I assent,

SAMUEL WEYMOUTH TAPLEY SEATON

Governor-General

20th July, 2017.

SAINT CHRISTOPHER AND NEVIS

AN ACT to establish a national land registry and to provide for electronic searches, the preservation of records and related matters.

[*Published 3rd August 2017, Extra-Ordinary Gazette No. 37 of 2017*.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis and by the authority of the same as follows:

PART 1
PRELIMINARY

1. Short title and commencement.

(1) This Act may be cited as the Land Registry Act, 2017.

(2) This Act shall come into operation on a day to be appointed by the Minister by Order published in the *Gazette*.

2. Interpretation.

In this Act, unless the context otherwise requires:

"agreement" means a Service Access Agreement provided for in section 17;

"Assistant Registrar" means an Assistant Registrar of Lands appointed under section 7;

"attorney-at-law" has the meaning given to it under section 2 of the Legal Profession Act, No. 33 of 2008;

"Condominium Act" means the Condominium Act, Cap. 10.03;

"Direct Access Service" means the Land Registry Direct Access Service provided for under Part III;

"land" means real property and includes registered and unregistered land;

"Minister" means the Minister with responsibility for Justice;

"Registrar" means the Registrar of Lands appointed under section 7;

"Register" means the Land Register under section 13;

"Registration and Records Act" means the Registration and Records Act, Cap. 23.25;

"Registry" means the offices housing the Land Register;

"service user" means a party to a Service Access Agreement under section 17, other than the Registrar;

"St. Kitts Peninsula District (Planned Community) Act" means the St. Kitts Peninsula District (Planned Community) Act, No. 21 of 2008;

"Title by Registration Act" means the Title by Registration Act, Cap. 10.19;

"Vacation Plan and Time Share Act" means the Saint Christopher and Nevis Vacation Plan and Time Share Act, No. 34 of 2005.

3. Reconciliation with other laws.

Where any other law in force is inconsistent with the provisions of this Act, that law shall, as of the date of coming into force of this Act, cease to apply to the extent of such inconsistency.

4. Application of Act.

The provisions of this Act shall apply to all land in Saint Christopher and Nevis, which has been registered or recorded under any enactment.

5. Act binds the Crown.

This Act binds the Crown.

PART II
ORGANISATION AND ADMINISTRATION

Division 1

Establishment of Land Registry and Appointment of Officers

6. Establishment of Land Registry.

(1) There is hereby established a Land Registry to be known as the Land Registry of Saint Christopher and Nevis, in which shall be kept a Land Register in accordance with Division 2 of this Part.

(2) There shall be established a branch office of the Registry in the Island of Nevis.

7. Registrar and Assistant Registrars.

(1) The Governor-General shall, in accordance with the recommendation of the Public Service Commission, appoint

(a) a Registrar of Lands who shall be a Registrar of the High Court for the purposes of section 83 of the Constitution, with responsibility for the administering of the Register in accordance with this Act;

(b) at least two Assistant Registrars of Lands who shall be under the supervision

of the Registrar and one of whom shall be assigned to the branch office in Nevis; and

(2) In accordance with section 83 (2) of the Constitution, before making any recommendation to the Governor General for the appointment of a Registrar or Assistant Registrar for the purposes of subsection 1, the Public Service Commission shall first consult with the Judicial and Legal Services Commission.

(3) A person shall not be appointed as Registrar unless he or she has been practising as an attorney-at-law within Saint Christopher and Nevis for a period of not less than 10 years with adequate experience in land matters.

(4) A person shall not be appointed as Assistant Registrar unless he or she has been practising as an attorney-at-law within Saint Christopher and Nevis for a period of not less than 7 years with adequate experience in land matters.

(5) In accordance with section 83(3) of the Constitution, the power to exercise disciplinary control over persons holding or acting in offices to which this section applies and the power to remove such persons from office shall vest in the Governor-General, acting in accordance with the recommendation of the Judicial and Legal Services Commission:

8. Acting appointments.

(1) Where the office of the Registrar becomes vacant, or if, owing to absence or inability to act from illness or any other cause, the Registrar is unable to perform his or her duties under this Act, the Governor-General may appoint one of the Assistant Registrars to act temporarily as the Registrar, and the Assistant Registrar so appointed, shall for the time being have all the authorities and powers and perform all the duties of the Registrar.

(2) In the case of illness, incapacity or absence of an Assistant Registrar or any other officer, the Governor-General may appoint a suitably qualified person to act in lieu of such Assistant Registrar or other officer, and the person so appointed shall have all the powers and perform all the duties of the Assistant Registrar or other officer as the case may be, in whose stead he or she may have been appointed.

9. Duties and powers of the Registrar.

(1) The Registrar shall perform all the duties and may exercise any or all of the powers imposed or conferred as the case may be, by this Act or any other enactment.

(2) The Registrar shall be a notary public for the purposes of carrying out his or her functions under this Act or under any other enactment under which he or she is required to perform a function.

10. Delegation of duties and powers.

(1) Subject to this section, the Registrar may in writing delegate to an Assistant Registrar the authority to exercise or perform all or any of the powers or duties conferred on the Registrar by this Act or by any regulations made thereunder, and may at any time revoke or vary such authorisation.

(2) The Registrar shall not delegate to an Assistant Registrar or any other officer, the authority to delegate conferred under this section.

(3) A delegation granted by the Registrar under subsection (1) shall not be deemed to divest the Registrar of any of his or her powers or duties, and he or she may, if he or she thinks fit, exercise and perform all his or her powers and duties notwithstanding any such delegation.

(4) The Registrar shall not delegate his or her functions or powers under this section where a circumstance provided for in section 8 occurs.

11. Seal of Registry.

(1) The Registry shall have a seal, which shall be kept in the custody of the Registrar.

(2) Every instrument bearing the imprint of that seal shall be received in evidence and, unless the contrary is proved, shall be deemed to have been authenticated by the Registrar.

12. Officers and indemnity.

(1) The Minister shall appoint such number of other officers as may be necessary for carrying out the provisions of this Act.

(2) The Registrar shall not, nor shall any other officer of the Registry be liable to any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith in the exercise of his or her powers or the performance of his or her duties under this Act or any regulations made thereunder.

Division 2

The Land Register

13. The Land Register.

(1) The Register shall include all consolidated, current and subsequent volumes of the following registers, which are kept in both Saint Christopher and Nevis:

(a) the Register of Titles kept under the *Title by Registration Act*;

(b) every part of such Register kept under the *Registration and Records Act* that relates to land;

(c) the Condominium Register kept under the *Condominium Act*;

(d) any register kept under or document registered in accordance with the *St. Kitts Peninsula District (Planned Community) Act*;

(e) any register kept under or document registered in accordance with the *Vacation Plan and Time Share Act*; and

(f) any register kept under or document registered or recorded in accordance with any other enactment that relates to land.

(2) Any record held in the branch office of the Registry shall be deemed to be a part of the Register referred to in subsection (1).

(3) For the purposes of this section, a document that "relates to land" includes a deed relating to a mortgage or a discharge thereof, a lease, an indenture of conveyance, a deed of

re-conveyance or similar document but does not include a power of attorney, a bill of sale, a deed poll or similar document.

14. Safe keeping and preservation of records.

Notwithstanding any enactment to the contrary, the Registrar shall be the keeper of the records and shall ensure:

(a) their safe keeping in a secure and suitable location within the Registry in such manner as may be prescribed;

(b) that at no time whatsoever shall a record be removed from the Registry, whether or not to facilitate the performance of a function or the exercise of a power under this Act or any other enactment;

(c) as far as practicable, the preservation of every record in the Registry by whatever means necessary;

(d) that the appropriate equipment and any other requirement in respect of the reading or otherwise of a preserved record is available within the Registry; and

(e) that no person requesting the conduct of a search shall handle any record or other document within the Registry and such search shall be carried out exclusively by an officer of the Registry.

15. Converting the records to electronic format.

(1) Without prejudice to section 14, the Registrar shall cause the records in the Register to be converted to electronic format and the records shall be kept in such form, manner and locations as may be prescribed.

(2) The Registrar shall ensure that the Register is maintained on an on-going basis in electronic format so as to ensure its currency at all times.

(3) Notwithstanding this section, the Register shall at all times be kept and maintained in non-electronic format.

(4) Where an electronic record is inconsistent with the corresponding written record, the latter shall prevail.

PART III

LAND REGISTRY DIRECT ACCESS SERVICE

16. Establishment of Land Registry Direct Access Service.

(1) Notwithstanding any enactment to the contrary, the Registrar shall establish a direct access service to such information contained in the Register as shall be prescribed and such information may be accessed remotely by any person for the purpose of the conduct of searches.

(2) Without prejudice to subsection (1) and subject to section 17, the Registrar may

authorise certain classes of persons including attorneys-at-law to access more detailed information in the Register by way of the direct access service, than is provided to the general public.

(3) The information which may be made available to a person under subsection (2) shall be as prescribed.

(4) A person may, following the conduct of a search under this section, make a request to the Registrar through the direct access service for a copy of a record, which upon payment of the relevant fee shall be made available in hard copy at the Registry to the person making the request or a person acting on his or her behalf.

(5) A person shall pay such fee in respect of the conduct of a search as may be prescribed.

(6) The Registrar shall ensure that the relevant equipment is available within the Registry to facilitate the conduct of searches by persons using the direct access service and shall:

(a) provide locations within the Registry where such searches may be conducted; and

(b) specify the times and manner in which the equipment to conduct a search may be accessed.

(7) The Registrar may provide or arrange for the provision of such training of officers of the Registry as he or she thinks necessary, in relation to the use of the direct access service or any related matter.

(8) Notwithstanding this section, a person may, upon payment of a prescribed fee, request a relevant officer at the Registry to conduct a search of the records on his or her behalf.

17. Service Access Agreement.

A person falling within a class authorised by the Registrar under section 16(2), shall be so authorised by means of a properly executed service access agreement with the Registrar and that agreement shall provide for such terms and conditions as may be prescribed.

18. Suspension of access.

(1) Subject to the grounds set out in subsection (2), the Registrar may suspend the access of a service user to the direct access service.

(2) Where the Registrar suspends the access of an authorised person, that suspension shall not operate so as to deny the authorised person the level of access that is available to the general public.

(3) The Registrar may impose a suspension under subsection (1) if he or she:

(a) considers that it is in the public interest to do so; or

(b) has reasonable grounds to believe that the person granted access:

(i) is breaching or has breached a term of the agreement; or

(ii) may no longer be a member of a class falling under section 16(2).

(4) As soon as is reasonably practicable after the suspension of a service user under this section, the Registrar shall inform the service user in writing of such suspension, the reasons for the suspension and the requirements that must be satisfied for the lifting of the suspension including the submission of any documentary evidence that the Registrar may specify.

(5) The Registrar shall lift an imposed suspension where an authorised person satisfies such requirements and submits such documentary evidence as may be required under subsection (3).

19. Termination of agreement.

(1) Subject to section 18, the Registrar may terminate an agreement in accordance with the terms of the agreement, if:

(a) the Registrar considers that it is in the public interest to do so; or

(b) the person granted access:

(i) fails to comply with a term or condition of the agreement; or

(ii) ceases to be a member of a class falling under section 16(2).

(2) A person who is a party to an agreement may terminate the agreement at any time by notice given to the Registrar in accordance with the agreement.

20. Opportunity to be heard.

(1) Before terminating an agreement, the Registrar shall grant the person whose agreement is the subject of such termination, an opportunity to be heard.

(2) The conduct of a hearing under this section shall be in such form and manner as may be prescribed.

PART IV

APPEALS

21. Procedures and Right of Appeal.

(1) Where the Registrar terminates an agreement under section 19, the service user who is so affected may require the Registrar to furnish him or her with a statement in writing of the reasons for that decision.

(2) A service user who is aggrieved may appeal to the High Court for wrongful termination of contract.

PART V

MISCELLANEOUS

22. Fees.

All fees received by the Registry under this Act shall be paid into the Consolidated Fund.

23. Regulations.

(1) The Minister may make regulations generally for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations governing the:

(a) form, manner and location in relation to the keeping and storage of electronic records;

(b) conditions under which non-electronic records are to be kept;

(c) form of the direct access service including security features;

(d) type and level of detail of information that may be made available to the general public and an authorised person through the direct access service;

(e) monitoring of the use of the direct access service by users;

(f) fees to be charged including fees in connection with a search, a service access agreement, a record that may be requested and any other matter for which a fee is payable;

(g) form and manner of payment of fees through the direct access service;

(h) terms and conditions of a service access agreement;

(i) conduct of searches and request for documents; and

(j) form and manner of a hearing under section 20.

ANTHONY MICHAEL PERKINS

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Speaker

Passed by the National Assembly this 11th day of July, 2017.

JOSÉ LLOYD
Clerk of the National Assembly

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