

PAS GÉOMÉTRIQUES

RL 4/121 – 24 April 1982

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1 Short title

This Act may be cited as the Pas Géométriques Act.

1A Interpretation

In this Act –

“Chief Surveyor” means the Chief Surveyor of the Ministry responsible for the subject of lands;

“Permanent Secretary” means the Permanent Secretary;

“tree”–

(a) includes live and dead timber, and the branches of trees;

(b) does not include brushwood, shrubs, underwood, twigs and creepers.

2 Pas Géométriques

(1) The reserved lands along the sea coast commonly called the ‘Pas Géométriques’ and referred to in the Arrêté of Général Decaen of 5 May 1807, shall form part of the ‘domaine public’ and be inalienable and imprescriptible.

(2) Subsection (1) shall apply to such ‘Pas Géométriques’ as have reverted or may revert to the State by cession, surrender or otherwise.

3 Breadth of Pas Géométriques

(1) The breadth of the ‘Pas Géométriques’ shall be reckoned from the line of the seashore which is reached by high water at spring tide, and shall never be less than 81 metres and 21 centimetres.

(2) The boundary line of the ‘Pas Géométriques’ shall, as far as the locality admits, be parallel to the lines of the coast considered as a whole and without regard to its small irregularities.

4 Annexes of Pas Géométriques

(1) The ponds of sea water, salt water marshes, lakes, bogs and basins situate wholly or partly upon the ‘Pas Géométriques’, the islets adjacent to the shore and which can be reached on foot at low tide, the creeks at the mouths of rivers, and the mouths of rivers, shall be deemed annexes of the ‘Pas Géométriques’, shall form part of the ‘domaine public’ and shall be inalienable and imprescriptible.

(2) Subsection (1) shall apply to such annexes as have reverted or may revert to the State by cession, surrender or otherwise.

5 Survey of ‘Pas Géométriques’

The Permanent Secretary may make, or cause to be made by any Government or other Land Surveyor, the survey and plan of any ‘Pas Géométriques’, and for this purpose he or any such surveyor may enter any adjoining private land.

6 Notice of survey to occupier

(1) (a) Where the Chief Surveyor thinks it expedient to survey or cause to be surveyed any portion of the ‘Pas Géométriques’, the Attorney-General, on the application of the Chief Surveyor, may cause a notice to be served upon any occupier of the portion of the ‘Pas Géométriques’ intended to be surveyed, in order that the occupier may produce his permission of settlement or title deed within a reasonable period.

(b) The notice shall be served one month at least before the survey actually takes place.

(2) (a) Subject to paragraph (b), where the person called upon to produce his permission of settlement or title deed refuses, neglects or is unable to do so within the specified time, the Chief Surveyor shall, after 4 days notice given to the parties interested of the day of survey, proceed to survey that portion of the ‘Pas Géométriques’ ex parte, and the memorandum of survey signed by the Chief Surveyor shall, upon production of the notice duly served and an affidavit that the party summoned to produce his permission of settlement or title deed has not

produced it within the specified period, be evidence before all courts of the boundaries and extent of such portion of the 'Pas Géométriques'.

(b) A party who may have been prevented from producing his titles, shall within 6 months be entitled to claim a new survey, at his own expense.

7 Grant of leases

(1) (a) Subject to this Act, the Minister may grant, by private contract or by public auction, leases of 'Pas Géométriques' or annexes for any period not exceeding 30 years and upon such terms as to the payment of rent and other conditions as may be approved by the Minister.

(b) Subject to paragraph (c), where in furtherance of the objects of a Cyclone Housing Scheme under the Central Housing Authority Act, it is necessary—

- (i) to exchange leases of 'Pas Géométriques' for leases of private property; or
- (ii) to grant leases of 'Pas Géométriques' on which houses may have been built under a Cyclone Housing Scheme,

the Minister may grant leases for a period exceeding 30 years but not exceeding 99 years.

(c) Section 22 shall not apply to leases of 'Pas Géométriques' granted under paragraph (b).

(2) Notwithstanding any other enactment rent shall be payable in advance and in default of payment of any instalment within one month after service of a notice claiming payment, the Minister may, an order in writing, cancel the lease, and thereupon the Government shall be entitled without any further formality to resume possession of the land.

(3) (a) Where the lessee in the exercise of his rights under the lease has cultivated the land, possession of which is resumed by Government, the Minister shall assess the value of the plantations existing at the time of resumption of possession and shall, after deducting from the assessment the arrears of rent due, pay over to the lessee as compensation an amount equal to any excess of the assessment over the arrears of rent due.

(b) Where the assessment has been made, the lessee shall be made aware of it and shall be informed of his right of appeal under subsection (4).

(4) Any lessee aggrieved by the assessment made under subsection (3) may appeal to the Magistrate of the district where the land is situate.

(5) Every appeal before the District Court shall be by plaint with summons, and shall be heard and determined according to the procedure laid down in the District and Intermediate Courts (Civil Jurisdiction) Act.

(6) The plaint shall state the grounds of appeal, and the appellant shall not be allowed to adduce evidence of any ground which is not included in the plaint.

(7) The plaint shall be lodged with the District Clerk within 10 days after notification to the appellant of the assessment complained of.

(8) In giving his decision in any appeal, the Magistrate may dismiss the appeal or vary the assessment, with or without costs.

8 Lessee to plant trees

In every lease of 'Pas Géométriques' which are not already planted with trees, a clause shall be inserted, unless the Minister otherwise orders, imposing on the lessee the obligation of planting every year one-fifth of the land not planted until the whole has been planted, and of maintaining the trees so planted in a proper state of cultivation.

9 Transfer of lease

In all leases of 'Pas Géométriques' there shall be inserted a condition that if any transfer of the lease is made without the express consent in writing of the Minister, the lease shall be held to be forfeited, together with the buildings and the plantations existing upon the land leased.

10 Leases of small portions

(1) Notwithstanding this Act, the Minister may grant, by private contract or public auction, leases of small portions of 'Pas Géométriques' for campement sites or for any other purpose to any person without imposing the condition of planting trees.

(1A) In the case of leases for campement sites –

- (a) not more than one lease shall be held by any person; and
- (b) not more than one arpent and a quarter shall be let to any person unless –
 - (i) any portion of 'Pas Géométriques' exceeding one arpent and a quarter is so situate that it cannot conveniently be divided and in the opinion of the Minister it is desirable to let the whole of that portion to that person; or
 - (ii) the granting of a lease of 'Pas Géométriques' exceeding one arpent and a quarter is –
 - (A) in the opinion of the Minister in the public interest; or
 - (B) approved by the Minister where the land is to be used for recreation by a registered club or for a bona fide religious, charitable or educational purpose.

(2) Any person to whom a lease has been granted under subsection (1) or (1A) may, subject to such conditions as may be imposed by the Minister, cut and remove any trees growing on the 'Pas Géométriques'.

(3) A lease granted under subsection (1) or (1A) shall be for a period not exceeding 20 years and may, where a building has been erected on the 'Pas Géométriques', be renewed by the Minister subject to such conditions as he may impose for 2 further consecutive periods of 20 years.

(4) Notwithstanding this Act or any other enactment, the Minister may, by private contract and without imposing the condition of planting trees, grant leases of portions of 'Pas Géométriques' in excess of one arpent and a quarter –

- (a) to, or for the use of, the State's naval, military or air Forces;
- (b) to any person for the implementation of any scheme or project included in any development plan which has received the prior approval of the Assembly or for any purpose approved by the Minister.

11 Grant of lease by public auction

(1) Where it is intended to grant a lease of 'Pas Géométriques' by public auction, notice shall be given in the *Gazette* and 2 daily newspapers 2 weeks at least before the day fixed for the auction.

(2) It shall be distinctly stated in the notice whether there are on the land intended to be leased buildings belonging to the Government and, if so, whether the buildings are to be leased with the land.

(3) Subject to subsection (4), the lease shall be adjudged at the auction to the highest bidder.

(4) The Minister may withdraw the lease of the land from the auction if the highest bid is, in his opinion, below the actual rental value of the land.

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13 Permission to cut trees

(1) The lessee of 'Pas Géométriques' shall not cut trees unless he is expressly authorised so to do by the lease.

(2) The right to cut trees shall not, except with the approval of the Minister, be granted in any lease.

(3) Where the right to cut trees is granted, it shall be subject to such restrictions and conditions as may be approved by the Minister.

14 Lessee to watch over property

(1) The lessee of 'Pas Géométriques' shall watch over the property leased to him and prevent the cutting or removal of any trees growing on it which is –

- (a) not authorised by his lease, or by the Minister; or
- (b) in breach of any condition subject to which the right of cutting trees may have been granted in the lease.

(2) (a) Where any trees growing on the 'Pas Géométriques' are cut or removed without any lawful authority, or in breach of any condition of the lease, the Minister, on proof of the fact and without having to prove that the cutting or removal of the trees took place with the knowledge or sanction of the lessee, shall, subject to paragraph (b), be entitled to obtain judgment condemning the lessee to pay the value of the trees cut, or cancelling the lease with damages.

(b) It shall be a defence for the lessee to prove that the trees were cut or stolen without any neglect on his part or in spite of proper supervision by him.

(c) In the case referred to in paragraph (b), the lessee shall inform the Minister within a period of 7 days of the destruction or theft of the trees.

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16 Disposal of dead and broken trees

(1) (a) The Permanent Secretary may cause to be removed and disposed of any dead, broken or fallen trees on any Pas Géométriques, although they are leased, unless it is otherwise provided in the lease.

(b) Where the Government decides to sell the trees mentioned in subsection (1), the sale shall be by public auction unless the Conservator of Forests decides otherwise.

(2) (a) A public officer or a person authorised by the Permanent Secretary, or a person, other than the lessee, or the agent of that person who has purchased at a public auction or otherwise from the Government the right of removing dead, fallen or broken trees which the Government may remove or dispose of, may enter any 'Pas Géométriques' although they are leased, for the purpose of cutting and removing these trees.

(b) The time necessary for cutting and removing those trees shall be fixed by the Conservator of Forests.

(c) Nothing in this section shall have the effect of conferring on the Government or any person mentioned in this section any right of way across private property.

(d) Where the entry and the works necessary for the removal of trees under subsection (1) prevent the lessee from enjoying his lease in conformity with his contract, the lessee shall be entitled to claim from the Government either a reduction of the rent payable for the current year or the cancellation of the lease.

17 Offences

Where –

- (a) a lessee of 'Pas Géométriques' cuts, destroys or removes, or causes to be cut, destroyed or removed, any tree, without being expressly authorised to cut trees in his lease;
- (b) a lessee authorised to cut trees, cuts, destroys or removes, or causes to be cut, destroyed or removed, any tree on any 'Pas Géométriques' in breach of any condition of his lease; or
- (c) a person cuts, destroys or removes, or causes to be cut, destroyed or removed, any tree on any 'Pas Géométriques' which is either not let by Government or let to another person without that person's authorisation,

he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees in addition to the value of any tree cut, destroyed or removed, and to imprisonment for a term not exceeding 6 months.

18 Saving

(1) (a) Any lands situate within the limits of the District of Port Louis or in any village mentioned in the Schedule, and specified in section 2, are excluded from this Act.

(b) Any land under paragraph (a) shall be deemed to be, and may be dealt with as State lands which are not 'Pas Géométriques', but shall be inalienable and imprescriptible.

(c) Not more than one lease for a campement site shall be held by any person.

(2) (a) The boundaries of the villages in the Schedule shall be fixed by the Minister, by notice in the Gazette.

(b) No new lease of 'Pas Géométriques' shall be granted of land contiguous to any village before the notice is published.

(3) The Minister may, by regulations, amend the Schedule.

[Amended 48/91]

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20 Lease for coconut plantations

(1) The Minister may grant by private contract leases of 'Pas Géométriques' exceeding 2 hectares for the purpose of planting and cultivating coconut trees on the 'Pas Géométriques'.

(2) The leases may be for any period not exceeding 30 years and upon such terms as to the payment of rent and other conditions, more especially as to the apportionment of produce between the Government and the lessee, as may be approved by the Minister.

(3) The rent shall be payable in advance and, in default of payment of any instalment within one month after service of a notice claiming payment, the Minister may, by order in writing, cancel the lease, and thereupon the Government shall be entitled without any further formality to resume possession of the land.

(4) No lease under this Act shall be granted except after notice published in 2 daily newspapers 2 weeks at least before any decision is taken.

(5) Any lessee may, subject to such conditions as may be approved by the Minister, cut and remove any trees growing on the 'Pas Géométriques' leased to him under this Act, for the purpose of planting or maintaining the coconut trees so planted in a proper state of cultivation.

(6) Notwithstanding section 11, where after the granting of a lease, it is proved to the satisfaction of the Minister that the 'Pas Géométriques' are unsuitable for the planting and cultivating of coconut trees, the Minister may cancel the lease and grant another lease under this Act without recourse to a public auction.

21 Conditions governing lease for coconut plantations

Sections 2 to 6, 9, 13, 14 and 16 to 18 shall apply to a lease granted under section 20.

22 Extension of lease

Notwithstanding this Act, the Minister may, on the application of a lessee to whom a lease of 'Pas Géométriques' has been granted under section 7, extend the duration of the lease for not more than 2 further periods of 15 years each without putting up the lease to public auction.

23 Dumping on Pas Géométriques

Any person who dumps or who causes to be dumped any sand, coral, earth, stones, wood or other object on any 'Pas Géométriques' without the authority of the lessee or of the Minister, according to whether the Pas Géométriques are let or not, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees.

24 Eviction of squatters

(1) Notwithstanding any other enactment, but subject to 24A, no person shall take possession of, encroach upon, cultivate or put up any building or other structure on any part of any 'Pas Géométriques' without the express authorisation in writing of the Minister.

(2) Every person who fails to comply with subsection (1) or who is a person in occupation of 'Pas Géométriques' without any right or authority, shall be deemed to be a squatter.

(3) Where the Minister is satisfied that there is a squatter on 'Pas Géométriques' he may cause a notice to be issued calling upon him to vacate the land within a delay to be specified in the notice.

(4) A notice issued under subsection (3) shall be served on the squatter in person or, where the squatter cannot be traced or served with the notice within 48 hours of its issue, posted up in a conspicuous, place on the 'Pas Géométriques' or any building or other structure on the Pas Géométriques.

(5) Where a squatter fails to comply with a notice served on him or posted up in accordance with subsection (4) he shall commit an offence and shall, on conviction, be liable to pay a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding three months.

(6) Subject to subsection (3) and notwithstanding subsection (5), the Minister may, with the assistance of a police officer, cause a squatter to be removed immediately from any 'Pas Géométriques' occupied by him and cause any building or other structure existing on the 'Pas Géométriques' to be demolished.

(7) Where a squatter who has been removed from any 'Pas Géométriques' re-occupies the 'Pas Géométriques' or occupies any other 'Pas Géométriques' without the express authorisation in writing of the Minister, he shall commit an offence and shall, on conviction, be liable to a fine of 5,000 rupees and to imprisonment for a term which shall not be less than one year or more than three years.

(8) Subsection (7) shall be without prejudice to the right of the Minister to remove the squatter from the 'Pas Géométriques' or to cause any building or other structure put up by him to be demolished.

(9) Where any building or other structure is demolished pursuant to this section such part of the materials as are still in good or usable condition shall be kept by the Minister and returned to the squatter upon his application and upon payment by him of a reasonable sum of money calculated to defray the expenses of demolition.

(10) In any proceedings under this section, a certificate from the Chief Surveyor that land which is the subject-matter of the proceedings is Pas Géométriques shall be prima facie evidence that the land is 'Pas Géométriques'.

(11) No action for damages or otherwise shall lie against the Minister or any person acting under his authority in respect of anything done under this section except where the person evicted or the person whose building or structure was demolished was in possession of an authority in writing from the Minister to occupy the land or to put up the building or other structure on the land or was lawfully in occupation of the land.

[Amended 7/86; R 5/86; 35/89]

24A Removal of jetties or other structures

(1) Notwithstanding any other enactment, no person shall build, erect or set up any jetty, wall, fence, groins or other structure on any part of the Pas Géométriques without any right, title or capacity or without the express authorisation in writing of the Minister.

(2) Where the Minister is satisfied that any jetty, wall, fence, groins or other structure has been built or erected on any part of the 'Pas Géométriques' without any right, title or capacity or without his express authorisation, he may cause the structure to be demolished and removed in accordance with the procedure specified in section 24.

(3) Section 24(11) shall apply to any action taken under subsection (2).

[Amended 35/89]

SCHEDULE

(section 18)

District

Village

1 Pamplemousses

Trou-aux-Biches

2	Rivière du Rempart	Grand Bay Cap Malheureux Grand Gaube Poudre d'Or Pointe des Lascars Roches Noires
3	Flacq	Poste de Flacq Mare aux Lubines Trou Maho and Trou d'Eau Douce Grand River South East Quatre Soeurs
4	Grand Port	Grand Sable Bois des Amourettes Old Grand Port Mahebourg Pointe d'Esny
5	Savanne	Souillac Riambel Ruisseau des Créoles
6	Black River	Morne Brabant Tamarind Bay Flic-en-Flac La Gaulette La Preneuse
