

LAND ADJUDICATION BILL, 2024

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LAND ADJUDICATION BILL, 2024

A BILL FOR AN ACT TO PROVIDE FOR SYSTEMATIC ADJUDICATION OF RIGHTS AND INTERESTS IN LAND WITHIN THE BAHAMAS, THE DEMARCATION OF BOUNDARIES AND MATTERS CONNECTED THEREWITH

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as the Land Adjudication Act, 2024.
- (2) This Act shall come into force on such date to be appointed by the Minister by notice published in the *Gazette*.

2. Interpretation.

In this Act —

- “**adjudication**” means a formal judgment on land given pursuant to the provisions of this Act;
- “**adjudication area**” means an area for which a declaration under section 3 has been made;
- “**adjudication record**” means the adjudication record prepared under section 23 in respect of an adjudication section;
- “**adjudication section**” means an adjudication section declared under section 8;
- “**Adjudicator**” means an Adjudicator appointed under section 4;
- “**certificate of title**” means a certificate of title granted under the Quieting of Titles Act (*Ch. 393*);

“**counsel and attorney**” has the meaning assigned to it under section 2 of the Legal Professions Act (*Ch. 64*);

“**Court**” means the Supreme Court for The Bahamas established under Article 93 of the Constitution;

“**Court of Appeal**” means the Court of Appeal for The Bahamas established under Article 98 of the Constitution;

“**demarcation**” means the fixing of boundaries or limits of land;

“**Demarcator**” means a Demarcator appointed under section 6;

“**demarcation map**” means a demarcation index map prepared under section 17 in respect of an adjudication section;

“**guardian**” means any person responsible for protecting the interests of any person under disability;

“**interest in land**” means any estate, right or interest in, on, under or over land which is capable of being recorded under this Act;

“**land**” means the surface of the earth, the space above it and the things below it and includes —

- (a) houses and other structures whatsoever and parts of structures, whether the division is horizontal, vertical or made in any other way;
- (b) mines and minerals, whether or not held apart from the surface;
- (c) land covered by water;
- (d) a legal estate, whether or not it gives a right to possession of the soil;
- (e) a legal interest in land;
- (f) an equitable interest in land;
- (g) an undivided share in land;

“**Minister**” means the Minister responsible for the administration of this Act;

“**minor**” means a person who is under eighteen years old;

“**parcel**” means a piece of land separately shown on the demarcation map and given a number;

“**person under disability**” means a person who is —

- (a) a minor;
- (b) over the age of eighteen and is unable to manage his person or personal affairs because he suffers from —
 - (i) mental deterioration or physical incapacity;
 - (ii) mental illness; or
 - (iii) developmental or intellectual disability;

- “Records Officer”** means a Records Officer appointed under section 6;
- “Registrar”** means the Registrar of Lands appointed under section 5 of the Registered Land Act, 2024;
- “Registrar General”** means the Registrar General appointed under section 4 of the Registrar General Act (*Ch. 186*);
- “Surveyor”** means a person who is registered and licenced as a land surveyor under the Land Surveyors Act (*Ch. 251*) and appointed under section 6;
- “tribunal”** means a land adjudication tribunal established by section 4.

3. Declaration of adjudication area.

- (1) The Minister may, from time to time, declare, by publication in the *Gazette*, that, with effect from a given date, any area of land approximately defined and ascertained in such declaration shall be an adjudication area for the purpose of this Act and on, and with effect from such date, this Act shall apply thereto.
- (2) Every declaration made under subsection (1) shall —
 - (a) be published in daily newspapers circulating in New Providence once a week for three successive weeks;
 - (b) in the case of a Family Island, in addition to publication pursuant to paragraph (a), be posted in the office of the Family Island Administrator for three consecutive weeks; and
 - (c) be posted on an official Government website.
- (3) Notwithstanding subsection (1), the Minister shall not declare any lands held in common under the Commonage Act (*Ch. 152*) to be an adjudication area.

PART II – LAND ADJUDICATION TRIBUNAL AND OFFICERS

4. Appointment of Adjudicator and establishment of land adjudication tribunal.

- (1) On the publication of a declaration under section 3, the Governor-General shall, in respect of the adjudication area, appoint on the recommendation of the Judicial and Legal Service Commission, an Adjudicator, who shall be a counsel and attorney of at least ten years with experience in the practice of the law of property and conveyancing.

- (2) The Adjudicator shall select two persons with local knowledge and history of the adjudication area (hereinafter referred to as an “assessor”) from a panel of four persons appointed by the Governor-General.
- (3) The Adjudicator and his assessors selected in accordance with subsection (2), shall form the land adjudication tribunal for that adjudication area.
- (4) The Minister shall ensure the tribunal is provided with the necessary staff and accommodations to enable the tribunal to carry out its functions under this Act.

5. Function and powers of Adjudicator.

- (1) The Adjudicator shall be in charge of the adjudication, preside over the tribunal and himself adjudicate upon and determine matters referred to the tribunal pursuant to section 19(1), but in so doing he shall consult with the assessors comprising the tribunal and record their opinions pertaining to the adjudication including local matters, customs and conditions, but shall not be bound to follow them.
- (2) The Adjudicator shall be competent to administer oaths and take affidavits in any adjudication by the tribunal pursuant to section 19 and to issue summonses, notices or orders requiring the attendance of such persons and the production of such documents as he may consider necessary for carrying out the adjudication.

6. Appointment of Demarcators, Records Officers and Surveyors.

- (1) The Adjudicator may appoint such Demarcators, Records Officers, Surveyors and other officers as may be necessary for performing the duties and exercising the powers imposed and conferred upon them by this Act.
- (2) A person appointed as a —
 - (a) Demarcator, shall be a registered and licenced land surveyor in accordance with the Land Surveyors Act (*Ch. 251*) with at least ten years' experience;
 - (b) Records Officer, shall be a counsel and attorney who has practiced predominantly in the law of property and conveyancing for at least seven years;
 - (c) Surveyor, shall be registered and licenced as a land surveyor in accordance with the Land Surveyors Act (*Ch. 251*).

7. Accessibility of records.

Any document, statement, record or map submitted or made in accordance with the requirements and provisions of this Act shall be made available to the

Adjudicator, Demarcator, Records Officer and Surveyor for the better carrying out of their respective duties and powers under this Act.

PART III- CLAIMS AND DEMARCATION

8. Adjudication sections.

The Adjudicator shall —

- (a) declare the whole area to be a single adjudication section; or
- (b) divide an adjudication area into two or more adjudication sections, and give each adjudication section a distinctive name.

9. Notice of adjudication and requirement to claim interest.

- (1) The Adjudicator shall prepare a separate notice in respect of each adjudication section, and in each notice shall —
 - (a) specify as nearly as possible the situation and limits of the adjudication section;
 - (b) declare that all interests in land in the adjudication section will be ascertained and recorded in accordance with this Act;
 - (c) require any person who claims any interest in land within the adjudication section to make a claim thereto either in person or by an agent within the period, not being less than ninety days, to the person, at the place and in the manner specified in the notice; and
 - (d) require all claimants to an interest in land within the adjudication section to mark or indicate the boundaries of the land claimed in such manner and before such date, not being less than two months, as shall be required by the Demarcator.
- (2) The Adjudicator shall cause such notice to be —
 - (a) published in daily newspapers circulating in New Providence once a week for three successive weeks;
 - (b) in the case of a Family Island, in addition to publication pursuant to paragraph (a), posted in the office of the Family Island Administrator for three consecutive weeks; and
 - (c) posted on an official Government website.

10. Staying of land suits.

- (1) Except with the consent in writing of the Adjudicator, no action concerning any interest in land in an adjudication section shall be commenced in any civil court after the publication of a notice under section 9, until proceedings under this Act have been completed.

- (2) The hearing of any civil action commenced before the publication of the notice under section 9 shall be determined before the commencement of the adjudication under this Act where the court is able to determine the action before the commencement of the adjudication.
- (3) The hearing of any civil action which has not been determined before such adjudication is commenced shall, unless the Adjudicator otherwise directs, be stayed pending adjudication.

11. Claims of interest in land.

- (1) Every person with any interest in land within an adjudication section shall make his claim in the manner and within the period fixed by the notice given under section 9.
- (2) Every person whose presence is required by the Adjudicator, Demarcator or Records Officer, as the case may be, shall attend in person or by agent at the time and place specified.
- (3) If any such person fails to attend in person or by his agent, the adjudication, demarcation, recording or other proceeding may continue in his absence.

12. Safeguarding of rights of absent persons and persons under disability, etc.

- (1) If the Adjudicator, Demarcator or Records Officer is satisfied that any person who has not made a claim has a claim to any interest in land within the adjudication section, the Adjudicator, Demarcator or Records Officer may proceed as if a claim had been made, and may require the Registrar General to furnish certified copies of any deeds and documents of title relevant thereto which are recorded under the Registration of Records Act (*Ch. 187*).
- (2) If the Adjudicator, Demarcator or Records Officer is satisfied that a claim might be established by a person under disability and no person has been appointed to represent such person, the Adjudicator, Demarcator or Records Officer shall apply to the magistrates' court for the appointment of a guardian in that behalf, and shall proceed as if a claim had been made.

13. Notice of demarcation.

- (1) Not less than seven clear days before the demarcation of land in an adjudication section begins, the Demarcator shall give notice of—
 - (a) the intended demarcation in that section;
 - (b) his intention to enter for the purposes of section 14; and
 - (c) the time and place at which the demarcation will begin,

in such manner as the Adjudicator shall deem the most likely to bring the matter to the knowledge of the persons to be affected by the demarcation.

- (2) Such notice shall require every claimant to indicate the boundaries of the land affected by his claim in the manner specified in the notice.

14. Entry by Demarcator or Surveyor.

A Demarcator or a Surveyor may, at any reasonable time, after notice has been given under section 13, enter upon any land within the adjudication area for the purpose of demarcating or surveying any parcel therein and may summon any person who can give information regarding the boundaries of any such parcel to point out the boundaries.

15. Indication of land.

Subject to any general or particular directions issued by the Adjudicator, the Demarcator shall, within each adjudication section —

- (a) ensure that the boundaries of each piece of land, which is the subject of a claim, are indicated or demarcated on the appropriate demarcation map in accordance with the requirements of the notice given under section 13; and
- (b) indicate or cause to be indicated, on the appropriate demarcation map, the boundaries of —
 - (i) public roads, public rights of way and other Crown land; and
 - (ii) waste or unclaimed land.

16. Special powers of Demarcator.

- (1) The Demarcator may —
 - (a) divide the adjudication section into blocks which shall be given distinctive numbers or letters or combinations of numbers and letters;
 - (b) with the consent of the owners concerned, adjust the boundaries of any land in the adjudication section or reallocate the same to ensure the more beneficial occupation thereof or to effect a more suitable subdivision thereof;
 - (c) make any reservations necessary for the purposes of defining existing roads and paths, for the better drainage of any land or for any other purpose connected with the improvement of the land;
 - (d) make a declaration of such existing rights of way over any land in the adjudication section and may direct the manner in which such rights of way are to be exercised, and in such case he shall direct that such rights of way be recorded in the adjudication record in respect of the dominant and the servient land;

- (e) award such compensation as may, to him, appear just to any person who has suffered loss of land as the result of any adjustment of boundaries or the partition or re-allotment of any land or the declaration of any rights of way, and make an order directing by whom such compensation shall be paid.
 - (f) determine the proportions in which the expenses of any partition shall be borne by the persons interested therein and make an order accordingly; and
 - (g) make an order as to costs not exceeding five hundred dollars.
- (2) A person may, under section 25, object to an award made pursuant to subsection (1)(e).
- (3) Any order for the payment of compensation, expenses or costs made against the owner of any land shall create a charge on such land which shall have priority over all other debts whatever except debts due to the Crown.

17. Duties of Surveyor.

Subject to any general or particular directions issued by the Adjudicator, the duties of the Surveyor are to —

- (a) carry out such survey work as may be required in the execution of the adjudication process;
- (b) prepare or cause to be prepared a demarcation index 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, except that public roads shall not be required to be identified with a number.

18. Duties of Records Officer.

The Records Officer shall consider all claims to any interest in land, and after such investigation as he considers necessary, shall prepare, in accordance with section 23, an adjudication record in respect of every parcel of land shown on the demarcation map.

19. Referral of dispute to tribunal.

- (1) If, in any case —
 - (a) there is a dispute as to any boundary, whether indicated to the Demarcator or demarcated or readjusted by him, which the Demarcator is unable to resolve; or
 - (b) there are two or more claimants to any interest in land and the Records Officer is unable to effect agreement between them, the Demarcator or the Records Officer, as the case may be,

shall refer the matter to the tribunal.

- (2) The Adjudicator shall adjudicate upon and determine any dispute referred to the tribunal under subsection (1), having due regard to any law or local customs and conditions which may be applicable, and shall make and sign a record of the proceedings.
- (3) Any party affected or liable to be affected by an adjudication may be heard through his representative who need not be admitted to practice law in The Bahamas.

20. Adjudication of dispute.

- (1) Where the Adjudicator has determined a dispute as to any boundary referred to him under section 19(1)(a), he shall give his determination and record of the proceedings prepared in accordance with section 19(2) to the Demarcator and the Demarcator shall indicate or demarcate the boundaries in accordance with the Adjudicator's determination.
- (2) Where the Adjudicator has determined a dispute referred to him under section 19(1)(b) concerning an interest in land, he shall give his determination and record of the proceedings prepared in accordance with section 19(2) to the Demarcator and the Records Officer.

PART IV – PREPARATION OF THE ADJUDICATION RECORD

21. Principles of adjudication.

- (1) In preparing the adjudication record, if the Records Officer is satisfied —
 - (a) that a person —
 - (i) is in open and peaceful possession of a parcel and has been in such possession by himself or by his predecessors in title —
 - (A) in respect of private land, for an uninterrupted period of twelve years or more;
 - (B) in respect of Crown land, for an uninterrupted period of thirty years or more;
 - (C) in respect of foreshore, for an uninterrupted period of sixty years; or
 - (ii) has a good documentary title to land and that no other person has acquired a title thereto under any law relating to prescription or limitation,
and that he would succeed in maintaining or defending such possession or title against any other person claiming the land or any

- part thereof, the Records Officer shall record that person as the owner of the parcel and declare his title to be absolute;
- (b) that any land is entirely free from private rights, or that the rights existing in or over it do not amount to full ownership and are not such as to enable him to proceed under paragraph (d) of this subsection, he shall record the land as Crown land;
 - (c) that any land is subject to any right which is registrable as a lease, charge, easement, profit or restrictive covenant or agreement under the Registered Land Act, 2024, he shall record such particulars as shall enable the right and the name of the person entitled to the benefit thereof to be registered;
 - (d) that a person is in possession of, or has a right to a parcel but is not satisfied that such person is entitled to be recorded under paragraph (a) as the owner of the parcel with absolute title, the Records Officer may, nevertheless, record that person as the owner of the parcel and declare his title to be provisional and shall record —
 - (i) the date on which the possession of that person shall be considered to have begun;
 - (ii) particulars of any deed, instrument or other document by virtue of which some estate, right or interest adverse to or in derogation of the title of that person may exist; or
 - (iii) any other qualification which affects the title.
- (2) A person is deemed to be in possession of land if he does not acknowledge the title of any other person to that land and by himself, his agent, tenant or servant, has open and peaceful possession of the land to the exclusion of the public.
- (3) For the purpose of this section, “**good documentary title**” means a title evidenced by documents which establishes that a person is entitled to land in fee simple and commencing with —
- (a) a Crown grant or lease, certificate of title; or
 - (b) conveyance, assignment, mortgage, or other good root of title which is not less than thirty years old.
- (4) The Records Officer shall follow the rules laid down in section 22.
- (5) The Adjudicator and the Records Officer, in the exercise of their respective functions, may, in their absolute discretion, admit evidence which would not be admissible in a court of law, use evidence adduced in any other claim or contained in any official record and call evidence on their own motion.
- (6) For the purposes of this section, where a dispute was referred to the Adjudicator under section 19(1)(b), the determination of the Adjudicator as recorded in section 19(2) shall satisfy the Records Officer.

22. Rules to be followed in adjudication.

The following rules shall apply in the adjudication of land under this Act —

- (a) all unclaimed and unoccupied land shall be deemed to be Crown land;
- (b) possession or receipt of rents and profits by any person through whom a claimant derives his title shall be deemed to have been the possession or receipt of rents and profits of the claimant;
- (c) where, from the relationship of the parties or from other special causes, it appears that the person in possession of land is or was in possession on behalf of another, his possession shall be deemed to be or to have been the possession of that other;
- (d) where two or more persons have rights which entitle them to be registered as joint tenants or tenants in common under the Registered Land Act, 2024, the Records Officer shall record such persons as joint owners or owners in common, as the case may be, and, if owners in common, the share of each such owner;
- (e) a receipt shall be given by the Records Officer for all documents produced by a claimant and retained by him.

23. Adjudication record.

- (1) The adjudication record shall consist of a form in respect of each parcel of land, which form shall show —
 - (a) the number and approximate area of the parcel as shown on the demarcation map;
 - (b) either the name and description of the person entitled to be registered as the owner of the parcel with particulars of the manner in which that person acquired that parcel and of any restriction on his power of dealing with it, or the fact that the parcel is Crown land;
 - (c) such particulars of any right registrable under the Registered Land Act, 2024 as shall enable it to be registered as a lease, mortgage, charge, easement, profit or restrictive covenant or agreement, as the case may be, affecting the parcel together with the name and description of the person entitled to the benefit thereof and particulars of any restriction on his power of dealing with it;
 - (d) if any person noted in the adjudication record is under disability, the name of his guardian;
 - (e) a list of the documents, if any, produced to the Records Officer and retained by him for the purpose of adjudication; and
 - (f) the date on which the form is completed.

- (2) When completed, the form shall be signed by the Records Officer and, in the case of privately owned land, shall, where possible, include an acknowledgement signed by the owner of the parcel and by any person recorded under subsection (1)(c) as having an interest in such parcel, that such owner and every other such person accepts the record.

24. Notice of completion of adjudication record.

When the adjudication record, in respect of any adjudication section, has been completed, the Adjudicator shall sign and date a certificate to that effect and shall forthwith give notice of the completion thereof and of the place and time at which the same or an official copy thereof can be inspected together with the demarcation map, and in such notice shall declare the period, not being less than ninety days, during which and the manner in which petitions under section 25 may be presented.

PART V – OBJECTIONS AND FINALITY

25. Objection to adjudication record.

- (1) Any person aggrieved by any entry in or omission from any completed adjudication record may, at any time during the period declared under section 24, petition the tribunal in respect of such entry or omission, and the petition shall be heard by the tribunal and determined or redetermined in accordance with section 5(1).
- (2) The Adjudicator after giving reasonable notice to all persons affected by the objection, shall hear the objection and shall allow or dismiss the objection or otherwise determine the matter in such manner as he thinks fit.
- (3) A record of all proceedings on an objection shall be made or cause to be made by the Adjudicator and the procedure observed upon the hearing of an objection shall, so far as is possible, be the same as specified in section 19(2).

26. Correction of adjudication record.

- (1) At any time before the adjudication record becomes final, the Adjudicator may —
 - (a) correct in the record any error or omission not materially affecting the interests of any person; and
 - (b) after taking such steps as he thinks fit to bring to the notice of every person whose interest is affected his intention to make any material alteration in the record which he considers necessary, and after

giving such person an opportunity to be heard, make such alteration.

- (2) Any correction or alteration made in the adjudication record shall be also made on the demarcation map if necessary.

27. Finality of adjudication record.

After the expiration of the period declared under section 24, or when all petitions presented to the tribunal under section 25 have been determined, whichever is the later, the Adjudicator shall —

- (a) sign and date a certificate to the effect that the adjudication record is final;
- (b) forthwith give notice of such certificate and of the place and times at which the final adjudication record or an official copy thereof can be inspected; and
- (c) deliver to the Registrar, for compilation of the register in accordance with the Registered Land Act, 2024, the adjudication record, demarcation map and all other documents received by him in the process of adjudication.

28. Appeal to Court.

- (1) Any person aggrieved by any act or decision of the Adjudicator who desires to question such act or decision or any part thereof on the ground that it is erroneous in point of law or on the ground of failure to comply with any procedural requirement of this Act, may appeal to the Court within six months from the date of the certificate of the Adjudicator given under section 27 or within such extended time as the Court may, on good cause being shown, allow.
- (2) On such appeal the Court may, if satisfied that the decision is erroneous in point of law or that the interests of the appellant have been substantially prejudiced by the failure of the Adjudicator to comply with the procedural requirements of this Act, make such order or substitute for the decision of the Adjudicator such decision as it may consider just and may order, in such manner as it may think fit, rectification of the register kept under the Registered Land Act, 2024.
- (3) Any person aggrieved by an order or decision of the Court may appeal to the Court of Appeal in accordance with section 10 of the Court of Appeal Act (*Ch. 52*) governing appeals in civil proceedings and the Court of Appeal may, upon such appeal —
 - (a) either affirm, reverse or amend the order or decision of the Court; and

- (b) order, in such manner as the Court of Appeal may think fit, rectification of the register kept under the Registered Land Act, 2024; and
 - (c) make such order as to costs in the Court, and as to costs of the appeal as the Court of Appeal thinks proper.
- (4) A decision of the Court, on appeal under subsection (1) or of the Court of Appeal under subsection (3), shall be in writing and copies of it shall be furnished by the court in question to the Registrar, the appellant and all other parties to the appeal and, by the Registrar to all other parties who, in his opinion, may be affected by the appeal.
- (5) Any person appealing under subsection (1) shall give notice to the Registrar of his intention to appeal, and the Registrar shall forthwith make an order under section 132(1) of the Registered Land Act, 2024 prohibiting or restricting dealings with any land entered in the register and affected by the appeal.

PART VI – MISCELLANEOUS

29. Offences.

- (1) Any person who —
- (a) after delivery of a summons issued under this Act, wilfully neglects or refuses to attend in pursuance of such summons, or to produce any document which he is required to produce;
 - (b) wilfully neglects or refuses to answer upon oath or otherwise any question which may be lawfully put to him by any officer or member of the tribunal at any time;
 - (c) without reasonable cause wilfully neglects or refuses to indicate his land or assist in the demarcation of his land when required to do so by a Demarcator;
 - (d) following the adjudication, wilfully refuses to vacate the land or any part thereof determined by the adjudication not to belong to him,
- commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars and to imprisonment for six months or to both such fine and imprisonment.
- (2) Any person who knowingly submits fraudulent documents in support of a claim or objection made in accordance with this Act, commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars and to imprisonment for two years or to both such fine and imprisonment.

30. Indemnity of officers.

No officer or member of a tribunal shall be liable to any action or proceedings in respect of any act or matter done or omitted to be done in good faith in exercise of the powers conferred by this Act or any regulations made thereunder.

31. Regulations.

- (1) The Minister may make regulations for the purpose of carrying into effect the provisions and purposes of this Act.
- (2) Without prejudice to the generality of subsection (1), the Minister may make regulations for —
 - (a) the appointment, remuneration and regulation of a land adjudication tribunal, demarcator, records officer and surveyor;
 - (b) the form for submission of a claim for declaration of title to land or interest in or right to land;
 - (c) providing a scale of compensation for awards made by the Demarcator under section 16(1)(e);
 - (d) the form of the adjudication record;
 - (e) fees to be charged in connection with a dispute or objection made under sections 19, 20 or 25;
 - (f) a code of conduct to govern members of the tribunal, demarcators, surveyors and records officers in the execution of their functions and powers under the Act.