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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 Note

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

Clause 3 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 amends section 24(4) of the Act to allow a report to be referred to the Public Accounts Committee.

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

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

Clause 7 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 12A inserted
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 12A
inserted

3. The Act is amended by inserting after section 12, the following section:

“12A.(1) In addition to the provisions of section 12, the Regulator may be removed from office where he trades with the Government without the prior approval, by resolution, of each House of Parliament.

“Appointment
of Tribunal
by President

(2) Where a resolution is passed by each House of Parliament that the question of removing the Regulator from office, under subsection (1) or section 12, should be investigated—

- (a) the President shall appoint a tribunal, which shall consist of a chairman and not less than two other members, from among persons who hold or have held the office of a Judge of a Court having unlimited jurisdiction in civil and criminal matters or a Court having jurisdiction in appeals from any such Court; and
- (b) the tribunal shall enquire into the matter and report on the facts thereof to the President and recommend to the President whether the Regulator should be removed from office.

(3) The names of each member of the tribunal appointed under subsection (2) as first constituted and every change in the membership of the Board thereafter shall be published in the *Gazette*.

(4) Where the question of the removal from office of a Regulator has been referred to a tribunal appointed under subsection (2) and the tribunal has recommended to the President that the Regulator should be removed from office, the President shall remove the Regulator from office.

Chap. 19:01

(5) The Commissions of Enquiries Act shall apply *mutatis mutandis* to a tribunal appointed under subsection (2) or, as the context may require, to the members thereof, as they apply in relation to a commission or commissioners appointed under that Act.

(6) Where the question of removing a Regulator from office has been referred to a tribunal, the President, after consultation with the Prime Minister and the Leader of the Opposition, may suspend the Regulator from performing the functions of his office and any such suspension may at time be revoked by the President after consultation, as aforesaid, and shall in any case cease to have effect if the tribunal advises the President that the Regulator should not be removed from office.

(7) For the purposes of this section, the Regulator 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.”.

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 24
amended

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).”.

Section 51A to 51M
inserted

6. The Act is amended by inserting after section 51, 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 staffing, remuneration, funding and other operational matters of the Review Board shall be prescribed by the Minister by regulations made under section 63.

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.”.

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

“PART VIA

DISPOSAL OF STATE LANDS

Disposal of State Land Chap. 57:01 57A. Notwithstanding the State Lands Act and any other written law to the contrary, 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,

shall be subject to regulations made by the Minister under section 63.”.

Passed in the House of Representatives this day of , 2015.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2015.

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