THE STATE SUITS LIMITATION BILL 2017

EXPLANATORY NOTES

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

The Bill seeks to repeal and replace the existing Crown Suits Limitation Ordinance, 1898 ("the Ordinance") to modernize the language contained therein and to provide for special categories of land.

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 seek to re-enact section 2 of the Ordinance in modern language to limit the State's right of action against a person who has been in occupation of State land for more than thirty years. The clause goes on by subclause (2) to allow a person claiming through subsequent grant through the State or the State, within sixteen years of the expiration of the grant to file or commence an action to show title in the State or in the grantee who was in possession of a previous grant some thirty years or more prior. The clause by subsection (3) provides for how the State or the person claiming by subsequent grant through the State can show title.

Clause 3 of the Bill would prohibit the application of the Act to lands which are -

(a) declared to be protected areas or forest reserves under the Forest Act, Chap. 66:01;
(b) declared to be environmentally sensitive under the Environmental Management Act, Chap. 35:05; and
(c) identified by the State for a public purpose.

Clause 4 of the Bill would seek to re-enact section 3 of the Ordinance in modern language.

Clause 5 of the Bill would save existing rights and proceedings commenced under the Ordinance.

Clause 6 of the Bill would repeal the Crown Suits Limitation Ordinance.

THE STATE SUITS LIMITATION BILL, 2017

ARRANGEMENT OF CLAUSES

Clause

1. Short title.
2. Limitation of State's right of action.
3. State lands not subject to bar on right of action.
4. Onus of proof on State after sixteen years possession by defendant.
5. Savings.
6. Repeal of Cap. 37-1025.

A BILL

An Act to repeal and replace the Crown Suits Limitation Ordinance

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title

1. This Act may be cited as the State Suits Limitation Act, 2017.

Limitation of the State's right of action

2.(1) Subject to section 3, the State shall not at any time sue, impeach, question or implead any person for, or in relation to, any-

(a) lands;

(b) tenements;

(c) rents; or

(d) hereditaments,

whatsoever, which the person has held or enjoyed or taken rents, revenues, issues or profits thereof for a period of thirty years next before the filing, issuing or commencing of every such action, bill, pliant, information, or other suit or proceedings as shall at any time be filed, issued or commenced for recovering the same or in respect thereof.

(2) Notwithstanding subsection (1), the State or any person claiming by subsequent grant through the State, may within sixteen years ~~before the filing of the information or commencement of an action,~~ **after the cessation, expiration of determination of the grant, file an information or commence an action, to** show title in the State or in the grantee under the grant be reason of the-

(a) cessation;

(b) expiration; or

(c) determination,

of the interest of any grantee who was in possession for thirty years or more under a previous grant.

(3) For the purposes of subsection (2), the State or a person

claiming by subsequent grant through the State, may show title through any information of intrusion, or action for possession or to establish title.

State lands not subject to bar on right of action

Chap. 66:01

3. This Act shall not apply to land-

(a) declared to be a protected area or forest reserve under the Forest Act;

(b) declared to be environmentally sensitive under the Environmental Management Act; and

(c) identified by the State for a public purpose.

Onus of proof on State after 16 years possession by defendant

4.(1) In any-

(a) information of intrusion on behalf of the State, or other proceeding by or on behalf of the Attorney General or other public officer, to recover possession of or establish title to lands on behalf of the State; and

(b) action of ejectment, or to establish title, or for damages for or an injunction to restrain trespass to realty, in which the plaintiff claims under a grant from the State within sixteen years before action,

the defendant, upon serving of notice of a defence, may give in evidence proof of exclusive possession by him and his predecessors in the title for sixteen years immediately before the commencement of such action.

(3) Where possession under subsection (1) is proved in fact, the State or the person claiming through or under the State shall not be entitled to judgment, except on proof of title within and subject to the limitation referred to in the section 1.

(4) Service of a notice under subsection (1) shall be made on the opposite party seven clear days before trial.

(5) Nothing in this section shall be construed to prevent the granting of an interim injunction in any case in which the same might have been granted if this Act had not been passed.

Savings

5. Nothing in this Act shall be construed as extinguishing any rights accrued or any proceedings commenced under the Crown Suits Limitation Ordinance prior to the coming into force of this Act.

Repeal of Cap. 5 No. 2

6. The Crown Suits Limitation Ordinance is repealed.

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