

Decoding the Registration Bill, 2025

11 June 2025

Introduction to the Bill

On 27 May 2025, the Department of Land Resources, Ministry of Rural Development, Government of India published a draft of the 'The Registration Bill, 2025' (Bill), inviting public suggestions and comments on the Bill, as a part of the pre-legislative consultative process from the stakeholders within 25 June 2025 in a prescribed format. The Bill envisages to repeal the Registration Act, 1908 (1908 Act) and introduce a technologically advanced and uniform registration system that aligns with India's vision of a digital economy. It emphasizes legal certainty, procedural fairness, transparency, and efficiency while safeguarding public interest and proprietary rights.

Implications of the key reforms set forth in the Bill

The 1908 Act provided a legal framework for the registration of documents, particularly those relating to immovable property. Its primary intent was to create an official record of transactions, thereby reducing the scope for disputes, fraud and uncertainty over ownership or rights in a property. Despite its colonial origins, it remains pivotal in India's property law regime for over a century, inter alia, by way of mandating the registration of certain classes of documents along with the procedure for registration, which is instrumental in enhancing in reflecting its legal validity, authenticity and evidentiary reliability. However, with changing times, the Bill has been so drafted, to cater to the need for creating a 'forward-looking registration framework' which also recognises online registration and factors in the use of technology to simplify the registration process. An overview of the significant reforms introduced by way of the Bill and its implications are discussed below:

1. Expanded scope of compulsorily registerable instruments: Section 12 of the Bill broadens the categories of registrable documents, now also mandating registration for:
 - a. agreement for sale;
 - b. developer's agreement or promoter's agreement by whatever name called for the development of any property or construction of structure;
 - c. power of attorney which authorises transfer of immovable property (POA);
 - d. documents which set out terms and conditions for a mortgage created by deposit of title deeds;
 - e. sale certificates and instruments in relation to arrangements of companies including merger, demerger amalgamations and purporting to transfer of property at the time of formation of a new company pursuant to any order passed under the Companies Act, 2013;
 - f. instruments which create, limit, extinguish any right, title or interest in an immovable property pursuant to any decree or order or any award made by a court; and
 - g. authorities to adopt a daughter which is not conferred by a will

Comment: The expanded scope of the list of compulsorily registerable instruments seeks to remove the ambiguity over registrability of POAs amongst other instruments. The 1908 Act was silent on the requirement for registration of the POAs which are granted for transferring property. Further, the Supreme Court of India in the case of Asset Reconstruction Company (India) Limited v S.P. Velayutham & Ors¹ (Asset Reconstruction) upheld that as per the 1908 Act, a POA is only required to be 'authenticated' which is different from 'registered'. However, contrary to the judgement in Asset Reconstruction, more often than not, the registrar at the time of registration mandates the requirement of a registered POA in case of transfer of property by virtue of a POA.

Further, the 1908 Act only mandated the registration of instruments for adopting a son. However, the Bill has widened its horizon to make it more inclusive and included instruments authorising adoption of daughters to be registered too.

2. **Structured book-keeping for mortgage by deposit of title deeds:** By virtue of Section 14(3) of the Bill, all financial institutions and other creditors who grant loans against deposit of title deeds, have been imposed upon a duty to file a copy of such title deeds with the registering officer within whose jurisdiction the mortgaged property is situated. The Bill also introduces a new provision, by way of which a mortgage which has been filed and recorded under Section 14(3) of the Bill, will hold good against any mortgage/transfer, which may be subsequently created or registered in relation to the same property. The genesis of this provision stems from the principle embodied in the maxim *qui prior tempore potior est jure*, which means 'he who is first in time is better in law'.

Comment: Mandating the filing of the aforesaid title deeds will enhance transparency and reduce the risk of fraudulent or multiple encumbrances on the same property. It also strengthens the legal sanctity and evidentiary value of the transaction, thereby facilitating smoother enforcement and simpler fact-finding mechanism in case of disputes.

3. **Digitalization of the registration procedure:** The Bill introduces a digital transformation and aims to establish an e-registration framework by allowing electronic presentation, authentication and issuance of documents, including registration certificates. Further, a detailed mechanism for verification of one's identity for registration has been laid down in the Bill which also acknowledges affixation of e-signatures by the person presenting the document. The Bill provides for integration of the registration framework with other departments, thereby permitting interoperability with record-keeping systems like land records and municipal databases.

Comment: The introduction of an e-registration system may lead to enhanced accessibility and transparency to all stakeholders and the public. However, data protection and cybersecurity frameworks will need strengthening to mitigate risks of digital forgery in case of e-signatures or unauthorised access.

4. **Rectification of errors, re-registration and cancellation:** The Bill, in a significant move, allows for rectification of errors, re-registration and cancellation of registration for the first time. If any document has been registered by an individual who lacked the legal authority to present it, the rightful claimants (under a legally valid document) have been allowed to present the document afresh for registration after rectifying the error in the previously registered document. Further, the Bill empowers a designated 'Adjudicating Authority' to cancel registrations obtained through fraud or contravention of law, with appellate oversight. However, ascertaining questions of title or ownership has been excluded from the registrar's jurisdiction may lead to overlap or conflict with the jurisdiction of civil courts.

Comment: This provision ensures that procedural lapses do not invalidate substantive rights of an individual, thereby upholding the integrity and enforceability of genuine transactions.

Suggestion: It has been laid down that the presentation of a document for re-registration must be within 4 months from the date on which the error first came to the knowledge of the applicant. The provision can be further modified to include which day shall be considered for such bona-fide knowledge of the applicant and affixing a public notice with every transfer instrument inviting claims on a property before transferring it can be mandated. Further, the section can also provide for the methodology for the book-keeping, destruction and maintaining proper records of the impugned instrument with errors which had been earlier registered.

¹ Civil Appeal Nos. 27522753 OF 2022 (Arising out of Special Leave Petition (C) Nos. 19662/19663 of 2021

5. Fee for several instruments used in a single transaction: As per the Bill, amongst other fees, the registration fees is payable only on the principal document in case of transactions which contemplate several documents which are ancillary to complete the transaction. It has been clarified that only a nominal fee will be payable on the other ancillary documents.

Suggestion: While prescribing the fee, the state government should consider a uniform and fixed rate which could be made applicable for the registration of such ancillary documents across the country to eliminate chances or arbitrariness while prescribing and interpreting the word 'nominal'.

Despite the manifold advantages which the Bill strives to show the light of dawn, the below areas remain grey, and may lead to future anarchy:

1. The registrar has not been empowered to adjudicate on title investigation, thus curbing the power to question vague overlaps or missing linkages. If the documents are registered without verification of title, it may lead to loopholes and may open a floodgate to title litigations in the future.
2. The requirement of detailed templates and formats for documentations which are to be executed for varied transactions may lead to overregulation and unnecessary delays in case of obtaining approvals for deviation from the prescribed formats.
3. The Bill provides for provisions which defer critical regulatory aspects such as electronic signature formats, other adjudication procedures, to future rules. The over dependency on rules may cause interpretational uncertainties until all rules are enacted and uniformly adopted.

Accordingly, appropriate ammunition should be built into the Bill to render necessary clarity at the time of its notification and passing of the law.

Below is a snapshot of a comparative overview of the 1908 Act and the Bill in a nutshell:

Feature	1908 Act	Bill
Technological Integration	Absent	Explicitly digital-first
Power of Attorney Rules	Ambiguous	Specific and formalised
Scope of Registration	Narrow	Broader; includes equitable interests
Institutional Structure	Limited hierarchy	Multi-tiered; agile
Legal Safeguards	Limited	Extensive, includes appeal and cancellation
Transparency & Access	Manual records	Digital indices; searchable formats

A mapping of the sections under the 1908 Act with that of the Bill, is provided in a tabulated form at the end of this document for the ease of reference and an overview for the readers.

Comments

The Bill seeks to empower local governance by delegating the rule-making power to the appropriate governments. This decentralisation shall allow state-specific rules and innovations if uniformly implemented. The Bill emphasises on simpler drafting to align with best practices of clarity in communication to general public. The Bill aims to facilitate the 'Ease of Doing Business' (by digitisation) and has a citizen-centric approach as highlighted in the press release, thereby reducing unnecessary delays upon allowing real-time tracking and standardisation of the documents.

Real estate developers, banks, lawyers and other stakeholders will have to get conversant with the new law and align documentation formats with the new prescribed templates. Further, mortgage documentation involving equitable mortgages will now mandatorily require registration, which may affect turnaround times and the presently applicable credit disbursement protocols. The introduction of the new law will see a surge in compliance and advisory roles for lawyers, especially for aligned drafting, execution of power-of-attorney and litigation regarding refused registrations or cancellations. The various governmental departments will require adequate and continued coordination for seamless backend integration, i.e., municipal, revenue and registrar offices, as provided for in the Bill. Lastly, adequate and appropriate recruitment coupled with rigorous training of the governmental authorities and staff would be imperative to do away with the century old legislation and the practices under the 1908 Act.

Please click on the [link](#) for a detailed mapping of the provisions of the 1908 Act vis-à-vis The Bill.

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