



ST. CHRISTOPHER AND NEVIS

CHAPTER 10.09

LAND DEVELOPMENT ACT

Revised Edition

showing the law as at 31 December 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, No. 9 of 1986.

This edition contains a consolidation of the following laws—

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CHAPTER 10.09
LAND DEVELOPMENT ACT

AN ACT TO REGULATE THE LEASING OF AGRICULTURAL LANDS; TO IMPLEMENT A PROJECT DESIGNED TO IMPROVE THE LEVEL AND DIVERSITY OF AGRICULTURAL DEVELOPMENT IN SAINT CHRISTOPHER AND NEVIS THROUGH CHANGES IN THE INCENTIVE FRAMEWORK; TO PROVIDE SECURITY OF TENURE TO TENANT FARMERS OF AGRICULTURAL LANDS; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Land Development Act.

Interpretation.

2. In this Act, unless the context otherwise requires—

“agricultural land” means land used or capable of being used for agriculture within the meaning given in this Act and shall include private lands and Crown lands;

“agriculture” includes—

- (a) the growing of food crops, spices, condiments, industrial crops, vegetables, fruits, flowers, pasture and fodder;
- (b) dairy farming, livestock rearing and breeding;
- (c) plant and fruit nurseries; and
- (d) sugar cane cultivation;

“evict” means, in relation to a tenant farmer, to deprive by using direct or indirect methods that tenant farmer of his or her right to use, occupy and cultivate the whole or any area of agricultural land let to him or her;

“landlord”, with reference to agricultural land, means the person who is entitled to the rent in respect of such land leased to any person, under the provisions of this Act;

“lease” means any lease entered into pursuant to this Act;

“prescribed bank” means such bank as may be prescribed under this Act;

“Registrar” means the Registrar of Titles;

“tenant farmer” means the person or body of persons in whose favour a lease is subsisting under this Act.

PART II

TENANT FARMERS OF AGRICULTURAL LANDS

Grant of Lease and qualifications of Lessee.

3. (1) Subject to the provisions of this Act, the proprietor of agricultural land may lease the land or any part thereof to any of the persons listed in subsection (3) for the purpose of agriculture.

(2) The lease shall be accompanied by a plan made by a licensed surveyor or other description which the Registrar, in his absolute discretion, deems adequate to identify the land leased.

(3) The persons referred to in subsection (1) are—

- (a) citizens of Saint Christopher and Nevis;
- (b) companies incorporated in Saint Christopher and Nevis other than the St. Kitts Sugar Manufacturing Corporation;
- (c) co-operatives, Farmers' Associations, Credit Unions and similar associations organized in Saint Christopher and Nevis; and
- (d) St. Kitts Sugar Manufacturing Corporation, on prior agreement and terms mutually agreed with the Government,

with experience in agriculture or with the ability to contribute to the agricultural sector and who in either case, are committed to assist in improving the level and diversity of Agricultural Development in Saint Christopher and Nevis.

(4) A lease granted under this Act shall be for a maximum period of thirty-five years, subject to renewal for a further maximum term of thirty-five years in accordance with the provisions of the Lease.

(5) The rental to be charged in a lease shall be determined in accordance with the formula established by regulations made under this Act.

Registration of Lease.

4. (1) A lease granted under this Act shall be prepared in triplicate in the form set out in the First Schedule and shall be dealt with by the Registrar by—

- (a) opening a Register in respect of the lease in the name of the lessee;
- (b) filing the lease and retaining a copy of the lease;
- (c) noting the lease on the certificate of title of the proprietor of the land in the same manner as an incumbrance; and
- (d) issuing a copy of the lease to the proprietor of the land comprised in the lease.

(2) Notwithstanding the provisions of section 57 of the Title by Registration Act, Cap. 10.19 the warrant to authorise the Registrar to make a noting under paragraph (c) of subsection (1) shall be a lease in the form set out in the First Schedule.

Certificate of lease.

5. (1) The Registrar shall, upon compliance with the provisions of section 4, issue to the lessee, a certificate of lease in the form set out in the Second Schedule showing all subsisting entries in the Register affecting the lease, and annex to such

certificate a copy of the lease filed under section 4, and the Registrar shall retain for his or her files a copy of the Certificate of lease.

(2) The Registrar shall, in appropriate circumstances, make such notes and keep such records in relation to certificates of lease, as are similar to those required to be made and kept in relation to certificates of title issued under the Title by Registration Act.

(3) A certificate of lease shall be *prima facie* evidence of all matters shown in that certificate.

Circumstances in which a tenant of agricultural land is regarded as its tenant farmer.

6. Where any person is the lessee of any agricultural land leased to him or her under any written agreement made after the coming into operation of this Act, he or she shall, subject to the provisions of this Act, be the tenant farmer of that land.

Right of tenant farmer.

7. A tenant farmer of agricultural land shall have the right to occupy and use such land in accordance with the provisions of this Act and shall not be evicted from such land except in accordance with this Act and the written agreement by which such land has been leased to the tenant farmer and no person shall interfere with the occupation and use of such land by the tenant farmer so long as such agricultural land is developed and used in accordance with the lease agreement.

Arbitration.

8. All disputes and differences or any matter touching any rights or remedies to be enforced in any court which shall arise between the parties under this Act shall first be referred to arbitration under the provisions of the Arbitration Act, Cap. 3.01, or any Act amending or replacing the same.

Notice before forfeiture.

9. Notwithstanding anything to the contrary contained in the lease, a landlord shall not be entitled to exercise the right of forfeiture for the breach of any agreement or a condition in the lease, whether expressed or implied, until the landlord has served on the tenant farmer a notice—

- (a) specifying the particular breach complained of;
- (b) if the breach is capable of remedy, requiring the tenant farmer to remedy the breach within such reasonable period as is specified in the notice; and
- (c) in any case, other than non-payment of rent, requiring the tenant farmer to make compensation in money for the breach,

and the tenant farmer has failed to remedy the breach within a reasonable time thereafter, if it is capable of remedy, and to make compensation in money.

Relief against forfeiture.

10. (1) A tenant farmer upon whom a notice has been served under section 9 or against whom the landlord is proceeding, by action or re-entry, to enforce his or her right of forfeiture, may apply to the magistrate's court for relief, and such court may grant or refuse relief, as the court, having regard to the proceedings and the conduct

of the parties and the circumstances of the case, thinks fit, and if it grants relief, may grant it on such terms as it thinks fit.

(2) The Magistrate's Court on application by any person claiming as sublessee or chargee of any interest in the property or part of the property comprised in the lease forfeited or sought to be forfeited, may make an order vesting the property or such part in such sublessee or chargee for the whole period of the lease or any less period, upon such conditions as the Court in the circumstances of the case thinks fit:

Provided that nothing in this subsection shall apply in the case of a forfeiture arising from a breach to which the sublessee is a party or from the breach of an express agreement or condition against subleasing, parting with the possession of or disposing of the property leased.

(3) For the purposes of this section, a lease limited to continue as long only as the tenant farmer abstains from committing a breach of agreement or condition shall be and take effect as a lease to continue for any longer term for which it could subsist, but terminable by a provision for re-entry on such breach.

(4) Nothing in this section shall empower the Magistrate's Court to grant relief against forfeiture for non-payment of rent.

(5) This section shall have effect notwithstanding any agreement to the contrary.

Obligations of a tenant farmer.

11. A tenant farmer of any agricultural land shall pay to the landlord of such land rent in accordance with the provisions of the lease agreement.

Liability for existing lease on sale or devolution of estate.

12. On the alienation or devolution of ownership of agricultural land the incoming owner of such land shall be bound by any lease subsisting at the time of such alienation or devolution, and the incoming owner shall be liable for the performance of the obligations under the lease in the same manner and to the same extent as, but for such alienation or devolution, the former owner would have been liable.

Power of nomination.

13. (1) A tenant farmer may, by instrument in writing signed by him or her in the presence of two attesting witnesses and delivered at or sent to the Ministry of Agriculture during the lifetime of the tenant farmer, nominate any person qualified under section 3, to whom shall be assigned at the time of his or her decease, any lease subsisting under this Act.

(2) A nomination so made may be revoked or varied by a subsequent nomination signed, attested and delivered, or sent or made as aforesaid, or by any similar document in the nature of a revocation or variation signed by the nominator in the presence of two attesting witnesses and delivered, sent or made as aforesaid, but shall not be revocable or variable by the will of the nominator or by any codicil to the will.

(3) The Ministry of Agriculture shall keep a book wherein the names of all persons so nominated and all revocations or variations, if any, of such nominations shall be recorded.

(4) Upon the death of the tenant farmer the Ministry of Agriculture shall deliver the instrument or other document made under this section to the person nominated for transmission to the Registrar.

Issue of new certificate of lease on death of tenant farmer.

14. The Registrar shall, upon receipt of any instrument or other document under section 13.(4), or upon receipt of any request or transfer under section 15, issue to the person named in such instrument, document, request or transfers as the new tenant farmer, a certificate of lease to the agricultural land and shall note on the certificate of lease in the name of the deceased tenant farmer (the original of which, in whose hands the same may be, shall be delivered up to him or her) such matters as are required to be noted in accordance with section 5.(2) and shall cancel the certificate in favour of the deceased.

Transmission on death of tenant farmer.

15. (1) Where the tenant farmer dies without making any nomination under section 13 or the person nominated is not qualified under section 3, the personal representative, upon request to the Registrar and on production to him or her of the grant, shall be entitled to be registered by transmission as tenant farmer in the place of the deceased with the addition after his or her name of the words “as executor of the will of (here insert name of deceased) deceased” or “as administrator of the estate of (here insert name of the deceased) deceased”, as the case may be.

(2) Upon production of a grant, the Registrar may, without requiring the personal representative to be registered, register by transmission any transfer by the personal representative to the person entitled under the Will or intestacy or to a purchaser.

(3) In this section, “grant” means the grant of Probate of the Will or the grant of Letters of Administration of the estate of the deceased.

PART III

PROVISIONS WHICH MAY BE APPLICABLE TO LOANS GRANTED BY PRESCRIBED BANKS

Application of this Part.

16. (1) Any provision of this Part shall apply to a loan granted by a prescribed bank.

(2) In this Part, “loan” shall include an advance, overdraft or other accommodation and interest thereon.

Mortgage of land of any other immovable property.

17. The tenant farmer of any agricultural land may create a mortgage or charge on agricultural land in which he or she has an interest, in respect of any loan granted or to be granted to him or her by a prescribed bank by virtue of his or her interest in such land under this Act, and any subsequent transfer of such agricultural land shall be subject to such mortgage or charge.

Default of payment.

18. Where default is made in the payment of any sum due on any loan granted by a prescribed bank to any tenant farmer of agricultural land, whether that sum is due on account of principal or interest or of both, default shall be deemed to be made in respect of the whole of the unpaid portion of that loan and the interest due thereon.

Action by prescribed bank where default is made.

19. (1) Where, under the provision of this Act, default is made or deemed to be made in respect of the whole of the undischarged or unsatisfied portions of any loan and the interest due thereon, the prescribed bank may notify the Magistrate's Court that the tenant farmer is in default of the sum of money specified in such notice.

(2) On receipt of a notice referred to in subsection (1) the Magistrate may hold an inquiry for the purpose of deciding whether the tenant farmer of agricultural land is in default of such money.

(3) The tenant farmer of agricultural land and the prescribed bank shall be given an opportunity of being heard in person or through a representative at such inquiry.

(4) Where the Magistrate is satisfied at the inquiry that any sum of money is due to the prescribed bank from the tenant farmer of agricultural land, the Magistrate may order the tenant farmer of agricultural land or any heir or legal representative of the tenant farmer of agricultural land to pay the money due to the prescribed bank in the manner prescribed.

(5) Any party aggrieved by any decision or order of the Magistrate's Court may, within thirty days of the communication of the decision or order to him or her, by written petition in which the other person is mentioned as respondent, appeal to the High Court against the decision or order on a question of law.

Priority of charge created by loan made by prescribed bank.

20. (1) Notwithstanding anything to the contrary in any law for the time being in force upon any mortgage or charge created by virtue of section 17, a prescribed bank shall have priority over any other mortgage or charge that may have been created over the interest in such land in favour of any person prior to the date on which the mortgage or charge was created in favour of the prescribed bank.

(2) Any debt due or payable to a prescribed bank by any tenant farmer of agricultural land shall be a first charge upon—

- (a) crops or other agricultural produce; and
- (b) cattle, fodder for cattle or agricultural implements,

where the loan granted by the prescribed bank has been utilized in whole or in part by the tenant farmer of agricultural land for the raising of such crops or agricultural produce or for the purchase of such cattle, fodder for cattle or agricultural implements, as the case may be.

Prescribed bank not precluded from other methods of recovery.

21. Nothing in section 19 shall be deemed to preclude the prescribed bank from recovering the amount due to such bank in accordance with the provisions of any other written law.

PART IV

GENERAL

Minister to decide disputes as to whether or not land is agricultural land.

22. (1) Where there is any dispute as to whether any land is agricultural land within the meaning of this Act, the Minister of Agriculture shall, after giving the parties an opportunity to be heard, decide whether that land is or is not agricultural land, and shall communicate the decision in writing to the parties to the dispute.

(2) Where the parties to the dispute are aggrieved by the decision made under subsection (1) such parties may, within thirty days of the communication of the decision to them appeal to the High Court on a question of law.

Purposes for which agricultural land may be used.

23. No tenant farmer shall use an area of agricultural land for any purpose other than the purposes for which the lease was granted.

Regulations.

24. (1) The Minister may make Regulations for giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may amend the Schedules and may make Regulations in respect of all matters which are stated or required by this Act to be prescribed or for which Regulations are required by this Act to be made.

(3) Regulations made by the Minister shall be published in the *Gazette* and shall come into operation on the date of the publication or upon such other date as may be specified in the Regulations.

FIRST SCHEDULE

(Section 4)

LEASE OF AGRICULTURAL LAND NOT EXCEEDING

..... ACRES FOR AGRICULTURAL PURPOSES

FOR A PERIOD OF YEARS

THIS AGREEMENT made the day of 20..... BETWEEN..... (hereinafter called the "Landlord") of the ONE PART and of (hereinafter called the "tenant farmer") which expression wherever the context so admits shall include his or her personal representatives, heirs and assigns of the OTHER PART

WHEREBY IT IS MUTUALLY AGREED by and between the parties hereto as follows:

1. In consideration of the yearly rental hereby reserved for the first five (5) years and the Covenants and Agreements herein contained on the part of the tenant farmer to be paid and performed the Landlord demises unto the tenant farmer ALL THAT parcel of land containing approximately acres situate at in Saint Christopher and Nevis which is more fully described in the Schedule hereto and (hereinafter called "agricultural land") to hold the same unto the tenant farmer for a period of years from the day of (subject to renewal as hereinafter provided) at a yearly rental payable yearly at in advance on or before the day of in each and every year during the subsistence of the term hereby created the first of such payments to be made on the day of

2. The rental for the first five (5) years shall be as stated hereinbelow in accordance with the formula provided by regulations made under the Land Development Act, and shall be subject to review after the expiration of the first four (4) years in relation to the next five years of this Lease and for every five years thereafter—

- (a) \$ per annum for the first two (2) years
(b) \$ per annum for the third year;
(c) \$ per annum for the fourth year;
(d) \$ per annum for the fifth year

3. That if the tenant farmer shall be desirous of taking a new lease of the agricultural land for a further term of years from the expiration of the term hereby granted and shall not more than twelve (12) months nor less than six (6) months before the expiration of the term hereby granted, give to the landlord notice in writing of such his or her desire and if he or she shall have performed and observed the several stipulations herein contained on his or her part to be observed and performed up to the termination of the tenancy hereby created, then the landlord will grant to the tenant farmer a new lease of the agricultural land at a rental to be agreed upon but with and subject in all other respects to the same covenants and conditions as are herein contained except this clause for renewal.

4. The tenant farmer hereby covenants with the landlord as follows—

- (a) to use, manage and develop the agricultural land for one or more purposes of agriculture, that is to say, the growing of food and industrial crops, sugar cane, spices, condiments, flowers, nurseries, dairy farming, livestock rearing and breeding and not to suffer or permit any part thereof to be used for any other purpose and not to subdivide the land for any reason;
- (b) to keep in good repair all buildings, gates, stiles, hedges, walls and fences in and upon the agricultural land and to keep the hedge or boundary demarcation marks intact;
- (c) to keep all ditches and gutters in and upon the agricultural land cleaned out and all drains, sewers and water courses open and free from obstruction and in working order;
- (d) to adopt sound agricultural management and animal husbandry practices to avoid deterioration of land and pastures including the clearance of acacia within six months of being in possession of the agricultural land;
- (e) to permit Veterinary Officers, Livestock Officers or any *bona fide* officer of the Ministry of Agriculture, Credit Officers and Development Officers to enter the agricultural land and guide in the development activities and to permit such Veterinary Officers and Livestock Officers at all reasonable times to inspect the agricultural land and the livestock thereon and to follow any directions given by such Officers for the purpose of controlling disease among livestock or plants;
- (f) to make good any damage to any part of the agricultural land or to any buildings, erections or fixtures thereon which shall be caused by him or her or by his or her workmen or agents or by his or her or their stock, reasonable wear and tear or to any existing building excepted;
- (g) not to take on the agricultural land for grazing or to be fed there livestock belonging to any person or persons other than the tenant farmer;
- (h) not to fell or damage any timber or trees in the agricultural land except with the prior consent of the landlord or on the recommendation of the Forestry Officer;
- (i) to erect and maintain sufficient fences to enclose and determine the boundaries of the demised lands and to prevent animals escaping from or trespassing upon the agricultural land;
- (j) in relation to livestock, not to keep more stock than the recommended carrying capacity per acre of the land;
- (k) not to alter any hedge, fence or any part of the agricultural land whereby the size and shape thereof is rendered different from its previous size and shape;
- (l) not to alter, remove or destroy any building which may be erected on the agricultural land and not to erect any building on the agricultural land without the previous consent in writing of the landlord, (It would be desirable for the tenant farmer to live on the agricultural land and to construct requisite farm buildings, i.e., store, cooling sheds, and ripening rooms thereon, the construction of such buildings to be with the prior approval of the landlord.);

- (m) at the determination of the tenancy peaceably and quietly to deliver up to the landlord vacant possession of the agricultural land with all buildings held therewith in such good and substantial repair as shall be in accordance with the terms and conditions herein contained;
- (n) at all times during the said term to insure and keep insured all buildings which shall for the time being be upon the demised premises against loss by fire, earthquake, hurricane or civil commotion at some reputable insurance office at a reasonable value and to produce to the landlord as required the receipt for premiums and policies;
- (o) whenever reasonably required, to grant the landlord for a normal consideration all easements with respect to water mains, sewerage, pipes and overhead or underground supply, wires or lines;
- (p) to indemnify the landlord for and against all lawful claims or demands from any damage occasioned to any property or lands adjoining the agricultural land by reason of the use of the land by the tenant farmer of the demised premises and its appurtenances;
- (q) not to do or permit to be done upon the land or any part thereof any act or thing which may become a nuisance, damage or annoyance or inconvenience to the landlord or the occupiers of any adjoining or neighbouring property provided always that the proper use of the land for the purposes expressly contained herein shall not be deemed to constitute a breach of this covenant.

5. The landlord hereby covenants with the tenant farmer as follows—

- (a) the tenant farmer paying the rent hereby reserved and performing and observing the several covenants on his or her part and the conditions herein contained shall peaceably hold and enjoy the agricultural land during the said term without any interruption by the landlord or any person rightfully claiming under or in trust for him or her;
- (b) to provide on the expiration or sooner determination of the term hereby created the compensation to the tenant, farmer for those improvements to the agricultural land made by the tenant farmer during the tenancy which improvements have received the prior approval in writing of the landlord. In the absence of agreement between the landlord and the tenant farmer on the amount of compensation, the question is to be referred to Arbitration in accordance with the provisions of the Arbitration Act, Cap. 3.01 of the Laws of Saint Christopher and Nevis or any Act amending or in substitution for the same:

Provided that any moneys due to the landlord from the tenant farmer for rent, breaches of the tenant farmer's covenants herein contained or otherwise in relation to the tenancy may be deducted from any compensation payable to the tenant farmer hereunder;

- (c) the landlord shall permit the tenant farmer to mortgage, charge or alienate by way of charge the said agricultural land provided that such mortgage, charge or alienation is for the purpose of development of the agricultural land but not without having had the previous consent in writing of the landlord.

6. PROVIDED ALWAYS AND IT IS HEREBY EXPRESSLY AGREED AND DECLARED as follows—

- (a) that if the rent hereby reserved or any part thereof shall remain unpaid for three months after becoming payable, whether formally demanded or not, or if any covenant on the tenant farmer's part herein contained shall not be performed or observed then and in any such case it shall be lawful for the landlord or anyone acting for him or her at any time thereafter and after having served notice to re-enter upon the agricultural land and thereupon this lease shall absolutely cease and determine but without prejudice to any right of action or remedy of the landlord in respect of any arrears of rent or an antecedent breach of covenant by the tenant farmer;
- (b) if the tenant farmer shall desire to determine the tenancy before the expiration of the term hereby created, he or she shall at any time after the expiration of one year thereof give to the landlord three calendar months previous notice in writing of such his or her desire and upon expiration of such notice the present demise and everything herein contained shall cease and be void but without prejudice to the rights and remedies of either party against the other in respect of any antecedent claim or breach of covenant;
- (c) all disputes and differences which shall arise between the parties hereto touching or concerning this lease shall be referred to arbitration under the provisions of the Arbitration Act of the Laws of Saint Christopher and Nevis or any Act amending or in substitution for the same;
- (d) any notice made pursuant to or by virtue of this lease shall be in writing and shall be sufficiently served upon the landlord if sent by registered post to him or her at his or her last known postal address and a receipt purporting to have been signed by him or her has been received in return, and upon the tenant farmer if delivered to him or her personally, or upon his or her Attorney holding Power of Attorney hereunder such Attorney is authorised to accept such service, or is sent by registered post to him or her at his or her last known postal address in the State or elsewhere and a receipt purporting to have been signed by him or her has been received in return; or if service cannot be effected in one of the abovementioned ways, by displaying it in a prominent place on the agricultural land for a period of three weeks and by two publications in a local newspaper.

7. All mines, minerals, oils whatsoever as are situate and lying either above or beneath, in or under the land shall be saved and reserved to the landlord with ample and sufficient powers from the landlord and his or her workers, agents and labourers with or without animals and vehicles to have ingress, egress and regress in and over the land or any part thereof at all times for the purpose of prospecting for the mines, minerals and oils.

8. If at the expiration of six months from the commencement of the term hereby created the tenant farmer neglects to manage, operate or to have managed and operated the agricultural land in accordance with the rules of good property management having regard to the character and situation of the land so as to maintain efficient production then the landlord shall have the right to determine the lease after due notice in writing to the tenant farmer.

9. During the subsistence of the lease the landlord may at any time require the tenant farmer to make available to the landlord the whole or portions of the demised

agricultural land for public purposes of the State of Saint Christopher and Nevis on terms to be decided upon between the parties.

AS WITNESS OUR HANDS THE DAY AND YEAR FIRST ABOVE WRITTEN

SIGNED by the Within named)

)

)

GOVERNOR-GENERAL before)

and in the presence of:)

SIGNED by the within named)

)

)

)

Before and in the presence of:)

SECOND SCHEDULE

(Section 5)

FEDERATION OF SAINT CHRISTOPHER AND NEVIS

LAND DEVELOPMENT ACT, CAP. 10.09

*Issued this day of
20.... at o'clock m*

CERTIFICATE OF LEASE

LEASE Titles.

Register Book fol.

KNOW ALL MEN TO WHOM THESE PRESENTS SHALL COME. That

REGISTERED PROPRIETOR OF A LEASE OF

all as the same are delineated and set forth on the Plan thereof by Licensed Surveyor annexed hereto SUBJECT NEVERTHELESS to the Mortgages and Incumbrances which are noted on the Margin hereof or endorsed hereon-IN FAITH AND TESTIMONY whereof I have hereunto subscribed my name and affixed the Seal of my Office this day ofTwo Thousand and

Registrar of Titles.

.....

Licensed Land Surveyor

Date 20.....
