



Secretariat Unit

Bill Essentials

The State Land (Regularisation of Tenure) (Miscellaneous Amendments) Bill, 2015

An Act to amend the State Land (Regularisation of Tenure) Act, Chap. 57:05 and the State Land (Regularisation of Tenure) (Certificate of Comfort) Regulations, Chap. 57:05 and to revoke Legal Notice No. 151 of 1999, Legal Notice No. 134 of 2000 and Legal Notice No. 135 of 2000

Bill No: HOR Bill 11 of 2015

Introduced in: The House of Representatives

Introduced on: May 29, 2015

Introduced by: Hon. Jairam Seemungal, MP [Minister of Land and Marine Resources]



Contents

Background	3
Purpose of the Bill.....	5
Legislation mentioned in the Bill	5
Major changes proposed by Legislation	5
Key Features of proposed Legislation.....	5
Comparative Table of Amendments	6
Considerations	9
Comparative Legislation in other Jurisdictions.....	9
Further Reading	10

The State Land (Regularisation of Tenure) (Miscellaneous Amendments) Bill, 2015

Background

The State Land (Regularisation of Tenure) (Miscellaneous Amendments) Bill, 2015¹ was introduced and read for a first time in the House of Representatives on Friday May 29, 2015 by Hon. Jairam Seemungal, MP, Minister of Land and Marine Resources.

Squatter Regularisation in Trinidad and Tobago

The State Land (Regularisation of Tenure) Bill, 1998^{2 3} was introduced on January 16, 1998 by the Hon. John Humphrey, MP, Minister of Housing and Settlements. The Bill sought to:

- a. protect certain squatters from ejection from State Land;
- b. facilitate the acquisition of leasehold titles by both squatters and tenants in designated areas; and
- c. provide for the establishment of land settlement areas.

Administration of the Act: The Land Settlement Agency and the Tobago House of Assembly

The Land Settlement Agency was established as a body corporate pursuant to section 5 of the Act and charged with the responsibility for carrying out the provisions of the Act with respect to State Land in Trinidad. Responsibility for administering the Act in Tobago is vested in the Tobago House of Assembly. The Land Settlement Agency and the Tobago House of Assembly are empowered to:

- i. conduct title investigations;
- ii. perform sociological surveys;
- iii. prepare planning and design layouts with a view to developing viable communities;
- iv. perform infrastructural upgrading works;
- v. conduct cadastral surveys;
- vi. establish Settlement Councils in communities for the purpose of –
 - a. fostering community spirit and development; and
 - b. settling of disputes;
- vii. prepare and issue Certificates of Comfort and Deeds of Lease;
- viii. prepare and upkeep a Register containing all relevant information pertaining to Certificates of Comfort, Statutory Leases and Deeds of Lease;
- ix. enter into contract to carry out and do other acts or things incidental to the purpose of the Agency or the Assembly under this Act;
- x. engage in research and development;
- xi. facilitate micro-enterprise within communities; and
- xii. perform all such things as are incidental or conducive to the carrying out of its functions as prescribed in section 10 and the Act generally.

¹ <http://www.ttparliament.org/legislations/b2015h11.pdf>

² <http://www.ttparliament.org/hansards/hh19980116.pdf>

³ <http://www.ttparliament.org/publications.php?mid=28&id=374>

The State Land (Regularisation of Tenure) (Miscellaneous Amendments) Bill, 2015

Application of the Act

The State Land (Regularisation of Tenure) Act applies to the following⁴:

- a. a squatter in respect of his actual occupation of State Land on which there is a dwelling house before January 1, 1998;
- b. a squatter or tenant within a Designated Area and to a person within a Land Settlement Area; and
- c. a squatter or tenant in respect of his actual occupation or tenancy of lands owned by a State Agency listed in the Schedule, and on which there is a dwelling house before the appointed day, so however that no occupant therein may obtain a Statutory Lease or a Deed of Lease until such time as the land is designated and legally transferred to the State.

Application for Certificate of Comfort

A Certificate of Comfort⁵ confirms protection from ejectment in respect of one's dwelling house however it does not create an interest in land, merely a personal right to protection from ejectment. Section 11(2) provides that a squatter shall apply to the Land Settlement Agency or the Tobago House of Assembly for a Certificate of Comfort within one year of the commencement of the Act.⁶ Section 12 allowed for late applications and provided that the Land Settlement Agency and the Tobago House of Assembly would entertain applications for a further period of one year. All applications for Regularisation were therefore required to be made on or before October 27, 2000.

The Land Settlement Agency has received approximately twenty-three thousand (23,000) applications for Certificates of Comfort and estimates that there are as much as two hundred and fifty thousand (250,000) squatters on State Lands.⁷ The 'Land for the Landless' programme was launched in November 2012 as an initiative to ameliorate the existing housing situation by offering serviced lots to families.⁸

Required Documents

Persons who have applied to be regularised must submit the following⁹:

- a. originals of two references;
- b. photocopies of other documentary evidence;
- c. Bills showing materials purchased to build the house;
- d. T&TEC Bill;

⁴ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/57.05.pdf Section 3

⁵ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/57.05.pdf Section 11

⁶ The State Land (Regularisation of Tenure) Act, Chap. 57:05 commenced on October 28, 1998

⁷ <http://mphe.gov.tt/agenciesdivisions/lsa.html>

⁸ <http://www.mphe.gov.tt/news/257-ministry-launches-land-for-the-landless.html>

⁹ http://www.ttconnect.gov.tt/gortt/portal/ttconnect/!ut/p/a1/jdDLDoIwEAXQr2HLjDT1tWPhAzAxYFTsxkBSK6a2pTx80V2BEVnN5Nzk5sBBikwIT0KkdICq0y-dzY8RrGHNJgQXMc4QS8JBjOkEVmMSA00LZAs5jWY0cEy2hFE_C-PX8b_md9wBXtgvSykHdCt2YCeHiEwIXXe_OTgq5yMBTDDT9xw495NfT5beyunDjpYVZUrtBaSu9Y6-Clx1qWFtAXhdt2mz-BC5WPlvwBMlyPi/dl5/d5/L2dBISEvZ0FBIS9nQSEh/?WCM_GLOBAL_CONTEXT=/gortt/wcm/connect/gortt+web+content/TTConnect/Citizen/Topic/HousingandProperty/Government+Housing+and+Property/Squatter+Regularisation

The State Land (Regularisation of Tenure) (Miscellaneous Amendments) Bill, 2015

- e. WASA Bill;
- f. TSTT Bill;
- g. Cable Bill;
- h. Land & Building Tax Receipts; and
- i. any other documents (such as letters, bills, etc.) which support a claim to occupation before the appointed day.

Purpose of the Bill

This Bill seeks to amend the State Land (Regularisation of Tenure) Act, Chap. 57:05 and the State Land (Regularisation of Tenure) (Certificate of Comfort) Regulations, Chap. 57:05 and to revoke Legal Notice No. 151 of 1999, Legal Notice No. 134 of 2000 and Legal Notice No. 135 of 2000.

Legislation mentioned in the Bill

State Land (Regularisation of Tenure) Act, Chap. 57:05¹⁰

State Land (Regularisation of Tenure) (Certificate of Comfort) Regulations, Chap. 57:05¹¹

Major changes proposed by Legislation

Appointed Day January 1, 1998 – June 13, 2014

Applicants for regularisation are required to prove occupation on State Lands before the ‘appointed day’ which is currently January 1, 1998. The Bill proposes to shift this date forward by approximately seventeen (17) years and six (6) months to June 13, 2014.

The Bill will therefore render persons squatting on State Lands during the foregoing period eligible to apply for regularisation.

Application for Certificate of Comfort

Section 11(2) provides that a squatter shall apply to the Land Settlement Agency or the Tobago House of Assembly for a Certificate of Comfort within one year of the commencement of the Act.¹² Furthermore, section 12 allowed for late applications.

The Bill provides that squatters shall apply for regularisation within three years from the commencement of the State Land (Regularisation of Tenure) (Amendment) Act 2015. Additionally, the Act will no longer countenance late applications since section 12 is being repealed.

Key Features of proposed Legislation

1. Clause 1 of the Bill would provide the short title of the Bill.
2. Clause 2 of the Bill seeks to provide for the interpretation of the Bill.
3. Clause 3 of the Bill seeks to provide for amendments to the interpretation section of the Act to –

¹⁰ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/57.05.pdf

¹¹ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/57.05.pdf Pg.40

¹² The State Land (Regularisation of Tenure) Act, Chap. 57:05 commenced on October 28, 1998

The State Land (Regularisation of Tenure) (Miscellaneous Amendments) Bill, 2015

- (a) change the appointed day from 1st January, 1998 to 13th June, 2014;
 - (b) include designated areas in the definition of “Land Settlement Agency”;
 - (c) to define Minister as the Minister with responsibility for the Land Settlement Agency; and
 - (d) to include State Land vested in the Land Settlement Agency in the definition of “State Land”.
4. Clause 4 of the Bill seeks to provide that applications for Certificates of Comfort may be made within three years after the commencement of the proposed Act and shall be in the form prescribed by the Minister by Order.
 5. Clause 5 of the Bill seeks to repeal section 12 of the Act which allows for the making of late applications.
 6. Clause 6 of the Bill seeks to provide for a consequential amendment arising out of the repeal of section 12.
 7. Clause 7 of the Bill seeks to provide that Designated Areas are to be deemed as Land Settlement Areas and to empower the Minister to vest State Land in the Land Settlement Agency for the purposes of the Act. The vesting of any interest in land in the Land Settlement Agency would also be exempt from stamp duty.
 8. Clause 8 of the Bill seeks to delete and substitute the Schedule to the Act which contains the list of Designated Areas.
 9. Clauses 9 of the Bill would amend the State Land (Regularisation of Tenure) (Certificate of Comfort) Regulations, Chap. 57:05, to allow the Land Settlement Agency to refer to the 2014 aerial photography, instead of the 1998 aerial photography, for the purposes of determining the occupation of lands by applicants.
 10. Clause 10 of the Bill would revoke the forms relating to applications for Certificates of Comfort in Legal Notices No. 151 of 1999, 134 of 2000 and 135 of 2000.

Comparative Table of Amendments

Section	Extent of Amendment
2(1) “appointed day” means 1st January, 1998 “Land Settlement Area” means an area defined and declared as such under Part VII “landless” refers to a person who falls within a category designated as disadvantage by the Minister to whom responsibility for Social Development is assigned and who has no legal or equitable interest or any other interest or claim to such an interest, in a dwelling house, residential land, or agricultural land upon which a dwelling house is permitted to be built	2(1) “appointed day” means 13th June, 2014 “Land Settlement Area” means an area defined and declared as such under Part VII or a Designated Area “landless” refers to a person who has no legal or equitable interest or any other interest or claim to such an interest, in a dwelling house, residential land, or agricultural land upon which a dwelling house is permitted to be built

The State Land (Regularisation of Tenure) (Miscellaneous Amendments) Bill, 2015

<p>“Minister” means the Minister to whom responsibility for settlements is assigned and “Ministry” has a corresponding meaning</p> <p>“State Land” includes land held by the National Housing Authority, State Land vested in the Tobago House of Assembly, and any other land transferred to the State from time to time by any State agency for the purposes of this Act</p>	<p>“Minister” means the Minister to whom responsibility for the Land Settlement Agency is assigned and “Ministry” has a corresponding meaning</p> <p>“State Land” includes land held by the National Housing Authority, State Land vested in the Tobago House of Assembly or the Land Settlement Agency, and any other land transferred to the State from time to time by any State agency for the purposes of this Act</p>
<p>11. (1) A Certificate of Comfort—</p> <p style="padding-left: 40px;">(a) confirms protection from ejectment pursuant to section 4(1); and</p> <p style="padding-left: 40px;">(b) does not create an interest in land but only a personal right to protection from ejectment.</p> <p>(2) Within one year after the commencement of this Act (hereinafter referred to as the “prescribed period”) a squatter to whom section 4(1) applies, shall apply to the Land Settlement Agency or the Assembly for the issue of a Certificate of Comfort in respect thereof.</p> <p>(3) The application shall be in the form of a sworn declaration as prescribed and shall be supported by evidence as to the existence of the squatter’s occupation before the appointed day and such evidence shall include the declaration of two deponents who are not relatives of the squatter who attest to the fact that the squatter was in actual occupation of the dwelling house before the appointed day.</p> <p>(4) Upon receipt of any such application within the prescribed period, the Agency or the Assembly shall issue a certificate if it is satisfied that the dwelling house is situated on State Land.</p>	<p>11. (1) A Certificate of Comfort—</p> <p style="padding-left: 40px;">(a) confirms protection from ejectment pursuant to section 4(1); and</p> <p style="padding-left: 40px;">(b) does not create an interest in land but only a personal right to protection from ejectment.</p> <p>(2) Within three years from the commencement of the State Land (Regularisation of Tenure) (Amendment) Act 2015 (hereinafter referred to as the “prescribed period”) a squatter to whom section 4(1) applies, shall apply to the Land Settlement Agency or the Assembly for the issue of a Certificate of Comfort in respect thereof.</p> <p>(3) The application shall be in the form of a sworn declaration as prescribed by the Minister by Order and shall be supported by evidence as to the existence of the squatter’s occupation before the appointed day and such evidence shall include the declaration of two deponents who are not relatives of the squatter who attest to the fact that the squatter was in actual occupation of the dwelling house before the appointed day. (4) Upon receipt of any such application within the prescribed period, the Agency or the Assembly shall issue a certificate if it is satisfied that the dwelling house is situated on State Land.</p>
<p>12. A late application made after the prescribed period shall be entertained by the Agency or the Assembly for a further period of one year only and it shall be supported by the declarations of two deponents who are not relatives of the applicant who attest to the fact</p>	<p>REPEALED</p>

The State Land (Regularisation of Tenure) (Miscellaneous Amendments) Bill, 2015

<p>that the squatter was in actual occupation of the dwelling house, to which the application refers, before the appointed day</p>	
<p>13. Where a person makes a false declaration under section 11(3) or 12 he shall be liable, upon summary conviction, to a fine of five thousand dollars and to imprisonment for six months and the Certificate of Comfort shall be void <i>ab initio</i>.</p>	<p>13. Where a person makes a false declaration under section 11(3) he shall be liable, upon summary conviction, to a fine of five thousand dollars and to imprisonment for six months and the Certificate of Comfort shall be void <i>ab initio</i>.</p>
<p>25. (1) The Minister and the Assembly shall identify certain areas of State Land as Land Settlement Areas following the procedure outlined in sections 19 and 20. (2) The Minister may, by Order, subject to affirmative Resolution of Parliament, declare such lands so identified to be Land Settlement Areas. (3) A Land Settlement Area is an area of State land so identified and declared by the Minister for the purpose of— (a) facilitating the provision of shelter for citizens and residents who are landless; and (b) relocating squatters under section 27. (4) Land in a Land Settlement Area may be laid out in accordance with an approved development plan made by the Land Settlement Agency or the Assembly, for the purposes not limited to residential use and may include areas set aside for recreation, small scale commerce, community facilities, homesteading and other uses which tend to enhance the economic and social development of the community thereby established.</p>	<p>25. (1) The Minister and the Assembly shall identify certain areas of State Land as Land Settlement Areas following the procedure outlined in sections 19 and 20. (2) The Minister may, by Order, subject to affirmative Resolution of Parliament, declare such lands so identified to be Land Settlement Areas. (3) A Land Settlement Area is an area of State land so identified and declared by the Minister for the purpose of— (a) facilitating the provision of shelter for citizens and residents who are landless; and (b) relocating squatters under section 27. (4) Land in a Land Settlement Area may be laid out in accordance with an approved development plan made by the Land Settlement Agency or the Assembly, for the purposes not limited to residential use and may include areas set aside for recreation, small scale commerce, community facilities, homesteading and other uses which tend to enhance the economic and social development of the community thereby established. (5) Notwithstanding subsections (1), (2) and (3), Designated Areas are deemed to be Land Settlement Areas. (6) For the purposes of this Act, the Minister may, by Vesting Order, vest State Land in the Land Settlement Agency for a term not exceeding nine hundred and ninety-nine years on such terms and conditions as are specified in the Vesting Order. (7) The Stamp Duty Act shall not apply to the vesting of any interest in land in the Land Settlement Agency under subsection (6) or otherwise.</p>

The State Land (Regularisation of Tenure) (Miscellaneous Amendments) Bill, 2015

Schedule of Designated Areas	REPEALED AND REPLACED
<p>State Land (Regularisation of Tenure) (Certificate of Comfort) Regulations</p> <p>3. (1) The documentary evidence referred to in regulation 2(2) may include bills, receipts, testamentary dispositions, agreements, bills of exchange, bills of sale and any other documents which tend to prove the applicant's occupation.</p> <p>(2) The Agency may refer to the 1998 aerial photography lodged with the Director of Surveys to assist in establishing the applicant's occupation on or before the appointed day.</p>	<p>3. (1) The documentary evidence referred to in regulation 2(2) may include bills, receipts, testamentary dispositions, agreements, bills of exchange, bills of sale and any other documents which tend to prove the applicant's occupation.</p> <p>(2) The Agency may refer to the 2014 aerial photography lodged with the Director of Surveys to assist in establishing the applicant's occupation on or before the appointed day.</p>

Considerations

- The Bill makes no reference to proceedings against squatters that may be currently pending pursuant to section 20 of the State Lands Act.¹³ There is no indication as to how proceedings for the removal of squatters on newly Designated Areas are to be addressed.
- The Bill removes a component to the definition of 'landless'. Currently, a 'landless' person is one **who falls within a category designated as disadvantage by the Minister with responsibility for Social Development** and who has no legal or equitable or other interest in property. A 'landless' person according to the Bill, is no longer required to fall within said category of disadvantage.

Comparative Legislation in other Jurisdictions

Country	Legislation	Remarks
Jamaica	The Trespass Act, 1851 ¹⁴	<p>This Act may be cited as the Trespass Act.</p> <p>Section 6 provides that where a person occupies any lands to which he does not have an apparent title he shall be liable to removal and a penalty.</p>
Queensland, Australia	Land Act, 1994 ¹⁵	<p>This Act may be cited as the Land Act 1994.</p> <p>Section 404 provides that a person who unlawfully occupies, lives or builds on a non-freehold estate shall be penalised.</p>

¹³ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/57.01.pdf

¹⁴ <http://moj.gov.jm/sites/default/files/laws/Trespass%20Act.pdf>

¹⁵ <https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/L/LandA94.pdf>

The State Land (Regularisation of Tenure) (Miscellaneous Amendments) Bill, 2015

Malaysia	National Land Code (Act 56 of 1965) ¹⁶	This Act may be cited as the National Land Code. Section 425 provides that any person who unlawfully occupies or erects any building on State land shall be guilty of an offence and liable to a fine or imprisonment.
South Africa	Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 1998 ¹⁷	To provide for the prohibition of unlawful eviction; to provide for procedures for the eviction of unlawful occupiers; and to repeal the Prevention of Illegal Squatting Act, 1951, and other obsolete laws; and to provide for matters incidental thereto.
Tanzania	Land Act No. 4 of 1999 ¹⁸	Section 57 provides that the purpose of a scheme of regularisation is to facilitate the recording, adjudication, classification and registration of the occupation and use of land by –persons living and working in an area declared by sections 56 to 60 to be subject to a scheme of regularisation.
United Nations	The Universal Declaration of Human Rights ¹⁹	Article 25 (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Further Reading

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¹⁸ <http://faolex.fao.org/docs/pdf/tan23795.pdf>

¹⁹ <http://www.un.org/en/documents/udhr/>

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²¹ <http://www.trinidadexpress.com/20150529/news/govt-to-ease-up-new-squatters>

²² <http://www.newsday.co.tt/politics/0,211488.html>

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²⁴ <http://www.guardian.co.tt/news/2015-05-16/squatters-protected-areas-be-evicted>

²⁵ <http://www.trinidadexpress.com/article/20150513/LOCAL/150519833>

²⁶ <http://www.tribuneindia.com/news/jammu-kashmir/community/10-lakh-kanals-of-state-land-under-illegal-occupation/58975.html>

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²⁸ <http://www.trinidadexpress.com/news/Seemungal-10000-squatters-in-one-constituency-266956491.html>

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The State Land (Regularisation of Tenure) (Miscellaneous Amendments) Bill, 2015

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³⁰ http://www.jamaicaobserver.com/news/Putting-a-stop-to-squatter-settlements_11872336

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Parliament Secretariat
Parliament of the Republic of Trinidad and Tobago
Levels G-8, Tower D,
Port of Spain International Waterfront Centre
#1A Wrightson Road, Port of Spain
TRINIDAD
June 1, 2015