

LAND TRIBUNAL (NO. 2) BILL, 1999

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*Legal Supplement Part C to the "Trinidad and Tobago Gazette", Vol. 38,
No. 228, 13th December, 1999*

No. 24 of 1999

Fifth Session Fifth Parliament Republic of Trinidad
and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to establish a Land Tribunal to hear and determine appeals from any decision made in the course of the Land Adjudication process, and from the decision of any other body relating to the use and enjoyment of land, the division, the development and the compulsory acquisition of land, and for matters connected therewith and incidental thereto.

LAND TRIBUNAL (NO. 2) BILL, 1999

Explanatory Note

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

This Bill forms one of a package of three Bills the Government of Trinidad and Tobago is required to prepare as a conditionality of the agreement entered into with the Inter-American Development Bank (IADB) to facilitate the reform programme of the Government aimed at improving the legislative framework with respect to land tenure. The ultimate objective is to create conditions favorable for attracting private investment.

The Land Adjudication Bill provides for the settlement of title to land by an Adjudication Officer, and the Registration of Title to Land Bill provides for a Register of Land, titles and registration of estate and interest in land. The attached Bill seeks to give a right of appeal to anyone who wishes to appeal against the decision of the Land Adjudication Officer.

This Bill will establish a Land Tribunal with the jurisdiction to entertain such appeals as are referred to above and to hear certain other applications related to the title to land.

The Bill is divided into five parts. Clauses 1 and 2 form Part I and Part II which contains twelve clauses beginning with clause 3 which seeks to establish the Land Tribunal, its composition and its quorum, and to provide for the appointment of temporary members where necessary.

Clause 4 disqualifies a member from taking part in the proceedings of the Tribunal if such a member has a pecuniary interest in those proceedings, or if he is connected with any public body or local authority that is a party to the proceedings.

Clause 5 would prescribe the jurisdiction of the Tribunal which includes an appeal from the Adjudication Officer who is appointed under the Land Adjudication Act. It also seeks to enlarge the jurisdiction of the Tribunal by virtue of clause 12 of the Bill.

Clause 6 would provide for applications to be made to the Tribunal for directions.

Clause 7 seeks to provide for appeals to the Tribunal from a decision of the Land Adjudication Officer, and the powers of the Tribunal upon such appeals.

Clause 8 would enable a person claiming compensation under the Registration of Titles to Land Act to appeal a decision of the Registrar to the Tribunal.

Clause 9 would enable the Tribunal to make an order where the Registrar applies for directions as is provided for in the Registration of Titles to Land Act.

Clause 10 seeks to provide for simultaneous sittings of the Land Tribunal.

Clause 11 would vest in the Tribunal the powers, rights and privileges as are vested in the High Court with respect to the matters prescribed therein.

Clause 12 would provide for the transfer of the jurisdiction of the authority to be found in the Schedule to the Tribunal by Order of the President and would enable the President to amend the Schedule.

Part III of the Bill provides for appeals.

Clause 13 provides for appeals from the Tribunal to the High Court, while clause 14 provides for appeals from the High Court to the Court of Appeal.

Part IV deals with administrative matters.

Clause 15 seeks to provide for the appointment of the Registrar, the Deputy Registrar and other offices of the Land Tribunal.

Part V deals with miscellaneous matters.

Clause 16 provides for a party to proceedings before the Tribunal to appear in person or by an attorney-at-law.

Clause 17 seeks to provide that the proceedings before the Tribunal be informal.

Clause 18 would provide for the Minister to make rules subject to negative resolution of Parliament.

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(2) The Tribunal shall comprise a Chairman, a Deputy Chairman, and such other members appointed under this section.

(3) The Chairman and Deputy Chairman shall be appointed by the President, and shall be attorneys-at-law of Trinidad and Tobago of at least seven years' standing.

(4) The other members, not exceeding six in number, shall be appointed by the President from among persons as appear to him to be suitably qualified by virtue of their knowledge and experience in the various disciplines necessary for the implementation of this Act.

(5) The quorum of the Tribunal shall comprise the Chairman or Deputy Chairman and such other members as the Chairman may determine having regard to the composition of the relevant authority set out in the Schedule.

(6) In the absence of the Chairman the Deputy Chairman shall preside.

(7) The decision of the Tribunal shall be by majority vote but, where the votes are equal, the Chairman shall have a casting vote.

(8) Notwithstanding subsection (5), where the need arises, the President may, upon the advice of the Chairman, appoint as a temporary member of the Tribunal, a person with special knowledge and experience in one or more of the following matters:

- (a) Administration in local government;
- (b) Town and Country Planning;
- (c) Environmental planning, environmental science, or environmental development;
- (d) Architectural engineering, surveying or building construction;

- (e) Land valuation;
- (f) Matters relating to the management and use of agricultural lands and the practice relating thereto;
- (g) Any other matter in respect of which the Tribunal needs assistance in determining any issue which engages its attention.

Disqualification of a member

4. (1) Where a member has a pecuniary interest, direct or indirect in any proceedings before the Tribunal, or is a member, officer, employee of any public body or local authority that is a party in any such proceedings, the member shall inform the Chairman accordingly, whereupon the member shall cease to take part in the proceedings.

(2) A decision of the Tribunal shall not be vitiated by reason only that there has been non-compliance with subsection (1).

Jurisdiction of Tribunal

5. (1) Subject to this Act and any other written law, the Tribunal shall have jurisdiction—

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(a) to hear and determine appeals against a decision of the Adjudication Officer made under the Land Adjudication Act, or to review any recording, cancellation of recording, any revision of registration, or any decision of the Registrar made under the Registration of Titles to Land Act and to direct any correction thereof;

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(b) to hear a claim for compensation where an agreement has not been reached between the Registrar and the person claiming compensation under section 67 of the Registration of Titles to Land Act;

(c) to hear and determine any other matter that may be assigned to it by Order made under section 12.

(2) Any appeal or claim under subsection (1) shall be as of right.

6. A person who objects to—

(a) any action or decision of any officer appointed pursuant to the provisions of the Land Adjudication Act; or

(b) any action or decision of any officer appointed pursuant to the Registration of Titles to Land Act,

Application for
direction

may apply to the Tribunal for directions and the Tribunal may give such directions as it deems proper.

7. (1) Where any person wishes to appeal under section 24(1) of the Land Adjudication Act he shall lodge a written notice of appeal in the prescribed form with the Registrar of the Tribunal within thirty days of the receipt of the reasons of the decision of the Adjudication Officer issued pursuant to section 21(2) of the Land Adjudication Act and shall serve copies of such notice on all interested parties.

Appeal to Tribunal

(2) The time within which a notice of appeal may be lodged may, for good reason and in the interest of justice, be extended upon application to the Tribunal made within a reasonable time, and in any event such application must be made within the period of thirty days mentioned in subsection (1).

(3) On an appeal under this section, the Tribunal may—

(a) affirm the decision of the Adjudication Officer;

(b) remit the matter to the Adjudication Officer with such directions as the case warrants to do justice between the parties;
or

(c) make such other Orders as it thinks fit in the circumstances, including an Order for costs.

(4) The Registrar of the Tribunal shall thereupon draw up an Order and transmit a copy of such Order to the Registrar who shall make a suitable entry in the appropriate land register kept under the Registration of Titles to Land Act.

(5) All decisions and Orders made by the Tribunal under this Act shall be in writing, signed by the presiding officer, and a copy thereof furnished to the Adjudication Officer, the Registrar, and to the parties to the proceedings.

Claim for compensation

8. (1) Where a person submits a claim for compensation under the Registration of Titles to Land Act, and the Registrar is not satisfied that the claimant is entitled to compensation and so decides, the claimant may apply in the prescribed manner to the Tribunal for a review of that decision.

(2) Where an application is made under subsection (1), the Tribunal may—

- (a) affirm the decision of the Registrar;
- (b) reverse the decision of the Registrar, and make an Order for the payment of such compensation as it thinks fair and equitable; or
- (c) order such costs as it thinks fit.

Application by Registrar for directions

9. Upon an application by the Registrar for directions under the Registration of Titles to Land Act, the Tribunal may give such directions and make such Orders as it thinks fit.

Sittings

10. The Tribunal shall sit at such places and at such time as the Chairman directs, and more than one sitting may be held at the same time.

11. The Tribunal shall have all such powers, rights ^{Powers of Tribunal} and privileges as are vested in the High Court in respect of the attendance and examination of witnesses, the production of documents, the enforcement of its Orders, and any other matter necessary and proper for the exercise of its jurisdiction under this Act.

12. (1) Notwithstanding any other written law, the ^{Extension of Jurisdiction of Tribunal} jurisdiction vested in the authority set out in the Second Column of the Schedule by the Act which is set out in the First Column shall, on a date fixed by Order made by the President, be transferred to the Tribunal established under this Act with such modifications and adaptations as the President sees fit.

(2) Where an Order is made under subsection (1), such Order shall specify the composition of the Tribunal, and its jurisdiction and powers.

(3) The President may amend the Schedule as he sees fit.

(4) Where the President makes an Order under this section, the Minister shall forthwith make such rules under section 18 as may be necessary.

(5) Until an Order is made under this section in respect of the jurisdiction of an authority set out in the Second Column of the Schedule, the authority shall continue to perform the functions assigned to it in the Act set out against it in the First Column of the Schedule.

PART III

APPEALS

13. (1) An appeal against a decision of the Tribunal ^{Appeal to the High Court} shall lie to the High Court.

(2) On the hearing of an appeal from any Order of the Tribunal in any matter, the High Court shall

have the power to confirm, vary, amend, or set aside the Order or make any such Order as the Tribunal might have made, or to make any Order which ought to have been made, or to make such other Orders as the nature of the case requires and on such terms and conditions as the High Court thinks fit to ensure the determination on the merits of the question in controversy between the parties to the appeal.

Appeals to the Court
of Appeal

14. (1) An appeal against a decision of the High Court shall lie to the Court of Appeal only on a point of law and with the leave of a judge of that court.

(2) A decision of the Court of Appeal shall be final and conclusive.

(3) Rules governing appeals to the Court of Appeal may be made by the Rules Committee established under the Supreme Court of Judicature Act.

Chap. 4:01

PART IV

ADMINISTRATION

Appointment of
Registrar and other
Officers

15. (1) There shall be a Registrar and a Deputy Registrar of the Tribunal and such other officers as may be necessary for the proper administration of this Act and of any regulations made thereunder.

(2) The Registrar and Deputy Registrar of the Tribunal shall be attorneys-at-law of Trinidad and Tobago who have been admitted to practice in the courts of Trinidad and Tobago and who are of five years' standing.

Act No. 21 of 1986

(3) The Registrar and Deputy Registrar of the Tribunal and other officers shall be appointed by the Public Service Commission, and shall perform all such duties and functions under the direction of the Chairman as are necessary for the proper administration of the business of the Tribunal.

(4) The terms and conditions of the Registrar and Deputy Registrar of the Tribunal shall be determined by the President.

(5) The Deputy Registrar of the Tribunal shall have and may exercise the powers and functions of the Registrar of the Tribunal and things done by the Deputy Registrar shall be valid and effective as if done by the Registrar of the Tribunal.

(6) The officers other than the Registrar and Deputy Registrar of the Tribunal shall be public officers and shall, for the purposes of this Act, be under the supervision of the Registrar or the Deputy Registrar, as the case may be.

PART V

MISCELLANEOUS

16. A party to proceedings before the Tribunal is entitled to appear in person, or may be assisted by an attorney-at-law, or by a friend authorised by him to do so. Appearance before Tribunal

17. Subject to this Act, proceedings before the Tribunal shall be informal, and on the hearing and determination of any matter before it, the Tribunal may act without regard to technicalities and legal form, and shall not be bound to adhere to the rules of evidence as provided for under the Evidence Act, or any other written law. Tribunal not bound by rules of evidence Chap. 7:08

18. The Minister may subject to negative resolution of Parliament make rules for prescribing: Rules

- (a) the procedure and forms to regulate applications and appeals to the Tribunal;
- (b) arrangements and procedure to be followed for developing and regulating the systematic rationalization of the title to land, its use, development and enjoyment, and for matters connected therewith; and
- (c) for any other matter necessary for the implementation of this Act.

No. 24 of 1999

FIFTH SESSION

FIFTH PARLIAMENT

REPUBLIC OF

TRINIDAD AND TOBAGO

BILL

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Received and read the

First time.....

Second time.....

Third time.....
