BILL ESSENTIALS

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY (AMENDMENT AND VALIDATION) ACT, 2023
Amend error made by Act No. 27 of 2020 (Amendment Act)

Clause 3 would seek to amend section 7(7) of the Act to correct an incorrect cross reference and change the requirement for the Order to now be subject to negative resolution.

Amend Act No. 1 Of 2015 (Parent Act)

Clause 4 inserts a new section 58A to exempt the procurement of goods and services of up to $1M.

Clause 5 would amend section 63 to empower the Minister to act in his own discretion and make regulations subject to negative resolution.

Validate Orders made under section 7 of the Parent Act

Clause 6 would seek to validate any statutory instruments that were made and any actions taken under those statutory instruments.

The clause would deem the instruments and actions taken to be lawfully and validly made and done.

3 MAIN AIMS OF THE BILL
BACKGROUND

- In 2015, the Public Procurement and Disposal of Public Property Act (No. 1 of 2015) was passed. The Act encourages transparency and value for money in public procurement and disposition of goods and services.

- The Act came into operation on April 25, 2023 when it was proclaimed by the President via Legal Notice 106 of 2023.

- In 2020, amendments were made to the parent Act (Act No. 1 of 2015) via the Public Procurement and Disposal of Public Property (Amendment) Act (No. 27 of 2020)

- One of the amendments was to section 7 of the parent Act, which empowered the Minister of Finance to exempt, by Order, the procurement requirements for particular services provided to public bodies or State-controlled enterprises.

- The amendment Act was proclaimed by the President on May 12, 2023 via Legal Notice No. 150 of 2023.
BACKGROUND

By Legal Notice No. 164 of 2023 and Legal Notice No. 206 of 2023, the Minister of Finance exercised his power under section 7 to issue the following "exemption" Orders:

- an exemption from the procurement of goods and services in relation to the operations of the Judiciary of Trinidad and Tobago for a period of three (3) months from May 29, 2023; and

- the provision of services for events associated with visits by Foreign Heads of State, Foreign Heads of Government or Foreign Dignitaries to the Government of Trinidad and Tobago for a period of three (3) months from June 29, 2023.
KEY FEATURES OF THE BILL

The proposed legislation seeks to effect the following:

- correct a cross-referencing error;

- exempt the procurement of goods and services valued up to 1 million dollars from the procurement requirements under the parent Act;

- permit the Minister of Finance to act in his own discretion or with the advice of the Office of Procurement Regulation to make regulations for the procurement of goods and services valued up to 1 million dollars;

- empower the Minister of Finance to issue subsidiary legislation which will be subject to the negative resolution of Parliament; and

- retroactively validate any actions taken under Legal Notice No. 164 of 2023 and Legal Notice No. 206 of 2023, which were made pursuant to section 7 of the parent Act.
DETAILS OF THE BILL

- **Clause 3** of the Bill amends subsection 7(7) of the Parent Act to correct a typographical error which incorrectly cross-references subsection 7(5) of the Parent Act.

- **Clause 3** also provides that Orders made pursuant to section 7 will be subject to the negative resolution of Parliament.

- **Clause 4** of the Bill inserts a new Section 58A into the parent Act to provide that the procurement of goods and services up to 1 million dollars would be exempt from the procurement requirements outlined in the parent Act.

- **Clause 5** of the Bill amends section 63 of the parent Act to empower the Minister of Finance to act at his own discretion or with consideration to the advice of the Office of Procurement Regulation when making regulations related to the conduct of challenge proceedings (as described in Part V of the Act), the altering of the list of suppliers or contractors who cannot participate in procurement proceedings (as described in Section 58 of the Act) and the exemption processes related to the procurement of goods and services valued under 1 million dollars (as inserted in the new Section 58A).

- **Clause 6** of the Bill seeks to retroactively validate the Orders made by the Minister of Finance in Legal Notices No. 164 of 2023 and No. 206 of 2023, respectively.
KEY LEGISLATION

The Public Procurement and Disposal of Public Property Act, No. 1 of 2015

The Public Procurement and Disposal of Public Property (Amendment) Act, No. 27 of 2020

The Public Procurement and Disposal of Public Property (Exemption) (Foreign Visits) Order, Legal Notice No. 206 of 2023

The Public Procurement and Disposal of Public Property (Judiciary) Exemption Order, Legal Notice No. 164 of 2023
REFERENCES

Parent Act Debates
- Hansard of HOR Debate November 7, 2014
- Hansard of HOR Debate December 5, 2014
- Hansard of Senate Debate December 16, 2014

Amendment Act Debates
- Hansard of HOR Debate December 4, 2020
- Hansard of Senate Debate December 8, 2020
- Hansard of HOR Debate (consideration of Senate amendments) December 16, 2014

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