REPUBLIC OF SOUTH AFRICA

RENTAL HOUSING ACT

REPUBLIEK VAN SUID-AFRIKA

WET OP HUURBEHUISING

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—

''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;

''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;

''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 rental 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.

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.

(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;

(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.

(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;

(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

(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.

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).

(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;

(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;

(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 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 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 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 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 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;

(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 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 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, 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 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 *(l)*, 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.

(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.

(6) A lease contemplated in subsection (2) must include the following information:

(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;

(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;

(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).

(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

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.

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.

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;

(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 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 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 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 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 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 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 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 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 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 person's deliberative 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.

(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.

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).

(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.

(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.

(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 person's 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 aforegoing, 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).

(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;

(d) national housing policy and national housing programmes; 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—

(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

(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.

(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.

(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.

(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.

(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.

(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—

(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;

(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;
(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;
(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;
(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 (Act No. 95 of 1986), where applicable;
(viii) intimidation;
(ix) issuing of receipts;
(x) tenants committees;
(xi) municipal services;
(xii) nuisances;
(xiii) overcrowding and health matters;
(xiv) tenant activities;
(xv) maintenance;
(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.

CHAPTER 5

GENERAL PROVISIONS

Offences and penalties

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
(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—
(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)*;

(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.

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

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
(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
(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 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"