

**C.A. 6**  
**STATE PROPERTY AND CONTRACTS ACT, 1960**

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**C.A. 6**  
**STATE PROPERTY AND CONTRACTS ACT, 1960(1)**

**AN ACT to provide for the vesting of the property hitherto vested in Her Majesty the Queen in the Republic of Ghana and for related matters.**

*State Property*

**1. Vesting of property**

(1) Property vested in the Crown as trustee for the Public Service of the Republic and whether situated in or outside the Republic shall, on the coming into force of this Act, vest without further authority than this section in the President in trust for and on behalf of the people of Ghana for the Public Services of the Republic.

(2) *Spent.2(2)*

**2. References to the Crown**

*Spent.3(3)*

**3. Acquisition and vesting of property**

Where it is provided in an Act that the Crown may or shall acquire property and then vest the property so acquired in an authority, that power shall, on the coming into force of this Act be exercisable by the President.

**4. Acquisition for public purposes**

(1) Where property is required for the Public Services the President may, by executive instrument, declare that the property specified in the instrument is required for the Public Services.

(2) When a declaration is made under subsection (1), the Minister may enter into an agreement with the owner and the parties having an estate or interest in the property for the absolute purchase for a consideration in money, or for any other property in exchange of the property so required.

(3) The Minister shall, on the conclusion of the agreement made in pursuance of subsection (2), pay reasonable compensation for the property and accordingly on the payment of the compensation the property so required shall become vested in the President in trust for the Public Services of the Republic.

(4) A copy of the executive instrument

(a) shall be served personally on the person entitled to sell or interested in the property, or

(b) shall be left at the usual place of abode or business of that person with an inmate of that place or business,

and shall be affixed at a convenient place on the property specified in the instrument and published on

three consecutive occasions in a newspaper circulating in the district where the property is situate.

## **5. Acquisition for industrial purposes**

(1) For the purposes of industrial development, the Minister may, by executive instrument, declare an area of land in a Region to be an industrial area.

(2) On the making of the instrument this Act shall apply to that area of land as if the instrument made under subsection (1) had been a declaration made under section 4.

## **6. Lease by the Minister**

The Minister may enter into a lease with a person desirous of setting up an industrial undertaking in an area of land acquired by the Government under section 5.

## **7. Parties entitled to sell and convey**

(1) A person seized, possessed or entitled to a property or an estate or interest in the property required for the Public Services of the Republic, may sell, grant or convey the property or estate or interest in that property to the Minister.

(2) The power to sell, grant and convey the property may be exercisable by the person concerned

- (a) for and on behalf of that person and for and on behalf of the heirs, executors, administrators and successors of that person, and
- (b) on behalf of any other person entitled in reversion, remainder or expectancy after that person or in defeasance of the estate of that person and any other person seized or possessed of the property on a species of trust to the use of persons under a disability or otherwise for and on behalf of the beneficiaries of the trust to the same extent as the beneficiaries of the trust could respectively have done if there had not been a disability.

## **8. Claims**

(1) On the publication of a declaration under section 4, a person having an interest or claim in the property shall within three months from the date of the publication inform in writing the Lands Commission of the extent or otherwise of the interest or claim of that person in the property.

(2) At the expiration of three months after the publication of the notice the Lands Commission shall, within six months of the expiration, agree with the parties concerned for the conveyance to the Minister of the property and the amount to be paid in respect of the property.

## **9. Settlement of claims**

(1) Where there is a dispute as to the ownership of the property, the insufficiency of evidence of ownership, the amount to be paid in respect of the property or separate and conflicting claims in the same property and every other case of disputed interest or title,

- (a) a Justice of the High Court may hear and determine the ownership and any other disputes or matters relating to the interest or title in the property;
- (b) the Lands Commission shall, not less than seven days before the time appointed for the hearing and determination of the claim, serve a notice in writing on a person who may have claimed an interest in respect of the property, calling on that person to prove the claim to or

interest in, the property and the value of the claim or interest.

(2) Where a party to the proceedings under this subsection (1) fails to appear for the hearing a decision may be given *ex parte* on the hearing of evidence adduced on behalf of the Minister and the decision shall be deemed to be a decision given after a full hearing in the presence of the parties.

(3) A decision given under this section is subject to appeal to the Court of Appeal.

(4) For the purposes of paragraph (b) of subsection (1), where the owner of the property cannot be found the notice shall be served on the agent or representative and if the agent or the representative of that person cannot be found, the notice shall be fixed to a conspicuous part of the property and to the Court House of the district.

## **10. Appeals**

(1) A person aggrieved by the decision of a Justice under section 9 shall give notice of appeal within seven days from the date of the decision to a party affected by the decision.

(2) An appeal under this section shall be conducted in accordance with the provisions relating to appeals from the High Court to the Court of Appeal.

## **11. Rules for compensation**

In determining the amount of compensation to be awarded for property acquired under this Act, the Court shall consider,

- (a) the market value of the property acquired which shall be taken to be the amount which the property might have been expected to realise if sold in the open market by a willing seller at the date of the declaration under section 4;
- (b) the damage sustained at the time of and by reason of the acquisition by a person having an interest in the property acquired by reason of the severing of the property from any other property of that person;
- (c) the damage sustained at the time of and by reason of the acquisition by a person having an interest in the property acquired by reason of the acquisition injuriously affecting any other adjoining property in which that person has an interest;
- (d) the reasonable expenses incidental to a change of residence or place of business of a person having an interest in the property acquired made necessary by the acquisition;
- (e) the reasonable expenses incurred in the employment of a person qualified in land valuation and costing of buildings.

(2) For the purposes of paragraph (d) of subsection (1), where the property is, and but for the acquisition would continue to be, devoted to a purpose of a nature where there is no general demand or market for property for that purpose, the compensation may, if the Court is satisfied that reinstatement in any other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement, and in that case compensation shall not be awarded under paragraph (a) or (d), but shall, where the circumstances permit be awarded under paragraphs (b) and (c).

(3) In determining the compensation to be awarded, the Court shall not take into consideration an increase in the market value of the property acquired by reason of the improvements made to the property within a period of two years immediately preceding the date of the declaration under section 4, unless it is proved that the improvement was made *bona fide* and not in contemplation of proceedings being taken for

the acquisition of the property under this Act.

## **12. Payment of compensation**

(1) *Omitted.*4(4)

(2) Compensation awarded under this Act may be paid to the person who appears by the judgment of the High Court or of the Court of Appeal or of the Supreme Court where appeal has been taken to have the best right to the compensation.

(3) The payment shall, as concerns the President, operate as a complete discharge and acquittance of the compensation and of the claims in respect of the property or an interest in the property but shall not hinder subsequent proceedings at the instance of a person having or alleging better right to the property as against the person to whom the payment has been made.

## **13. Form of conveyances**

(1) A conveyance of property purchased under this Act may be in the Form A set out in the Schedule or by deed in any other form which the President thinks fit.

(2) A conveyance made according to the form set out in the Schedule, shall vest the property in the President in trust for the Public Services and shall operate to bar and to destroy any other estates, rights, titles, remainders, reversions, limitations, trusts, and interests of and in the property comprised in the conveyance.

## **14. Certificate of title**

(1) The Lands Commission on behalf of the President is entitled, on production in the High Court of a conveyance to a property or at any time after the date of the declaration under section 4, to receive a certificate of title to the property described in the conveyance or declaration.

(2) The certificate may be in the Form B set out in the Schedule, and shall have the following effects and qualities:

- (a) the certificate shall not be questioned or defeasible by reason of an irregularity or error or a defect in the declaration, or the want of declaration, or of any other irregularity, error or defect in the proceedings previous to the obtaining of the certificate;
- (b) the certificate shall confer on the President and the successors in office of the President to whom the certificate shall be given, an absolute and indefeasible right to the property comprised or referred to in the certificate against all persons, and free from any adverse or competing rights, titles, interests, trusts, claims and demands;
- (c) if possession of the property is withheld by a person, the Lands Commission on behalf of the President may obtain from a Court a warrant of possession, which may be in the Form C set out in the Schedule, under which an officer of the Court or a police officer may eject a person so withholding possession, and the President, or a person authorised by the President, may enter on and possess the property;
- (d) the production of the certificate of title shall be held in a Court to be an absolute bar and estoppel to an action or a proceeding by which the right of the President to the property described in the certificate is sought to be impugned or questioned.

(3) The Court, on an application by motion by the Lands Commission on behalf of the President, may for good cause shown and on the terms that the Court considers just, rescind or vary a certificate of title

which the Court may have granted, or which may have been granted by the Regional Commissioner under the provisions of the Administration (Ashanti) Ordinance (Cap. 110); and the certificate of title shall become void of effect or shall have effect as so varied.

(4) A certified true copy of an order made by the Court under subsection (3) shall be deemed to be a “Judge’s Certificate” for the purposes of the Land Registry Act, 1962 (Act 122).

### **15. Execution and custody of instruments**

(1) A document, grant, conveyance, lease and any other instrument by which property is affected which is or have been or which may become vested in the President or in a person in trust for the Public Services or by which a title to property is or has been or may become vested in the President or in a person in trust for the Public Services is, for the purposes of this Act, duly and validly executed if it bears the seal of the Lands Commission and is signed by the Minister or any other person authorised by the Minister.

(2) The document, grant, conveyance, lease and any other instrument, or the counterpart or duplicate of the original of any of them shall be retained by the Lands Commission in the records of the Lands Commission.

(3) A copy of that document, grant, conveyance, lease or other instrument certified and personally signed by the Chief Executive Officer of the Lands Commission as a true copy is admissible in evidence in a cause or matter and between the persons and parties to the same extent as the original would be admissible; and the production of the original in evidence is not necessary except by order of the Court made for a special cause.

### **16. Possession deemed as entitlement to property**

Where a question arises in respect of the title to a property to be acquired under this Act, the parties in possession of the property as being the owners of the property at the time of the property being purchased or taken shall be deemed to have been lawfully entitled to the property, unless the contrary is shown to the satisfaction of the Court, and the parties are entitled to receive the purchase money or compensation for the property, but without prejudice to subsequent proceedings against the parties at the instance of a person having or alleging a better right to the property.

### **17. President exonerated upon payment**

(1) The payment to and the receipt of a person to whom a purchase money or compensation is paid, shall effectually discharge the President from seeing to the application or being answerable for the misapplication of the money or compensation.

(2) Where a person is in possession in virtue of an estate less than an estate of inheritance or in a fiduciary or representative capacity, the President may cause payment of the purchase money or compensation to be made to that person and in the proportions and instalments, and after the notices that the Court may direct.

### **18. Entry for survey**

(1) The President, or a person authorised by the President may enter on a property for the purpose of surveying or taking levels of, or of inspecting or valuing the property, or boring to ascertain the nature of the soil or any other purposes of the like nature, but the owner or occupier is entitled to compensation for the actual damage occasioned in the course of those operations.

(2) Where there is a dispute regarding the amount of the compensation, it shall be determined by the assessment of a lands officer of the Lands Commission and the assessment shall be referred to the Minister.<sup>5(5)</sup>

## **19. Regulations**

The President may, by legislative instrument, make Regulations for carrying this Act into effect and in particular for

- (a) the grant, registration and transfer by sale or otherwise of rights of occupancy in the Northern and Upper Regions and the conditions of the grant;
- (b) the rents payable in respect of rights of occupancy and the procedure governing revision of rents;
- (c) the survey and demarcation of areas which are to become subject to rights of occupancy and the maintenance of boundary marks; and
- (d) the procedure for the acquisition of property required for the Public Services in the Northern and Upper Regions.

### *Contracts*

## **20. Power to contract**

The Minister responsible for a subject or department, any other person authorised by the Minister, may execute a contract for and on behalf of the Republic on a matter falling within the Minister's portfolio.

## **21. Tender for works and supplies**

The President may, by legislative instrument, make Regulations relating to

- (a) the setting up and functions of advisory tender boards;
- (b) the procedure to be followed by an advisory tender board in the award of tenders;
- (c) the procedure for the signing of contracts; and
- (d) the numbering, distribution and payments due under a contract.

## **22. Forms of contracts**

(1) The Attorney-General may draw up standard forms of agreement and conditions for contracts and accordingly where those forms are applicable they shall be used in contracts for the Republic without reference to the Attorney-General but with the approval of the Minister.

(2) The contracts may be examined and approved by the Attorney-General unless otherwise provided by subsection (1).

## **23. Retention by Archivist**

(1) The original copy of a contract or an agreement entered into for and on behalf of the Republic shall be kept by the Government Archivist.

(2) A copy of the contract or agreement certified and personally signed by the Government Archivist

to be a true copy is admissible in evidence in a cause or matter and between persons and parties to the same extent as the original would be admissible; and the production of the original in evidence is not necessary except by order of the Court made for special cause.

**24. Penalties**

(1) Penalties incurred under a contract against the Republic shall be paid under a certificate of the Minister responsible for Finance.

(2) Penalties recovered for the Republic under a contract shall be paid into the Consolidated Fund subject to the directions of the Minister responsible for Finance.

**25. Legal proceedings**

Legal proceedings for or against the Republic under this Act shall be conducted in accordance with article 88 of the Constitution.

*Miscellaneous*

**26. Repeals**

*Spent.6(6)*

**27. Interpretation**

In this Act, unless the context otherwise requires,

“**Court**” means a court of competent jurisdiction;

“**Crown**” includes Her Majesty, and the Governor-General;

“**functions**” includes powers and duties;

“**property**” includes movable or immovable property, buildings and leases;

“**Minister**” means the Minister responsible for Lands.

**28. Commencement**

*Spent.7(7)*

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**Schedule**

FORM A  
CONVEYANCE

[Section 13]

I, ..... of ....., in consideration of the sum of ..... paid to me on behalf of the Republic, do hereby convey to the President and

the successors in office of the President all [*describe the property conveyed*] to hold the same according to the true intent and meaning of the State Property and Contracts Act, 1960.

Dated at ..... in the ..... Region the .....  
Day of ....., 20 .....

.....  
Witness: M. N. Q. R.

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FORM B  
CERTIFICATE OF TITLE

[Section 14]

*(Seal of Court)*

It is hereby certified and declared that, pursuant to the State Property and Contracts Act, 1960, the title in and to all [*describe the property to be acquired*] is vested in the President and the successors in office of the President according to the true intent and meaning of the Act.

Dated at ..... in the ..... Region the .....  
day of ....., 20 .....

.....  
E. F. A. B.  
*Registrar Justice of the High Court*

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FORM C  
WARRANT OF POSSESSION

[Section 14 (3)]

**To the Sheriff of Ghana**

Whereas a certificate of title dated the ..... day of ....., 20 ....., has been issued by the Court in favour of the President to that piece of property described as [*insert description*]:

These are therefore to command you to put the President or a person employed by the President in that behalf in possession of the property.

.....  
*(Signed by Justice or Magistrate)*

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## Endnotes

### 1 (Popup - Footnote)

1. The Act was assented to on 29th June, 1960 and has a Preamble which reads:

“WHEREAS by section 2 of the Constituent Assembly and Plebiscite Act, 1960 (No. 1) this Constituent Assembly is authorised to enact such provisions for or in connection with the establishment of a new Constitution as it thinks fit:

AND WHEREAS it is expedient to enact the provisions hereinafter appearing in consequence of the enactment of [the Constitution](#).”

### 2 (Popup - Footnote)

2. The subsection reads:

“In any proceedings relating to property where the Crown is a party, pending before a Court of competent jurisdiction at the commencement of this Act, there is hereby substituted for the Crown the Attorney-General for and on behalf of the Republic.”

### 3 (Popup - Footnote)

3. The section reads:

“Where in any Act where provision is made that property shall be controlled or conveyed or surrendered to and become vested absolutely or otherwise in, and held by the Crown, that property shall vest in the President in trust for the Public Service of the Republic of Ghana; and accordingly in any such Act references to ‘Her Majesty the Queen’, ‘Her Majesty the Queen in trust for the Public Service of Ghana’, ‘Crown ownership’, and ‘the Governor-General’ shall be construed as a reference to ‘the President in trust for the Public Service of the Republic’ or ‘Republic ownership’.”

### 4 (Popup - Footnote)

4. By reason of [articles 129](#) and [137](#) of [the Constitution](#). The provision reads:

“(1) The decision of the court respecting compensation, or in case of disputed interest or title as aforesaid or of the Supreme Court where appeal has been taken, shall be final and conclusive as respects all persons whatsoever.”

### 5 (Popup - Footnote)

5. The words “whose decision thereon shall be final” have been omitted as offending [clause \(3\)](#) of [article 125](#) of [the Constitution](#).

### 6 (Popup - Footnote)

6. The section reads:

“Section 5 of the Administration (Northern Region) Ordinance (Cap. 111), the Public Lands Ordinance (Cap. 134), the Public Lands (Vesting and Transfer of Powers) Ordinance (Cap. 135), the Public Lands (Leasehold) Ordinance (Cap. 138) and the Land and Native Rights Ordinance (Cap. 147) are hereby repealed.”

### 7 (Popup - Footnote)

7. The section provided that the Act shall come into operation at the same time as the 1960 Constitution. That Constitution came into operation on the 1st day of July, 1960.