



ST. CHRISTOPHER AND NEVIS

CHAPTER 10.21

VILLAGE LANDS FREEHOLD PURCHASE ACT

Revised Edition

showing the law as at 31 December 2002

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VILLAGE LANDS FREEHOLD PURCHASE ACT

Act 10 of 1996 ... in force 5th March, 1996

Amended by: Act 9 of 1997

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CHAPTER 10.21

VILLAGE LANDS FREEHOLD PURCHASE ACT

AN ACT TO MAKE PROVISION FOR TENANTS OF LOTS IN CERTAIN VILLAGE LANDS TO PURCHASE THE FREEHOLD IN THOSE LOTS AT A DETERMINED PRICE; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Village Lands Freehold Purchase Act.

Definitions.

2. In this Act—

“landlord” means the Crown and any statutory board in which village lands are vested;

“lot” includes such part of a lot of land as constitutes a house spot;

“Minister” means the Minister responsible for Lands;

“Registrar” means the Registrar of Titles;

“tenant” means an individual who occupies a lot comprised in village lands pursuant to a tenancy whether that tenancy exists by virtue of a lease, contract or licence and either at law or in equity;

“village lands” means lands specified in the First Schedule but exclusive of any land thereof that adjoins the foreshore.

Purposes and construction.

3. (1) The purpose of this Act is to establish by law a right for tenants of lots on village lands who satisfy the requirements of this Act to purchase the freehold at a purchase price to be determined in accordance with section 4(1).

(2) This Act shall receive such fair, large and liberal construction and interpretation as will best ensure the attainment of its purpose.

PART II

PURCHASE OF FREEHOLD

Right to purchase freehold.

4. (1) Notwithstanding any other law or any term or condition of any lease or licence relating to a tenancy, it is a term or condition of any tenancy of a lot situate on village lands that the tenant as of a right and at his or her option may, if he or she is a qualified tenant, acquire the freehold of the lot of which he or she is a tenant:

Provided that the tenant is responsible for the payment of the legal fees and surveyor's fees.

(Inserted by Act 9 of 1997)

(2) A qualified tenant of a lot is a tenant who at 31st December, 1995, is residing on the lot and has been so residing since the 27th day of February, 1967, either on his or her own behalf or as a member of the family of the tenant, or partly as such member of the family and partly on his or her own behalf since the 27th day of February, 1967.

(3) Where on the 31st December, 1995 a person has been residing on the lot of a tenant since the 27th day of February, 1967 in the absence of the tenant or in the absence of the partner or spouse, child, brother, sister or parent of the tenant in respect of that lot—

- (a) the tenant is not a qualified tenant within the meaning of the Act; and
- (b) the person has paid rent in the name of the tenant or to the tenant,

the person is a qualified tenant of the lot on which he or she resides; and shall have all the rights granted to a qualified tenant under this Act.

(4) A person resides on a lot if he or she uses it as—

- (a) his or her own habitation; or
- (b) a habitation for his or her partner or spouse, child, brother, sister or parent, whether or not the person uses it as his or her habitation at the same time,

notwithstanding occasional absences from the lot for the purpose of any work undertaken or sought within or outside Saint Christopher and Nevis.

Relocation expenses.

5. Where, by virtue of the provisions of this Act, the dwelling house of a tenant has to be relocated, the Crown shall relocate the dwelling house and shall pay the expenses reasonably incurred in respect of the relocation.

Exercise of right to purchase freehold.

6. (1) Subject to section 14, a qualified tenant may exercise his or her right to purchase the freehold of the lot of which he or she is the tenant by giving notice to the Minister, in accordance with section 7, of his or her intention to do so.

(2) The tenant referred to in subsection (1) must forward two copies of the notice referred to in that subsection to the Minister.

(3) The Minister shall retain one copy of the notice referred to in subsection (2), stamp the other as having been received by him, and return the stamped copy to the tenant.

(4) No transfer shall be registered or recorded unless the copy of the notice given to the tenant pursuant to subsection (3) is produced at the time the transfer is presented for registration.

(5) The tenant shall pay the purchase price in full in money at the time of the transfer unless other arrangements are agreed upon by the Minister and the tenant for the payment of the purchase price.

(Amended by Act 9 of 1997)

Notice to exercise rights.

7. Where a qualified tenant wishes to exercise his or her right under this Part, he or she shall give notice to the Minister in the form set out in the Second Schedule.

Crown Grant.

8. (1) A transfer of freehold under this part shall be a Crown Grant executed by the Governor-General to the purchaser and shall be in the form set out in the Third Schedule or as near thereto as circumstances admit.

(2) Where a transfer is in the form of a Crown Grant executed by the Governor-General and the Governor-General has therein given warrant in that regard the Registrar shall, *in lieu* of the grant issue to the purchaser a Certificate of Title.

(3) The issue of Certificate of Title referred to in subsection (2) of this section and all other dealings with the land described in the Certificate of Title shall be governed by the provisions of the Title by Registration Act, Cap. 10.19.

(Substituted by Act 9 of 1997)

Application of Part II.

9. (1) The provisions of this Part shall not apply to a person who was allocated land by the National Housing Corporation or who is a tenant on land belonging to the National Housing Corporation.

(Substituted by Act 9 of 1997)

Restriction or disposition.

10. (1) Except as otherwise provided in this section, a person who purchases the freehold of a lot pursuant to this Part shall not dispose of that lot by sale until the expiration of a period of 5 years from the date of registration of title to the said lot.

(2) A person referred to in subsection (1) of this section may apply to a magistrate for permission to sell the lot within the period limited by that subsection, and the magistrate shall, in arriving at a decision, take into account the following—

- (a) that the transaction is in good faith;
- (b) that undue hardship would enure to the applicant if he or she cannot sell the lot;
- (c) change of circumstances from the time the applicant was granted the freehold up to the time of making of the application by the applicant.

(Substituted by Act 9 of 1997)

(3) Notwithstanding subsection (1), the owner of the lot may, at any time offer to sell it to the National Housing Corporation.

(4) Where the freehold of a lot purchased pursuant to this Part is mortgaged, the lot may not be sold within the period limited by subsection (1) to enforce the mortgage unless a magistrate certifies that he or she is satisfied that the mortgage and sale do not constitute an arrangement to evade the requirements of subsection (1) or (3).

PART III
PURCHASE ASSISTANCE

Purchase Loans.

11. (1) With the approval of the Minister responsible for Finance the Minister may establish a loan scheme to enable qualified tenants to borrow money to purchase the freehold of their lots in accordance with Part I or to enable persons who have purchased the freehold of their lots to borrow money to make improvements thereto.

(2) A loan scheme established under this section shall be administered by the National Housing Corporation as the Minister may direct.

Registration of Loan.

12. A loan made pursuant to a scheme established under section 11 must be recorded in the Registry and when so recorded has the effect of transferring to the National Housing Corporation, until the loan is repaid, all the rights of the mortgagor, his or her assigns and successors in the lot in respect of which the loan was made.

Funding of Loans.

13. The money for a loan scheme established under section 11 may be paid out of funds voted for the purpose by Parliament and from the funds at the disposal of the National Housing Corporation.

PART IV

GENERAL

Restrictions on right to purchase.

14. (1) The right of a qualified tenant to purchase the freehold of a lot may not be exercised by him or her when the National Housing Corporation certifies, on the application of the Minister, that the lot is unsuitable for purchase because of its location in relation to other lots or for any other reason.

(2) The right of a qualified tenant to purchase the freehold of a lot may not be exercised by him or her if the Minister, by notice published once in the *Gazette* and once in each of the newspapers published in Saint Christopher and Nevis, declares that the lot or the village lands in which the lot is situated is required for public purposes by the Crown.

Valuable consideration.

15. Where only a nominal payment is required by the Minister from a tenant as the purchase price of the freehold in a lot, the tenant is for all purposes of law a purchaser of that freehold for valuable consideration in money or money's worth.

Arbitrator.

16. (1) Any dispute relating to—
- (a) the interest of a tenant in or the right of a tenant over a lot;
 - (b) any other matter arising under the Act,

shall be referred to an arbitrator who shall be paid such allowances as are approved by the Minister out of moneys voted therefor by Parliament.

Arbitration procedures.

17. (1) The Arbitration Act, Cap. 3:01 applies, to the extent that the provisions of that Act do not conflict with the provisions of this Part, to all arbitrations by an arbitrator under this Part as if every licence, contract or lease under which a lot is held within village lands contained an arbitration agreement referring disputes concerning the tenancy to a single arbitrator.

(2) Where a matter is referred to the arbitrator under this Part, the reference shall be made in writing but no special form of petition or reference is required.

(3) Notwithstanding anything in any other enactment, the arbitrator is not bound by any technical rules of evidence in conducting an arbitration for the purposes of this Part; and all arbitrations must be dealt with by an arbitrator as informally and as expeditiously as the circumstances and consideration of fairness admit.

Right of appeal.

18. An appeal shall lie from an award of an arbitrator under this Act to the High Court.

(Substituted by Act 2 of 1997)

Fees.

19. (1) The Minister may, by regulations—

- (a) fix the fees for all matters relating to the transfer of freeholds under this Act;
- (b) fix such other fees as may be required for the purposes of any award by an arbitrator or any appeal to the High Court;
- (c) fix, for purposes of Part I of this Act, legal fees and surveyor's fees; and

(Inserted by Act 9 of 1997)

- (d) fix the fees for all matters required to be registered under this Act.

(2) Regulations made under this section shall be of no effect until they have been approved by the National Assembly.

Powers of Minister.

20. The Minister may—

- (a) notwithstanding the provisions of the Government Lands Regulation Act, Cap. 10:06 sell any village land that is vested in the Crown and to which this Act applies without the approval of Parliament; and
- (b) by order, amend the Schedules.

Relocation of tenants.

21. (1) Where, on the application of the Minister, the National Housing Corporation certifies for the purposes of Part I that the lot is unsuitable for purchase of the freehold therein, the tenant may remain on the lot as a tenant; but, if the tenant so desires, the Minister shall relocate the tenant to any other lot suitable for purchase of the freehold within the village.

(2) When there is no other lot available within the village that is suitable for purchase of the freehold, the Minister may offer to relocate the tenant mentioned in subsection (1) to any available lot within another village that is suitable for the purchase of the freehold therein, *in lieu* of relocating him or her as required under subsection (1).

Relocated tenants.

22. (1) Where a tenant has been relocated pursuant to section 21 from a lot within a village to another lot within that village or another village and he or she desires to purchase that lot, the day from which he or she was a tenant on the lot from which he or she was relocated counts to determine whether he or she is a qualified tenant for the purposes of section 4(2).

(2) Where, before 31st December, 1995, a tenant of a lot within a village is relocated to another lot in the same village or another village, the day from which he or she was a tenant on the lot from which he or she was relocated counts to determine whether he or she is a qualified tenant, for the purposes of section 4(2), to purchase the lot to which he or she is relocated.

Offences.

23. A person who contravenes this Act, or assaults, obstructs or interferes with any person acting or purporting to act under this Act, commits an offence and liable, on summary conviction, to a fine of one thousand dollars or imprisonment for six months or both.

Regulations.

24. The Minister may make regulations for the purpose of giving effect to this Act.

Act to bind the Crown.

25. This Act binds the Crown.

FIRST SCHEDULE

1. Camps
2. West Farm
3. Boyds
4. Trinity
5. Challengers
6. Old Road
7. Verchilds
8. Middle Island
9. Godwin Ghaut
10. Half Way Tree
11. Sandy Point
12. Newton Ground
13. St. Pauls
14. Dieppe Bay
15. Parsons
16. Saddlers
17. Harris
18. Belle Vue
19. Tabernacle
20. Phillips
21. Molyneux
22. Lodge Village/Lodge Project
23. Ottleys
24. Cayon
25. Keys
26. Canada
27. Conaree
28. New Road
29. Upper and Lower Monkey Hill
30. Stapleton
31. O'Gees
32. John England Village
33. Parray Village
34. Lavington
35. Pogson

36. Mansion
37. Christ Church
38. Taylors Village
39. Lower/Upper Bourryeau
40. Ponds
41. 1446.15 square feet of land being a dismemberment of Buckleys Estate situate in the Parish of Saint George in the Island of Saint Christopher and bounded and measuring as follows:– On or towards the East by lands of Buckleys Estate occupied by Rita Jacobs 32.19 feet; On or towards the East by lands of Buckleys Estate occupied by Wilfred Hanley 40.59 feet; On or towards the South by a Public Road 40.16 feet and on or towards the West by a Public Road 39.86 feet.

2484.76 square feet of land being a dismemberment of Buckleys Estate situate in the Parish of Saint George in the Island of Saint Christopher bounded and measuring as follows: On or towards the North East partly by lands of C. Thomas 16.27 feet, by lands of C. Mc Sheen 23.93 feet and by lands of V. Mc Sheen 28.02 feet; On or towards the South East by an Estate Road 28.00 feet and 13.06 feet; On or towards the South by the Island Main Road 17.40 feet and On or towards the West by lands of the Heirs of Marie Lee; E. Maynard and F. Clarke 32.64 feet, 9.12 feet and 27.33 feet.

1861.49 square feet of land being a dismemberment of Buckleys Estate situate in the Parish of Saint George in the Island of Saint Christopher bounded and measuring as follows: On or towards the North by lands of Buckleys Estate occupied by Gary Chapman 41.57 feet; On or towards the East by lands of Buckleys Estate occupied by Emile Stapleton 45.13 feet; On or towards the South by a Paved Alley 41.05 feet and On or towards the West by a Paved Alley 45.03 feet.

4163.30 square feet of land being a dismemberment of Buckleys Estate situate in the Parish of Saint George in the Island of Saint Christopher bounded and measuring as follows: On or towards the North by lands of Buckleys Estate occupied by Ethylinda Maynard 88.30 feet; On or towards the East by a verge and Public Road 46.24 feet; On or towards the South by an Estate Road 101.74 feet and On or towards the West by an Estate Road 42.53 feet.

(Inserted by S.R.O. 15/1998)

1980.71 square feet of land bounded and measuring as follows: On or towards the North by a Public Road 41.05 feet; On or towards the East by lands of A. Russell 56.13 feet; On or towards the South West by an Estate Road 38.94 feet and On or towards the West by lands of H. Langley 44.28 feet.

1509.16 square feet of land bounded and measuring as follows: On or towards the North by an unpaved road 23.62 feet and by a verge abutting the Public Road 1.95 feet; On or towards the East by a verge abutting the Public Road 22.72 feet and 25.02 feet; On or towards the South by lands of Christine Mc Sheene 11.68 feet, 11.89 feet, 9.38 feet and 13.04 feet; and On or towards North West by an unpaved road 5.00 feet, 19.26 feet and 17.93 feet.

1766.78 square feet of land bounded and measuring as follows: On or towards the North by a Footpath 43.61 feet; On or towards the East by lands of Mrs Brown 38.65 feet; On or towards the South by lands of Frederick Clarke 41.78 feet and On or towards the West by an Alley 45.25 feet.

2997.83 square feet of land bounded and measuring as follows: On or towards the North by a Public road 60.27 feet; On or towards the East by lands of Amory 51.91 feet; On or

towards the South by lands of Buckleys Estate 54.42 feet and On or towards the West by lands of Vincent Russell 56.13 feet.

5705.49 square feet of land bounded and measuring as follows: On or towards the North by an unpaved road 62.68 feet; On or towards the East by lands of Thompson Pre-School and by lands of C. Thompson 89.86 feet; On or towards the South by lands of V. Liburd 61.45 feet and On or towards the West by lands of L. Peets 94.43 feet.

2144.34 square feet of land bounded and measuring as follows: On or towards the North by lands of James Webbe 41.88 feet; On or towards the East by lands of JNF Hospital 52.37 feet; On or towards the South by a drain 40.60 feet; and On or towards the West partly by lands of Vivian Huggins and partly by an access Road 51.68 feet.

(Inserted by S.R.O. 1/2000)

SECOND SCHEDULE

(Section 7)

VILLAGE LANDS FREEHOLD PURCHASE ACT

TENANTS NOTICE TO MINISTER OF INTENTION TO PURCHASE THE FREEHOLD OF HIS LOT

To: (a)

TAKE NOTICE THAT: I, the undersigned, being a tenant of a lot comprised in:

(b).....

In the parish of: (c).....

hereby give notice of my intention to purchase the freehold of that lot in accordance with the above-mentioned law.

Given under my hand the day of

.....

Tenant

Explanatory Notes

(a) Insert which Minister

(b) Give name of the village within which the lot is comprised.

(c) Name parish in which the village is situated.

THIRD SCHEDULE

(Section 8(1))

CROWN GRANT

Elizabeth The Second by the Grace of God of St. Christopher and Nevis, Queen, Head of the Commonwealth.

TO WHOM THESE PRESENTS SHALL COME GREETINGS

KNOW YE THAT WE by these presents for Us, Our Heirs and Successors in consideration of the freehold granted under section 4 of the Village Lands Freehold Purchase Act, Cap. 10.21 to (Name) of (Village) in the parish of (...) in Saint Christopher hereby GRANT unto the said (Name) ALL THAT lot, piece or parcel of land situate at (Village) in the parish of (...) in the Island of Saint Christopher aforesaid containing by admeasurement (...) area all as the same is delineated on the plan thereof by (Name), Licensed Land Surveyor, annexed to these presents bounded and measuring as follows: (Description of land) or however otherwise the same may be bounded, measured or described together with all easement and appurtenances thereto belonging TO HAVE AND TO HOLD the said lot, piece or parcel of land and ALL and singular the premises hereby granted with their appurtenances unto and to the use of the said (Name) his or her heirs, successors and assigns in fee simple absolutely IN TESTIMONY WHEREOF we have caused these OUR LETTERS to be made PATENT and Our Public Seal appointed for the Federation of Saint Christopher and Nevis to be affixed hereto. AS WITNESS OUR TRUSTY and well-beloved (Name of Governor-General and Title) Governor-General of Our Federation of Saint Christopher and Nevis at Government House, Saint Christopher this ... day of ... in the Year of Our Lord (Year) in the (...) Year of our reign.

..... Governor-General

I, (Name of Governor-General and (Title)) Governor-General of the Federation of Saint Christopher and Nevis having received notice in writing from and on behalf of the Grantee named in the Grant herein written of his or her election to have a Certificate of Title issued to him or her in lieu of a Crown Grant, HEREBY AUTHORISE and grant warrant to the Registrar of Titles accordingly.

DATED this ... day of ..., 20

..... Governor-General

(Substituted by Act 9 of 1997)
