

AS AMENDED IN THE H.O.R.

No. 14 of 2015

First Session Eleventh Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Public Procurement and Disposal
of Public Property Act, 2015

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC
PROPERTY (AMENDMENT) BILL, 2015

Explanatory Notes

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

The Bill seeks to amend the Public Procurement and Disposal of Public Property Act, 2015 to make provision for the removal of the Regulator by a tribunal, the establishment of a Public Procurement Review Board, the disposal of State Lands and other related matters.

Clause 1 of the Bill cites the short title.

Clause 2 of the Bill defines the term “the Act” to mean the Public Procurement and Disposal of Public Property Act, 2015.

Clause 3 of the Bill amends the Act by inserting a new section to make provision for the President to establish a tribunal to determine whether a Regulator should be removed from office.

Clause 4 of the Bill amends section 24(4) of the Act to allow a report to be referred to the Public Accounts Committee.

Clause 5 of the Bill amends section 50 of the Act to make provision for the lifting of a suspension.

Clause 6 of the Bill amends the Act to make provision for the establishment of a Public Procurement Review Board.

Clause 7 of the Bill amends the Act by inserting Part VIA to provide for the disposal of State Lands.

THE PUBLIC PROCUREMENT AND DISPOSAL OF
PUBLIC PROPERTY (AMENDMENT) BILL, 2015

Arrangement of Clauses

Clause

1. Short title
2. Interpretation
3. Section 12 amended
4. Section 24 amended
5. Section 50 amended
6. Sections 51A to 51M inserted
7. Part VIA inserted

BILL

AN ACT to amend the Public Procurement and Disposal
of Public Property Act, 2015

[, 2015]

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

1. This Act may be cited as the Public Procurement Short title
and Disposal of Public Property (Amendment) Act,
2015.

2. In this Act, "the Act" means the Public Interpretation
Procurement and Disposal of Public Property Act, 2015. Act No. 1 of
2015

Section 12
amended

3. Section 12 of the Act is amended—

(a) in paragraph (f), by deleting the word “or”;

(b) in paragraph (g), by deleting the full-stop at the end of the paragraph and inserting the words “; or”;

(c) by inserting the following new paragraph:

“(h) has traded with the Government without the prior approval of the Minister.”;

(d) by renumbering section 12 as section 12(1); and

(e) by inserting after section 12(1), as renumbered, the following new subsection:

“(2) For the purposes of this section, a member trades with the Government if, while holding office, he becomes a party to, or is a partner in a firm or a director or manager of a company which to his knowledge becomes a party to any contract with the Government for or on behalf of the public service.”.

Section 24
amended

4. Section 24(4) of the Act is amended by inserting after the word “respectively”, in the second place where it occurs, the words “and the report shall be referred forthwith to the Public Accounts Committee”.

Section 50
amended

5. Section 50 of the Act is amended by inserting after subsection (12), following subsection:

“(13) The suspension of procurement proceedings under subsection (4)(a) shall be lifted immediately upon the issuance of the decision of the Office under subsection (11).”.

6. The Act is amended by inserting after section 51, Sections 51A to 51M inserted the following new sections:

“Establishment of Public Procurement Review Board 51A. The Public Procurement Review Board, hereinafter referred to as the “Review Board”, is hereby established to review decisions made by the Office.

Composition of Review Board 51B. The Review Board shall comprise—

- (a) a retired judge, who shall be the chairman;
- (b) a registered engineer with at least ten years’ experience in matters relating to procurement; and
- (c) a chartered accountant or quantity surveyor with at least ten years’ experience in matters relating to procurement.

Appointment of members of Review Board 51C. (1) The members of the Review Board shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition, for a period of three years.

(2) The name of each member of the Review Board as first constituted and every change in the membership of the Board thereafter shall be published in the *Gazette*.

Resignation of member of Review Board 51D. A member of the Review Board may resign his office by letter addressed to the President.

Removal of
member of
Review Board

51E. The President may remove a member of the Review Board from office upon being satisfied that the member—

- (a) is declared to be bankrupt;
- (b) is incapable of performing the duties of a member;
- (c) has neglected his duties or has engaged in conduct that would bring his office into disrepute;
- (d) has been absent, without leave of the Review Board, from three consecutive meetings of the Board;
- (e) has been convicted of an offence involving dishonesty;
- (f) has been convicted of an offence under the Integrity in Public Life Act;
- (g) has been convicted of an offence punishable by imprisonment for at least one year; or
- (h) has been convicted of an offence under this Act.

Minister to
make
Regulations for
operation of
Review Board

51F. The Minister may make Regulations, subject to negative resolution of Parliament, with respect to staffing, remuneration, funding and other operational matters of the Review Board.

Request for
review

51G. (1) A procuring entity or any other person who is entitled to be given an opportunity to make representations under section 50(1) or 51(1), may request the Review Board to review the order or

decision of the Office made under section 50(4) or 50(10).

(2) A request for a review shall be made within twenty-one days of the making of the order or decision.

(3) A request for a review shall be accompanied by the prescribed fee.

(4) The right to request a review under this section is in addition to any other legal remedy available to a person.

Frivolous or vexatious request 51H. The Review Board may dismiss a request for a review if it is of the opinion that the request is frivolous or vexatious.

Time limit for review 51I. The Review Board shall meet to conduct a review within twenty-one days of receiving the request for a review.

Party to a review 51J. The parties to a review shall be—

- (a) the person who requests the review;
- (b) the relevant procuring entity; and
- (c) such other person who has an interest in the order or decision of the Office, as the Review Board may determine.

Time for completion of review 51K. The Review Board shall complete its review within twenty-eight days of receiving the request for the review.

Outcome of review 51L. Upon completing a review, the Review Board may—

- (a) confirm, vary or overturn the decision of the Office; and

(b) order the payment of costs as between parties to the review.

Appeal from
Review Board 51M. A party to a review may appeal against the decision of the Review Board to the High Court within twenty-eight days of the making of the decision."

Part VIA
inserted 7. The Act is amended by inserting after section 57, the following Part:

"PART VIA

DISPOSAL OF STATE LANDS

Disposal of
State Land
Chap. 57:01 57A. (1) Notwithstanding the State Lands Act and any other written law to the contrary, the Minister may make Regulations in respect of the disposal of—

- (a) State Lands;
- (b) real property owned by the Government;
- (c) real property owned by State-controlled enterprises; and
- (d) real property owned by a statutory body, responsibility for which is assigned to a Minister of Government.

(2) Regulations made under this section shall be subject to negative resolution of Parliament."

Passed in the House of Representatives this 20th day of May, 2016.

Clerk of the House

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I confirm the above.

Speaker

Passed in the Senate this day of , 2016.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 14 of 2015

FIRST SESSION
ELEVENTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Public
Procurement and Disposal of
Public Property Act, 2015.

Received and read the

First time

Second time

Third time