

Memorandum to Cabinet

Compensation to Outgoing Tenants of Rural Land

The Agricultural Leases (Reletting) Act, 1967 lays down the criteria for the payment of compensation payable to persons deprived of their fields by termination of lease by the owner.

Act No. XXIX of 1969 which amends the Land Acquisition (Public Purposes) Ordinance was consequential to the enactment of the Agricultural Leases (Reletting) Act, 1967, and it introduced in the matter of compensation payable to persons deprived of their fields by expropriation, the same principles governing the compensation payable by a private owner to his tenant, where the latter is deprived of the field (which was let to him) for the purpose of the construction thereon by the owner of "buildings for dwelling, business or industrial purposes".

Such compensation is limited to agricultural produce only and a farmer, who rears animals, is not compensated in respect of animal produce. The situation is considered unfair on the farmer/breeder and is against the Government policy of affording all justified protection to persons engaged in agriculture.

It is, therefore, proposed to amend the Agricultural Leases (Reletting) Act, 1967 and Act XXIX of 1969 which itself amends the Land Acquisition (Public Purposes) Ordinance by the attached amendments which have been vetted by the Crown Advocate General.

Hon. Ministers are asked to agree to the proposed amendments.

MAPC/89/66

13th March, 1971

Proposed amendment to Land Acquisition Act

1. This Act may be cited as the Land Acquisition (Public Purposes) Amendment Act 1971, and shall be used and construed as one with the Land Acquisition (Public Purposes) Ordinance, herein referred to as "The Principal Law".
2. Immediately after section 19A(3) there shall be inserted the following new section:
 - (4) In this section "sale of the products gathered by the tenant" shall be deemed to include animal products such as milk, meat and other similar products. In such cases the period shall be two years instead of four.
3. This amendment shall have effect with regard to any rural land in respect of which the declaration referred to in sub-section (1) of section (8) of the Principal Law as published in the Government Gazette on or after the twentieth June 1967.

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Proposed amendment to Agricultural Leases Act

1. This Act may be cited as the Agricultural Leases (Reletting) Amendment Act 1971 and shall be used and construed as one with the Agricultural Leases (Reletting) Act 1967, herein referred to as "The Principal law".
2. Immediately after section (6) shall be inserted the following new section:

"The words 'value of products gathered' shall be deemed to include animal products such as milk, meat and similar products; but in such cases the period shall be two years instead of four years".
3. This amendment shall have effect from the same date as the principal law.

Copy of Minute from Crown Advocate General
to the Secretary to Cabinet

Secretary to Cabinet

1. I am in the first instance to state that the Bill in question needs redrafting, and, while I can positively state that I have never seen it, I am sure that it was not approved by a law officer in its present form. He may have approved the wording of the new subsection and of the provision of commencement, but no more than that. In any case, if the Cabinet approves the principle of the Bill, I will have to redraft it in its entirety.
2. The adoption of the suggested amendments is a question of policy. But I think I should make some comments.
3. Under the provisions of the Agriculture Leases (Reletting) Act, 1967, if the lessor resumes possession of agricultural land to be used for agricultural purposes by himself or his family he is to pay the tenant a fair compensation in respect of agricultural improvements carried out on the land during the period of 8 consecutive years preceeding the surrender of the land. ~~If the lessor resumes possession of the agricultural land~~ If the lessor resumes possession of the agricultural land for the construction of buildings, for dwellings, business or industrial purposes, he is, in addition, to pay the tenant the value of the products gathered from the land in the last four years preceeding the surrender of the land, after deduction of the expenses incurred towards its cultivation (the tenant's own labour and the labour of the members of his family not being taken into account in assessing such expenses).
4. What is now proposed is that, in the latter case, if the tenant is also rearing animals on the land for business purposes connected with farming, such as sale of milk, meat, etc., he should receive also the value of the animal products obtained during the last two years before the surrender of the land, of course, always after deduction of the expenses.
5. The above amendment is fair enough, but, as it has been already experienced whenever amendments improving this law and the Land Acquisition Ordinance have been brought before the House, further amendments to further ameliorate the position of tenants are likely to be suggested and insisted upon by both sides of the House. This is a point which Ministers may wish to consider when they will be expressing their view on the Bill in question. Indeed, since at present "grazing grounds" are not protected by the said Act, excluded as they are from the scope of the definition of "agricultural land", it seems that the amendments being suggested would render desirable the inclusion of "grazing grounds" within the protection of the Act, since a farm for the breeding of animals may be situated also on "grazing grounds". On the other hand, it is doubtful whether "grazing grounds", in general, deserve such protection or not.
6. The same amendment also is being sought to be introduced to the Land Acquisition (Public Purposes) Ordinance. Subject to the financial resources of the Government, this amendment is fair also within the context of this law and, perhaps, it is more reasonable here, where expropriation of land is involved, than in the case of the termination of a

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lease of his own land by the owner of agricultural land under the provisions of the Agricultural Leases (Renting) Act, 1967.

7. The compensation established by the amendment under reference for the purpose of the Land Acquisition (Public Purposes) Ordinance corresponds, having regard to its nature, to the compensation already established by subsection (16) of Section 25 of the said Ordinance in terms of which, in the case of expropriation of land by Government under title of possession and use or of public tenure, the occupier of a bona fide trading establishment is entitled to additional compensation equal to the value of the goodwill computed at not more than the net profit of the last two years. But he is not entitled to such compensation if he has been given a full year's notice to quit. Thus, the amendment being suggested will create a blatant inequality of treatment between the tenant of agricultural land running a farm (who would be, in any case, entitled to compensation irrespective of how early a notice to quit has been given him) and the tenant of a shop.

8. I need not here make reference to the unfair provision of our law concerning the legal concept of a "building site" in the Ordinance under reference as against the actual potentialities of any site. The legality of such contract has been recently affirmed by the Privy Council but here again, the opportunity may be availed of by any member of the House to raise this question when the proposed amendment will be discussed.

9. I have made the above remarks not in a defeatist spirit, but in order to point out that any amendments of this kind, when brought to the House of Representatives, provoke a chain reaction and elicit from members of both sides of the House requests for further amendments which it is difficult to oppose on the basis of what is reasonable and fair.

sd. (M. Tufigno)
Crown Advocate General

26th March, 1971.

CABINET MEMORANDUM SUBMITTED BY

MEMO. No.

MINISTER OF TRADE INDUSTRY AND AGRICULTURE

1716

SUBJECT

Compensation to outgoing tenants of rural land.

CABINET DECISION REQUESTED

That the Land Acquisition (Public Purposes) Ordinance and the Agricultural Leases (Reletting) Act, 1967, be amended to provide compensation for two years loss of earnings to breeders of livestock.

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