Commencement: 19 June 1995

CHAPTER 233

FREEHOLD TITLES

Act 13 of 1994

ARRANGEMENT OF SECTIONS

1. Definitions
2. Application
3. Application for freehold title
4. Grant of freehold title
5. Fees
6. Meaning of freehold estate
7. Effect of transfer to non-indigenous person
8. Regulations

FREEHOLD TITLES

An Act to make provision for freehold land.

1. Definitions

In this Act, unless the context otherwise requires –

"freehold estate" has the meaning assigned to it by section 6(1);

"head-lease" means a long lease granted directly by the Government;

"indigenous citizen" means a person who is a citizen of Vanuatu who himself has or had, or has or had at least one parent or earlier predecessor who has or had, four grandparents who belong or belonged to a tribe or community which was living in Vanuatu prior to the year 1800;

"Minister" means the Minister responsible for Lands;

"unconditional" has the meaning assigned to it by section 3(3);

2. Application

(1) Subject to subsection (2), this Act shall apply to land in any area –

(a) declared to be public land under the Land Reform Act [Cap. 123];

(b) vested in the Government on the day of Independence by virtue of the Land Reform Act [Cap. 123];

(c) acquired under the Land Acquisition Act [Cap. 215]; and

(d) declared to be an urban area under the Urban Land Act No. 23 of 1993.*

(2) The Minister, with the approval of the Council of Ministers, may by regulations exempt from the provisions of this Act any land of the description referred to in subsection (1).

3. Application for freehold title

(1) Any indigenous citizen who is the proprietor of an unconditional head-lease registered under the Land Leases Act [Cap. 163] may apply to the Minister for the grant of freehold title to the land of which he is proprietor.

(2) The application shall be in the prescribed form and shall be accompanied by the prescribed fee.

(3) "Unconditional" in relation to a head-lease means that all conditions of the lease have been fulfilled and there are no outstanding development or other obligations to be carried out apart from on-going obligations equivalent to or no more onerous than those contained in section 41 of the Land Leases Act [Cap. 163].

4. Grant of freehold title

(1) Upon receipt of a properly completed application form and the prescribed fee from an indigenous citizen who is the registered proprietor of an unconditional head-lease of land to which this Act applies, the Minister shall grant freehold title to the proprietor of the land of which he is the leasehold proprietor unless –

(a) he is not satisfied that the land concerned is clearly identifiable as the applicant's land; or

* *Editor's Note: Act 23 of 1993 has since been repealed.*

(b) there is or is a real likelihood of an application for rectification of the register or other dispute as to the ownership of the land; or

(c) there is another or other registered proprietors who are not included in the application; or

(d) there are reasonable grounds for believing that the applicant is not an indigenous citizen; or

(e) rent or any other payment due from the applicant to the Government has not been paid.

(2) The grant of freehold title shall be in the prescribed form, signed by the Minister.

(3) If the Minister refuses to grant freehold title to an applicant he shall communicate his decision to the applicant in the prescribed form, stating the reasons for such refusal.

5. Fees

(1) Upon making an application for freehold title the applicant shall pay the preliminary proportion of the fee prescribed by the Minister.

(2) Upon being notified that his application is approved in principal, the applicant shall pay the balance of the prescribed fee within the prescribed periods.

(3) In the event that the applicant fails to pay the balance of the prescribed fee within the period or does not proceed with an application following a notice of refusal under section 4(3) the preliminary proportion of the fee shall not be refunded to him.

(4) The fees payable, the preliminary proportion and the period for payment of the balance shall be prescribed by the Minister.

6. Meaning of freehold estate

(1) A freehold estate in land consists of the right to occupy, use and enjoy in perpetuity or until transferred the land and its produce, subject to the performance of any obligations for the time being incident to the estate, and subject to such restrictions as may be imposed by or under this Act or any other written law.

(2) The owner of a freehold estate may, subject to the provisions of this Act or any regulations made thereunder, dispose of it either in whole or in part, and either during his life or on his death in any manner he thinks fit.

(3) A freehold estate shall be subject to all provisions, restrictions and limitations affecting the registered head-lease from which it devolves and any mortgage, lease or other instrument which appears on the register in respect of the lease shall be deemed to be registered on the freehold estate.

(4) Upon the grant of a freehold estate the lease from which it devolves shall be deemed to be revoked but this shall not preclude the Minister from including provisions similar or equivalent to any provisions of the lease as covenants to the grant of freehold title.

7. Effect of transfer to non-indigenous person

In the event that a freehold estate is transferred to any person who is not an indigenous citizen, whether by virtue of gift, sale, inheritance, the crystallization of a charge or otherwise, the estate transferred to that person shall be a leasehold estate for the maximum period permitted under the Land Leases Act. The rent for such leasehold interest shall be deemed to be included in the price (if any) and no additional rent shall be payable by the buyer to the seller.

8. Regulations

The Minister may make regulations not inconsistent with this Act to prescribe all matters that are required or permitted to be prescribed to give effect to the purposes and provisions of this Act, including in particular provision for or with respect to –

(a) the exemption of any land or class of land from the provisions of this Act;

(b) forms to be used in carrying out the provisions of this Act;

(c) the disposition of estates;

(d) fees payable under this Act; and

(e) periods within which fees payable under this Act must be paid.