



# FALKLAND ISLANDS

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## Land Ordinance 1949

(ORDINANCE No. 28 OF 1949)

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## FALKLAND ISLANDS

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### Land Ordinance 1949

AN ORDINANCE To consolidate the law as to land.

*[DATE OF COMMENCEMENT: 31ST DECEMBER 1949]  
(Unless otherwise indicated)*

#### 1 Short title

This Ordinance may be cited as the Land Ordinance 1949.

*[Revision w.e.f. 31/07/2017]*

#### 2 Interpretation

In this Ordinance, unless the context otherwise requires-

"**chief police officer**" means the chief police officer at Stanley;

"**country land**" means land more than six miles from the Cathedral in Stanley or from the centre of any other town;

"**Court**" means the Supreme Court of the Falkland Islands;

"**Crown land**" means any land not already granted in fee simple and any land acquired by the Crown;

"**deed**" means any instrument affecting land in the Falkland Islands;

"**improvement**" includes buildings, drains, wells, tanks, dams, cultivation, fencing, filling up, laying down grass, and any beneficial work done upon any land, not being a reserve, to increase its value, productiveness, or ability to carry stock;

"**land**" includes any messuages, tenements and buildings thereon and any estate or interest therein but does not include minerals;

"**lease**" includes the right of occupation or use of any land;

**"minerals"** mean precious stones, precious metals, metals and all minerals of any kind whatsoever including coal, bituminous shale, lime, and mineral oil;

**"public purpose"** means-

- (a) any purpose connected with-
  - (i) exclusive government use;
  - (ii) general public use;
  - (iii) or ancillary to the public interest or utility;
  - (iv) or to town planning;
  - (v) the defence of the Falkland Islands;
  - (vi) or ancillary to naval, military or air force requirements;
  - (vii) the promotion or creation of healthy and sanitary surroundings and the prevention or abatement of what the Governor in Council considers to be a nuisance, dangerous to health or limb;
- (b) any purpose intended to result in a benefit or advantage to the community and without prejudice to its generality to include the development, utilization or disposal of property (in whole or in part) for the promotion of the physical, economic, social, or aesthetic well-being of the community;
- (c) any other purpose specified as public by any Ordinance or which the Governor in Council may declare to be a public purpose.

*[S. 2(a)/Ord. 11/85/w.e.f. 1/8/85.]*

**"Registrar General"** means the Registrar General at Stanley;

**"reserve"** means the land specified in section 20 and any land declared a reserve under that section;

**"town land"** means land in Stanley as defined in Schedule 1 to the Stanley Rates Ordinance and land not more than two miles from the centre of any other town;

*[S. 2/Ord. 11/73/w.e.f. 1/7/73.]*

**"vendor", "owner", "mortgagor", "mortgagee", "lessor", "lessee", "transferor", "transferee"** include respectively their heirs, executors, administrators and assigns.

## **PART I DEEDS**

**3** ...

*[s. 49/Ord. 25/96/w.e.f. 5/5/97.]*

**4** . . .

*[s. 49/Ord. 25/96/w.e.f. 5/5/97.]*

**5** . . .

*[s. 49/Ord. 25/96/w.e.f. 5/5/97.]*

**6** . . .

*[s. 49/Ord. 25/96/w.e.f. 5/5/97.]*

## **7 Lease**

(1) . . . Every deed being a lease (other than a Crown lease) may be in the form set out in Form 5 in Schedule 1.(2) There shall be implied in every such lease covenants on the part of the lessee with the lessor to pay rent, rates and taxes (if any), not to assign without prior written consent, to repair and on determination of the lease to leave in good repair and condition.(3) The lessor shall have power, subject to the provisions contained in the proviso to section 27(1) and in section 27(2) of this Ordinance with the substitution of "the lessor" for "the Governor", to enter upon the leased land and resume possession thereof upon non-payment of rent or breach of any covenant but until such default the lessee shall have quiet enjoyment.

## **8 Execution of deeds**

(1) Every deed shall be signed as follows:

- (a) a conveyance by the vendor;
- (b) a mortgage by the mortgagor;
- (c) a transfer of mortgage by the transferor;
- (d) a reconveyance by the mortgagee;
- (e) a lease by both parties;
- (f) an assignment of a lease by the assignor and the assignee,

in the case of a deed executed in the Falkland Islands in the presence of a justice of the peace, commissioner for oaths, legal practitioner, manager of a financial institution which is licensed under the Banking Ordinance 1987, or a person whose name appears in the register of electors for the time being in force (and in each case the usual address of that person shall follow his attestation) and in the case of a deed executed outside the Falkland Islands by a Notary Public and in the case of a company or corporation in such manner as is for the time being required by law in relation to a deed executed by it.

*[S. 2/Ord. 3/95/w.e.f. 27/4/95 and S. 49(3)/Ord. 25/1996/w.e.f. 5/5/1997.]*

(2) No deed shall be registered until it has been duly executed as aforesaid.

## **9 Registration**

(1) Every deed, or order of the Court (other than a Crown Grant or lease or an agreement for a lease or for an assignment of a lease) shall be registered with the Registrar General within thirty days of the execution thereof when the party or parties executing it are resident in the Falkland Islands or within six months when such parties are not so resident.

*[Section 19(1) of the Land Charges Ordinance No. 24 of 1996 provides as follows with effect from 5th May 1997:*

*"(1) Without prejudice to its continuing application in relation to deeds executed before the coming into force of this Ordinance, section 9(2) of the Land Ordinance shall not have any effect in relation to any deed executed after that time."]*

(2) Any deed not registered as aforesaid shall be void against a subsequent purchaser or mortgagee for valuable consideration unless such deed is registered before registration of the deed under which such subsequent purchaser or mortgagee claims.

(3) Every applicant for registration shall pay the appropriate fee set out in the first part of Schedule 2.

(4) . . .

*[Revision w.e.f. 31/07/2017]*

## **10 Certified copy of deed**

A copy of any registered deed certified by the Registrar General shall be admissible in evidence.

## **11 Fresh title**

(1) Any person who considers himself lawfully entitled to be registered as the owner in fee simple of any land may petition the Court to be so registered.

(2) Such petition shall be published in such manner as the Court may direct not less than three months before it is heard and copies thereof shall be served on such persons as the Court may direct.

(3) The Court may, on being satisfied as to the claim of a petitioner, make a decree nisi for the issue of a title. Such decree shall not be made absolute until after the expiration of one year from the date thereof.

(4) Any person may show cause why it should not be made absolute at any time before it is made absolute.

(5) On a decree being made absolute the Registrar General shall prepare a deed in the Form 6 in Schedule 1 and when the judge has countersigned such deed and the copy in the Register such title shall be indefeasible.

## 11A Demonstration of title by vesting deed

(1) Subject to this section, any person who claims to have been in actual and open possession of any land for such a period of time that, after taking into account, where appropriate, the period of time any other person through whom he claims has prior to him been in possession of the land, the right of any person to bring an action for possession of that land against him has been barred, may apply in accordance with this section to the Registrar General to execute in his favour a Vesting Deed of the land.

(2) An application under this section shall be accompanied by a statutory declaration made by the applicant which shall-

- (a) set out the facts relied on by the applicant to prove that any right of action by any other person for possession of that land has been barred by the operation of section 15 of the Limitation Act 1980 in its application to the Falkland Islands;
- (b) show that a Crown grant in respect of the land in question has at some previous time been made in favour of some person;
- (c) without prejudice to paragraph (a), aver that the applicant-
  - (i) is not a joint owner of the land in question;
  - (ii) is not a mortgagor under a conveyance of the estate in fee simple in that land by way of mortgage;
  - (iii) is not in possession of the land by the permission of any other person and is not a lessee of the land under any lease which is unexpired and was not a lessee of the land under a lease of the land which expired less than twelve years before the date of the application; and
  - (iv) has not at any time during the twelve years immediately preceding the application paid any sum to any person on account of or in respect of the occupation or use of the land;
- (d) wherever appropriate, aver the like matters required by paragraph (c) in respect of all persons in possession of the land during the twelve years preceding the application and partly on the basis of whose possession the applicant claims.

(3) The Registrar General on receiving the application shall cause notice of the application-

- (a) specifying the applicant and the land to which the application relates;
- (b) notifying that the applicant's statutory declaration may be inspected by any person at the Registrar General's office during usual business hours for thirty days following publication of the notice;
- (c) notifying the right of objection to the application provided for by subsection (4); and
- (d) notifying that, subject to any such objection, title to the land is vested in the applicant,

to be published in the Gazette.



(4) Any person who objects to the vesting of title to the land in the applicant pursuant to subsection (5) may, within thirty days of publication of the notice required by subsection (3), object to such vesting by notice in writing delivered to the Registrar General. Any notice under this subsection shall specify the grounds on which the objection is made.

(5) The Registrar General, after taking into account any objections received under subsection (4) and if satisfied that a vesting deed ought to be executed in favour of the applicant shall execute a vesting deed of a kind mentioned in subsection (7), but otherwise the Registrar General shall notify the applicant that his application is rejected and of the grounds upon which it is rejected.

(6) The Registrar General shall cause notice of his decision under subsection (5) to be published in the Gazette and that notice shall state the effect of subsection (9).

(7) The vesting deed referred to in subsection (5) is a deed in substantially the following form:

"Dated this.....day of.....200.....

Whereas on application made to me [name] Registrar General pursuant to section 11A of the Land Ordinance by [here set out name and addresses of applicant] I am satisfied that [he] [she] should be registered as the owner of the estate in fee simple absolute in possession of the land described in the Schedule to this Deed

Now Therefore by this Deed I do declare that the estate in fee simple absolute in possession of the said land is vested in [him] [her] Subject only to such matters as are mentioned in Crown Grant Number..... relating to that land or have effect by virtue of that Crown Grant and to such easements rights privileges and encumbrances as he may have created prior to the date of this Deed

#### SCHEDULE

(Description of land)

*Signed*

*Registrar General"*

(8) Subject to the following provisions of this section, a vesting deed executed under this section shall have effect as if the person named therein had been the grantee under the Crown grant referred to therein and as if that Crown grant had been executed on the same day as the vesting deed.

(9) A person aggrieved by a decision of the Registrar General to execute a vesting deed under this section may appeal to the Supreme Court within thirty days of the publication in the Gazette of the notice required by subsection (6) and the Supreme Court may, on determination of the appeal, to which the applicant shall be a respondent, annul or confirm the vesting deed and make such other or consequential order as it thinks fit.

(10) If the Registrar rejects an application under this section, the applicant may appeal to the Supreme Court within thirty days of receipt of notice under subsection (5) of that rejection, and on determination of such an appeal the Supreme Court, if it allows the appeal, shall order the

Registrar General to execute a vesting deed of a kind described in subsection (7) and may make such other or consequential order as it sees fit, and whether it allows or dismisses that appeal.

[S. 2/Ord. 16/93/w.e.f. 25/11/93.]

## **PART II STAMP DUTIES**

*[The Stamp Duties (Abolition) Ordinance 1991 abolished stamp duty in relation to any deed executed and delivered after 1 January 1991]*

**12 ...**

*[Revision w.e.f. 31/07/2017]*

**13 ...**

*[Revision w.e.f. 31/07/2017]*

**14 ...**

*[Revision w.e.f. 31/07/2017]*

**15 ...**

*[Revision w.e.f. 31/07/2017]*

**16 ...**

*[Revision w.e.f. 31/07/2017]*

**17 ...**

*[Revision w.e.f. 31/07/2017]*

## **PART III CROWN LANDS**

### **18 Disposal of Crown lands**

Subject to the provisions of this Ordinance the Governor in Council may dispose of Crown lands by lease and may also dispose of Crown lands, other than lands forming part of a reserve, by grant in fee simple.

*[S. 2/Ord. 11/54/w.e.f. 1/11/54.]*

### **19 Power of refusal to sell freehold**

The Governor in Council may refuse a lessee of any Crown lands the right of purchasing the freehold thereof.

## **20 Reserves**

(1) The following land shall continue to be reserves:

In Lafonia, near Bull Point: 1,280 acres.

In Section 22A, West Cove: 1,540 acres.

In Pebble Island, Elephant Bay: 160 acres.

In Keppel Island, Bold Point: 160 acres.

In New Island, Tigre Harbour: 160 acres.

In Stanley Harbour, Navy Point: 145 acres.

(2) The Governor in Council may by notice in the Gazette declare any Crown land a reserve and such declaration shall show in general terms the nature of the purpose for which such land is declared a reserve.

(3) Should any land declared a reserve, or any part thereof, be subject to a lease a notice of the declaration shall be served on the lessee, and the lease so far as it relates to the land so reserved shall determine at the expiration of three years from the date of publication of the notice in the Gazette, and the Governor in Council may where the lessee is so deprived of the use of the reserved part of his holding grant a proportionate rebate of the rent.

(4) The Governor in Council may with the approval of the Secretary of State declare a reserve to be no longer reserved and upon publication of a notice in the Gazette to that effect such land shall cease to be a reserve and may be dealt with as other Crown land.

## **21 Lease of reserved land**

Any reserve or part of a reserve may be leased for a term not exceeding three years.

## **22 Renewal of lease**

The Governor in Council may, upon the application of a lessee whose lease has expired or will expire within two years, grant to him either a renewal of such lease or a new lease upon such terms and subject to such conditions and restrictions as may seem expedient, but such renewal or new lease shall not, unless otherwise expressly provided, have effect until the determination of the then current lease, and shall not in the case of suburban land or a reserve exceed the term of three years.

## **23 Option to determine all leases when renewal is refused**

Where the Governor has declined to renew a lease the lessee may by notice in writing to the Chief Executive elect that all leases of Crown lands held by him and farmed or worked together with the land comprised in the first-mentioned lease shall expire on the same day as the lease which the Governor has declined to renew, and thereupon all such leases shall be determined accordingly and all such leases shall be considered leases which the Governor has refused to renew.

## 24 Determination of lease

(1) When a lessee fails to observe or perform any of the covenants and conditions on his part contained in the lease, or to pay the rent reserved by the lease within one month after it has become due, the Governor or his servants or agents may re-enter upon and re-occupy the land demised by the lease and thereupon such lease shall be determined:

Provided that the right of re-entry or forfeiture for a breach of any covenant or condition in a lease shall not be enforceable unless and until there shall be served on the lessee a notice-

- (a) specifying the breach complained of; and
- (b) if the breach is capable of remedy, requiring the lessee to remedy the breach; and
- (c) in any case, requiring the lessee to make compensation in money for the breach;

and the lessee fails within a reasonable time thereafter to remedy the breach, if it is capable of remedy, and to make compensation in money, to the satisfaction of the Governor, for the breach.

The foregoing proviso shall not extend-

- (i) to a covenant or condition against assigning, underletting or disposing of the land leased; or
- (ii) to a condition for forfeiture on the bankruptcy of the lessee, or on taking in execution of his interest.

(2) Where it is proposed to enforce such a right of re-entry or forfeiture, the lessee may apply to the Court for relief; and the Court may grant or refuse relief as the Court, having regard to all the circumstances, thinks fit; and may grant relief on such terms as to costs, expenses, damages, compensation, or otherwise as the Court, in the circumstances of each case, thinks fit.

## 25 Reservations, restrictions and conditions

(1) The Governor in Council may insert in any grant or lease of Crown lands such reservations, restrictions and conditions as he may deem expedient.

(2) Every grant or lease of Crown lands shall be subject to the following reservations, restrictions and conditions unless they are expressly excluded or are not appropriate to the particular grant or lease:

- (a) No lease shall be transferred without the consent in writing of the Governor first obtained.

A transfer of a lease shall be endorsed thereon and shall be as follows:

"I hereby transfer to . . . . .all my right title and interest in this lease.

Dated the. . . . .day of. . . . .19. . ."

Such endorsement shall be signed by the lessee in the presence of a justice of the peace, or, in a foreign country, a notary public, or, if the lessee is a limited company, the common seal of the company shall be affixed in accordance with the articles of association of the company.

The transferee shall within thirty days if the lessee is resident in the Falkland Islands, or within six months if he is not so resident, forward the lease to the Registrar General for registration otherwise the transfer shall not be effective.

- (b) Country and suburban lands shall be used for pastoral purposes only.
- (c) The Governor and any person acting under his authority may search for, excavate and take away any stone or other materials which may be required for any public road, public utility or convenience.
- (d) All minerals are reserved to the Government, with full liberty at all times to search for, mine, quarry and carry away the same and for that purpose to enter upon the land or any part thereof or authorize any person or company so to do.
- (e) It is unlawful for any person, with intent to do so, to take, wound or kill any seal except as provided for by the Marine Mammals Ordinance, section 3(2).
- (f) Rent shall be paid yearly in advance.
- (g) Any person authorized by the Governor shall be permitted to enter upon any land for the purpose of surveying, inspecting fences or for any particular purpose specified in writing.
- (h) All rates, taxes and assessments shall be paid in respect of the land.
- (i) Good and sufficient fences shall be erected and maintained on the boundaries of land where there is no natural boundary and the physical features of the land permit.

(3) Subject to subsection (4) every reservation, restriction or condition contained in any lease, conveyance or grant of land by the Crown as lessor, transferor or grantor shall be enforceable by the Crown against the lessee, transferee or grantee of the land concerned and every successor in title of his under that lease, conveyance or grant and whether the reservation, restriction or condition is positive or negative in nature and notwithstanding any rule of law or equity otherwise to the contrary and without (in the case of a restriction or condition in the nature of a negative obligation or restrictive obligation or restrictive covenant (however described) ) the same having been annexed for the benefit of other land owned by the Crown and capable of benefiting therefrom and without the Crown being obliged to show that it owns or has any interest in any land capable of benefiting therefrom.

*[S. 2(d)/Ord. 12/89/w.e.f. 2/8/89.]*

(4) Subsection (3) shall have effect subject to section 24.

*[S. 2(d)/Ord. 12/89/w.e.f. 2/8/89.]*

#### **PART IV FENCES**

## 26 Fencing, etc., on country and suburban land

(1) Subject to subsection (2) the following provisions have effect with respect to fences and fencing on country or suburban land:

- (a) Where there exists no sufficient natural boundary or no sufficient boundary fence, an owner may by notice in writing call on the owner of the adjoining land to come to an agreement as to the extent or nature of the fence to be erected, or the repairs to be done to the existing fence, and such owners may agree, in writing, that such boundary fence shall not exactly follow the boundary of their lands when the physical features of the ground render a deviation necessary, and the cost of the erection or repair, as the case may be, of the boundary fence shall be divided between them in such manner as they agree.
- (b) If the owners cannot come to any agreement, or where an agreement has been made but one of the parties fails to complete his part thereof, the owner who gave notice, or the other owner as the case may be, may request the Chief Executive to appoint a person to view the boundaries and to report upon the necessity for a fence, the line of such fence, or what repairs or additions to the existing fence are necessary to make it sufficient.

*[S. 2(a)/Ord. 12/89/w.e.f. 2/8/89.]*

- (c) The person appointed under paragraph (b) shall thereupon view and inspect the land and report in writing upon the extent of the fence that it is necessary to erect, or the repairs or improvements that are necessary to make the existing fence sufficient, and shall deliver his report as soon as practicable to the owners and to the Senior Magistrate.

*[S. 2(a)/Ord. 12/89/w.e.f. 2/8/89.]*

- (d) Upon receipt of the report of the person appointed under paragraph (b), the Senior Magistrate shall require the attendance of the parties interested, and shall determine the question at issue, and, if he is satisfied that an existing fence should be repaired or that a new fence is necessary, he shall issue an order to the owners of such land for the repair or erection of such fence within such period as is shown to his satisfaction to be sufficient for the proper completion of the work. Any owner who wilfully fails to comply with such order commits an offence and is liable on conviction to a fine not exceeding level 3 on the standard scale for every month he remains in default.

*[Revision w.e.f. 31/07/2017]*

- (e) If it is shown that one owner has not the means immediately to pay his proportion of the cost of repairing or erecting a boundary fence, then the Senior Magistrate may-
  - (i) upon the application of the other owner, grant him leave to erect or repair the whole of such boundary fence, and, on a certificate from the person appointed paragraph (b) that the work has been properly done, the applicant shall be entitled to recover from the other owner one-half of the cost of the work so done;
  - (ii) on the hearing of an application under the foregoing paragraph, issue an order granting the defendant time, upon sufficient security being given, for the repayment with interest of his proportion of the cost of the work at such periods and by such instalments as may be ordered;
  - (iii) where the defendant fails to comply with the terms of the order made under the preceding paragraph, whether by non-payment of an instalment when due or

otherwise, if he thinks fit to order the recovery of the amount outstanding by distress and sale of the defendant's property, so, however, that where the sale of the defendant's property is not sufficient to satisfy the claim the plaintiff shall be entitled to recover any payment of the balance due from any surety who may have entered into a bond as security for the payment of the judgment debt by the defendant.

- (f) When a fence forming the boundary between the lands of two adjoining owners is damaged by stock permitted to be upon the land of one of them such last-mentioned owner is liable to repair the fence, and if he refuses or neglects to do so the adjoining owner may at once proceed to repair the same and shall be entitled upon completion of the work immediately to recover the cost thereof from him.
- (g) For the purposes of this section the term "owner" includes a lessee under a lease for a term of not less than one year.

*[S. 2/Ord. 11/64/w.e.f. 1/11/64.]*

(2) Nothing in subsection (1) applies insofar as would be inconsistent with any agreement comprised in any deed registered under this Ordinance binding upon the respective owners or their respective predecessors in title or so as to impose on the Crown any obligation contrary to a condition to which section 25(3) relates.

*[S. 2(e)(iii)/Ord. 12/89/w.e.f. 2/8/89.]*

## **27 Damage to fences, etc.**

(1) Any person who wilfully or maliciously damages any gate or fence erected on country or suburban land or leaves open any gate erected on such land commits an offence and is liable on summary conviction to imprisonment for a term not exceeding two months or to a fine not exceeding level 4 on the standard scale or to both such imprisonment and fine.

*[Revision w.e.f. 31/07/2017]*

*[S. 2(a)/Ord. 6/84/w.e.f. 9/7/84.]*

(2) On conviction of a person under subsection (1) the Court may award to the owner of the land on which the damage was done or the gate was left open-

- (a) compensation in respect of the damage to the gate or fence; and
- (b) compensation of not more than £1,000 in respect of any loss the owner may have suffered as a consequence of the damage to the gate or fence or the leaving open of the gate.

*[S. 2(a)/Ord. 6/84/w.e.f. 9/7/84.]*

(3) An award made under subsection (2) shall not inhibit the taking by the owner of the land of civil proceedings against any person in relation to damage or loss suffered by him as a consequence of the damage to the gate or fence or the leaving open of the gate but may be taken into account by the Court when making an award in such civil proceedings.

## **PART V ACQUISITION OF LAND**

### **28 Power to enter to survey**

Whenever the Governor in Council resolves that any land is required for a public purpose the Governor may authorize, in writing, any person, his agents, servants and workmen to enter as often as may be necessary upon such land to survey, measure, take levels, mark out and delineate the land so required.

### **29 Warrant for acquisition**

The Governor in Council may by resolution declare that any land shall be acquired for a public purpose and thereupon a warrant in Form A in Schedule 4 shall be made under his hand and the Public Seal of the Falkland Islands directing that such land be acquired for a public purpose and such warrant shall be published in the Gazette.

### **30 Notices**

Whenever a warrant is made under section 29 the Chief Executive shall within eight days of the date of the warrant cause a notice in Form B in Schedule 4 to be served personally on the owners and lessees of the land specified in the warrant or their duly appointed attorneys, or if they cannot be found-

- (a) by leaving the notice with a responsible person at their last known place of abode or business; or
- (b) by leaving it with the occupier of the land; or
- (c) by affixing it to a conspicuous part of the land.

*[S. 2(a)/Ord. 12/89/w.e.f. 2/8/89.]*

### **31 Entry and possession**

Any person authorized by the Governor may, twenty-one days after service of the notice provided for in section 30, enter upon the land specified in the notice and mark out and take possession of the same for a public purpose.

### **32 Registration**

Within eight days after such appropriation the Chief Executive shall cause a plan of the land so appropriated and a certified copy of the warrant provided for in section 29 to be registered with the Registrar General and such registration shall be conclusive evidence of appropriation of the land for a public purpose.

*[S. 2(a)/Ord. 12/89/w.e.f. 2/8/89.]*

### **33 Proceedings where possession refused**

(1) When the owner or occupier of any land required for a public purpose hinders or obstructs any person duly authorized by the Governor from entering upon or taking possession of such land in pursuance of this Ordinance the Governor may issue his warrant in the Form C in



Schedule 4 directed to the chief police officer who shall forthwith eject any person so withholding possession.

(2) Any person who wilfully hinders or obstructs any person duly authorized by the Governor from entering upon or taking possession of or using any land in pursuance of the provisions of this Ordinance, or who molests, hinders or obstructs such person when in possession of such land, or hinders or obstructs any police officer when executing the warrant provided for in subsection (1) of this section, commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both such imprisonment and fine.

*[S. 2(b)/Ord. 11/85/w.e.f. 1/8/85 and Revision w.e.f. 31/07/2017.]*

### **34 Land rendered useless by reason of appropriation**

When any land after appropriation as hereinbefore provided is so divided as to leave part thereof useless to the owner for the purpose for which he has been accustomed to use the land he may serve on the Chief Executive, before any agreement for the purchase of the land so appropriated is made or compensation in respect thereof is determined, notice requiring the Governor to purchase the said land rendered useless by reason of the severance as aforesaid, and thereupon the Governor may purchase such land at an agreed price, or may refer the matter to the arbitrators and umpires hereinafter mentioned to find whether or otherwise such land has been rendered useless by severance as aforesaid, and if so to determine the price which should be paid for the same as though it were appropriated land as aforesaid, and the Governor shall purchase such land rendered useless accordingly.

*[S. 2(a)/Ord. 12/89/w.e.f. 2/8/89.]*

### **35 Part of building not to be taken**

Nothing in this Ordinance shall be deemed to authorize the Governor to take part only of a house or other building, and where part of the land on which a house or other building stands is required for a public purpose the Governor shall take the whole house or building.

### **36 Compensation**

(1) Any person having any right, title or interest in land acquired for a public purpose shall be entitled to and shall receive compensation therefor and for all damages sustained by reason of the exercise of the powers granted by this Ordinance such compensation to be determined as hereinafter provided.

(2) The Governor and any person referred to in subsection (1) may agree the amount of such compensation as aforesaid and in default of such agreement such amount shall be determined by arbitration as hereinafter provided.

### **37 Arbitration**

(1) In case of dispute as to the amount of compensation to be paid the claim shall be referred to two arbitrators, one to be appointed by the Governor and one by the persons claiming in respect of the land appropriated, who shall decide thereon:

Provided that in the event of their not agreeing on the amount to be awarded they shall within the period during which they have power to make an award appoint an umpire.

(2) The arbitrators shall-

- (a) decide upon all claims in respect of land acquired as aforesaid and apportion the award in respect of the various interests in any claim;
- (b) appoint the times and places at which they will sit to hear and determine a claim and give notice thereof to the parties concerned;
- (c) require the parties to appear before them and, subject to any legal objection, produce all deeds, books, papers, accounts and documents as they may deem fit;
- (d) require, if they deem fit, witnesses to be examined on oath;
- (e) decide the amount of costs and all questions relating thereto, but shall not award the costs to the claimant where-
  - (i) the award of compensation does not exceed the sum offered by the Governor;
  - (ii) his conduct has been unreasonable or vexatious or his claim grossly excessive;
  - (iii) he has been party to deceit or fraud in respect of his claim;
- (f) consider only the following matters and none other in determining the amount of compensation to be paid:
  - (i) the market value of the land at the time of acquisition;
  - (ii) any damage sustained by reason of severance of the land acquired affecting the other property or earnings of the claimant at the time of appropriation;
  - (iii) the reasonable expenses of the claimant incurred by him in changing his residence consequent on the acquisition of the land.

### **38 False evidence to be perjury**

Any person who wilfully gives false evidence on oath of any fact material to any claim for compensation commits perjury.

### **39 Time for award**

(1) The arbitrators shall make their award in writing within three months of their appointment or within such further period not exceeding six months as they may by notice decide.

(2) The umpire shall make his award in writing within one month of his appointment or within such further period not exceeding three months as he may by notice decide.

### **40 Publication of award**

Every such award shall specify the amount awarded under the several heads of claim, be signed by the arbitrators or umpire, and be published in the Gazette.

#### **41 Award conclusive**

(1) The decision of the arbitrators or umpire shall be final and conclusive regarding all persons who have appeared and claimed, or on whose behalf any person having authority has claimed any land or interest therein, but any person who has not appeared or claimed, or on whose behalf no claim has been made may do so within one year of the date of the award.

(2) Except where a valid title has been shown to the satisfaction of the arbitrators or umpire, payment of compensation shall be postponed for one year from the date of the award and shall then be paid to the person or persons who shall in the opinion of the arbitrators or umpire appear to have the best right thereto and his or their receipt shall operate as a full and complete discharge of the Governor from all claims in respect of compensation for such land appropriated and any interest therein.

#### **42 Resumption of land under Crown grants not to give claim for compensation**

Nothing contained in this Ordinance shall be construed or deemed to confer upon any person any right to compensation in respect of any land resumed in the name of Her Majesty, her heirs or successors as required for roads, railways or other public works in pursuance of any condition, reservation, or power of resumption contained in any other Ordinance, or in any grant or lease of Crown lands.

### **PART VI GENERAL**

#### **43 Protection of persons acting under Ordinance**

(1) All actions or proceedings brought against persons acting in the execution of this Ordinance shall be commenced within six months after the act, neglect or default complained of or in case of a continuance of injury or neglect within six months after the ceasing thereof.

(2) Notice in writing of such action and of the cause or causes thereof shall be given to the defendant at least one month before the commencement of the action.

(3) No plaintiff shall recover in any such action if tender of sufficient amends has been made before action brought, or if a sufficient sum has been paid into court by the defendant after action brought and notice thereof given to the plaintiff.

#### **44 Cutting peat on Crown lands**

Any person who cuts or causes to be cut any peat on Crown lands without the consent of the Governor commits an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale for each day peat is so cut.

*[Revision w.e.f. 31/07/2017]*

#### **45 Searches and certified copies of documents**

Any person may during the normal office hours search the registers maintained by the Registrar General and obtain a certified copy of any deed registered therein subject to his paying the appropriate fee set forth in Part II of Schedule 2.

#### **46 Regulations**

(1) The Governor in Council may make regulations for carrying out the provisions of this Ordinance.

(2) Regulations made under subsection (1) may provide for the amendment of the fees set out in Parts I and II of Schedule 2.

*[S. 2(c)/Ord. 6/84/w.e.f. 9/7/84.]*

**SCHEDULE 1  
FORMS**

**Form 1**

THIS CONVEYANCE made the \_\_\_\_\_ day of \_\_\_\_\_  
in pursuance of the Land Ordinance

BETWEEN \_\_\_\_\_ of  
(hereinafter called "the Vendor") of the one part and  
of \_\_\_\_\_ (hereinafter called "the Purchaser") of the other part

WITNESSETH that in consideration of the sum of \_\_\_\_\_  
now paid by the Purchaser to the Vendor (the receipt whereof is  
hereby acknowledged) the Vendor hereby conveys to the Purchaser ALL that  
parcel of land

To hold the same unto the Purchaser, his heirs, executors, administrators and  
assigns for ever

Delete if not  
applicable

It is hereby CERTIFIED that the transaction hereby effected does not form part  
of a larger transaction of a series of transactions the amount or value or the  
aggregate amount or value of which exceeds one thousand pounds.

IN WITNESS whereof the Vendor has hereunto set his hand the day  
and year first above written.

*Signed by the Vendor* }  
*in the presence of* }

The signature must be witnessed by a Justice of  
the Peace or in a foreign country by a Notary  
Public except in the case of a limited company

**Form 2**

THIS MORTGAGE made the \_\_\_\_\_ day of \_\_\_\_\_  
in pursuance of the Land Ordinance

BETWEEN \_\_\_\_\_ of \_\_\_\_\_  
(hereinafter called "the Mortgagor") of the one part and  
of \_\_\_\_\_ (hereinafter called "the Mortgagee") of the other part.

Where one  
prior charge

WHEREAS by a mortgage dated the \_\_\_\_\_ day of \_\_\_\_\_  
and made between the Mortgagor of the one part and  
of the other part the land hereinafter described and intended to be hereby  
conveyed was conveyed to the said \_\_\_\_\_ subject to the  
right of redemption therein contained

Where more  
than one prior  
charge

WHEREAS by the mortgages more particularly set out in the Schedule  
hereto the land hereinafter described and intended to be hereby conveyed to the  
respective mortgagees subject to the rights of redemption respectively herein  
contained

Delete recitals  
when not  
applicable

WITNESSETH that in consideration of the sum of \_\_\_\_\_  
now paid by the Mortgagee to the Mortgagor (the receipt whereof is hereby  
acknowledged) the Mortgagor hereby conveys ALL that piece of land

TO HOLD the same unto the Mortgagee his heirs and assigns for ever subject  
to the right of redemption by the Mortgagor. And the Mortgagor for himself  
his heirs executors administrators and assigns hereby covenants with the  
Mortgagee that he will repay the principal sum of \_\_\_\_\_ hereby  
secured on the \_\_\_\_\_ day of \_\_\_\_\_ and interest in the  
meantime at the rate of \_\_\_\_\_ per centum per annum by half yearly  
payments on the \_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_ in  
every year

IN WITNESS whereof the Mortgagor has set his hand the day and year  
first before written.

**THE SCHEDULE**

DATE. MORTGAGOR. MORTGAGEE. SUM SECURED.

*Signed by the Mortgagor* }  
*in the presence of* }

The signature must be witnessed by a Justice of  
the Peace or in a foreign country by a Notary  
Public except in the case of a limited company

**Form 3**  
**Transfer of Mortgage.**

THIS TRANSFER is made the \_\_\_\_\_ day of \_\_\_\_\_  
in pursuance of the Land Ordinance

BETWEEN \_\_\_\_\_ of \_\_\_\_\_  
(hereinafter called the "Transferor") of the one part and  
of \_\_\_\_\_ (hereinafter called the "Transferee") of the other part.

WITNESSETH that in the consideration of the sum of \_\_\_\_\_  
now paid by the Transferee to the Transferor (the receipt whereof is hereby  
acknowledged) the Transferor hereby conveys and assigns ALL his right title powers  
and interest in the within written mortgage to HOLD the same unto the Transferee his  
heirs executors administrators and assigns for ever subject to the right of redemption  
contained in the mortgage.

IN WITNESS whereof the Transferor has hereto set his hand the day and year  
first before written.

*Signed by the Transferor* }  
*in the presence of* }

The signature must be witnessed by a Justice of  
the Peace or in a foreign country by a Notary  
Public except in the case of a limited company.

**Form 4**  
**Reconveyance.**

(To be endorsed on mortgage to which it relates).

THIS RECONVEYANCE is made the \_\_\_\_\_ day of \_\_\_\_\_  
in pursuance of the Land Ordinance

BETWEEN \_\_\_\_\_ of \_\_\_\_\_  
(hereinafter called the "Mortgagee") of the one part and  
of \_\_\_\_\_ (hereinafter called the "Mortgagor") of the other part

WITNESSETH that in consideration of all principal money and interest thereon secured by the within written mortgage having been paid as the Mortgagee hereby acknowledges the Mortgagee hereby reconveys ALL that piece of land comprised in the within written mortgage to HOLD the same unto the Mortgagor his heirs executors administrators and assigns for ever free from encumbrances.

IN WITNESS whereof the said (Mortgagee) has hereto set his hand the day and year first before written.

*Signed by the Mortgagee }  
in the presence of }*

The Signature must be witnessed by a Justice of the Peace or in a foreign country by a Notary Public except in the case of a limited company.



**Form 5  
Lease.**

THIS LEASE is made the \_\_\_\_\_ day of \_\_\_\_\_ in  
pursuance of the Land Ordinance

BETWEEN \_\_\_\_\_ of  
(hereinafter called "the Lessor") of the one part and  
of \_\_\_\_\_ (hereinafter called "the Lessee") of the other part

WITNESSETH that in the consideration of the yearly rent of \_\_\_\_\_  
to be paid by the Lessee to the Lessor (in advance) on the \_\_\_\_\_ day of \_\_\_\_\_ the  
day of \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_ in  
every year the first payment to be made on the \_\_\_\_\_ day of \_\_\_\_\_ and of implied  
covenants on the part of the Lessee the Lessor hereby lets and the Lessee hereby takes  
ALL that piece of land

TO HOLD the same unto the Lessee his executors administrators and assigns for  
the term of \_\_\_\_\_ years from the \_\_\_\_\_ day of \_\_\_\_\_

IN WITNESS whereof the parties hereto have hereunto set their hands the day  
and year first before written.

*Signed by the Lessor* }  
*in the presence of* }

*Signed by the Lessee* }  
*in the presence of* }

The Signature must be witnessed by a Justice of  
the Peace or in a foreign country by a Notary  
Public except in the case of a limited company.

**Form 6**  
**Declaration of Title.**

Pursuant to the Land Ordinance

WHEREAS \_\_\_\_\_ of \_\_\_\_\_ has presented a petition to this Court that he is lawfully entitled to be registered as the owner in fee simple of the land hereinafter more particularly described

AND WHEREAS after hearing the evidence of the said Petitioner (and the respondents) this Court made a decree nisi for the issue of a title on the \_\_\_\_\_ day of \_\_\_\_\_ of \_\_\_\_\_

AND WHEREAS one year has elapsed since the date of the said decree and no persons has shown cause why such decree should not be made absolute.

NOW THEREFORE IT IS ORDERED AND DECLARED that \_\_\_\_\_ of \_\_\_\_\_ shall be registered as and shall be the lawful owner in fee simple of ALL that piece of land, etc.

subject etc.

Dated this \_\_\_\_\_ day of \_\_\_\_\_

*Judge.*

Registered the \_\_\_\_\_ day of \_\_\_\_\_

*Registrar-General*

**SCHEDULE 2  
FEES**

(section 9(3))

<b>Description</b>	<b>Fee (£)</b>
<b>PART I</b>	
1. Registration of order of the Court under section 9	31.50
2. Registration of any other deed, instrument or document to be registered against a title in duplicate	104.50
Any copies beyond 2 submitted at the same time, per copy	30.00
3. Registration of Crown Grant or Crown Lease (including undertaking) (in duplicate)	104.50
Any copies beyond 2 submitted at the same time, per copy	30.00
4. Application for vesting deed under section 11A	209.00
5. Certified copy deed, instrument or document (plus additional FIG photocopying fee)	31.50
6. Certification of registration deed, instrument or document	63.00
7. Photocopy of any deed, instrument or document, where undertaken as part of registration	FIG photocopy fee

**PART II**

(section 45)

8. Title search; hourly rate:	41.80
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Includes: Production of register or index for inspection (for each one) and comparing deed with registered deed (proportion of hourly rate to be paid for every part hour, plus additional FIG photocopying fee)

*[S.21/Ord. 5/15/w.e.f. 1/7/2015. S. 22/Ord. 11/19/w.e.f. 1/7/19]*

## **SCHEDULE 3...**

*[Revision w.e.f. 31/07/2017]*

**SCHEDULE 4  
FORMS**

**FORM A**

By His Excellency the Governor in Council

*Governor.*

Whereas on the            day of            the Governor in Council by resolution declared that the following land namely [description] should be acquired for a public purpose.

Therefore I do hereby direct that the said Land shall be acquired for a public purpose under and in accordance with the Land Ordinance.

Date this            day of

*By Command,*

*Chief Executive.*

**FORM B**

Notice is hereby given that the following land namely [description] is to be acquired for a public purpose.

Any person having any right title or interest in the said land is required on or before the    day of    (twenty one days after the date of service of this notice) to forward to the Chief Executive a statement of his right title or interest and evidence thereof and any claim made by him in respect of the value of the said land and his right title or interest therein.

The Governor is willing to treat for the purchase of the said land.

Date

*Chief Executive.*

FORM C

To the Chief Police Officer

By a warrant dated the                      day of                      His Excellency the Governor  
directed that the following land namely [description] should be acquired for a public purpose.

You are therefore commanded to put any person duly authorised by the Governor in that behalf  
in possession of the said land.

Dated the                      day of

*By Command,*

*Chief Executive.*

*[Revision w.e.f. 31/07/2017]*