

**ANTIGUA AND BARBUDA**



**REGISTERED LAND (AMENDMENT) BILL, 2022**

**No. of 2022**



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**ARRANGEMENT OF SECTIONS**

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**ANTIGUA AND BARBUDA**  
**REGISTERED LAND AMENDMENT BILL, 2022**  
**NO. OF 2022**  
**BILL FOR**

**AN ACT** to amend the Registered Land Act, Cap. 374 to make provision to revise the procedures relating to the mutation of the land register, the subdivision of contiguous parcels, the regulation of land reclamation and the use of the foreshore and seabed for purposes other than their use as a public right of way, navigation, fishing and relaxation.

**ENACTED** by the Parliament of Antigua and Barbuda as follows:

**1. Short title**

This Act may be cited as the Registered Land (Amendment) Act, 2022

**2. Interpretation**

In this Act—

“principal Act” means the Registered Land Act, Cap. 374

“foreshore” means the shore of the sea or of channels of creeks that is alternately covered and uncovered by the sea at the highest and lowest tides;

“reclamation of land” or “reclamation” includes the construction of bridges, piers, docks, quays, wharves, embankments, sea walls and other structures;

“sea-bed” means the bed of all territorial and inland tidal waters.

**3. Amendment of section 16-Mutation**

**Section 16 of the principal Act is amended by the insertion after subsection (2) thereof of the following-**

“(3) Where, pursuant to subsection (1), the process of mutation is commenced but remains uncompleted for a period of eighteen months, the Registrar may discontinue the mutation process and, by notice in the Official Gazette, publish the names and addresses of all applicants whose application for mutation have been discontinued and request such applicants to reapply.

#### **4. Repeal and substitution of section 21-Combinations and subdivisions**

##### **Section 21 of the principal Act is repealed and substituted by the following-**

- (1) “Where a contiguous parcel of land is owned by the same proprietor and is subject in all respects to the same rights and obligations, the proprietor may apply to the Registrar for a subdivision of such contiguous parcel.
- (2) The Registrar may, upon receipt of an application of a proprietor for a subdivision of a contiguous parcel and, on payment of the prescribed fee, make an order approving the subdivision and, cause notice of the order to be forwarded to the Chief Land Surveyor on a mutation form for an amendment of the Survey Map.
- (3) The Registrar shall, upon receipt of a notice of the Order made by the Chief Land Surveyor pursuant to subsection (2), give effect to the Order by closing the register relating to the contiguous parcel and opening a new register for the parcels created by the subdivision.
- (4) The Registrar shall not approve an application for a subdivision of a parcel subject to a lease, unless the application is accompanied by the written consent of the lessor or, in the case of a parcel subject to a sub-lease, by the written consent of the head lessor.
- (5) Upon notice from the Chief Land Surveyor that the Survey Map has been amended in accordance with an order made pursuant to subsection (2), the Registrar shall subdivide the parcel in respect of which the application is made by closing the register relating to the parcel affected and opening a new register for the new parcels created by the subdivision, and recording in the new register all the subsisting entries appearing in the closed register.
- (6) Where a proprietor applies for approval to subdivide a parcel for the purpose of building development, the Registrar may, prior to approving the application, require the proprietor to submit a plan of the proposed subdivisions prepared by a surveyor licensed under the Land Surveyors Act, Cap. 239 and certified by the Chief Land Surveyor that the proposed plan is in compliance with the requirements of the planning regulations.”

#### **5. Insertion of Sections 162, 163, 164, 165, 166, 167 and 168**

##### **“162 Ownership of the foreshore and seabed.**

- (1) Subject to the public right of way, navigation, fishing and relaxation, the ownership of the foreshore and seabed shall vest in the Crown.
- (2) No person shall erect any building or structure on the foreshore, or on or over the seabed without having first obtained a licence from the Minister.

- (3) Any person who desires to erect any building or structure on the foreshore, or on or over the seabed may apply to the Minister responsible for the Environment for a licence to undertake such construction.
- (4) On receipt of an application under subsection (3), the Minister shall direct the Chief Environmental Officer to conduct an investigation of the area where the proposed construction is to take place and determine the effect such construction may have on the environment or to make such recommendations as he considers appropriate.
- (5) Where the Chief Environmental officer advises the grant of a licence for the construction on or over the seabed the Minister shall notify any interested party in the area where the proposed construction is to take place.
- (6) The Minister may, by regulation-
  - (a) make rules to govern the construction of buildings or erection of other structures on the foreshores, or on or over the seabed, and
  - (b) prescribe fees for licences and activities other than the exercise of the existing public rights.

**163 Reclamation of land.**

- (1) The Minister may, subject to the provisions of this section authorise the reclamation of land on the mainland or on the foreshore of Antigua and Barbuda.
- (2) Any person, who proposes to engage in land reclamation in any part in Antigua and Barbuda may apply to the Minister in the prescribed form for a licence to engage in such land reclamation.
- (3) The Minister shall, upon receipt of the application, pursuant to subsection (2) notify any interested party and the public in general, of the proposed land reclamation.
- (4) The notification referred to in subsection (3) shall be published in-
  - (a) four successive issues of the Official Gazette;
  - (b) two issues of any newspaper circulating in Antigua and Barbuda; and
  - (c) three (3) successive radio announcements on the Government Radio Station; and
  - (d) a notice posted at a prominent place on the affected land for a period of three weeks.
- (5) The notification referred to in subsection (3) shall –
  - (a) describe the proposed reclamation and give the approximate size of the area to be reclaimed, and
  - (b) invite any interested party objecting to the reclamation or alleging loss of a right in respect thereof to submit his objections or loss of a right in writing, specifying the

nature of his objection and, in the case of any allegation of loss or damage, which may be suffered, the estimated cost of such loss or damage.

- (6) Where after receiving the objections and claims, the Minister considered it expedient so to do, he may appoint a committee of three persons and designate one of them as chairperson to inquire into the objections, the alleged losses and any other matter which he considers relevant to enable him to determine the application for approval.
- (7) The Minister may, after considering the report, determine whether to authorise the reclamation or not and, if he authorises the reclamation, he may impose on the applicant such conditions as he considers necessary for the protection of any public rights existing prior to the grant of approval.

#### **164.Reclaimed land to be vested in the Crown**

Any land reclaimed otherwise than under section 165 (2) shall vest in the Crown and the Cabinet may deal with the reclaimed land in a manner that is consistent with the public interest.

#### **165.Licence to reclaim land on the foreshore does not constitute a right**

- (1) Without prejudice to any public or private rights that may be affected thereby, this Act shall not apply to the filling by a landowner of the whole or any portion of the foreshore that borders on his land.
- (2) Nothing in subsection (1) shall be deemed to recognize or create any right or claim, or any greater right or claim than but for that subsection would exist and be recognized and enforceable by action in Court.

#### **166.Extinguishment of right**

Upon publication of the authorization of a proposed land reclamation,

all public and private rights of navigation or fishing and rights ancillary thereto,

all public and private rights of access or user,

all other public or private rights (if any) in, upon or

over the foreshore or sea-bed occupied by the proposed reclamation shall be extinguished and cease to exist.

#### **167. Limitation of claims**

- (1) Save as provided by this Act, no claim shall at anytime be made, action brought or continued in respect of the extinguishment under section 166 in whole or in part of any public or private right or in respect of the injurious affection, resulting from the reclamation, of any public right.





### EXPLANATORY MEMORANDUM

1. The purpose of this Bill is to amend the Registered Land Act, Cap. 374 to authorize the Registrar to discontinue and cancel all uncompleted applications for mutation of the Register that have remained pending for six (6) months or more. To give effect to these proposals, the Bill proposes to amend section 16 of the Act by inserting after subsection (2) thereof of, a new subsection (3), which authorises the Registrar to discontinue any application for mutation of the Register that remains uncompleted for six (6) months or more to be discontinued and the applicant be required to reapply.
2. Clause 4 of the Bill also proposes to repeal section 21 of the Act to address a request for the division of contiguous parcels of land owned by the same proprietor and subject in all respects to the same rights and obligations. The Bill proposes to repeal section 21 and replace it with a series of procedures to be followed when subdividing contiguous parcels of land. These procedures include, among others, a provision authorizing the Registrar to make an order approving the request for a subdivision and forwarding the order to the Chief Land Surveyor in a mutation form, authorising him to amend the survey map. On receipt of the amended survey map, the Registrar would proceed to give effect to the order, by closing the existing register in relation to the contiguous parcels and opening a new register for the parcels resulting from the subdivision.
3. The proposed amendment also prohibits the Registrar from subdividing a parcel of land, which is subject to a lease, unless the application requesting a subdivision is supported by the written consent of the lessor or, in the case of a parcel subject to a sublease, by the written consent of the head lessor. Clause 4 further provides that, where an application for a subdivision of a parcel is intended for building development, the Registrar shall, as a first step, request from the applicant a plan of the proposed subdivisions, prepared by a licensed surveyor licensed under the Surveyors Act, Cap. 239, which complies with the planning regulations in force at the date of the application.
4. Clause 6 of the Bill proposes to amend the Act by adding three sections to the current Registered Land Act. These are sections 162,163 and 164. Section 163 declares the ownership of the foreshore and the seabed as areas, which subject to the public right of navigation, fishing and relaxation, are vested in the Crown. Following this declaration, the Bill introduces a series of procedures to regulate the use of the foreshore and seabed for purposes other than the existing public rights. Subsections (2) and (3) therefore restrict the use of the foreshore and seabed for

purposes other than the existing public rights on grant of a licence issued by the Ministers.

Subsection (3) proposes that a licence issued pursuant to this section shall be subject to such conditions, including fees as the Minister may by regulation prescribe.

5. With respect to land reclamation, section 163 prohibits land reclamation in any part of Antigua and Barbuda without a licence issued by the Minister. Clause 6(2) of the Bill requires any person who proposes to reclaim land in Antigua and Barbuda to apply to the Minister for a licence. Prior to the Minister's approval for land reclamation, a series of procedures, including notification to interested parties in the area where the land is to be reclaimed. The notice shall describe the proposed reclamation and give the appropriate area and size of land to be reclaimed, and invite interested parties objecting to the reclamation, or alleging any loss of rights thereof to submit their objections or loss of rights in writing, and in the case of loss or damage which may be incurred, the estimated cost of such loss or damage.
6. The notification is required to be published in the Official Gazette and in a newspaper circulating in Antigua and Barbuda and by radio announcement. To address the concerns and objections of interested parties, the Bill proposes to authorize the Minister to appoint a committee of three persons to enquire into the concerns of the interested parties and advise him on the matters contained in their objections and allegations of losses arising out of the reclamation.
7. The Bill further authorizes the Minister in the case of granting approval of an application for reclamation to impose on an applicant any condition that he considers necessary for the protection of any existing public right.
8. Finally, the Bill vests ownership of any reclaimed land in the Crown, and authorizes the Cabinet to deal with reclaimed land in a manner consistent with the public interest.

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**Hon. Steadroy C.O. Benjamin**

Attorney General and

Minister with responsibility Justice, Legal Affairs,

Labour and National Security

