

ANGUILLA

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CHAPTER R50

RENT RESTRICTION ACT

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RENT RESTRICTION ACT

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SCHEDULE: Fees

RENT RESTRICTION ACT

Interpretation

1. In this Act—

"building land" means land let to a tenant for the purpose of the erection thereon by the tenant of a building used, or to be used, as a dwelling, or for the public service or for business, trade or professional purposes, or for any combination of such purposes, or land on which the tenant has lawfully erected such a building; but does not include agricultural land to which the Agricultural Small Holdings Act, applies;

"dwelling house" means a house, or part of a house separately let, or a room separately let, which at the material date was or is used mainly as a dwelling, and includes land occupied therewith under the tenancy, but does not include a house, part of a house or room when let with agricultural land;

"furniture" includes fittings, machinery and other articles used in premises not being fixtures;

"landlord" includes any person deriving title under the original landlord and any person who is entitled to the possession of the premises;

"let" includes sublet;

"let furnished" means let at a rent which includes payment for the use of furniture;

"new building" means a dwelling house or a public or commercial building which was first let after the prescribed date;

"premises" includes building land, dwelling houses and public or commercial buildings;

"prescribed date" means the 3rd day of September, 1939;

"public or commercial building" means a building, or part of a building separately let, or a room separately let, which at the material date was or is used mainly for the public service or for business, trade or professional purposes, and includes land occupied therewith under the tenancy but does not include a building, part of a building or room when let with agricultural land;

"Rent Commissioners" means the persons appointed under section 3;

"standard rent", in relation to any premises, means the standard rent of such premises ascertained in accordance with this Act and appropriate to the category of letting in which the premises are let, and, in relation to any premises of which an increase or a decrease of rent has been sanctioned in accordance with this Act, means the rent as so increased or decreased;

"tenant" includes a subtenant and any person deriving title from the original tenant or subtenant, as the case may be;

"tenancy" includes "subtenancy".

Application of Act

2. (1) This Act shall apply to all land which is building land and to all dwelling houses and public or commercial buildings, but this Act shall not apply to any dwelling house *bona fide* let at a rent which includes payment in respect of board, attendance or use of furniture; or to building land while let on a building lease, or a renewal or continuance of a building lease, for a term of 25 years or more.

(2) All building land, dwelling houses and public or commercial buildings to which this Act for the time being applies are hereafter referred to as "premises to which this Act applies".

Appointment of Rent Commissioners

3. (1) The Governor in Council may for the purpose of carrying into effect the provisions of this Act appoint 3 fit and proper persons, one of whom shall be a government officer, to be Rent Commissioners for Anguilla.

(2) The Governor in Council shall appoint one of such persons to be Chairman of the Rent Commissioners.

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

(4) All appointments under this section shall be during the pleasure of the Governor in Council.

(5) The Rent Commissioners, other than the government officer, shall receive, out of funds provided by the Legislature for the purpose, a fee of $3 each for every application heard by the Commissioners.

Standard rent of premises pending determination by Rent Commissioners

4. Subject to the provisions of sections 8, 9 and 10, until the standard rent of any premises in relation to any category of letting has been determined by the Rent Commissioners under sections 5 and 6, the standard rent of those premises in relation to that category of letting shall be the rent at which they were let in that category of letting on the prescribed date or, where the premises were not let on that date, the rent at which they were last so let before that date or, in the case of premises first so let after the prescribed date, the rent at which they were, or are hereafter first so let, but in the case of premises let at a progressive rent payable under a tenancy agreement or lease the standard rent shall, until the tenancy is determined, be the maximum rent payable under the tenancy agreement or lease.

Fixing provisional standard rent of new buildings and new building land

5. (1) Where any new building or new building land is intended to be let without having previously been let, it shall be lawful for any person proposing to let the same to apply to the Rent Commissioners, before the commencement of the tenancy, to fix provisionally the rent which will be the standard rent of the premises when they are so let and the Rent Commissioners may fix such provisional standard rent accordingly.

(2) For the purposes of any such application, the applicant shall disclose to the Rent Commissioners the terms and conditions of the proposed letting and every circumstance which will affect the standard rent of such premises and, if those premises are later let substantially on such

terms and conditions and in such circumstances, the provisional standard rent fixed by the Rent Commissioners shall be deemed to be the standard rent of the premises determined by the Rent Commissioners.

Determination of standard rent

6. (1) The landlord or the tenant of any premises to which this Act applies may at any time, unless the standard rent of such premises has already been determined by the Rent Commissioners, apply to the Rent Commissioners to determine the standard rent thereof.

(2) It shall be lawful for the Rent Commissioners at any time, by notice in writing served on the landlord, to require him to appear before them, within a time to be specified in the notice, for the determination of the standard rent of any premises to which this Act applies, and if the landlord shall fail so to appear, he is guilty of an offence against this Act and is liable upon summary conviction to a fine of $9,600 or to imprisonment for a term of 6 months and the Rent Commissioners may determine such standard rent as though he had so applied.

Statement as to standard rent and rates and taxes to be supplied

7. The landlord of any premises to which this Act applies shall, on being requested in writing by the tenant thereof, supply him with a statement in writing as to what is the standard rent of such premises and also with a statement in writing showing all particulars of rates and taxes payable on such premises, and if without reasonable excuse he fails within 14 days to do so, or supplies a statement which is false in any material particular, he is guilty of an offence against this Act and is liable upon summary conviction to a fine of $9,600 or to imprisonment for a term of 6 months.

Limitation on increase of rent

8. Subject to the provisions of section 17, and save as hereafter in this section provided, it shall not be lawful for a landlord to increase the rent of any premises to which this Act applies beyond the standard rent thereof other than in the case of—

(a) any new building or new building land and unless the increase is sanctioned by the Rent Commissioners;

(b) any premises to which this Act applies, other than a new building or new building land, to an amount which exceeds the standard rent by more than 15% unless the increase is sanctioned by the Rent Commissioners;

in accordance with the provisions of section 9.

Increase of rent

9. (1) On the application of the landlord and subject to the provisions of subsection (2), the Rent Commissioners may sanction an increase of the rent of—

(a) any new building or new building land to which this Act applies; or

(b) any building land or dwelling house or public or commercial building to which this Act applies, other than a new building or new building land;

by an amount which exceeds the standard rent by more than 15%.

(2) The Rent Commissioners may—

(a) where the landlord has since the prescribed date incurred, or hereafter incurs, expenditure—

(i) on substantial improvements or structural alterations to a dwelling house or public or commercial building other than ordinary repairs,

(ii) on substantial improvements made to the roadway adjacent to the land other than necessary maintenance and drainage, or

(iii) in providing a suitable water supply or the extension of such a water supply from which the tenant derives benefit,

sanction an increase of rent by an amount calculated at a rate per annum not exceeding 8% of the amount so expended;

(b) where the landlord has since the prescribed date incurred, or hereafter incurs expenditure in an amount exceeding $200 on repairs to a dwelling house or public or commercial building, sanction an increase of rent by an amount calculated at a rate per annum not exceeding 20% of the standard rent; or

(c) where the rates and taxes payable by a landlord in respect of any premises to which this Act applies have been increased, sanction an increase of rent by an amount not exceeding the amount of the increase in the rates and taxes payable by the landlord in respect of such premises.

(3) If the premises are occupied, a copy of an application under this section shall be served by the landlord on the tenant at least 6 days before the hearing of the application.

Decrease of rent

10. (1) The Rent Commissioners may, on the application of a tenant, sanction a decrease of the rent of any premises to which this Act applies and may on the hearing of such application take into consideration *inter alia* the locality in which such premises is situate and the state of repairs in which such premises is maintained.

(2) A copy of an application under this section shall be served by the tenant on the landlord at least 6 days before the date of the hearing of the application.

Powers of Rent Commissioners

11. On the hearing of any application under section 5, 6, 9 or 10, the Rent Commissioners shall give all interested parties an opportunity of being heard and of adducing evidence and shall try the whole matter of the application and give judgment or make any order thereon, and shall give any direction they may consider necessary to enable them to give a final judgment or to make an order, and may from time to time adjourn the hearing of the application.

Right of appeal

12. (1) If any party to any proceedings before the Rent Commissioners under section 5, 6, 9 or 10 is aggrieved by the decision of the Rent Commissioners, such party may appeal therefrom to a Judge

of the High Court by way of summons in Chambers within 15 days from the date of the decision and shall serve a notice on the Chairman of the Rent Commissioners of his intention to appeal against such decision; but notwithstanding the lapse of such period of 15 days, any such party may appeal against the decision, if he shows to the satisfaction of a Judge that owing to absence from Anguilla, sickness or other reasonable cause, he was prevented from appealing within such period, and that there has been no unreasonable delay on his part.

(2) Such summons shall be served by the appellant on the other party (if any) to the proceedings 2 clear days before the return thereof and shall state concisely the grounds of appeal.

(3) On receipt of the aforesaid notice, the Chairman of the Rent Commissioners shall without delay transmit to the Registrar of the High Court all papers relating to such appeal.

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

(5) The costs of the appeal shall be in the discretion of the Judge hearing the appeal and may be a sum fixed by the Judge.

Rent in excess of standard rent irrecoverable

13. Where the rent of any premises to which this Act applies exceeds the standard rent by more than 15% and the excess is not sanctioned by the Rent Commissioners, the amount by which the rent exceeds the standard rent as increased by 15% shall, notwithstanding any agreement to the contrary, be irrecoverable from the tenant and, if it is paid by the tenant shall be recoverable by him from the person to whom it was paid or his personal representatives 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.

No premium to be chargeable in respect of tenancy

14. A landlord shall not, as a condition of the grant, renewal or continuance of a tenancy of any premises to which this Act applies, require 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 paid or given, the amount or value thereof shall be recoverable by the tenant by whom it was made or given, and without prejudice to any other method of recovery, be deducted from any rent payable by him to the landlord.

Restriction of right to possession

15. (1) No order or judgment for the recovery of possession of any premises to which this Act applies, or for the ejectment of a tenant therefrom, shall be made or given unless—

(a) some rent lawfully due from the tenant has not been paid for at least 60 days after it has become due;

(b) some other obligation of the tenancy (whether expressed or implied) has been broken or not performed and, in the case of non-performance of any such obligation by the tenant, the tenant has been in default for at least 30 days;

(c) the tenant or any person residing or lodging with him or being his subtenant has been guilty of conduct which is a nuisance or annoyance to adjacent or adjoining occupiers, or has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose, or the condition of the premises has, in the opinion of the Court, deteriorated or become insanitary owing to acts of waste by, or the neglect or default of, the tenant or any such person and, where such person is a lodger or subtenant, the Court is satisfied that the tenant has not, before the making or giving of the notice to quit, taken such steps as he ought reasonably to have taken for the removal of the lodger or subtenant;

(d) the premises, being a dwelling house or a public or commercial building, are reasonably required by the landlord for—

(i) immediate occupation as a residence for himself or for some person wholly dependent on him or for any person *bona fide* residing with him, or for any person in his whole-time employment,

(ii) use by himself for business, trade or professional purposes, or

(iii) a combination of the purposes in subparagraphs (i) and (ii);

(e) the premises, being building land, are reasonably required by the landlord for—

(i) the erection of a building to be used for any of the purposes specified in paragraph (d),

(ii) use by himself for business, trade or professional purposes not involving the erection of a building, or

(iii) a combination of such purposes;

(f) the premises, being a dwelling house or a public or commercial building, are required for the purpose of being repaired, improved, or rebuilt, and an undertaking is given that the landlord will, immediately after the completion of the repairs, improvements or rebuilding, give the tenant an opportunity for renewing his tenancy at such rent as the Rent Commissioners may order;

(g) the premises are required for public purposes;

(h) the dwelling house, or the public or commercial building, or the building erected by the tenant on building land, as the case may be, is required by law to be demolished;

(i) the tenant has sublet, or parted with the possession of, the whole or any part of the premises without either obtaining the consent of the landlord or being expressly authorized by or under the tenancy agreement or lease so to do;

(j) the tenant of a dwelling house, or of building land on which the building erected by the tenant is used or is intended to be used mainly as a dwelling, uses the house or building mainly for business, trade or professional purposes without either obtaining the consent of the landlord or being authorized by or under the tenancy agreement or lease so to do;

(k) in the case of building land the building erected thereon has been sold under distress for rent;

(l) the dwelling house has been let to a tenant in the employment of the landlord on condition that the tenancy shall subsist only during the continuance of such employment, or only until the expiration of a period not exceeding one month after the termination of such employment, and the employment has terminated, or such period has expired as the case may be; or

(m) the dwelling house has been let to a tenant in the employment of the landlord in consequence of that employment, and the employment has determined or the landlord has offered the tenant suitable alternative accommodation;

and unless in addition, in any such case as aforesaid, the Court asked to make the order or give the judgment considers it reasonable to make such order or give such judgment, but an order or judgment shall not be made or given—

(n) on the ground specified in paragraph (a) if the Court asked to make the order or give the judgment is satisfied that at any time before the expiration of the period of 60 days the landlord has refused to accept a portion of the rent; or

(o) where the premises being a dwelling house or a public or commercial building are reasonably required by the landlord for immediate occupation as a residence, unless the Court asked to make the order or give the judgment is satisfied—

(i) in a case where such premises are required for the occupation of a person *bona fide* residing with the landlord, that such person was *bona fide* residing with the landlord for not less than 6 months immediately before the date of the service by the landlord upon the tenant of the notice to quit, or

(ii) in a case where such premises are required for the occupation of a person in the landlord's whole-time employment, that having regard to all the circumstances of the case less hardship would be caused by granting the order or judgment than by refusing to grant it; and such circumstances are hereby declared to include the question whether other accommodation is available for the tenant.

(2) A Court asked to make such an order or give such a judgment may—

(a) adjourn the application from time to time; or

(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, the Court may discharge or rescind the order or judgment.

(3) Nothing in this Act shall prevent the making of an order for the ejectment of any person where, in the opinion of the Court asked to make the order, the ejectment is expedient in the interest of public health or public safety.

(4) If, after a landlord has obtained an order or judgment for possession or ejectment under this section, it is subsequently made to appear to the Court that the order 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.

(5) In granting an order or giving judgment under this section for possession or ejectment in respect of building land, the Court may require the landlord to pay to the tenant such sum as appears to the Court to be sufficient as compensation for damage or loss sustained by the tenant, and effect shall not be given to such order or judgment until such sum is paid.

(6) Whenever a landlord has obtained an order or judgment for possession of any premises to which this Act applies on any ground specified in paragraph (1)(d) or (e), and the order or judgment is executed or the tenant voluntarily gives up his tenancy in consequence of that order or judgment, the landlord is guilty of an offence against this Act and is liable upon summary conviction to a fine of $9,600 or to imprisonment for a term of 6 months—

(a) if, without first obtaining the permission of the Rent Commissioners, he uses or permits to be used or occupies or permits to be occupied or lets the premises at any time for any purpose other than the purpose which constituted the ground on which the order was made or the judgment was given; or

(b) if, having obtained permission as aforesaid, he fails to comply with any terms or conditions which the Rent Commissioners may have attached to that permission;

and the Rent Commissioners may decline to grant any such permission as aforesaid in any case in which the landlord has failed to take such steps (if any) to renew the tenancy of the former tenant as the Rent Commissioners may have directed, or in any case in which the Rent Commissioners are not satisfied that the premises will be used, occupied or let to good advantage having regard to any prevailing shortage of similar accommodation.

(7) Where a landlord has obtained an order or judgment for possession or ejectment under paragraph (1)(f), and it is subsequently made to appear to the Court that the landlord has failed to carry out his undertaking, the Court may order the landlord to pay to the tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as the result of the failure on the part of the landlord to carry out such undertaking.

False entries in rent books

16. If any landlord makes or omits to make any entry in any rent book or similar document so that such rent book or similar document shows or purports to show that any tenant is in arrears of more rent than is due with respect to any premises to which this Act applies, then that landlord is guilty of an offence against this Act and is liable upon summary conviction to a fine of $9,600 or to imprisonment for a term of 6 months.

Variations of standard rent

17. Where premises let as a dwelling house on or before the prescribed date have subsequently to that date been let for business, trade or professional purposes, or for the public service, the rent agreed to be paid on the first letting of the premises after the prescribed date, for business, trade or professional purposes or for the public service, shall be regarded as the standard rent and the provisions of section 8 shall not apply in such case.

Powers of Chairman of the Rent Commissioners

18. The Chairman of the Rent Commissioners shall have all the powers of the High Court for the purpose of enforcing the attendance of witnesses, compelling the production of documents and material subjects, administering oaths and taking evidence and amending any defect or error in any proceedings.

Counsel and solicitors

19. On the hearing of any application under this Act any interested party may appear and be heard or may be represented by counsel or solicitor.

Fees

20. In proceedings under this Act before the Rent Commissioners, the fees specified in the Schedule shall be collected by means of stamps and affixed to the relative documents.

Costs

21. (1) The costs of any proceedings under this Act before the Rent Commissioners shall be in the discretion of the Rent Commissioners and shall be limited to the fees payable under section 20 in addition to any reasonable sum not exceeding $15 by way of compensation for the attendance, loss of time and legal or other expenses of parties and witnesses.

(2) The amount of such costs shall be recoverable by suit as a civil debt.

Appointment and duties of Rent Restriction Officer

22. (1) The Governor may appoint a fit and proper person to be Rent Restriction Officer for Anguilla or any part thereof.

(2) It shall be the duty of the Rent Restriction Officer to see that the provisions of this Act are observed by landlords and he may for that purpose require the landlord or the tenant of any premises to which this Act applies to furnish him with such information as he may require in relation to the premises.

Offences

23. (1) Every person who wilfully refuses to furnish any information which he may be required by the Rent Restriction Officer to furnish or, who knowingly furnishes false information, required as aforesaid, is guilty of an offence against this Act and is liable upon summary conviction to a fine of $9,600 or to imprisonment for a term of 6 months.

(2) Every landlord who shall demand or receive a rent in excess of that which is authorized by this Act is guilty of an offence against this Act and is liable upon summary conviction to a fine of $9,600 or to imprisonment for a term of 6 months.

Proceedings for offences, how instituted

24. All proceedings before the Magistrate for an offence against this Act shall be taken in the name of the Rent Restriction Officer.

Citation

25. This Act may be cited as the Rent Restriction Act, Revised Statutes of Anguilla, Chapter R50.

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SCHEDULE

(Section 20)

FEES

Application to sanction an increase or decrease of rent; to determine provisional standard rent, or to fix standard rent	$1.20
Application to summon witnesses—for every witness	.24

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