

See also Order 87 - Validation + Indemnity.

Amended by Ord 39-1949.



TRINIDAD AND TOBAGO.

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I ASSENT,

B. E. H. CLIFFORD,
Governor.

29th April, 1943.

AN ORDINANCE to control the rents of small agricultural holdings and to restrict the right to recover possession of such holdings or to evict a tenant therefrom.

[On Proclamation.]

Commencement.

ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Rents of Small Agricultural Holdings Ordinance, 1943, and shall come into force on such date as the Governor may fix by proclamation.

Short title
and com-
mencement.

Interpreta-
tion.

2. In this Ordinance—

“ agricultural purposes ” includes use as a plantation, the growing of crops, silviculture, horticulture, any purpose of husbandry inclusive of the keeping and breeding of livestock, poultry or bees, and the growing of fruit, vegetables and the like, and any combination of any such purposes as are mentioned in this definition ;

“ Board ” means an Agricultural Rent Board constituted under section 3 for the area in which any small holding in question or the major part thereof is situated ;

“ landlord ” includes any person deriving title under the original landlord and any person who is or would but for the provisions of this Ordinance be entitled to the possession of the premises ;

“ let ” includes “ sub-let ” ;

“ small holding ” means a holding not exceeding fifty acres in extent which is used or to be used mainly for agricultural purposes, but does not include—

(a) any premises the rent of which is controlled under the Rent Restriction Ordinance, 1941, or the Rent Restriction (Serviced Premises) Ordinance, 1943, or any Ordinance amending or replacing such Ordinances ; or

(b) any premises the rent of which is not payable wholly in money ; or

(c) any holding which is, or forms part of, a park or race-course ;

“ tenant ” includes a sub-tenant and any person deriving title from the original tenant or sub-tenant, as the case may be ;

“ tenancy ” includes “ sub-tenancy ”.

No. 13 of 1941.

No. 10 of 1943.

Agricultural
Rent Boards.

3. (1) The Governor shall establish, for the purposes of this Ordinance, so many Agricultural Rent Boards as he shall think fit and shall specify in relation to each Board the area in regard to which it may exercise the powers conferred and perform the duties imposed by this Ordinance.

(2) The Governor shall appoint a Chairman of each Board and, in the absence or inability to act of the Chairman, may appoint a person to act temporarily as Chairman.

See also 8/47.

(3) The Governor shall appoint panels of persons from which the members of each Board (other than the Chairman) may be selected.

(4) A Board, at any sitting thereof, shall consist of three members, namely the Chairman and two members to be selected by the Chairman from the appropriate panel appointed under subsection (3).

(5) The Governor may appoint a Secretary and an Assistant Secretary to any Board.

(6) The members and the Secretaries and Assistant Secretaries of the Boards shall receive such remuneration, if any, as the Governor may generally or specially direct.

(7) All appointments under this section shall be during the Governor's pleasure.

(8) No person shall act as a member of a 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 Boards and all appointments under this section shall be published in the *Royal Gazette*.

4. (1) At meetings of a Board, the decision of the majority of the members shall prevail: ^{Proceedings of Boards.} Provided that if no majority decision is reached, the decision of the Chairman shall prevail.

(2) Before making any order, a Board shall give all interested parties an opportunity of being heard and of adducing evidence, except in cases in which provision is made by rules under this section for applications being made *ex-parte*.

(3) Evidence shall be given on oath save in so far as a Board, in its discretion, may permit any evidence to be given on affidavit, and the proceedings of a Board shall be deemed to be judicial proceedings for the purposes of the Perjury Ordinance.

(4) A 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 a Board of which he was a member: And 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 he or they so desire, of adducing evidence in regard thereto.

(5) The Chairman shall have the powers of a Judge of a Petty Civil Court to compel the attendance and examination of witnesses and the production of documents.

(6) The proceedings of Boards shall be open to the public, and minutes thereof, including a summary of the evidence given and a statement of all facts taken into consideration pursuant to the provisions of subsection (4), shall be kept by the Chairman.

(7) An interested party may be represented before a Board by a barrister or solicitor of the Supreme Court.

(8) An order of a 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 production of a copy of the order purporting to be signed by the Chairman or by the Secretary or Assistant Secretary of the Board.

(9) A Board shall have power to award costs which, subject to any rules made under subsection (11), shall be in the discretion of the Board.

(10) When an application has been made to a Board under this Ordinance, the Board may make an order on such application notwithstanding the non-attendance of the applicant or any person interested before the Board.

(11) The Governor in Council may make rules as to the form and manner of applications to the Boards, the fees to be paid, the costs of proceedings before the Boards, the procedure of the Boards, the forms of documents to be issued by the Boards and the manner in which they are to be certified or served. All fees shall be paid into the

general revenues of the Colony. With regard to any matter on which rules under this subsection have not been made, each Board may give such directions, and regulate its procedure in such manner, as may seem just: Provided that no fees shall be taken except in accordance with rules made under this subsection.

(12) An appeal shall lie to the Full Court from any Order of a Board and the procedure in respect of any such appeal shall be such as is laid down in the Summary Courts Ordinance.

Ch. 3. No. 4.

5. Until the standard rent of any small holding is determined by the Board, the standard rent of the holding shall be the rent at which it was let as a small holding on the 1st of January, 1942, or where the holding was not so let on that date the rent at which it was last so let before that date, or if the holding was or is first so let after that date the rent at which it was or is first so let.

Standard rent pending determination by the Board.

6. (1) Where premises are intended to be let as a small holding, the person proposing to let the same may apply to the Board to fix provisionally the standard rent of the premises when so let. In his application, the applicant shall disclose the proposed terms and conditions of the tenancy and, if the premises are later let on such terms and conditions, the rent provisionally fixed shall be the standard rent of the holding.

Determination of standard rent by the Board.

(2) The landlord or the tenant of a small holding may at any time apply to the Board to determine the standard rent of the holding.

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

(4) 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 of January, 1942, if the rates and taxes payable in respect of the holding on that date had been the same as

Approved and replaced by Res 39/1949, sec. 2.

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 of January, 1942, and the date the improvements were effected.

(5) When the standard rent of 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 the previous determination there has been a material change in the circumstances affecting the determination of the standard rent.

(6) The Board may, in its discretion, whenever 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 (4) in respect of two or more small holdings.

Powers of
Governor in
Council as
to standard
rents.

7. The Governor in Council may by order declare that the standard rents of small holdings in any area specified in the order shall be increased or decreased to the extent so specified, and thereupon the standard rents of all such small holdings shall be increased or decreased accordingly.

Standard rent
not to be
exceeded.

8. (1) After the commencement of this Ordinance, the rent of a small holding shall be irrecoverable by the landlord from the tenant to the extent that it exceeds by more than ten per centum the standard rent of the holding, 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) If a landlord receives, or a tenant pays, any rent which is made irrecoverable by this section, he shall be guilty of an offence against this Ordinance unless he proves that he did not know the rent was in excess of the standard rent by more than ten per centum thereof and had taken all reasonable steps to ascertain the standard rent; and if a landlord is convicted of any such offence the court in which the conviction is obtained may, without prejudice to any other right which the tenant may have to recover the rent unpaid, order the landlord to repay the same.

(3) This section shall have effect notwithstanding anything in any tenancy agreement or lease made before or after the commencement of this Ordinance.

9. At the time of the letting of a small holding the landlord shall, unless the rent agreed for that letting automatically becomes the standard rent of the holding, supply the tenant with a written statement of the standard rent of the holding, and if the landlord shall fail so to do he shall be guilty of an offence and shall be liable on summary conviction—

Statements of
standard rent
to be supplied.

- (a) if he has supplied a statement which is wilfully false, the punishment provided in section 15;
- (b) in any other case, to a fine of forty-eight dollars.

10. (1) A person shall not, as a condition of the grant, renewal, or continuance of a tenancy of a small holding, require the payment of any fine, premium or other like sum, or the giving of any consideration in addition to the rent, and where 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 his personal representative.

Restriction on
demand of
premium

(2) Any person after the commencement of this Ordinance 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 Ordinance 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.

Restriction or
right to
possession.

11. (1) No order or judgment for the recovery of possession of a small holding, or for the ejection of a tenant therefrom, shall, whether in respect of a notice given or proceedings commenced before or after the commencement of this Ordinance, be made or given unless the Governor in Council has by order directed that this subsection shall not apply to the case or class of case in question or unless the court is satisfied that—

- (a) some rent lawfully due from the tenant has not been paid for at least thirty days after it became due ; or
- (b) there has been a breach by the tenant of any term or condition of the tenancy, so far as the same is consistent with the provisions of this Ordinance ; or
- (c) the tenant has consistently failed to maintain the holding in a reasonably efficient manner or has otherwise proved himself, for substantial reasons, to be an undesirable tenant of the holding ; or
- (d) the tenant has sub-let, or parted with the possession of, the whole or any part of the holding without either obtaining the consent of the landlord or being expressly authorised by or under the tenancy agreement or lease so to do ; or
- (e) the tenant has given notice to quit, and, in consequence of that notice, the landlord has contracted to sell or let the holding or has taken any other steps as a result of which he would, in the opinion of the court, be seriously prejudiced if he could not obtain possession ; or
- (f) the tenant has been offered by the landlord in writing a new tenancy at a rent which is permissible under this Ordinance (notwithstanding that it may be a higher rent) but otherwise on the same terms as the existing tenancy, and has failed to accept such offer in writing within a reasonable time ; or

- (g) the holding was let to the tenant when he was in the employment of the landlord and would not have been let to him if he had not been in such employment and the employment has terminated ; or
- (h) the landlord has a long-term crop on the holding and such crop has reached or will soon reach the stage when it is necessary that the landlord should resume full possession of the holding for the purpose of cultivating or reaping such long-term crop ; or
- (i) the holding (or any part thereof) is required for building or industrial purposes, including oil prospecting, mining and refining, or for purposes ancillary thereto ; or
- (j) the holding (or any part thereof) is required for public purposes or for the purposes of any municipality or public undertaking ; or
- (k) it is in the interest of public health or public convenience that the order or judgment should be made or given ;

and is further satisfied in any such case as is described in paragraphs (a) to (i) of this subsection that it is reasonable to make or give the order or judgment, having regard to all the circumstances of the case including any hardship which would be caused to the tenant if the order or judgment was made or given and any hardship which would be caused to the landlord if it was refused.

(2) The proviso to section 13 of the Sugar-cane Small Holdings Ordinance shall not apply to small holdings during the continuance in force of this Ordinance: Provided that, save as above, nothing in this Ordinance shall prejudice the operation of the Sugar-cane Small Holdings Ordinance. Ch. 23 No. 11.

(3) Where an order or judgment has been made or given before the commencement of this Ordinance but not executed, and, in the opinion of the court, the order or judgment would not have been made or given if this Ordinance had been in force at the time when such order or judgment was made or given, the court may, on application of the tenant, rescind or vary such order or judgment or postpone its operation conditionally or

unconditionally in such manner as the court may think fit for the purpose of giving effect to this Ordinance.

(4) A court asked to make such an order or give such a judgment may—

(a) adjourn the application from time to time ;

(b) stay or suspend execution of the order or judgment, or postpone the date of possession for such period as it thinks fit, and from time to time grant further stays or suspensions of execution and further postponements of the date of possession.

Any such adjournment, stay, suspension or postponement may be granted subject to such conditions, if any, as the court thinks fit, and, if such conditions are complied with, and the order has been made or the judgment given, may discharge or rescind the order or judgment.

(5) If, after a landlord has obtained an order or judgment for possession or ejection under this section, it is subsequently made to appear to the court that the order or judgment was obtained by misrepresentation or the concealment of material facts, the court may order the landlord to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as a result of the order or judgment.

Conditions of
statutory
tenancy.

12. (1) A tenant who, under the provisions of this Ordinance, retains possession of any small holding shall, so long as he retains possession, observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as the same are consistent with the provisions of this Ordinance, and shall be entitled to give up possession of the small holding only on giving such notice as would have been required under the original contract of tenancy: Provided that, notwithstanding anything in the contract of tenancy, a landlord who obtains an order for the recovery of possession of a small holding or for the ejection of a tenant retaining possession as aforesaid shall not be required to give any notice to quit to the tenant.

(2) Any tenant retaining possession as aforesaid shall not, as a condition of giving up possession, ask to receive the payment of any sum, or the giving of any other consideration, by any person other than the landlord, and any person acting in contravention of this subsection shall be guilty of an offence against this Ordinance, and the court by which he was convicted may order any such payment or the value of any such consideration to be paid to the person by whom the same was given, but any such order shall be in lieu of any other method of recovery.

(3) Where the interest of a tenant of a small holding is determined, either as the result of an order or judgment for possession or ejection, or for any other reason, any sub-tenant to whom the premises or any part thereof have been sub-let either with the consent of the landlord or in accordance with express authority conferred by or under the tenancy agreement or lease shall, subject to the provisions of this Ordinance, be deemed to become the tenant of the landlord on the same terms as he would have held from the tenant if the tenancy had continued.

13. 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 Ordinance is irrecoverable, or, where any such entry has before the commencement of this Ordinance 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 Ordinance and shall be liable to a fine of ninety-six dollars.

False entries
in rent books.

14. (1) The Governor may appoint one or more persons to be Rent Inspectors for the purposes of this Ordinance either for the whole Colony or for any specified area or areas.

Rent Inspect-
ors.

(2) It shall be the duty of the Rent Inspectors to make enquiries with a view to ascertaining whether the provisions of this Ordinance are being duly complied with, to investigate any cases of suspected non-compliance, and to report any cases of non-compliance to a member of the Police Force.

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

(a) inform him of the standard rent of the holding and of the actual rent paid for the holding ;

(b) produce to him any available documentary evidence of the standard rent and 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 Ordinance.

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

(5) Any person who shall obstruct a Rent Inspector in the exercise of the powers conferred by this section shall be liable on summary conviction to a fine of one hundred and twenty dollars.

(6) A Rent Inspector generally or specially authorised in writing in that behalf by the Attorney-General may conduct any prosecution before a summary court for any offence against this Ordinance.

General
penalty.

15. Any person who shall be guilty of an offence against this Ordinance for which no special punishment is provided shall be liable on summary conviction to a fine of four hundred and eighty dollars, or to imprisonment for six months, or to both such fine and imprisonment, or, if such person is a corporation, shall be liable to a fine of one thousand two hundred dollars.

Operation of
Ordinance.

16. Nothing in this Ordinance shall bind the Crown or shall prejudice any rights or powers of the Government.

Passed in Council this sixteenth day of April, in the year of our Lord One thousand nine hundred and forty-three.

W. J. BOOS,
Clerk of the Council.

1943

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