



GUYANA.

BILL No. 1 of 1971.

RICE FARMERS (SECURITY OF TENURE) (AMENDMENT) BILL, 1971.

Arrangement of Sections.

Section.

1. Short title.
2. Amendment of section 2 of the Principal Ordinance.
3. Amendment of section 7 of the Principal Ordinance.
4. Amendment of section 8 of the Principal Ordinance.
5. Amendment of section 13 of the Principal Ordinance.
6. Amendment of section 15 of the Principal Ordinance.

7. Amendment of section 17 of the Principal Ordinance.
8. Amendment of section 26 of the Principal Ordinance.
9. Amendment of section 29 of the Principal Ordinance.
10. Amendment of section 31 of the Principal Ordinance.
11. Amendment of section 33 of the Principal Ordinance.
12. Amendment of section 34 of the Principal Ordinance.
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15. Amendment of section 38 of the Principal Ordinance.
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17. Amendment of section 40 of the Principal Ordinance.
18. Amendment of section 43 of the Principal Ordinance.
19. Amendment of section 51 of the Principal Ordinance.
20. Amendment of section 56 of the Principal Ordinance.
21. Amendment of the Principal Ordinance.

A BILL

Intituled.

AN ACT to amend the Rice Farmers (Security of Tenure) Ordinance, 1956.

A.D. 1971.

Enacted by the Parliament of Guyana :—

Short title.
No. 31 of
1956.

1. This Act which amends the Rice Farmers (Security of Tenure) Ordinance, 1956, may be cited as the Rice Farmers (Security of Tenure) (Amendment) Act, 1971.

Amendment
of section 2
of the
Principal
Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended in the following respects

- (a) by the insertion immediately after the word "paddy", appearing in the definition of "estate charges", of the words "but shall not include expenses incurred by a landlord in the employment of an agent or in the administration of his business as a landlord";
- (b) by the insertion immediately after the word "person" appearing in the definition of "landlord" of the words, "other than the State or the Guyana Rice Corporation"; and
- (c) by the substitution for the definition of "tenant" of the following definition —

"tenant" includes —

 - (i) a sub-tenant and the executor, administrator, transferee or legatee of a tenant or sub-tenant, or other person deriving title from a tenant or sub-tenant; and

- (ii) for the purpose of the due appearance by the tenant before a committee, a person who to the committee's satisfaction cultivates or manages the holding on behalf of a tenant; '.

3. Section 7 of the Principal Ordinance is hereby amended in the following respects — Amendment of section 7 of the Principal Ordinance.

- (a) by the insertion in subsection (1) immediately after the word "landlord" of the words "other than a landlord of rice lands not exceeding in the aggregate five acres, the proof whereof shall lie on him,"; and
- (b) by the insertion in subsection (3) immediately after the word "dollars" of the words "and in relation to any period during which such failure subsisted or continues he shall not be entitled to any of the privileges, benefits or protection conferred upon a landlord by this Ordinance".

4. Subsection (2) of section 8 of the Principal Ordinance is hereby amended by the deletion of paragraphs (b), (c), and (d) and the substitution thereof of the following paragraphs — Amendment of section 8 of the Principal Ordinance.

- "(b) one person who is an Agricultural officer not below the rank of an Agricultural Field Assistant in the Ministry responsible for agriculture;
- (c) two persons who are landlords of rice lands in the area in respect of which the committee is appointed;
- (d) two persons who are tenants of rice lands in the area in respect of which the committee is appointed".

5. Section 11 of the Principal Ordinance is hereby amended by the re-lettering of paragraph (l) as paragraph (n) and the insertion of the following paragraphs — Amendment of section 11 of the Principal Ordinance.

- "(l) to hear and determine an application for re-instatement by a tenant who alleges that he has been unlawfully dispossessed of his holding by a landlord or his agent and to award damages whether in lieu of or in addition to an order for re-instatement;
- (m) to hear an application for and certify any amount due to a landlord as rent by a tenant;".

6. Section 15 of the Principal Ordinance is hereby amended by the deletion of the words "under subsection (1) of section 12 of this Ordinance has been made" and the substitution thereof of the words "to the committee has been made under this Ordinance". Amendment of section 15 of the Principal Ordinance.

7. Section 17 of the Principal Ordinance is hereby repealed and the following section substituted therefor — Amendment of section 17 of the Principal Ordinance.

Expenses
and costs.

Cap. 16.

17.(1) The chairman may direct that such reasonable costs, and remuneration on a scale similar to that paid to witnesses under the Summary Jurisdiction (Petty Debt) Ordinance be paid by such of the parties as he thinks fit:

Provided that no such direction shall be made in favour of —

- (a) a tenant where the maximum rent fixed on an application for assessment by him is the same as, or is greater than, the rent actually paid before the investigation; or
- (b) a landlord where the maximum rent fixed on an application for assessment by him is the same as, or is less than, the rent actually paid before the investigation.

(2) Any sum directed to be paid under subsection (1) may be recovered as a debt due under the Summary Jurisdiction (Petty Debt) Ordinance."

Cap. 16.

Amendment
of section 26
of the
Principal
Ordinance.

8. (1) Section 26 of the Principal Ordinance is hereby amended in the following respects —

- (a) by the insertion in subsection (7) immediately after the word "final" of the words "except that an appeal on a question of law shall lie to the Full Court of the High Court whose decision shall be final";
- (b) by the substitution in subsection (8) for the words "of the Judge" of the words "on appeal" and for the words "paragraph (b)" of the words "paragraph (a)";
- (c) by the repeal of subsections (9) and (10); and
- (d) by the substitution of the word "court" for the word "Judge" appearing in subsection (11) and the renumbering of that subsection as subsection (9).

(2) Nothing in subsection (1) shall be construed as applying the provisions thereof to any decision of the Judge made or given before the coming into operation of that subsection.

Amendment
of section 29
of the
Principal
Ordinance.

9. Subsection (2) of section 29 of the Principal Ordinance is hereby amended in the following respects —

- (a) by the deletion of the words "of subsections (2), (3) and (4)" appearing in paragraph (j);
- (b) by the substitution of the words "; or" for the comma appearing in paragraph (1);
- (c) by the addition of the following paragraph —
 "(m) the landlord of rice land not exceeding in the aggregate ten acres, the proof whereof shall lie on him, and who is not a tenant requires the land for his own use in the cultivation of paddy"; and

- (d) by the substitution of a colon for the full stop appearing at the end of the subsection and the addition of the following proviso —

“Provided that no order or judgement for the recovery of possession or for the ejectment of a tenant shall be made or given —

- (a) by reason of the non-payment of rent if the tenant's failure to do so has been occasioned by a total failure of his crop on account of an act of God, the proof whereof shall lie on the tenant; or
- (b) under paragraph (m) unless the committee is satisfied that the landlord would suffer greater hardship than his tenant unless he is granted possession and for that purpose shall, having regard to all relevant circumstances consider whether other rice lands are available to the tenant or under cultivation by him and, if so, whether any undue economic hardship would ensue to the landlord should an order be refused.”

10. Section 31 of the Principal Ordinance is hereby amended by the insertion immediately after the word “zone” of the following words “and if no crop has been planted, then on 30th April next”.

Amendment
of section 31
of the
Principal
Ordinance.

11. The proviso to section 33 of the Principal Ordinance is hereby amended by the substitution of the words “(k), (l) or (m)” for the words “(k) or (l)”.

Amendment
of section 33
of the
Principal
Ordinance.

12. Section 34 of the Principal Ordinance is hereby amended in the following respects —

Amendment
of section 34
of the
Principal
Ordinance.

- (a) by the insertion immediately after the word “consent” of the words “in writing signed in the presence of two witnesses one of whom shall, in the case of a tenant being unable to sign his name, be a justice of the peace or a member of the local government authority for the area where the holding in question is situated”;
- (b) by the renumbering of the section as section 34(1) and the addition of the following subsections —

“(2) Where a tenant has been dispossessed of his holding by a landlord, otherwise than as provided in this Ordinance, a committee may, upon an application by the tenant and on proof of such dispossession, order that the tenant be re-instated and, whether in addition thereto or in lieu thereof, issue a certificate awarding such sum as the committee considers reasonable as damages.

(3) Without prejudice to the provisions of subsection (2) a landlord who dispossesses, or causes to be dispossessed, a tenant of his holding, otherwise than as provided in this Ordinance, shall be liable on summary conviction to a fine of one thousand dollars and, in addition, to a fine of ten dollars for each day the tenant is kept out of possession."

Amendment
of section 36
of the
Principal
Ordinance.

13. Section 36 of the Principal Ordinance is hereby amended in the following respects —

- (a) by the repeal of subsections (2), (3) and (4) and the substitution therefor of the following subsection —
“(2) If a tenant desires to transfer his agreement of tenancy and his landlord is or appears to be unwilling to give his consent to the transfer, the tenant may make application in writing to the assessment committee for the area in which his holding is situate for an order that he is entitled to transfer his agreement of tenancy on a day specified without the consent of the landlord.”; and
- (b) by the re-numbering of subsections (5) and (6) as subsections (3) and (4), respectively.

Amendment
of section 37
of the
Principal
Ordinance.

14. Section 37 of the Principal Ordinance is hereby amended in the following respects —

- (a) by re-numbering the section as section 37(1); and
- (b) by the addition of the following subsection —
“(2) In the event of a tenant dying intestate —
- (a) the widow or widower who was residing with the tenant at the time of death; or
- (b) where there is no such widow or widower the reputed spouse of the tenant with whom the tenant at the time of his death had his home established for not less than one year prior thereto; or
- (c) where there is no such widow, widower or reputed spouse, such member of the tenant's family or household as was residing with, and dependant upon, the tenant at the time of his death,

shall within six months of the date of death be entitled to make an application for a transfer of the tenancy if the landlord is or appears to be unwilling to give his consent for the transfer and the provisions of subsection (1) shall *mutatis mutandis* apply.”

15. Section 38 of the Principal Ordinance is hereby amended in the following respects -

Amendment
of section 38
of the
Principal
Ordinance.

- (a) by the substitution of a colon for the full stop appearing at the end of subsection (2) and the insertion immediately thereafter of the following proviso ---

“Provided that if the committee considers that the breach by the tenant of the rules of good husbandry is of such a nature that an order for the payment of damages by the tenant to the landlord in lieu of the issue of a certificate would be just and reasonable the committee shall assess and fix the amount to be paid on such terms and conditions as it may determine.”; and

- (b) by the addition of the following subsections ---

“(6) Where at the hearing of an application by a tenant under this section it is alleged by the landlord that, but for the unreasonable refusal of a local government authority to permit him to carry out certain works, he would observe the rules of good estate management, the committee may adjourn the hearing of the application and by notice to that authority require it to be represented before the committee on the date specified in such notice.

(7) Where the authority appears, or fails to be represented, on the specified date the committee may proceed to hear the application and if it is satisfied that the landlord would not have committed a breach of the rules of good estate management but for the unreasonable refusal of the authority the committee shall so state in the certificate issued under this section and any damages to be paid by a landlord pursuant to such a certificate may be recovered by him from the authority and the provisions of section 52 shall *mutatis mutandis* apply.

(8) The procedure set out in section 12 shall *mutatis mutandis* apply to an application made under this section.

(9) The provisions of section 26 (regarding an appeal by a landlord or tenant) shall *mutatis mutandis* apply to a local government authority dissatisfied with a decision of a committee under subsection (7), and in any such appeal by the authority, the tenant and the landlord in proceedings before the committee from which the appeal is brought shall be the respondents to the appeal.”

16. Section 39 of the Principal Ordinance is hereby amended in the following respects ---

Amendment
of section 39
of the
Principal
Ordinance.

- (a) by the deletion from subsection (1) of the words "to give his tenant notice of his intention"; and
- (b) by the repeal of subsections (3) and (4).

Amendment
of section 40
of the
Principal
Ordinance.

17. Section 40 of the Principal Ordinance is hereby amended by the insertion in subsection (1) immediately after the words "rice land" of the words "in accordance with section 29(2) (m) or".

Amendment
of section 43
of the
Principal
Ordinance.

18. Section 43 of the Principal Ordinance is hereby amended in the following respects—

- (a) by the deletion of paragraph (a) of subsection (1) and the substitution therefor of the following paragraph—

"(a) if, within five years of such order or judgment, the landlord without first obtaining the permission of the committee, sells or otherwise disposes of the holding, or uses, or permits to be used, or lets, the holding for any purpose other than that which constituted the ground on which the order was made or the judgment was given;"

- (b) by the substitution for the words "two hundred and fifty dollars", appearing in subsection (1) of the words "five hundred dollars and, in addition thereto, a sum of one hundred dollars for every acre in excess of five acres in respect of which the order was made"; and
- (c) by the substitution for the words "the decision of the Judge," in paragraph (c) of the proviso to subsection (4), of the words "any order entered pursuant to the disposal of the appeal,".

Amendment
of section 51
of the
Principal
Ordinance.

19. Subsection (1) of section 51 of the Principal Ordinance is hereby amended by the substitution of a colon for the full stop at the end thereof and the addition of the following proviso—

"Provided that—

- (a) any sum due as rent by a tenant in respect of rice lands may only be sued for upon a certificate of a committee issued pursuant to an application under paragraph (m) of section 11, such certificate being *prima facie* evidence of the amount due at the date of issue;
- (b) notwithstanding anything to the contrary in any law the State or the Guyana Rice Corporation may institute a claim for such an amount in like manner without any such certificate."

20. Section 56 of the Principal Ordinance is hereby amended in the following respects—

Amendment
of section
of the
Principal
Ordinance

- (a) by the deletion of the words "oxen (not exceeding four oxen for every five acres or part thereof) for such period as may be necessary during any year" and by the substitution therefor of the words "cattle (not exceeding eight heads for the first ten acres or part thereof and not more than four each additional five acres) for that period of the year during which no crop is planted";
- (b) by the repeal of subsection (3) and the substitution therefor of the following subsection—

"(3) Any tenant who by any wilful or negligent act or omission permits any cattle kept and used on his holding in accordance with the provisions of subsection (1) to damage the property of the landlord, or retains such cattle on his holding during a period otherwise as permitted by that subsection, after having been notified in writing by the landlord to remove such cattle, shall on summary conviction thereof be liable to a fine of fifty dollars."

21. The Principal Ordinance is hereby amended in the following respects—

Amendment
of the
Principal
Ordinance.

- (a) by the substitution of the word "Minister" for the words "Governor" and "Governor in Council" wherever they respectively appear;
- (b) by the repeal of sections 57, 59, 60 and 61; and
- (c) by the renumbering of section 58 as section 57.

EXPLANATORY MEMORANDUM

The Bill endeavours to effect amendments to the Rice Farmers (Security of Tenure) Ordinance, 1956 by introducing certain measures which are considered desirable having regard to difficulties encountered in the administration of the Ordinance since its enactment.

Clause 2 of the Bill endeavours to clarify what are not estate charges, to exclude the State and the Guyana Rice Corporation from the application of the Ordinance and to enable a tenant to appear before a committee by another person in his stead.

Clause 3 seeks to amend section 7 of the Ordinance so as to exempt a landlord whose total acreage of rice lands, wherever situated, does not exceed 5 acres, from the requirement of keeping an annual

register. Furthermore, an additional penalty is provided by that clause for breach of the requirement by depriving the defaulting landlord from the benefits and privileges of the Ordinance.

Clause 4 seeks to increase the membership of landlords' and tenants' representatives and to substitute for the government members certain agricultural officers.

Section 11 of the Ordinance has been interpreted to exclude a committee's jurisdiction in proceedings for the recovery by the tenant of holdings from which he was wrongfully dispossessed. Consequently clause 5 seeks to confer this jurisdiction and in addition to enable the committee to certify the amount due as a preliminary to any claim by a landlord for rent.

Clauses 6 and 7 seek to give the committee the right of inspection in all instances and to empower it to award costs and other remuneration.

Clause 8 seeks to enable a decision of a judge in Chambers to be subject to a further right of appeal to the Full Court of the High Court.

Section 29 of the Ordinance is sought to be amended by clause 9 to permit a landlord who does not own more than 10 acres of rice land to recover possession of his lands for his own use for the cultivation of paddy and also to prohibit an order for possession being made against the tenant for non-payment of rent where it is proven by the tenant that his failure is due to certain circumstances.

Clause 12 endeavours to remove many disputes arising as to whether a tenancy was determined by mutual consent by making it a requirement in section 34 that the consent be in writing. This clause also seeks to provide a remedy to a tenant who has been wrongfully dispossessed of his holdings by permitting the committee to make an order for re-instatement.

Clauses 13 and 14 relate to the procedure of transfers of tenancies and, in particular, enable certain categories of persons to seek a transfer of tenancy where the original tenant has died.

Section 38 of the Ordinance is sought to be amended by clause 15 to provide for a landlord to be indemnified by a local government authority where the award of damages has been made in favour of a tenant for the breach of the rules of good estate management by the landlord and which breach would not have been occasioned but for the unreasonable refusal of the local government authority to permit the landlord to carry out certain works.

Clauses 17, 18 and 19 seek to check certain abuses of the Ordinance by making it respectively—

- (a) an offence for a landlord to obtain an order for possession under paragraphs (k) or (m) of section 29 and to have the land used contrary thereto;
- (b) a requirement that the landlord obtains from the committee a certificate showing the amount due as rent before the landlord could recover the amount as a civil debt.

Clause 20 seeks to adapt section 56 of the Ordinance to present day practice.

Clauses 10 and 11 seek to introduce certain consequential changes in the light of the foregoing proposed amendments consequent on the experience gained in the administration of the Ordinance.

Clause 21 seeks to vest the powers of the President under the Ordinance in the Minister responsible for agriculture and also to repeal the provision in the Ordinance (section 59) which required the Ordinance to be continued in force from time to time by means of a resolution of the National Assembly.

P. A. REID,
Deputy Prime Minister and
Minister of Agriculture.