

THE PORT ROYAL BROTHERHOOD ACT

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SCHEDULE

THE PORT ROYAL BROTHERHOOD ACT

Cap. 300.
Act
42 of 1969
3rd Sch.

[29th October, 1952.]

Preliminary

1. This Act may be cited as the Port Royal Brotherhood Act. Short title.

2. In this Act—

Interpreta-
tion.

“the Board” means the Board of Directors of the Brotherhood, to be established in accordance with this Act;

“the Brotherhood” means the Port Royal Brotherhood to be established in accordance with this Act;

“the Chairman” means the Chairman of the Brotherhood and includes any person appointed in accordance with subsection (2) of section 5 to act as Chairman;

“the Committee” means the Assessment Committee to be constituted under subsection (1) of section 16;

“the relevant area” has the meaning assigned to it by subsection (1) of section 15;

“the Secretary” means the Secretary of the Brotherhood.

Establishment and Constitution of Brotherhood

3.—(1) There shall be established for the purposes of this Act a body to be called the Port Royal Brotherhood which shall be a body corporate having perpetual succession and a common seal with power to purchase, lease or otherwise acquire and hold and dispose of land and other property of whatever kind. Establish-
ment of
Brother-
hood.

(2) The seal of the Brotherhood shall be authenticated by the signatures of the Chairman, or one member of

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the Board authorized to act in that behalf, and the Secretary, and such seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of the Brotherhood or of the Board, may be signified under the hand of the Chairman or the Secretary.

(4) The Brotherhood may sue and be sued in their corporate name and may for all purposes be described by such name.

Constitution
of Brother-
hood.

4. The Brotherhood shall consist of all persons who possess the qualifications prescribed by section 9 for membership of the Brotherhood.

Chairman.

5.—(1) The Minister shall by instrument in writing appoint the Chairman of the Brotherhood who shall hold office during the pleasure of the Minister.

(2) The Minister may appoint any person to act as Chairman temporarily in case of the absence or inability to act of the Chairman.

Board of
Directors.

6. The Board of Directors of the Brotherhood shall consist of—

- (a) the Chairman appointed under the provisions of section 5 who shall be Chairman of the Board;
- (b) one person nominated by the Council of the Kingston and St. Andrew Corporation who shall hold office during the pleasure of the said Council;
- (c) the Government Town Planner;
- (d) one person nominated by the Board of Directors of the Jamaica Chamber of Commerce Limited who shall hold office during the pleasure of the said Board;

- (e) three persons, at least two of whom shall be members of the Brotherhood, elected by the Brotherhood in accordance with the prescribed scheme and in the prescribed manner :

Provided that the first Directors to be elected under this paragraph shall be elected by ballot at the first meeting of the Brotherhood and shall hold office until their successors are elected in accordance with regulations made by the Brotherhood prescribing a scheme and manner of election for the purposes of this paragraph.

7.—(1) The Board shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such place and time and on such days as the Board may determine.

Procedure
and
meetings
of Board.

(2) The Chairman may at any time call a special meeting of the Board, and shall call a special meeting of the Board within seven days of a requisition for that purpose addressed to him by any three members of the Board.

(3) The quorum of the Board shall be four including the Chairman.

(4) The Chairman shall not have an original vote but only a casting vote.

(5) Subject to the foregoing provisions of this section, the Board shall have power to regulate their own procedure.

(6) The validity of any proceeding of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

8. The names of all persons on the Board as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Publication
of member-
ship of
Board.

Members of
Brother-
hood.

9.—(1) Subject to the provisions of subsection (2), the members of the Brotherhood shall be—

- (a) all persons whose land has vested in the Brotherhood by operation of this Act;
- (b) all persons who have applied for and have been allotted ordinary shares in the capital of the Brotherhood;
- (c) all persons to whom any such shares have been transferred with the permission in writing of the Board:

Provided that all such persons shall be members of the Brotherhood only so long as they continue to hold shares in the capital of the Brotherhood.

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(2) The Kingston and St. Andrew Corporation shall not be a member of the Brotherhood.

Procedure
and
meetings of
Brother-
hood.

10.—(1) The Brotherhood shall meet—

- (a) in the month of January in each year;
- (b) when summoned by the Chairman.

(2) Fifteen members of the Brotherhood shall form a quorum at such meetings.

(3) The Chairman shall preside at any meeting of the Brotherhood at which he is present. In the absence of the Chairman the Directors present at the meeting shall elect one of their number to preside thereat.

(4) The Chairman or any person duly authorized presiding at a meeting of the Brotherhood shall not have an original vote but only a casting vote.

(5) Subject to the foregoing provisions of this section, the procedure to be followed at meetings of the Brotherhood shall be regulated by the Board, until such time as the Brotherhood shall prescribe their own procedure.

(6) The validity of any proceeding of the Brotherhood shall not be affected by any defect in the constitution of the Brotherhood or by reason of any omission, defect or irregularity not affecting the merits of the case.

Functions of Brotherhood

11.—(1) It shall be the duty of the Board, on behalf of the Brotherhood, to undertake and encourage the reconstruction and development of Port Royal.

Functions and general powers of Board.

(2) The Board shall have power for the purpose of the discharge of their duty under subsection (1) to do anything and to enter into any transaction (including the allotment and issue of shares under this Act and whether or not involving expenditure, borrowing, granting of loans, or investment of money, the acquisition of any property or rights or the disposal of any property or rights) which in their opinion is calculated to facilitate the proper discharge of their functions or is incidental or conducive thereto.

(3) The Board may allot and issue shares in the capital of the Brotherhood to persons (whether or not such persons had any estate or interest in, or right to, any land in the relevant area before the 29th October, 1952) subject to such conditions as the Board may deem fit to impose.

(4) The Board may, in their discretion, permit a member of the Brotherhood to transfer shares held by him in the capital of the Brotherhood to any person or to the Brotherhood and the Board may acquire on behalf of the Brotherhood shares held by a member of the Brotherhood in the capital of the Brotherhood.

12. The Board shall appoint and employ at such remuneration and on such terms and conditions as they think fit, a Secretary, a Treasurer and such other officers and servants of the Brotherhood as the Board deem necessary for the proper carrying out of the provisions of this Act.

Appointment of officers and servants.

[The inclusion of this page is authorized by L.N. 480/1973]

Regulations. 13.—(1) The Brotherhood may, by resolution at a meeting of the Brotherhood, make regulations—

- (a) prescribing a scheme and manner of election of Directors for the purposes of paragraph (e) of section 6, and the conditions of tenure of office of such Directors;
- (b) governing the proceedings of the Brotherhood and the manner of transaction of business at meetings of the Brotherhood;
- (c) prescribing the voting rights of members of the Brotherhood and the manner in which such voting rights shall be exercised;
- (d) providing for the appointment and constitution of committees to assist in the discharge of the functions of the Brotherhood under this Act, and specifying the matters to be dealt with by such committees, so, however, that the Brotherhood shall not have power to delegate to any such committee any power expressly conferred on the Board by this Act or the power to make regulations conferred on the Brotherhood or the Board by this Act.

(2) The Board may make regulations—

- (a) governing their proceedings and the manner of transaction of business at their meetings;
- (b) prescribing the manner in which documents, cheques and instruments of any description shall be signed or executed on behalf of the Brotherhood;
- (c) providing for a system of registration of members of the Brotherhood and the keeping of a register of such members;
- (d) prescribing with respect to the relevant area, matters relating to the laying out, maintenance and improvement of streets, the laying out and sub-division of

land for building purposes, the erection, construction and alteration of buildings and structures, the class and design of building or structure to be erected in a particular locality, and the use to which any land, building or structure may be put;

- (e) with respect to such matters as may be specifically referred to them for such purpose by the Brotherhood by resolution at a meeting of the Brotherhood;
- (f) generally for the better carrying into effect of the provisions of this Act.

(3) All regulations made under the authority of this Act shall be published in the *Gazette*.

14. No member of the Board or of the Brotherhood shall be personally liable for any act or default of the Brotherhood done or omitted to be done in good faith in the course of the operations of the Brotherhood.

Protection of members of Board and Brotherhood.

Vesting of Land in Brotherhood

15.—(1) All the land in the town of Port Royal in the Parish of Kingston described in the Schedule (in this Act referred to as “the relevant area”) is hereby vested in the Brotherhood and its assigns forever freed from all estates interests trusts charges incumbrances and easements heretofore affecting the same and such lands shall be held by the Brotherhood for the purposes and with the powers and authorities mentioned in and conferred by this Act.

Vesting of land. Schedule.

(2) The owners of and all other persons having or claiming any estate or interest in or right to any part of the land within the relevant area shall severally receive such compensation for their respective estate interest or right therein as may be determined according to the provisions of this Act so nevertheless that in no case shall the aggregate compensation to all persons in respect of any part of the land

within the relevant area exceed the amount of compensation for the area of such part arrived at in accordance with section 18.

(3) Every person claiming to be entitled to any estate or interest in or to have any right to any part of the land within the relevant area shall before the 29th April, 1953, give notice to the Board of the claim made by him in respect thereof together with particulars of his estate or interest or claim and no claim for compensation not made within the time aforesaid shall be entertained provided that in the case of any person who may be an infant or person of unsound mind a claim in respect of the interest of such person may notwithstanding the period hereinbefore limited be made at any time within six months next after the time at which such person shall have ceased to be under such disability or shall have died whichever of the two events shall first happen.

Assessment of Interests and Payment of Compensation

Assessment
Committee.

16.—(1) The Board is hereby constituted an Assessment Committee for the purposes of this Act.

(2) It shall be the duty of the Committee to hold enquiries for the purpose of assessing the compensation to which the persons mentioned in subsection (2) of section 15 are entitled.

(3) The Secretary of the Brotherhood shall be Clerk to the Committee.

(4) Every enquiry by the Committee shall take place in public.

(5) All questions arising before the Committee in relation to their duties under this Act shall be decided by a majority of votes.

(6) For the purposes of an enquiry under this Act, the Committee shall have power by notice signed by one of their number or by the Clerk to the Committee to summon and enforce the attendance of witnesses, including persons interested, and also to compel the production of documents by the same means and so far as may be in the same manner as provided in the case of a Resident Magistrate's Court.

(7) In proceedings before the Committee evidence may be taken on oath, which oath the Chairman or Clerk to the Committee is hereby empowered to administer and any person giving false evidence in any proceedings before the Committee shall be liable to be indicted and punished for perjury.

(8) The Committee may prescribe the forms to be used in proceedings before the Committee and may make rules regulating the conduct of their proceedings, the times when sittings of the Committee shall be held, the procedure to be adopted by parties in proceedings before the Committee and generally for enabling the Committee to carry out their duties.

(9) The Chairman shall cause a record to be kept of all proceedings before the Committee and all the evidence taken and of the decisions arrived at by the Committee.

(10) Every person refusing or omitting without sufficient cause to attend at the time and place mentioned in the notice served on him, and every person attending but leaving the enquiry without the permission of the Committee, or refusing without sufficient cause to answer or to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Committee, or refusing or omitting without sufficient cause to produce any books, plans or documents in his possession or under his control and mentioned or referred to in the notice served on him, and every person who shall

at any sitting of the Committee wilfully insult any member of the Committee or the Clerk to the Committee, or wilfully interrupt the proceedings of the Committee, shall be guilty of an offence against this Act and on summary conviction thereof before a Resident Magistrate shall be liable to a fine not exceeding fifty dollars and in default of payment thereof to imprisonment with or without hard labour for any term not exceeding three months.

Share
Capital of
Brother-
hood.

17. The capital of the Brotherhood shall be divided into shares of two dollars each, and such shares shall not be transferred without the permission in writing of the Board.

Basis of
compensa-
tion.

18.—(1) Compensation shall be assessed by the Committee on the following basis—

- (a) a uniform value to be determined by the Committee on a square foot basis shall be put on all land which has vested in the Brotherhood by operation of this Act;
- (b) where at the time of vesting under the provisions of subsection (1) of section 15, there is any building or structure on the land, the value of such building or structure as assessed by the Committee shall be taken into consideration for the purposes of compensation if such building or structure was in existence on the 19th day of August, 1951.

(2) It shall be the duty of the Committee to award compensation to the persons entitled thereto, in terms of ordinary shares in the capital of the Brotherhood to be credited as fully paid up.

Awards.

19.—(1) Every award made by the Committee shall be noted on a list which on completion shall be certified as true and correct, if such be the case, and signed by the Chairman.

- (2) Such list shall specify—
- (a) the land in respect of which compensation is awarded;
 - (b) the name of the claimant and the nature and extent of his interest and the amount awarded in respect of such interest; and
 - (c) such other particulars as the Committee may think fit.

20.—(1) Subject to the provisions of subsection (2) the Brotherhood shall make compensation in shares up to the amount awarded by the Committee in each case to the persons entitled thereto.

Payment of compensation.

(2) If any of the persons entitled to compensation does not consent to receive such compensation, or if there is no person in the Island who would have been competent to alienate the land in respect of which compensation has been awarded, or if there be any dispute as to the right to receive the compensation or as to the apportionment thereof, compensation shall not be made until such time as the person entitled thereto shall make a claim and consent to receive the compensation to which he is entitled when it shall be made to him with profits (if any) on the order of the Board.

21. Compensation in respect of the vesting of any land under this Act shall be due on the 29th October, 1952, subject to the determination of the amount thereof.

Date when compensation is to be due.

22.—(1) Subject to the provisions of subsection (2), the Brotherhood shall issue to the persons entitled thereto the number of ordinary shares in the capital of the Brotherhood credited as fully paid up which have been awarded in accordance with the provisions of this Act in respect of the land vested in the Brotherhood under this Act.

Mode of satisfaction of compensation.

(2) If the compensation awarded in respect of any land in terms of shares in the capital of the Brotherhood includes a fraction of a share, such fraction shall be disregarded if it be less than half a share but if it be half a share or more it shall be regarded as a whole share.

Appeal.

23. Any person aggrieved by a decision of the Committee with respect to the amount of compensation awarded, or the person to whom compensation is awarded, may appeal therefrom to a Judge in Chambers not later than fourteen days after he has received notice in writing of the award of the Committee in respect of the compensation claimed by him.

Allocation of Lands in the Relevant Area

Power of Board to allocate lands in relevant area.

24.—(1) The Board shall, as they think fit, from time to time, within the limits of the resources of the Brotherhood and on such terms and conditions as they deem fit to impose generally or in any particular case allocate lands in the relevant area to members of the Brotherhood.

(2) Subject to the provisions of subsection (1), the Board shall allocate to each member of the Brotherhood who owned land in the relevant area immediately before the 29th October, 1952, a lot with a dwelling-house thereon or accommodation for the purpose of carrying on a commercial undertaking or both, as appears to the Board to be equitable having regard to the following factors—

- (a) the number of shares in the capital of the Brotherhood held by such member;
- (b) the number of persons expected to live in such dwelling-house;
- (c) the nature and extent of such member's commercial undertaking immediately before the 17th day of August, 1951; and

- (d) generally, the merits of the case and any other factors conducive to an equitable allocation of lands in the relevant area.

(3) Subject to the provisions of subsection (1), the Board may, if in their opinion the needs of all persons who owned land in the relevant area immediately before the 29th October, 1952, have been adequately met under the provisions of subsection (2), allocate any remaining lands in the relevant area to other members of the Brotherhood.

25. The Board shall at the request of the Commissioner of Lands or the Council of the Kingston and St. Andrew Corporation and on such terms and conditions as the Board and the Commissioner of Lands or the said Council (as the case may be) shall agree, allocate to the Commissioner of Lands or the Kingston and St. Andrew Corporation land in the relevant area not exceeding in extent the total area of land owned by the Colonial Secretary or the Kingston and St. Andrew Corporation (as the case may be) immediately before the 29th October, 1952, in such area.

Allocation to Commissioner of Lands and Kingston and St. Andrew Corporation. 42/1969 3rd Sch.

Exemptions

26. Nothing in any law from time to time in force relating to the laying out, maintenance or improvement of streets, or to the laying out or sub-division of land for building purposes, or to the erection, construction or alteration of buildings and structures, shall be construed as preventing, restricting or regulating the exercise by the Brotherhood, in accordance with this Act, of the rights, powers and authorities conferred on the Brotherhood by this Act.

Exemption from building laws.

27. The Brotherhood shall be exempt from—

- (a) income tax;
- (b) stamp duties which would but for this provision be payable in respect of the transfer of a beneficial interest under this Act;

Exemption from income tax and stamp duties.

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- (c) stamp duties in respect of instruments executed by or on behalf of the Board or by an officer or member of the Brotherhood relating to the business of the Brotherhood or any class of such instruments.

Rules

- Rules. **28.** Rules of court may be made prescribing the procedure to be followed upon any appeal to, or proceeding before, a Judge in Chambers under this Act.

SCHEDULE

(Section 15)

The Relevant Area

The area outlined in red upon a plan entitled "Plan of the Area to be vested in the Port Royal Brotherhood" identified under the hand of the Colonial Secretary as being the plan referred to in the Bill for a Law entitled "A Law to provide for the Vesting of lands in Port Royal in the Port Royal Brotherhood, a body constituted for the purpose of undertaking and encouraging the reconstruction and development of Port Royal and for matters incidental thereto or connected therewith" and deposited at the Island Record Office on the 18th day of August, 1952.