

CONSOLIDATED TO 30 JUNE 2012

LAWS OF SEYCHELLES

CHAPTER 224

SMALL HOLDINGS ACT

[16th March, 1918]

Act 7 of 1918.
Act 16 of 1918.
Act 3 of 1959.
S.I. 95 of 1975.
SI. 104 of 1975
S.I. 72 of 1976.
Act 23 of 1976

ARRANGEMENT OF SECTIONS

1. Short title.
2. Interpretation.
3. Power to let small holdings.
4. Presumption that occupier of master's land holds as small holder for work.
5. Tenant's enjoyment of crops.
6. Landlord's right to inspect small holdings.
7. Lettings of small holding only determinable on 31st October in any year.
8. Forms and registration of contracts.
9. Filing contract with Attorney-General and Chief Agricultural Officer.
10. Original contract for tenant.
11. Evidence of contract.
12. Arbitration in case of disputes.
13. Grounds of forfeiture of contract.
14. Improper interference with tenant's rights under contract.
15. Determination of contract where consideration is work only.
16. Compensation of tenant on expiry of contract.
17. Summary Jurisdiction

18. No contracting out allowed.
19. Effect of awards.
20. Penalty.
21. Penalty for non-compliance by landlord with section 8.
22. Prosecutions by any member of the police force.
23. Rules.

1. This Act may be cited as the Small Holdings Act.
2. In this Act, the following terms shall have the meanings hereafter assigned to them, namely:-

"small holding" shall include any land or parcel of land with or without a dwelling-house or other building erected or to be erected thereon not exceeding in all five acres (arpents) in area let for agricultural purposes and of a total value, inclusive of land, dwelling-house and buildings erected or to be erected thereon if any, not exceeding seven hundred rupees;

"landlord" shall include any owner or lessee of land who may enter into any agreement to let to another for any consideration the whole or any part or parcel of such land with or without a dwelling-house or other building erected or to be erected thereon for agricultural purposes either wholly or in part;

"tenant" shall include any person who enters into an agreement of letting with any landlord as set out herein;

"let" or "letting" shall include any agreement to part with the use or enjoyment either wholly or in part of any land or parcel of land with or without any building or buildings erected or to be erected thereon and with or without the use and enjoyment of all or any produce of such plants, fruit trees or other trees or of the produce of such plants, fruit trees or other trees as may be thereon at any time during the tenancy for agricultural purposes, in consideration therefor either wholly or in part (i) of the payment of money as rent, or (ii) of any share in any of the produce of such land or parcel of land or in the proceeds of the sale of any of the produce of such land or parcel of land, or (iii) of work or labour of any kind for the landlord;

"agricultural purposes" shall include the cultivation of ground crops, bananas and vanilla and market gardening, nursery gardening, fruit-growing and cattle, pig and poultry-rearing;

"a short term" shall be held to mean any period of time not exceeding four years from the date of the making of the contract;

"a long term" shall be held to mean any period of time exceeding four years from the date of the making of the contract.

3. Any owner of land including any lessee with power to sub-let may enter into an agreement to let one or more small holdings to any person or persons as tenant or tenants for all or any of the following considerations either wholly or in part, namely:-

- (i) the payment of money as rent;
- (ii) any share in any of the produce of such small holding or small holdings or in the proceeds of the sale of any of the produce of such small holding or small holdings;
- (iii) work or labour of any kind for the landlord.

4. Wherever any servant or labourer is enjoying the use or enjoyment for agricultural purposes of any parcel of land, with or without any buildings thereon, belonging to his employer without any payment of rent for the same or share in the produce of the same or in the sale of the produce of the same, it shall be a presumption of law that the said parcel of land is let as a small holding under this Act by the employer of the servant for the term of his service or employment as such servant or labourer, in consideration of work or labour by the tenant for his employer as landlord.

5. The tenant shall and unless otherwise expressly agreed between the parties have the use and enjoyment of all ground crops, plants, fruit-trees or other trees as may be on the small holding at any time during the tenancy, but shall not have the right to keep on the said small holding cattle, pigs and poultry:

Provided that in the case of an implied contract of letting under section 4 the tenant shall not, unless otherwise agreed, have the use and enjoyment of the fruit-trees or other trees on the said small holding.

6. The landlord or his agent shall have the right to enter at any time upon the said small holding for the purpose of collecting his produce and attending to the trees or plants on such small holding so far as good husbandry demands and to inspect the condition and state of cultivation of the said small holding and shall not be liable in any action for any damage done to the small holding in exercising this right of entry unless the damage if any was unreasonable and unnecessary for the enjoyment of the rights reserved by the landlord.

7. No contract of letting of any small holding shall, except under sections 13 and 14, be determinable on any date other than the 31st of October in any year:

Provided that nothing in this section shall prevent a tenant surrendering his rights under any agreement of letting at any time after such agreement has been entered into.

8. Every agreement between any landlord and any tenant for the letting by the landlord to the tenant of any small holding shall be made in quadruplicate in writing in the form of the schedule and signed in quadruplicate by the landlord or his agent duly authorised by the said landlord in writing to sign the said agreement for him and the tenant in the presence of a magistrate or Justice of the Peace or other person specially appointed by the President for that purpose.

Such magistrate, Justice of the Peace or person aforesaid shall cause the contract to be explained to the tenant or otherwise ascertain that the tenant understands the same before he signs it, and shall attest the signature thereto.

The landlord shall within one month after the signing thereof as aforesaid cause any contract for a short term to be filed at the Registration Office and entered in a special register and any contract for a long term to be registered at the Registration Office and transcribed at the Mortgage Office.

(3) A fee of one rupee for the filing and entry in the register of any contract for a short term shall be payable at the Registration and Mortgage Office by the landlord.

(4) The fees and dues payable for the registration and transcription of a contract for a long term shall be regulated by the law relating to the registration and transcription of leases.

9. Every contract under this Act shall within seven days after having been registered and transcribed as aforesaid be filed at the office of the Attorney General and registered in a register to be kept therein for that purpose and with the Chief Agricultural Officer, such filing being free of charge or due.

10. One original of every contract shall be given free of charge by the landlord to the tenant immediately upon the completion of the aforesaid formalities under the liability of a penalty on conviction not exceeding one hundred rupees for non-observance of this provision.

11. Any original of such contract shall be admissible in evidence to prove the existence of the terms of the agreement between the parties thereto.

12. A Judge shall have jurisdiction as arbitrator in all disputes arising between the parties to any contract under this Act and shall have power to cancel the said contract on such terms as to compensation payable by the landlord to the tenant for the value of any building erected by the tenant or unexhausted improvements effected upon the land by the tenant during his tenancy and to the value of the crops and plants remaining on the land and costs as he shall think fit:

Provided always that no compensation under this section shall be due or recoverable from the landlord for any improvement or planting made or done on the small holding contrary to the express terms of the contract unless the landlord has given in writing authority or permission to the tenant to make the said improvement or do the said planting or to continue to make the said improvement or do the said planting.

And provided always that the landlord may before the said arbitrator shall give his award elect in lieu of compensation for any building erected on the said land by the tenant that the tenant remove the said building within such time as the arbitrator shall fix.

On failure of the tenant to remove the said building from the land within the time fixed by the arbitrator the said building shall be and become the absolute property of the landlord.

13. The following shall be the grounds on which the judge may order the cancellation of the contract:-

- (i) habitual neglect by the tenant of the land let under the contract; or
- (ii) improper use or cultivation by the tenant of the said land; or
- (iii) non-payment of the rent, if any, agreed upon and provided that the landlord shall have first sent a written notice that at least two months rent is due and that the same be paid to the landlord within seven days of the notice and such notice has not been complied with; or

- (iv) unreasonable refusal of the tenant to perform his duties under the contract; or
- (v) the conviction of the tenant or of any person at the time residing with him on a criminal charge of obscene or abusive language, assault or disorderly conduct on the property after a previous conviction of the tenant or any person residing with him of any of the aforesaid offences on the same property whether the said convictions relate to the same accused or not; or
- (vi) any breach of the conditions of the contract; or
- (vii) the conviction of the tenant or of any person at the time residing with him on a criminal charge of plundering or of larceny on the property of the landlord:

Provided always that in case the Judge shall order the cancellation of the contract on the ground that the tenant or any person at the time residing with him has been guilty of larceny of produce on the property of the landlord, the court may in addition to ordering the cancellation of the contract deprive the tenant of any right to compensation for produce on his land notwithstanding anything herein to the contrary.

The landlord may waive his right to demand cancellation of the contract on any of the above grounds.

14 If any landlord shall improperly or unreasonably interfere with the tenant in the use or enjoyment of the land let under a contract under this Act the Judge may, if satisfied that the landlord has so improperly and unreasonably interfered with the tenant, grant an injunction to restrain the landlord from a repetition of the acts complained of or of entering upon the land the subject matter of the contract and may order the payment by the landlord to the tenant of such damages as the Judge thinks fit under the circumstances and the payment of the costs of the proceedings.

15 A contract of small holding where the consideration is only work or labour of any kind for the landlord shall determine on any of the following events:-

- (i) the death of the tenant;
- (ii) permanent inability to perform the work or labour reasonably required from the tenant as consideration for the contract.

16 Where a contract of letting of a small holding shall determine for any cause other than efflux of time or by award under section 12 the landlord shall pay to the tenant or his heirs or successors on or before the last day of the contract a sum as compensation equal in value to the improvement effected upon the land by the tenant during his tenancy and to the value of the ungathered crops, plants or trees planted by the tenant during his tenancy.

Failing agreement between the parties as to the amount of the sum to be paid for compensation either party may state a case for an award by a Judge and he shall as arbitrator fix the amount to be paid as compensation by the landlord to the tenant or his heirs or successors:

Provided always that no compensation under this section shall be due or recoverable from the landlord for any improvement or planting made or done on the small holding contrary to the express terms of the contract unless the landlord has given in writing authority or permission to the tenant to make the said improvement or do the said planting or to continue to make the said improvement or do the said planting:

And provided always that the landlord may before the said arbitrator shall give his award elect in lieu of compensation for any building erected on the said land by the tenant that the tenant shall remove the said building within such time as the arbitrator shall fix.

On failure of the tenant to remove the said building from the land within the time fixed by the arbitrator the said building shall be and become the absolute property of the landlord.

17 All applications under sections 12 and 16 shall be made in a summary manner.

18 Notwithstanding anything in the terms of the contract, the tenant shall always have the right to compensation as set out in sections 12 and 16.

19 Any award of the Judge shall have the full effect of a judgment of the Supreme Court and shall be registered in the registry of the Supreme Court.

20 Any landlord who shall fail to fulfil any of the formalities enacted by sections 8 and 9 hereof shall be liable to a fine not exceeding one hundred rupees.

21 (1) Every landlord who enters into an agreement of letting of any small holding shall within one week from entering into such an agreement see that all the requirements of the first part of section 8 are complied with.

(2) Every landlord who fails to comply with subsection (1) shall be liable on conviction to a penalty not exceeding one hundred rupees.

(3) This section shall not apply to any agreement resulting from a presumption of law created by section 4.

22 Any prosecution under this Act may be brought before the court by any member of the police force.

23 The Chief Justice may from time to time frame rules for the carrying out of the provisions of this Act; such rules shall come into force only after approval by the Minister.

SCHEDULE

SMALL HOLDINGS ACT

1. Name of Landlord
2. Name of tenant
3. Short description and position of property let
Size of property let
4. Period of letting
5. Consideration for contract -
 - (a) Rent (set out amount per month and whether payable weekly, monthly or annually)

- (b) share in produce
- (c) Share in sale of produce (what share)
- (d) Work (describe nature and conditions)
- 6. Whether the tenant has the right to keep cattle, pigs or poultry on the small holding (stating all or which)
- 7. Reservations by the landlord, if any
- 8. Other conditions agreed upon

Dated atthis.....day of.....19...

Signature of Landlord.

Signature of Tenant.

Signed by the parties in my presence after I had explained the nature and contents hereof to their seeming full comprehension.

Signature of Attesting Officer.

NO SUBSIDIARY LEGISLATION
