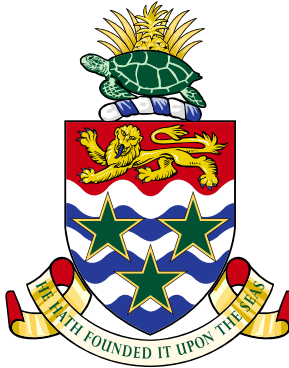


CAYMAN ISLANDS



LAND ADJUDICATION LAW

(1997 Revision)

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CAYMAN ISLANDS



LAND ADJUDICATION LAW
(1997 Revision)

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CAYMAN ISLANDS



LAND ADJUDICATION LAW

(1997 Revision)

ENACTED by the Legislature of the Cayman Islands.

PART I - Introductory

Short title

1. This Law may be cited as the *Land Adjudication Law (1997 Revision)*.

Definitions

2. In this Law —

“**absolute title**” has the meaning ascribed to it in the *Registered Land Law (1995 Revision)*;

“**adjudication area**” means an area to which this Law has been applied under section 3;

“**adjudication record**” means the adjudication record prepared under section 18 in respect of an adjudication section;

“**adjudication section**” means an adjudication section declared under section 5;

“**Adjudicator**” means an Adjudicator appointed under section 4;

“**Court**” means the Grand Court of the Islands;

“**Court of Appeal**” means the Court of Appeal of the Islands;

“**Demarcator**” means a Demarcator appointed under section 4;

“**demarcation map**” means a demarcation index map prepared under section 13 in respect of an adjudication section;

“**Governor**” means the Governor in Council;

“**guardian**” means any person responsible for protecting the interests of any person who is under disability due to any cause;

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

“**land**” includes land covered by water, all things growing on land, buildings and other things permanently affixed to land;

“**Member**” means a member of the Special Tribunal;

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

“**President**” means the President of the Special Tribunal;

“**provisional title**” has the meaning ascribed to it in the *Registered Land Law (1995 Revision)*;

“**Records Officer**” means a Records Officer appointed under section 4;

“**Registrar**” means the Registrar of Lands appointed under the *Registered Land (1995 Revision)*;

“**Special Tribunal**” means the Special Land Disputes Tribunal established by section 24;

“**Surveyor**” means a qualified Land Surveyor appointed under section 4(2);

“**Tribunal**” means the Land Adjudication Tribunal established by section 4; and

“**undetermined appeal**” means an appeal to the Court brought under section 23(1), in respect of which that Court has, prior to the 7th May, 1979, ordered a reference back to the Adjudicator or the Tribunal referred to in Section 2, or, on or after the 7th May, 1979, to the Special Tribunal.

Application

3. (1) The Governor in Council may, from time to time, declare 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 Law and on, and with effect from such date, this Law shall apply thereto.
- (2) The Governor in Council may, at any time, revoke or amend any declaration made under subsection (1).
- (3) Every declaration made under subsection (1) or (2) shall be published by Government Notice for three successive weeks.



PART II - Land Adjudication Tribunal and Officers

Establishment of Land Adjudication Tribunal and appointment of officers

4. (1) On the publication of a declaration under section 3, the Governor shall appoint a Land Adjudication Tribunal for the adjudication area. The Tribunal shall consist of an Adjudicator and two Assessors to be selected by the Adjudicator from a panel of four Assessors to be appointed by the Governor from amongst persons having local knowledge of the area. The Adjudicator shall be in charge of the adjudication, preside over the Tribunal and himself adjudicate upon and determine the matters referred to the Tribunal, but in so doing he shall consult with the Assessors comprising the Tribunal and record their opinions on local matters, customs and conditions, but shall not be bound to follow them.
- (2) 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 Law.
- (3) The Adjudicator may issue such general or special directions as he thinks necessary to the officers appointed by him under subsection (2), and may himself perform and exercise all or any of the duties and powers given under this Law to such officers, save that of the Records Officer and save that, unless he is himself a qualified surveyor, he shall not perform the technical functions of a surveyor.
- (4) The Adjudicator shall be competent to administer oaths and take affidavits in any enquiry made by the Tribunal 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.
- (5) A Demarcator or a Surveyor may, at any reasonable time, 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.

PART III - Claims and Demarcation

Adjudication sections

5. The Adjudicator may divide the adjudication area into two or more adjudication sections or declare the whole area to be a single adjudication section, and shall give each adjudication section a distinctive name.



Notice by Adjudicator

6. (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 will be ascertained and recorded in accordance with this Law;
 - (c) require any person who claims any interest in land within the adjudication section to make a claim thereto either in person or by agent within the period, not being less than two months, to the person, at the place and in the manner specified in the notice; and
 - (d) require all claimants to 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 —
- (a) such notice to be published at the office of the Governor in a local newspaper and such other places within the Islands as he thinks fit; and
 - (b) the substance of such notice to be made known throughout the adjudication area and elsewhere, in such manner as he considers to be most effective, for the purpose of bringing to the attention of all persons affected thereby.

Staying of land suits

7. (1) Except with the consent in writing of the Adjudicator, no action concerning land or rights to land in an adjudication section shall be begun in any civil court until proceedings under this Law have been completed.
- (2) The hearing of any such action which was begun before the publication of the notice under section 6 shall, where practicable, be determined before the adjudication of the land affected by the action is commenced.
- (3) Any hearing which has not been completed before such adjudication is commenced shall, unless the Adjudicator otherwise directs, be stayed.

Claims and attendance

8. (1) Every person claiming any land or 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 6.
- (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 agent, the demarcation, recording or other proceeding may continue in his absence.

Safeguarding of rights of absent persons and minors, etc.

9. (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, but shall not be bound to, proceed as if a claim had been made, and may require the proper officer to furnish certified copies of any documents of title relevant thereto which may be recorded under the *Public Recorder Law (1995 Revision)* or registered under the *Registration (Land) Law (1996 Revision)*.
- (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, he shall appoint a guardian in that behalf and shall proceed as if a claim had been made.

Notice of demarcation and recording

10. (1) Not less than seven clear days before the demarcation of land in an adjudication section is begun, the Demarcator 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 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.

Indication of land claimed

11. Subject to any general or particular directions issued by the Adjudicator, the Demarcator shall, within each adjudication section —
- (a) see that the boundaries of each piece of land, which is the subject of a claim, are indicated or demarcated in accordance with the requirements of the notice given under section 10; and
 - (b) indicate or cause to be indicated the boundaries of —
 - (i) public roads, public rights of way and other Crown land; and
 - (ii) waste or unclaimed land.

Special powers of Demarcator

12. (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 reallot the same to ensure the more



beneficial occupation thereof or to effect a more suitable subdivision thereof;

- (c) make any reservations he considers necessary for the purposes of defining existing roads and paths or for the better drainage of any 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 land 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:

Provided that any award may be the subject of an objection under section 20;

- (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 fifty dollars.
- (2) Any order for the payment of compensation, expenses or costs made against the owner of any land shall create a debt to be charged on such land which shall have priority over all other debts whatever except debts due to the Crown.

Duties of Surveyor

13. 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.

Duties of Records Officer

14. 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 18, a record in respect of every parcel of land shown on the demarcation map.



Disputes**15. (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 brief record of the proceedings.
- (3) Parties affected or liable to be affected by an adjudication may be heard through their representatives who need not necessarily be persons admitted to practice law in the Islands.

PART IV - Principles of Adjudication and Preparation of the Adjudication Record

Principles of adjudication**16. (1)** In preparing the adjudication record —

- (a) if the Records Officer is satisfied 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 for an uninterrupted period of twelve years or more; or
 - (ii) has a good documentary title to the 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) if the Records Officer is satisfied 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, subject to paragraph (e), record the land as Crown land;



- (c) if the Records Officer is satisfied 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 Law (1995 Revision)* 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) if the Records Officer is satisfied 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; or
- (e) when land has been recorded as Crown land under paragraph (b), if, nevertheless, the Records Officer is satisfied that a person has in good faith carried out reasonable development with respect to the land, he shall recommend to the Governor that a grant of such land or a part thereof be made to such person on such terms as the Governor may determine, and, unless the land is immediately required for public purposes, the Governor shall make such a grant:

Provided, however, that if such grant is not made because the land is required for public purposes, such person shall be entitled to reasonable compensation in respect of such development.

(2) For the purpose of this section —

- (a) 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, actually uses or has used the land to the exclusion of the public:

Provided that where it is established, whether by local custom or otherwise, that any parcel of land includes an area of swamp or cliff land, occupation or use of the other areas of such parcel shall be deemed to imply possession of the swamp or cliff land also; and

- (b) “**good documentary title**” means a title evidenced by documents which establish that a person is entitled to land in fee simple and commencing with a grant, conveyance, assignment, mortgage or other good root of title which is more than twelve years old.



- (3) The Records Officer shall follow the rules laid down in section 17.
- (4) 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.

Rules to be followed in adjudication

- 17.** (1) All unclaimed and unoccupied land shall be deemed to be Crown land.
- (2) 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.
 - (3) 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.
 - (4) Where two or more persons have rights which entitle them to be registered as joint proprietors or proprietors in common under the *Registered Land Law (1995 Revision)*, 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.
 - (5) A receipt shall be given by the Records Officer for all documents produced by a claimant and retained.

Adjudication record

- 18.** (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 in 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 Law (1995 Revision)* 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 shown in the adjudication record is under disability, whether by reason of age, unsoundness of mind or otherwise, 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 paragraph (c) of subsection (1) as having an interest in such parcel, that such owner and every other such person accepts the record.

Notice of completion of adjudication record

19. 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 two months, during which and the manner in which petitions under section 20 may be presented.

PART V - Objections And Finality

Objection to adjudication record

20. Whoever, including the Governor, is aggrieved by any entry in or omission from any completed adjudication record may, at any time during the period declared under section 19, 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 4 (1).

Correction of adjudication record

21. 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.



Finality of adjudication record

- 22.** After the expiration of the period declared under section 19, or when all petitions presented to the Tribunal under section 20 have been determined, whichever is the later, the Adjudicator shall sign and date a certificate to the effect that the adjudication record is final, and 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 deliver to the Registrar, for compilation of the register in accordance with the *Registered Land Law (1995 Revision)*, the adjudication record, demarcation map and all other documents received by him in the process of adjudication.

Appeal to Court

- 23.** (1) Whoever, including the Governor, is aggrieved by any act or decision of the Adjudicator and desires to question it or any part of it 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 Law, may appeal to the Court within thirty days from the date of the certificate of the Adjudicator given under section 22 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 failure to comply with the procedural requirements of this Law, 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 Law (1995 Revision)*.
- (3) Whoever, including the Governor, is aggrieved by an order or decision of the Court may appeal to the Court of Appeal in accordance with the *Court of Appeal Law (1996 Revision)* governing appeals in civil proceedings (but restricted to the matters stated in subsection (1)) and the Court of Appeal may, upon such appeal, either affirm, reverse or amend the order or decision of the Court and may order, in such manner as the Court of Appeal may think fit, rectification of the register kept under the *Registered Land Law (1995 Revision)*, and may also 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, including the Governor, 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 Law (1995 Revision)* prohibiting or restricting dealings with any land entered in the register and affected by the appeal.

- (6) An appeal under subsection (1) shall be in such form and the parties thereto shall be liable to the payment of such fees as may be prescribed.

PART VI - Special Land Disputes Tribunal

Special Tribunal

24. There is established a Special Land Disputes Tribunal consisting of a President and two members, appointed by the Governor to hold office, from time to time, at his pleasure.

Functions of Special Tribunal

25. The function of the Special Tribunal is, subject to section 31(1), to resolve all undetermined appeals.

Procedure of Special Tribunal

26. The Special Tribunal shall sit at such times and places as may be determined by the President and shall arrive at its decisions by majority vote, the President and two members forming a quorum.

Powers of Special Tribunal

27. (1) In order to reach its decisions, the Special Tribunal shall —
- (a) give audience to the parties or their attorneys-at-law;
 - (b) have access to and take into account and may act upon all former records and proceedings in the case under trial;
 - (c) have power to hear evidence on oath;
 - (d) have the like power as the Court to summon witnesses, call for or permit the production of exhibits and punish for contempt; and
 - (e) subject to the other provisions of this Law, be bound by the laws and rules of evidence affecting the Court.
- (2) The Special Tribunal shall not permit the introduction of fresh evidence unless —
- (a) the party seeking to propound such evidence can show, to the satisfaction of the Special Tribunal, that such evidence was not available or could not be by the exercise of reasonable diligence by that party have been made available in earlier proceedings; or



- (b) the Special Tribunal is of opinion that no sufficient evidence was available in the former proceedings to enable a fair and just decision to be reached.

Position of Crown

- 28.** Unless a party to an appeal, the Crown shall have no right of audience before the Court but, if the Special Tribunal should find that any land in dispute rightfully belongs to neither party thereto, such land shall vest in the Crown.

Findings of Special Tribunal

- 29.** (1) The Special Tribunal, after hearing the parties to an appeal, shall record its findings and make an order dealing with all the land the subject of the appeal and all rights thereover and all liabilities affecting it and every part of it and direct the order to the Registrar of Lands in a form enabling the Registrar to confirm or rectify the Land Register accurately to reflect the findings of the Special Tribunal.
- (2) The Registrar of Lands shall, in making any rectification of the Land Register, treat the same as a rectification on transmission.
- (3) At the disposal of a case brought before it, the Special Tribunal shall make such order for costs as appears to meet the justice of the case and such costs shall be taxable on the Court scale.

Findings of Special Tribunal subject to the slip rule

- 30.** The findings of the Special Tribunal shall be final and binding on all parties affected thereby, subject to section 31(1), but, where any patent and manifest inadvertent error appears therein, the Special Tribunal may correct the same within thirty days either of its own motion or with the consent of the parties.

Appeal from Special Tribunal to Court

- 31.** (1) Subject to subsection (2), the decisions of the Special Tribunal are subject to appeal to the Court whose findings shall be in the form provided by section 29.
- (2) The parties to any dispute before the Special Tribunal may, by mutual consent, before the commencement of the hearing, waive their right of appeal under subsection (1) by giving notice to the Tribunal in that behalf, in which case the Court shall have no appellate jurisdiction.
- (3) Subject to this Law, the Rules of Court for Civil Appeals from the Summary Court to the Court shall apply *mutatis mutandis* to appeals from the Special Tribunal to the Court under subsection (1).

Avoidance of doubt

- 32.** (1) For the avoidance of doubt it is hereby declared that the Court has no jurisdiction after the 7th May, 1979 to refer any matter arising out of an appeal under section 23(1) back to the Adjudicator or the Tribunal, and both the Adjudicator and the Tribunal are hereby declared to be *functus officio*, but in hearing appeals from the Special Tribunal it has the like power as that Tribunal to hear and act upon further evidence as it deems necessary.
- (2) Nothing in this Law derogates from the normal right of appeal in civil cases from decisions of the Court.

PART VII - Miscellaneous**Offences****33.** Whoever —

- (a) after delivery of a summons issued under this Law, 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; or
- (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,

is guilty of an offence and liable on summary conviction to a fine of two hundred dollars and to imprisonment for twelve months.

Indemnity of officers

- 34.** No officer or member of the Tribunal shall be liable to any action or proceedings in respect of any act or matter in good faith done or omitted to be done in exercise or supposed exercise of the powers conferred by this Law or any regulations made thereunder.

Regulations

- 35.** The Governor may make regulations for the purpose of carrying into effect the provisions and purposes of this Law.



**Publication in consolidated and revised form authorised by the Governor in Council
this 2nd day of September, 1997.**

Carmena H. Parsons
Clerk of Executive Council

