



Bill Essentials

The Land Adjudication (Amendment) (No. 2) Bill, 2017
The Land Tribunal (Amendment) (No. 2) Bill, 2017
The Registration of Titles to Land (Amendment) (No. 2) Bill, 2017

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BACKGROUND

1. Reform of the legislation in relation to land in Trinidad and Tobago can be traced back to 1978 when the Law Commission undertook a programme of reform aimed at modernising the legislative framework. The reform at that time involved the enactment of seven (7) pieces of legislation which were based on English property legislation namely, the **Landlord and Tenant Act**; the **Landlord and Conveyancing Act**; the **Trustee Act**; the **Condominium Act**; the **Land Registration Act**; the **Succession Act** and the **Limitation Act**. These were not proclaimed.¹
2. Another attempt at reform resumed in 1991, starting with a report entitled “Land Rationalization and Development Programme” was prepared, and the report was submitted to the government in 1992.² Based on the recommendations of this report, the **Land Adjudication Act No. 14 of 2000**, **Land Tribunal Act No. 15 of 2000** and **Registration of Title Act No. 16 of 2000** were all debated together during the period November 1999 to April 2000.
3. While the **Land Tribunal Act** and **Land Adjudication Act** were both assented to by the President on June 15, 2000, and the **Registration of Title Act** was assented to on July 13, 2000, the three (3) Acts are awaiting Proclamation.
4. Several Bills have been introduced to address or amend this legislative package. However, in November 2017, three (3) Bills were introduced³, namely **The Land Adjudication (Amendment) (No. 2) Bill, 2017**, **The Land Tribunal (Amendment) (No. 2) Bill, 2017** and **The Registration of Titles to Land (Amendment) (No. 2) Bill, 2017** which seek to make revisions to the 2000 Acts.

¹ Mr Ramesh Lawrence Maharaj, former Attorney General and Minister of Legal of Affairs, Hansard of the HOR dated November 15, 1999, p680.

² Ibid.

³ The Bills were introduced and read for the first time in the House of Representatives on January 13, 2017 by the Honourable Mr Faris Al-Rawi, Attorney General and Minister of Legal Affairs, and then carried over at the end of the Second Session.

THE LAND ADJUDICATION (AMENDMENT) (NO. 2) BILL, 2017

5. ***The Land Adjudication (Amendment) (No. 2) Bill, 2017*** will amend the **Land Adjudication Act, 2000**, which provides for the adjudication of rights and interests in land whereby any claim made by an individual will be thoroughly investigated before settling such rights and interest in land in Trinidad and Tobago.

KEY FEATURES OF THE BILL

DEFINITIONS

6. Definitions have been included for Chief Adjudication Officer, Deputy Adjudication Officer and Director of Surveys whose terms and conditions are to be prescribed in accordance with section 141 of the Constitution. The position of Deputy Adjudication Officer replaces the post of Assistant Adjudication Officer in the 2000 Act.

PUBLICATION OF NOTICE ON IMPENDING ADJUDICATION

7. **Clause 6** of the Bill provides for the wider publication of notice of impending adjudication, expanding the requirement from one (1) daily newspaper to at least two (2) daily newspapers of mass circulation to be printed at least once per week for two (2) consecutive weeks and on the website of the Ministry with responsibility for legal affairs.

PUBLICATION OF NOTICE OF DEMARCATION AND RECORDING

8. **Clause 8** expands the requirement for the publication of notice of demarcation and recording in similar manner as **Clause 6**.

RECOMMENDATION FOR COMPENSATION

9. **Clause 9** of the Bill requires the Demarcation Officer to recommend to the Adjudication Officer the award of compensation rather than the Demarcation Officer awarding the compensation

DUTIES OF THE SURVEY OFFICER

10. **Clause 10** repeals **Section 13** of the Act and outlines the duties of a Survey Officer, which would include the preparation of one map, and not two, under the Adjudication Act, referred to as the “demarcation map”, upon which the parcel identification map, as defined in the Registration of Titles to Land Act would be based, when the adjudication section is finalised and the adjudication record delivered to the Registrar.

<i>The Land Adjudication Act, 2000</i>	<i>The Land Adjudication (Amendment) (No. 2) Bill, 2017</i>
<p>13. (1) Subject to any general or special directions which may be given by the Adjudication Officer, the duties of the Survey Officer shall be to carry out such survey work as may be required in the execution of the adjudication process, and prepare or cause to be prepared a section demarcation map and a parcel identification map on a scale to be prescribed.</p> <p>(2) In performing the functions under subsection (1), the Survey Officer shall number the parcels in each section consecutively.</p> <p>(3) The number of the adjudication section and that assigned to each parcel shall together be the parcel number and a sufficient description of the parcel, and shall be referred to as the Unique Parcel Reference Number.</p>	<p>13.(1) Subject to any general or special directions issued by an adjudication officer or a Demarcation Officer, the duties of a Survey Officer shall include the-</p> <p>(a) carrying out of such survey work as may be required in the execution of the adjudication process; and</p> <p>(b) preparation of a demarcation map of the adjudication section which shall be compiled from survey data or aerial photographs on which shall be shown every separate parcel of land identified by a distinguishing number.</p> <p>(2) In preparing a demarcation map under subsection (1) (b), public roads are not required to be identified by number.</p> <p>(3) Notwithstanding any provision of the Land Surveyors Act or of any regulation or rule made thereunder in preparing a demarcation map, the Survey Officer shall make only such field measurements as may be prescribed under this Act and that in his opinion are sufficient for parcel identification under the Registration of Titles to Land Act, 2000.</p>

THE ADJUDICATION OFFICER TO SETTLE AND AWARD PROPER TITLE TO LAND

11. **Clause 11** seeks to make **section 16(1)(b)** of the *Land Adjudication Act, 2000* consistent with existing laws by changing the period for adverse possession⁴ against a person from thirty (30) to sixteen (16) years as provided for in the *Real Property Limitation Act , Chap. 56:03*.

12. **Clause 11** also:

- requires the adjudication officer to record title in the name of the State, where a person without documentary title has been in possession of State land for a period of thirty (30) years, notwithstanding the possession has been open and peaceful possession.
- provides that a person who has documentary title to a parcel of land that no other person has acquired or is in the process of acquiring title to under any law relating to prescription or limitation would be declared as the owner of the parcel with an absolute title and be recorded as such.
- provides for the declaration by an adjudication officer that a person as owner of a parcel of land (via a provisional title) where that person in possession or with a right to a parcel of land but does not have documentary title or has not been in possession of State land for a period of thirty (30) years.

<i>The Land Adjudication Act, 2000</i>	<i>The Land Adjudication (Amendment) (No. 2) Bill, 2017</i>
<p>Section 16 (c) a person has a good documentary title to a parcel of land and that no other person has acquired or is in the process of acquiring a title thereto under any law relating to prescription or limitation, he shall declare that person as the owner of the parcel with an absolute title and record it as such;</p> <p>(d) a person is in possession of or has a right to a parcel of land but the Adjudication Officer is not satisfied that such person has been in possession for a period of thirty</p>	<p>“(c) a person who, without a documentary title to land is in open and peaceable possession of a parcel of State land and has been in such possession whether by himself or through his duly authorized agent or his predecessors in title for a period of thirty years or more, the adjudication officer shall record title in the name of the State;</p> <p>(d) a person has a good documentary title to a parcel of land and that no other person has acquired or is in the process of acquiring valid title to the land under any law relating to</p>

⁴ Adverse possession is a method of gaining legal title to real property by the actual, open and continuous possession of it to the exclusion of its true owner for a period prescribed: 16 years in the case of private property, and 30 years in the case of the State land.

<p>years or more, he may nevertheless record that person as the owner of the parcel and declare his title to be provisional and shall record—</p> <p>(i) the date on which the possession of that person shall be considered to have commenced;</p> <p>(ii) the particulars of any deed, instrument or other document by virtue of which an estate, right or interest adverse to or in derogation of the title of that person might exist; and</p> <p>(iii) any other reservation which may affect the title;</p>	<p>prescription or limitation, the adjudication officer shall declare that person as the owner of the parcel with an absolute title and record it as such;</p> <p>(da) a person is in possession of or has a right to a parcel of land but an adjudication officer is not satisfied that such person is entitled to be recorded under paragraph (b), or (d) as the owner of the parcel with absolute title, the adjudication officer may nevertheless declare that person the owner of the parcel with provisional title and record it as such;”</p>
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13. Proposed amendments to **section 16(2)** of the *Land Adjudication Act, 2000* empower an adjudication officer to serve notice to a person in adverse possession of State land informing him that he may approach the Land Tribunal to determine whether he has rights to a vesting order. It also empowers the adjudication officer to serve notice to the Commissioner of State Lands or other relevant authority that land belonging to the State is in adverse possession.

14. New **section 16(7)** would restrict an adjudication officer from making declarations on State lands which are either declared to be a protected area or Forest Reserve or to be an environmentally sensitive area or where State lands have been identified by the State for public purposes.

<i>The Land Adjudication Act, 2000</i>	<i>The Land Adjudication (Amendment) (No. 2) Bill, 2017</i>
<p>Section 16 (2): Where the Adjudication Officer declares the title of any person as provisional under subsection (1)(d), the title shall become absolute after the lapse of three years from the date of such declaration unless within that period of three years the Court or Tribunal orders otherwise.</p>	<p>New Section 16(2): Where an adjudication officer records title in the name of the State under subsection (1)(c) or (e), he shall serve notice on the—</p> <p>a) adverse possessor indicating that the adverse possessor may approach the Land Tribunal to determine whether the adjudication officer has rights to</p>

	<p>a vesting order based on adverse possession; and</p> <p>b) Commissioner of State Lands or other relevant authority having control of the particular land, indicating that the land is in occupation by an adverse possessor.</p>
	<p>New Section 16(3): An adverse possessor of State lands under subsection (1)(b) or (c) may apply to the Land Tribunal in the prescribed manner for a vesting order.</p>
	<p>New Section 16(4): Where an adjudication officer records a person as the owner of a parcel of land with a provisional title under subsection (1)(da), he shall also record –</p> <p>a) the date on which the possession of that person shall be considered to have commenced;</p> <p>b) the particulars of any deed, instrument or other document by virtue of which an estate, right or interest, adverse to or in derogation of the title of that person may exist; and</p> <p>c) any other reservation which may affect the title.</p>
	<p>New Section 16(5): The holder of a provisional title declared under subsection (1)(da) may apply to the Land Tribunal in the prescribed manner to have the title declared absolute.</p>
	<p>New Section 16(6): An adjudication officer shall refer an application under subsection (5) to the Land Tribunal for its hearing and determination.</p>
	<p>New Section 16(7): Notwithstanding subsection (1), an adjudication officer shall not make any declaration in respect of State land under subsections (1)(b), (c) or (da) which-</p>

	<p>a) is declared to be a protected area or Forest Reserve under the Forests Act;</p> <p>b) is declared to be an environmentally sensitive area under the Environmental Management Act; or</p> <p>c) has been identified by the State for public purposes.</p>
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PUBLICATION OF NOTICE ON THE FINALISATION OF ADJUDICATION RECORD

15. **Clause 14** expands the requirements for the publication of notices in respect of the finalisation of the adjudication record from one daily newspaper to all daily newspapers of mass circulation to be printed at least once per week for two (2) consecutive weeks.

FINALITY OF ADJUDICATION RECORD

16. **Clause 17** repeals and substitutes a new **Section 23** to provide for a revised procedure for finalising an adjudication section such that all objections would be heard prior to completing and finalising the adjudication record. The clause would also provide that the adjudication record shall, subject to the Registration of Titles to Land Act become final and an adjudication officer would sign a certificate to that effect. The adjudication officer would also now deliver the adjudication record and the relevant demarcation map together with the certificate and all documents received or copied to the Registrar.

<i>The Land Adjudication Act, 2000</i>	<i>The Land Adjudication (Amendment) (No. 2) Bill, 2017</i>
<p>Section 23: Except for those parcels in respect of which notification of objection have been given to the Adjudication Officer under section 20(1) and subject to section 24, the adjudication record shall become final after the expiration of ninety days from the notice of the completion of the adjudication, and the Adjudication Officer shall sign a certificate to that effect and deliver the adjudication record and the certification together with the</p>	<p>New Section 23: Upon the expiry of ninety days from the date of publication of the notice of completion of the adjudication record or on determination of all objections presented in accordance with section 20, whichever shall be the later, the adjudication record shall, subject to the provisions of the Registration of Titles to Land Act, become final and an adjudication officer shall sign a certificate to that effect and deliver the</p>

Demarcation Map and all other document received by him relating to the adjudication to the Registrar.	adjudication record and the relevant demarcation map to the Registrar together with the certificate and all documents received or copied in the process of adjudication.
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APPEALS AGAINST DECISIONS OF THE ADJUDICATION OFFICER

17. **Clause 18** amends **Section 24(1)** of the Act to provide for all aggrieved persons who have made objections, to appeal to the Tribunal against any decision of the Adjudication Officer. **Clause 18** also amends **Section 24(2)** to allow the Registrar to enter a Caveat⁵ in every folio affected by the appeal.

OFFENCES

18. **Clause 19** amends the offences provided for under **Section 25** of the Act.

<i>The Land Adjudication Act, 2000</i>	<i>The Land Adjudication (Amendment) (No. 2) Bill, 2017</i>
<p>Section 25:</p> <p>Any person who—</p> <p>(a) having been served with a summons issued under the provisions of this Act, wilfully neglects or refuses to attend in pursuance of such summons, or to produce any document which he is required to produce;</p> <p>(b) wilfully neglects or refuses to answer upon oath or otherwise any question which may lawfully be put to him by any officer; or</p> <p>(c) without reasonable cause, wilfully neglects or refuses to indicate his land or to assist in the demarcation of his land when required to do so by a Demarcation Officer, is guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars and to imprisonment for three months.</p>	<p>Section 25 as amended:</p> <p>Any person who—</p> <p>(a) having been served with a Notice or an Order issued by an adjudication officer under section 4(6), wilfully neglects to attend in pursuance of such Notice or Order, or to produce any document which he is required to produce;</p> <p>(b) wilfully neglects or refuses to answer upon oath or otherwise any question which may lawfully be put to him by any or</p> <p>(c) without reasonable cause, wilfully neglects or refuses to indicate his land or to assist in the demarcation of his land when required to do so by a Demarcation Officer, commits an offence and shall be liable on summary conviction to a fine of two thousand dollars and to imprisonment for three months.</p>

⁵ A notice that certain actions may not be taken without informing the person who gave the notice.

COMPARATIVE LEGISLATION

THEMATIC SIMILARITIES AND DIFFERENCES	ANTIGUA LAND ADJUDICATION ACT, CHAPTER 234	BARBADOS THE LAND ADJUDICATION OF RIGHTS AND INTEREST, ACT CHAPTER 228A
NOTICE OF DEMARCATION	Section 10 provides that not less than seven clear days before the demarcation of land in an adjudication section has begun, the Demarcation Officer shall give notice of the intended demarcation in that section, and of the time and place at which it will begin, in such manner as the Adjudication Officer shall deem to be most likely to bring the matter to the knowledge of the persons to be affected by that demarcation.	Section 12 provides that the Chief Surveyor shall, at least 14 days before demarcation is begun, give to the persons likely to be affected thereby, a notice in writing specifying the intended time and place of demarcation or registration. Further, a notice given under subsection (1) shall require every claimant to indicate the boundaries affected by his claim in the manner specified in the notice.
RIGHT TO APPEAL AGAINST ANY DECISION ADOPTED BY THE ADJUDICATION OFFICER	Section 24 provides that any person, including the Minister, who is aggrieved by any act or decision of the Adjudication Officer and desires to question it or any part of it may within two months from the date of the certificate of the Adjudication Officer under section 23 or within such extended time as the Court, in the interests of	Section 31 provides that any person aggrieved by an act or decision of the Chief Surveyor or by an entry made by the Commissioner or a Registration Officer in an adjudication record may, before notice of the completion of that adjudication record has been published, make application to the Commissioner. Further, a person aggrieved by a decision of the Commissioner may appeal to the court within 30 days

	justice, may allow, appeal to the Court in the prescribed form.	after the publication of a notice of completion of an adjudication, or such longer period as the court allows.
FINALISATION OF ADJUDICATION RECORD	Section 23 provides that after the expiry of ninety days from the date of publication of the notice of completion of the adjudication record or on determination of all petitions presented in accordance with section 20, whichever shall be the later, the adjudication record shall, subject to the provisions of the Registered Land Act become final and the Adjudication Officer shall sign a certificate to that effect and shall deliver the adjudication record and the demarcation map to the Registrar.	Section 29 provides that subject to an appeal under this Act, registration entered in consequence of an adjudication record shall, after the expiration of 60 days from the date of a notice under section 27 be final, and the Registrar of Titles shall compile the register of titles from that record.
PREPARATION OF THE ADJUDICATION RECORD	Section 16 provides that if a Recording Officer is satisfied that a person- (i) is in open and peaceable possession of a parcel of land other than a parcel which is Crown Land and has been in such possession, by himself or his predecessors in title, for an uninterrupted period of twelve years or more; or (ii) has a good documentary title to the parcel and that no other	Section 22 provides that where the Commissioner is satisfied that a person is: (a) in open and peaceable possession of land other than land the title to which is in the Crown and has been in such possession, by himself or his predecessors in title, for such period of years as under the Limitation and Prescription Act, Cap. 232 would bar the right of any person to dispossess him or has a good documentary title to land

	<p>person has acquired or is in course of acquiring a title thereto under any law relating to prescription or limitation, and that he would succeed in maintaining and defending such possession or title against any other person claiming the land or any part thereof,</p> <p>The Recording Officer shall record a person as the owner of the parcel and declare his title to be absolute subject to the conditions which follow.</p>	<p>(b) or an interest in land and that no other person has acquired or is in course of acquiring a title thereto under any law relating to prescription or limitation, and that he would succeed in maintaining and defending such possession or title against any other person claiming the parcel,</p> <p>He shall record that person as the owner of the land or an interest in land and declare his title to be absolute subject to the conditions which follow.</p>
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REFERENCE MATERIAL

- **Antigua: Land Adjudication Act, Chapter 234**
<http://laws.gov.ag/acts/chapters/cap-234.pdf>
- **Barbados: The Land Adjudication Of Rights And Interest, Act Chapter 228a**
<http://bit.ly/2mzsk0d>
- **Article, Guardian Newspaper: When A Squatter Can Claim Land Ownership, March 25th, 2013**
<http://bit.ly/2nek59C>

THE LAND TRIBUNAL (AMENDMENT) (NO. 2) BILL, 2017

1. *The Land Tribunal (Amendment) (No. 2) Bill, 2017* will amend the **Land Tribunal Act, 2000**, which provides for the adjudication of rights and interests in land whereby any claim made by an individual will be thoroughly investigated before settling such rights and interest in land in Trinidad and Tobago.

KEY FEATURES OF THE BILL

DEFINITIONS

2. **Clause 3** amends the definitions of “*Minister*” and “*Adjudication Officer*” in the Bill. This proposed amendment in the Bill will mean that the definition will mirror the proposed change in definition in the *Land Adjudication (Amendment) (No. 2) Bill, 2017*

ESTABLISHMENT OF LAND TRIBUNAL

3. **Clause 4** of the Bill proposes to:
 - repeal the existing **Section 3** of the **Land Tribunal Act, 2000** which established the land tribunal and substitute it with a new **Section 3**; and
 - introduce new **Sections 3A, 3B and 3C**.
4. The new **Section 3** proposes to:
 - establish the Tribunal as **superior court of record**;
 - provide for the Tribunal to **have all the powers inherent in a Court of superior record**, in addition to the jurisdiction and powers conferred on it by the Land Tribunal Act;
 - **amend the composition of the Tribunal**, comprising the Chairman, Deputy Chairman and four other members who shall be attorneys-at-law of at least ten (10) years with experience practising land law;
 - provide for the President to **appoint the members of the Tribunal on the recommendation of the Judicial and Legal Services Commission**;

- provide for **Sections 104 to 107 of the Constitution to be applicable in the appointment of members of the Tribunal**; and.⁶
- **amend the quorum of the Land Tribunal.** In the **Land Tribunal Act 2000** the required quorum currently comprise the Chairman or Deputy Chairman and four other members. This Bill proposed to change the quorum to the Chairman or Deputy Chairman and two members selected by the Chairman or Deputy Chairman.

APPOINTMENT OF LAY ASSESSORS

5. **Clause 4** of the Bill seeks to insert a new **Section 3A** which will allow for the appointment of lay assessors. Moreover, the new **Section 3A** will provide the following:
 - The President may appoint lay assessor not exceeding six (6) in number.
 - The President shall appoint suitably qualified persons by virtue of their knowledge and experience in in their various disciplines.
 - Provision is made for the appointment of temporary lay assessors if vacancies arise.
 - Lay assessors shall not hold office for a term not less than three years.
 - Lay assessors are available for re-appointment.

6. The lay assessor will advise the Tribunal on matters relating to their specific disciplines, which include:

<ul style="list-style-type: none"> ▪ Local government ▪ Town and country planning ▪ Environmental planning or environmental science ▪ Land Valuation ▪ Agriculture 	<ul style="list-style-type: none"> ▪ Land management or administration ▪ Land law ▪ Any other discipline which the Tribunal need assistance in determining any issue which engages its attention. ▪ Architectural, engineering or surveying
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⁶ **Sections 104 to 107** provide for the appointment of judges. Under the proposed amendment, the criteria set out in Section 104-107 will be used to appoint members of the Tribunal. As such, member would be required to be qualified in accordance with Section 105 and would be required to take an oath of allegiance and oath for the due execution of his office (Section 106).

TERMS AND CONDITIONS OF MEMBERS OF THE TRIBUNAL AND LAY ASSESSORS

7. **Clause 4** will introduce a new **Section 3B** which will provide:
- for the terms and conditions of the Members of the Tribunal, including the Chairman and Deputy Chairman, to be determined by the Salaries Review Commission in accordance with **Section 141**⁷ of the Constitution.
 - the salaries, remuneration allowances and other conditions of the Chairman, Deputy Chairman, Member of the Tribunal and Lay Assessors shall not be altered to their disadvantage after their appointment and during their tenure. This provision affords some level of protection to the aforementioned persons.
 - the terms and conditions of the lay assessors to be prescribed by Order by the President and shall be the same as other lay assessors.

DISQUALIFICATION OF A MEMBER

8. **Clause 5** of the Bill seeks to amend the existing **Section 4** of the **Land Tribunal Act, 2000** by renumbering the current **Section 4** as **Section 4 (1)**.
9. Additionally, **Clause 5** seeks to make the existing **Section 4** applicable to lay assessors. Therefore, it will mean that if it is discovered that a member of a Tribunal or lay assessor has a pecuniary interest in any proceedings before the Tribunal, the member or lay assessor will be required to inform the Chairman of the pecuniary interest and consequently would cease to take part in any proceedings.
10. Additionally, it should be noted that if a member or lay assessor is a member, officer or employee of a public body or local authority that is part of any proceedings before the Tribunal, it will result in the member or lay assessor also ceasing to take part in the proceedings
11. **Clause 5** will insert a new **subsection 4(2)** which will also provide for disqualification of a Chairman having a having a pecuniary interest (direct or indirect) in same circumstances.

⁷ Section 141 of the Constitution states that the Salaries Review Commission shall from time to time with the approval of the President review the salaries and other conditions of service of the President, the holders of offices referred to in section 136(12) to (15), members of Parliament, including Ministers of Government and Parliamentary Secretaries, and the holders of such other offices as may be prescribed.

JURISDICTION OF THE TRIBUNAL

12. **Clause 6** of the Bill seeks to amend the existing **Section 5** of the **Land Tribunal Act, 2000** by deleting paragraph (c) of the Act and inserting new paragraphs (c) to (g).
13. The additional paragraphs will mean that the Tribunal will have jurisdiction to:
- Declare a provisional title as absolute
 - Hear and determine application relating to adverse possession (State lands and private lands)
 - Make Vesting Orders (in respect of applications for the declaration of absolute title)
 - Give directions to a Registrar under the Registration of Titles to Land Act.
 - Hear and determine any other matter which may be assigned to it by Order under **Section 12**.

APPEAL TO THE TRIBUNAL

14. **Clause 7** of the Bill seeks to amend **Section 7** of the **Land Tribunal Act** by deleting **paragraph (b)** of **subsection 3**.
15. As such, it is proposed that the Tribunal will no longer be able to remit the matter to the adjudication officer with such directions as the case warrants to do justice between the parties.

COMPARATIVE LEGISLATION

THEMATIC SIMILARITIES AND DIFFERENCES	KENYA	ZAMBIA	UNITED KINGDOM
<p>ESTABLISHMENT AND COMPOSITION OF LAND TRIBUNAL TO HAND ALL LAND RELATED MATTERS</p>	<p>THE LAND DISPUTES TRIBUNALS ACT, CHAPTER 303A</p> <p>Section 4 provides that there shall be established a tribunal, to be called the Land Disputes Tribunal, for every registration district. Each Tribunal shall consist of;</p> <p>(a) a chairman who shall be appointed from time to time by the District Commissioner from the panel of elders appointed under section 5; and</p> <p>(b) either two or four elders selected by the District Commissioner from a panel of elders appointed under section 5.</p>	<p>THE LANDS TRIBUNAL ACT, NO. 39 OF 2010</p> <p>Section 5 provides that the Tribunal shall consist of the following members who shall be appointed by the Minister:</p> <p>(a) a chairman, who shall be a legal practitioner of not less than seven years legal practice;</p> <p>(b) a deputy chairman;</p> <p>(c) a representative of the Attorney-General;</p> <p>(d) a representative of the law association of Zambia;</p> <p>(e) a representative of the House of Chief;</p> <p>(f) a planner;</p> <p>(g) a land surveyor;</p> <p>(h) a valuation surveyor; and</p> <p>(i) not more than three to four</p>	<p>THE LANDS TRIBUNAL ACT, 1949</p> <p>Section 1 provides that there shall be set up, to exercise the jurisdiction hereafter mentioned in this Act, the following tribunals, namely;</p> <p>(a) a tribunal for Scotland, to be called " the Lands Tribunal for Scotland "; and</p> <p>(b) a tribunal for the remainder of the United Kingdom, to be called "the Lands Tribunal."</p>

		person from the public sector.	
JURISDICTIONS OF THE TRIBUNAL	<p>Section 6 (1) provides that each Tribunal shall have jurisdiction to resolve disputes instituted under section 3 (2).</p> <p>Further, whenever a dispute is being dealt with by the Tribunal:</p> <p>(a) the chairman shall preside at the hearing; and</p> <p>(b) the decision of the Tribunal shall be that of the majority of the members hearing the dispute.</p>	Section 3 sets out the jurisdiction of the Tribunal to hear and determine disputes relating to land.	Section 13 carefully lays out the jurisdiction of the Tribunals set up for Scotland and the remainder of the United Kingdom.
THE RIGHT TO APPEAL	Section 8 provides that any party to a dispute under section 3 who is aggrieved by the decision of the Tribunal may, within thirty days of the decision, appeal to the Appeals Committee constituted for the Province in which the land which is the subject matter of the dispute is situated.	Section 16 provides that a person aggrieved with the decision of the Tribunal may, within thirty days of the receipt of its decision, appeal to the High Court.	Section 3(4) provides that a decision of the Lands Tribunal shall be final: Provided that any person aggrieved by the decision as being erroneous in point of law may, within such time as may be limited by rules of court, require the tribunal to state and sign a Case for the decision of the court and, where the decision of the Lands Tribunal is given on a review by way of appeal of the previous decision of another person, that

			person if dissatisfied with the decision of the Lands Tribunal shall be treated for this purpose as a person aggrieved thereby.
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REFERENCE MATERIALS

▪ **KENYA: THE LAND DISPUTES TRIBUNALS ACT, CHAPTER 303A**

<http://bit.ly/2oj9smM>

▪ **ZANBIA: THE LAND TRIBUNAL ACT, NO. 39 OF 2010**

<http://bit.ly/2oGSvic>

▪ **UNITED KINGDOM: THE LANDS TRIBUNAL ACT, 1949**

<http://bit.ly/2ojyT7z>

THE REGISTRATION OF TITLES TO LAND (AMENDMENT) (NO. 2) BILL, 2017

1. ***The Registration of Titles to Land (Amendment) (No. 2) Bill, 2017*** will amend the ***Registration of Titles to Land Act*** which provides for the registration of interests and estates in land subject to the provisions contained therein in that Register.
2. “Title” refers to the legal ownership of particular part or parcel of land whereas the system of registration provides an up-to-date official record of the legal ownership of registered land overseen by the Registrar and the Land Registry.⁸
3. Registration of one’s interest in land is aimed at making the ownership and transfer of land more reliable, convenient and stress free as under the registered system land is vested in a named person or persons subject to specified encumbrances and qualifications, under a guarantee of indemnity. The Land title document (Land Certificates) serves as evidence of ownership to the exclusion of the world. Persons are afforded a level of protection from adverse possessors and persons claiming superior title.
4. Further, a proprietor or potential purchaser is assured that what is endorsed on the Land Certificate is indefeasible and the need to worry about hidden defects capable of defeating title is significantly reduced. There is a level of comfort in the fact that title would have been investigated and approved by the Registrar.

PURPOSE OF THE BILL

5. The Bill seeks to
 - Clarify the terms used in the existing legislation, thereby providing for consistent use of the appropriate terminology;
 - Create the position of Senior Assistant Registrar;
 - Create a condominium folio;
 - Replace the term “Certificate of Title” with the term “Land Certificate”;

⁸ <http://www.ttparliament.org/publications.php?mid=36&id=mrFFC622>

- Widen the powers of the Registrar as it relates to the rectifying the Register or any instrument to be registered;
- Give the Registrar the power to change the name and address of a proprietor on written application;
- Enforce the use of Register folios to establish title as opposed to Certificates;
- Prioritise properly executed instruments; and
- Repeal the ***Real Property Act Chap 56:02*** in respect of lands brought under this new Act.

KEY FEATURES OF THE BILL

DEFINITIONS

6. **Clause 3** of the Bill amends **Section 3** of the ***Registration of Titles to Land Act, 2000*** by inserting new definitions for “condominiums”, “Director of Surveys”, “Land Certificate”, “provisional title” and “Senior Assistant Registrar”. It also deletes definitions for “Certificate of Title”, “restriction” and amends the definition for “encumbrance”

<i>Registration of Titles to Land Act, 2000</i>	<i>The Registration of Titles to Land (Amendment) (No. 2) Bill, 2017</i>
“Adjudication Officer” means the Adjudication Officer appointed under the Land Adjudication Act.	“Adjudication officer” has the meaning assigned to it by section 2 of the Land Adjudication Act”.
“Encumbrance” means a proprietary right held by one person over the property of another that limits the ways in which the owner may use or deal with the property.	“Encumbrance” means a proprietary right held by one person over the land of another that limits the ways in which the owner may use or deal with the land .
“Certificate of Title” means a certificate of title issued under section 24 and includes a certificate of lease.	This definition is deleted.
“Court” means the Court of Appeal.	This definition is deleted.
“Restriction” means a restriction on the way land may be used or dealt with.	This definition is deleted.

	New Definition: “condominium” means housing consisting of a complex of dwelling units in which each unit is individually owned.
	New Definition: “Director of Surveys” means the officer holding the office of Director of Surveys referred to in the Civil Service Act
	New Definition: “Land Certificate” means a land certificate issued under section 24 and includes a certificate of lease
	New Definition: “provisional title” means a title to land declared to be provisional under section 16 of the Land Adjudication Act
	New Definition: “Senior Assistant Registrar” means a Senior Assistant Registrar appointed under section 5

THE NEW POSITION OF SENIOR ASSISTANT REGISTRAR

- 7. **Clauses 4, 5, 6, 7 and 8** of the Bill amend **Sections 5, 6, 7, 9 and 10** of the Act to include the new post of Senior Assistant Registrar.

MAINTENANCE OF THE LAND REGISTER

- 8. **Clause 9** seeks to amend **Section 13** of the Act which provides for the maintenance of a Land Register by the Registrar which shall account for the folios of land brought under the registered system by the **Land Adjudication Act**, lease folios, interest folios and now by virtue of the amendment, condominium folios.

COMPILATION OF THE REGISTER

- 9. **Clause 10** amends **Section 14** of the Act to clarify that it is the entry of a memorial in the folio endorsed by the signature of the Registrar that gives legal effect to first registration and not the signature on, or registration of an instrument or document, as the law currently provides:

POWER OF THE REGISTRAR TO RECTIFY

10. **Clause 14** seeks to amend **Section 30 (1)** of the Act to give the Registrar powers of rectification concerning the Register or instruments presented for registration:

- In formal matters and in the case of errors or omissions not materially affecting the interests of any proprietor;
- In any case at any time with the consent of all persons interested;
- Where upon resurvey, an area shown in the Register is found to be incorrect, but in such case the Registrar shall first give notice to all persons appearing by the register to be interested or affected of his intention to rectify; and
- Upon receipt of any decision of any Court or the Land Tribunal. Further, in addition to the aforementioned, the Registrar will now have the power to record a change of name and address of a proprietor in the Register upon proof of same when a written application is made.

POWER OF THE REGISTRAR TO RECORD A CHANGE IN THE REGISTER

11. **Clause 14** also inserts a new **section 30(3)** which will further provide the Registrar with the power to, upon proof of the change of the name or address of any proprietor and upon the written application of the proprietor, make an entry in the Register to record the change.

12. The changes made by **Clause 14** of the bill are reflected below:

<i>Registration of Titles to Land Act, 2000</i>	<i>The Registration of Titles to Land (Amendment) (No. 2) Bill, 2017</i>
<p>30.(1) Where any instrument that has been lodged and registered in accordance with the provisions of this Act is subsequently found to—</p> <p>(a) contain material defects; or</p> <p>(b) be inadequate to give effect to the intention of the parties to the transaction, the Registrar may on application—</p>	<p>Section 30 as amended shall read:</p> <p>30. (1) The Registrar may rectify the Register or any instrument presented for registration in the following cases:</p> <p style="padding-left: 40px;">(a) in formal matters and in the case of errors or omissions not materially affecting the interests of any proprietor;</p> <p style="padding-left: 40px;">(b) in any case at any time with the consent of all persons interested;</p>

<p>i) cancel the registration of the instrument or document and restore the folio to its former state;</p> <p>ii) place on the folio a memorial amending and correcting the said folio on the written request of the parties to the transaction and upon production of such evidence as may be required by the Registrar; or</p> <p>iii) give effect to any order of the Court or Tribunal to correct or amend a folio.</p> <p>(2) The Registrar may cancel any entry in the Register where he is satisfied that the entry has ceased to have effect.</p>	<p>(c) where upon resurvey, an area shown in the Register is found to be incorrect, but in such case the Registrar shall first give notice to all persons appearing by the register to be interested or affected of his intention to rectify; and</p> <p>(d) upon receipt of any decision of any Court or the Land Tribunal.”; and</p> <p>(2) The Registrar may cancel any entry in the Register where he is satisfied that the entry has ceased to have effect.</p> <p>(3) Upon proof of the change of the name or address of any proprietor, the Registrar shall, on the written application of the proprietor, make an entry in the Register to record the change.</p>
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PROTECTION OF PERSONS DEALING WITH THE REGISTERED PROPRIETOR

13. **Clause 15** amends **Section 35** of the Act which will operate subject to **Section 34(2)**, thus persons contracting with registered proprietors ought to be aware that there are instances where a legal interest in a parcel might not be reflected on the Register and separate enquiries will be necessary.

INSPECTION SEARCHES AND COPIES

14. **Clause 20** removes the general applicability of **Section 73 (1)** (as renumbered under the Clause) and limits its application to only Attorneys-at-Law or their clerks and removes the entitlement to a certified copy of any folio or part of the parcel index map or any plan or instrument filed in the Registry on the payment of prescribed fees with the requisite form.

15. **Clause 20** also inserts 3 new subsections after **Section 73 (1)** (as renumbered under **Clause 20**) of the Act which would (respectively):

- In relation to the registration of an instrument, provide for a period of suspension of fourteen (14) days where there is an application for an

official search and there is also an application for an additional registration of any instrument affecting the said land;

- Prioritize a properly executed instrument over any other instrument which may be presented for registration during the “suspension period”; and
- Ensure that other applications for registration made during a period of suspension, other than that affecting the proposed dealing will be processed as of no stay of registration has been obtained.

REPEAL OF THE REAL PROPERTY ACT CHAP 56:02

16. **Clause 22** inserts a new **Section 85** into the Act which will repeal the ***Real Property Act Chap 56:02*** in respect of lands brought under this new Act except if provided otherwise within the Act and which will provide that any reference to the terms “Real Property Ordinance”, “the Real Property Ordinance Registry” and “the Registrar of Deeds” in any legislation would now be read as a reference to “the Land Registry” or “the Registrar of Lands” as the case may be.

LEGISLATION MENTIONED IN THE BILL

- The Registration of Titles Act, 2000
<http://www.ttparliament.org/legislations/a2000-16.pdf>
- The Land Adjudication Act, 2000
<http://www.ttparliament.org/legislations/a2000-14.pdf>
- The Real Property Act, Chap.56:02
https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/56.02.pdf
- The Civil Service Act, Chap.23:01
http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/23.01.pdf

REFERENCE MATERIAL

- **The Registration of Titles to Land (Amendment) Bill, 2017,**
Explanatory Note

<http://www.ttparliament.org/legislations/b2017h04.pdf>

- **The Registration of Titles to Land Act, 2000**

<http://www.ttparliament.org/legislations/a2000-16.pdf>

- **The Parliament of the Republic of Trinidad and Tobago website**

<http://www.ttparliament.org/publications.php?mid=36&id=mrFFC622>

- **The Registration of Titles Act of Jamaica**

<http://moj.gov.jm/sites/default/files/laws/Registration%20of%20Titles.pdf>

- **The Land Registration Act Chapter 229 of Barbados**

<http://www.landregistry.gov.bb/Lr-PDFs/CAP229-LandRegistration.pdf>

- **The Land Titles Act, 1990 of Canada**

<https://www.ontario.ca/laws/statute/90l05#BK191>



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