

CHAPTER 301

**THE LANDLORD AND TENANT (SHOPS, HOTELS
AND CATERING ESTABLISHMENTS) ACT**

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

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**THE LANDLORD AND TENANT (SHOPS, HOTELS
AND CATERING ESTABLISHMENTS) (TRIBUNAL)
(FORMS AND PROCEDURE) REGULATIONS**

[Legal Notice 19 of 1966, Legal Notice 31 of 1968, Legal Notice 153 of 1971, Legal Notice 229 of 1971, Legal Notice 48 of 1973, Legal Notice 420 of 1991, Legal Notice 536 of 1991, Legal Notice 104 of 1993]

1. These Regulations may be cited as the Landlord and Tenant (Shops, Hotels and Catering Establishments)(Tribunal)(Forms and Procedure) Regulations.

2. In these Regulations unless the context otherwise requires—

"Chairperson" means the Chairperson of the Tribunal;

"clerk" means the clerk to the Tribunal;

"register" means the register required to be prepared in accordance with regulation 11 of these Regulations.

3. Except as hereinafter provided, the forms to be used in proceedings before the Tribunal shall be the forms used in Subordinate Courts from time to time with such modification as may be necessary or proper to adapt the same to the matter concerned.

4. (1) A notice under section 4(2) of the Act by a landlord shall be in Form A in the Schedule to these Regulations.

(2) A notice under section 4(3) of the Act by a tenant shall be in Form A1 in the Schedule to these Regulations.

[L.N. 153/1971.]

5. Reference to the Tribunal under section 6(1) or section 12(4) of the Act shall be in Forms B and C in the Schedule to these Regulations.

6. The fees specified in Form D in the Schedule to these Regulations shall be payable in proceedings before the Tribunal:

Provided that the Tribunal may, in its discretion, for sufficient reasons, remit in whole or in part any fee.

7. A hearing notice issued by the Tribunal shall be in Form E in the Schedule to these Regulations.

8. A prohibition order issued by the Tribunal shall be in Form F in the Schedule to these Regulations.

9. An authority to inspect or view any premises issued by the Tribunal shall be in Form G in the Schedule to these Regulations.

10. A certificate permitting the levy of distress for rent issued by the Tribunal shall be in Form H in the Schedule to these Regulations.

11. The Tribunal shall cause to be prepared a register containing with regard to any reference before the Tribunal the following particulars—

(i) date of reference or application;

(ii) the serial number;

(iii) the names of the applicant and other parties;

(iv) the relief sought by the applicant and identifying details of the premises affected; and

(v) the final determination or order and the date thereof.

12. Where any tenancy dispute exists, the party desirous of referring such dispute to the Tribunal shall make an application to the Tribunal in the appropriate form in the Schedule

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to these Regulations, and the Tribunal shall thereupon take cognizance of the dispute and register the dispute in the register.

13. The clerk shall, after charging the appropriate fee, open a case file and shall record the particulars in the register.

14. The clerk shall fix a hearing date which shall not be earlier than seven days from the date of registration; and in fixing the hearing date due regard shall be had to the place of residence of the respondent and the time necessary for the service of the hearing notice, and the hearing date shall be so fixed as to allow the respondent sufficient time to enable him to appear on such day:

Provided that where the parties are immediately available, a reference may be set down for hearing at an earlier date.

15. The clerk shall prepare a hearing notice in the prescribed form and effect service on both the applicant and the respondent in the manner regulating the issue and service of summons under rules made under the Civil Procedure Act (Cap. 21).

[L.N. 153/1971.]

15A. When a witness is required to appear before the Tribunal the clerk shall prepare a witness summons in Form I in the Schedule to these Regulations and effect service on the witness in accordance with regulation 15 of these Regulations.

[L.N. 153/1971.]

16. The Tribunal shall have the same powers as are invested in a court when trying a suit under the Civil Procedure (Revised) Rules in respect of the following matters—

- (a) appearance of parties and consequences of non-appearance;
- (b) enforcing the attendance of any person and examining him on oath or affirmation;
- (c) compelling the production of a document; and
- (d) issuing commissions for the examination of witnesses and any proceedings before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 108, 109, 112, 113, 114, 115, 116, and 121 of the Penal Code (Cap. 63).

17. At any hearing before the Tribunal a party may be represented by a counsel.

18. In awarding costs and assessing expenses of witnesses, the Chairperson shall have regard to the appropriate scale prescribed under the Advocates Remuneration Order (Cap. 16, Sub. Leg).

19. (1) In every reference to the Tribunal, the Chairperson shall record the decision of the Tribunal and the following particulars—

- (i) the date of the reference;
- (ii) names of the applicant and respondent;
- (iii) a record of the evidence;
- (iv) date of hearing and whether premises were viewed or not;
- (v) the composition of the Tribunal; and
- (vi) the application and any other documentary exhibits shall be attached to the record.

(2) At the conclusion of every reference the Tribunal shall make a determination or order to be served on the persons affected by the decision and such determination or order shall be conclusive proof of the decision of the Tribunal.

20. Proceedings of the Tribunal shall be open to the public.

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- (1) Where the Tribunal consists of more than one person, the members present shall, if the Chairperson is absent, elect one of their number to act as Chairperson of the Tribunal.
(2) Where the Tribunal consists of two members who arrive at different findings, the decision of the Chairperson or the acting Chairperson, as the case may be, shall be the decision of the Tribunal.
(3) Where the Tribunal consists of more than two persons, the decision of the Tribunal shall be the decision of the majority of the members present.

[L.N. 229/1971.]

- 22. Deleted by L.N. 229/1971.
23. Deleted by L.N. 229/1971.
24. Deleted by L.N. 229/1971.
25. Deleted by L.N. 229/1971.
26. Deleted by L.N. 229/1971.
27. Deleted by L.N. 229/1971.
28. Deleted by L.N. 229/1971.

SCHEDULE

FORMS

FORM A

(r. 4(1))

LANDLORD'S NOTICE TO TERMINATE OR ALTER TERMS OF TENANCY

[Section 4(2) of the Act, L.N. 31/1968, L.N. 153/1971.]

To
of
being tenant of premises known as

1. I,
of
the landlord of the above-mentioned premises, hereby give you notice terminating/
altering terms/altering conditions/of your tenancy with effect from day
of, 20

2. The alterations which I propose are

3. The grounds on which I seek the termination/alteration are

4. I require you, within one month after receipt of this notice, to notify me in writing whether or not you agree to comply with the notice as from that date.

5. This notice is given under the provisions of section 4(2) of the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act.

Dated this day of, 20

Landlord

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[Subsidiary]

FORM A1 (r. 4(2))
TENANT'S NOTICE TO OBTAIN REASSESSMENT OF RENT OR ALTERATION OF TERMS OR CONDITIONS OF TENANCY

[Section 4(3) of the Act, L.N. 153/1971.]

To
of
being landlord of premises known as

1. I,
or

being tenant of the above-mentioned premises do hereby give you notice that I wish to obtain a reassessment of rent/alteration of terms/alteration of conditions of my tenancy with effect from day of, 20

2. The alterations which I propose are

3. The grounds on which I seek the reassessment/alteration are

4. I require you, within one month after receipt of this notice, to notify me in writing whether or not you agree to comply with the notice as from that date.

5. This notice is given under the provisions of section 4(3) of the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act.

Dated this day of, 20

Tenant

c.c. The Chairperson,
Business Premises Rent Control Tribunal,
P. O. BOX 7232, Nairobi.

FORM B (r. 5)
REFERENCE BY TENANT TO TRIBUNAL

[Section 6 of the Act]

In the Tribunal at
Tribunal Case No., 20
Applicant

and

Respondent

I, the tenant do wish to oppose a notice of termination/ alteration of terms/alteration of conditions/of tenancy served on me by the landlord in respect of the premises described below—

Plot No. Land Ref. No.
District Town

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[Subsidiary]

Name of road/street
Date of completion of building
Cost of construction of building
Cost of land
Area of land
Full name and postal address of the landlord

I therefore request the Tribunal to investigate the matter and determine the issues involved.

Dated this ... day of ..., 20

Tenant

FORM B1 REFERENCE BY LANDLORD TO TRIBUNAL (r. 5)

[Section 6 of the Act, L.N. 48/1973]

In the Tribunal at
Tribunal Case No. ... of 20
Applicant/Landlord
and
Respondent/Tenant

I, ... of ..., the Landlord do wish to oppose a notice to obtain reassessment of rent/alteration of terms/alteration of conditions/of tenancy served on me by ... the tenant in respect of the premises described below—

Plot No. ... Land Ref. No. ...
District ... Town ...
Name of Road/Street
Date of completion of building
Cost of construction of building
Cost of land
Area of land
Full name and postal address of the tenant

I therefore request the Tribunal to investigate the matter and determine the issues involved.

Dated this ... day of ..., 20

Landlord

FORM C REFERENCE BY LANDLORD OR TENANT TO TRIBUNAL (r. 5)

[Section 12(4)]

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[Subsidiary]

In the Tribunal at

Tribunal Case No. of 20

I,, the tenant/landlord of in accordance with the provisions of section 12(4) of the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act, do hereby refer to the Tribunal a complaint relating to tenancy.

The complaint concerns the landlord/tenant in that he

.....

(state reasons briefly)

Dated this day of, 20

.....
Landlord/Tenant

**FORM D
FEES**

(r. 6)

[L.N. 420/1991, s. 2, L.N. 536/1991, s. 2, L.N. 104/1993, s. 2.]

		KSh.
1.	On filing a notice of motion or chamber summons	500
2.	On application for distress for rent, where the sum involved is—	
	(i) up to KSh. 1,000	250
	(ii) more than KSh. 1,000 but less than KSh. 5,000	500
	(iii) over KSh. 5,000	10 per cent of the amount claimed
3.	On instituting proceedings for alteration of tenancy	5 per cent of the annual increment of rent
4.	On instituting proceeding for termination of tenancy.....	5 per cent of the annual rent
5.	Valuation fee	5 per cent of the annual rent
6.	Inspecting or viewing premises at the request of a party	500
7.	For making certified copy of proceedings or any document connected with the complaint—	
	(i) for the first folio of 100 words	100
	(ii) for each subsequent folio	50
8.	For issue of hearing notice	100
9.	For issue of witness summons	100
10.	Services fees—	

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[Subsidiary]

	(i)	within 2 km	50
	(ii)	over 2 km up to 10 km.....	250
	(iii)	over 10 km.....	20 per km
11.		On deposit of money with Tribunal	10 per cent of the sum deposited
12.		For every exhibit produced	30
13.		On filing of notice of appointment or change of advocate or intention to proceed in person	50
14.		On request for adjournment	500
15.		On filing of valuation report	per cent of the annual rent
16.		For all tribunal forms	20
17.		Evidence in short-hand at the request of party	200
18.		On grant of orders for consent judgment	250
19.		For every application under order XXV of the Civil Procedure Rules (Cap. 21, Sub. Leg.)	250
20.		Filing a general complaint	250
21.		Filing a return of service	100
22.		Perusing of files	250
23.		Notice of preliminary objection	250

FORM E (r. 7)
HEARING NOTICE

In the Tribunal at

Tribunal Case No. of 20

..... Applicant

and

..... Respondent

Whereas the applicant has instituted a complaint against you the particulars of which are set out in the memorandum attached hereto.

You are hereby required to appear in person or be a representative on the day of, 20 at o'clock in the noon when the complaint against you will be heard by this Tribunal sitting at

If you fail to appear either in person or by representative duly authorized by you, the applicant may proceed with the complaint and a determination by order of the Tribunal may be made in your absence.

Dated this day of, 20

.....
*Chairperson of the
Tribunal*

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[Subsidiary]

FORM F PROHIBITION ORDER

(r. 8)

In the Tribunal at ... Tribunal Case No. ... of 20 ... Applicant

versus Respondent

To ...

Whereas you have failed to comply with the order/determination made against you on the ... day of ..., 20 ...

in the above case in favour of ...

And whereas this Tribunal on the application made by ... tenant/landlord deems it necessary to restrain you from ...

It is ordered that you the said ... be, and you are hereby prohibited and restrained, until the further ...

direction by this Tribunal from ...

Dated this ... day of ..., 20 ...

Chairperson of the Tribunal

FORM G AUTHORITY TO INSPECT OR VIEW PREMISES

(r. 9)

Tribunal Case No. ... of 20 ...

To ...

Whereas it is deemed desirable for the purpose of this case that the value and reasonable rent of premises known as ... be ascertained, you are hereby authorised to enter the said premises and evaluate as follows—

You are directed to ascertain—

- (i) the original cost of construction of the building; (ii) the age of the building; (iii) the market value of the land on which the premises are built; (iv) the improvements and cost of such improvements; (v) amenities or services provided by the landlord; (vi) the rent at which the premises were let for the past (three years?) ...

You are required to suggest the rent you think proper having regard to the market rent of comparable premises in the district.

Dated this ... day of ..., 20 ...

Chairperson of the Tribunal

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[Subsidiary]

FORM H (r. 10) CERTIFICATE PERMITTING LEVY OF DISTRESS FOR RENT

In the Tribunal at

Pursuant to section 12(1)(h) of the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act (Cap. 301) and the regulations made thereunder of is hereby authorized / permitted to act as a bailiff to levy distress for rent on the premises of

of

for rent alleged to be due to

of

Dated this day of, 20

Chairperson of the Tribunal

FORM I (r. 15A) WITNESS SUMMONS

[L.N. 153/1971.]

In the Tribunal at

..... } Applicant

against

..... } Respondent

To

Whereas your attendance is required to on behalf of the in the above case you are hereby required to appear personally before this Tribunal on the day of, 20 at o'clock in the forenoon and to bring with you (or to send to this Tribunal)

.....

Given under my hand and the seal of the Tribunal this day of, 20.....

Chairperson

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[Subsidiary]

THE LANDLORD AND TENANT (SHOPS, HOTELS AND CATERING ESTABLISHMENTS) (RENT BOOK FORM) REGULATIONS

[Legal Notice 311 of 1966]

1. These Regulations may be cited as the Landlord and Tenant (Shops, Hotels and Catering Establishments) (Rent Book Form) Regulations.
2. The rent book required to be kept by the landlord under section 3(3) of the Act shall be in the Form in the Schedule to these Regulations.

SCHEDULE

PARTICULARS OF PARTIES AND PROPERTY

1. Name of Landlord (or his Agent)
2. Address of Landlord (or his Agent)
3. Name of Tenant
4. L.R. No.
5. Street
6. Town

RENT RECEIVED

Landlord must sign tenant's copy and tenant must sign landlord's copy.

<i>Date</i>	<i>Amount KSh.</i>	<i>Signature of Landlord</i>	<i>Signature of Tenant</i>
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REPAIRS AND IMPROVEMENTS RECORDS

Landlord to sign tenant's copy and tenant to sign landlord's copy after each entry. Evidence of repairs or improvements carried out to premises by landlord or tenant. No prices to be inserted, but landlord or tenants to produce receipts on demand.

<i>Repairs or Improvements Carried Out</i>	<i>By Whom (Landlord or Tenant)</i>	<i>Date</i>	<i>Signature</i>
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