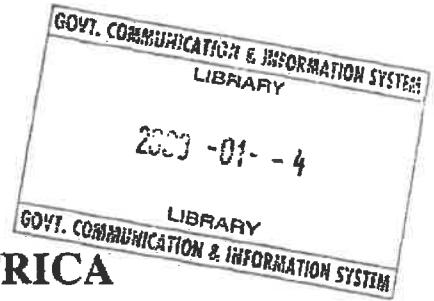




REPUBLIC OF SOUTH AFRICA



GOVERNMENT GAZETTE

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OFFICE OF THE PRESIDENCY

No. 1506.

15 December 1999

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 50 of 1999: Rental Housing Act, 1999.

KANTOOR VAN DIE PRESIDENSIE

No. 1506.

15 Desember 1999

Hierby word bekend gemaak dat die President sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 50 van 1999: Wet op Huurbehuising, 999

*(English text signed by the President.)
(Assented to 9 December 1999.)*

ACT

To define the responsibility of Government in respect of rental housing property; to create mechanisms to promote the provision of rental housing property; to promote access to adequate housing through creating mechanisms to ensure the proper functioning of the rental housing market; to make provision for the establishment of Rental Housing Tribunals; to define the functions, powers and duties of such Tribunals; to lay down general principles governing conflict resolution in the rental housing sector; to provide for the facilitation of sound relations between tenants and landlords and for this purpose to lay down general requirements relating to leases; to repeal the Rent Control Act, 1976; and to provide for matters connected therewith.

PREAMBLE

WHEREAS in terms of section 26 of the Constitution of the Republic of South Africa, 1996 everyone has the right to have access to adequate housing;

AND WHEREAS the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right;

AND WHEREAS no one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances.

AND WHEREAS no legislation may permit arbitrary evictions;

AND WHEREAS rental housing is a key component of the housing sector;

AND WHEREAS there is a need to promote the provision of rental housing;

AND WHEREAS there is a need to balance the rights of tenants and landlords and to create mechanisms to protect both tenants and landlords against unfair practices and exploitation;

AND WHEREAS there is a need to introduce mechanisms through which conflicts between tenants and landlords can be resolved speedily at minimum cost to the parties;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

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CHAPTER I

INTRODUCTORY PROVISIONS

Definitions

1. In this Act, unless the context otherwise indicates— 35
 - “dwelling”, includes any house, hostel room, hut, shack, flat, apartment, room, outbuilding, garage or similar structure which is leased, as well as any storeroom, outbuilding, garage or demarcated parking space which is leased as part of the lease;
 - “financial institution.” means a bank as defined in the Banks Act, 1990 (Act No. 94 of 1990);
 - “head of department” means the officer in charge of a department of the provincial government responsible for housing in the province;
 - “House Rules” means the rules in relation to the control, management, administration, use and enjoyment of the rental housing property; 45
 - “landlord” means the owner of a dwelling which is leased and includes his or her duly authorised agent or a person who is in lawful possession of a dwelling and has the right to lease or sub-lease it;
 - “lease” means an agreement of lease concluded between a tenant and a landlord in respect of a dwelling for housing purposes; 50

“MEC” means the member of the Executive Council of a province responsible for housing matters:

“Minister.” means the Minister of Housing;

“periodic lease” means a lease for an undetermined period, subject to notice of termination by either party;

“prescribed” means prescribed by regulation by the MEC, by notice in the *Gazette*;

“regulation” means a regulation made in terms of section 15;

“rental housing property” includes one or more dwellings;

“Rental Housing Information Office” means an office established by a local authority in terms of section 14 (1);

“tenant” means the lessee of a dwelling which is leased by a landlord;

“this Act” includes any regulation;

“Tribunal” means a Rental Housing Tribunal established under section 7;

“unfair practice.” means a practice prescribed as a practice unreasonably prejudicing the rights or interests of a tenant or a landlord.

CHAPTER 2

PROMOTION OF RENTAL HOUSING PROPERTY

Responsibility of Government to promote rental housing

2. (1) Government must—

(a) promote a stable and growing market that progressively meets the latent demand for affordable rental housing among persons historically disadvantaged by unfair discrimination and poor persons, by the introduction of incentives, mechanisms and other measures that—

(i) improve conditions in the rental housing market;

(ii) encourage investment in urban and rural areas that are in need of revitalisation and resuscitation; and

(iii) correct distorted patterns of residential settlement by initiating, promoting and facilitating new development in or the redevelopment of affected areas;

(b) facilitate the provision of rental housing in partnership with the private sector.

(2) Measures introduced in terms of subsection (1) must—

(a) optimise the use of existing urban and rural municipal and transport infrastructure;

(b) redress and inhibit urban fragmentation or sprawl;

(c) promote higher residential densities in existing urban areas as well as in areas of new or consolidated urban growth; and

(d) mobilise and enhance existing public and private capacity and expertise in the administration or management of rental housing.

(3) National Government must introduce a policy framework, including norms and standards, on rental housing to give effect to subsection (1).

(4) Provincial and local governments must pursue the objects of subsection (1) within the national policy framework on rents] housing referred to in subsection (3), and within the context of broader national housing policy in a balanced and equitable manner and must accord rental housing particular attention in the execution of functions, the exercise of powers and the performance of duties and responsibilities in relation to housing development.

Measures to increase provision of rental housing property

3. (1) The Minister may introduce a rental subsidy housing programme, as a national housing programme, as contemplated in section 3(4)(g) of the Housing Act, 1997 (Act No. 107 of 1997), or other assistance measures, to stimulate the supply of rental housing property for low income persons.

(2) Parliament may annually appropriate to the South African Housing Fund an amount to finance such a programme.

(3) A separate account of income and expenditure in respect of such programme must be kept.

(4) Section 12(1)(b) of the Housing Act, 1997 (Act No. 107 of 1997), does not apply to any amount appropriated by Parliament for purposes of such programme. 5

CHAPTER 3

RELATIONS BETWEEN TENANTS AND LANDLORDS

General provisions

4. (1) In advertising a dwelling for purposes of leasing it, or in negotiating a lease with a prospective tenant, or during the term of a lease, a landlord may not unfairly discriminate against such prospective tenant or tenants, or the members of such tenant's household or the *bona fide* visitors of such tenant, on one or more grounds, including race, gender, sex, pregnancy, marital status, sexual orientation, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, language and birth. 10 15

(2) A tenant has the right, during the lease period, to privacy, and the landlord may only exercise his or her right of inspection in a reasonable manner after reasonable notice to the tenant.

(3) The tenant's rights as against the landlord include his or her right not to have—

- (a) his or her person or home searched; 20
- (b) his or her property searched;
- (c) his or her possessions seized, except in terms of law of general application and having first obtained an order of court; or
- (d) the privacy of his or her communications infringed.

(4) The rights set out in subsection (3) apply equally to members of the tenant's household and to *bona fide* visitors of the tenant. 25

(5) The landlord's rights against the tenant include his or her right to—

- (a) prompt and regular payment of a rental or any charges that may be payable in terms of a lease;
- (b) recover unpaid rental or any other amount that is due and payable after obtaining a ruling by the Tribunal or an order of a court of law; 30
- (c) terminate the lease in respect of rental housing property on grounds that do not constitute an unfair practice and are specified in the lease;
- (d) on termination of a lease to—
 - (i) receive the rental housing property in a good state of repair, save for fair wear and tear; and 35
 - (ii) repossess rental housing property having first obtained an order of court; and
- (e) claim compensation for damage to the rental housing property or any other improvements on the land on which the dwelling is situated, if any, caused by the tenant, a member of the tenant's household or a visitor of the tenant. 40

Provisions pertaining to leases

5. (1) A lease between a tenant and a landlord, subject to subsection (2), need not be in writing or be subject to the provisions of the Formalities in Respect of Leases of Land Act, 1969 (Act No. 18 of 1969). 45

(2) A landlord must, if requested thereto by a tenant, reduce the lease to writing.

(3) A lease will be deemed to include terms, enforceable in a competent court, to the effect that—

- (a) the landlord must furnish the tenant with a written receipt for all payments received by the landlord from the tenant; 50

- (b) such receipt must be dated and clearly indicate the address, including the street number and further description, if necessary, of a dwelling in respect of which payment is made, and whether payment has been made for rental, arrears, deposit or otherwise, and specify the period for which payment is made; 5
- (c) the landlord may require a tenant, before moving into the dwelling, to pay a deposit which, at the time, may not exceed an amount equivalent to an amount specified in the agreement or otherwise agreed to between the parties;
- (d) the deposit contemplated in paragraph (c) must be invested by the landlord in an interest-bearing account with a financial institution and the landlord must 10 subject to paragraph (g) pay the tenant interest at the rate applicable to such account which may not be less than the rate applicable to a savings account with a financial institution, and the tenant may during the period of the lease request the landlord to provide him or her with written proof in respect of interest accrued on such deposit, and the landlord must provide such proof on 15 request: Provided that where the landlord is a registered estate agent as provided for in the Estate Agency Affairs Act, 1976 (Act No. 112 of 1976), the deposit and any interest thereon shall be dealt with in accordance with the provisions of that Act;
- (e) the tenant and the landlord must jointly, before the tenant moves into the 20 dwelling, inspect the dwelling to ascertain the existence or not of any defects or damage therein with a view to determining the landlord's responsibility for rectifying any defects or damage or with a view to registering such defects or damage, as provided for in subsection (7):
- (f) at the expiration of the lease the landlord and tenant must arrange a joint 25 inspection of the dwelling at a mutually convenient time to take place within a period of three days prior to such expiration with a view to ascertaining if there was any damage caused to the dwelling during the tenant's occupation thereof;
- (g) on the expiration of the lease, the landlord may apply such deposit and interest 30 towards the payment of all amounts for which the tenant is liable under the said lease, including the reasonable cost of repairing damage to the dwelling during the lease period and the cost of replacing lost keys and the balance of the deposit and interest, if any, must then be refunded to the tenant by the landlord not later than 14 days of restoration of the dwelling to the landlord; 35
- (h) the relevant receipts which indicate the costs which the landlord incurred, as contemplated in paragraph (g), must be available to the tenant for inspection as proof of such costs incurred by the landlord;
- (i) should no amounts be due and owing to the landlord in terms of the lease, the deposit, together with the accrued interest in respect thereof, must be refunded 40 by the landlord to the tenant, without any deduction or set-off, within seven days of expiration of the lease;
- (j) failure by the landlord to inspect the dwelling in the presence of the tenant as contemplated in paragraphs (e) or (f) is deemed to be an acknowledgement by the landlord that the dwelling is in a good and proper state of repair, and the 45 landlord will have no further claim against the tenant who must then be refunded, in terms of this subsection, the full deposit plus interest by the landlord;
- (k) should the tenant fail to respond to the landlord's request for an inspection as contemplated in paragraph (f), the landlord must, on expiration of the lease, 50 inspect the dwelling within seven days from such expiration in order to assess any damages or loss which occurred during the tenancy;
- (l) the landlord may in the circumstances contemplated in paragraph (k), without detracting from any other right or remedy of the landlord, deduct from the tenant's deposit and interest the reasonable cost of repairing damage to the 55 dwelling and the cost of replacing lost keys;

- (m) the balance of the deposit and interest, if any, after deduction of the amounts contemplated in paragraph (l), must be refunded to the tenant by the landlord not later than 21 days after expiration of the lease;
- (n) the relevant receipts which indicate the costs which the landlord incurred, as contemplated in paragraph (1), must be available to the tenant for inspection as proof of such costs incurred by the landlord; and
- (o) should the tenant vacate the dwelling before expiration of the lease, without notice to the landlord, the lease is deemed to have expired on the date that the landlord established that the tenant had vacated the dwelling but in such event the landlord retains all his or her rights arising from the tenant's breach of the lease. 10
- (4) The standard provisions referred to in subsection (3) may not be waived by the tenant or the landlord.
- (5) If on the expiration of the lease the tenant remains in the dwelling with the express or tacit consent of the landlord, the parties are deemed, in the absence of a further written lease, to have entered into a periodic lease, on the same terms and conditions as the expired lease, except that at least one month's written notice must be given of the intention by either party to terminate the lease. 15
- (6) A lease contemplated in subsection (2) must include the following information: 20
- (a) The names of the tenant and the landlord and their addresses in the Republic for purposes of formal communication;
- (b) the description of the dwelling which is the subject of the lease;
- (c) the amount of rental of the dwelling and reasonable escalation, if any, to be paid in terms of the lease;
- (d) if rentals are not paid on a monthly basis, then the frequency of rental payments: 25
- (e) the amount of the deposit, if any;
- (f) the lease period, or, if there is no lease period determined, the notice period requested for termination of the lease;
- (g) obligations of the tenant and the landlord, which must not detract from the provisions of subsection (3) or the regulations relating to unfair practice; 30
- (h) the amount of the rental, and any other charges payable in addition to the rental in respect of the property.
- (7) A list of defects registered "in terms of subsection (3)(e)" must be attached as an annexure to the lease as contemplated in subsection (2). 35
- (8) A copy of any House Rules applicable to a dwelling must be attached as an annexure to the lease.
- (9) A landlord must ensure that the provisions of subsections (6), (7) and (8) are complied with.

CHAPTER 4

40

RENTAL HOUSING TRIBUNAL

Application of Chapter

6. Unless a province has, before or after the commencement of this Act, enacted legislation providing for matters dealt with in this Chapter, this Chapter will apply to such province. 45

Establishment of Rental Housing Tribunals

7. The MEC may by notice in the *Gazette* establish a tribunal in the Province to be known as the Rental Housing Tribunal.

Functions of Tribunal

8. The Tribunal must fulfil the duties imposed upon it in terms of this Chapter, and must do all things necessary to ensure that the objectives of this Chapter are achieved, 50

Composition of Tribunal

9. (1) The Tribunal consists of not less than three and not more than five members, who are fit and proper persons appointed by the MEC, and must comprise—
- (a) a chairperson, who is suitably qualified and has the necessary expertise and exposure to rental housing matters: 5
 - (b) not less than two and not more than four members, of whom—
 - (i) at least one and not more than two shall be persons with expertise in property management or housing development matters; and
 - (ii) at least one and not more than two shall be persons with expertise in consumer matters pertaining to rental housing or housing development 10 matters:
 - (c) a deputy chairperson, appointed by the MEC from the members referred to in paragraph (b) of this subsection.
- (2) The chairperson and members of the Tribunal must be appointed only after—
- (a) the MEC has through the media and by notice in the *Gazette* invited 15 nominations of persons as candidates for the respective positions on the Tribunal; and
 - (b) the MEC has consulted with the relevant standing or portfolio committee of the Provincial Legislature which is responsible for housing matters in the 20 province.
- (3) The MEC may appoint two persons to serve as alternate members of the Tribunal in the absence of any member referred to in paragraph (b) of subsection (1) but such persons must have the relevant expertise contemplated in paragraph (b) of subsection (1).
- (4) Any appointment in terms of subsection (1) or (3) must be for a period not 25 exceeding three years but a person whose term of office as a member has expired may be reappointed by the MEC for an additional period not exceeding three years.
- (5) (a) Any vacancy in the office of a member of the Tribunal must, within one month of such vacancy occurring, be filled by the MEC appointing another member under 30 subsection (1) or (3).
- (b) Any member so appointed holds office for the unexpired portion of the predecessor's term of office.
- (6) The MEC may at any time for reasons which are just and fair remove from office any member appointed under subsection (1) or (3) and appoint another person to the 35 vacancy resulting therefrom in accordance with subsection (5).
- (7) A member or an alternate member of the Tribunal other than a person who is in the full-time employment of the State or an organ of state, must be appointed on the conditions of service determined by the MEC with the approval of the Member of the Executive Council responsible for provincial expenditure in the relevant province.
- (8) Conditions of service so determined may differ according to whether the person 40 concerned is appointed on a full-time or part-time basis.
- (9) Members of the Tribunal must be reimbursed by the head of department out of funds appropriated in terms of section 12(1) in respect of reasonable expenditure incurred in the exercise of their duties under this Act.

Meetings of Tribunal

10. (1) The Tribunal will sit on such days and during such hours and at such place as the chairperson of the Tribunal may determine.
- (2) Meetings of the Tribunal must be held or resumed at such times and places throughout the area of a Province as the chairperson may at any time determine.
- (3) A local authority may, at the request and at no cost to the Tribunal, make a venue 50 available for meetings of the Tribunal.
- (4) Meetings of the Tribunal must be convened for the consideration of—
- (a) any complaint referred to the Tribunal in terms of section 13;
 - (b) any other matter which the Tribunal may or must consider in terms of this Act.
- (5) The quorum of any meeting of the Tribunal is three members, of which at least two 55 members must be appointed in terms of section 9(1)(b)(i) and (ii), respectively.

(6) All decisions of the Tribunal, subject to subsection (7), must be taken by consensus.

(7) Where consensus cannot be reached by the Tribunal, the decision of a majority of the members of the Tribunal must be the decision of the Tribunal.

(8) In the event of an equality of votes on any matter, the person presiding at the meeting of the Tribunal will have a casting vote in addition to that persons deliberate's vote.

(9) A member or any alternate member of the Tribunal must not attend or take part in the discussions of or decision-making on any matter before the Tribunal in which he or she or his or her spouse, or his or her relative within the second degree of affinity, or his or her partner or his or her employer, other than the State, or the partner or the employer of his or her spouse, has any direct or indirect pecuniary interest.

(10) Minutes of the proceedings of the Tribunal must be kept and retained at the offices of the Tribunal.

(11) No decision taken by the Tribunal will be invalid merely by reason of a vacancy in the Tribunal or of the fact that any person not entitled to sit as a member of the Tribunal, sat as such a member at the time when the decision was taken, if the decision was taken by the majority of the members of the Tribunal present at the time and who were entitled to sit as members of the Tribunal.

(12) Any person may, in the prescribed manner, obtain copies of minutes contemplated in subsection (10) against payment of a prescribed fee.

Staff

11. (1) The staff required for the proper performance of the Tribunal's functions and the administration of this Act, must be appointed subject to the laws governing the Public Service. 25

(2) The staff contemplated in subsection (1) may include inspectors, technical advisers, mediators and administrative support staff.

(3) Any person appointed in terms of subsection (1) must be provided with a certificate of appointment signed by or on behalf of the head of department.

(4) The Tribunal may, subject to such conditions as it may determine, delegate any powers conferred on it other than a power under section 13(2)(d), (3), (4) and (5) to a member of the Tribunal or a person appointed in terms of subsection (1) but any such delegation will not preclude the Tribunal from exercising any such delegated powers itself, and the Tribunal may set aside or amend any decision of the delegate made in the exercise of such powers. 35

Funding of and reporting on activities of Tribunal

12. (1) The activities of the Tribunal must be funded from moneys appropriated by the Provincial Legislature.

(2) The head of department is the accounting officer in respect of moneys appropriated in terms of subsection (1). 40

(3) An annual report on the activities of the Tribunal must be submitted by the chairperson of the Tribunal to the MEC as soon as possible after, but within four months of, 31 March in each year.

(4) The MEC may require the Tribunal to submit additional reports to him or her as the MEC may require from time to time. 45

(5) Any report referred to in subsection (3) must be tabled in the Provincial Legislature within 30 days after receipt thereof by the MEC if the Provincial Legislature is in ordinary session, or if the Provincial Legislature is then not in ordinary session, within 30 days of the commencement of the next ensuing ordinary session.

Complaints

13. (1) Any tenant or landlord or group of tenants or landlords or interest group may in the prescribed manner lodge a complaint with the Tribunal concerning an unfair practice. 50

(2) Once a complaint has been lodged with the Tribunal, the Tribunal must, if it appears that there is a dispute in respect of a matter which may constitute an unfair practice—

- (a) list particulars of the dwelling to which the complaint refers in the register referred to in subsection (8);
- (b) through its staff conduct such preliminary investigations as may be necessary to determine whether the complaint relates to a dispute in respect of a matter which may constitute an unfair practice;
- (c) where the Tribunal is of the view that there is a dispute contemplated in paragraph (b) and that such dispute may be resolved through mediation, appoint a mediator, which may be a member of the Tribunal, a member of staff or any person deemed fit and proper by the Tribunal, with a view to resolving the dispute;
- (d) where the Tribunal is of the view that the dispute is of such a nature that it cannot be resolved through mediation or where a mediator contemplated in paragraph (c) has issued a certificate to the effect that the parties are unable to resolve the dispute through mediation, conduct a hearing and, subject to this section, make such a ruling as it may consider just and fair in the circumstances.

(3) For purposes of a hearing contemplated in paragraph (d) of subsection (2), the Tribunal may—

- (a) require any Rental Housing Information Office to submit reports concerning inquiries and complaints received, as well as on any other matters concerning the administration of this Act within the area of jurisdiction of that office;
- (b) require any inspector to appear before the Tribunal to give evidence, to provide information, or to produce any report or other document concerning inspections conducted which may have a bearing on any complaint received by the Tribunal;
- (c) require any Rental Housing Information Office to advise the Tribunal on any matter concerning a dwelling or concerning a complaint received from any landlord or any tenant within the area of jurisdiction of that office;
- (d) summon any tenant or landlord or any other person who, in the Tribunal's opinion may be able to give evidence relevant to a complaint, to appear before the Tribunal;
- (e) summon any person who may reasonably be able to give information of material importance concerning a complaint or who has in such persons possession or custody or under such person's control any book, document or object to attend its proceedings and to produce any book, document, or object in his or her possession or custody or under his or her control, to give evidence or to provide information under his or her control;
- (f) call upon and administer an oath to, or accept an affirmation from, any person present at the meeting in terms of paragraph (a), (b) or (c), or who has been summoned in terms of paragraph (d) or (e).

(4) Where a Tribunal, at the conclusion of a hearing in terms of paragraph (d) of subsection (2) is of the view that an unfair practice exists, it may—

- (a) rule that any person must comply with a provision of the regulations relating to unfair practices;
- (b) where it would appear that the provisions of any law have been or are being contravened, refer such matter for an investigation to the relevant competent body or local authority;
- (c) make any other ruling that is just and fair to terminate any unfair practice, including, without detracting from the generality of the foregoing, a ruling to discontinue
 - (i) overcrowding;
 - (ii) unacceptable living conditions;
 - (iii) exploitative rentals; or
 - (iv) lack of maintenance.

(5) A ruling contemplated in subsection (4) may include a determination regarding the amount of rental payable by a tenant, but such determination must be made in a manner that is just and equitable to both tenant and landlord and takes due cognisance of—

- (a) prevailing economic conditions of supply and demand;

- (b) the need for a realistic return on investment for investors in rental housing; and
- (c) incentives, mechanisms, norms and standards and other measures introduced by the Minister in terms of the policy framework on rental housing referred to in section 2(3). 5
- (6) When acting in terms of subsection (4), the Tribunal must have regard to—
- (a) the regulations in respect of unfair practices;
- (b) the common law to the extent that any particular matter is not specifically addressed in the regulations or a lease;
- (c) the provisions of any lease to the extent that it does not constitute an unfair practice; 10
- (d) national housing policy and national housing programmed; and
- (e) the need to resolve matters in a practicable and equitable manner.
- (7) As from the date of any complaint having been lodged with the Tribunal, until the Tribunal has made a ruling on the matter or a period of three months has elapsed, whichever is the earlier— 15
- (a) the landlord may not evict any tenant, subject to paragraph (b);
- (b) the tenant must continue to pay the rental payable in respect of that dwelling as applicable prior to the complaint or, if there has been an escalation prior to such complaint, the amount payable immediately prior to such escalation; and 20
- (c) the landlord must effect necessary maintenance.
- (8) The Tribunal must keep a register of complaints received and complaints resolved with such details as may be prescribed and quarterly provide the local authority in whose jurisdictions dwellings are situated in respect of which complaints have been received with a list of complaints received and complaints resolved in such format as may be prescribed. 25
- (9) As from the date of the establishment of a Tribunal as contemplated in section 7, any dispute in respect of an unfair practice, must be determined by the Tribunal unless proceedings have already been instituted in any other court.
- (10) Nothing herein contained precludes any person from approaching a competent court for urgent relief under circumstances where he or she would have been able to do so were it not for this Act, or to institute proceedings for the normal recovery of arrear rental, or for eviction in the absence of a dispute regarding an unfair practice. 30
- (11) A magistrate's court may, where proceedings before the court relate to a dispute regarding an unfair practice as contemplated in this Act, at any time refer such matter to the Tribunal. 35
- (12) The Tribunal may—
- (a) make a ruling as to costs as may be just and equitable; and
- (b) where a mediation agreement has been concluded pursuant to section 13(2)(c), make such an agreement a ruling of the Tribunal. 40
- (13) A ruling by the Tribunal is deemed to be an order of a magistrate's court in terms of the Magistrates' Court Act, 1944 (Act No. 32 of 1944).

Information Offices

14. (1) A local authority may establish a Rental Housing Information Office to advise tenants and landlords in regard to their rights and obligations in relation to dwellings within the area of such local authority's area of jurisdiction. 45
- (2) A local authority may, subject to the laws governing the appointment of local government officials appoint officials to carry out any duties pertaining to such Rental Housing Information Office.
- (3) The functions of a Rental Housing Information Office are to— 50
- (a) educate, provide information and advise tenants and landlords with regard to their rights and obligations in relation to dwellings within its area of jurisdiction;
- (b) provide advice to disputing parties on reaching solutions to problems relating to dwellings; 55
- (c) refer parties to the Tribunal;
- (d) comply with any request of the Tribunal in terms of section 13; and
- (e) keep records of enquiries received by the office and to submit reports in relation thereto to the Tribunal on a quarterly basis.

Regulations

15. (1) The MEC may, after consultation with the relevant standing or portfolio committee of the Provincial Legislature responsible for housing matters in the province, by notice in the *Gazette*, make regulations relating to—
- (a) anything which may or must be prescribed under Chapter 4; 5
 - (b) the procedures and manner in which the proceedings of the Tribunal must be conducted;
 - (c) the forms and certificates to be used;
 - (d) the notices to be given by the Tribunal in the performance of its functions, powers and duties; 10
 - (e) the functions, powers and duties of inspectors for the purpose of carrying out the provisions of this Act;
 - (f) unfair practices, which, amongst other things may relate to—
 - (i) the changing of locks; 15
 - (ii) deposits;
 - (iii) damage to property;
 - (iv) demolitions and conversions;
 - (v) eviction;
 - (vi) forced entry and obstruction of entry;
 - (vii) House Rules, subject to the provisions of the Sectional Titles Act, 1986 20 (Act No. 95 of 1986), where applicable;
 - (viii) intimidation;
 - (ix) issuing of receipts;
 - (x) tenants committees; 25
 - (xi) municipal services;
 - (xii) nuisances;
 - (xiii) overcrowding and health matters;
 - (xiv) tenant activities;
 - (xv) maintenance; 30
 - (xvi) reconstruction or refurbishment work; or
 - (g) anything which is necessary to prescribe in order to achieve the purposes of this Act.
- (2) At least one month prior to the publication of any regulations contemplated in subsection (1), the MEC must by notice in the *Gazette* set out the MEC's intention to publish regulations in the form of a Schedule forming part of such notice setting out the proposed regulations, and inviting interested persons to comment on the said regulations or make any representations which they may wish to make in regard thereto. 35

CHAPTER 5**GENERAL PROVISIONS**

- Offences and penalties** 40
16. Any person who—
- (a) fails to comply with sections 4 or 5(2) or (9);
 - (b) has been duly summonsed under section 13 and who fails, without sufficient cause—
 - (i) to attend at the time and place specified in the summons: or 45
 - (ii) to remain in attendance until excused by the Tribunal from further attendance;
 - (c) has been called upon, in terms of section 13(3)(f) and who refuses to be sworn or to make an affirmation as a witness;
 - (d) fails, without sufficient cause— 50
 - (i) to answer fully and satisfactorily any question lawfully put to any such person in terms of section 13(3);
 - (ii) to produce any book, document or object in any such person's possession or custody or under any such person's control which any such person was required to produce in terms of section 13(3)(e); 55

(e) with intent to deceive the Tribunal, produces before the Tribunal any false, untrue, fabricated or falsified book or document;

(f) wilfully furnishes the Tribunal with information, or makes a statement before the Tribunal, which is false or misleading;

(g) fails to comply with any ruling of the Tribunal in terms of section 13(4);

(h) fails to comply with a request of the Tribunal in terms of section 13(3)(a)(b) or (c); or

(i) contravenes any regulation,

will be guilty of an offence and liable on conviction to a fine or imprisonment not exceeding two years or to both such fine and such imprisonment. 10

Review

17. Without prejudice to the constitutional right of any person to gain access to a court of law, the proceedings of a Tribunal may be brought under review before the High Court within its area of jurisdiction.

Repeal and amendment of laws 15

18. The laws specified in the Schedule are repealed or amended to the extent indicated in that Schedule.

Savings

19. (1) Despite section 18—

(a) a tenant of controlled premises as defined in section 1 of the Rent Control Act, 1976 (Act No. 80 of 1976), may not be evicted or caused to vacate the premises—

(i) unless the tenant has committed a breach of lease, or

(ii) except under the circumstances and in the manner contemplated in section 28 of that Act, and 25

(b) the rent of such premises may not be increased by more than ten per cent per annum,

for a period of three years commencing on the date of commencement of this Act.

(2) During the period of three years referred to in subsection (1) the Minister must—

(a) monitor and assess the impact of the application of that subsection on poor and vulnerable tenants; and 30

(b) take such action as he or she deems necessary to alleviate hardship that may be suffered by such tenants.

(3) For purposes of subsection (2) the Minister may define criteria based on age, income or any other form or degree of vulnerability that apply to such tenant or group of tenants and amend or augment the policy framework on rental housing, referred to in section 2(3), by introducing a special national housing programme to cater for the needs of affected tenants that comply with the criteria defined in terms of this subsection.

Short title and commencement

20. (1) This Act is called the Rental Housing Act, 1999, and comes into operation on 40 a date determined by the President by proclamation in the *Gazette*.

(2) In applying subsection (1) different sections of the Act may come into effect on different dates and different dates may be determined for different provinces.

Schedule

LAWS REPEALED OR AMENDED BY SECTION 18

No. and year of law	Short title	Extent of amendment or repeal
Act No. 80 of 1976	Rent Control Act, 1976	The whole
Act No. 23 of 1989	Rent Control Amendment Act, 1989	The whole
Act No. 132 of 1993	General Law Fourth Amendment Act, 1993	Section 26
Act No. 95 of 1986	Sectional Titles Act, 1986	Section 53
Act No 95 of 1986	Sectional Titles Act, 1986	Section 10 (1) by the deletion of the words: "or, in the case of a unit which is controlled premises referred to in the Rent Control Act, 1976 (Act No. 80 of 1976), and is subject to the provisions of that Act, within a period of 365 days, of the date of offer, or has, on the expiration of any such applicable period, not accepted the offer."



Government Gazette

REPUBLIC OF SOUTH AFRICA

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13 May 2008

No. 31051

THE PRESIDENCY

No. 539

13 May 2008

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 43 of 2007: Rental Housing Amendment Act, 2007.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 8 May 2008.)

ACT

To amend the Rental Housing Act, 1999, so as to substitute a definition; to make further provision for rulings by Rental Housing Tribunals; to expand the provisions pertaining to leases; and to extend the period allowed for the filling of vacancies in Rental Housing Tribunals; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 50 of 1999

1. Section 1 of the Rental Housing Act, 1999 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "unfair practice" of the following definition: 5

"**'unfair practice' means—**

- (a) any act or omission by a landlord or tenant in contravention of this Act; or
 (b) a practice prescribed as a practice unreasonably prejudicing the rights or interests of a tenant or a landlord." 10

Amendment of section 4 of Act 50 of 1999

2. Section 4 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) In advertising a dwelling for purposes of leasing it, or in negotiating a lease with a prospective tenant, or during the term of a lease, a landlord may not unfairly discriminate against such prospective tenant or tenants, or the members of such tenant's household or the *[bona fide]* visitors of such tenant, on one or more grounds, including race, gender, sex, pregnancy, marital status, sexual orientation, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, language and birth." 15 20

(b) by the substitution in subsection (3) for paragraph (c) of the following paragraph:

"(c) his or her possessions seized, except in terms of a law of general application and having first obtained a ruling by a Tribunal or an order of court; or"; and 25

(c) by the substitution for subsection (4) of the following subsection:

“(4) The rights set out in subsection (3) apply equally to members of the tenant’s household and to [*bona fide*] visitors of the tenant.”.

Amendment of section 5 of Act 50 of 1999

3. Section 5 of the principal Act is hereby amended—

(a) by the substitution in subsection (3) for paragraph (b) of the following paragraph:

“(b) such receipt must be dated and clearly indicate the address, including the street number and further description, if necessary, of a dwelling in respect of which payment is made, and whether payment has been made for rental, arrears, deposit or otherwise, and specify the period for which payment is made; Provided that a Tribunal may, in exceptional cases, and on application by a landlord, exempt the landlord from providing the information contemplated in this paragraph:”;

(b) by the substitution in subsection (3)(d) for the words preceding the provision of the following words:

“the deposit contemplated in paragraph (c) must be invested by the landlord in an interest-bearing account with a financial institution and the landlord must subject to paragraph (g) pay the tenant such interest at the rate applicable to such account which may not be less than the rate applicable to a savings account with [a] that financial institution, and the tenant may during the period of the lease request the landlord to provide him or her with written proof in respect of interest accrued on such deposit, and the landlord must provide such proof on request”;

(c) by the deletion in subsection (3) of the word “and” at the end of paragraph (n), the addition of the word “and” at the end of paragraph (o) and the addition to that subsection of the following paragraph:

“(p) any costs in relation to contract of lease shall only be payable by the tenant upon proof of factual expenditure by the landlord.”.

Amendment of section 9 of Act 50 of 1999

4. Section 9 of the principal Act is hereby amended—

(a) by the deletion in subsection (1) of paragraph (c);

(b) by the insertion after subsection (1) of the following subsection:

“(1A) The MEC must appoint a deputy chairperson from the members referred to in subsection (1)(b).”;

(c) by the substitution in subsection (5) for paragraph (a) of the following paragraph:

“(a) Any vacancy in the office of a member of the Tribunal must, within [~~one month~~] three months of such vacancy occurring, be filled by the MEC appointing another member under subsection (1) or (3).”.

Amendment of section 10 of Act 50 of 1999

5. Section 10 of the principal Act is hereby amended by the insertion after subsection (2) of the following subsections:

“(2A) The Chairperson presides at all meetings of the Tribunal.

“(2B) Where the Chairperson is not present at a meeting, the Deputy Chairperson presides or, if the Deputy Chairperson is not present, the members of the Tribunal present must appoint from amongst themselves a member to preside at such a meeting.”.

Amendment of section 13 of Act 50 of 1999

6. Section 13 of the principal Act is hereby amended—

- (a) by the substitution in subsection (4) for paragraph (a) of the following paragraph: 5
 “(a) rule that any person must comply with a provision of ~~the regulations relating to unfair practices~~ this Act”;
- (b) by the deletion in subsection (12) of the word “and” at the end of paragraph (a), the addition of the word “and” at the end of paragraph (b) and the addition to that subsection of the following paragraph: 10
 “(c) issue spoliation and attachment orders and grant interdicts.”;
- (c) by the substitution for subsection (13) of the following subsection: 10
 “(13) A ruling by the Tribunal is deemed to be an order of a magistrate’s court in terms of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), and is enforced in terms of that Act.”; and
- (d) by the addition of the following subsection: 15
 “(14) The Tribunal does not have jurisdiction to hear applications for eviction orders.”.

Amendment of section 15 of Act 50 of 1999

7. Section 15 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 20
 “The [MEC may] Minister must, after consultation with the [relevant] standing or portfolio on housing [of the Provincial Legislature responsible for housing matters in the province] and every MEC, by notice in the Gazette, make regulations relating to—”;
- (b) by the deletion in subsection (1)(f) of subparagraph (v); and 25
- (c) by the substitution for subsection (2) of the following subsection: 30
 “(2) At least one month prior to the publication of any regulations contemplated in subsection (1), the [MEC] Minister must by notice in the Gazette set out the [MEC’s] Minister’s intention to publish regulations in the form of a Schedule forming part of such notice setting out the proposed regulations, and inviting interested persons to comment on the said regulations or make any representations which they may wish to make in regard thereto.”. 35

Amendment of section 16 of Act 50 of 1999

8. Section 16 of the principal Act is hereby amended by the deletion of the word “or” at the end of paragraph (h) and the insertion after that paragraph of the following paragraph:

- “(hA) unlawfully locks out a tenant or shuts off the utilities to the rental housing property; or”.

Repeal of section 19 of Act 50 of 1999

9. Section 19 of the principal Act is hereby repealed.

Short title

10. This Act is called the Rental Housing Amendment Act, 2007.

UKUSUSWA KWEZIMISO ZETAYITELA

MINA, Makenete Benjamin Maduna, uMqondisi: UkuQaliswa kokuSetshenziswa koHlelo lweNtuthuko eMnyangweni wezeNdabuko noHulumeni baseKhaya wokuPhathwa kwesiFundazwe saKwaZulu-Natali, ngaphansi kwesigaba 2(1) soMthetho wokuSuswa kweMithetho yokuThibela, 1967 (uMthetho No. 84 ka 1967), ufundwa noMthetho wokuDluliselwa kwaMandla 2 weNgxenywe VIII yeSahluko B sokuDluliselwa kwaMandla okuVamile koMnyango wezeNdabuko noHulumeni baseKhaya wokuPhathwa kwesiFundazwe okukhulunywe ngakho okukhishwe nguNgqongqoshe wezeNdabuko, ezokuPhepha nokuVikeleka kanye noHulumeni baseKhaya wokuPhathwa kwesiFundazwe saKwaZulu-Natali ngokulandela isigaba 2 soMthetho waKwaZulu-Natali wokuDluliselwa kwaMandla, 1994 (uMthetho No. 8 ka 1994), ngalokhu ngisusa kwiGunya lokuDlulisela No. T 9717/2001 noma yiliphi itayitela elilandela igunya eliphathelene nobuNgako beSiza 195 i-Wolds (isiGceme eseNgeziwe 1), owakhiwe kuMasipala oyiNhlanganisela woMkhandlodolobha waseThekwini: isikhungo esiSebenzela eNtshonalanga emaPhakathi, iSabelo sokuBhalisa FT, ukuPhathwa kwesiFunda kanye nesiFundazwe saKwaZulu-Natali, izimiso zetayitela u B.2. no B.3.

Sisayinwe eThekwini, ngalolu suku lwe-4 ku Disemba oNyakeni weziNkulungwane eziMbili naNye.

M. B. MADUNA
uMqondisi: ukuQaliswa kokuSetshenziswa koHlelo lweNtuthuko
isiFunda esingasoGwini
R/R 2001/3

REMOVAL OF CONDITIONS OF TITLE

IMakenete Benjamin Maduna, Director: Development and Planning Implementation in the Department of Traditional and Local Government Affairs of the Provincial Administration of KwaZulu-Natal, acting under section 2(1) of the Removal of Restrictions Act, 1967 (Act No. 84 of 1967), read with Delegation 2 of Part VIII of Chapter B of the General Delegations of Authority of the Department of Traditional and Local Government Affairs of the said Provincial Administration issued by the Minister of Traditional Affairs, Safety and Security and Local Government of the Province of KwaZulu-Natal in terms of section 2 of the KwaZulu-Natal Delegation of Powers Act, 1994 (Act No. 8 of 1994), hereby remove from Deed of Transfer No. T 9717/2001 or any subsequent title deed pertaining to Erf 195 the Wolds (Extension No. 1), situate in the Durban Metropolitan Unicity Municipality: Inner West Operational Entity, Registration Division FT, Administrative District and Province of KwaZulu-Natal, the conditions of title lettered/numbered B.2. and B.3.

Dated at Durban, this 4th day of December Two Thousand and One.

M. B. MADUNA
Director:
Development Planning Implementation
Coastal Region
R/R 2001/3

RENTAL HOUSING ACT, 1999 (ACT NO. 50 OF 1999)

REGULATIONS

THE Member of the Executive Council responsible for housing in the Province of Kwazulu-Natal, hereby makes the following Regulations in accordance with the powers vested in him by section 15(1) of the Rental Housing Act, 1999 (Act No. 50 of 1999).

SCHEDULE

1. Definitions

In these Regulations —

- 'the Act' means the Rental Housing Act, 1999 (Act No. 50 of 1999);
- words defined in section 1 of the Act have the same meaning in these Regulations; and
- unless the context indicates otherwise;
- 'services' means the provision of water, electricity, gas services and refuse removal;
- 'complainant' means a person who lodges a complaint with the tribunal, and the complaint falls within the jurisdiction of the tribunal;
- 'mediation' means a voluntary process in terms of which a tribunal member or a nominee of the tribunal assists parties to resolve a dispute;
- 'party' means a person who is participating in mediation or any other dispute resolution mechanism provided by the tribunal;
- 'register' means the register contemplated in section 13 (8) of the Act; and
- 'respondent' means a person against whom a complaint has been lodged with the tribunal.

2. Relations between Tenants and Landlords

A landlord may exercise his or her right of inspection after giving the tenants seven (7) days notice. Such notice shall be in writing as worded in the proforma notice as contained in Annexure G to this schedule.

3. Written Lease Agreement

- Where a lease has been reduced to writing, reference must be made to Annexure A.
- These Regulations shall prevail where there is a conflict between a lease and these Regulations.

4. House Rules

The guidelines as contained in Annexure B marked "Guidelines with respect to House Rules Applicable to the Leasing of a Dwelling" shall form the basis of any lease whether in writing or not.

5. Procedures and Manner in which the Proceedings of the Tribunal must be Conducted

Meeting of the Tribunal

- The tribunal is a tribunal of record and a record must be kept of —

- (a) any decision of the tribunal;
 - (b) any evidence given to the tribunal;
 - (c) any objections made to any evidence received or tendered;
 - (d) any on-site inspection and any matter recorded as a result thereof; and
 - (e) the proceedings of the tribunal generally.
- (2) Such record must be kept by such means, including shorthand notes or electronic recording, the tribunal may deem expedient.
 - (3) After the person who made any shorthand notes or electronic recording has certified it as correct, it must be filed in the Register.
 - (4) A transcript of the notes or the record or a portion thereof, may be made on the request, in writing, by any person upon the payment of the reasonable expenses incurred by the State in causing such transcript to be made, which sum shall not be less than R20 (twenty rands).
 - (5) Despite sub-regulation (4), the tribunal may, on good cause shown, dispense with payment of such amounts.
 - (6) If a transcript is required in terms of sub-regulation (4), the person who made such transcript of electronic recording or notes must certify it as correct, and such transcript, together with any notes or electronic records, must be returned to the Register.
 - (7) The transcript of the shorthand notes or electronic notes or electronic record certified as correct, as envisaged in sub-regulation (3), will be deemed to be correct unless the contrary is proved to the satisfaction of the tribunal and it issues a ruling accordingly. Such transcript shall then be filed in the Register as the minutes of the meeting(s) of the Tribunal
 - (8) All matters of record as defined in sub-regulations (1) to (7) above, shall also apply with respect to the recording of the proceedings of a mediation hearing.
- 6. Witnesses, Fees and Subpoenas**
- (1) A witness summoned to give evidence before the tribunal is entitled to such fees and costs as are specified in the tariff of allowances payable to witnesses in civil cases prescribed under section 51(bis) of the Magistrates' Court Act, 1944 (Act No. 32 of 1944), and section 42 of the Supreme Court Act, 1959 (Act No. 59 of 1959).
 - (2) Where a subpoena is issued or information is required in terms of sections 13(3)(d), and 13(3)(e) of the Act, the subpoena should, as far as is practical, be in the form set out in Annexure D to these Regulations.
 - (3) The subpoena must set out in clear terms –
 - (a) the full names of the person from whom the information is required;
 - (b) the information that is required; and
 - (c) the book, document or thing to be produced.
 - (4) The subpoena must be served on the person concerned personally, or on a nominated agent.
- 7. Costs**
- (1) The costs allowed in terms of a ruling of the tribunal in terms of section 13(4) of the Act, must be calculated and taxed by the tribunal at the tariff determined in the tribunal's ruling, but such costs must not exceed the costs which could have been allowed in a Magistrates' Court or in a Provincial Division of the High Court of South Africa, if the matter had been heard in such a Court.
 - (2) Costs taxed by the tribunal are subject to review on application by one or both of the parties within fourteen (14) of such taxation.
 - (3) The application referred to in sub-regulation (2) must identify each disputed item or part of an item, together with the grounds of objection to the allowances or dis-allowances thereof.
 - (4) Qualifying fees for expert witnesses are not recoverable as costs between party and party unless the tribunal directs otherwise.
- 8. Filing Complaints**
- (1) A tenant or landlord or group of landlords or tenants or interest group may lodge a complaint with the tribunal concerning an unfair practice as contemplated in the Act or the Regulations, by filing a written complaint on the form appearing in Annexure E.
 - (2) Complaints must be filed –
 - (a) by mail to the official office of the Tribunal as defined in Annexure C to these Regulations;
 - (b) at the relevant Rental Housing Information Office within the jurisdiction of the Local Municipality in which the Dwelling is situated for onward transmission within seven(7) days to the official office of the Tribunal;
 - (c) at the official office of the tribunal as defined in Annexure C to these Regulations;
 - (d) by facsimile to the number given in Annexure C to these Regulations, provided that proof of successful transmission can be provided and the person receiving the facsimile at the office of the tribunal is recorded on the person's original document.
- 9. Jurisdiction**
- (1) A complaint will be considered to be within the tribunal's jurisdiction if it concerns a Dwelling situated within the Province for which the tribunal was established.
 - (2) If the complaint is not within the jurisdiction of the tribunal, the complainant must be –
 - (a) notified in writing within thirty (30) days of the receipt of such notification that the tribunal cannot act on the matter;
 - (b) advise that he or she may within thirty (30) days of such notification make a request for the tribunal to review the decision on jurisdiction; and
 - (c) where possible, be given an appropriation referral within thirty (30) days.
- 10. Investigation**
- (1) In respect of any complaint lodged at the Rental Housing Information office –
 - (a) a Complaints Transmission Register (CTR) must be kept in which complaints are listed in a numerical order and reference is made to the financial year in which the complaint was received; and
 - (b) such Complaints Transmission Register shall contain at least four entries with respect to the complainant details, namely, 'unfair practice headings' as noted under Regulations 15 through to 21 inclusive, the date the complaint was received, the date the complaint was transmitted to the office of the Tribunal and the name of the official responsible for such transmission.
 - (2) The following steps must be taken by the official office of the tribunal in respect of any complaint lodged that falls within the jurisdiction of the tribunal:
 - (a) A file must be opened and a file reference number be allocated to the complaint, the particulars of the Dwelling to which the complaint refers must be listed in the Register and a reference number must be allocated to the complaint.
 - (b) The complainant must be provided with an acknowledgment of receipt containing the reference number.

- (c) The tribunal must conduct such preliminary investigations as may be necessary to establish whether the complaint relates to a dispute in respect of the matter which may constitute an unfair practice, and may for this purpose obtain any additional information required to provide a full and complete description of the matter from either the complainant or the respondent alleged to have engaged in an unfair practice.
- (d) The complaint must be reviewed with regard to all the information received.
- (e) If necessary, an inspector must compile a formal report after inspecting the Dwelling in respect of which the complaint was lodged.

11. Resolution of Disputes

- (1) If the tribunal determines that the complaint does not relate to a dispute in respect of a matter which may constitute an unfair practice, or that no relief could be provided, the tribunal must –
 - (a) notify the complainant within thirty (30) days, that the tribunal will not take action;
 - (b) if possible, furnish the complainant with an appropriate referral; and
 - (c) record the disposition and closure of the matter in the Register.
- (2) If a matter is not dismissed or disposed of as provided for in sub-regulation (1) above, the tribunal shall, following the preliminary investigation, make a formal determination that a dispute exists and inform the parties within thirty (30) days in writing of its determination.
- (3) Once it has been determined that a dispute exists, any such complaint must, subject to sub-regulation (4) below, be resolved either through mediation as contemplated in section 13(2)(c) of the Act, or through a formal hearing as contemplated in section 13(2)(d) of the Act.
- (4) Mediation and/or a formal hearing is to be conducted in a language that is comprehended by all the parties concerned and for this purpose the services of an interpreter shall be provided, if necessary.

12. Mediation

- (1) When the tribunal is of the view that a dispute may be resolved through mediation, it may appoint a mediator, who may be a member of the tribunal, a member of staff, or any person deemed fit and proper by the tribunal, with a view to resolving the dispute.
- (2) Notification of the Tribunal shall be substantially in accordance with Annexure F.
- (3) The mediation process shall be conducted as follows:
 - (a) The mediator shall explicitly discuss the issue of confidentiality with the parties prior to the commencement of any mediation. If a party requests that information be kept confidential, either during the course of the mediation or afterwards, and the other parties agree to mediate under those terms, the explicit provisions of the confidentiality agreement shall be made part of the mediation agreement.
 - (b) The mediator shall, at the outset, inform the parties that he or she merely acts as a facilitator in attempting to resolve the dispute between them and that the decision to be arrived at will be the decision of the parties and not his or hers.
 - (c) The mediator will also inform the parties involved that the mediation process will be conducted such that –
 - (i) each party will be given an opportunity of outlining their case;
 - (ii) each party can, at any stage, of the proceeding recess into a caucus, in another room or office;
 - (iii) if the respective party does not have any objection thereto, then the mediator shall attend the caucus meeting and make suggestions and proposals; and
 - (iv) if the party in a caucus does not have any objection, then the mediator shall convey any proposal, attitude or indication or suggestion, stemming from a caucus meeting to the other party.
 - (d) The mediator shall conduct mediation only in those disputes in which he or she can be impartial with respect to all of the parties and the subject matter of the dispute.
 - (e) The mediator shall disclose, to all parties, all actual or potential conflicts of interest.
 - (f) The mediator shall not conduct mediation unless the parties, after being informed of any actual or potential conflict, give their consent and the mediator determines that the conflict is not so significant as to cast doubt of the integrity of the process on himself or herself.
 - (g) If, at any time, the mediator believes that any party to mediation is unable to understand and participate fully in the proceedings due to mental impairment, emotional disturbance, intoxication, language barriers, or other reasons, the mediator shall limit the scope of the mediation to a level consistent with the party's ability to participate and/or make a recommendation that the party may obtain appropriate assistance in order to continue with the process, and/or terminate, adjourn or postpone the mediation process.
- (5) The mediator must attempt to obtain testimony or documents voluntarily, which he or she determines is necessary, from a person not party to the mediation, and record all efforts made to obtain the information in the file.
- (6) If the required testimony or documentation cannot be obtained voluntarily, the mediator may issue summons in the form of a subpoena as contained in Annexure D to these Regulations.
- (7) The issue of such summons in the form of a subpoena shall first be authorised by the tribunal.
- (8) A mediation process must be completed within thirty (30) days. If, however, this is not possible then the process may be extended beyond the thirty (30) period with the consent of the tribunal.
- (9) If the parties cannot reach agreement through mediation, the matter must be referred to the Tribunal for a formal hearing and ruling in terms of sections 13(3), 13(4), 13(5), 13(6) and 13(12) of the Act.
- (10) The parties may not be coerced in any manner to reach agreement. If the mediation results in an agreement, it shall be put in writing and signed by all parties and the mediator, and recorded in the Register. Before requesting the parties to sign the agreement, the mediator must ensure that each party fully understands the agreement and is entering into it voluntarily.
- (11) If the mediation does not result in an agreement, the mediator shall, for the purpose of a formal hearing by the tribunal, prepare a report summarising the evidence and making a recommendation as to whether the evidence shows that there has been a violation of an unfair practice in terms of these Regulations.
- (12) If any party to a dispute which was resolved by an agreement reached through mediation alleges that the other party has failed to comply with the agreement, that party may seek relief by reporting the allegations to the tribunal.
- (13) Upon receipt of a report alleging failure to comply with an agreement, the tribunal shall conduct an investigation into such allegations to determine whether the terms of the agreement are being adhered to.
- (14) If such allegations are found to be true, the tribunal shall conduct a hearing and make such a ruling as it considers just and fair.

13. Powers, Duties and Functions of Inspectors and Tribunal Staff

- (1) The staff, as contemplated in terms of section 11 of the Act, shall comprise of management, clerical and technical staff.
- (2) The management staff shall have the powers, duties and functions to –

(a) manage the official office of the tribunal

- (b) provide adequate secretarial, administrative and technical support to the tribunal;
 - (c) establish, in consultation with respective municipal managers, the Rental Housing Information Offices; and
 - (d) oversee expedient transmission of complaints to the official office of the tribunal by regularly checking the Complaints Transmission Registers in respective Rental Housing Information Offices.
- (3) The clerical staff shall have the powers, duties and functions to —
- (a) receive written complaints, open files and enter the cases in the Register;
 - (b) review complaints and screen cases in respect of the jurisdiction of the tribunal and advise complainants accordingly, in writing;
 - (c) conduct preliminary investigations;
 - (d) keep records about the status of matters and their outcome;
 - (e) receive and carry out the instructions of the tribunal and prepare the necessary documentation for the tribunal;
 - (f) schedule mediation hearings and notify parties about the place, date and time of such hearings in writing;
 - (g) record proceedings on mediation hearings;
 - (h) trace and contact property owners from information held by the Registrar of Deeds;
 - (i) hold consultations with complainants and respondents and record all the information received;
 - (j) obtain sworn statements from disputing parties and other parties concerned;
 - (k) give evidence before the tribunal when requested to do so;
 - (l) obtain or examine copies of all books and documents which may be relevant to a case;
 - (m) contact any local authority to determine the amount of arrears in rates and taxes owed in respect of a Dwelling;
 - (n) investigate the legal status of residents when illegal sub-letting is alleged to be occurring;
 - (o) obtain copies of all receipts in respect of a Dwelling which is the subject of a complaint;
 - (p) obtain, from any Rental Housing Information Office established under the Act, any reports concerning enquiries and complaints received as contemplated under section 13 (3)(a) of the Act;
 - (q) assist the technical advisor in conducting any preliminary enquiry to provide a complete record of relevant information acquired through inspections and investigations;
 - (r) submit applications to a Magistrate's Court to prosecute, when instructed by the tribunal to do so; and
 - (s) do anything in the reasonable execution of functions and duties required by the Act or the tribunal.
- (4) The technical staff shall have the powers, duties and functions to —
- (a) access premises when requested by the official office of the tribunal to do inspections;
 - (b) conduct routine building inspections and provide written inspection reports when requested to do so by the tribunal and staff members;
 - (c) deliver notices and other documentation to the relevant parties involved in a dispute;
 - (d) deliver written recommendations of the tribunal to parties against whom action will be taken for non-compliance with unfair practices, as contained in these Regulations;
 - (e) serve summons in the form of a subpoena on a party by handing a true copy of such summons to such person personally, or where such person could not be found, by handing a true copy to a person apparently above the age of sixteen (16) years and apparently residing or employed at the place of employment of the therein-named person at the place of residence, employment or business of the person therein-named who, in the tribunal's opinion, may be able to provide any information concerning a complaint, to appear before the tribunal as contemplated in section 13(3)(e) of the Act, and to produce any book or document as the tribunal may determine;
 - (f) conduct preliminary investigations involving fieldwork;
 - (g) give evidence before the tribunal when requested to do so;
 - (h) provide any information and produce any report and other documents concerning an inspection conducted which may have bearing on any complaint;
 - (i) assist the technical advisor in conducting any preliminary enquiry to provide a complete record of relevant information acquired through inspections and investigations; and
 - (j) do anything in the reasonable execution of functions and duties required by the Act or the tribunal.

14. Enforcement

Where necessary, the summoning of one or both parties to a dispute may be in the form of a subpoena as contained in Annexure D to these Regulations.

UNFAIR PRACTICES

15. Changing of Locks

- (1) The landlord or tenant may not change any locks providing access to the Dwelling —
- (a) unless it is necessary due to fair wear and tear or other reasonable causes;
 - (b) without giving reasonable notice of the proposed changes; and
 - (c) unless duplicate keys are provided immediately upon such changing of locks.

16. Conditions and Maintenance

- (1) A Landlord must —
- (a) let a Dwelling which, at the commencement of the lease is —
 - (i) in a condition reasonable and fit for the purpose for which it is let; and
 - (ii) in a condition which does not contravene the provisions of the Act, these Regulations, any ordinance, health or safety regulation or any other law;
 - (b) keep and maintain the Dwelling in compliance with all ordinances, health or safety regulations or any other law;
 - (c) provide all services agreed to in the lease during the terms of the lease;
 - (d) effect repairs for which the landlord is responsible under the lease and as identified during inspections by the landlord, or on receipt of a notice from a tenant to do such repairs: Provided that unless the lease makes provision to the contrary, the landlord shall not be liable for repairs if the tenant, his or her household or *bona-fide* visitors brought about the state of disrepair; and

- (e) effect repairs as soon as is reasonably possible having regard to the nature of the repair; but not exceeding thirty (30) days of inspection or notice contemplated in paragraph (d) above or such further period as may be agreed to between the landlord and tenant.

17. Re-construction, Refurbishment, Conversion or Demolition

- (1) A landlord may only –
- request a tenant to vacate the Dwelling if any repairs, conversions or refurbishment are urgently necessary and cannot be properly made while the tenant remains in occupation; and
 - cancel the lease and re-possesses the Dwelling without being liable for damages in terms of the lease, the Act, these Regulations or any other law, in circumstances where the Dwelling is in a tumble-down condition or cannot safely be inhabited and must as a result thereof be re-built, re-constructed or demolished.
- (2) In the circumstances contemplated in paragraph (a) of sub-regulation (1) above, the landlord must –
- allow the tenant remission of rental for the period during which the tenant is not in occupation;
 - effect the repairs, conversion or refurbishment within a reasonable time so as to cause the tenant as little inconvenience as possible; and
 - ensure that the tenant is able to return to the Dwelling as soon as possible, after completion of the repairs, conversion or refurbishment.
- (3) Where the repairs, conversion or refurbishment are necessary only to a part of the Dwelling and the tenant continues to occupy the remaining part, the tenant shall be entitled to a remission in rental, the amount of which shall be proportionate to the extent of the tenant's deprivation.
- (4) If a tenant, having been requested to vacate the Dwelling, does not do so, the tenant shall have no claim against the landlord for injuries suffered while the Dwelling is being repaired, converted or refurbished.
- (5) When requested by the landlord to vacate the Dwelling for the purpose of urgent and necessary repairs, conversions or refurbishment, the tenant may not cancel the lease unless –
- the temporary unfitness of the Dwelling would be ruinous to the tenant; or
 - the repairs, conversion or refurbishment could reasonably have been foreseen by the landlord at the time when the lease was entered into.

18. Eviction

- No tenant shall be evicted from his or her Dwelling without an Order of Court.
- A tenant evicted from the whole or part of the Dwelling by a third person shall, subject to the common law, have a claim for damages against the landlord.

19. Entry

- (1) A landlord may only enter a Dwelling on giving the tenant notice as prescribed in Regulation 2, –
- to inspect the Dwelling;
 - to make repairs to the Dwelling;
 - to show the Dwelling to a prospective tenant, purchaser, mortgagee or its agent; and
 - to inspect the Dwelling for damages as contemplated in sections 5(3)(e) and 5(3) (f) of the Act, or as contained in the lease agreement, or upon notification by the landlord or the tenant of the intention to terminate the lease.
- (2) A tenant must allow the landlord to enter the Dwelling for the purpose set out under sub-regulation (1) above, provided that such entry is carried out at reasonable times.
- (3) A landlord may enter a Dwelling without the notice as prescribed in Regulation 2 –
- if the Dwelling appears to be abandoned by the tenant; or
 - pursuant to a Court Order.

20. Municipal Services

- (1) A landlord who is obliged by law in terms of the express or implied terms of the lease to provide services to a tenant must –
- provide such services;
 - not cause the non-supply or interrupted supply of a service to a Dwelling without a Court Order, except –
 - in an emergency; or
 - after reasonable notice to the tenant to do maintenance, repairs or renovations; and
 - provided that the services are resumed as soon as reasonably possible, after such emergency, maintenance, repairs or renovations;
 - not expose the tenant to the risk of the interruption or loss of services by withholding payment to the service provider when such payment becomes due, provided that the tenant has made payment to the landlord in respect of the amounts due for such services;
 - not charge a tenant for more than the exact services consumed in the tenants Dwelling if such Dwelling is separately metered; and
 - not fail to comply with any regulation, by law, or any other law regarding the amount to be charged to a tenant for services, if any, if a Dwelling is not separately metered for services.
- (2) If a Dwelling is separately metered for the services and payment must be made directly to the landlord, the landlord must provide the tenant with a monthly statement which must contain at least –
- the names of both the landlord and the tenant, as well as the physical address of the Dwelling;
 - the name, address and telephone number of each service provider;
 - the previous and current months' meter reading;
 - the actual consumption for each service and the amounts charged therefor;
 - the total payment due;
 - the date of the meter reading for each service; and
 - the amount of any arrears.
- (3) A landlord must issue a receipt to a tenant upon payment by the tenant for services.

21. General Provisions Relating to Unfair Practice

- (1) A landlord may not –
- intimidate, discriminate or retaliate against a tenant for exercising any right under the Act, these Regulations or any other law;
 - preclude a tenant from establishing or being a member of a tenant's committee or any similar body;

- (c) make a false representation regarding the official nature of any document or refuse to accept any notice lawfully presented or sent by the tenant;
 - (d) engage in oppressive or unconscionable conduct;
 - (e) fail to comply with the tribunal complaint procedures, or any agreement concluded with the tribunal or with the tenant through the tribunal's complaint procedures;
 - (f) conduct any activity which unreasonably interferes with or limits the rights of the tenant, or which is expressly prohibited under the lease, the Act and these Regulations, any ordinances, health and safety regulations or any other law; and
 - (g) induce a person to waive his or her rights under the Act, these Regulations or any other law, or to withdraw from proceedings before the tribunal.
- (2) A tenant may not --
- (a) cede his or her rights, assign his or her obligations or sub-let the Dwelling or any part thereof to any other person without the written consent of the landlord;
 - (b) allow more than the maximum number of persons specified by the landlord and any ordinances, health and safety regulations or any other law, to reside in the Dwelling;
 - (c) intimidate, discriminate or retaliate against a landlord for exercising any right under the Act, these Regulations or any other law;
 - (d) make a false representation regarding the official nature of any document or refuse to accept any notice lawfully presented or sent by the landlord;
 - (e) engage in oppressive and unconscionable conduct;
 - (f) fail to comply with the tribunal complaint procedures or any agreement concluded with the tribunal or with the landlord through the tribunal's complaint procedures, or as a result of an agreement reached in terms of the mediation process, as prescribed;
 - (g) conduct any activity which unreasonably interferes with or limits the rights of other tenants, or which is expressly prohibited under the lease, the Act and these Regulations, any ordinance, health and safety regulations or any other law;
 - (h) cause or permit any nuisance upon the Dwelling; and
 - (i) induce a person to waive his or her rights under the Act, these Regulations or any other law, or to withdraw from proceedings before the tribunal.

22. Amendments and Additions to these Regulations

These Regulations may be amended and/or added to on any matter which is necessary in order to achieve the purpose of the Act, provided that the procedure as prescribed in section 15(2) is followed.

23. Short Title and Commencement

These Regulations shall be called the Rental Housing Act Regulations and shall come into effect on different dates as published in the *Provincial Gazette* from time to time.

ANNEXURE A

LEASE CONTRACT BETWEEN LANDLORD AND TENANT

Reference is made to the Act, and specifically the following sections:

- (a) Section 5(2), "a landlord must, if requested thereto by a tenant, reduce the lease to writing".
- (b) Section 5(3) sets out in detail the provisions which a lease is deemed to include.
- (c) Section 5(4), "the standard provisions referred to in sub-section (3) may not be waived by the tenant or the landlord".
- (d) The above table read with sections 5(6) and 5(7) sets out the details which must be agreed upon between a landlord and tenant.

Parties who wish to enter into a written lease shall refer to the above-named sections of the Act and ensure that the Lease is in full compliance therewith.

ANNEXURE B

GUIDELINES WITH RESPECT TO HOUSE RULES APPLICABLE TO THE LEASING OF A DWELLING

1. The landlord may, in terms of section 5(8) of the Act, attach house rules applicable to a dwelling as an Annexure to a written lease.
2. Such rules should relate to the conduct of the tenant during the term of the lease. They shall not be in conflict with Regulations 15 through to 21 (inclusive) — "Unfair Practices".
3. The following may serve as minimum house rules:
No resident, occupants or person(s) may —
 - (a) create a nuisance or disturbance in or on any part of the dwelling or premises on which the dwelling is located;
 - (b) alter or install anything in the dwelling, nor effect any alterations or additions to the fittings or structure therein without the prior written consent of the landlord;
 - (c) keep any animal, bird or motor vehicle anywhere on the premises on which the dwelling is located without the prior written consent of the landlord;
 - (d) alter or interfere with the electrical or other installations of the dwelling; and
 - (e) convene any meeting or gathering in or on any part of the premises on which the dwelling is located without the prior consent of the landlord, provided that such consent would not be unreasonably withheld.

ANNEXURE C

OFFICIAL ADDRESS AND CONTACT DETAILS OF THE TRIBUNAL

Address: Private Bag X 54367
Durban
4000

Contact persons: Mr R. Maharaj
Mr A. Erasmus

Telephone number: (031) 3605222
Fax number: (031) 3371062

ANNEXURE D

EXAMPLE OF SUBPOENA ARISING FROM SECTION 13(3)(d) AND 13(3)(e) OF THE ACT

COMPLAINT TRANSMISSION REGISTER FILE REFERENCE NO.

RENTAL HOUSING TRIBUNAL FOR KWAZULU-NATAL ESTABLISHED UNDER SECTION 7 OF THE RENTAL HOUSING ACT, 1999 (ACT NO . 50 OF 1999)

In the Application of : _____, and [Insert name of complainant]

In respect of Dwelling known as _____ [Insert Full Description of Dwelling and Description of Property on which the Dwelling is located]

SUBPOENA

[State name, occupation and place of business and residence of persons being required to appear].

BE INFORMED:

That you are hereby required to appear in person before this Tribunal at _____ on _____ of _____ [Insert venue] [Insert date and time] [Insert month]

And thereafter to remain in attendance until excused by the Tribunal in regard to all matters within our knowledge relating to the matter pending before this Tribunal wherein the Applicant is seeking _____

AND FURTHER BE INFORMED:

To bring and produce to this Tribunal the following: [Insert accurately the documents, book or thing to be produced]

- (1) _____ ;
(2) _____ ;
(3) _____ .

AND FURTHER BE INFORMED:

That should you, on any account, neglect to comply with any provisions of this Subpoena, you may render yourself liable to a fine, and/or to imprisonment not exceeding two (2) years.

Signed and dated at _____ this _____ day of _____

TRIBUNAL CHAIRPERSON

ANNEXURE E

FORM FOR FILING OF COMPLAINT IN TERMS OF SECTION 13(1) OF THE ACT

I / we, _____ being the _____, [Insert landlord, landlords, tenant, tenants or interested group]

herewith lodge a complaint to the Tribunal concerning the following unfair practices:

- (1) _____ ;
(2) _____ ;
(3) _____ ;

with respect to _____ [Insert Dwelling and Full Property Details]

of address _____ [Insert full address]

Signed and dated at _____ this _____ Day of _____

[Signed by person lodging the complaint]

ANNEXURE F

NOTIFICATION OF THE TRIBUNAL TO MEDIATE

This relates to a notification to the Tribunal that both parties agree to mediation, the outcome of which may result in an agreement being reached, which agreement shall be put in writing.

It is recommended that both parties signify their willingness to mediation, in writing, to the Tribunal.

ANNEXURE G

NOTICE

_____ [Insert name of tenant]

_____ [Insert address]

_____ [Insert date]

Dear Madam/Sir

Inspection of _____

[Insert description of Dwelling and property on which Dwelling is located]

Notwithstanding your rights, the rights of your family members and rights of your *bona fide* visitors not to have —

- (a) your persons or home searched;
- (b) your personal belongings searched;
- (c) your possessions seized, except in terms of law of general application and having first obtained an order of court; or
- (d) the privacy of your home infringed,

Notice is hereby given that on _____ I, _____

The landlord (as defined in the Rental Housing Act, 1999 (Act No. 50 of 1999) of the dwelling, (as defined in section 1 of the Rental Housing Act, 1999 (Act No. 50 of 1999) for which you are the tenant, will inspect the above-named property and the improvements thereon.

Therefore, kindly arrange for the premises to be accessible.

Yours faithfully

_____ [Landlord's signature]

_____ [Landlord's initials and surname]

No. 465, 2001

13 December 2001

KWAZULU-NATAL GAMBLING BOARD: NOTICE

Public Hearings for the Applicants for Certificates of Suitability

In terms of regulation 22 of the Regulations under the KwaZulu-Natal Gambling Act, 1996, notice is hereby given that public hearings for the following applicant for Certificates of Suitability will be held on 3 January 2002 at the Hilton Hotel in Durban commencing at 12:00:

B. Ram's TV Repairs Centre CC (t/a Ram's TV Repairs)

Issued by:

The Chief Executive Officer
KwaZulu-Natal Gambling Board
Office G125, Natalia Building
330 Longmarket Street
PIETERMARITZBURG
Telephone: (033) 3952252
Fax: (033) 3421971
E-mail: assyc@premier.kzntl.gov.za