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No. 22 of 2017

Third Session Eleventh Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Land Adjudication Act, 2000

THE LAND ADJUDICATION (AMENDMENT) (NO. 2)
BILL, 2017

Explanatory Notes

(These notes form no part of the Bill but are intended only to indicate its general purport)

Clause 1 of the Bill would provide for the short title of the Act for which this is the Bill.

Clause 2 of the Bill would provide for the definition of terms used in this Act.

Clause 3 of the Bill would amend section 2 of the Act to provide for an interpretation of “adjudication officer”, “Chief Adjudication Officer”, “Deputy Adjudication Officer” and “Director of Surveys”. The clause would also correct a typographical error.

Clause 4 of the Bill would amend section 4 of the Act by inserting after subsection (1), subsections (1A) and (1B), respectively. Subsection (1A) would provide for a specific number of Deputy Adjudication Officers for different areas and subsection (1B) would provide that a Deputy Adjudication Officer should be an Attorney-at-law with at least ten (10) years experience in conveyancing law and should be appointed by the Judicial and Legal Service Commission.

The clause would also replace the position of “Adjudication Officer” with that of Chief Adjudication Officer in subsection (2) and would also include the post of Deputy Adjudication Officer, both of whose terms and conditions are to be prescribed in accordance with section 141 of the Constitution.

The clause would also remove the post of Assistant Adjudication Officer wherever they occur in subsections (3) and (4). The clause would also amend subsection (5), by inserting the word “Chief” before the words “Adjudication Officer” and by deleting the word “Assistant” and substituting the word “Deputy” wherever it occurs. The clause would also repeal subsection (8) and substitute a new subsection which would now require the Demarcation Officer and Survey Officer to obtain the permission of the owner or occupier and issue a Notice prior to entry onto private land, for the purpose of demarcating or surveying any parcel therein.

Clause 5 of the Bill would make consequential amendments to section 5 of the Act.

Clause 6 of the Bill would amend section 6 of the Act to make consequential amendments and to provide for the wider publication of the notice of impending adjudication, expanding the requirement from one daily newspaper to at least two (2) daily newspapers of mass circulation to be printed at least once per week for two (2) consecutive weeks and on the website of the Ministry with responsibility for legal affairs.

Clause 7 of the Bill would amend section 8 of the Act to provide for the correction of a typographical error.

Clause 8 of the Bill would amend section 10 of the Act by expanding the requirement from one daily newspaper to at least two (2) daily newspapers of mass circulation to be printed at least two times for two (2) consecutive weeks and on the website of the Ministry with responsibility for legal affairs.

Clause 9 of the Bill would amend section 12 of the Act in subsection (1), by deleting paragraph (a) and to require the Demarcation Officer to recommend to the Adjudication Officer the award of compensation rather than the Demarcation Officer awarding the compensation.

Clause 10 of the Bill would repeal section 13 of the Act and substitute a new section to provide in subsection (1), for the duties of a Survey Officer which would include the preparation of one map, and not two, under the Adjudication Act, referred to as the “demarcation map”, upon which the parcel identification map, as defined in the Registration of Titles to Land Act would be based, when the adjudication section is finalized and the adjudication record delivered to the Registrar.

Subsection (2) would provide that in preparation of a demarcation map under subsection (1)(b), public roads are not required to be identified by number.

Subsection (3) would provide that notwithstanding the Land Surveyors Act, 1996, the Survey Officer shall only make field measurements prescribed under this Act and that in his opinion are sufficient for parcel identification under the Registration of Titles to Land Act, 2000.

Clause 11 of the Bill would amend section 16 of the Act to provide for consistency with existing laws. Paragraph (b) would amend paragraph (a) to change the period for adverse possession against a person from thirty years to sixteen years as is provided for in the Real Property Limitation Act, Chap. 56:03 and delete the existing paragraphs (c) and (d) of subsection (1) and substitute new paragraphs (c), (d) and (da) which would provide that where the land is State Land the Adjudication Officer would record the land as State Land, then recording of absolute title and the recording of provisional title where the adjudication officer is not satisfied that the person is entitled to be recorded with absolute title under paragraph (b) or (d).

New paragraph (c) would require the adjudication officer, where a person without documentary title has been in possession of State land for a period of thirty (30) years, to record title in the name of the State notwithstanding the possession has been open and peaceful possession. New paragraph (d) would provide that a person who has documentary title to a parcel of land that no other person has acquired or is in the process of acquiring title to under any law relating to prescription or limitation, that person would be declared as the owner of the parcel with an absolute title and be recorded as such. New paragraph (da) would provide that where a person is in possession or has a right to a parcel of land but, that person does not fall within paragraph (c) or (d) above, an adjudication officer may declare that person as the owner of the parcel with a provisional title and record it as such.

Paragraph (c) of the amending clause would delete subsection (2) and replace it with new subsections (2), (3), (4), (5), (6) and (7). An adjudication officer may serve notice in subsection (2)(a) to a person in adverse possession of State land informing him that he may approach the Land Tribunal to determine whether he has rights to a vesting order. In proposed subsection (2)(b), an adjudication officer may serve notice to the Commissioner of State Lands or other relevant authority that land belonging to the State is in adverse possession.

New subsection (3) would provide that an adverse possessor in subsection (1)(c) or (e) would now be able to apply to the Land Tribunal for a vesting order. Subsection (4) would now require an adjudication officer giving a person a provisional title under paragraph (da) to record the date on which possession is considered to have commenced, particulars of any deed instrument or other document by virtue of which any right or interest adverse to, or in derogation of the title of that person may exist and any other reservation which may affect the title.

Subsection (5) would provide that the holder of a provisional title under section 16(1)(da), may apply to the Land Tribunal to have the title declared absolute. Subsection (6) would require an adjudication officer to refer an application under subsection (5) to the Land Tribunal for hearing and determination. Subsection (7) would restrict an adjudication officer from making declarations on State lands which are either declared to be a protected area or Forest Reserve or to be an environmentally sensitive area or where State lands have been identified by the State for public purposes.

Clause 12 of the Bill would amend section 17 of the Act to provide for the use of a claim number in addition to a parcel number. Clause 12 of the Bill would also delete subsection (6) and substitute

a new subsection (6) which would require the Recording Officer to retain a copy of the document referred to in section 17(5) and recognising the likelihood that claimants may be unwilling to give up possession of original title documents, to retain a copy of the documents and return the original suitably endorsed.

Clause 13 of the Bill would amend section 18 of the Act to provide for the correction of a typographical error, and the addition of the Demarcation Officer as an officer who can retain copies of documents that may be presented.

Clause 14 of the Bill would amend section 19 of the Act to provide for the wider publication of the notice of completion of the adjudication record, expanding the requirement from one daily newspaper to all daily newspapers of mass circulation to be printed at least once per week for two (2) consecutive weeks.

Clause 15 of the Bill would amend section 20 of the Act to correct a typographical error in the Act and to insert before the words “Adjudication Officer” the word “Chief” wherever they occur.

Clause 16 of the Bill would amend sections 21 and 22 of the Act by inserting before the words “Adjudication Officer” the word “Chief” wherever they occur.

Clause 17 of the Bill would repeal section 23 of the Act and substitute a new section to provide for a revised procedure for finalizing an adjudication section such that all objections would be heard prior to completing and finalizing the adjudication record. The clause would also provide that the adjudication record shall, subject to the Registration of Titles to Land Act become final and an adjudication officer would sign a certificate to that effect. The adjudication officer would also now deliver the adjudication record and the relevant demarcation map together with the certificate and all documents received or copied to the Registrar.

Clause 18 of the Bill would amend section 24 of the Act to provide for all persons, not just persons who have made an objection under section 20 of the Act, to appeal to the Tribunal against any decision of the Adjudication Officer.

Clause 19 of the Bill would amend section 25 of the Act to delete the reference to “summons” and substituting a reference to “Notice or Order” and delete the phrase “is guilty” and replace with the word “commits”.

Clause 20 of the Bill would make consequential amendments.

BILL

AN ACT to amend the Land Adjudication Act, 2000

[, 2017]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:

1. This Act may be cited as the Land Adjudication Short title
(Amendment) Act, 2017.

Interpretation
Act No. 14 of 2000

2. In this Act, “the Act” means the Land Adjudication Act, 2000.

Section 2 amended

3. Section 2 of the Act is amended—

(a) by deleting the definition of “Adjudication Officer” and substituting the following definition:

““adjudication officer” means the Chief Adjudication Officer or a Deputy Adjudication Officer appointed under section 4;”;

(b) in the definition of “Registrar” by deleting the word “Lands” and substituting the word “Land”; and

(c) by inserting in the appropriate alphabetical sequence, the following definitions:

““Chief Adjudication Officer” means the Chief Adjudication Officer appointed under section 4;

“Deputy Adjudication Officer” means a Deputy Adjudication Officer appointed under section 4; and

“Director of Surveys” means the person holding the office of Director of Surveys referred to in the Civil Service Act;”.

Chap. 23:01

Section 4 amended

4. Section 4 of the Act is amended—

(a) in subsection (1), by deleting the words “an Adjudication Officer” and substituting the words “a Chief Adjudication Officer”;

(b) by inserting after subsection (1), the following subsections:

“ (1A) There shall be such number of Deputy Adjudication Officers who may be recruited as necessary for the respective adjudication areas.

(1B) A Deputy Adjudication Officer shall be an attorney-at-law of at least ten years' experience in conveyancing and shall be appointed by the Judicial and Legal Service Commission.”;

(c) in subsection (2), by—

(i) inserting before the words “Adjudication Officer” the word “Chief”; and

(ii) inserting after the word “Officer” the words “and Deputy Adjudication Officers”;

(d) in subsections (3) and (4), by deleting the words “Assistant Adjudication Officers,” wherever they occur;

(e) in subsection (5), by—

(i) inserting before the words “Adjudication Officer” in the first line, the word “Chief”;

(ii) deleting the word “Assistant” and substituting the word “Deputy”;

(f) by repealing subsection (8) and substituting the following new subsections:

“ (8) A Demarcation Officer or Survey Officer may—

(a) with the permission of the owner or occupier; and

(b) on giving reasonable notice to the owner,

at any reasonable time, after the notice is given, enter upon land within the adjudication area for the purpose of demarcating or surveying any parcel therein.

(8A) Where a Demarcation Officer or Survey Officer wishes to enter upon

any land for the purpose of demarcating or surveying a parcel therein, but the owner or occupier of the land cannot be found and the Demarcation Officer or the Survey Officer shall cause a Notice to be published in at least two daily newspapers in circulation in Trinidad and Tobago, for at least once a week, in two consecutive weeks which will require the owner or occupier to come forward within two weeks of the publication of the Notice for the purpose of consenting to entry on the land to demarcate or survey the parcel.

(8B) Where the owner or occupier under—

(a) subsections (8) and (8A) refuses to give consent for the Demarcation Officer or Survey Officer to enter onto the land; or

(b) subsection (8A) fails to identify himself within the period set out in the Notice,

the Demarcation Officer or Survey Officer may apply to a judge for an order authorizing the Demarcation Officer or Survey Officer to enter onto the land for the purpose of demarcating or surveying the parcel.

(8C) An application under subsection (8B)(b) shall be made *ex parte*.”.

Section 5 amended

5. Section 5 of the Act is amended by inserting before the words “Adjudication Officer” the word “Chief”.

Section 6 amended

6. Section 6 of the Act is amended—

(a) in subsections (1), (3) and (4), by inserting

before the words “Adjudication Officer” wherever they occur, the words “Chief”; and

(b) in subsection (4)—

- (i) in paragraph (a), by deleting the words “such notices and schedule, if any, to be published in a daily newspaper” and substituting the words “any notice and schedule, if any, to be published in at least two daily newspapers in circulation in Trinidad and Tobago, at least once a week, for four consecutive weeks, on the website of the Ministry with responsibility for legal affairs”; and
- (ii) in paragraph (b), by deleting the words “such notices” and substituting the words “any notice”.

7. Section 8 of the Act is amended—

Section 8 amended

- (a) in subsection (1), by deleting the word “claming” in the first line and substituting the word “claiming”; and
- (b) in subsection (3), by deleting the words “If any such person” and substituting the words “Where a person who”.

8. Section 10 of the Act is amended in subsection (1), by deleting the words “a daily newspaper” and substituting the words “at least two daily newspapers in circulation in Trinidad and Tobago, at least once a week, for four consecutive weeks, on the website of the Ministry with responsibility for legal affairs”.

Section 10 amended

9. Section 12 of the Act is amended in subsection (1)—

Section 12 amended

- (a) by deleting paragraph (a); and
- (b) in paragraph (e), by deleting the words “award such compensation as may appear to him” and substituting the words “recommend the adjudication officer award such compensation as may appear to the adjudication officer to be”.

Section 13 amended

10. The Act is amended by repealing section 13 and substituting the following section:

“Duties of
a Survey
Officer

13.(1) Subject to any general or special directions issued by an adjudication officer or a Demarcation Officer, the duties of a Survey Officer shall include the—

- (a) carrying out of such survey work as may be required in the execution of the adjudication process; and
- (b) preparation of a demarcation map of the adjudication section which shall be compiled from survey data or aerial photographs on which shall be shown every separate parcel of land identified by a distinguishing number.

(2) In preparing a demarcation map under subsection (1)(b), public roads are not required to be identified by number.

Chap.
58:04

(3) Notwithstanding any provision of the Land Surveyors Act or of any regulation or rule made thereunder in preparing a demarcation map, the Survey Officer shall make only such field measurements as may be prescribed under this Act and that in his opinion are sufficient for parcel identification under the Registration of Titles to Land Act, 2000.”.

Act No. 16
of 2000

Section 16 amended

11. The Act is amended in section 16—

- (a) by deleting the words “the Adjudication Officer” and substituting the words “an adjudication officer”;
- (b) in subsection (1)—
 - (i) in paragraph (b), by deleting the word “thirty” and substituting the word “sixteen”;

(ii) by deleting paragraphs (c) and (d) and substituting the following paragraphs:

“(c) a person who, without a documentary title to land is in open and peaceable possession of a parcel of State land and has been in such possession whether by himself or through his predecessors in title for a period of thirty years or more, the adjudication officer shall record title in the name of the State;

(d) a person has a good documentary title to a parcel of land and that no other person has acquired or is in the process of acquiring valid title to the land under any law relating to prescription or limitation, the adjudication officer shall declare that person as the owner of the parcel with an absolute title and record it as such;

(da) a person is in possession of, or has a right to a parcel of land but an adjudication officer is not satisfied that such person is entitled to be recorded under paragraph (b) or (d) as the owner of the parcel with absolute title, the adjudication officer may nevertheless declare that person the owner of the parcel with a provisional

title and record it as such;”;
and

(iii) in paragraph (e), by deleting the words “paragraph (d) above, he” and substituting the words “paragraph (d) or (da) above the adjudication officer”;

(c) by deleting subsection (2) and substituting the following subsections:

“ (2) Where an adjudication officer records title in the name of the State under subsection (1)(c) or (e), he shall serve notice on the—

(a) adverse possessor indicating that the adverse possessor may approach the Land Tribunal to determine whether he has rights to a vesting order based on adverse possession; and

(b) Commissioner of State Lands or other relevant authority having control of the particular land, indicating that the land is in occupation by an adverse possessor.

(3) An adverse possessor of State lands under subsection (1)(b) or (c) may apply to the Land Tribunal in the prescribed manner for a vesting order.

(4) Where an adjudication officer records a person as the owner of a parcel of land with a provisional title under subsection (1)(da), he shall also record—

(a) the date on which the possession

of that person shall be considered to have commenced;

- (b) the particulars of any deed, instrument or other document by virtue of which an estate, right or interest, adverse to, or in derogation of the title of that person might exist; and
- (c) any other reservation which may affect the title.

(5) The holder of a provisional title declared under subsection (1)(*da*) may apply to the Land Tribunal in the prescribed manner to have the title declared absolute.

(6) An adjudication officer shall refer an application under subsection (5) to the Land Tribunal for its hearing and determination.

(7) Notwithstanding subsection (1), an adjudication officer shall not make any declaration in respect of State land under subsection (1)(*b*), (*c*) or (*da*) which—

- (a) is declared to be a protected area or Forest Reserve under the Forests Act;
- (b) is declared to be an environmentally sensitive area under the Environmental Management Act; or
- (c) has been identified by the State for public purposes.”.

12. Section 17 of the Act is amended—

Section 17 amended

- (a) in subsection (5), by inserting after the words “reference to the”, the words “claim or”; and

(b) by repealing subsection (6) and substituting the following subsection:

“ (6) The Recording Officer shall retain a copy of the document referred to in subsection (5) and return the original document to the claimant endorsed with a statement that the land is subject to adjudication under this Act.”.

Section 18 amended **13.** Section 18(1) of the Act is amended—

(a) in paragraph (a), by deleting the words “unique parcel” and substituting the words “parcel number”; and

(b) in paragraph (e), by deleting the words “Recording Officer” and substituting the words “Recording or Demarcation Officer”.

Section 19 amended **14.** Section 19 of the Act is amended by deleting the words “a daily newspaper” and substituting the words “at least two daily newspapers in circulation in Trinidad and Tobago, at least once a week, in two consecutive weeks”.

Section 20 amended **15.** Section 20 of the Act is amended—

(a) in subsection (1), by inserting after the word “manner” the word “of”; and

(b) by inserting before the words “Adjudication Officer” wherever they occur, the word “Chief”.

Sections 21 and 22 amended **16.** Sections 21 and 22 of the Act are amended by inserting before the words “Adjudication Officer” wherever they occur, the word “Chief”.

Section 23 amended **17.** The Act is amended by repealing section 23 and substituting the following section:

^{“Finality of adjudication record} 23. Upon the expiry of ninety days from the date of publication of the notice of completion of the adjudication record or on determination of all objections presented in accordance with section 20, whichever shall be the later, the adjudication record shall,

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of 2000

subject to the provisions of the Registration of Titles to Land Act, become final and an adjudication officer shall sign a certificate to that effect and deliver the adjudication record and the relevant demarcation map to the Registrar together with the certificate and all documents received or copied in the process of adjudication.”.

Section 24 amended **18.** Section 24 of the Act is amended—

- (a) in subsection (1), by deleting the words “, who has raised an objection pursuant to section 20(1) and”; and
- (b) in subsection (2), by deleting the word “restriction” and substituting the word “caveat”.

Section 25 amended **19.** Section 25 of the Act is amended—

- (a) in paragraph (a), by deleting the words “with a summons issued under the provisions of this Act, wilfully neglects or refuses to attend in pursuance of such summons” and substituting the words “with a Notice or an Order issued by an adjudication officer under section 4(6), wilfully neglects to attend in pursuance of such Notice or Order”; and
- (b) by deleting the words “is guilty of” and substituting the word “commits”.

Consequential
amendments

20. (1) Sections 3, 4(6), 7, 8, 9, 10, 11, 12, 14, 15, 19, 24 and 26 of the Act are amended by deleting the words “the Adjudication Officer” wherever they occur and substituting the words “an adjudication officer”.

(2) The Act is amended by deleting the words “Real Property Ordinance” wherever they occur and substituting the words “Real Property Act”.

Passed in the House of Representatives this
day of _____, 2017.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this _____ day of _____,
2017.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 22 of 2017

THIRD SESSION
ELEVENTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Land
Adjudication Act, 2000

Received and read the

First time

Second time

Third time