienholder's caveat at any time by written notice.

The registrar's caveat and trust caveat will continue to be in force until cancelled by the registrar.

## Notes:

Trustees can apply for a trust caveat, but beneficiaries under a trust would have to apply for a private caveat.

Compensation may be payable by a caveator who wrongfully enters a private caveat or lienholder's caveat to any person who suffers any damage or loss as a result thereof.

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