
REPUBLIC OF SOUTH AFRICA

**RENTAL HOUSING
AMENDMENT ACT**

REPUBLIEK VAN SUID-AFRIKA

**WYSIGINGSWET OP
HUURBEHUISING**

No 43, 2007

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.

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

(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— 5
- (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 proviso 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—”; 25
- (b) by the deletion in subsection (1)(f) of subparagraph (v); and
- (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.”. 30

Amendment of section 16 of Act 50 of 1999

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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”. 40

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.