

CONSOLIDATED TO 30 JUNE 2014

LAWS OF SEYCHELLES

CHAPTER 47

CONTROL OF RENT AND TENANCY AGREEMENTS ACT

[15th April, 1959]

Act 5 of 1955
Act 3 of 1959
Act 4 of 1959
Act 25 of 1961
Act 8 of 1964
Act 11 of 1967
Act 4 of 1969
Act 9 of 1970
S.I 95 of 1975
S.I 72 of 1976
Act 23 of 1976

ARRANGEMENT OF SECTIONS

PART I

Short title

1. The Act may be cited as the Control of Rent and Tenancy Agreements Act.

Interpretation

2. In this Act, unless the context otherwise requires:

"agricultural land" means land used for agricultural purposes or as a market garden, orchard, allotment or allotment garden but does not include any lands occupied together with a dwelling house as a park, garden, yard or pleasure ground;

"Boards" means the Rent Board appointed under the provisions of this Act;

"clerk" means a clerk to the Rent Board;

"family" in relation to a lessor, means any relative by blood or marriage, who under the law of Seychelles, would, if he were in want, be entitled to an alimony from the lessor;

"lease" includes the use and occupation of a dwelling house and "sub lease" and "letting" having a corresponding meaning;

"let" includes sublet;

"lessee" includes a sub lessee and a widow of a lessee or sub lessee, as the case may be, who was residing with him at the time of his death, or, where the lessee or sub lessee leaves no

such widow or is a woman, such member of the lessee's or sub lessee's family so residing as aforesaid as may be decided, in default of agreement, by the Board, and also includes any person enjoying the use and occupation of a dwelling house for which an indemnity is payable or not;

"Lessor" means any person who receives or is entitled to receive rent in respect of the letting or sub letting, as the case may be, of a dwelling house, and also includes any persons who allows another person to enjoy the use and occupation of a dwelling house for which an indemnity is payable or not, a sub lessor and any person deriving title from the original lessor;

"rent" means any money paid or received in consequence of the letting of a dwelling house and shall include any sum paid for the use or hire of furniture;

"statutory undertaking" and "statutory duties or powers" includes any undertaking, duties or powers established, imposed or exercised under any law or order having force of law.

Application of Act

3. This Act shall apply to a house or part of a house let as a separate dwelling and every such house or part of a house shall be deemed to be a dwelling house to which this Act applies:

Provided that

(a) this Act shall not, save as otherwise expressly provided, apply to a dwelling house bona fide let at a rent which includes payments in respect of board and attendance; and

(b) any land or premises let together with a dwelling house shall, unless the land or premises so let consists or consist of agricultural land exceeding two acres in extent, be treated as part of the dwelling house; but save as aforesaid, this Act shall not by virtue of this section apply to any dwelling house let together with land other than the site of the dwelling house; and

(c) this Act shall not apply to houses which the Minister may by notice in the Gazette declare not to be affected by the provisions of this Act.

Board may fix rent

4. (1) Any interested party may at any time apply to the Board for an order fixing, reducing or increasing the rent of any dwelling house. A Law Officer or the Welfare Officer, if satisfied that hardship is being caused and that an interested party is unlikely, or is not able through lack of means, or otherwise, to apply to the Board under this subsection, may proprio motu or on behalf of such interested party make application under this subsection.

(2) The Board may increase the rent of any dwelling house and fix it at a figure which the Board considers reasonable when the rent is less than might reasonably be expected to be paid with respect to the particular house concerned.

(3) (a) The Board may reduce the rent of any dwelling house, but such rent as shall be fixed by the Board, calculated on an annual basis, shall not be lower than the total made up of

(i) six per centum of the capital value of the dwelling house;

(ii) two per centum of the capital value of the dwelling house if the lessor is liable for the maintenance of the dwelling house; and

(iii) the actual amount of any water rates and sanitation fees payable by the lessor in respect of the dwelling house if such rates or fees are paid by him.

(b) In the case of a dwelling house within the boundaries of the town of Victoria as defined in the First Schedule to the Town of Victoria (Boundaries and Divisions) Act, the capital value of the dwelling house shall be based on the value considered to be the true and correct value of the dwelling house unless it be shown to the satisfaction of the Board that such value is excessive.

(4) In fixing the rent of any dwelling house which is let furnished the Board shall take in consideration the value of the furniture.

(5) Under the powers granted by this section the Board may make such order as to it may seem just and may if it sees fit make a conditional order. In a case where rent has not been paid the Board may make an order reducing the rent with retrospective effect but not so as to exceed the period for which rent is outstanding.

Provisions for modifying section 4(3)(a)

5. (1) If the Minister by notice in the Gazette so directs then, in their application to dwelling houses of a prescribed capital value, being dwelling houses the construction of which did not begin until on or after a prescribed date, the provisions of this Act without prejudice to the generality of the foregoing, those provisions as applied by Part III) shall have effect as if for the reference to the percentage mentioned in section 4 (3) (a) (i) there were substituted a reference to such higher percentage as may be prescribed in relation to such dwelling houses as aforesaid.

(2) The powers conferred by subsection (1) may be exercised from time to time and may be so exercised that different percentages are prescribed in relation to dwelling houses of different prescribed capital values or dwelling houses the construction of which did not begin until on or after different prescribed dates.

(3) In this section "prescribed" means prescribed by notice made under subsection (1).

Lessor may not recover rent in excess of rent fixed by the Board

6. When the rent of a dwelling house has been fixed by the Board the lessor may not recover in any way from the lessee any rent in excess of the amount fixed by the Board.

No consideration other than rent to be required or received for letting

7. No lessor shall in consideration of the letting or surrender of any dwelling house or of the renewal or continuance of such letting require or receive any consideration in addition to the rent and where any such consideration has been given the lessee may without prejudice to any other method of recovery deduct from the rent payable by him to such lessor the total amount of such consideration:

Provided that it shall be lawful for a lessor to require and receive one month's rent in advance.

Rent deemed to be increased in certain cases

8. Any transfer to a lessee of a burden or liability previously borne by the lessor shall for the purposes of this Act be treated as an alteration of rent and where as a result of such transfer the terms on which the dwelling house is held are on the whole less favourable to the lessee than the previous terms the rent shall be deemed to be increased.

PART II

Ejectment by lessor prohibited

9. No lessor shall eject or apply to the Supreme Court or the Magistrates' Court for the ejectment of or take any step towards the ejectment of his lessee:

Provided that nothing in this section shall prevent a lessor from giving his lessee notice to quit.

Reasons for which ejectment may be allowed

10. (1) Every lessor wishing to eject his lessee shall apply to the Board for an order of ejectment.

(2) No order for the recovery of possession of any dwelling house to which this Act applies, or for the ejectment of a lessee therefrom, shall be made by the Board unless

(a) any rent lawfully due from the lessee has not been paid, or any other obligation of the tenancy (whether under the contract of tenancy or under this Act) so far as the same is consistent with the provisions of this Act, has been broken or not performed;

(b) the lessee or any person residing or lodging with him or being his sub lessee has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers, or has been convicted of using the premises or allowing the premises to be used for immoral or illegal purpose, or the condition of the property has, in the opinion of the Board, deteriorated owing to acts of waste by, or to the neglect or default of, the lessee or any such person, and where such person is a lodger or sub lessee, the Board is satisfied that the lessee has not, before the making or giving of the order, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub lessee;

(c) the lessee has given notice to quit, and, in consequence of that notice, the lessor has contracted to sell or let the property or has taken any other steps as a result of which he would, in the opinion of the Board, be seriously prejudiced if he could not obtain possession;

(d) the lessee without the written consent of the lessor has assigned or sublet the whole of the dwelling house or sublet part of the dwelling house;

(e) the dwelling house is so overcrowded as to be dangerous or injurious to the health of the inmates, and the Board is satisfied that the overcrowding could have been abated by the removal of any lodger or sub lessee (not being a parent or child of the lessee) whom it would, having regard to all the circumstances of the case, including the question whether other accommodation is available for him, have been reasonable to remove, and that the lessee has not taken such steps as he ought reasonably to have taken for his removal;

(f) the dwelling house is reasonably required by the lessor for occupation as a residence for some person engaged in his employment or with whom, conditional on housing accommodation being provided, a contract for such employment has been entered into and the lessee was in the employment of the lessor or a former lessor, and the dwelling house was let to him in consequence of that employment and he has ceased to be in that employment;

(g) the dwelling house is reasonably required by the lessor for occupation by

(i) himself;

(ii) his family; or

(iii) one of the co owners, where a dwelling house is owned by more than one person.

(h) the lessor is a local authority or a statutory undertaking and the dwelling house is reasonably required for the purpose of the execution of the statutory duties or powers of the authority or undertaking;

(i) the dwelling house is bona fide required for the purpose of being demolished, reconstructed, moved or improved;

(j) the dwelling house is in such a dilapidated condition that the repairs required to render it in a tenantable condition cannot be effected without the lessee vacating the house;

and in any case as aforesaid, the Board considers it reasonable to make such an order:

Provided that an order shall not be made or given on any ground specified in paragraphs (g), (i), (j) and (k) (as added by section 13(l)) if the Board is satisfied that having regard to all the circumstances of the case, including the question whether other accommodation is available for the lessor or the lessee, greater hardship would be caused by granting the order than by refusing to grant it:

Provided further that no order shall be made on any of the grounds specified in this subsection if a contractual tenancy of the dwelling house by the lessee from the lessor subsists and the contract is not terminable on such ground.

(3) At the hearing of an application under this section, the Board may adjourn the application for such period as it thinks fit and subject to such conditions, (if any) in regard to payment by the lessee of arrears of rent or rent and otherwise as the Board thinks fit and, if such conditions are complied with, the Board may refuse the application.

(4) The Board in granting an order of ejectment may fix such time limit within which the lessee shall vacate the dwelling house, as appears to the Board to be reasonable in the circumstances. The Board may also make an order as to the payment of arrears of rent or rent as may seem just.

(5) An order of the Board under this section shall have the same force and shall be executed in the same manner as a judgment or order of the Supreme Court under the Seychelles Code of Civil Procedure.

Dwelling house vacated for repairs or other work

11. (1) Where a dwelling house has been vacated by order of the Board to allow it to be repaired, reconstructed, moved or improved once the necessary repairs or other work effected and the house is in a tenable condition, the lessor shall give notice in writing of such fact to the former lessee before letting it to any other person.

(2) Such lessee shall, if he is prepared to resume occupation, so inform the lessor in writing within seven days from that on which he received notice under the foregoing subsection and he shall then be deemed to have let the house as from the first day of the second month following that during which the lessor's notice under the foregoing subsection was given, unless another date be agreed upon.

(3) If the former lessee fails to inform the lessor as provided by the foregoing subsection of his intention to resume occupation or declares in writing that he does not intend resuming occupation, the lessor shall be free to let the house to any person.

Conditions of statutory tenancy

12. (1) A lessee who under the provisions of this Act retains possession of any dwelling house shall so long as he retains possession observe and be entitled to the benefit of all the terms expressed or implied in the original contract of letting so far as the same are consistent with the provisions of this Act.

(2) Where the interest of a lessee in any dwelling house is for any reason determined, any sublessee to whom the dwelling house has been lawfully sublet, shall subject to the provisions of this Act be deemed to become the lessee of the lessor on the same terms as he would have held from the lessee who sublet to him had the subletting continued.

PART III

Application to business premises

13. (1) This Act shall apply to any premises used for business, trade or professional purposes or for the public service as it applied to a dwelling house and as though references to a "dwelling house", "house" and "dwelling" includes references to any such premises, but this Act in its application to such premises shall have effect subject to the following modifications:

The following paragraphs shall be added after paragraph (j) of subsection (2) of section 10:

(k) the premises are reasonably required by the lessor for business, trade or professional purposes or for the public service;

(l) the premises are in whole or in part licensed for the sale of intoxicating liquor and the lessee has committed an offence as holder of the licence or has not conducted the business to the satisfaction of the licensing authority, or has carried it on in a manner detrimental to the public interest, or the renewal of the licence has for any reason been refused.

(2) The application of this Act to such premises as aforesaid shall not extend to a letting in any market.

(3) The Minister may by notice published in the Gazette exclude from the application of this Act any premises to this section applies.

PART IV

Complaint for disrepair.

14 (1) The lessee of a dwelling house may at any time complain to the Board that the dwelling house or part thereof is not in all respects reasonably fit for human habitation or is otherwise not in a reasonable state of repair.

(2) The Board being satisfied that any such ground as aforesaid is established and on being further satisfied that the condition of the dwelling house or part thereof is not due to the lessee's neglect or default or breach of express agreement, may

(a) order the lessor to effect the necessary repairs within such time as the Board shall fix, having regard to the nature and extent of the repairs to be effected and to all other circumstances, including the financial situation of the lessor, due consideration being given to the availability of labour and materials; or

(b) authorise the lessee to effect the necessary repairs himself and deduct the cost thereof from the rent, in which case the Board shall specify the repairs authorised to be made and fix the sum which may be spent in respect thereof; or

(c) may reduce the rent by such percentage thereof as the Board thinks proper, having regard to the condition of the dwelling house or part thereof, until the Board is satisfied that the necessary repairs have been effected.

(3) The Board may make an order under paragraph (c) of subsection (2) as an alternative or in addition to an order under paragraph (a) or under paragraph (b) of that subsection.

(4) The Board shall not be bound to make any order under subsection (2) if it is satisfied that having regard to all the circumstances of the case it would be unreasonable or unjust to make such order.

(5) In this section the expression "necessary repairs" means any repairs required for the purpose of keeping premises in a state of tenantable repair, and any premises in such a state shall be deemed to be in a reasonable state of repair, and the lessor shall be deemed to be responsible for any repairs which the lessee is under no liability to effect by virtue of an express contract or of the law.

PART V

Rent Board

15. (1) The Minister shall appoint the Rent Board consisting of a Chairman and not less than two other persons.

(2) A member of the Board, including the Chairman, shall hold office for three years or for such lesser period as may be specified on his appointment unless the appointment be sooner revoked or otherwise terminated.

(3) The Board shall be held to be legally constituted notwithstanding any vacancy among the members provided the number of members be not less than two.

Clerks to the Board

16. The Minister shall appoint such number of clerks to the Board as may be necessary

Proceedings before the Board

17. (1) The Board before making any order shall give all interested parties the opportunity of being heard and of producing such evidence as may to be Board seem relevant.

(2) The Board may examine witnesses and may summon any person to appear before it and may require such person to produce any document including a document of title which it considers relevant.

(3) The laws of Seychelles relating to witnesses and evidence shall be applicable to all witnesses appearing and to all evidence taken before the Board which is hereby authorised through its Chairman to administer an oath to any witness appearing before it or allow an affirmation or a declaration to be made by such witness.

(4) The opinion of the majority of the members of the Board present and expressing an opinion shall be decisive upon any question before the Board and in case of an equality of votes the Chairman shall have a second and casting vote.

(5) Two members of the Board shall constitute a quorum.

(6) When the Chairman is absent the members shall appoint a member to preside over the proceedings, and this member shall have all the powers and duties of the Chairman.

(7) The proceedings of the Board shall be open to the public and minutes of the same including a summary of any oral evidence given shall be kept by the Chairman.

(8) All notices, summonses and orders purporting to be signed by a clerk shall be deemed to be issued by the Board.

(9) The members of the Board and any person acting under the orders of the Board shall be deemed to be public officers within the meaning of the Interpretation and General Provisions Act.

(10) The Board may make rules prescribing the procedure on applications to the Board and the procedure of the Board.

(11) It shall not be necessary for any application to the Board, order or process of the Board to be registered under the Mortgage and Registration Act, nor shall the same be liable to stamp duty under the Stamp Duty Act.

Delivery of documents and orders

18. (1) Any document required to be delivered to the Board, documents and shall be sent by hand or by post to a clerk.

(2) Any order of the Board shall be sent by registered post and shall be deemed to have been served

(a) when there is a receipt of the Post Office purporting to be signed by the party to whom the order is addressed, on the date appearing on such receipt;

(b) when the party cannot be found and there is a return to that effect from the Post Office eight days after the posting of the letter.

Service of summons

19. A summons for the attendance before the Board of lessor or lessee, or of any witness, or for the production of any book or document shall be signed by a clerk and may in the first instance be served in the same manner and subject to the same conditions as an order of the Board under subsection (2) of section 18:

Provided that in case of non compliance with such summons a second summons signed as provided in this section may be issued, in which case such summons shall be served in the same manner as a summons of the Supreme Court. No fee shall be chargeable for the issue of such summons but for the service thereof there shall be charged the equivalent fee chargeable in civil proceedings in the Magistrates' Court.

Summons must be complied with

20. (1) Any person so summoned shall be bound to obey the summons served upon him.

(2) If a lessor or lessee fails without reasonable excuse to attend after being so summoned the Board may

(a) if the party failing to attend is the applicant, take no further action on the application.

(b) if the party failing to attend is the respondent, decide the issue in his absence.

(3) Any person who refuses or fails, without sufficient cause, to comply with such summons, or who refuses to be sworn or affirmed or to make a solemn declaration, as the case may be, or to reply to a question or to answer fully and satisfactorily to the best of his knowledge and belief any question lawfully put to him or to produce any books or documents required by the summons to be produced, shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rupees and to imprisonment for a term not exceeding three months:

Provided that such person shall be entitled to all the privileges to which a witness is entitled in a court of law.

Insult to and misbehaviour before the Board

21. Any person who shall wilfully insult any member of the Board during a sitting of the Board or shall wilfully interrupt the proceedings of the Board or shall otherwise misbehave before the Board shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rupees and to imprisonment for a term not exceeding three months.

Appeal to the Supreme Court

22. (1) Any person aggrieved by any decision or order of the Board may appeal to the Supreme Court on a question of law or of fact or of mixed law and fact, and the Supreme Court may affirm, reverse, amend or alter, the decision appealed from, or remit the matter to the Board with the directions of the Court thereon, and may make any orders as to costs and all such orders shall be final and conclusive on all parties.

(2) The procedure on appeal shall be by written notice to the Chairman of the board. Such notice shall be delivered to a clerk within fourteen days from the date of the decision complained of. Such period may however be extended by a Judge. The notice shall set forth the substance of such decision and the grounds of appeal.

(3) On receipt of such notice, the Chairman of the Board shall file the same in the Registry of the Supreme Court with the original record (if any) and a brief statement of the grounds of the Board's decision.

(4) The Registrar of the Supreme Court shall fix a date for the hearing of the appeal and his order together with a copy of the notice of appeal shall be served upon the respondent without delay.

(5) After the decision of the Supreme Court the Registrar shall transmit a certified copy of the decision to a clerk and such decision may be enforced in the same way as if it were a decision of the Board.

(6) No Court fees shall be payable in an appeal to the Supreme Court under this section but when the Supreme Court has made an order as to costs, such costs may be taxed and recovered as costs in a civil action.

(7) The Chief Justice may make rules prescribing matters of procedure on appeal not otherwise provided for in this Act.

PART VI

Law Officer or Welfare Officer may institute or appear in proceedings for lessee.

23. A Law Officer or the Welfare Officer may institute or appear in any proceedings under this Act on behalf of a lessee.

Offences

24. Any lessor who shall

(a) recover any rent in excess of the rent permitted by this Act; or

(b) require or accept in consideration of the grant, renewal or continuance of any lease, the payment of any bonus, premium or other like sum in addition to rent; or

(c) recover possession of a house for any of the purposes set out under paragraphs (f), (g), (i), (j), and (k) (as added by section 13(1)) of section 10(2) and fails to use the house for the purpose for which it was required or to carry out such purpose; or

(d) let a house vacated for repairs or other work to a person than a former lessee

(i) without giving notice to such lessee as required by section 10; or

(ii) after the former lessee has, under section 10, accepted to resume occupation of the house; or

(e) fail to comply with an order to effect necessary repairs within the time fixed by the Board under section 14(2) (a),

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand rupees and to imprisonment for a term not exceeding three months.

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