

**Security of Tenure of Small Holdings**

Cap. 237.

**SECURITY OF TENURE OF SMALL HOLDINGS  
RULES, 1957**LN  
1957/114.

**Authority:** These rules were made on 19th September, 1957 by the Governor-in-Executive Committee under section 32 of the *Security of Tenure of Small Holdings Act*.

**Governor-in-Executive Committee:** This power is now exercised by the Minister responsible for Agriculture.

**Commencement:** 14th November, 1957.

1. (1) These Rules may be cited as the *Security of Tenure of Small Holdings Rules, 1957*.

(2) In these rules "Magistrate" means the Magistrate exercising civil jurisdiction.

2. (1) An application to a Small Holdings Committee to terminate the tenancy of an agricultural holding or house-spot on a date prior to the date specified in any notice served for the purpose of terminating such tenancy shall be made by delivering to the Clerk of the magisterial court of the District in which the land or part of the land affected by such notice is situate, an application according to Form "A" in the *Schedule* signed by the applicant.

(2) Where in the case of any agricultural holding or house-spot the land or part of the land affected by a notice served for the purpose of terminating the tenancy is situate within District A every such application shall be delivered to the Clerk of the magisterial court of which the Magistrate is the Chairman of the Small Holdings Committee for that District.

(3) The Clerk of each magisterial court shall make out a list of all such applications delivered to him in the order in which they were presented and the applications shall so far as conveniently may be, be tried in the order in which they stand in the list.

(4) In the event of more applications than one relating to the same tenancy being delivered to the Clerk of the magisterial court

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they shall be bracketed together in the list and shall be dealt with as one standing, unless the Chairman of the Small Holdings Committee otherwise directs, in the list in the place where the first of them stood.

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3. Every application to have determined the amount (if any) to be paid by way of compensation under section 24 of the Act or the amount (if any) to be paid under section 43, 45 or 49 of the *Landlord and Tenant Act*, hereinafter referred to as an application for the settlement of compensation, shall be made out in duplicate by the applicant who shall deliver or cause to be delivered together the two copies made out by him to the Clerk of the Magistrate's Court (Civil Jurisdiction) of the magisterial district in which is situate the whole or any part of the land to which the application relates.

4. An application for the settlement of compensation shall be according to Form B in the *Schedule*.

5. Applications for the settlement of compensation may be made not earlier than 28 days prior to the termination of the tenancy of which the applicant is the landlord or tenant thereof or agent of such landlord or tenant and not later than 14 days after the date of termination of the said tenancy: but applications relating to any tenancy terminated prior to 31st August, 1955 may be made within 6 weeks of the date of the coming into force of these rules.

6. The Clerk of the Magistrate's Court (Civil Jurisdiction) to whom any application for the settlement of compensation is delivered shall as soon as practicable after delivery of an application to him cause to be served on the person named in the application as the defendant, a copy of the application by delivering it to such person or by leaving it with some adult person at the address stated in the application as the address of the defendant and shall cause to be served on both parties to the application by delivering personally to them or by leaving with some adult person at their addresses as stated in the application a notice appointing a day or days not later than the 5th day of service of the notice as a day or days on which the parties to the application or any person authorised in writing by either of them

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may enter on the land for the purpose of inspecting the land with a view to assessing the compensation payable and specifying as the time within which nominations and appointments or arbitrators may be made a period of 7 days commencing with the date of service of the notice.

7. Every nomination and appointment of an arbitrator by the parties to an application shall be confirmed by a notice in writing signed by the landlord or tenant as the case may be or their agents and by the person accepting such appointment. Such notice shall state the names and address of the party to the application by whom such appointment was made and the names and address of the person so appointed and shall be delivered to the Clerk of the Magistrate's Court (Civil Jurisdiction) within 7 days of the date of service of the notice referred to in rule 6.

8. If a notice in accordance with the provisions of rule 7 is not delivered to the Clerk of the Magistrate's Court (Civil Jurisdiction) within the time specified by that rule the Clerk of the said Court shall forthwith inform the Magistrate of that Court who shall as soon as practicable thereafter appoint an arbitrator.

9. As soon as practicable after the appointment of the 2 arbitrators, the Clerk of the Magistrate's Court (Civil Jurisdiction) shall cause a notice in writing fixing the day, hour and place for the hearing of the application to be served on the applicant, the defendant and the 2 arbitrators by delivering a copy of such notice to such persons or by leaving a copy of such notice with some adult person at the last known place of abode of such persons.

10. If any arbitrator shall without sufficient excuse for his absence fail to appear at the place and time specified either in a notice issued pursuant to rule 9 by the Magistrate for the continuation of the proceedings he shall be guilty of an offence and liable on conviction by a Court of summary jurisdiction to a fine not exceeding \$50.

11. Failure on the part of an arbitrator to appear either in answer to the notice issued pursuant to rule 9 or in compliance with any direction of the Magistrate specifying the place and time for the continuation of proceedings may be deemed by the Magistrate a refusal on the part of the arbitrator to act.

**12.** If on the day fixed for the hearing of an application or at any continuation or adjournment of the proceedings a party to the proceedings or his agent shall not appear or sufficiently excuse his absence the Magistrate may direct the hearing of the application to commence or as the case may be to be continued on the part of the other party to the proceedings only and any award made thereupon shall be as valid as if both parties had attended.

**13.** If on the day fixed for the hearing of an application or at any continuation or adjournment of the proceedings neither party to the proceedings nor their agents shall appear or sufficiently excuse their absence the Magistrate may strike out the application.

**14.** At the completion of the evidence the Magistrate shall determine.

- (a) whether or not the parties to the application are the landlord and tenant of the land in question or, as the case may be, the agents of such landlord and tenant;
- (b) whether or not the land in question is, or, as the case may be, was an agricultural holding held under a contract of tenancy; and
- (c) the matters (if any)
  - (i) in respect of which compensation is payable;
  - (ii) to be taken into account in reduction of the amount of compensation; and
  - (iii) to be taken into account for the purpose of adding a further sum to the amount of compensation payable;

and shall then direct the arbitrators in any case where an amount to be paid in respect of any such matters has not been agreed upon by the parties or has not been determined by the Magistrate in determining any of the aforesaid matters to fix such amount.

**15.** For the better determination of any amount to be fixed in respect of any matters which the Magistrate shall have referred to the arbitrators pursuant to rule 14 the Magistrate may appoint a day or days when they may enter the land, the subject of the application for the purpose of inspecting the land with a view to assessing the compensation payable in respect of such matters.

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16. Within a time appointed by the Magistrate at the conclusion of the evidence on the hearing of an application for the settlement of compensation the arbitrators shall if they agree upon an award send or deliver to the Clerk of the Magistrate's Court (Civil Jurisdiction) their award signed by them, but if they shall fail to agree upon an award each may send or deliver to the Clerk of the Magistrate's Court (Civil Jurisdiction) within the said time their separate assessments of the amounts payable in respect of the matters referred to them pursuant to rule 14.

17. Every award made pursuant to subsection (7) of section 28 of the Act shall be according to Form C in the *Schedule* and any separate assessment referred in rule 16 shall be according to Form D in the *Schedule*.

18. Either party to an arbitration for settlement of compensation may appeal to the Divisional Court from an award entered as a judgement of the Magistrate's Court (Civil Jurisdiction) just as in the case of a judgement of any Magistrate save that the manner of making known to the Magistrate the intention to appeal and of giving to the other party notice of intention to appeal shall be by a notice in writing setting forth the question of law the ground of the appeal.

19. The court by which any question of law, the ground of an appeal against an award for settlement of compensation, is decided may give to the Magistrate such directions as it shall think fit for amending such award or for striking out such award from the records of the Magistrate's Court and shall in any case where the court is satisfied that the Magistrate erred in including or excluding any matter in his direction to the arbitrators made pursuant to rule 14, direct the Magistrate in any case where such matter was

- (a) wrongly included to delete from the award the matter so included and any sum payable in consequence thereof;
- (b) wrongly excluded to insert in the award the matter so excluded and to determine as he shall think fit the amount of any sum payable in consequence thereof.

20. In awarding costs in respect of proceedings arising out of an application for the determination of compensation, the Magistrate may provide for the payment to each witness of a sum

not exceeding \$1 for each day that the witness attends the court and for the payment to each arbitrator of a sum not exceeding \$5 for each day he attends the court.

21. Where applications for the settlement of compensation are delivered to the Clerk of the Magistrate's Court (Civil Jurisdiction) by both a landlord and tenant of the same land or by the agents of both or either of them such applications shall be dealt with as one.

22. Where by reason of any land being situate in more than one magisterial district

(a) applications to terminate the tenancy of the same agricultural holding or house-spot on a date prior to the date specified in any notice served for the purpose of terminating such tenancy are made to more than one Small Holdings Committee; or

(b) applications for the settlement of compensation in respect of that land are delivered to the Clerks of more than one Magistrate's Court (Civil Jurisdiction)

or where for any reason any such applications made to the same Small Holdings Committee or to the Clerk of the same Magistrate's Court (Civil Jurisdiction) by both the landlord and tenant or their agents are not heard together, the decision of the Small Holdings Committee that first determines the issue or as the case may be, the award settling the compensation payable first entered as a judgment of the Magistrate's Court shall be the decision or as the case may be the award for all such applications relating to the same matter.

23. If any person shall make an application to a Small Holdings Committee to terminate the tenancy of an agricultural Holding or house-spot on a date prior to the date specified in any notice served for the purpose of terminating such tenancy without having first withdrawn a like application previously made by him or on his behalf to any other Small Holdings Committee, or if any person shall deliver to the Clerk of a Magistrate's Court (Civil Jurisdiction) an application for the settlement of compensation without having first withdrawn a like application previously delivered by him or on his behalf to the Clerk of any other

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Magistrate's Court (Civil Jurisdiction) he shall be guilty of an offence and liable on conviction by a Court of summary jurisdiction to a fine not exceeding \$50 or to imprisonment for a term not exceeding 1 month or to both such fine and imprisonment.

24. In the event of it being established to the satisfaction of the Chairman of a Small Holdings Committee or to the Magistrate that any application pending or at issue before him relates to any tenancy in respect to which a like application is pending or at issue before another Small Holdings Committee or Magistrate or another Magistrate's Court (Civil Jurisdiction), such Chairman or Magistrate may make arrangements with the Chairman or Magistrate of the other Small Holdings Committee or Magistrate's Court (Civil Jurisdiction) as the case may be, for the purpose of determining which of the applications should not be heard or should cease to continue to be heard.

25. The form of oath or affirmation required by subsection (1) of section 21 and subsection (5) of section 28 of the Act shall be the same as the form of oath or affirmation made by witnesses in proceedings on complaints before Magistrates.

26. The form of oath or affirmation which an arbitrator is required to take by subsection (2) of section 28 of the Act shall be according to Form E in the *Schedule*.

27. Any summons issued pursuant to section 22 or subsection (5) of section 28 of the Act shall subject to such modifications and adaptations as may be necessary be according to the form of summons used for enforcing the appearance of witnesses in proceedings in the Magistrate's Court (Civil Jurisdiction).

28. If any person shall hinder, prevent or obstruct any arbitrator appointed pursuant to these rules from entering any land which pursuant to rule 15 he may have been authorised to enter upon or shall hinder, prevent or obstruct any party to an application for settlement of compensation or any person authorised in writing by such party from entering on any land which pursuant to rule 6 he may have been authorised to enter upon or shall hinder, prevent or obstruct any such arbitrator, party

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or person authorised in writing by such party from carrying out on such land any inspection with a view to assessing the compensation payable he shall be guilty of an offence and liable on conviction by a court of summary jurisdiction to a fine not exceeding \$100 or to imprisonment for a term not exceeding 1 month.

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SCHEDULE

Rule 2

FORM A

Form of application to a Small Holdings Committee to reduce the period of notice for termination of the tenancy of an agricultural holding or house-spot

In the matter of the Security of Tenure of Small Holdings Act, Cap. 237

between

..... Applicant

of

.....

and

..... Defendant

of

.....

I ..... of ..... \*landlord of the \*agricultural holding comprising (area or approximate area) of tenant house-spot

land being (description) situate at.....in the parish of.....in the Island of Barbados and held under a contract of tenancy pursuant to the provisions of the Security of Tenure of Small Holdings Act, Cap. 237, hereby make application to have the tenancy of the said \*agricultural holding terminated on a day prior to the.....day of.....

house-spot

19..... being the day specified in a notice served \*by me on the..... on

day of.....19..... for the termination of the said tenancy.

Dated this..... day of..... 19.....

.....

\*Landlord/tenant.

\*Delete whatever words are inapplicable.

FORM B

Rule 4

Form of application for the settlement of compensation

In the matter of the Security of Tenure of Small Holdings Act, Cap. 237

between

..... Applicant of

..... and

..... Defendant of

.....

I ..... of .....

\*landlord/agent of the landlord of the parcel of land comprising (area or tenant/agent of the tenant

approximate area) of land being (description) situate at..... in the parish of..... in the Island of Barbados the tenancy whereof \*will terminate on the..... day of..... 19..... hereby make was terminated

application to have determined the amount of compensation payable on the termination of the said tenancy.

Dated this..... day of..... 19.....

\*Landlord/agent of the landlord. tenant/agent of the tenant.

\*Delete whatever words are inapplicable.

Note: 1. This form must be filled out in duplicate

FORM C

Rule 17

*Form of award of arbitrators*

In the matter of the Security of Tenure of Small Holdings Act, Cap. 237

between

..... Applicant  
of

.....  
and

..... Defendant  
of

.....

This is the Award of us .....  
of ..... and .....  
of ..... made the .....  
day of.....19.....

Now be it known that we the said .....  
..... and .....  
the duly nominated and appointed arbitrators in the aforesaid Matter hereby  
award the sum of \$..... cents to the said \*Applicant as the Compensation  
Defendant  
payable to him by the said \*Defendant  
Applicant.

The said sum of \$..... cents was arrived at by us as follows:-

Matters taken into account	Amounts agreed upon by the parties	Amounts determined by the Magistrate (Civil Jurisdiction) pursuant to rule 14 of the Security of Tenure of Small Holdings Rules, 1957	Amounts determined by arbitrators in respect of the matters the amounts of which they were directed to fix
<p>Matters in respect of which compensation is payable—</p> <p>(a) .....</p> <p>(b) .....</p> <p>etc.</p>	\$ cents	\$ cents	\$ cents
<p>Matters to be taken into account for the purpose of adding a further sum to the amount of compensation—</p> <p>(a) .....</p> <p>(b) .....</p> <p>etc.</p>	\$ cents	\$ cents	\$ cents
<p>Matters to be taken into account in reduction of the amount of compensation—</p> <p>(a) .....</p> <p>(b) .....</p> <p>etc.</p>	\$ cents	\$ cents	\$ cents

Totals of matters in respect of which compensation is payable and of matters to be taken into account for the purpose of adding a further sum to the amount of compensation ..... \$ less

Totals of matters to be taken into account in reduction of the amount of compensation ..... \$

Grand Total

In witness whereof we have hereto set our signatures this .....day of ..... 19.....

..... Arbitrator

..... Arbitrator

\*Delete whatever is inapplicable.

FORM D

Rule 17

Form of assessment by an arbitrator

WHEREAS I ..... of ..... duly nominated and appointed as an arbitrator in the matter of the Security of Tenure of Small Holdings Act, Cap. 237 between ..... Applicant and ..... Defendant together with ..... of .....

AND WHEREAS I and the said ..... have failed to agree upon an award for the settlement of compensation in the said Matter

NOW THEREFORE pursuant to the provisions of rule 16 of the Security of Tenure of Small Holdings Rules 1957 I hereby make the following assessment

Matters in respect of which arbitrators were directed to fix amounts—	\$	cents
<p>1. Matters in respect of which compensation is payable</p> <p>(a) .....</p> <p>(b) .....</p> <p>etc.</p>		
<p>2. Matters to be taken into account for the purpose of adding a further sum to the amount of compensation</p> <p>(a) .....</p> <p>(b) .....</p> <p>(c) .....</p> <p>etc.</p>		
<p>3. Matters to be taken into account in reduction of the amount of compensation</p> <p>(a) .....</p> <p>(b) .....</p> <p>etc.</p>		

In witness whereof I have hereto set my signature this ..... day of ..... 19.....

.....  
 Arbitrator.

FORM E

Rule 26

*(1) Form of oath to be taken by an arbitrator*

I, ..... of .....  
do solemnly swear that I will faithfully and honestly and to the best of my skill and ability hear and determine the matters referred to me under the provisions of the Security of Tenure of Small Holdings Act, Cap. 237.

*(2) Form of affirmation to be taken by an arbitrator*

I ..... of .....  
solemnly and sincerely affirm that I will faithfully and honestly and to the best of my skill and ability hear and determine the matters referred to me under the provisions of the Security of Tenure of Small Holdings Act, Cap. 237.