

# Tenant's Rights Act

Tenants' Rights Act, 1981, (Act 24 of 1981) as amended by Act 7 of 1984, S.I 32 of 1982 and S.I 95 of 1987, although in force on 31st December, 1991, is omitted from this Edition as it has, with effect from 13th April, 1992, been repealed by the Tenants' Rights (Repeal) Act, 1992 (Act 7 of 1992).

Applications received by the Registrar of Tenants' Rights under the Tenants' Rights Act, 1981 before 13th April, 1992 and pending on that date shall continue to be dealt with under that Act as if the Act had not been repealed.

## CHAPTER 235

### TENANTS' RIGHTS ACT

[1st January, 1982]

Act 24 of 1981

Act 7 of 1984

SI. 32 of 1982

SI. 95 of 1987

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## PART I.- PRELIMINARY

Short title        1. This Act may be cited as the Tenants' Rights Act.

Application       2.(1) This Act applies notwithstanding Articles 553, 555 and  
of Act                625 to 635 of, and any other provisions to the contrary in, the Civil Code.

(2) A term of a contract, agreement, lease or other document which purports to exclude, modify or limit a provision of this Act is unenforceable by a person in whose favour the term would operate apart from this subsection.

Interpretation    3.(1) In this Act, unless the context otherwise requires -

"adjudication" has the meaning given in section 20;

"Adjudication Team" means a Team appointed under section 20(5);

"applicant" means an applicant under section 11;

"application" means an application for registration as a Statutory Tenant under section 11;

"application date" has the meaning given in section 11(3);

"Assistant Registrar" means an Assistant Registrar of Tenants' Rights appointed under Schedule 2;

"Bond" means a Seychelles Government Bond issued under section 39;

Schedule to Decree 14 of 1979 "Branch" means a Branch of the Seychelles People's Progressive Front in terms of Article 9 of Schedule 2 to the Constitution of the Republic of Seychelles;

"Certificate of Life Tenancy" means a certificate issued under section 24;

"Certificate of Statutory Tenancy" means a certificate issued under section 23;

Act 13 of 1975 "Civil Code" means the Civil Code of Seychelles;

"commencement of this Act", in relation to a person or to premises, means the commencement of this Act with respect to that person or those premises;

"Corporation" means the Seychelles Housing Development Corporation established under Seychelles Housing Develop-

Cap 215                      ment Corporation Act;

"existing mortgage value" has the meaning given in para- graph 1(1) of Schedule 6;

"family" in relation to a Statutory Tenant includes his son, daughter, grandson, granddaughter, parent or grand- parent;

"home", in relation to a person, means the place where he is living permanently;

"landlord" means a person for the time being entitled to receive the rents and profits, or to take possession, of land or premises;

"Life Tenancy" means a tenancy for life under Part V;

"maximum mortgage amount" has the meaning given in Schedule 7;

"mortgage" includes a charge and privilege; and "mortgagee" and "mortgagor" are construed accordingly;

"objector" means a person objecting under section 13 and Schedule 3 to an application;

"owner" in relation to premises, includes, where, the context so admits, a landlord or usufructuary in respect of his interest;

"purchase date" has the meaning given in section 34(2);

"registered premises" means premises provisionally re- gistered under section 14 or registered under section 23;

"Registrar" means the Registrar of Tenants' Rights appointed under section 10;

Cap. 97 "Registrar-General" means the Land Registrar under section 5 of the Land Registration Act or the Registrar

Cap. 99 of Deeds under section 4 of the Mortgage and Registration Act, as the case may be;

"registration date" has the meaning given in section 23(2);

"regulations" means regulations made under section 44;

"Rent Board" means the Rent Board appointed under section

Cap. 166 15 of the Control of Rent and Tenancy Agreements Act;

Schedule to "Seychellois" means a citizen of Seychelles in terms of

Decree 14 Part II of the Constitution of the Republic of

of 1979 Seychelles;

"statutory corporation" means a body corporate directly constituted by an Act or Decree of Seychelles;

"Statutory Landlord" means the owner of registered premises;



"Statutory Tenant" means -

- (a) a person provisionally registered under section 14 or registered under section 23; or
- (b) the mortgagor of a subsisting Tenant's Mortgage;

"Statutory Value" means the value of registered premises assessed under section 33;

"Tenant's Mortgage" means a mortgage in terms of section 35 and Schedule 7;

"this Act" includes regulations and rules of court made under this Act;

"Tribunal" means a Tenants' Rights Tribunal appointed under Schedule 5.

(2) The examples given in the Schedules 1 (paragraphs (a) and (c) and 2 (paragraph 2) are illustrative only and are not exhaustive; and in the case of conflict between an example and any other provision of this Act, that other provision prevails.

Object of 4. The object of this Act is to assist in enabling every

Act Seychellois family to own its own home by giving security of tenure to Seychellois who own and occupy a home on another person's land or who are residential tenants, and by enabling those Seychellois to purchase the land or premises and, in the administration of this Act, regard shall be had to that object.

Directions by 5.(1) The Minister may give to -

Minister

- (a) the Registrar; or

(b) a Tribunal,

directions of a general character, not being inconsistent with this Act, with respect to the performance of their respective functions under this Act.

(2) A person or body named in subsection (1) shall give effect to directions under this section addressed to him or it.

(3) Nothing in this section authorises the Minister to give a direction -

(a) in respect of a particular case; or

(b) that would derogate from the duty of a Tribunal to act judicially.

## PART II.- RIGHTS OF TENANTS AND OTHERS

Home on 6.(1) Every Seychellois who owns and occupies premises on another's land another person's land as his home shall, subject to this Act and notwithstanding Articles 553 and 555 of the Civil Code, become a Statutory Tenant with -

(a) security of tenure of those premises; and

(b) the right to purchase the land on which those premises are built including surrounding land in terms of section 21.

(2) Premises are deemed to be lawfully built on another person's land if -

(a) that other person agreed to the building of them; or

(b) they have remained on that land for 5 years or more, whether before or after the commencement of this Act.

Home leased 7.(1) Where a Seychellois has -  
for 5 years

(i) taken premises on lease as his home; and

(ii) occupied those premises as his home for a continuous period of 5 years or more, whether before or after the commencement of this Act,

then subject to this Act, he shall become a Statutory Tenant with-

(a) security of tenure of those premises; and

(b) the right to purchase those premises; including surrounding land in terms of section 21.

(2) A Seychellois is deemed to have taken premises on lease if there is an agreement between him and the owner for his occupation of the premises, notwithstanding that the agreement may not be in writing or can be inferred only from the conduct of the parties.

(3) This section applies also to premises occupied free of rent or of any consideration in place of rent, unless occupied as a service tenancy under paragraph (d) of Schedule 1.

No eviction 8.(1) Where section 6 or 7 applies, except with the written  
etc. after consent of the Registrar, no notice of termination by the land-

16 Nov. 1981 lord or of eviction in respect of the premises is valid or effective if it was or is given or served after 16th November, 1981 and before 3 months after the commencement

of this Act in relation to the premises, unless the notice of termination or eviction is for non-payment of rent or other failure by the tenant to carry out his obligations.

(2) Paragraph 1 of Schedule 9 applies with respect to decisions of any civil court or of the Rent Board after 16th November, 1981 and before 3 months after the commencement of this Act.

Exempt premises 9.(1) No person shall be a Statutory Tenant of premises which are exempt in terms of Schedule 1.

(2) For the avoidance of doubt, premises owned by heirs, minors or interdicted persons are subject to this Act.

### PART III.- PROVISIONAL REGISTRATION OF STATUTORY TENANTS

Registrar of Tenants' Rights 10.(1)The President shall, by notice published in the Gazette, appoint a Registrar of Tenants' Rights for the registration and administration under this Act of the rights of Statutory Tenants.

(2) Schedule 2 applies with respect to the Registrar.

Application 11.(1)A Seychellois who claims to be eligible for registration as a Statutory Tenant must apply to the Registrar within one year (or such other period as may be prescribed) of -

(a) the commencement of this Act; or

(b) the date (if it is after the commencement of this Act) on which he becomes eligible for registration under section 6 or 7.

(2) An application must be made and shall be served and advertised in such manner as may be prescribed.

(3) The date of first publication of the application in a local newspaper is the "application date".

(4) Actions concerning the title to or boundaries of premises or of any interest in premises in respect of which an application has been made shall be stayed in terms of paragraph 2 of Schedule 9.

No harassment 12.(1) In respect of an applicant or premises of which an appli-

or eviction cation has been made, and before,

etc. of

applicant (i) 30 days after the Registrar's decision under section 14; or

(ii) if an appeal is taken under section 19, the deter- mination of that appeal,

whichever is the later, no owner or other person shall -

(a) serve a notice of termination of the tenancy or occupation of the premises; or

(b) serve a notice of eviction except for non-payment of rent and with the written leave of the Registrar; or

(c) do anything to harass the applicant; or

(d) take any remedy under law against the applicant except with the written leave of the Registrar;

(e) terminate the tenancy or occupation of the premises; or

(f) evict the applicant from the premises.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable to imprisonment for 1 year and to a fine of R.10,000.

Objections 13.(1) Objections to applications may be made by the persons and on the grounds specified in Schedule 3 and in such manner as may be prescribed.

(2) A mortgagee in respect of a mortgage over the premises has no right in that capacity to object to an application but may inform the Registrar of his interest in the premises.

Provisional registration 14.(1) Subject to regulations, if the Registrar is satisfied that -

(a) section 6 or 7 applies;

(b) the premises are not exempt under section 9; and

(c) the applicant has established his right to be a Statutory Tenant,

he shall grant the application provisionally and shall register the applicant provisionally as Statutory Tenant of the premises and if the Registrar is not satisfied he shall refuse the application unless section 15 applies.

(2) The Registrar may provisionally register a Statutory Tenant under subsection (1) subject to such provisional modifications in -

(a) the extent or boundaries of the premises as between the applicant and either or both the owner or the owner adjoining land or premises;

(b) existing rights of access or other easements or real rights belonging to the premises (including either or both creating rights to or modifying existing arrangement for access);

(c) existing rights of access or other easements or real rights over, through or burdening the premises,

as he considers fair and reasonable.

(3) Until registration is completed under section 23, provisional modifications under subsection (2) shall apply with the force of law to any person, land or premises affected by them.

Recommendations for 15.(1)If an applicant -

tions for

Life Tenancy (a) qualifies under section 6 or 7 except that the premises are exempt under section 9; and

(b) appears to have a justified expectation of occupying the premises for his life; and

(c) is a person to whom the circumstances specified in section 24(1) apply; and

(d) is otherwise liable to be made homeless and suffer unreasonable hardship,

the Registrar may recommend the applicant to the Minister for the grant of a Life Tenancy under section 24.

(2) If an applicant qualifies under section 6 or 7 but in the opinion of the Registrar the premises are too small or are otherwise unsuited to be subject to a right of purchase, the Registrar may recommend the applicant to the Minister for the grant of a Life Tenancy under section 24.

(3) If an applicant qualifies under section 6 (Home on another's land) except that the premises are not his home because he owns other premises, and a refusal to grant a Statutory Tenancy would cause injustice, the Registrar may recommend the applicant to the Minister for the grant of a Life Tenancy under section 24.

Voluntary 16.(1)Where a person entitled to become a Statutory Tenant

registration under section 6 or 7 and the owner of the premises agree voluntarily, the Registrar may provisionally register and may register that person as a Statutory Tenant under sections 14 and 23 respectively either -

(2) The agreement of both parties under subsection (1) must be given in writing on the form provided by the Registrar.

(3) Where both parties agree voluntarily under this section, advertisement of the application under section 11 (2) need not be made if the Registrar is satisfied that it is unlikely that any person will be entitled to object under section 13.

Essential 17.(1)Where in respect of an application it appears to the

compulsory Registrar that -

acquisition

(a) because of a usufruct over the premises; or

(b) to give an applicant adequate rights for the ownership and use of the premises (in accordance with the object of this Act),



it is necessary that the Government compulsorily acquires the premises or such land or property as is necessary for the purpose of paragraph (b), then he may recommend to the Minister that the Government does so.

(2) Where in respect of an application it appears to the Registrar that -

(a) there is or are more adjacent dwellings to which the provisions of this Act are or may be applicable; and

(b) the locality of the premises is so situated or congested that it would not be viable to grant Statutory Tenancies for those premises or those dwelling as they exist,

then he may recommend to the Minister that the Government compulsorily acquires such land in the locality as is necessary to give tenants adequate premises in accordance with the object of this Act.

(3) On the recommendation of the Registrar under subsection (1) or (2), the Minister may proceed with the compulsory

Cap. 105 acquisition of that land under the Lands Acquisition Act, and acquisition in accordance with this section is deemed to be necessary or expedient in the national interest in terms of

Cap. 105 section 4(1) of the Lands Acquisition Act.

(4) Notwithstanding Part III (Compensation for Compulsory Acquisition) of, and the Second Schedule (Assessment of Compensation) to, the Lands Acquisition Act, -

(a) compensation for land compulsorily acquired in accordance with this section shall be determined under section 33 (Valuation) of, and Schedule 6 (Assessment of Statutory Value) to, this Act; and

(b) payment of that compensation shall be made by Bond in terms of section 39 of this Act.

(5) Where land is compulsorily acquired in accordance with this section, it shall be transferred by the Government (with or without subdivision under section 18) to applicants under this Act in such form as may be prescribed in exchange for a Tenant's Mortgage.

(6) For the purposes of the Tenant's Mortgage, the Statutory Value of land transferred under subsection (5) shall be determined in accordance with section 33 (Valuation) of this Act.

Subdivision 18.(1)Notwithstanding -

of land

(a) sections 18(2) (b) (Combinations and subdivisions)

Cap. 105 and 49 (Transfer of part) of the Land Registration Act; or

(b) any inhibition, caution or restriction prohibiting or restricting dealings with the land,

the Registrar may apply to the Registrar-General for the subdivision of any land where the Minister certifies that the subdivision is desirable to give effect to this Act.

(2) The Registrar-General shall register a subdivision under subsection (1) in the Land Register and shall open new registers in respect of each subdivision.

(3) The Registrar shall provide the Registrar-General with a plan or plans for the purposes of this section.

Appeals 19.(1)Any person who receives notice of a decision of the

against Registrar under section 14 and is aggrieved by that decision may,

provisional within 30 days of the decision, appeal with leave of a Tribunal,  
registration to that Tribunal against the decision, on a question of fact or  
2/7/1984 law.

(2) Any person who receives notification of a decision of a Tribunal on an appeal taken to it under subsection (1) and is aggrieved by that decision may, within 30 days of the decision, appeal, with leave of the Supreme Court, to the Supreme Court against the decision, on a question of law.

#### PART IV. - ADJUDICATION OF PREMISES AND FINAL REGISTRATION

Adjudication 20(1) Adjudication is the determination by the Registrar of the extent and boundaries of registered premises including -

- (a) surrounding land in terms of section 21;
- (b) rights of access or other easements or real rights belonging to the premises (including either or both creating rights to or modifying existing arrangements for access); and
- (c) rights of access or other easements, or real rights over, through or burdening the premises,

and, subject to section 22 (Appeals), applies with the force of law to any person, land or premises affected by it.

(2) A Certificate of Statutory Tenancy under section 23 shall not be issued unless adjudication has been completed.

(3) The Statutory Tenant or the Statutory Landlord may apply in writing to the Registrar for adjudication of registered premises.

(4) The Registrar may arrange for a survey of the premises

Cap. 108 under the Land Survey Act to be completed before adjudication.

(5) The Minister may prescribe the procedure of and with respect to adjudication, including without prejudice to this generality -

(a) the appointment of an Adjudication Team for a locality where there are one or more dwellings to which this Act is or may be applicable;

(b) provisions to safeguard the rights of persons with claims to interests in premises or land within such a locality; and

(c) the summoning of witnesses.

(6) Actions affecting an adjudication shall be stayed in terms of paragraph 3 of Schedule 9.

Surrounding 21.(1)The surrounding land to be included in registered

land premises shall be determined by the Registrar according to this section.

(2) The surrounding land shall be ground owned by the owner of the premises shall be determined and actually included in the lease or occupancy of the premises:

Provided that if this would not enable the Statutory Tenant to have -

(a) fair and reasonable enjoyment of the premises; or

(b) reasonable privacy on the premises; or

(c) access to the premises,

the Registrar may modify the extent of the surrounding land by increasing it so that it is the greater of -

(i) four times the area of the land occupied by the dwelling house; or

(ii) 400 square metres.

Appeals 22.(1)A person who receives notice of a decision in adjudica-  
against tion under section 20 and is aggrieved by that decision may,  
adjudication within 30 days of the decision, appeal, with leave of a Tribunal,  
3/7/1984 to that Tribunal against the decision, on a question of fact or law.

(2) Any person who receives notification of the decision of a Tribunal on an appeal taken to it under subsection (1) and is aggrieved by that decision may, within 30 days of that decision, appeal with the leave of the Supreme Court, to the Supreme Court against the decision on a question of law.

Final 23.(1)The Registrar shall -

Registration

4/7/1984 (a) if not appeal is taken to a Tribunal under section 22(1), at the expiry of 30 days after he has given notice of his decision under section 20;

(b) if an appeal is taken to a Tribunal under section 22(1), but no appeal is taken to the Supreme Court under section 22(2) against the decision of the Tribunal, at the expiry of 30 days after the noti- fication of the decision of the Tribunal;

(c) if an appeal is taken to the Supreme Court under section 22(2) against the decision of the Tribunal, on the determination of that appeal,

register the provisional Statutory Tenant as the Statutory Tenant of the premises and issue to him a Certificate of Statutory Tenancy.

(2) On registration under subsection (1), the "registration date" shall be the original date of provisional registration under section 14.

## PART V - LIFE TENANCIES

Grants of Life 24.(1)Where a Statutory Tenant is -

Tenancies

(a) so elderly; or

(b) so infirm; or

(c) in such circumstances,

that he is unable to purchase the registered premises under section 34, he may within 2 years after the issue of the Certificate of Statutory Tenancy apply to the Minister on the form provided by the Registrar to be made a Life Tenant.

(2) The Minister shall cause a copy of -

(a) an application under subsection (1); or

(b) a recommendation under section 15,

to be sent to the owner of the premises, who may within 14 days submit comments on the application to the Minister.

(3) If the Minister is satisfied that because of -

(a) the Statutory Tenant's old age, infirmity or circumstances; or

(b) any other matter or circumstances,

it would not be fair and reasonable for the Statutory Tenancy to lapse on the expiry of 5 years, he may grant a Life Tenancy to that Statutory Tenant.

(4) If the Minister is satisfied that -

(a) the spouse, son, daughter, grandson, granddaughter, parent or grandparent of or person living en menage with, the Life Tenant has occupied the registered premises with him for a continuous period of 5 years or more; and

(b) it is fair and reasonable for him or her to succeed to the Life Tenancy,

he may name him or her as successor to the Life Tenancy in the Certificate issued under subsection (6) and if the successor survives, on the death of the Life Tenant he or she in all respects becomes Life Tenant of the registered premises.

(5) The Minister may also in his absolute discretion grant a life Tenancy to a person recommended by the Registrar under section 15.

(6) On the grant of a Life Tenancy under this section the Registrar shall issue to the Life Tenant a Certificate of Life Tenancy.

(7) A decision of the Minister under this section is final and conclusive.

Rights etc. 25.(1)A Life Tenancy is not limited to 5 years but continues  
of Life Tenant until the death of the Life Tenant and, subject to section 24(4), then  
terminates.

(2) A Life Tenant has no right to purchase the registered premises under Part VII.

(3) Subject to this section, a Life Tenancy operates as a Statutory Tenancy.

## PART VI.- RIGHTS AND DUTIES OF STATUTORY TENANTS AND LANDLORDS

Rights and 26(1) The rights of a Statutory Tenant in respect of the  
duties of registered premises for 5 years from the registration date are -  
Statutory

Tenant (a) to enjoy security of tenure under this Act;

6/7/1984

(b) to enjoy peaceful and undisturbed occupation in terms of this Act and free from harassment by the Statutory Landlord;

(c) not to be evicted except in terms of section 30;

(d) to purchase the premises in terms of Part VII.



(2) The duties of a Statutory Tenant in respect of the registered premises are -

(a) to carry out his obligations as a tenant under -

(i) any agreement for the lease of the premises; and

(ii) any other law,

including in particular regular and punctual payment of rent due;

(b) to occupy the registered premises and not be absent from them for more than 2 continuous months at any time during the Statutory Tenancy except with the written leave of the Registrar;

(c) to grant a Tenant's Mortgage over the premises when required to do so under section 34; and

(d) to comply with a decision of the Registrar under section 28.

(3) If a Statutory Tenant fails to carry out these duties under sub-section (2), then, notwithstanding subsection (1), the Statutory Landlord or any other person having an interest in the premises may apply to the Registrar for leave to take any specified remedy competent under law against the Statutory Tenant.

(4) In dealing with an application under subsection (3) the Registrar shall make a decision which -

(a) furthers the object of this Act; and

(b) is fair and reasonable to both the Statutory Tenant and the Statutory Landlord in the light of their respective conducts;

and the Registrar may -

(i) give leave to the Statutory Landlord or other person to take the specified remedy applied for or any other remedy under law; or

(ii) refuse to give leave.

(5) The Registrar may, and at the request of the Statutory Tenant, Statutory Landlord or other applicant under subsection (3) shall, give reasons for his decision under subsection (4).

(6) A Statutory Tenant, Statutory Landlord or other person aggrieved by a decision of the Registrar under subsection (4) may, within 14 days of that decision, appeal to a Tenants' Rights Tribunal.

(7) Nothing in this section or in section 27 prevents a Statutory Tenant, Statutory Landlord or any other entitled person applying to the Rent Board under the Control of Rent and Tenancy

Cap. 47 Agreements Act for an order fixing, reducing or increasing the rent of registered premises.

Rights and 27.(1)The duties of a Statutory Landlord in respect of the

duties of registered premises are -

Statutory

Landlord (a) to carry out his obligations as a landlord under -

(i) any agreement for the lease of the premises; and

(ii) any other law,

including in particular any obligations for the maintenance of the premises;

(b) to allow the Statutory Tenant peaceful occupation and not to harass him;

(c) not to evict the Statutory Tenant except in terms of section 30;

(d) subject to section 34, not to sell, transfer ownership of, or mortgage the premises except under specific reservation of the Statutory Tenancy;

(e) to grant a transfer of the premises to the Statutory Tenant when called on to do so under section 34; and

(f) to comply with a decision of the Registrar under section 28.

(2) The rights of a Statutory Landlord in respect of the registered premises are -

(a) to receive regular and punctual payment of rent due;

(b) to receive a Bond under section 39 on transfer of the premises to the Statutory Tenant; and

(c) to vacant possession of the premises free from the Statutory Tenancy on its termination under section 30.

(3) A Statutory Landlord who contravenes subsection (1) is guilty of an offence and is liable to imprisonment for 1 year and to a fine of R.10,000.

Disputes            28.(1)Subject to section 26(7), any dispute between -

(a) a Statutory or Life Tenant and a Statutory Land- lord; or

(b) two or more Statutory or Life Tenants,

about their respective rights in registered premises shall be referred for settlement to the Registrar on payment of such fee as may be prescribed.

(2) The Registrar may, and at the request of a party to the dispute shall, give reasons for his decision under subsection (1).

(3) A Statutory or Life Tenant or a Statutory Landlord aggrieved by a decision of the Registrar under subsection (1), may, within 14 days of that decision, appeal to a Tenants' Rights Tribunal.

(4) Subject to section 26(7), it shall not be competent for a Statutory Tenant or a Statutory Landlord to refer any dispute about their respective rights in the registered premises to the Rent Board.

Death of            29.(1)Where a Statutory Tenant dies during the subsistence of

Statutory            Statutory Tenancy and at the time of his death -

Tenant

(a) his spouse or a person living en menage with him; or

(b) a member of his family of 18 years of age or older residing with him,

has occupied the registered premises with him for a continuous period of 5 years or more, a person referred to in paragraph (a) or (b) may apply to the Registrar within one month of the death to be registered as the Statutory Tenant by succession in place of the deceased.

(2) If the Registrar receives more than one competent application under subsection (1) he shall name only one person as Statutory Tenant by succession : competent applicants take precedence in such order as may be prescribed.

(3) Subject to subsection (2), if the Registrar is satisfied that an applicant qualifies under subsection (1) he shall issue a Notice of Succession to a Statutory Tenancy.

(4) A Statutory Tenant by succession shall have all the rights and duties of the original Statutory Tenant and the Statutory Tenancy shall be deemed to run from the original registration date under section 23(2).

Termination 30.(1)Where during the existence of a Statutory Tenancy or a  
9/9/1984 Life Tenancy,

(a) the Statutory Tenant or Life Tenant dies and section 29 does not apply;

(b) in an application following the giving of leave under section 26(3) a court terminates the Tenancy or gives warrant for the eviction of the Tenant; or

(c) the Statutory Tenant or the Life Tenant is absent from the registered premises for more than 2 continuous months at any time during the Statutory Tenancy without the written leave of the Registrar,

the Statutory Landlord may apply to the Registrar for the termination of the Tenancy.

(2) Where subsection (1) applies, the Registrar for the termination of the Tenancy.

(3) If a Statutory Tenant does not apply to the Registrar to purchase the premises within 5 years from the registration date -

(a) the Statutory Tenancy terminates and he shall cease to be a Statutory Tenant of the Premises; but

(b) he shall not be evicted from the premises unless 30 days notice in such form as may be prescribed are given by the Statutory Landlord before any steps towards eviction are taken and a copy of that notice is sent to the Registrar.

(4) A Statutory Tenancy terminates on the purchase date in terms of section 34.

(5) Where section 6 applies, the termination of a Tenancy under subsection (2) or (3) is without prejudice to any right of the Tenant to compensation under Article 555 of the Civil Code or otherwise.

#### PART VII.- TENANT'S RIGHT OF PURCHASE

Notice of purchase      31.(1)At any time after the issue of a Certificate of Statutory Tenancy under section 23 but within 5 years of the registration date, a Statutory Tenant may give notice to the Registrar on the form provided by the Registrar that he wishes to purchase the registered premises from the Statutory Landlord.

(2) Schedule 8 applies with respect to existing mortgages over registered premises.

(3) Where in a Statutory Tenancy the lease includes the use of furniture by the Statutory Tenant, purchase under this Part does not include any right to purchase that furniture or other movable property.

Agreed 32.(1)When giving notice under section 31 the Statutory Tenant

purchase price may inform the Registrar in writing that he and the Statutory Landlord have agreed on the purchase price of the registered premises.

(2) The purchase price agreed in terms of subsection (1) is the Statutory Value of the registered premises :

Provided that

(a) if in the opinion of the Registrar the purchase price is not fair and reasonable; or

(b) the purchase price is not acceptable to the Corporation for a Tenant's Mortgage,

the Statutory Value shall be assessed under section 33.

Valuation 33.On being informed of the receipt by the Registrar of a notice under section 31, the Seychelles Housing Development Corporation shall appoint a person as valuer to assess the Statutory Value of the registered premises in terms of Schedule 6.

Purchase by 34.(1)When the Statutory Value has been finalized under section

Statutory 33 (and provided that no rent is outstanding), the Statutory

Tenant Tenant may purchase the registered premises from the Statutory

8/7/1984 Landlord by the completion of all the following steps -

(a) the Statutory Landlord granting a transfer of the registered premises to the Statutory Tenant subject to section 36 (Restriction on sale etc for 5 years)

Cap. 97 in accordance with the Land Registration Act or the

Cap. 99 Mortgage and Registration Act, as the case may be; and

(b) the Statutory Tenant

(i) granting a Tenant's Mortgage over the registered premises in favour of the Corporation;  
and

(ii) paying to the Statutory Landlord any amount which the Statutory Value exceeds the maximum mortgage amount; and

(c) the Seychelles Housing Development Corporation on behalf of the Government -

(i) paying to the Statutory Landlord one-twentieth of the Statutory Value or of the maximum mortgage amount, whichever is the lesser; and

(ii) delivering to the Statutory Landlord a Bond in terms of section 39 for the remainder of the Statutory Value or of the maximum mortgage amount, whichever is the lesser; and

(d) if the registered premises are already subject to a mortgage, the steps specified in paragraph 1 of Schedule 8.

Act 7 of 1984 (2) The date on which all steps in subsection (1) are completed is the "purchase date", and this expression includes the date of a notice published in the Gazette, under a regulation made under subsection (4), transferring any registered premises to a Statutory Tenant.

(3) The Statutory Tenancy and any other lease of or agreement to lease the registered premises, together with any obligation thereunder, terminate on purchase under this section.

(4) The Minister may make regulations providing for the attendance of the Statutory Landlord, the Statutory Tenant and the mortgagee for the completion of a purchase under this section, including the transfer (subject to any interest in the premises) by the Minister by notice published in the Gazette, of a registered premises to the Statutory Tenant in a case where the Statutory Landlord fails to attend in compliance with a regulation requiring his



attendance, and the issue of a bond in respect of the transfer to the Curator to be held for the Statutory Land- lord or the mortgagee.

(5) In this section "Statutory Landlord" does not include a person, other than a usufructuary, who is himself a tenant of the registered premises.

Tenant's 35.(1)Schedule 7 applies with respect to Tenant's Mortgages.

Mortgage

(2) For the purposes of section 4 and 6 and Part III of the

Cap. 164 People's Housing Mortgages Act, a Tenant's Mortgage is deemed to be a housing mortgage within the meaning of section 2 of that Act.

(3) All sums received by the Corporation as repayments of Tenant's Mortgages (except sums in respect of the administrative charges under paragraph (1) (a) (iv) of Schedule (7) shall be paid into the Consolidated Fund.

Restriction on 36.(1)Notwithstanding section 48 (Conditions repugnant to interest transferred) of the Land Registration Act, where a Statutory Tenant has purchased registered premises under section 34 of this Act, and even if he has made repayment in full under section 37 of this Act, he shall not within 5 years of the purchase date sell or transfer the premises except -

(i)on repayment in full of the Tenant's Mortgage under section 37 of this Act and with the written appro- val of the Minister; or

(ii) on death, by will or in intestacy to his heirs by law.

(2) If a sale or transfer is carried out in contravention of subsection (1), the Registrar may apply to the Supreme Court for an order revoking that sale or transfer and vesting the premises in the Corporation.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable to a fine of R.15,000.

Early repay- 37.Nothing in this Act or a Tenant's Mortgage prohibits the  
ment of Statutory Tenant at any time making repayment in full of a  
Tenant's Tenant's Mortgage with interest to the date of repayment.  
Mortgage

Discharge of 38.On repayment in full of a Tenant's Mortgage with all  
Tenant's interest due, the Corporation shall grant a discharge to the  
Mortgage Statutory Tenant and shall register it under the Land Registra-  
Cap. 99 tion Act or the Mortgage and Registration Act, as the case may  
Cap. 97 be.

Government 39.(1)A Seychelles Government Bond shall be issued by the Government  
and shall provide for the payment by the Government to the holder of -

(a) simple interest on the amount of the Bond from the date of issue until the next 1st April or 1st October, whichever is earlier; and

(b) the amount of the Bond in equal half-yearly instal-  
ments in arrears thereafter over 20 years with interest computed on an annuity basis at 8 percent per year.

(2) Sums required for making payments under subsection (1), section 34(1) (c) (i) and paragraph 1(a) (i) of Schedule 8 shall be charged on and issued out of the Consolidated Fund.

(3) A Bond is transferable and may be pledged in such manner as may be prescribed.

(4) Payments under subsection (1), section 34 (1) (c)(i) and paragraph 1(a) (i) of Schedule 8 and instalment payments made under a Bond are not liable to -

Cap. 20                   (a)    any tax under the Business Tax Act;

Cap. 225               (b)    any payments under the Social Security Act;

(5) No duty is chargeable under the Stamp Duty Act, in respect of the issue of a Bond :

Provided that transfer of Bonds are not exempt from stamp duty under that Act.

Exemption           40.No duty or fee is chargeable under the Stamp Duty Act,  
from duties         the Land Registration Act or the Mortgage and Registration Act in  
and fees            respect of -

Cap. 226

Cap. 107             (a)    the registration in the Land Register or Register

Cap. 134                   of Deeds of a Statutory Tenancy, a Life Tenancy, a Notice of  
Succession or a Notice of Termination;

(b)    a transfer under section 34(1) (a);

(c)    a Tenant's Mortgage granted under section 34(1) (b) (i); or

(d)    a discharge of a Tenant's Mortgage under section 38(1).

#### PART VIII.- MISCELLANEOUS

Tenants' Rights Tribunals 41.(1) There shall be one or more Tenant's Rights Tribunals with the functions of deciding on appeals under section 19, 22, 26(6) or 28(3) against decisions of the Registrar.

(2) Schedule 5 applies with respect to Tribunals.

Ownership 42. Schedules 10 (Absent etc owners) and 11 (Powers of limited owners) apply for the purposes of this Act.

Service of 43. Schedule 4 applies with respect to the service, giving or of premises etc. lodging of claims, notices or other documents under this Act.

Regulations 44. The Minister may make regulations for the better carrying out of the objects and purposes of this Act, including, without prejudice to this generality,

- (a) prescribing any matter which is to be or may be prescribed under this Act;
- (b) amending a Schedule;
- (c) prescribing the form or content of documents under this Act;
- (d) prescribing the persons to be served with, and the advertisement and publication of, documents under this Act;
- (e) prescribing fees or charges
  - (i) for applications, objections, appeals or certificates; or

(ii) for or in connection with services given under this Act;

(f) providing for the registration, transcription or inscription of documents under this Act, notwithstanding-

Cap. 107 standing the Land Registration Act or the Mortgage

Cap. 134 and Registration Act;

(g) prescribing the procedure to be followed in adjudications;

(h) prescribing the procedure to be followed in appeals to a Tribunal;

(i) limiting or modifying this Act either in relation to classes of persons or to situations or to remove anomalies;

(j) providing, consistently with the object of this Act, for a matter arising under but not specifically covered by this Act; or

(k) providing for payment, when purchase takes place under section 34, of compensation by a Statutory Landlord who is absolute owner to a tenant who is landlord of the Statutory Tenant.

Appeals to 45.(1) In an appeal to the Supreme Court under section 19(2) or

Supreme Court section 22(2), -

(a) the Supreme Court may uphold, vary or reverse the Tribunal's decision; and

(b) the decision of the Supreme Court is final and there is no appeal from it to the Court of Appeal.

(2) The Chief Justice may make rules of court for the better carrying out of appeals to the Supreme Court under this Act.

Indemnity 46.No liability is incurred by, and no action shall be brought against -

(a) the Registrar, Assistant Registrars or other staff appointed under section 10 or Schedule 2; or

(b) a person who is or has been a member of an Adjudication Team;

(c) a person who is or has been a member or Secretary of a Tribunal,

for or in respect of any act done in good faith under this Act, or, in the case of a person specified in paragraph (b) or (c), any words spoken or written at or for the purposes of an adjudication or the hearing or an appeal, as the case may be.

False information 47.A person who, in respect of any matter falling within the scope of this Act, -

(a) wilfully makes a statement which he knows to be false; or

(b) recklessly makes a statement which is false in a material particular,

is guilty of an offence and is liable to imprisonment for 2 years and to a fine of R.10,000.

## EXEMPT PREMISES

The following premises are exempt from Statutory Tenancies-

(a) premises leased or occupied by a person for use in connection with his main gainful occupation or for use other than or additional to use as a home, for example a combined house and shop, a market garden or farm with a house, or a shop by itself;

(b) premises owned by the Government or, if designated for the purposes of this Schedule by the Minister by order in the Gazette, a statutory corporation, company or other body corporate;

(c) premises designed and leased as part of premises in multiple tenancy, for example one flat in a block of flats;

(d) premises occupied by a person ( for whom the owner makes Group 1 contributions under the Social Security

7 of 1979 Decree, 1979) as a service tenant in connection with his main gainful occupation;

(e) premises owned as a home by a Seychellois who is -

(i) employed and living on another island in Seychelles; or

(ii) employed abroad -

(A) by the Government of Seychelles;

(B) by the United Nations or a specialized agency within the meaning of Part V of and the Fourth Schedule to the Privileges and Immunities (Diplomatic, Con-

9 of 1980 sular and International Organisations) Act, 1980; or

(C) in other employment or circumstances in which the Minister certifies that he is satisfied that the person intends to return to reside in the premises;

Provided that a landlord may only claim exemption under this paragraph for one premises declared in writing to the Registrar to be his permanent home;

(f) premises exempted by the Minister by order in the Gazette (which may exempt a class, type or category of premises but may not exempt individual premises); or

(g) premises exempted by the President.

## SCHEDULE 2

## Section 10

### REGISTRAR OF TENANT'S RIGHTS

1. The Registrar of Tenants' Rights has the functions assigned by this Act or any other written law.

2. Subject to any direction by the Minister under section 5, in exercising his functions the Registrar shall proceed in such order as appears to him to be best for carryout out the object of this Act quickly and economically, for example by Districts, or by length of occupancy or by type of occupancy.



3. The President may, by notice in the Gazette, appoint such Assistant Registrars of Tenants' Rights as may be necessary to assist the Registrar in carrying out his functions.

4. The Registrar may in writing delegate to an Assistant Registrar all or any of his functions; and may in writing revoke or vary the terms of such a delegation.

5. A delegation under paragraph 4 does not prevent the exercise by the Registrar of any function so delegated.

6. The President may appoint such other staff as may be reasonably necessary to assist the Registrar in carrying out his functions.

7. Assistant Registrars and other staff shall be under the control of the Registrar.

### SCHEDULE 3

### Section 13

## OBJECTIONS TO APPLICATIONS

### Objections by owner

1. The owner of premises for which application for registration has been made may object to the application on the grounds that -

(a) the applicant does not occupy the premises as his home;

(b) the applicant has another residence;

- (c) the premises are exempt from registration under section 9;
- (d) where the applicant has taken the premises on lease within the meaning of section 7(2), -
  - (i) the applicant has not occupied the premises for a continuous period of 5 years or more; or
  - (ii) the applicant is in arrears with rent; or
  - (iii) the applicant has not complied with a court order against him relating to his obligations in respect of the lease; or
- (e) the applicant has not complied with a court order against him in respect of any nuisance created to the owner, landlord or adjacent proprietors;
- (f) he disputes the applicant's claim.

#### Objections by others

2. Any other person may object to an application for registration on the grounds that -
  - (a) he (and not the applicant) is the occupier of the premises; or
  - (b) he (and not the person named in the application) is the owner of the premises or has or claims an interest in the premises; or

(c) he is the owner or tenant of property adjacent to the premises and disputes the extent or boundaries of -

(i) the premises as stated in the application; or

(ii) rights of access or other easements or real rights.

#### SCHEDULE 4

#### Section 43

#### SERVICE OF NOTICES ETC.

1. A claim, notice or other document under this Act shall be served on, given to or lodged with -

(a) the Minister by registered post at the principal office of the Ministry or by delivery to him against a receipt signed by a person authorised by him for that purpose;

(b) the Registrar by registered post at his principal office or by delivery to him against a receipt signed by a person authorised by him for that purpose.

(c) the owner of premises -

(i) in the case of the Curator, by registered post at his office, or by delivery to him against a receipt signed by a person authorised by him for that purpose;

(ii) in the case of a corporation, by registered post at its registered office or principal place of business in Seychelles;

(iii) in the case of a person exercising, under paragraph 3 of Schedule 10, the rights of an owner for the purposes of this Act, by delivering it to him personally or by sending it to him by registered post at the address given by him under paragraph 3 of Schedule 10; or

(iv) in the case of any other person, by delivering it to him personally or by sending it to him by registered post at his last known address.

2. Where a claim, notice or other document is sent by registered post under paragraph 1, service is deemed to have been effected or given, unless the contrary is proved, at the time at which the claim, notice or document would be delivered in the ordinary course of post.

## SCHEDULE 5

## Section 41

### TENANTS' RIGHTS TRIBUNALS

#### Appointment etc.

1.(1) A Tenants' Rights Tribunal shall be appointed by the President by notice in the Gazette and shall consist of a Chairman and two other members.

(2) A member of a Tribunal shall hold and vacate office in accordance with the terms of his appointment and shall be eligible for re-appointment.

(3) Before assuming the duties of his office, a member of a Tribunal shall take an oath in the form specified in Annex I (or if he expresses any objection to taking an oath or expresses a desire to make an affirmation in place of an oath, shall make solemn affirmation) before a Judge that he will faithfully and impartially perform the duties of his office.

(4) A member of a Tribunal shall not take part in any appeal in relation to a matter in which he or his family has a direct or indirect interest.

(5) A person who contravenes subparagraph (4) is guilty of an offence and is liable to a fine of R.5,000.

(6) In this Schedule, "member" includes the Chairman of a Tribunal.

#### Procedure

2.(1) The procedure of a Tribunal is, subject to this Act, within the discretion of the Tribunal.

(2) The proceedings of a Tribunal shall be conducted with as little formality and technically, and with as much speed, as the requirements of this Act and a proper consideration of the appeal before the Tribunal permits :

(3) An appeal must be accompanied by such fee as may be prescribed, which shall be refunded if the appeal is successful.

(4) A Tribunal shall observe the rules of natural justice and shall hear all evidence tendered and representations made by or on behalf of an appellant or objector, except that at any time during the hearing of an appeal -

(a) if a person, who has been summoned under paragraph 4 (1)(a), or required to produce a document under paragraph 4(1)(c), refuses, neglects or fails to attend, be sworn,

answer a question or produce the document (as the case may be) the Tribunal may nevertheless proceed with the hearing; and

(b) if the Tribunal has sufficient evidence to arrive at a decision on the appeal, it may decide not to receive further evidence or representations.

(5) A Tribunal gives an appellant or objector an opportunity to be heard if it invites him to attend and be heard of the appeal.

(6) The Chairman and one other member of a Tribunal shall constitute a quorum and the Chairman shall preside at all sittings of a Tribunal.

(7) Appeals shall be heard by a Tribunal in public.

(8) In any appeal under this Act a Tribunal may uphold, vary or reverse the Registrar's decision.

(9) Appeals before a Tribunal shall be decided by a majority of votes of members present and voting :

The Chairman shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(10) Subject to any decision on appeal to the Supreme Court, a decision of the Tribunal is final and conclusive.

### Leave to Appeal

3.(1) When deciding on an application for leave to appeal under section 19 or 22, a Tribunal shall not refuse leave unless the application is vexatious.

(2) An application for leave to appeal shall state the question of law or fact that is involved and whether the whole or part of the decision is complained of.

(3) Where leave to appeal has been granted by the Tribunal, the Registrar shall forward to the Secretary of the Tribunal -

(i) in the case of an appeal under section 19(1) -

(a) a copy of the objections made under section 13;

(b) a copy of the notes of inquiry (if any) made by the Registrar;

(c) a copy of the decision of the Registrar and the reasons (if any) given for the decision.

(ii) in the case of an appeal under section 22(1) -

(a) a copy of the evidence recorded by the Registrar (if any) or documents (if any) produced, at the hearing of an application in adjudications;

(b) a copy of the reports (if any) furnished to the Registrar by the Adjudication Team together with a copy of any observations and representations recorded by the Adjudication Team and forwarded to him;

(c) a copy of the survey plan (if any) prepared under section 20(4); and

(d) a copy of the decision in adjudication.

Tribunal witnesses

4.(1) In an appeal, a Tribunal may -

(a) summon any person whose evidence is likely to be material to the consideration of the appeal;

(b) administer the oath specified in Annex II to a person appearing to give evidence; or

(c) require any person to produce documents in his possession or subject to his control which are likely to be material to the consideration of the appeal.

(2) The powers under subparagraph (1) may be exercised on behalf of a Tribunal by the Secretary of the Tribunal or a person authorised by the Tribunal.

(3) A person who -

(a) without reasonable excuse, the burden of which lies on him, refuses, neglects or fails -

(i) to attend in obedience to a summons under subparagraph (1) (a); or

(ii) to be sworn under subparagraph (1)(b); or

(iii) to answer a question that he is required to answer by a Tribunal; or

(iv) to produce a document when required to do so under subparagraph (1)(c); or



(b) knowingly or recklessly makes a false or misleading statement in any evidence before a Tribunal;

(c) uses insulting or threatening language before a Tribunal;

(d) causes any interruption or disturbance in the proceedings of a Tribunal; or

(e) commits before a Tribunal any act which if done before a court would constitute contempt of that court,

is guilty of an offence and is liable to imprisonment for 2 years and to a fine of R.2,000.

(4) A person shall not refuse or fail to answer a question or produce a document before a Tribunal on the ground that it might incriminate him, but any statement or disclosure is admissible in evidence against him only in proceedings for an offence under this Act.

#### Secretary of Tribunals

5.(1) The Minister shall appoint a Secretary of Tribunals who, in addition to any other duties conferred on him, shall be responsible for -

(a) convening all sittings of Tribunals to hear appeals;

(b) the proper recording of decisions of Tribunals; and

(c) notification of those decisions to the parties concerned.

(2) The Secretary of Tribunals shall hold and vacate office in accordance with the terms of his appointment.

SCHEDULE 5 - ANNEX I

TRIBUNAL MEMBER'S OATH Paragraph 1 (3)

I ..... do swear (1) solemnly and sincerely declare and affirm (2)

that I will well and truly serve the Republic of Seychelles in the office of chairman/ member (3) of a Tenants' Rights' Tribunal;

that I will do right in accordance with the Constitution of Seychelles as by law established and in accordance with the laws of the Republic without fear or favour, affection or ill will; and

that I will perform the duties of my officer impartially.

So help me God. (1)

SCHEDULE 5 - ANNEX II Paragraph 4(1)(b)

WITNESS OATH

I swear (1)/solemnly and sincerely declare and affirm (2)

that the evidence which I shall give before this Tribunal shall be the truth, the whole truth and nothing but the truth.

So help me God. (1)

Notes to Annexes to Schedules 5

(1) Words where oath taken.

(2) Words where person expresses desire to make an affirmation in place of the oath or expresses an objection to taking the oath.

(3) Delete as applicable.

SCHEDULE 6

Section 33

## ASSESSMENT OF STATUTORY VALUE

### Procedure

1.(1) The Statutory Value shall be assessed by reference to the current use value of the premises on the principles set out in paragraph 2 and -

(a) if the registered premises are subject to a mortgage, shall include a valuation of the existing mortgage value (being the proportion of the mortgage which is secured over the registered premises); or

(b) if the registered premises are subject to a usufruct, shall include valuations of the separate interests of the usufructuary and the bare owner.

(2) The valuer shall give notice of his assessment of the Statutory Value to -

(a) the Corporation;

(b) the Statutory Tenant;

(c) the Statutory Landlord;

(d) the mortgagee of any existing mortgage over the registered premises; and

(e) the Register.

(3) A Statutory Tenant, Statutory Landlord or existing mortgagee who is aggrieved by the assessment of the Statutory Value may, within 30 days of notice give under subparagraph (2), request the Minister to appoint an independent person as an arbitrator.

A request must be accompanied by such fee as may be prescribed, which shall be refunded if any re-assessment is in favour of the person requesting it.

(4) On receiving a request under subparagraph (3), unless the Minister considers that the reasons stated do not justify it, he shall appoint an arbitrator to re-assess the Statutory Value after consideration of the reasons and to vary the Statutory Value if the arbitrator thinks fit.

(5) The arbitrator shall send notice of his re-assessment of the Statutory Value to the persons referred to in subparagraph (2).

(6) A decision of the Minister or an arbitrator under this paragraph shall be final and conclusive.

### Principles

2.(1) The current use value of registered premises is the amount which, subject to this paragraph, the premises might be expected to realise at the date of valuation if sold between a willing buyer and a willing seller on the open market;

but with right only for continuation or exercise of the same actual current and lawful use; and without any permission, right, expectation or prospect of -

(a) changing that use; or

(b) receiving any further planning, building or other permission or right not actually enjoyed or granted and still valid and unexpired at the date of valuation.

(2) The value shall be assessed on the assumption that -

(a) a willing purchaser would have been responsible for the

Cap. 97 payment of all fees and duties under the Land Registra-

Cap. 99 tion Act or the Mortgage and Registration Act, as the case may be; and

(b) no stamp duty on the purchase would have been chargeable under the Stamp Duty Act, 1975.

(3) Where the current use value of the premises is increased because of their use in a manner -

(a) which is contrary to law; or

(b) which is detrimental to the health of the Statutory Tenant or to the public health; or

(c) which is of an immoral nature,

the amount of that increase is to be deducted from the current use value.

(4) The Statutory Value shall not include any fees or other expenses paid by the Statutory Landlord to a legal practitioner, surveyor or valuer in respect of the valuation under section 33; these fees and other expenses shall be borne by the Statutory Landlord himself.

(5) The following matters shall be taken into account in assessing the current use value -

(a) the characteristics of the locality of the premises and availability of communications and facilities affecting value;

(b) the age, accommodation, amenities and services of the premises;

(c) the dimensions and areas of land and buildings forming the premises;

(d) the state of repair and condition of buildings and structures forming the premises;

(e) the materials used in the construction of the premises;

(f) improvements to the premises made by the Statutory Tenant;

(g) any right of way, easement or real right either belonging to or over, through or burdening the premises; and

(h) the site stability of the land.

(6) The following matters shall not be taken into account in assessing the current use value

-

(a) the purchase being compulsory under this Act;

(b) any disinclination of the Statutory Landlord to part with the registered premises;

(c) any damage sustained by the Statutory Landlord which, if caused by a private person, would not render the private person liable to an action;

(d) any increase in the value of the registered premises which is likely to accrue from the purchase under this Act;

(e) any planning consent obtained, outlay on, or improvement of, the registered premises after the application date;

(f) where the lease includes the use of furniture by the Statutory Tenant, the value of that furniture or other movable property.

(7) If the valuer or arbitrator is satisfied that owing to exceptional factors -

(a) unwarranted hardship has resulted for the Statutory Landlord being a Seychellois, which is not attributable to any neglect or want of investment, good management or development; or

(b) the Statutory Value does not adequately reflect the investment and developmental effort of the Statutory Landlord which, in the opinion of the valuer or arbitrator, has been undertaken in good faith and in the interest of the development of Seychelles,

the valuer or arbitrator may in the discretion and with the approval of the Minister increase the Statutory Value above the current use value of the registered premises.

#### SCHEDULE 7

#### Section 35

#### TENANT'S MORTGAGES

1. A Tenant's Mortgage shall -

(a) be for an amount of the sum of -

(i) the Statutory Value or maximum mortgage amount, whichever is the lesser;

(ii) the expenses of survey under section 20(4);

(iii) the expenses of valuation under section 33; and

(iv) administrative charges to the Registrar and the Corporation as prescribed by the Minister;



- (b) bear interest on an annuity basis at 8½ percent per year;
- (c) be repayable over 20 years from the date of issue in equal monthly repayments; and
- (d) be in such form as may be prescribed.

2. The "maximum mortgage amount" is such amount as is prescribed or is approved by the Minister for a particular Tenant's Mortgage.

3. The Minister may prescribe lower rates of administrative charges for cases of voluntary registration under section 16.

4.(1) If the Minister and the Minister responsible for Finance are satisfied that the monthly repayment computed under paragraph 1(c) would exceed -

- (a) the existing rent of the registered premises; and
- (b) the financial capacity of the Statutory Tenant,

the corporation may give relief to the Statutory Tenant by either or both -

- (i) accepting a Tenant's Mortgage for a longer period of repayment; or
- (ii) reducing the rate of interest specified in paragraph 1(b).

(5) If the monthly repayments computed under paragraph 1(c) are of a small amount (under such amount as may be prescribed) the Corporation may, with the approval of the Minister responsible for Finance accept a Tenant's Mortgage for a shorter period of repayment

## SCHEDULE 8

## Section 31(2)

### EXISTING MORTGAGES OVER REGISTERED PREMISES

1. Where registered premises are, at the date of purchase by the Statutory Tenant, subject to a mortgage, then -

(a) the mortgage shall receive from the Corporation (on behalf of the Government) -

(i) one-twentieth of the existing mortgage value;

(ii) a Bond for the remainder of the existing mortgage value (determined under paragraph 1(1) of Schedule 6,

the total amount of the payment made and Bond issued to the Statutory Landlord under section 34(1)(c) being correspondingly reduced; and in exchange,

(b) notwithstanding Articles 2157 and 2158 of the Civil Code -

(i) the mortgage is deemed in respect of the registered premises to be erased by operation of law by the inscription in the Register of Deeds or registration in the Land Register, as the case may be, of a notice of discharge;

(ii) subject of paragraph 2, the liability of the Statutory Land- lord as mortgagor under the mortgage in respect of the registered premises is deemed to be extinguished as from the purchase date.

2. If the mortgage is for an amount greater than the total amount of the payment made and Bond issued under paragraph 1(a), then notwithstanding Articles 2157 to 2165 of the Civil Code -

(a) the mortgage is reduced by operation of law by the total amount of the payment made and Bond issued under paragraph 1(a); and

(b) the Statutory Landlord remains liable to the mortgagee for the balance of the amount of mortgage either -

(i) if land or premises in addition to the registered premises is subject to the mortgage, under the mortgage in respect of that other land or those other premises; or

(ii) if only the registered premises were subject to the mortgage, as a personal obligation.

3. Where land or premises in addition to the registered premises is subject to a mortgage which is erased under paragraph 1(b)(i) in respect of the registered premises, then subject to paragraph 2, nothing in this Schedule affects the validity or operation of the mortgage in respect of that other land or those other premises.

SCHEDULE 9 Sections 8(2), 11(4) and 20(6)

### STAYING OF ACTIONS

No eviction etc after 16th November, 1981

1. Except with the written consent of the Registrar, no decision of any civil court or of the Rent Board which -

(a) was or is given after 16th November, 1981 and before 3 months after the commencement of this Act in relation to the premises; and

(b) concerns the tenancy, lease or occupation of premises, or any interest in premises, to which section 6 or 7 would have applied on that date,

shall have effect unless it is a decision for the eviction of the tenant for non- payment of rent or other failure to carry out his obligations as a tenant.

### Applications

2.(1) Except with the written consent of the Registrar, no action concerning the title to or boundaries of premises or of any interest in premises in respect of which an application has been made under section 11 shall be begun in any civil court until with respect to those premises;

(2) Where, at the time of an application, an action concerning the title to or boundaries of premises is pending or in progress, that action shall where practicable be determined before the Registrar takes a decision under section 14 on the application :

Provided that the Registrar of the Supreme Court may at any stage of that action order that it shall be stayed and it shall be stayed accordingly.

### Adjudications

3.(1) Except with the written consent of the Registrar, no action concerning the title to or boundaries of -

(a) premises for which adjudication has begun; or

(b) premises or land or any interest in premises or land in a locality for which an Adjudication Team has been set up,

shall be begun in any civil court until adjudication has been completed.

(2) Where an action concerning the title to or boundaries of -

(a) the premises is in progress when adjudication is begun; or

(b) premises or land or an interest in premises or land in a locality for which an Adjudication Team has been set up is in progress when notice of the appointment of the Team is published,

that action shall, where practicable, be determined before adjudication is started :

Provided that the Registrar of the Supreme Court may at any stage of that action order that it shall be stayed and it shall be stayed accordingly and the adjudication shall then proceed.

SCHEDULE 10

Section 42

ABSENT ETC. OWNERS

1. Subject to paragraph 3, where -

(a) there is no known owner of premises;

(b) the owner of premises is an interdicted person or is a person to whom a curator has been appointed;

(c) the owner of premises is not present in Seychelles or is on the outlying islands;

(d) there is doubt as to the identity of the owner of premises; or

(e) premises are subject to substitution or to any restriction as to their transfer or transmission,

the Curator is deemed to be the owner of those premises for the purposes of this Act.

2. Where, under paragraph 1, the Curator is owner only of an interest in the premises, the interest in the premises of any other owner (not being an owner to whom that paragraph applies) is not affected.

3. The Curator ceases to be owner of premises -

(a) where he is owner under paragraph 1(b), if the person is no longer subject to the disability concerned; or

(b) where he is owner under paragraph 1(c), if the person is present in Seychelles and is no longer on the outlying islands,

and the person notifies the Curator in writing that he wishes to exercise the rights of an owner for the purposes of this Act, giving in the notification an address in Seychelles (not being an

address in any part of the outlying islands) at which any notice or other document required or permitted by this Act to be served on or given to any owner of premises may be served on or given to him.

4. The Curator shall inform the Registrar when he ceases, under paragraph 3, to be an owner of premises.

5. Any matter or thing done by or in relation to the Curator as an owner of premises is not affected if the Curator ceases, under paragraph 3, to be the owner of the premises, and the matter or thing has the same force and effect as if done by or in relation to the person becoming owner of the premises on that cessation.

6. In this Schedule, "outlying islands" means the following islands and groups of islands -

Aldabra Group (including Cosmoledo Atoll)

Alphonse Group

Amirantes Group (including Desroches)

Coetivy

Farquhar Group (including Providence Atoll)

Ile aux Vaches (Bird Island)

Ile Denis

Ile Plate

A person possessed of, or entitled to, premises or land or any interest in premises or land, or having the management of premises or land, on behalf of a person (whether or not that person is under a legal disability), particularly -

(a) the Curator in any case under the Curatelle Act

(b) a guardian, sub-guardian or curator;

(c) a corporation which has no power or only limited power to dispose of premises;

(d) a fiduciary or an executor;

(e) a person for the time being entitled to the receipt of the rents and profits of premises in possession; or

(f) a lessee,

may, by force of this Act, and notwithstanding anything to the contrary in any Act, Decree, statutory instrument or document -

(i) take any action which may be taken under this Act by -

(A)an owner of premises in respect of which an application has been made under section 11;  
or

(B)an objector under section 13 if he is entitled to object under that section; or



(C)the owner of property adjacent to premises in respect of which an application has been made under section 11; or

(D)a Statutory Landlord if the tenant of the premises is registered as a Statutory Tenant;

(ii) transfer registered premises to the Statutory Tenant under section 34(1)(a);

(iii) accept, hold, sell or transfer a Bond issued under section 39(1) in respect of registered premises; or

(iv) enter into an agreement incidental to the exercise of a power conferred by this Schedule.