CROWN RIGHTS (RE-ENTRY AND VESTING REMEDIES) ORDINANCE

CHAPTER 126

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CHAPTER 126
CROWN RIGHTS (RE-ENTRY AND VESTING REMEDIES) ORDINANCE

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**PART V**

**MISCELLANEOUS**
CHAPTER 126
CROWN RIGHTS (RE-ENTRY AND VESTING REMEDIES)

To make provisions enabling certain interests in land and connected rights and obligations to be vested in The Financial Secretary Incorporated in circumstances where the Crown is entitled to exercise a right of re-entry under a Crown lease or default is made in the payment of Crown rent or premium, and to consolidate those provisions with the provisions set forth in the repealed Crown Rights (Re-entry) Ordinance, and for connected or incidental purposes.

(Amended, L.N. 180/85)

L.N. 73/70.

[1 June 1970.]

PART I
PRELIMINARY

Short title.

1. This Ordinance may be cited as the Crown Rights (Re-entry and Vesting Remedies) Ordinance.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—

“determined annual instalment of premium” means the sum determined by the Land Officer under section 12 of the Crown Rent and Premium (Apportionment) Ordinance as the annual instalment of premium payable in respect of a relevant interest;

“determined Crown rent” means the sum determined by the Land Officer under section 12 of the Crown Rent and Premium (Apportionment) Ordinance as the Crown rent payable in respect of a relevant interest;

“former owner” in relation to a lot or relevant interest means the owner of that lot or interest immediately before the time of registration in the Land Office of a memorial of re-entry or a vesting notice, as the case may be;

“lot” means any piece or parcel of ground the subject of a Crown lease and also means a section which by virtue of section 8(3) or 27(2) of the Crown Rent and Premium (Apportionment) Ordinance is deemed to be a lot for the purposes of that Ordinance;

“new Crown lease” means such a lease as is deemed to be granted under Part II of the Crown Leases Ordinance; (Added, 68 of 1977, s. 2)
“owner” means—

(a) the person whose name is registered in the Land Office as that of the owner or one of the owners of the lot or relevant interest, as the case may be;

(b) a mortgagee under a mortgage which is registered in the Land Office; and

(c) the executors, administrators assigns, and a successor in title of an owner as defined in paragraph (a) or (b);

“relevant interest” means the undivided share in the lot on which a building stands, the owner of which share, as between himself and the owners of the other undivided shares in that lot, is entitled under the terms of an instrument registered in the Land Office to exclusive possession of premises in that building;

“The Financial Secretary Incorporated” means the corporation incorporated under that name by the Financial Secretary Incorporation Ordinance; (Amended, L.N. 180/85)

“vesting notice” means a vesting notice registered in the Land Office under section 7.

PART II

EXERCISE OF RIGHT OF RE-ENTRY

3. When a right of re-entry upon lands or tenements has accrued to the Crown, such right may be exercised or enforced without any actual re-entry being made on the premises.

4. (1) Whenever it is necessary to enforce a right of re-entry by the Crown upon any lands or tenements for the breach of any covenant in the Crown lease thereof, or for the breach of any condition or stipulation of any tenancy thereof, a memorial of an instrument of re-entry, under the hand of any public officer authorized by the Governor to sign such instruments, may be registered in the Land Office.

(2) Immediately on the registration of such a memorial, the Crown shall be deemed to have re-entered upon the lands or tenements described therein and in respect of which the right of re-entry has accrued, and the said lands and tenements shall thereby become re-vested in the Crown as fully as if the Crown lease thereof had determined, or, as fully as if the tenancy had determined, as the case may be.

5. Notice of the registration of a memorial of re-entry by the Crown shall be published in the Gazette.

6. The acceptance of rent by or on behalf of the Crown shall not operate as a waiver by the Crown of any right of re-entry accruing or of any forfeiture incurred by reason of either the breach of any covenant in a Crown lease or the breach of any condition or stipulation in any tenancy of land held of the Crown.
PART III

VESTING OF RELEVANT INTEREST IN THE FINANCIAL SECRETARY INCORPORATED

(Amended, L.N. 180/85)

7. (1) Where—

(a) a right of re-entry upon land accruing to the Crown in consequence of the breach of a covenant, condition or stipulation in a Crown lease, a new Crown lease or tenancy thereof— (Amended, 68 of 1977, s. 3)

(i) by the owner of a relevant interest, or a tenant or other person occupying premises, the entitlement to exclusive possession of which is attached to the ownership of the relevant interest; or

(ii) in respect of a relevant interest; or

(b) default is made in the payment of determined Crown rent or determined annual instalment of premium in respect of a relevant interest,

a vesting notice, under the hand of any public officer authorized by the Governor to sign such instruments, may be registered in the Land Office.

(1A) Where default is made in the payment of a demand under section 13(1) of the Crown Leases Ordinance a vesting notice, under the hand of any public officer authorized by the Governor to sign such instruments, may be registered in the Land Office against the relevant interest of which the tenement to which the demand relates forms a part. (Added, 68 of 1977, s. 3)

(2) Upon the registration of a vesting notice in the Land Office—

(a) the relevant interest against which the Crown is entitled to proceed; and

(b) the rights and obligations of the former owner of that relevant interest under any instrument registered in the Land Office and relating to the occupation of premises and connected matters,

shall vest in The Financial Secretary Incorporated absolutely and free from— (Amended, L.N. 180/85)

(i) any mortgage or charge, whether legal or equitable and whether registered in the Land Office or not;

(ii) any lien;

(iii) any right vested in any person by which the relevant interest is or might become security for the payment or repayment of money; and

(iv) any right or obligation contained in any instrument not registered in the Land Office.
(3) The Land Officer shall cause a copy of every vesting notice registered in the Land Office under subsection (1) or (1A)—
(Amended, 68 of 1977, s. 3)

(a) to be served, in the manner provided by section 13, on the former owner of the relevant interest; and

(b) to be published in the Gazette.

PART IV

RELIEF AGAINST RE-ENTRY UPON LANDS OR TENEMENTS OR VESTING OF RELEVANT INTEREST

8. (1) Subject to subsections (3) and (4), where a memorial of re-entry has been registered under section 4 in the Land Office, the former owner may—

(a) petition the Governor to grant him relief against the re-entry;

(b) apply to the High Court in its equitable jurisdiction for relief against the re-entry—
   (i) if he disputes the right of the Crown to re-enter; or
   (ii) if the circumstances are such that he would have been entitled to apply for relief against re-entry had the lessor been a private party and exercised his right of re-entry.

(2) Subject to subsections (3) and (4), where a vesting notice has been registered under section 7 in the Land Office, the former owner of a relevant interest which is the subject of the vesting notice may—

(a) petition the Governor to grant him relief against the vesting;

(b) apply to the High Court in its equitable jurisdiction for relief against the vesting—
   (i) if he disputes the right of the Crown to proceed under section 7; or
   (ii) if the circumstances are such that he would have been entitled to apply for relief against re-entry had the lessor been a private party and exercised his right of re-entry.

(3) A petition or application under subsection (1) or (2) may be made within 6 months from the registration of the memorial of re-entry or vesting notice, as the case may be, but in the case of a petition to the Governor the Governor may extend this period where he considers it just.

(4) A petition to the Governor under subsection (1)(a) or (2)(a) shall be a bar to any subsequent application to the High Court under subsection (1)(b) or (2)(b).
9. (1) Upon consideration of a petition under section 8, the Governor may—

(a) order the cancellation of the memorial of re-entry so far as it affects the lands and tenements in respect of which the petition was made or the cancellation of the vesting notice so far as it affects the relevant interest in respect of which the petition was made, upon such terms as to costs, expenses, damages, compensation, penalty or otherwise as he shall in his discretion think fit; or

(b) direct that the petition be referred to the Governor in Council.

(2) The Governor in Council, upon considering a petition referred to him under subsection (1), may—

(a) order the cancellation of the memorial of re-entry so far as it affects the lands and tenements in respect of which the petition was made or the cancellation of the vesting notice so far as it affects the relevant interest in respect of which the petition was made, upon such terms as to costs, expenses, damages, compensation, penalty or otherwise as he shall in his discretion think fit; or

(b) dismiss the petition.

10. On the hearing of an application to the High Court under section 8, the Court may exercise the same powers and make the same decree or order as in an action between private parties for the same relief and may order the cancellation of the memorial of re-entry so far as it affects the lands and tenements in respect of which the application was made or the cancellation of the vesting notice so far as it affects the relevant interest in respect of which the application was made.

11. (1) A memorial of re-entry by the Crown shall be taken to be cancelled in respect of the whole or part of the lands and tenements affected by it if a memorandum to the effect that the memorial is cancelled in respect of the whole or part of such lands and tenements by order of the Governor or Governor in Council or of the High Court, as the case may be, is written on the memorial and signed by the Land Officer.

(2) Immediately on cancellation in accordance with subsection (1), a memorial of re-entry, so far as it affects the lands and tenements specified in the memorandum, shall become void to all intents and purposes as if it had never been registered, and the lands and tenements described in the memorandum shall be ipso facto revested in the former owner for all his previous estate or interest therein; and the Crown lease thereof, and every mortgage, charge, lien or other right or obligation previously existing in relation thereto shall be deemed to be as valid and subsisting in every respect as if no re-entry had been effected by the Crown.
(3) Notice of the cancellation of a memorial under subsection (1) shall, within 30 days thereof, be served upon the former owner by the Land Officer and be published in the Gazette.

12. (1) A vesting notice shall be taken to be cancelled in respect of the whole or part of the relevant interest affected by such notice if a memorandum to the effect that the vesting notice is cancelled in respect of the whole or part of such relevant interest by order of the Governor or Governor in Council or of the High Court, as the case may be, is written on the memorial of the vesting notice and signed by the Land Officer.

(2) Immediately on cancellation in accordance with subsection (1), a vesting notice so far as it affects the relevant interest specified in the memorandum shall become void to all intents and purposes as if the same had never been made or registered and the relevant interest and the rights and obligations specified in the memorandum shall be revested ipso facto in the former owner for all his previous estate or interest therein; and every mortgage, charge, lien or other right or obligation previously existing in relation thereto shall be deemed to be as valid and subsisting in every respect as if no vesting notice had been registered at the Land Office.

(3) Notice of the cancellation of a vesting notice under subsection (1) shall, within 30 days thereof, be served upon the former owner by the Land Officer and be published in the Gazette.

PART V

MISCELLANEOUS

13. For the purposes of this Ordinance, service of any notice may be effected—

(a) personally; or

(b) by registered post; or

(c) in the case of a notice under section 7(3) or 12(3)—

(i) by leaving the notice with an adult person who appears to be an occupier of the premises the entitlement to the exclusive possession of which is attached to the relevant interest affected by the notice; or

(ii) by posting the notice upon a conspicuous part of such premises.

14. Nothing in this Ordinance shall be construed so as to take away or affect any other remedies of the Crown for the enforcement of rights of re-entry upon any lands or buildings.
15. Notwithstanding the repeal of the Crown Rights (Re-entry) Ordinance, that Ordinance, in this section referred to as the repealed Ordinance, shall continue to have effect for the purpose of—

(a) enabling any person who, immediately before the commencement of this Ordinance, has a right to apply for relief under the provisos to section 3 or under section 4 of the repealed Ordinance, to apply for relief in all respects and subject to the same limitations, as if the repealed Ordinance had not been repealed; and

(b) enabling any application for relief under the provisos to section 3 or under section 4 of the repealed Ordinance, pending at the time of commencement of this Ordinance or made after the commencement of this Ordinance by virtue of paragraph (a) to proceed and be determined in all respects as if the repealed Ordinance had not been repealed.