

CHAPTER 239B

TENANCIES FREEHOLD PURCHASE

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CHAPTER 239B

TENANTRIES FREEHOLD PURCHASE

An Act to provide a right for tenants of lots in certain tenancies to purchase the freehold in those lots; to alter section 16 of the Constitution to assure the constitutionality of that right; and to provide for matters related or incidental thereto.

1980-53. 1992/99.
1981-48. 1996/24.
1984-37. 2000-24.
1981/105. 2001-19.²
1981/210. 2004/25.
1982/71.
1984/113.
1985/132.
1986/127.
1989/95.
1989-14.¹
1991/107.

[1st November, 1980] Commence-
ment.
1980/160.

Preliminary

1. This Act may be cited as the *Tenancies Freehold Purchase Act*. Short title.
2. In this Act,
"conveyance" includes a transfer of land effected under the *Land Registration Act*; Definitions.
1989-14.
Cap. 229.

¹ Act 1989-14 was enacted in accordance with section 49(2) of the *Constitution* and came into operation on 1st February 1990 by S.I. 1990/12. The purpose is stated in section 2 as follows:

"2. (1) The purpose of this Act is to modify the right of qualified tenants residing on non-plantation tenancies of 5 lots or less to purchase the lots of which they are tenants and to establish by law a right of sub-tenants who satisfy the requirements of this Act, to purchase the freehold of the lot on which they are residing.

(2) Section 16 of the *Constitution* is altered to such extent necessary as would best ensure the attainment of the purpose specified in subsection (1)."

² Act 2001-19 was enacted in accordance with section 49(2) of the *Constitution* and came into operation on 9th August 2001. The purpose is stated in section 2 as follows:

"2. (1) The purpose of this Act is to make provision for the widening of the scope of the *Tenancies Freehold Purchase Act* to allow certain tenants to benefit from its provisions.

(2) Section 16 of the *Constitution* is altered to such extent necessary as would best ensure the attainment of the purpose specified in subsection (1)."

"landlord" includes the Crown and any statutory board in which a tenantry is vested;

Cap. 237. "lot" includes such part of a lot of land as constitutes a house-spot within the meaning of the *Security of Tenure of Small Holdings Act*;

"Minister" means the Minister responsible for Lands;

First Schedule. "plantation tenantry" means a tenantry specified in the *First Schedule* but exclusive of any land thereof that adjoins the foreshore;

1989-14. "Registrar" means the Registrar of Titles;

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

"tenantry" means

(a) a plantation tenantry; and

1989-14. (b) an area of land that is subdivided, before or after 1st November, 1980, into more than 5 lots for letting as sites for chattel buildings to be used as dwelling houses whether the land is vested in the Crown, in a statutory board or in any other person, but does not include land adjoining the foreshore.

Purpose and construction. **3.** (1) The purpose of this Act is to establish by law a right for tenants of lots in tenancies who satisfy the requirements of this Act to purchase the freehold at a purchase price governed by considerations of public policy and the requirements of the *Constitution*.

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

PART I

Purchase of Freehold

4. (1) Notwithstanding any other law or any term or condition of any lease, contract or licence relating to a tenancy, it is a term or condition of every tenancy within a plantation tenantry or other tenantry that the tenant, as of right and at his option may, if he is a qualified tenant, purchase the freehold of the lot of which he is a tenant at a price to be determined

Right to
purchase
freehold.

-
- (a) in the case of a lot within a plantation tenantry, in accordance with Part I of the *Second Schedule* or by agreement between the parties, whichever is the smaller amount; or Second Schedule.
- (b) in the case of a lot within any other tenantry, in accordance with Part II of the *Second Schedule*, by agreement between the parties, or as specified in an improvement scheme within the meaning of the *Tenancies Development Act*, whichever is the smaller amount. Second Schedule.
Cap. 239A.
- (2) Subject to section 36, a qualified tenant of a lot is a tenant
- (a) who, at 1st November, 1980, is residing on the lot and has been so residing
- (i) for 5 consecutive years immediately preceding that day, or
- (ii) for 5 years out of the 7 years immediately preceding that day; or
- (b) who, at any particular time after 1st November, 1980, is a tenant who has, at that particular time,
- (i) been residing on the lot for 5 consecutive years, or
- (ii) been residing on the lot for 5 out of the immediately preceding 7 years.
- (3) Subject to section 26 where at any particular time after the 1st November, 1980, a sub-tenant who, at that particular time, 1989-14.
- (a) has been residing on the lot of a tenant for 5 consecutive years in the absence of the tenant or in the absence of the spouse, child, brother, sister or parent of the tenant; or
- (b) has been residing on the lot of a tenant for 5 out of the

immediately preceding 7 years in the absence of the tenant or in the absence of the spouse, child, brother, sister or parent of the tenant

and in respect of that lot,

- (c) the tenant is not a qualified tenant within the meaning of the Act; and
- (d) the sub-tenant has paid rent to the landlord in the name of the tenant or to the tenant,

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

1989-14. (4) A tenant or sub-tenant, as the case may be, resides on a lot if he uses it as

- (a) his own habitation; or
- (b) a habitation for his spouse, child, brother, sister or parent, whether or not the tenant or sub-tenant, as the case may be, uses it as his habitation at the same time,

notwithstanding occasional absences from the lot for the purpose of any work undertaken or sought within or outside Barbados.

1989-14. (5) For the purposes of subsection (4), "spouse" has the meaning assigned to it by section 2 of the *Succession Act*.
Cap. 249.

Modification of right to purchase. 1989-14. 5. (1) A tenant who, immediately before the 1st February, 1990

- (a) was residing on a lot forming part of an area of land within the meaning of subsection (3)(a); and
- (b) was a qualified tenant of the lot referred to in paragraph (a),

ceases on the 1st February, 1990 to be a qualified tenant in respect of that lot.

(2) Notwithstanding subsection (1), a tenant referred to in that subsection remains a qualified tenant where,

(a) at the 1st February, 1990, he had exercised his right to purchase the freehold of the lot of which he is tenant in accordance with section 10(1) and his landlord had not refused to comply with section 10(2); or

(b) at the 1st February, 1990, he had carried out substantial improvements to the lot in respect of which he had a right to purchase under section 4(1).

(3) In this section,

(a) "area of land" means an area that was sub-divided whether before or after 1st November, 1980 into not more than five lots as sites for chattel buildings to be used for dwelling houses, whether the land is vested in the Crown, a statutory board or in any other person, but excluding land adjoining the foreshore;

(b) "substantial improvements" means the construction in stone, brick or concrete, of a dwelling-house or part of a dwelling-house and includes the construction of water borne toilet facilities.

6. (1) Subject to subsection (2), a tenant referred to in section 5, not being a tenant referred to in subsection (2) of that section, has the right to purchase from the Crown a suitable lot at a purchase price to be determined by agreement between the Crown and the tenant.

Compensation.
1989-14.

(2) The purchase price referred to in subsection (1) shall be no higher than the open market price of the lot on which the tenant referred to in that subsection was residing prior to the 1st February, 1990.

(3) Notwithstanding subsection (2), in determining the open market price referred to in that subsection, no account shall be taken of any enhancement of the value of the land arising from any development that has been undertaken on the area of land referred to in paragraph (a) of section 5(3) by a person other than the landlord prior to the 1st February, 1990.

(4) A tenant referred to in section 5(1) must notify the Minister in writing within 2 years of the 1st February, 1990 of his intention to exercise his right to purchase the freehold of a lot from the Crown pursuant to subsection (1).

(5) Where the Crown is unable to provide a suitable lot as required under subsection (1), the tenant referred to in that subsection shall be paid by the Crown an amount of money that fairly represents the value of the right to purchase the freehold of the lot of which he was a qualified tenant prior to the 1st February, 1990.

(6) Where a tenant referred to in section 5(1) fails to notify the Minister in accordance with subsection (4), the right of that tenant to purchase a suitable lot from the Crown pursuant to subsection (1) ceases; but the tenant is entitled to be compensated in the manner specified in subsection (5) as if he were a tenant to which that subsection refers.

(7) The value of the right of a tenant to purchase the freehold of the lot of which he was a qualified tenant prior to the 1st February, 1990 is,

- (a) in any case where the tenant referred to in section 5(1) had not exercised his right to purchase the freehold of that lot before the 1st February, 1990, an amount of money which represents the difference in value between the open market price of that lot on the date on which he became a qualified tenant and the open market price of that lot on the 1st February, 1990; or
- (b) in any case where the tenant referred to in section 5(1) had exercised his right to purchase before the 1st February, 1990,

such amount of money as fairly represents the difference in value between the open market price of the lot on the date in respect of which he became a qualified tenant; and

- (i) the open market price of the lot on the date he notifies the Minister pursuant to subsection (4); or
- (ii) where the tenant has failed to notify the Minister pursuant to subsection (4), the open market price of the lot on the 1st February, 1990,

together with all reasonable expenses incurred by him that are reasonably incidental to the exercise of that right.

(8) In determining whether a lot is suitable within the meaning of section 6 (1) account shall be taken of

- (a) the open market price of the lot on which the tenant referred to in that section was residing prior to the 1st February, 1990;
- (b) the location of the lot as compared to the location of the lot of which he was a tenant prior to the 1st February, 1990, having regard to all the circumstances of the tenant and his immediate family; and
- (c) the services and the amenities available to the tenant in respect of the lot compared to those services and amenities to which the tenant had access in respect of the lot on which he was residing prior to the 1st February, 1990.

7. (1) Subject to subsection (2), no tenant referred to in section 5(1) shall have his contract of tenancy determined by his landlord within a period of 5 years from the 1st February, 1990.

No
determina-
tion of
tenancy
within 5
years.
1989-14.

(2) Subject to any agreement made between the landlord and the tenant to the contrary, where after a period of 5 years from the 1st February, 1990 a tenant referred to in section 5(1) is still residing on the

lot in respect of which he was a qualified tenant prior to the 1st February, 1990, the contract of tenancy between the tenant and his landlord determines.

(3) On the determination of a contract of tenancy pursuant to subsection (2) the Crown shall offer to the tenant referred to in subsection (2) a contract of tenancy on such terms and conditions as are no less favourable than those that existed in respect of the tenancy referred to in that subsection.

Cap. 237. (4) Nothing in subsection (1) shall effect the right of a landlord to determine the contract of tenancy of a tenant referred to in that subsection, in accordance with section 12 of the *Security of Tenure of Small Holdings Act*.

(5) The rent exigible by a landlord immediately before the 1st February, 1990 in respect of a lot of a tenant referred to in section 5(1) shall not, after that date, be increased except in accordance with subsection (6).

Cap. 116. (6) After the 1st February, 1990, a landlord who desires to increase the rent of a lot on which a tenant referred to in section 5(1) resides shall apply to the magistrate exercising jurisdiction under paragraph (c) of subsection (2) of section 4 of the *Magistrates Jurisdiction and Procedure Act* in the magisterial district in which the area of land or part thereof in respect of which the application is made, is situated; and the magistrate shall determine such increase in accordance with the 1974/187. *Tenancies (Control and Development) Regulations, 1974*.

(7) A landlord who demands or receives any rent in excess of the rent that is permissible under subsection (5) or (6) is guilty of an offence and is liable on summary conviction to a penalty of \$200 or to imprisonment for a term of 6 months.

Cap. 237. (8) In this section "contract of tenancy" has the meaning assigned to it by section 2(1) of the *Security of Tenure of Small Holdings Act*.

8. Notwithstanding section 5(1), where a tenant referred to in section 7 was residing on a lot for a period of 20 years or more at the 1st of February, 1990, that tenant shall, from 9th August, 2001, be regarded as a qualified tenant of that lot for the purposes of this Act.

Tenants of
lots for 20
years or
more.
2001-19.

9. Where by virtue of the provisions of this Act the dwelling house of a tenant referred to in section 5(1) has to be relocated, the Crown shall relocate the dwelling house and shall pay the expenses reasonably incurred in respect of the relocation.

Relocation
expenses.
1989-14.

10. (1) Subject to sections 19 and 25, a qualified tenant may exercise his right to purchase the freehold of the lot of which he is the tenant by giving notice to the landlord, in accordance with this Part, of his intention to do so.

Exercise of
right to
purchase
freehold.

(2) The tenant referred to in subsection (1) must forward two copies of the notice referred to in that subsection to the Minister within 7 days of the date on which the notice was given to the landlord.

1989-14.

(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.

1989-14.

(4) No conveyance shall be registered or recorded within the meaning of the *Property Transfer Tax Act* unless the copy of the notice given to the tenant pursuant to subsection (3) is produced at the time the conveyance is presented for registration.

1989-14.

Cap. 84A.

(5) When a qualified tenant gives his landlord notice under subsection (1), it becomes the duty of the landlord to convey the freehold of the lot to the tenant at a price to be determined pursuant to section 4(1).

2001-19.

(6) In carrying out that duty the landlord shall

2001-19.

- (i) cause the lot to be surveyed;
- (ii) cause the conveyance to be prepared;

(iii) forthwith thereafter give written notice to the tenant that he is ready to convey the freehold of the lot.

2001-19. (7) The tenant shall pay the purchase price in full in money at the time of the conveyance unless other arrangements are agreed upon by the landlord and the tenant for the payment of the purchase price.

Time limit
for exercise
of right.
2001-19. **10A.** (1) A person who is a qualified tenant of a lot at 9th August, 2001 and who has exercised the right conferred on him by this Act shall complete the purchase of the lot within a period of 5 years from the date of the receipt of the notice referred to in section 10(6).

(2) A person who becomes a qualified tenant after 9th August, 2001 and has exercised the right conferred on him by this Act shall complete the purchase of the lot within a period of 3 years from the date of the exercise of that right.

Failure to
exercise
right.
2001-19. **10B.** (1) Where a qualified tenant fails or refuses to complete the purchase of the freehold of the lot of which he is the tenant within the time specified in section 10A, then the right of the tenant to purchase ceases.

Cap. 239. (2) Subject to subsection (3), where the right of a qualified tenant ceases under subsection (1), the contract of tenancy between the tenant and his landlord continues subject to section 6 of the *Tenancies Control Act*, unless determined by law.

1974/187. (3) Where the right of a qualified tenant to purchase ceases pursuant to subsection (1), and the tenant had carried out substantial improvements to the lot before the cessation of that right, the landlord may apply to the magistrate's court under section 7(6) for an increase in rent to reflect the improved value and current market rates of the property in accordance with the *Tenancies (Control and Development) Regulations, 1974*.

Attorney for
absentee
landlord. **11.** (1) The landlord of a tenantry who does not reside in Barbados shall, before 1st December, 1980, appoint an attorney within Barbados with power to dispose of lots within that tenantry to qualified tenants in accordance with this Act.

(2) If an attorney appointed under subsection (1) dies or becomes incapacitated, the landlord shall appoint another such attorney within 6 months after the death or incapacity of the earlier appointed attorney.

12. (1) Where a qualified tenant wishes to exercise his right under this Part, he shall give notice to the landlord or his attorney and the Minister in the Form I set out in the *Third Schedule*.

Notice to
exercise
rights.
Third
Schedule.
1989-14.

(2) Where

- (a) no attorney is appointed as required by section 11;
- (b) the landlord has refused to comply with section 10(5); or
- (c) the landlord cannot be found or his identity cannot be ascertained,

a notice in the Form II as set out in the *Third Schedule* shall be deposited with the Registrar.

Third
Schedule.
1989-14.

(3) Where

2001-19.

- (a) the landlord of a qualified tenant within the meaning of sections 4(2), 4(3), 5(2) and 8 cannot be found or the identity of the landlord cannot be ascertained; and
- (b) the tenant referred to under paragraph (a) has given notice of his wish to exercise his right under this Part in the Form II pursuant to paragraph (c) of subsection (2),

the Registrar shall, notwithstanding the fact that no rent has been paid by the tenant as a result of the inability of the tenant to find or ascertain the identity of the landlord, proceed under section 13(1) to give the tenant a good title in accordance with this Act.

13. (1) Where a qualified tenant is unable to exercise his right to purchase the freehold of his lot because

Registrar's
powers.

- (a) no attorney is appointed as required by section 11;

(b) the landlord has refused to comply with section 10(5);

(c) the landlord cannot be found or his identity cannot be ascertained,

1989-14. and the tenant has deposited a notice with the Registrar, the Registrar shall do all such things as are necessary to give that tenant a good title in accordance with this Act.

(2) In the exercise of his powers under subsection (1) the Registrar may demand from the mortgagor, mortgagee or other person having possession thereof the title deeds, plots and plans of a tenantry or of a lot comprised therein.

(3) The Registrar may examine on oath any person referred to in subsection (2) in connection with the possession of such deeds, plots and plans.

(4) Where a person refuses to deliver any such deeds, plots or plans to the Registrar or to answer any question put to him by the Registrar, the Registrar shall report such refusal to the High Court and the High Court may commit that person for contempt until such delivery is made or answer given.

1989-14. (5) No action lies against the Registrar or any other officer of the Land Registry for anything done by any of them in good faith in the performance of their duties under this Act.

Payment to
the
Registrar.
1989-14. **14.** A qualified tenant shall pay the purchase price for the freehold of his lot to the Registrar

(a) where the Registrar makes a conveyance to him in accordance with section 13; or

(b) if, before a conveyance is otherwise made to him, written notice is given to him

- (i) that the landlord or a person entitled to the benefit of a charge so requires to protect the rights of any person entitled to the benefit of such a charge or for purposes related to the bankruptcy or winding-up of the landlord, or
- (ii) that action to enforce a charge on the landlord's interest in the tenancy in which the lot is situated has been taken by proceedings in court or by the appointment of a receiver or otherwise.

15. (1) Where money is paid to the Registrar in accordance with this Act, the money shall be held by the Registrar until the person claiming it or any part thereof proves his right to receive that money to the satisfaction of the Registrar.

Disposal of money paid into court.
1989-14.

(2) Where a claim in respect of a claimant's right to receive money under subsection (1) is disputed by the Registrar, the claim shall be determined by a Judge of the High Court on the application of the claimant.

16. A conveyance of freehold under this Part must be made in the form set out in the *Fourth Schedule* or as near thereto as circumstances admit, and the fact that it has been made pursuant to this section shall be specified in the conveyance.

Form of conveyance.
Fourth Schedule.
2001-19.

17. (1) Notwithstanding the *Property Act* or any other enactment, a conveyance of freehold of a lot made pursuant to this Part

Effect of conveyance.
Cap. 236.
1989-14.

- (a) vests in the purchaser a good and marketable title for a fee simple absolute estate in the lot free of all encumbrances; and
- (b) except as stipulated in the conveyance, discharges the interest specified in the conveyance from all estates, rights, interests, liens and encumbrances of all persons including the Crown.

(2) Subsection (1) does not affect the common law relating to easements of necessity.

1989-14.

Discharge of
mortgages.

18. (1) A conveyance of a freehold in a lot made pursuant to this Part

- (a) discharges the lot so conveyed from any charge on the estate of the landlord from whom the lot was conveyed; and
- (b) prevents the operation of any order made by a court for the enforcement of any charge on the estate of the landlord by whom the lot was conveyed,

notwithstanding that the persons who are entitled to or interested in the charge on the estate of the landlord or any order of court enforcing the charge have not executed or been made party to the execution of the conveyance.

(2) Notwithstanding the discharge of a lot conveyed pursuant to this Part from a charge on the estate of the landlord from whom the lot was conveyed, the discharge does not affect any right or remedy for the enforcement of that charge against other property of the landlord to which the charge relates nor does it affect any personal liability for any debt or other obligation of the landlord or other person to which the charge relates.

(3) In this section "charge" means any encumbrance on the landlord's estate in property to secure the payment of money or the performance of any other obligation by the landlord or any other person but does not include an encumbrance to which a conveyance of a lot pursuant to this Part is required to be made subject or that would be overreached apart from this section.

Tenantry
held by
mortgagee.

19. (1) When the interest of a landlord in a tenantry is subject to a mortgage and the mortgagee is in possession of that tenantry, the qualified tenant of a lot within the tenantry may proceed to exercise his right to purchase the freehold of the lot by treating the mortgagee in possession as the landlord for all the purposes of this Act; and the mortgagee in possession is bound to do all the things required of the landlord of the tenantry in those circumstances.

(2) The conveyance of a lot that is required to be made pursuant to this Act in the circumstances described in subsection (1) shall be executed by the landlord of the tenantry on the direction of the mortgagee in possession or by that mortgagee in the name and on behalf of the landlord; and the conveyance is valid in either event.

(3) This section does not affect the operation of sections 17 and 18 in relation to the mortgage under which the mortgagee is in possession.

20. An agreement, whenever or however made, between a landlord and a tenant of a lot within a tenantry that purports

Public
policy
protection.

- (a) to exclude or modify any right to purchase the freehold in that lot;
- (b) to provide for the termination or surrender of the tenancy in that lot in the event the tenant acquires or claims any right to purchase the freehold in the lot; or
- (c) to impose any penalty or disability on the tenant in the event mentioned in paragraph (b),

is against public policy and void.

21. (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 his purchase of the lot.

Restriction
on
disposition.

(2) A person described in subsection (1) may apply to a magistrate for permission to sell the lot within the period limited by that subsection; and the magistrate may authorise the sale of the lot if he is satisfied that the transaction is in good faith and that undue hardship will enure to the applicant if he cannot sell the lot.

(3) Notwithstanding subsection (1), the owner of the lot may, at any time but subject to subsection (4), resell it to the landlord from whom it was purchased at a price to be agreed by them that is no less than the purchase price paid by him to the landlord plus the costs of any improvements made by him to the lot since its purchase by him.

(4) Before offering to resell a lot under subsection (3) to a former landlord, the owner of the lot must first offer to sell it to the National Housing Corporation at a price equal to the minimum price prescribed by subsection (3).

2001-19.
Second
Schedule. (4A) Where a Government subsidy has been paid in respect of the purchase price of a lot referred to in paragraph 1 of Part II of the *Second Schedule*, that lot shall not be resold without the owner of the lot first offering it to the National Housing Corporation for sale at a price that is no more than the price paid for the lot plus the costs of any improvements made by the owner to the lot since its purchase by him.

(5) 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 is satisfied that the mortgage and sale do not constitute an arrangement to evade the requirements of subsection (1), (3) or (4).

PART II

Purchase Assistance

Purchase
loans. 22. (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.

2000-24. (2) A loan scheme established under this section shall be administered by the Barbados National Bank Inc. on behalf of the National Housing Corporation as the Minister may direct.

23. Notwithstanding section 96 of the *Property Act* and section 70 of the *Land Registration Act*, a loan made pursuant to a scheme established under section 22 must be recorded in the Registry or the Land Registry and, when so recorded, has the effect of transferring to the National Housing Corporation, until the loan is repaid, all the rights, in accordance with the *Property Act* or the *Land Registration Act*, as the case may be, of the mortgagor, his assigns and successors in the lot in respect of which the loan was made.

Registration
of loans.
Cap. 236.
Cap. 229.

24. The money for a loan scheme established under section 22 may be paid out of funds voted for the purpose by Parliament and from the funds at the disposal of the National Housing Corporation or the Barbados National Bank Inc.

Funding of
loans.

2000-24.

PART III

General

25. (1) The right of a qualified tenant to purchase the freehold of a lot may not be exercised by him when the Chief Town Planner certifies, on the application of the landlord of the tenantry or the Minister, that the lot is unsuitable for purchase because of its location in relation to other lots or for any other reason.

Restrictions
on right to
purchase.

(2) The right of a qualified tenant to purchase the freehold of a lot may not be exercised by him if the Minister, by notice published once in the *Official Gazette* and once, on a weekday, in each of the newspapers published in Barbados, declares that the lot or the tenantry in which the lot is situated is required for public purposes by the Crown or a statutory board.

26. A right under this Act to purchase the freehold of a lot within a tenantry is an overriding interest within the meaning of section 31 of the *Land Registration Act*, and is not required to be registered under the *Property Act*.

Nature of
right to
purchase.
Cap. 229.
Cap. 236.

Burdens on
freehold.

27. Burdens in respect of the upkeep or regulation, for the benefit of any locality, of any land, structures, works, ways or watercourses are not encumbrances for the purposes of sections 17 and 18 but any instrument of conveyance executed to give effect to this Part in the case of a lot must be made subject to any such burden upon the tenantry in which the lot is situated.

Valuable
consider-
ation.

28. Where no payment or only a nominal payment is required by a landlord from a tenant as the purchase price of a 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.
1989-14.

29. (1) Any dispute relating to

- (a) the interest of a tenant or a sub-tenant in, or the right of a tenant or sub-tenant over, a lot;
- (b) the amount of compensation payable to a tenant; or
- (c) any other matter arising under this Act

Cap. 237.

shall be referred to an arbitrator who is the Small Holdings Committee established under the *Security of Tenure of Small Holdings Act* for the magisterial district in which the tenantry is situated.

- (2) The members of a Small Holdings Committee when acting as

arbitrator for the purposes of the Act shall be paid such allowances as are approved by the Minister of Agriculture out of moneys voted therefor by Parliament.

30. (1) The *Arbitration Act* 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 tenantry in a lot is held within a tenantry contained an arbitration agreement referring disputes concerning the tenancy to the appropriate Small Holdings Committee as a single arbitrator.

Arbitration
procedures.
Cap. 110.
1989-14.

(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 the arbitrator as informally and as expeditiously as the circumstances and consideration of fairness admit.

(4) Nothing in the *Security of Tenure of Small Holdings Act* or the *Arbitration Act* inhibits a Small Holdings Committee from acting as a single arbitrator within the meaning of the *Arbitration Act*.

Cap. 237.
Cap. 110.

31. (1) An appeal lies to the Supreme Court of Judicature from

Right of
appeal.
1989-14.

(a) an award of an arbitrator under the Act; or

(b) a decision of a magistrate or Judge under this Part.

(2) An appeal referred to in subsection (1) may be brought by any person having an interest in any of the matters referred to in paragraphs (a) and (b) of that subsection.

THE LAWS OF BARBADOS

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Fees.

32. Notwithstanding any other law, the Cabinet may, by regulations,

- (a) fix the fees for all matters relating to the conveyance of freeholds under this Part;
- (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; and
- (c) fix the fees for all matters required to be registered under this Act.

Powers of
Minister.

33. The Minister may,

Cap. 225.

- (a) notwithstanding section 5 of the *Crown Lands (Vesting and Disposal) Act*, sell any land that is vested in the Crown and to which this Act applies without the approval of Parliament; and
- (b) by order, amend the First, Third and Fourth *Schedules*.

Relocation
of tenants.

34. (1) Where, on the application of the landlord of a lot within a tenantry, the Chief Town Planner 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 landlord shall relocate the tenant on any other lot suitable for purchase of the freehold within the tenantry.

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

(3) No tenant relocated pursuant to subsection (2) acquires by virtue of this section any preferential right over the existing tenants in another tenantry who require to be located within that tenantry.

Relocation
by Minister.

35. (1) Where in the circumstances described in section 34 the

landlord of a lot unsuitable for purchase as a freehold is the Crown, then, if the Minister is required to relocate the tenant on another lot suitable for purchase of the freehold within a tenantry not held by the Crown, the Minister may acquire that other lot under the *Land Acquisition Act* or otherwise as the case requires. Cap. 228.

(2) Notwithstanding anything in the *Land Acquisition Act*, the Minister shall not pay a greater price for the other lot acquired for the purposes of section 34 than that determined under the *Second Schedule* for the lot. Second Schedule.

36. (1) Where a tenant has been relocated under section 34 or 35 from a lot within a tenantry to another lot within that tenantry or another tenantry and he desires to purchase that lot, the period of time during which he was a tenant on the lot from which he was relocated counts as time to determine whether he is a qualified tenant for the purposes of section 4(2). Relocated tenants. 1984-37.

(2) Where before 1st November, 1980 a tenant of a lot within a tenantry is relocated by the landlord to another lot in the same tenantry or another tenantry, the period of time during which he was a tenant on the lot from which he was relocated counts as time to determine whether he is a qualified tenant, for the purposes of section 4(2), to purchase the lot to which he is relocated.

37. A person who Offences.

(a) contravenes this Act; or

(b) assaults, obstructs or interferes with any person acting or purporting to act under this Act

is guilty of an offence and liable on summary conviction to a fine of \$1 000 or imprisonment for 6 months or to both.

38. Notwithstanding anything therein contained, the *Town and Country Planning Act* has application to this Act only where it is so expressed by this Act. Application of Cap. 240.

Regulations. **39.** The Minister may make regulations for the purpose of giving effect to this Act.

Amendment by order.
2001-19. **39A.** The Minister may by order amend any of the Schedules.

Binding on the Crown. **40.** This Act binds the Crown.

Constitution: section 16. **41.** To prevent uncertainty, section 16 of the *Constitution* is altered by this Act to any extent necessary to ensure the constitutionality of this Act.

FIRST SCHEDULE

(Section 2)

PLANTATION TENANTRIES

1981/105.	1. Christ Church	Sargeants Village
1985/132.	Balls	Silver Hill
1986/127.	Balls Land	Spencers
1989/95.	Bentley	Staple Grove
1991/107.	Cave Hill	St. David's Village
1992/99.	Cotton Door	St. Patricks
1996/24.	Coverley	Vauxhall (Adams Castle Plantation)
2004/25.	Cox Road	Vauxhall (Vauxhall Plantation)
	Dayrells Hill (Hannays Plantation)	Yorkshire I
	Dayrells Hill (Searles Plantation)	Yorkshire II
	Edey Village	
	Fairy Valley	2. St. Andrew
	Fairy Valley Rocks	Bawdens
	Frere Pilgrim	Boarded Hall
	Hannays Valley	Bruce Vale
	Inch Marlow	Carrington Village
	Lead Vale	Chalky Mount
	Lodge Road	Doughlin Village
	Lower Greys	Greenland
	Lowthers	Haggatts
	Newton	Indian Ground
	Providence	Merricks
	Ridge	Pasture (Sedgepond Plantation)

Roebuck (Sedgepond Plantation)	Jordans I
Rock Hall	Locust Hall I
Shorey Village	Locust Hall II
Sunk Field	Lower Burneys
Turner's Hall	Lower Estate
	Macaroni Village
	Market Hill Plantation
3. St. George	Mount
Ashbury	Redland
Belair	South District (Boarded Hall Plantation)
Boarded Hall	South District (Hanson)
Bournes Village	South District (Hanson Plantation)
Brighton I	Stepney
Brighton II	The Valley
Brighton III	Todds
Bulkeley I	Walkers I
Bulkeley II	Walkers II
Buttals	Watts Village
Bydemill (Upper)	Windsor
Bydemill (Lower)	Woodland
Campion Castle	
Carmichael (Boarded Hall Plantation)	4. St. James
Carmichael (Jordans Plantation)	Apes Hill
Constant	Baywoods
Cottage	Carlton I
Dash Valley	Carlton II
Drax Hall Hope	Endeavour
Drax Hall Woods & Jump	Greaves Road
Ellesmere	Holetown
Fairview	Lancaster
Farm	Morgan
Francia	Orange Hill (Apes Hill Plantation)
Frenches	Orange Hill (Lancaster Plantation)
Glebe	Oxnards
Golden Ridge	Pumpkin Hill
Groves	Sion Hill
Hanson Hill I	Sodom
Hanson Hill II	Taitts Martin
Hope I	Trents
Hope II	Waterhall
Jericho	Well Hill

5. St. John

Ashford
Bath
Below Cliff
Bowmanston (Ashford
Plantation)
Bowmanston (Bowmanston
Plantation)
Carters
Cherry Grove (Bowmanston
Plantation)
Cherry Grove (Todd's Plantation)
Claybury
Cliff
Cliffden
Clifton Hall
Coach Hill
Codrington College
Colleton
Eastmonte
Easy Hall
Edge Cliff
Featherbed Lane
Glebe Land
Guinea
Hackletons Cliff
Henley
Hothersal
Kendal
Lemon Arbor
Malvern
Palmers
Pool
Pool Risque
Pot House
Small Hope
Society
Todds
Venture
Wakefield

6. St. Joseph

Airy Hill
Blackmans
Braggs
Branchbury
Bushy Park
Cambridge
Easy Hall
Foster Hall
Horse Hill
Horton
Joes River
Lammings
Orange Grove
Parris Hill
Redland
St. Ann's

7. St. Lucy

Alleynedale
Bourbon I
Bourbon II
Broomfield I
Broomfield II
Cave Hill
Checker Hall
Cluffs
Colleton
Crab Hill
Fairfield
Greenidges
Hannays
Hope
Husbands
Josey Hill
Mount Gay
Oxford
Pie Corner
Pickerings
Spring Garden
Spring Hall
Trents (Bourbon Plantation)
Trents (Mount Gay Plantation)

8. St. Michael

Belle
 Belle Waterford
 Bibby's Lane
 Bourne's Village
 Browne's
 Dayrells
 Exchange
 Exchange Hill
 Friendly Hall
 Friendship
 Lears Gap
 Lears Tenantry
 Lower Estate
 Mapp Hill (Hanson)
 Neils
 Simmons
 Waterford
 Wildey

9. St. Peter

Alleyndale
 Ashton Hall
 Bakers
 Battalleys
 Black Bess
 Boscobelle
 Castle
 Colleton
 Collins
 Collyns
 Date Tree Hill (Castle
 Plantation)
 Date Tree Hill (Lamberts
 Plantation)
 Diamond Corner
 Edghill
 Four Hill
 French Village (Four Hills
 Plantation)

French Village (Mt. Brevitor
 Plantation)

Gays
 Hopeland
 Indian Ground
 Josey Hill
 Lower Tenantry
 Mangrove
 Mission
 Moore Hill (Nicholas Abbey
 Plantation)
 Moore Hill (Welch Town
 Plantation)
 Mt. Brevitor Lower
 Mt. Brevitor Road
 Mt. Brevitor Upper
 Mt. Prospect
 Orange Hill
 Oxford
 Pleasant Hall I
 Pleasant Hall II
 Portland
 Rectory Hill
 Rock
 Rock Hall
 Six Men's
 The Hill
 The Whim
 Upper Tenantry
 Welchtown I
 Welchtown II
 White Hall

10. St. Philip

Bayleys
 Bentley
 Berlin
 Blades Hill
 Bushy Park
 Byde Mill

THE LAWS OF BARBADOS

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Carrington I
Carrington II
Chapel
Chapel Land
Congo Road
Cox Hall
District "C"
Dodds
Ebenezer
Edgcombe
Featherbed Lane
Four Roads
Foursquare A
Fortescue Hill
Frenches
Gemswick
Greenland (Foursquare)
Hampton 'A'
Hampton 'B'
Harlington (Mangrove)
Harmony Lodge
Harrington
Harrow I
Harrow II
Hillview
Jordans
Marley Vale
Merricks
Mount Pleasant I
Mount Pleasant II
Mount View
Oldbury I
Oldbury II
Oughterson I
Oughterson II
Palmers
Parish Land
Pollard
Poolers Land
River I
River II
Ruby

Sandford
Sandy Hill
Sion Hill
Station Hill
Sterling
St. Martins
Sunbury
Thickets Land
Three Houses
Valley
Vineyard
Walrond
Woodbourne

11. St. Thomas

Andrews
Applewhaites I
Applewhaites II
Ayhsford
Bonnetts
Bloomsbury
Bridgefield
Canewood
Casuarine
Christie's Village
Clifton 'A'
Clifton 'B'
Clifton 'C'
Clifton Hill (Walkes Spring
Plantation)
Clifton Hill (Mt. Wilton
Plantation)
Content
Dukes
Dunscombe I
Dunscombe II
Endeavour
Farmers 'A'
Farmers 'B'
Fisherpond
Fortress
Forty Acre
Free Harry

Grand View
Hampond
Hill House
Hopewell
Lammings
Lion Castle
Lower Canefield
Lower Highland
Mary Blunt
Moonshine
Mount Wilton
Parris Hill
Ridgeway
Ruby
Sharon
Shop Hill
Sturges
Straker
Strong Hope
Upper Canefield
Upper Highland
Walkes Spring
Whitehall

SECOND SCHEDULE

(Section 4(1))

PART I

*Principle for the determination of purchase price of lots within
plantation tenancies*

First
Schedule.
1989-14.¹
2001-19.

The purchase price payable for a lot in a plantation tenancy specified in the *First Schedule* shall be determined on the basis of \$1.00 for every square metre of land but in no case shall that price be less than \$300.

PART II

*Principle for the determination of purchase price of lots within
other tenancies*

1. The price payable by the tenant for a lot in a tenancy other than a plantation tenancy shall not exceed \$2.50 per square foot; but where the open market price of the lot exceeds \$2.50 per square foot, there shall be payable to the landlord a Government subsidy of the difference between the open market price and the \$2.50.

2. Where the lot referred to in paragraph 1 exceeds 5 000 square feet, no subsidy is payable in respect of the excess.

3. The market value referred to in paragraph 1 shall, in the absence of an agreement between the parties, be ascertained by the Small Holdings Committee in accordance with section 29(1).

¹The amendment made by Act 1989-14 has effect from 1st November, 1980.

THIRD SCHEDULE

(Section 12(1)) 2001-19.

Form I

Tenancies Freehold Purchase Act, Cap. 239B

**TENANT'S NOTICE TO LANDLORD 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 this day of , 20 .

.....
Tenant.

Explanatory Notes

- (a) Insert name of person who owns the tenantry.
- (b) Give name of the tenantry within which the lot is comprised.
- (c) Name parish in which the tenantry is situated.

(Section 12(2))

Form II

Tenancies Freehold Purchase Act, Cap. 239B

**TENANT'S NOTICE TO THE REGISTRAR OF TITLES
OF HIS INTENTION TO PURCHASE THE FREEHOLD OF HIS LOT**

1989-14. To: The Registrar of Titles

TAKE NOTICE THAT: (a)

[] The landlord has not appointed an attorney in accordance with the above-mentioned law.

[] The landlord has refused to sell the lot.

[] The landlord cannot be found.

AND, accordingly, 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 this day of , 20 .

.....
Tenant.

Explanatory Notes

(a) Put x next to the appropriate statement.

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

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

FOURTH SCHEDULE

(Sections 14, 16) 2001-19.

CONVEYANCE MADE PURSUANT TO SECTION 16 OF THE 2001-19.
TENANCIES FREEHOLD PURCHASE ACT, CAP. 239B

THIS CONVEYANCE is made the day of , 20
BETWEEN [vendor] of [address] (hereinafter referred to as the Vendor) of the one
part and [purchaser] of [address] (hereinafter referred to as the Purchaser) of the
other part.

WHEREAS

- (1) The vendor is seised of the property described in the SCHEDULE hereto
for an estate in fee simple free from encumbrances.
- (2) The requirements of Part I of the *Tenancies Freehold Purchase Act*,
Cap. 239B have been complied with by the Vendor and the Purchaser.
- (3) The Vendor has agreed with the Purchaser for the sale to him at the price of
\$ of the said property in fee simple subject as hereinafter expressed
but otherwise free from encumbrances.

NOW THIS CONVEYANCE WITNESSETH as follows:

In pursuance of the said agreement and in consideration of the sum of \$
now paid by the Purchaser to the Vendor (receipt whereof the Vendor hereby
acknowledges) the Vendor AS BENEFICIAL OWNER hereby conveys unto the
Purchaser ALL THAT parcel of land described in the SCHEDULE hereto
TOGETHER WITH all the rights appertaining or annexed to the property hereby
conveyed as provided for by section 66 of the *Property Act*, Cap. 236, reserving 1981-48.
unto himself and to any other tenant of the Vendor a right of way [] metres
wide over the land, TO HOLD the same unto the Purchaser in fee simple.

SCHEDULE
[Description of Property]