

RECONCILE

APPLICATION OF CAVEATS

- ❖ Caveat is a latin word meaning ‘let him beware’. It is whereby any person claiming an interest or estate in land may lodge a caveat to protect his interest. The caveat is an injunction to the Registrar of Titles restraining the registration of any dealing affecting the ownership of land without notifying the Caveator.
- ❖ It must be in substantial compliance with the Land Registration Act in order to be valid and is received by the Registrar. It is not an instrument and is not registrable. A party dealing with a registered proprietor of land will know of the caveat only from a search of the Certificate of Title from the Registrar.

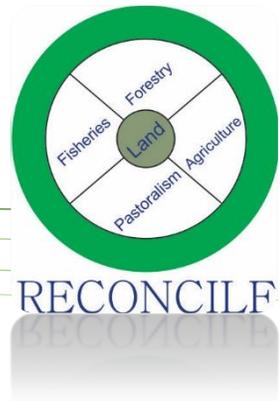
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- ❖ The name, address and description of the person who is claiming an interest in the land is required.
- ❖ Interest claimed should be clearly and concisely expressed.
- ❖ The estate or interest claimed must be stated in the caveat form.
- ❖ The estate or interest may be classifiable under the following;
 - A right to the present or future possession of the land either as a owner of the fee simple or as a tenant for life or for years or for some shorter period.
 - A right to the proceeds of the sale of the land or to a share thereof or to payment of a sum of money secured by mortgage of the land.

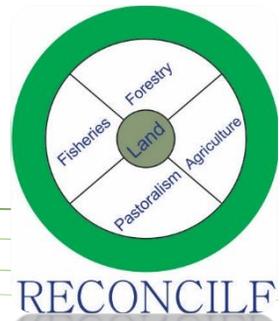
“Promote policies, laws and partnerships that empower resource dependent communities”

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- A right to rent or annuity charged on the land.
- A right to the rents and profits of the land or to a portion thereof.
- A right to take some natural product from the land.
- A right to take water out of a well situated on the land or from a stream or watercourse running through it.
- A right to enter upon the land for the purpose of securing a benefit of a contract for the purchase of anything situate or growing on the land.
- ❖ Where the claim is being made under any document or writing, a copy of the paper writing must accompany the caveat. Provide quantum and interest.

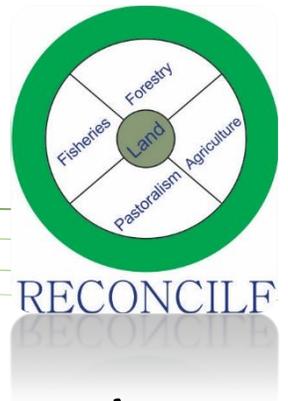
“Promote policies, laws and partnerships that empower resource dependent communities”



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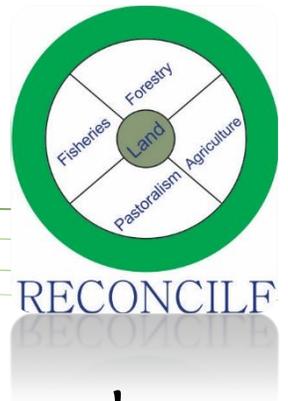
- ❖ The caveat must provide an address or place for service of notice. If the address for service has been changed the caveator may service a notice of change of address and this should be reflected on the caveat.
- ❖ A caveat instrument must be signed by the caveator or a person who represents himself as an agent for the caveator. An attorney signing the caveat on behalf of a caveator must sign as agent also; in such a case no proof of agency is required. A caveat is only a warning to the registrar of a claim to an interest in land. The rules governing attestation requirements when instruments are presented for registration do not apply.

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- ❖ When a caveat is registered a note evidencing the receipt is noted upon the certificate of title. The caveat number, date of lodgment, name of the caveator and a summary of the interest is printed on the face of the title.
- ❖ A caveat forbids the registration of any person as transferee or proprietor of and of any instrument affecting such estate or interest either absolutely or until after notice of the intended registration or dealing be given to the Caveator or unless such instrument be expressed to be subject to the claim of the Caveator as is stated in the caveat instrument.

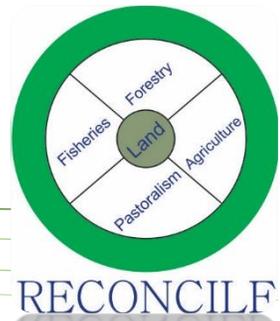
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The caveat number is also stated on the first page at the top right hand corner of the certificate of title.

- ❖ Notice of the caveat is given to the registered owner of the land, lease, mortgage or charge that it has been noted.
- ❖ A caveat has the effect of prohibiting the registrar from entering in the register any change of proprietorship or memorandum of transfer or any dealing presented for registration subsequent to the date on which the caveat was lodged unless the transfer or other instrument or dealing be expressly exempted from the operation of the caveat or the caveator consents thereto in writing.
- ❖ The caveat can permit registration of a dealing not prejudicial to his

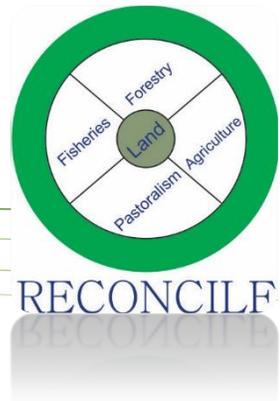
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interest by giving consent in writing, without the caveat lapsing. The consent should expressly state whether or not the dealing is to be registered subject to the caveat or in priority to the caveat. The consent document should;

- State the full name of the caveator.
- State the caveat number and the volume and folio number of the title.
- State the type of dealing and the name of the person to which the consent refers.
- Expressly state whether the instrument is to be registered subject to or

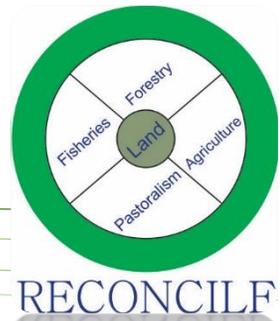
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in priority to the caveat.

- Be signed by the caveator or anyone authorized to sign on his or her behalf.
- ❖ The caveat can be withdrawn by the caveator or his agent authorized on his behalf or by the personal representative of a deceased caveator. The signature must be duly witnessed. The withdrawal of caveat should contain the name of the caveator, the caveat number and the volume of the title.
- ❖ For lapsing of a caveat where it is not withdrawn by the caveator or the caveator will not consent to registration of a dealing. A registered proprietor on lodging a transfer or other dealing for registration will request that the Registrar of Titles send notice of a impending dealing lodged for registration to the caveator.

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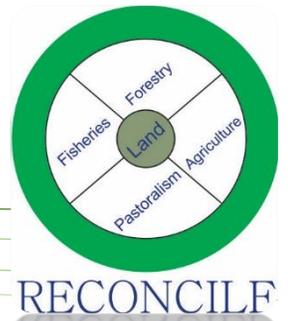
- ❖ Notice of the application for registration such dealing shall be given to the caveator at the address provided in the caveat. On the expiration of fourteen days after service of such notice on the caveator the caveat will lapse unless a restraining order or injunction from a judge is obtained and served on the Registrar of Titles before the expiration of the said fourteen days. A reasonable time for delivering through the registered post is calculated into the period.
- ❖ Certain caveats are exempted from these provisions;
 - Caveats lodge by or behalf of a person under disability claiming under any will or settlement.
 - Caveat lodge by the Registrar.

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- ❖ A notice to caveator cannot issue unless an instrument is submitted simultaneously therewith for registration. As soon as the caveat has lapsed it is the duty of the Registrar to register any instrument lodged for registration.
- ❖ A caveat cannot be renewed by or on behalf of the same person in respect of the same estate or interest. Such caveat cannot affect registration of a dealing lodged prior to the date of lodgement of a dealing for registration. If the dealing is withdrawn before registration a caveat in respect of that dealing does not lapse.
- ❖ A caveat cannot prevent registration of instruments lodged before the

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date the caveat is received by the Registrar. The reason is that registration of a dealing is actually perfected as at the date of lodgment so that when the necessary searches have been conducted and it appears that the register was clear at the time of lodgement of a dealing for registration, no caveat lodged subsequently can affect the registration.

- ❖ There is nothing to prevent a registered proprietor from lodging a caveat against dealing with his own property.
- ❖ The Registrar is empowered to lodge a caveat when it appears necessary to him or upon the direction of a referee for the protection of interest of persons or to dealings with land in the case of any error in a certificate of title or instrument, fraud or improper dealings.