

ANTIGUA AND BARBUDA



BARBUDA (AMENDMENT) BILL, 2018

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ARRANGEMENT OF CLAUSES

CLAUSE

1. Short title
2. Interpretation
3. Amendment of section 3 of the principal Act
4. Insertion of Parts II and III in the principal Act
5. Amendment of Part VIII-Miscellaneous

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AN ACT to amend the Barbuda Act, Cap. 42.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Barbuda (Amendment) Act, 2018.

2. Interpretation

In this Act—

“principal Act” means the Barbuda Act, Cap. 42.

3. Amendment of section 3 of the principal Act

Section 3 of the principal Act is amended by inserting the following definitions in their appropriate alphabetical order—

“Land” includes interest in land;

“Major development” means—

- (a) a development which will cost in excess of five million four hundred thousand Eastern Caribbean Dollars; or
- (b) a development which in the view of the Cabinet will have a significant impact on the economy, environment or infrastructure of Barbuda.

“Minister” means the Minister with responsibility for Barbuda.

4. Insertion of Parts II and III in the principal Act

The principal Act is amended by inserting the following two Parts immediately after Part I—

“PART II

Tenure of Lands by Inhabitants of the Island

4. Lands vested in Governor-General on behalf of the Crown

All lands within the Islands of Barbuda are hereby vested in the Governor-General on behalf of the Crown and shall be dealt with in accordance with the provisions of this Act.

5. Inhabitants are tenants of the Crown

(1) All persons inhabiting the Island of Barbuda shall be and are hereby declared to be tenants of the Crown; and such persons shall neither hold nor deal with any land situate within the said island save and except as hereinafter appears by the provisions of this Act and subject to any by-law made by the Council in that behalf.

(2) Despite the provisions of subsection (1), the Governor-General may upon application grant to any tenant of the Crown in Barbuda the right to purchase the freehold interest in land situate in Barbuda or to obtain a leasehold interest therein.

(3) Nothing in this section shall be construed as precluding the grant by the Crown of any interest in or over any piece or parcel of land within Barbuda to any person whether or not that person is an inhabitant of Barbuda.

(4) Notwithstanding the provisions of any other law, no person shall acquire the ownership of any piece or parcel of Crown land within Barbuda by prescription.

(5) If any inhabitant of Barbuda can show to the satisfaction of the Crown that a grant by the Crown to any other person of any interest in or over any piece or parcel of land within Barbuda has caused him any material loss in respect of any use that he has been making of that piece or parcel of land by virtue of the provisions of subsection (1) of this section, that inhabitant shall be entitled to fair compensation in respect of that loss within a reasonable time.

(6) An inhabitant of Barbuda to whom subsection (5) of this section applies shall have the right of access to a tribunal appointed by the Chief Justice to determine the amount of any compensation to which that inhabitant is entitled under this section and for the purpose of obtaining payment of that compensation.

(7) A tribunal appointed under subsection (6) of this section shall consist of a chairman who shall be an attorney-at-law of not less than five years standing and two other members being persons appearing to the Chief Justice to be qualified for appointment by virtue of their knowledge of and experience in Barbuda affairs.

(8) An appeal shall lie to the High Court from any decision of a tribunal appointed under subsection (6) of this section; such appeal shall be exercisable as of right at the instance of any party to the proceedings before the tribunal and shall be final and conclusive for all intents and purposes whatsoever.

(9) The Chief Justice may make rules with respect to the practice and procedure of the High Court and a tribunal in relation to the jurisdiction conferred upon the High Court by this section or exercisable by a tribunal for the purposes of this section (including rules with respect to the time within which applications to the High Court or a tribunal may be brought).

PART III

Allotments, Buildings and Provision Grounds

6. Allotment in village

It shall be lawful for the Council, with the sanction and approval of the Cabinet, to allot, distribute and divide all land within the village amongst villagers subject to the following conditions-

- (a) The lands shall be laid out in allotments of such dimensions and areas as the Council shall direct.
- (b) Every such allotments shall be used exclusively by the allottee thereof for the purpose of erecting and maintaining a house thereon as a place of residence.
- (c) The allottee or tenant shall pay as rent in respect of land allotted to him such sum as the Council may from time to time see fit to impose, and until some other rent be imposed a rent of twenty-four dollars per annum, commencing from the date of such allotment, shall be paid by such allottee or tenant.
- (d) In all cases where any rent in respect of such allotment shall remain unpaid after the same shall have become due and payable, the Secretary shall serve the tenant thereof with a notice to quit, and where such tenant shall either refuse or neglect to quit such allotment, the Secretary may take all such proceedings as are prescribed by the Small Tenements Act for the purpose of ejecting him therefrom.

7. Reservation for public purposes

It shall be lawful for the Council, with the sanction and approval of the Cabinet to set apart for public purposes all such portions, either within or without the confines of the village, as may be deemed expedient and to lay out the same as to the Council with the concurrence of the Cabinet shall appear best adapted for improving the Island of Barbuda

and promoting the health, comfort and security of the inhabitants, reserving such portions for highways, paths or otherwise as shall appear desirable.

8. Highways

It shall be lawful for the Council with the sanction and approval of the Cabinet to stop up and divert any highway or path within the Island, whether in the village or not, and to open up and make other highways and paths through the said Island.

9. Allotment and rental of provision grounds

(1) It shall be lawful for the Council with the sanction and approval of the Cabinet to set apart such portions of land, without the confines of the village, as may be deemed expedient for the purpose of such lands being used and cultivated by the villagers as provision grounds.

(2) All such lands as aforesaid when so set apart for such purposes as aforesaid may be allotted and divided amongst the villagers in such plots as the Council shall deem expedient.

(3) The rent payable in respect of every such plot as aforesaid shall be at such rate per acre as the Council may from time to time see fit to impose and until some other rate be so imposed the rent shall be at the rate of twenty-four dollars per acre per annum payable from the date of allotment.

10. Proceedings for non-payment of rent

In all cases where any rent in respect of any such provision ground shall remain unpaid after the same shall have become due and payable, the Secretary shall serve the tenant thereof with a notice to quit and where such tenant shall either refuse or neglect to quit such provision ground the Secretary may take all such proceedings as are prescribed by the Small Tenements Act for the purpose of ejecting him therefrom.

11. Cutting timber and burning charcoal

No person shall cut or fell any growing timber nor burn any charcoal within the Island of Barbuda, unless such person shall first have obtained from the Council a permit in writing for such purpose; and any person who shall cut or fell any growing timber or burn any charcoal save and except under the sanction of a permit first had and obtained from the Council as aforesaid shall be guilty of an offence against the provisions of this Act and shall be liable on summary conviction thereof to a penalty not exceeding three thousand dollars.”

5. Amendment of Part VIII- Miscellaneous

Part VIII of the principal Act is amended by adding after section 52 thereof of the following-

“53. Development Plan

The Minister shall, after consultation with the Council, prepare a development Plan for the Island of Barbuda.

54. Major development

Major development in Barbuda shall not take place without the agreement and approval of the Cabinet.

55. Tax collection on major development

The Council, with the consent of the Cabinet, shall have power to raise and collect a tax on major development in Barbuda in accordance with regulations made by the Minister after consultation with the Council.

56. Time Limit on development

(1) A lease granted for the development of land in Barbuda may specify a time within which the tenant must begin to develop the land and complete the development.

(2) Where no time limit is specified the development shall be deemed to have commenced within eighteen months from the date of execution of the lease and be completed within three years after the commencement date

(3) If the development is not commenced and completed within the time specified or the further time that the Cabinet, in its absolute discretion may decide—

- (a) the lease shall immediately determine; and
- (b) the land shall revert to the Crown .

57. Existing Leases

The leases that are extant on the coming into force of this Act and which are listed in the Schedule shall continue in force, but the freehold shall be vested in the Crown.

58. Rent payable

The rents payable under any lease of land in the Island of Barbuda shall be paid to the Accountant General for the benefit of the Council.

59. Deposit and inspection of leases

Within three months of the coming into force of this Act-

(1) All leases granted by the Crown prior to the commencement of this Act shall be deposited with the Attorney General and registered at the Office of the Land Registry.

(2) The Registrar of Lands shall make amendments necessary to the register consequent upon the registration effected under subsection (1) in all cases where the lease had been registered prior to the coming into force of this Act.

60. Assignment of Leases

Leases of land in Barbuda may only be assigned or sublet with the approval of the Cabinet after consultation with the Council.

61. Commission of inquiry into purported leases

A commission of inquiry under the chairmanship of an Attorney-at-Law of not less than five years standing shall be appointed by the Cabinet to investigate and determine the validity and extent of all leases and purported leases of land in Barbuda extant on the coming into force of this Act which are not listed in the Schedule, and the material facts relevant to the date granting of such leases.

62. By-laws

The following by-laws shall be made under this Act—

- (a) The Barbuda (Lease of Government Buildings, and Cutting of Firewood) By-Law;
- (b) The Barbuda (Working and Upkeep of Provision Grounds) By-Law;
- (c) The Barbuda (Codrington Village) Building By-Law; and
- (d) The Barbuda (Bell Village) By-Law.”

Passed by the House of Representatives
on the day of 2018.

Passed by the Senate on the
day of 2018.

Speaker

President

Clerk to the House of Representative

Clerk to the Senate

EXPLANATORY MEMORANDUM

The objective of this bill is to amend the Barbuda Act, Cap. 42 to achieve the following objectives:

- To re-introduce Parts II and III which previously formed part of the Barbuda Act.
- To insert new provisions which address the issues of land development and leasehold in Barbuda.

In order to achieve the aforementioned objectives, the bill contains several clauses. Clause 3 inserts new definitions into the Interpretation section of the principal Act. One significant definition is that of “major development” which stipulates what the cost of a major development project should be in order to be classified as such.

Clause 4 reintroduces Parts II and III which had previously been repealed under the Barbuda Land Act, 2007. Part II makes it clear that all lands within Barbuda are vested in the Governor General on behalf of the Crown. On the other hand, Part III empowers the Council, with the approval of Cabinet, to allot lands within the village for the purposes of house construction, cultivation and public purposes.

Clause 5 amends Part VIII of the principal Act. It introduces new provisions which speak specifically to major development within Barbuda. This clause also addresses the issue of existing leases and stipulates that previous leases must be deposited with the Attorney General and appropriate amendments made to the register by the Registrar of Lands. This Part also states that specific by-laws which had previously been repealed under the Barbuda Land Act, 2007 are to be made under the Barbuda Act.