

VOLUME 6

SECTION 4

Sale/Lease of Government Lands and Government Land Settlement

**The Responsibility of
The Ministry of Land and Environment
16A Half-Way Tree Road
Kingston 5**

TABLE OF CONTENT

CHAPTER 1	1
DIVESTMENT OF GOVERNMENT OWNED LANDS	
CHAPTER 2	3
DIVESTMENT OF GOVERNMENT LANDS TO CIVIL SERVANTS	
CHAPTER 3	4
LAND SETTLEMENTS	
APPENDIX	

CHAPTER I

DIVESTMENT OF GOVERNMENT OWNED LANDS

1.0 BACKGROUND

The Government of Jamaica recognises the importance of security of land tenure to sustainable development and is therefore committed to a system of efficient, fair and equitable distribution of land in a manner that will stimulate economic growth and welfare. Government is one of the largest land owners in Jamaica and entertains applicants who wish to purchase or lease land for various uses. This is commonly referred to as “divestment” and is used as a strategy to foster socio-economic growth and development in a market-oriented economy.

1.1 PROCEDURE FOR PURCHASING GOVERNMENT OWNED LANDS

1.1.1 The Procedure for applying to purchase government land is as follows:

Where a prospective purchaser has identified Government owned land that he/she wishes to purchase, then an application expressing interest in acquiring Government land must be forwarded to the Commissioner of Lands by way of a letter. The letter should state:

- i The name and location of the property
- ii The size of the property and
- iii The proposed use.

1.1.2 Business Plan

A Business Plan setting out proposals for the use of the property, financing and other related details is usually required.

1.1.3 Procedure where land is available for sale or lease

If the land applied for is available for sale/lease the following procedure is followed:

- i The Commissioner of Lands requests a valuation from the Commissioner of Land Valuation and information in respect of the suitability of the land from agencies such as National Environmental and Planning Agency (NEPA), National Works

Agency (NWA), etc. in order to ensure that the land will be developed in conformity with the permitted use;

- ii The Commissioner of Lands will forward to the Minister his/her recommendations;
- iii The National Land Divestment Committee, which is established by the Minister, is required to review the recommendations and to advise the Minister before he makes a final decision to divest the land;
- iv The Minister decides the sale price and may stipulate certain terms and conditions, taking into account the reports from the Commissioner of Lands and the National Land Divestment Committee. The Minister is free to consult with whomever he wishes, in order to arrive at the best decision. The cabinet is also consulted depending on the size and the type of use proposed for the land.
- v The Ministry transmits the Minister's decision to the Commissioner of Lands;
- vi The Commissioner of Lands will, if the Minister approves the divestment, issue a letter confirming the sale/lease of land to the applicant; and
- vii Once all the terms and conditions have been agreed to, a formal Sale Agreement is prepared for signature of the parties.

CHAPTER 2

DIVESTMENT OF GOVERNMENT HOUSES TO CIVIL SERVANTS

Civil servants who wish to purchase the properties occupied by them are required to apply to their Ministry indicating interest. Generally, the properties built for the use of public officers are not sold. However, the Ministry recommending sale of such properties will have to justify the sale with reasons to the Ministry of Land and Environment. The Ministry of Land and Environment in turn will forward the information on sale of the property to all Ministries, first to determine need for the said property for official use. Once the Ministries indicate their “no objection” to the sale of the property, the application will be reviewed by the National Land Divestment Committee and the recommendations are submitted to the Minister. The Minister has the final authority on the sale of the property to the prospective purchaser.

CHAPTER 3

LAND SETTLEMENTS

3.0 RULES GOVERNING LAND SETTLEMENTS

3.0.1 Applying for Land Settlement Plots

Person's applying for land settlement plots should do so by using application forms that are available at the Estate Management Division in Kingston and the regional offices islandwide. Each application should be made to the Commissioner of Lands. (See Appendix I for Sample of Application Form).

An applicant is required to pay a deposit on the price of the land, standing buildings and crops for which application is made, once approval is granted by the Minister.

If an application is accepted but the applicant fails to comply with the conditions of sale, the money deposited by the applicant will be forfeited. The Commissioner may in his/her discretion waive his/her right to forfeiture.

3.1 APPLYING FOR VACANT LAND SETTLEMENT PLOTS

Lands sold under Land Settlement Terms and Conditions offer generous terms of payment as the primary focus is to provide the poor and the landless access to land particularly for agricultural purposes.

The procedure for application is made in the same manner as above, but in this case:

- i The Commissioner of Lands will first advertise the land by posting Notices on site, at the RADA Office, the Post Office and Community Centre, inviting application from prospective purchasers;
- ii A minimum of two weeks is given from the date when the advertisement appears to final date for the submission of applications;
- iii Applications are then collected and processed by the office of the Commissioner of Lands (NLA). This process is usually completed

within two months and may include interviews with the applicants to ascertain their capability to use the land for its designated purpose.

3.2 ALLOTMENTS

An applicant is deemed to have been accepted by the Commissioner only when a Notice of Allotment in writing is made to the applicant. The boundaries of any lot as fixed by the Surveyor of other persons approved by the Commissioner shall be binding on the purchaser.

An applicant may within a certain period write to the Commissioner under registered cover refusing to accept an allotment and recover any money paid or his/her deposit on the land.

3.3 TAXES

The purchaser of a land settlement plot shall, from the date of the Notice of Allotment be liable for the payment of all taxes on his/her allotment.

3.4 LAND USE

The purchaser is required to set out, cultivate, properly maintain and develop his/her allotment to the satisfaction of the Commissioner under the following conditions:

- i An area of not less than one-third of his/her allotment should be cultivated and developed within a year of the Notice of Allotment.
- ii An area of not less than one-half of his/her allotment should be cultivated and developed within two years of the Notice of Allotment.
- iii An area of not less than three-fourths of his/her allotment should be cultivated and developed within four years of the Notice of Allotment.

If the purchaser at any time before being issued a Title has not utilised the major part of his agricultural lot for more than two years and/or his/her farmstead for the same period, he/she is liable to have the contract forfeited by the

Commissioner.

The cultivation and development of plots should include the carrying out of approved agricultural practices, the institution and maintenance of soil conservation and drainage measures, and other improvements laid down at the time of, or subsequent to the date of allotment.

Economic trees may not be cut down without the permission of the Commissioner or his/her representative, who will mark all trees to be removed. The use of running fires to clear land is prohibited.

3.5 BUILDINGS

It is necessary to obtain the approval of the Commissioner before any building is erected on a holding. Any building erected without approval can be demolished and no compensation provided to the owner. If the Commissioner of Lands has no objection to a building being placed on the land, the owner is legally required to obtain a Building Permit from the KSAC or relevant Parish Council before construction of any building on the land takes place.

3.7 RE-ENTRY DUE TO PUBLIC PURPOSE

In the event that the Commissioner shall require all or any part of the allotment for a public purpose (and a duly gazetted declaration to this effect by the relevant Minister shall be conclusive as to the public purpose requirement):

- i The Notice of Allotment shall straight away determine where all of the allotment is so declared; and
- ii Where only portions of the said allotments are so declared this Notice of Allotment shall determine in relation to those parts of the allotment so declared and the purchase price shall be adjusted in proportion to the portions so declared.

The Commissioner shall be entitled to re-enter and take possession. Compensation to be awarded for the acquisition aforementioned shall be set by the Commissioner of Valuations and filed in the Office of the Commissioner of Lands and shall be final and conclusive evidence as between the Commissioner and the Allottee.

3.8 FORFEITURE

If any purchaser shall fail or refuse to comply with any of the provisions of these

conditions for the space of six months after having been served with a notice in writing by the Commissioner requiring him to comply with such condition or conditions, the Commissioner may determine the Agreement to purchase and take possession of the allotment, and all monies paid by the purchaser in pursuance of the said Agreement shall be forfeited.

3.9 CONTACT INFORMATION

For further information on land matters, the following persons may be contacted:

Permanent Secretary
Ministry of Land and Environment
16A Half-Way-Tree Road
Kingston 5
Telephone: 929-8583
Fax: 920-7267/ 926-2835

Commissioner of Lands
National Land Agency
8 Ardenne Road
Kingston 10
Telephone: 978-2181-7
Fax: 978-0021
Email: asknla@nla.gov.jmw
Website: www.nla.gov.jm

Appendix I

**NATIONAL LAND AGENCY
APPLICATION FOR ALLOTMENT OF LAND ON A
GOVERNMENT LAND SETTLEMENT**

I.....
.....

Postal Address.....

hereby make application for the purchase of lot No..... of.....
..... in the parish of containing approximately
..... acres/sq.ft/Hectares.

If selected, I agree to pay the full purchase price of \$..... with an initial deposit of
\$.....

And I agree to be bound by the attached Rules and Conditions governing the sale of these lands.

.....
Parish Lands Officer/Justice of the
Peace

.....
Signature of Applicant

.....
Date

.....
Date

Where the applicant has made his mark, the following declaration is required:

This application was signed by the said.....
after the said had been read over and explained to him and he appeared to understand the
contents of the document and expressed himself as being in agreement with it.

.....
Parish Lands Officer/Justice of the Peace

.....
Date

OR

Where the applicant is unable to read or make his mark, the following declaration is
required:

This application was signed by on behalf of the
applicant, after the said had been read over and explained to him and he appeared to
understand the contents of the document and expressed himself as being in agreement
with it.

.....
Parish Lands Officer/Justice of the Peace

.....
Date

PERSONAL PREFERENCE WITH RESPECT TO LAND APPLIED FOR: (a) 2nd Preference: Lot
No.....

(b) If neither your 1st nor 2nd
Preference can be met, will you
consider any other
lot ?.....

Appendix I

LAND SETTLEMENT CONDITIONS OF SALE

DEFINITION

1. "Commissioner" means the Commissioner of Lands.

"Application" means an application to purchase from the Commissioner

"Notice of Allotment" is a signed agreement between the Commissioner (Vendor) and the applicant (Purchaser) confirming the sale of the lot.

"Purchase price" includes the value of land, permanent building, economic crops and trees standing and growing at the time of the purchase.

"Legal Fees" shall include, registration fees and attorney's cost for preparation of transfer documents.

2. (a) Upon being required to do so the applicant shall pay to the Commissioner a deposit of One Fortieth of the price of the land, standing buildings and crops for which application is made; provided always that the Commissioner may in any specific case extend the time for payment of the whole or part of the deposit for a period not exceeding three months from the date of approval.

(b) The money so deposited will be returned to the Applicant should the Commissioner of refuse to accept the application. No interest shall be payable on any such deposits.

(c) If any application is accepted but the applicant fails to comply with the other conditions of sale, the money deposited in respect of such application shall be forfeited, provided that in any particular case the Commissioner may in her absolute discretion waive her right of forfeiture.

3. Neither the Commissioner nor the Government of Jamaica shall be liable in any action, or other claim in respect of any damage occasioned by the failure of the Commissioner to allot to any applicant all or any part of the land of which he may have been a tenant.

SURVEY

4. The Purchaser will be liable for the full cost of final survey.

SPECIAL CONDITIONS FOR DEVELOPED LANDS

5. (a) Where there are buildings of a permanent nature on the land being sold, the value of such buildings shall be added to the value of the land to determine the full purchase price of the lot.

(b) Where the purchaser of any land on which there are buildings of a permanent nature does not pay the full value of such buildings before being let into possession of the land he shall immediately upon being so let into possession insure the said buildings for its full replacement value as determined from time to time under the Standard Fire or comparable policy available in Jamaica, extended to include insurance against such special perils as may reasonably be available in Jamaica including, but not limited to flood, earthquake, tornado, hurricane, windstorm and fire following any of the insured perils in an insurance company approved by the Commissioner in writing and shall keep the said buildings so insured until the purchase price shall be paid in full and shall duly and punctually pay all premiums or other moneys necessary for effecting and keeping up such insurance immediately upon the same becoming due and shall deliver to the Commissioner the policy of such insurance and on demand shall produce the receipt for every such payment. If the purchaser shall fail to pay duly and punctually any premium or other moneys necessary for effecting and keeping up such insurance as aforesaid, it shall be lawful for the Commissioner to advance any moneys necessary for such purpose and any moneys so advanced shall be repayable on demand and until repaid may be added to the amount of the purchase price and the provisions of these Conditions shall apply thereto in the same manner in which they apply to the purchase price **PROVIDED** that the Commissioner shall have the right to apply any payment by the purchaser subsequent to the making of any advance or any portion of such payment of such advance.

Appendix I

ALLOTMENT

6. (a) An application is deemed to have been accepted by the Commissioner only when a notice of allotment in writing is made to the applicant. Such notice of allotment shall include such other restrictive covenants as may be imposed upon the land.

(b) The boundaries of any lot as fixed by the Surveyor or other authorized person approved by the Commissioner shall be binding upon the purchaser and no compensation shall be payable for any damage to crops occasioned in the execution of the survey.

INSTALMENTS

7. For the purpose of calculating the Purchase Price of the land allotted to the Purchaser, the area of the said land shall be deemed to be the area specified in the Notice of Allotment, provided that where after survey, such area is discovered to be incorrect such adjustments in the amount of purchase price and of the half-yearly instalments payable by the purchaser, as may be necessary shall be made.

8. Notwithstanding the provisions relating to payment of instalments, the Commissioner shall have the power where he considers this necessary or desirable to require the purchase price of any land sold to a purchaser to be paid in full at the time of allotment or by such instalments as the Commissioner may deem fit.

PROPERTY TAXES

9. The Purchaser shall, from the date of the Notice of Allotment be liable for the payment of all taxes upon his allotment.

TRANSFERS

10. (a). No purchaser shall without the consent in writing of the Commissioner, part with the possession of, mortgage, charge, sublet, subdivide or otherwise encumber his allotment, or any part thereof, so long as title has not been issued.

In any case where the purchaser desires to sell before title has been issued, the Commissioner shall have the right of first refusal. The obligation of this Conditions shall be binding on the purchaser.

(b) The purchaser shall pay such Legal Fees, Stamp duty and Transfer Tax as may be applicable upon any assignment of an allotment made with the consent of the Commissioner of Lands prior to the issue of title;

(c) If any person, without the consent in writing of the Commissioner being first had and obtained should part with the possession of, mortgage, charge, sublet or sub-divide or otherwise encumber his allotment or any part thereof, before title has been issued, the Commissioner may, by notice under his hand, forthwith determine this Agreement for the purchase of the said allotment and take possession of the same, and all moneys paid by the purchaser in pursuance of the said Agreement shall be forfeited.

11. **Land Use.** (a) The purchaser shall on the terms and conditions hereinafter set out, cultivate, properly develop and maintain his allotment to the satisfaction of the Commissioner as follows:

- (i) an area of not less than one-third of his allotment within one year of the date of the Notice of Allotment;
- (ii) an area of not less than one-half of his allotment within a period of two years of the date of the Notice of Allotment;
- (iii) an area of not less than three-fourths of his allotment within four years of the date of the Notice of Allotment.

For the purpose of this Condition "cultivate and properly develop" shall include the establishment and maintenance of fodder and/or pastureland in approved grasses provided same is kept to the satisfaction of the Commissioner.

(b). The purchaser shall carry out such approved agricultural practices and institute such soil conservation measures, etc., as may be directed by the Commissioner from time to time.

(c) The purchaser shall maintain and keep in good condition such soil conservation, drainage, or other improvements as may be laid down at the time of, or subsequent to the date of allotment.

(d) Should a purchaser fail to comply with the provisions in Condition 5 (b), it shall be lawful for the Commissioner or any person authorized by him in that behalf upon giving to the purchaser one month's notice requiring him to remedy his default and upon failure to comply with the notice, to enter and effect such maintenance as he may consider necessary, and the cost

Appendix I

of such maintenance shall be repayable by the purchaser on demand and until repayment shall be a charge on the land.

(e) Economic trees may not be cut down without the permission of the Commissioner or his representative, who will mark all trees, which he permits to be removed.

(f) The use of running fires for clearing land is prohibited.

(g) The purchaser shall maintain in proper condition any drain passing through his holding and serving more than one holding.

(h) If at any time before the issue of Title to him the purchaser has not used the major part of his agricultural lot for more than two years and/or his farmstead for the same period he shall be liable to dispossession and forfeiture.

(i) At any time before the issue of Title to the purchaser in respect of any allotment, the Commissioner or any officer authorized by him may, at all reasonable times, enter upon such lot and inspect the cultivation, soil conservation work, drainage, other improvements and the buildings thereon.

12. *Erection of Buildings.* It shall be necessary to obtain the approval of the Commissioner before any building is erected on a holding. Any building erected without such approval is liable to be destroyed and no compensation shall be payable.

FORFEITURE

13. If any purchaser shall fail or refuse to comply with any of the provisions of these Conditions for the space of six months after having been served with a notice in writing by the Commissioner requiring him to comply with such Condition or Conditions, the Commissioner may determine the Agreement to purchase and take possession of the allotment, and all moneys paid by the purchaser in pursuance of the said Agreement shall be forfeited.

TITLE

14. If the purchaser shall have complied with all the provisions of these Rules and shall have paid the purchase price, and the required legal fees, he shall receive from the Commissioner a Certificate of Title for the land purchased by him, such Certificate of Title to have endorsed thereon any Restrictive Covenants subject to which he may have purchased the land.

RE-ENTRY DUE TO PUBLIC PURPOSE

15. In the event that the Commissioner shall require all or any part of the allotment for a public purpose (and a duly gazetted declaration to this effect by the relevant Minister shall be conclusive as to the public purpose requirement):

(a) The Notice of Allotment shall straight away determine where all of the allotment are so declared; and

(b) Where only portions of the said allotment are so declared this Notice of Allotment shall determine in relation to those parts of the allotment so declared and the purchase price shall be adjusted in proportion to the portions so declared.

The Commissioner shall be entitled to re-enter and take possession.

Compensation to be awarded for the acquisition aforementioned shall be set by the Commissioner of Valuations and filed in the Office of the Commissioner of Lands and shall be final and conclusive evidence as between the Commissioner and the Allottee.

Dean Peart, MP
Minister of Land & Environment