

PAS GÉOMÉTRIQUES ACT

Cap 234 – 30 September 1895

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PAS GÉOMÉTRIQUES ACT

1. Short title

This Act may be cited as the Pas Géométriques Act.

1A. Interpretation

In this Act—

“Chief Surveyor” means the Chief Surveyor of the Ministry;

“Minister” means the Minister to whom responsibility for the subject of lands is assigned;

“Permanent Secretary” means the Permanent Secretary of the Ministry;

“tree”—

(a) includes live and dead timber, and the branches of trees;

(b) does not include brushwood, shrubs, underwood, twigs and creepers.

2. Pas Géométriques

(1) The reserved lands along the sea coast commonly called the Pas Géométriques and referred to in the *Arrêté of Général Decaen* of 5 May 1807, shall form part of the *domaine public* and be inalienable and imprescriptible.

(2) Subsection (1) shall apply to such Pas Géométriques as have reverted or may revert to the State by cession, surrender or otherwise.

3. Breadth of Pas Géométriques

(1) The breadth of the Pas Géométriques shall be reckoned from the line of the seashore which is reached by high water at spring tide, and shall never be less than 81 metres and 21 centimetres.

(2) The boundary line of the Pas Géométriques shall, as far as the locality admits, be parallel to the lines of the coast considered as a whole and without regard to its small irregularities.

4. Annexes of Pas Géométriques

(1) The ponds of sea water, salt water marshes, lakes, bogs and basins situate wholly or partly upon the Pas Géométriques, the islets adjacent to the shore and which can be reached on foot at low tide, the creeks at the mouths of rivers, and the mouths of rivers, shall be deemed annexes of the Pas Géométriques, shall form part of the *domaine public* and shall be inalienable and imprescriptible.

(2) Subsection (1) shall apply to such annexes as have reverted or may revert to the State by cession, surrender or otherwise.

5. Survey of Pas Géométriques

The Permanent Secretary may make, or cause to be made by any Government or other Land Surveyor, the survey and plan of any Pas Géométriques, and for this purpose, he or any such surveyor may enter any adjoining private land.

6. Notice of survey to occupier

(1) (a) Where the Chief Surveyor thinks it expedient to survey or cause to be surveyed any portion of the Pas Géométriques, the Attorney-General, on the application of the Chief Surveyor, may cause a notice to be served upon any occupier of the portion of the Pas Géométriques intended to be surveyed, in order that the occupier may produce his permission of settlement or title deed within a reasonable period.

(b) The notice shall be served one month at least before the survey actually takes place.

(2) (a) Subject to paragraph (b), where the person called upon to produce his permission of settlement or title deed refuses, neglects or is unable to do so within the specified time, the Chief Surveyor shall, after 4 days' notice given to the parties interested of the day of survey, proceed to survey that portion of the Pas Géométriques *ex parte*, and the memorandum of survey signed by the Chief Surveyor shall, upon production of the notice duly served and an affidavit that the party summoned to produce his permission

of settlement or title deed has not produced it within the specified period, be evidence before all Courts of the boundaries and extent of such portion of the Pas Géométriques.

(b) A party who may have been prevented from producing his titles shall within 6 months be entitled to claim a new survey, at his own expense.

7. Grant of leases

(1) (a) Subject to this Act, the Minister may grant, by private contract or by public auction, leases of Pas Géométriques or annexes for any period not exceeding 30 years and upon such terms as to the payment of rent and other conditions as may be approved by the Minister.

(b) Subject to paragraph (c), where in furtherance of the objects of a Cyclone Housing Scheme under the Central Housing Authority Act, it is necessary—

- (i) to exchange leases of Pas Géométriques for leases of private property; or
- (ii) to grant leases of Pas Géométriques on which houses may have been built under a Cyclone Housing Scheme,

the Minister may grant leases for a period exceeding 30 years but not exceeding 99 years.

(c) Section 22 shall not apply to leases of Pas Géométriques granted under paragraph (b).

(2) Notwithstanding any other enactment, rent shall be payable in advance and, in default of payment of any instalment within one month after service of a notice claiming payment, the Minister may, by Order in writing, cancel the lease, and thereupon the Government shall be entitled without any further formality to resume possession of the land.

(3) (a) Where the lessee in the exercise of his rights under the lease has cultivated the land, possession of which is resumed by Government, the Minister shall assess the value of the plantations existing at the time of resumption of possession and shall, after deducting from the assessment the arrears of rent due, pay over to the lessee as compensation an amount equal to any excess of the assessment over the arrears of rent due.

(b) Where the assessment has been made, the lessee shall be made aware of it and shall be informed of his right of appeal under subsection (4).

(4) Any lessee aggrieved by the assessment made under subsection (3) may appeal to the Magistrate of the district where the land is situate.

(5) Every appeal before the District Court shall be by plaint with summons, and shall be heard and determined according to the procedure laid down in the District and Intermediate Courts (Civil Jurisdiction) Act.

(6) The plaint shall state the grounds of appeal, and the appellant shall not be allowed to adduce evidence of any ground which is not included in the plaint.

(7) The plaint shall be lodged with the District Clerk within 10 days after notification to the appellant of the assessment complained of.

(8) In giving his decision in any appeal, the Magistrate may dismiss the appeal or vary the assessment, with or without costs.

8. Lessee to plant trees

In every lease of Pas Géométriques which are not already planted with trees, a clause shall be inserted, unless the Minister otherwise orders, imposing on the lessee the obligation of planting every year one fifth of the land not planted until the whole has been planted, and of maintaining the trees so planted in a proper state of cultivation.

9. Transfer of lease

(1) Subject to subsection (2), in all leases of Pas Géométriques, there shall be inserted a condition that if any transfer of the lease is made without the express consent in writing of the Minister, the lease shall be held to be forfeited, together with the buildings and the plantations existing upon the land leased.

(2) Subsection (1) shall not apply to a campement site lease granted under section 10 (1) and (3).

[S. 9 amended by s. 26 of Act 18 of 2008 w.e.f. 19 July 2008.]

10. Leases of small portions

(1) Notwithstanding this Act, the Minister may grant, by private contract or public auction, leases of small portions of Pas Géométriques for campement sites or for any other purpose to any person without imposing the condition of planting trees.

(1A) In the case of leases for campement sites—

- (a) not more than one lease shall be held by any person; and
- (b) not more than one arpent and a quarter shall be let to any person unless—
 - (i) any portion of Pas Géométriques exceeding one arpent and a quarter is so situate that it cannot conveniently be divided and, in the opinion of the Minister, it is desirable to let the whole of that portion to that person; or
 - (ii) the granting of a lease of Pas Géométriques exceeding one arpent and a quarter is—
 - (A) in the opinion of the Minister in the public interest; or
 - (B) approved by the Minister where the land is to be used for recreation by a registered club or for a *bona fide* religious, charitable or educational purpose.

(2) Any person to whom a lease has been granted under subsection (1) or (1A) may, subject to such conditions as may be imposed by the Minister, cut and remove any trees growing on the Pas Géométriques.

(3) A lease granted under subsection (1) shall—

- (a) be valid for a period not exceeding 60 years;

- (b) in respect of a campement site situated in a zone specified in Part I of the Second Schedule, be subject to payment of a premium and an annual rental as specified in Part II of the Second Schedule; and
- (c) be subject to such other conditions as the Minister thinks fit.

(3A) Notwithstanding subsection (3) and subject to subsection (3B), any campement site lease which is valid at the commencement of this section shall remain governed by its existing terms and conditions.

(3B) The Minister shall make an offer, in such form as he may determine, to the lessee of a campement site lease referred to in subsection (3A), other than lessees of such campement sites as may be prescribed for the purpose of enlarging or creating public beaches or for any other development purpose, for the lessee to irrevocably opt, within a period of 6 months from the date of the offer, to enter into a new lease of that campement site on the terms and conditions specified in subsection (3).

(4) Notwithstanding this Act or any other enactment, the Minister may, by private contract and without imposing the condition of planting trees, grant leases of portions of Pas Géométriques in excess of one arpent and a quarter to—

- (a) or for the use of, the State's naval, military or air forces;
- (b) any person for the implementation of any scheme or project included in any development plan which has received the prior approval of the Assembly or for any purpose approved by the Minister.

[S. 10 amended by s. 24 (a) of Act 15 of 2006 w.e.f. 7 August 2007.]

11. Grant of lease by public auction

(1) Where it is intended to grant a lease of Pas Géométriques by public auction, notice shall be given in the *Gazette* and 2 daily newspapers 2 weeks at least before the day fixed for the auction.

(2) It shall be distinctly stated in the notice whether there are on the land intended to be leased buildings belonging to the Government and, if so, whether the buildings are to be leased with the land.

(3) Subject to subsection (4), the lease shall be adjudged at the auction to the highest bidder.

(4) The Minister may withdraw the lease of the land from the auction if the highest bid is, in his opinion, below the actual rental value of the land.

12. —

13. Permission to cut trees

(1) The lessee of Pas Géométriques shall not cut trees unless he is expressly authorised so to do by the lease.

(2) The right to cut trees shall not, except with the approval of the Minister, be granted in any lease.

(3) Where the right to cut trees is granted, it shall be subject to such restrictions and conditions as may be approved by the Minister.

14. Lessee to watch over property

(1) The lessee of Pas Géométriques shall watch over the property leased to him and prevent the cutting or removal of any trees growing on it which is—

- (a) not authorised by his lease, or by the Minister; or
- (b) in breach of any condition subject to which the right of cutting trees may have been granted in the lease.

(2) (a) Where any trees growing on the Pas Géométriques are cut or removed without any lawful authority, or in breach of any condition of the lease, the Minister, on proof of the fact and without having to prove that the cutting or removal of the trees took place with the knowledge or sanction of the lessee, shall, subject to paragraph (b), be entitled to obtain judgment condemning the lessee to pay the value of the trees cut, or cancelling the lease with damages.

(b) It shall be a defence for the lessee to prove that the trees were cut or stolen without any neglect on his part or in spite of proper supervision by him.

(c) In the case referred to in paragraph (b), the lessee shall inform the Minister within a period of 7 days of the destruction or theft of the trees.

15. —

16. Disposal of dead and broken trees

(1) (a) The Permanent Secretary may cause to be removed and disposed of any dead, broken or fallen trees on any Pas Géométriques, although they are leased, unless it is otherwise provided in the lease.

(b) Where Government decides to sell the trees mentioned in subsection (1), the sale shall be by public auction unless the Conservator of Forests decides otherwise.

(2) (a) A public officer or a person authorised by the Permanent Secretary, or a person, other than the lessee, or the agent of that person who has purchased at a public auction or otherwise from Government the right of removing dead, fallen or broken trees which Government may remove or dispose of, may enter any Pas Géométriques although they are leased, for the purpose of cutting and removing these trees.

(b) The time necessary for cutting and removing those trees shall be fixed by the Conservator of Forests.

(c) Nothing in this section shall have the effect of conferring on Government or any person mentioned in this section any right of way across private property.

(d) Where the entry and the works necessary for the removal of trees under subsection (1) prevent the lessee from enjoying his lease in conformity with his contract, the lessee shall be entitled to claim from Government either a reduction of the rent payable for the current year or the cancellation of the lease.

17. Offences

Where—

- (a) a lessee of Pas Géométriques cuts, destroys or removes, or causes to be cut, destroyed or removed, any tree, without being expressly authorised to cut trees in his lease;
- (b) a lessee authorised to cut trees, cuts, destroys or removes, or causes to be cut, destroyed or removed, any tree on any Pas Géométriques in breach of any condition of his lease; or
- (c) a person cuts, destroys or removes, or causes to be cut, destroyed or removed, any tree on any Pas Géométriques which is either not let by Government or let to another person without that person's authorisation,

he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees in addition to the value of any tree cut, destroyed or removed, and to imprisonment for a term not exceeding 6 months.

18. Saving

(1) (a) Any lands situate within the limits of the District of Port Louis or in any village mentioned in the First Schedule, and specified in section 2, are excluded from this Act.

(b) Any land under paragraph (a) shall be deemed to be, and may be dealt with as, State lands which are not Pas Géométriques, but shall be inalienable and imprescriptible.

(c) Not more than one lease for a campement site shall be held by any person.

(2) (a) The boundaries of the villages in the First Schedule shall be fixed by the Minister, by notice in the *Gazette*.

(b) No new lease of Pas Géométriques shall be granted of land contiguous to any village before the notice is published.

(3)—

[S. 18 amended by Act 48 of 1991; s. 24 (b) of Act 15 of 2006 w.e.f. 7 August 2007.]

19. —

20. Lease for coconut plantations

(1) The Minister may grant by private contract leases of Pas Géométriques exceeding 2 hectares for the purpose of planting and cultivating coconut trees on the Pas Géométriques.

(2) The leases may be for any period not exceeding 30 years and upon such terms as to the payment of rent and other conditions, more especially as to the apportionment of produce between Government and the lessee, as may be approved by the Minister.

(3) The rent shall be payable in advance and, in default of payment of any instalment within one month after service of a notice claiming payment, the Minister may, by Order in writing, cancel the lease, and thereupon Government shall be entitled without any further formality to resume possession of the land.

(4) No lease under this Act shall be granted except after notice published in 2 daily newspapers 2 weeks at least before any decision is taken.

(5) Any lessee may, subject to such conditions as may be approved by the Minister, cut and remove any trees growing on the Pas Géométriques leased to him under this Act, for the purpose of planting or maintaining the coconut trees so planted in a proper state of cultivation.

(6) Notwithstanding section 11, where after the granting of a lease, it is proved to the satisfaction of the Minister that the Pas Géométriques are unsuitable for the planting and cultivating of coconut trees, the Minister may cancel the lease and grant another lease under this Act without recourse to a public auction.

21. Conditions governing lease for coconut plantations

Sections 2 to 6, 9, 13, 14 and 16 to 18 shall apply to a lease granted under section 20.

22. Extension of lease

Notwithstanding this Act, the Minister may, on the application of a lessee to whom a lease of Pas Géométriques has been granted under section 7, extend the duration of the lease for not more than 2 further periods of 15 years each without putting up the lease to public auction.

23. Dumping on Pas Géométriques

Any person who dumps or who causes to be dumped any sand, coral, earth, stones, wood or other object on any Pas Géométriques without the authority of the lessee or of the Minister, according to whether the Pas Géométriques are let or not, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees.

24. Eviction of squatters

(1) Notwithstanding any other enactment, but subject to 24A, no person shall take possession of, encroach upon, cultivate or put up any building or other structure on any part of any Pas Géométriques without the express authorisation in writing of the Minister.

(2) Every person who fails to comply with subsection (1) or who is a person in occupation of Pas Géométriques without any right or authority shall be deemed to be a squatter.

(3) Where the Minister is satisfied that there is a squatter on Pas Géométriques, he may cause a notice to be issued calling upon him to vacate the land within a delay to be specified in the notice.

(4) A notice issued under subsection (3) shall be served on the squatter in person or, where the squatter cannot be traced or served with the notice within 48 hours of its issue, posted up in a conspicuous place on the Pas Géométriques or any building or other structure on the Pas Géométriques.

(5) Where a squatter fails to comply with a notice served on him or posted up in accordance with subsection (4), he shall commit an offence and shall, on conviction, be liable to pay a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 3 months.

(6) Subject to subsection (3) and notwithstanding subsection (5), the Minister may, with the assistance of a police officer, cause a squatter to be removed immediately from any Pas Géométriques occupied by him and cause any building or other structure existing on the Pas Géométriques to be demolished.

(7) Where a squatter who has been removed from any Pas Géométriques reoccupies the Pas Géométriques or occupies any other Pas Géométriques without the express authorisation in writing of the Minister, he shall commit an offence and shall, on conviction, be liable to a fine of 5,000 rupees and to imprisonment for a term which shall not be less than one year or more than 3 years.

(8) Subsection (7) shall be without prejudice to the right of the Minister to remove the squatter from the Pas Géométriques or to cause any building or other structure put up by him to be demolished.

(9) Where any building or other structure is demolished pursuant to this section, such part of the materials as are still in good or usable condition shall be kept by the Minister and returned to the squatter on his application and on payment by him of a reasonable sum of money calculated to defray the expenses of demolition.

(10) In any proceedings under this section, a certificate from the Chief Surveyor that land which is the subject matter of the proceedings is Pas Géométriques shall be prima facie evidence that the land is Pas Géométriques.

(11) No action for damages or otherwise shall lie against the Minister or any person acting under his authority in respect of anything done under this section except where the person evicted or the person whose building or structure was demolished was in possession of an authority in writing from the Minister to occupy the land or to put up the building or other structure on the land or was lawfully in occupation of the land.

[S. 24 reprinted by Reprint 5 of 1986; amended by Act 7 of 1986; Act 35 of 1989.]

24A. Removal of jetties or other structures

(1) Notwithstanding any other enactment, no person shall build, erect or set up any jetty, wall, fence, groins or other structure on any part of the Pas Géométriques without any right, title or capacity or without the express authorisation in writing of the Minister.

(2) Where the Minister is satisfied that any jetty, wall, fence, groins or other structure has been built or erected on any part of the Pas Géométriques without any right, title or capacity or without his express authorisation, he may cause the structure to be demolished and removed in accordance with the procedure specified in section 24.

(3) Section 24 (11) shall apply to any action taken under subsection (2).

[S. 24A amended by Act 35 of 1989.]

25. Regulations

The Minister may—

- (a) make such regulations as he thinks fit for the purposes of this Act;
- (b) by regulations, amend the Schedules.

[S. 25 added by s. 24 (c) of Act 15 of 2006 w.e.f. 7 August 2007.]

FIRST SCHEDULE

[Section 18]

DISTRICT	VILLAGE
Flacq	Mare aux Lubines
Grand Port	Pointe d'Esny
Rivière du Rempart	Roches Noires

[First Sch. amended by s. 24 (d) of Act 15 of 2006 w.e.f. 7 August 2007; repealed and replaced by GN 90 of 2014 w.e.f. 7 June 2014.]

SECOND SCHEDULE

[Section 10 (3) (b)]

PART I – ZONE

A	B	C	D	E
1. From the boundary separating Trou- aux-Biches public beach declared under General Notice 206 of 1940 and the southern limit of Trou-aux-Biches Fish Landing Station to Anse La Raie Youth Camp	From Anse La Raie Youth Camp to southern boundary of Bassin Faoulez		From southern boundary of Bassin Faoulez to Mouth of Rivière du Rem- part	
2. From Pointe de Flacq Cemetery to Limekiln Trou d'Eau Douce	From mouth of Rivière du Rempart to Pointe de Flacq Cemetery			
3. From Pointe Jérôme Youth Camp to public beach at La Cambuse declared under General Notice 2147 of 1996	From Limekiln Trou d'Eau Douce to Mouth of Rivière Sèche	From mouth of Rivière La Chaux to Pointe Jérôme Youth Camp		From mouth of Rivière Sèche to mouth of Rivière La Chaux
4.		From mouth of Rivière Patates to St Martin Cemetery	From mouth of Rivière Bain des Négresses to mouth of Rivière Patates	From public beach at La Cambuse declared under General Notice 2147 of 1996 to mouth of Rivière Bain des Né- gresses
5. From Intersection P. G. l'Embrasure with Black River Savanne Coast Road (B 9) to the boundary separat- ing the industrial site leased as hotel and that of golf course at P. G. Le Morne Brabant		From the bounda- ry separating the industrial site leased as hotel and that of golf course at P. G. Le Morne Brabant to Barachois Les Salines	From St Martin Cemetery to Inter- section P. G. l'Embrasure with Black River Savanne Coast Road (B 9)	

SECOND SCHEDULE—*continued*

6. From Barachois
Les Salines to
northern boundary
of Part of P.G.
Anna leased as a
campement site
having as its
southern

From northern boundary of Part of P.G. Anna leased as a campement site having as its southern boundary public beach

From public beach at P.G. Mon Plaisir declared under a General Notice of 1991 to its mouth of Grand River North West

From mouth of Rivulet Rouge to the boundary lying south of Rue des Aigles, at a distance of 74 metres measured

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SECOND SCHEDULE—continued

A	B	C	D	E
boundary public beach P.G. Anna declared under General Notice 348 of 1991		P.G. Anna declared under General Notice 348 of 1991 to public beach at P.G. Mon Plaisir declared under General Notice 609 of 1991		south along Baie du Tombeau Road (B 29)
7.	From junction of Japonais Road with Pointe aux Piments Mon Choisy Coast Road to the boundary separating Trou aux Biches public beach declared under General Notice 206 of 1940 and the southern limit of Trou aux Biches Fish Landing Station		From the boundary lying south of Rue des Aigles, at a distance of 74 metres measured south along Baie du Tombeau Road (B 29) to Junction of Japonais Road with Pointe aux Piments Mon Choisy Coast Road	

PART II – PREMIUM AND ANNUAL RENTAL

	Zone A	Zone B	Zone C	Zone D	Zone E
	<i>Rs</i>	<i>Rs</i>	<i>Rs</i>	<i>Rs</i>	<i>Rs</i>
Premium per Arpent	5m	4m	3.5m	3m	2.5m
Annual rental per arpent	250,000	200,000	175,000	150,000	125,000
Minimum annual rental per site	25,000	20,000	15,000	12,500	10,000

For the purposes of Part II of this Schedule—

- (a) the annual rental shall be adjusted every 3 years by reference to the cumulative inflation rate based on the Consumer Price Index during the 3-year period, which shall not exceed 15.7625 per cent in any case;

- (b) the premium may be paid in instalments over a period not exceeding 5 years with interest at legal rate, as may be approved by the Minister;
- (c) the above figures shall apply to a campement site with a sea frontage; and
- (d) the above figures shall be reduced by 25 per cent for a campement site without a sea frontage.

In this Schedule—

“campement site with a sea frontage” means a campement site which abuts the sea, the high-water mark of the sea, the seashore, a beach, a cliff-top or any unleased strip of State land adjoining the seashore.

[Second Sch. added by s. 24 (e) of Act 15 of 2006 w.e.f. 7 August 2007, amended by GN 48 of 2007.]
