

**AGRICULTURAL SMALL HOLDINGS
(REGULATION OF RENTALS) ACT**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Interpretation
3. Establishment of Agricultural Rent Board
4. Procedure and meetings of the Board
5. Functions of the Board
6. Right of appeal
7. Rental in excess of standard rent
8. Restriction on demand of premium
9. False entries in rent books
10. Rent Inspectors
11. General penalty
12. Offence by companies
13. Operation of Act

CHAPTER 8.04

**AGRICULTURAL SMALL HOLDINGS
(REGULATION OF RENTALS) ACT**

(Act 6 of 1959)

Commencement

[15 December 1959]

Short title

1. This Act may be cited as the Agricultural Small Holdings (Regulation of Rentals) Act.

Interpretation

2. In this Act—

“**Board**” means the Agricultural Rent Board constituted in accordance with the provisions of section 3;

“**controlled area**” means any area or estate declared by order of the Governor in Council to be a controlled area;

“**rent**” includes any part of any crop rendered or any equivalent given in kind or in labour in consideration of which a landlord has permitted any person to use or occupy any small holding;

“**small holding**” means any parcel of land intended for cultivation or pasturage, with or without buildings thereon, consisting of not less than a quarter of an acre and not more than 25 acres.

Establishment of Agricultural Rent Board

3. (1) The Governor in Council may establish, for the purposes of this Act, an Agricultural Rent Board which shall exercise the powers conferred and perform the duties imposed by this Act.

(2) The Board shall consist of not less than three nor more than five members, to be appointed by the Governor in Council. At least one member of the Board shall be a government officer.

(3) The Governor in Council shall appoint one of such members to be Chairman of the Board.

(4) The members of the Board shall, subject to the provisions of subsection (6), hold office for such period, not exceeding two years, as the Governor in Council may determine, but shall be eligible for reappointment.

(5) In the absence or inability to act of the Chairman or any other member of the Board, the Governor may appoint another member of the Board to act in the place of the Chairman or other such member.

(6) Any member of the Board other than a government officer may at any time resign his office by instrument in writing. Such instrument shall, in the case of the Chairman of the Board, be addressed to the Governor, and, in the case of any other member of the Board, to the Chairman, who shall forthwith cause it to be forwarded to the Governor. From the date of the receipt of such instrument by the Governor or the Chairman, as the case may be, such member shall cease to be a member of the Board.

(7) The Governor may appoint a Secretary to the Board.

(8) No person shall act as a member of the Board in any matter in which, if he were a Judge, he would not be entitled to act on the ground of interest.

(9) The establishment of the Board and all appointments under this section shall be notified in the *Gazette*.

Procedure and meetings of the Board

4. (1) The Board shall meet so often at such time and at such place as to the Board may seem expedient.

(2) Three members of the Board, including the Chairman or acting Chairman, shall form a quorum.

(3) The Board shall be deemed to be fully constituted for the purposes of this Act notwithstanding any vacancy or vacancies among the members.

(4) All matters and questions shall be decided by a majority of votes. The Chairman or acting Chairman shall have an original vote and a casting vote if the votes be equally divided.

(5) The Board shall have all the powers of the High Court to summon witnesses, to administer oaths and to compel the production of documents, so as to elicit all such information as the Board may consider necessary, without being bound by the rules of evidence in civil or criminal proceedings:

Provided that if any witness objects to answer any question or to produce any document on the ground that it will tend to incriminate him, or on any other lawful ground, he shall not be required to answer such question or to produce such document, nor shall he be liable to any penalties for objecting so to do.

(6) The Board may take into consideration any relevant facts within the knowledge of any member of the Board notwithstanding the absence of formal proof of such facts:

Provided that such facts are within the personal knowledge of such member of the Board or were found to be proved at a meeting of the Board:

Provided further that before any such facts are taken into consideration the party or parties present before the Board shall be informed of the substance of such facts and given the opportunity, if they so desire, of adducing evidence in regard thereto.

(7) An order of the Board shall operate from such date, whether before or after the date on which the order is made, as may be specified in the order, or if no such date be specified, from the date of the order. Any such order may be proved by the production of a copy of the order purporting to be signed by the Chairman of the Board.

(8) An interested party may be represented before the Board by counsel or solicitor.

(9) Every summons issued under subsection (5) shall be signed by the Chairman of the Board and shall state the time when and the place where the person summoned is required to attend and the particular document which he is required to produce, and the summons shall be served on the person mentioned therein by delivering to him a copy thereof or by leaving a copy thereof at his usual or last known place of abode in Montserrat with some adult person.

(10) Every person who without lawful excuse fails or neglects to attend any meeting of the Board in obedience to any summons or fails, subject to the provisions of subsection (5), to answer any question put to

him by the Board or any member thereof, or to produce any document the production of which is required by the Board, or to supply any information required by the Board shall be guilty of an offence against this Act and shall on summary conviction be liable to a fine not exceeding \$24.

(11) Any person who wilfully gives a false answer to any question material to the subject of enquiry which may be put to him during the course of any proceedings before the Board shall be guilty of an offence against this Act.

(12) The proceedings of the Board shall be open to the public and a record shall be kept by the Chairman of the Board of all proceedings brought before the Board, of the evidence of any relevant facts taken into consideration under the provisions of subsection (6), of the decision arrived at by the Board, and of the names of the members taking part in the proceedings.

(13) Subject to the provisions of this section, the Board shall have power to regulate its own proceedings.

Functions of the Board

5. (1) The Board shall have the power and duty to determine the standard rent of small holdings situate in any controlled area in Montserrat.

(2) The landlord or prospective landlord or the tenant or prospective tenant of a small holding situate in any controlled area may at any time apply to the Board to determine the standard rent for such small holding.

(3) The Board may at any time, by notice in writing served on the landlord of a small holding situate in any controlled area, require him to apply to the Board within a time specified in the notice to determine the standard rent for such small holding. If the landlord fails so to apply the Board may fix the standard rent as though he had so applied and the landlord shall be guilty of an offence against this Act.

(4) Notice of every application under subsection (2) or subsection (3) shall be served by the applicant on all interested parties.

(5) When application has been made to the Board under this section the Board shall notify the parties of the date, time and place of the hearing of the application and may determine the standard rent on such application notwithstanding the non-attendance of the applicant or any person interested before the Board.

(6) The standard rent of a small holding when determined by the Board shall be the rent which, in the opinion of the Board, might reasonably have been expected in respect of a similar letting of similar premises with the same amenities and facilities in the same locality on the 1st day of January, 1958, if the rates and taxes payable in respect of the small holding on that date had been the same as those which are payable at the time of the determination of the standard rent by the Board, with an addition, in any case in which the annual value of the premises has

increased by reason of improvements to the premises or their amenities or facilities (not being ordinary repairs or maintenance) effected by the landlord at his own expense since that date, of such amount as the Board may think just on account of any increase in the cost of effecting the like improvements between the 1st day of January, 1958, and the date the improvements were effected.

(7) When the standard rent for a small holding has been determined by the Board, no further application to determine such standard rent shall be entertained by the Board unless the Board is satisfied that since the date of such previous determination there has been a material change in either the nature or the terms and conditions of the tenancy or in the circumstances affecting the determination of the standard rent and that no such change is due to the tenant's neglect or default.

(8) The Board may, in its discretion, wherever it shall seem convenient to the Board so to do—

- (a) entertain an application under this section relating to two or more small holdings; or
- (b) require an application to be made under subsection (3) in respect of two or more small holdings.

(9) On the hearing of any application under this Act (whether it be in relation to a small holding let or intended to be let or a small holding in respect of which the Board has required the landlord to apply for the determination of the standard rent thereof or otherwise) the Board shall try the whole matter of the application and shall give judgment or make order thereon, and shall give any direction it may consider necessary to enable it to give a final judgment or to make an order, and may from time to time adjourn the hearing of the application.

(10) Without prejudice to the generality of the provisions of the preceding subsection, the Board shall have jurisdiction to enquire into and, where necessary, to determine—

- (a) whether the relationship of landlord and tenant exists;
- (b) the nature, terms and conditions of every tenancy or proposed tenancy (whether the contract of tenancy is wholly or partly under seal or wholly or partly in writing or wholly or partly verbal) and the category of letting or proposed letting;
- (c) the extent of the premises let or intended to be let by the tenant, and the facilities and amenities granted to or enjoyed by the tenant or intended to be granted to or enjoyed by the tenant.

Right of appeal

6. (1) If either party is aggrieved by the decision of the Board such party may appeal therefrom to a Judge of the High Court by way of summons in Chambers within fifteen days from the date of the decision,

and shall serve a notice on the Chairman of the Board of his intention to appeal against such decision:

Provided that notwithstanding the lapse of such period of fifteen days any such party may appeal against the decision if he shows to the satisfaction of a Judge of the High Court that owing to absence from Montserrat, sickness or other reasonable cause, he was prevented from appealing within such period, and that there has been no unreasonable delay on his part.

(2) On receipt of the aforesaid notice the Chairman of the Board shall without delay transmit to the Registrar of Montserrat all papers relating to such appeal.

(3) Such summons shall be served by the appellant on the other party (if any) to the proceedings two clear days before the return thereof and shall state concisely the grounds of appeal.

(4) The Judge may adjourn the hearing of the appeal and may upon the hearing thereof reverse or modify the decision of the Board or make such other order in the matter as he may think just.

(5) On the determination of an appeal the Judge may make such order as to payment of costs as appears to be just, and may fix a sum to be paid by way of costs in lieu of directing a taxation thereof.

Rental in excess of standard rent

7. (1) After the standard rent of a small holding has been determined the rent of the small holding shall be irrecoverable by the landlord from the tenant to the extent that it exceeds the standard rent, and any such excess which is paid by the tenant shall be recoverable by him or persons claiming through him from the person to whom it was paid or his personal representative, and may without prejudice to any other method of recovery be deducted from any rent or money due or subsequently becoming due from the tenant to the person to whom the excess was paid or his personal representative.

(2) Any landlord who knowingly receives any rent in excess of the standard rent determined by the Board under section 5 shall be guilty of an offence against this Act.

(3) The Court before which any landlord is convicted of an offence against subsection (2) may, without prejudice to any other right which the tenant may have to recover the rent over paid, order the landlord to repay the same.

Restriction on demand of premium

8. (1) A person shall not, as a condition of the grant, renewal or continuance of a tenancy of a small holding situate in any controlled area, require the payment of any fine, premium or other like sum, or the giving of any consideration in addition to the rent, or to the standard rent, as the

case may be, and when any such payment or consideration shall be made or given the amount or value thereof shall be recoverable by the person by whom it was made or given or by his personal representative.

(2) Any person after the commencement of this Act requiring any payment or the giving of any consideration in contravention of this section, and any person making any such payment or giving any such consideration, shall be guilty of an offence against this Act, and if a person convicted of requiring any payment or the giving of any consideration as aforesaid has received such payment or consideration, the Court in which the conviction is obtained may order him to repay the amount or value of the same to the person from whom it was received.

False entries in rent books

9. If any person in any rent book or similar document makes any entry showing or purporting to show any tenant as being in arrear in respect of any sum which by virtue of this Act is irrecoverable, or where any such entry has, before the standard rent has been determined, been made by or on behalf of any landlord, if the landlord on being requested by or on behalf of the tenant so to do refuses or neglects to cause the entry to be deleted, that person or landlord shall be guilty of an offence against this Act and shall on summary conviction be liable to a fine not exceeding \$96.

Rent Inspectors

10. (1) The Governor may appoint one or more persons to be Rent Inspectors for the purposes of this Act.

(2) It shall be the duty of the Rent Inspector to make enquiries with a view to ascertaining whether the provisions of this Act are being duly complied with, to investigate any cases of suspected non-compliance and in his name to take all proceedings before a Magistrate in respect of offences against this Act.

(3) The landlord and the tenant of a small holding situate in any controlled area shall, on demand by a Rent Inspector, forthwith—

- (a) inform him of the standard rent of the small holding and of the actual rent paid for the small holding;
- (b) produce to him any available documentary evidence of the standard rent and of the actual rent paid;

and if a landlord or tenant shall fail so to do without just excuse, he shall be guilty of an offence against this Act.

(4) A Rent Inspector may at all reasonable times enter upon any small holding for the purpose of making any enquiry or investigation authorized by subsection (2).

(5) Any person who shall obstruct a Rent Inspector in the exercise of the powers conferred by this section shall be guilty of an offence against

this Act and shall on summary conviction be liable to a fine not exceeding \$96.

General penalty

11. Any person guilty of an offence against this Act for which no special penalty is provided by this Act shall be liable on summary conviction to a fine not exceeding \$240, or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

Offence by companies

12. Where a person convicted of an offence against this Act is a company, every director of the company, and every officer of the company concerned in the management thereof shall be guilty of a like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

Operation of Act

13. Nothing in this Act shall bind the Crown or shall prejudice any rights or powers of the Government.
