



THE REPUBLIC OF KENYA

LAWS OF KENYA

RENT RESTRICTION ACT

CHAPTER 296

Revised Edition 2019 [1982]

Published by the National Council for Law Reporting
with the Authority of the Attorney-General

www.kenyalaw.org

CHAPTER 296

RENT RESTRICTION ACT
ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Application.
3. Interpretation.
4. Rent tribunals.
5. Powers of court.
6. Investigation of complaints by the tribunal.
7. Penalty for failure to comply with lawful order of the tribunal.
8. Appeals.
9. Restriction on increasing rent.
10. Penalty for accepting excess rent.
11. Permitted increases in rent.
12. Penalty for false statement in notice.
13. Limitation as to permitted increase in rent.
14. Restriction on right to possession.
15. Notices to quit.
16. Restriction on levy of distress for rent.
17. Restriction on premiums.
18. Penalty for excessive charges for furnished lettings.
19. Recovery of certain sums paid on account of rent.
20. Statement to be supplied as to standard rent.
21. Rent book.
22. Removal of furniture by landlord.
23. Penalty for depriving tenant of service.
24. Conditions of statutory tenancy.
25. Notification of estimate of market cost of construction or market value of land.
26. Repairs.
27. Restriction on right to assign or sublet premises.
28. Subletting by tenant.
29. Penalty for subjecting tenant to annoyance.
30. Jurisdiction.
31. Enforcement of orders.
32. Service of documents.
33. Compensation in case of frivolous or vexatious applications.
34. Right of entry.
35. Proceedings.
36. Regulations.

Rent Restriction

Section

37. Rules.

38. Amendment of Act No. 61 of 1956.

SCHEDULE —

DELETED

CHAPTER 296

RENT RESTRICTION ACT

*[Date of assent: 24th August, 1959.]**[Date of commencement: 1st October, 1959.]***An Act of Parliament to make provision for restricting the increase of rent, the right to possession and the exaction of premiums, and for fixing standard rents, in relation to dwelling-houses, and for other purposes incidental to or connected with the relationship of landlord and tenant of a dwelling-house**

[Act No. 35 of 1959, L.N. 700/1961, L.N. 627/1962, L.N. 765/1963, L.N. 768/1963, L.N. 2/1964, Act No. 37 of 1966, Act No. 29 of 1967, L.N. 17/1970, Act No. 1 of 1971, Act No. 9 of 1971, Act No. 5 of 1981, Act No. 20 of 1989, Act No. 25 of 2015.]

1. Short title

This Act may be cited as the Rent Restriction Act.

2. Application

(1) This Act shall apply to all dwelling-houses, other than—

- (a) excepted dwelling-houses;
- (b) dwelling-house let on service tenancies;
- (c) dwelling-houses which have a standard rent exceeding two thousand five hundred shillings per month, furnished or unfurnished.

(2) Where a dwelling-house is let on a composite tenancy each dwelling-house in the composite tenancy shall be treated for the purposes of this Act as though it were let on a separate tenancy.

[Act No. 37 of 1966, s. 3, Act No. 5 of 1981, s. 2.]

3. Interpretation

(1) In this Act, except where the context otherwise requires—

“**cost of construction**”, in relation to premises, means the cost of constructing the premises at the time of construction, increased—

- (a) where construction was completed before the 1st January, 1943, by 150 per cent;
- (b) where construction was completed between the 1st January, 1943 and the 31st December, 1954, by 100 per cent;
- (c) where construction was completed between the 1st January, 1955, and the 1st December, 1962, by 75 per cent;
- (d) where construction was completed between the 1st January, 1963, and the 31st December, 1979, by 40 per cent,

but where construction was completed on or after the 1st January, 1980, there shall be no percentage increase;

“**composite tenancy**” means a tenancy comprising more than one dwelling-house where the tenancy is expressed to be in respect of, or where a single rent is expressed to be payable in respect of, all those dwelling-houses;

Rent Restriction

“**court**” *deleted by Act No. 37 of 1966, s. 4;*

“**determination**” includes assessment;

“**dwelling-house**” means any house or part of a house or room used as a dwelling or place of residence, and includes the site of the house and the garden and other lands and buildings let therewith and not as a separate entity or source of profit;

“**excepted dwelling-house**” means a dwelling-house belonging to any class which the Minister may, by notice in the *Gazette*, except from the provisions of this Act;

“**the land**”, in relation to a dwelling-house, means the site of the dwelling-house (or a proportionate part of the site where appropriate) and any other land included in the letting;

“**landlord**” includes, in relation to any premises, any person, other than the tenant in possession, who is or would, but for the provisions of this Act, be entitled to possession of the premises, and any person from time to time deriving title under the original landlord;

“**let**” includes sublet;

“**market value**”, in relation to land, means the open market value thereof on the 1st January, 1981;

“**outgoings**” means all ground rent, fire insurance premiums, rates, cost of repairs and management and letting commissions;

“**premises**” means a dwelling-house to which this Act applies;

“**prescribed date**” *deleted by Act No. 37 of 1966, s. 4;*

“**recoverable rent**” in relation to any dwelling-house, means the standard rent thereof together with any permitted increase duly made under this Act;

“**service tenancy**”, in relation to a dwelling-house, means a letting by the landlord to an employee in connection with his employment;

“**standard rent**” means—

- (a) in relation to an unfurnished dwelling-house—
 - (i) if on the 1st January, 1981, it was let unfurnished, the rent at which it was lawfully so let, the landlord paying all outgoings;
 - (ii) if on the 1st January, 1981 it was let furnished, the rent at which it was lawfully so let, less a sum at a monthly rate not exceeding one percent of the value (as determined by the tribunal) of the furniture, excluding any soft furnishings, linen, cutlery, kitchen utensils, glass-ware and crockery, and a sum not exceeding two percent of the value (as determined by the tribunal) of any soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, in respect of the furniture which was in the dwelling-house on the 1st January, 1981, the landlord paying all outgoings;
 - (iii) if on the 1st January, 1981, it was not let, or not erected, or the tribunal is unable to determine whether or not it was

Rent Restriction

on that date let or erected, a rent to be assessed by the tribunal at a monthly rate of not less than one and one-quarter and not more than one and one-half percent of the cost of construction and the market value of the land, the landlord paying all outgoings;

- (b) in relation to a furnished dwelling-house—
- (i) if on the 1st January, 1981, it was let furnished, the rent at which it was lawfully so let, the landlord paying all outgoings;
 - (ii) if on the 1st January, 1981, it was let unfurnished, the rent at which it was lawfully so let plus a sum at a monthly rate not exceeding one percent of the value (as determined by the tribunal) of the furniture, excluding any soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, and a sum not exceeding two percent of the value (as determined by the tribunal) of any soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, in respect of the furniture of the dwelling-house, the landlord paying all outgoings;
 - (iii) if on the 1st January, 1981, it was not let, or not erected, or the tribunal is unable to determine whether or not it was on that date let or erected, the standard rent which would be applicable if it were unfurnished, plus a sum at a monthly rate not exceeding one percent of the value (as determined by the tribunal) of the furniture, excluding any soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, and a sum not exceeding two percent of the value (as determined by the tribunal) of any soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, the landlord paying all outgoings;

“statutory duties or powers” includes any duties or powers imposed or exercised under any order having the force of law;

“tenant” includes a subtenant and any person from time to time deriving title under the original tenant, and the widow of a tenant who was residing with him at the time of his death, or where a tenant leaves no widow or is a woman, such member of the tenant’s family so residing as may be determined by the court notwithstanding that the rights under the tenancy may have passed, on the tenant’s death, to some other person;

“tenancy” includes sub-tenancy;

“the land”, in relation to a dwelling-house, means the site of the dwelling-house (or a proportionate part of the site where appropriate) and any other land included in the letting;

“tribunal” means a Rent Tribunal established under section 4 and, in relation to any particular premises, means the Rent Tribunal having jurisdiction in the area wherein those premises are situate.

(2) Notwithstanding anything contained in the definition of “standard rent”—

- (a) where the tribunal is satisfied that the standard rent would yield an uneconomic return to the landlord because of—

Rent Restriction

- (i) the temporary nature of the construction of the dwelling-house; or
- (ii) the short duration of the lease or licence under which the land is held; or
- (iii) the fact that the dwelling-house can only be let for a particular period in each year; or
- (iv) the fact that it does not yield a fair capital return on the cost of construction and market value of the land as at 1st January, 1981, or that, in the absence of any indication that the purchase price paid by the landlord was excessive, it does not yield a fair capital return on that purchase price,

the tribunal may determine the standard rent to be such amount as, in all the circumstances of the case, it considers fair; and

- (b) where the tribunal is satisfied that it is not reasonably practicable to obtain sufficient evidence to enable it to ascertain—
 - (i) the rent at which the dwelling-house was let; or
 - (ii) the cost of construction; or
- (iii) the market value of the land,

at the material date, the tribunal may determine the standard rent to be such amount as it considers fair having regard to the standard rent of comparable dwelling-houses.

[Act No. 37 of 1966, s. 4, Act No. 29 of 1967,
First Sch., Act No. 1 of 1971, s. 3 & Sch.,
Act No. 5 of 1981, s. 3.]

4. Rent tribunals

(1) The Minister shall, by notice in the *Gazette*, establish such Rent Tribunals, having jurisdiction in such areas, as he may think fit.

(2) The Minister shall, by notice in the *Gazette*, appoint a chairman of each tribunal and may similarly appoint, subject to such conditions and limitations as he may think fit, a deputy chairman of any tribunal.

(3) No person shall be qualified for appointment as chairman or deputy chairman of a tribunal unless he holds, and has held for a total period of not less than five years, one or other of the qualifications specified in paragraphs (a), (b), (c) and (d) of subsection (1) of section 12 of the Advocates Act (Cap. 16).

(4) The Minister shall, by notice in the *Gazette*, appoint a panel of members, consisting of such number of persons as he may think fit, for each tribunal.

(5) For the purpose of exercising any of its functions under this Act, a tribunal shall be presided over by the chairman or deputy chairman of the tribunal and shall consist of the person so presiding and two members selected by the Permanent Secretary to the Ministry responsible for the administration of this Act from the panel of members appointed under subsection (4):

Provided that where for any reason either or both of the members so selected is or are not present for any part of a hearing, the jurisdiction of the tribunal may be exercised by the chairman or deputy chairman sitting either with one such member or alone, as the case may be; and no question shall be raised in any proceedings, whether under this Act or otherwise, as to the validity or method of the selection of any such member.

Rent Restriction

(6) Save in the exercise of its power under section 5 (1) (a), the jurisdiction of the tribunal presided over by a deputy chairman shall be limited to cases in which the standard rent of the premises which are the subject of the application does not exceed one thousand five hundred shillings; and, subject to that limitation, in respect of any of the functions exercised by a tribunal whilst presided over by a deputy chairman, any reference in this Act to the chairman of a tribunal shall include reference to a deputy chairman.

(7) Any matter considered by a tribunal shall be decided by the votes of the majority of the persons constituting the tribunal and voting, and the person presiding shall have a casting as well as a deliberative vote:

Provided that any point of law arising in any proceedings before a tribunal shall be reserved to and pronounced upon by the person presiding exclusively.

(8) Notwithstanding any other provision of this Act, the chairman of a tribunal acting alone shall have jurisdiction to deal with all interlocutory applications which are not of such a nature as to effect a decision in any matter which is in issue between parties.

(9) Where the chairman of a tribunal is of opinion that a question arising in any proceedings before the tribunal involves a substantial question of law, he may, and shall if any party to the proceedings so requests, adjourn the proceedings and refer that question of law to the Environment and Land Court for a decision thereon, and, upon such decision being given, the tribunal shall dispose of the proceedings in accordance therewith.

(10) A member of a tribunal shall hold office during the Minister's pleasure:

Provided that a member may at any time resign by giving notice in writing of his resignation to the Minister.

[Act No. 37 of 1966, s. 5, Act No. 29 of 1967, First Sch., Act No. 1 of 1971, s. 4,
Act No. 5 of 1981, s. 4, Act No. 25 of 2015, Sch.]

5. Powers of court

(1) The tribunal shall have power to do all things which it is required or empowered to do by or under the provisions of this Act, and in particular shall have power—

- (a) to assess the standard rent of any premises either on the application of any person interested or of its own motion;
- (b) to fix in the case of any premises, at its discretion and in accordance with the requirements of justice, the date from which the standard rent is payable;
- (c) to apportion—
 - (i) payment of the rent of premises among tenants sharing the occupation thereof;
 - (ii) the rent payable in respect of different premises included in one composite tenancy;
- (d) where the rent chargeable in respect of any premises includes a payment for water, light, conservancy, sweeper, watchman, or other service charge in addition to the standard rent, to fix the amount of such payment or service charge;

Rent Restriction

- (e) where any premises are occupied by tenants who enjoy services in common, such as water, light, conservancy, sweeper or watchman, to apportion such charges to each of the tenants;
- (f) subject to the provisions of section 14, to make either or both of the following orders—
 - (i) an order for the recovery of possession of premises whether in the occupation of a tenant or of any other person; and
 - (ii) an order for the recovery of arrears of rent, mesne profits and service charges;
- (g) for the purpose of enabling additional buildings to be erected, to make orders permitting landlords (subject to the provisions of any written law) to excise vacant land out of premises where such a course is, in the opinion of the tribunal, desirable in the public interest;
- (h) where the landlord fails to carry out any repairs for which he is liable, to order the landlord to carry out such repairs within such time as the tribunal may stipulate, and, if the landlord fails to comply with the order, and upon application by notice of motion by the tenant, to authorize the tenant to execute the repairs and to deduct the cost thereof from the rent;
- (i) to permit the levy of distress for rent;
- (j) to impose conditions in any order made by the tribunal under the provisions of this section;
- (k) on the application by a tenant by notice of motion, to reduce the standard or recoverable rent of premises where the tribunal is satisfied that the landlord has failed to carry out such repairs to, or maintenance of, the premises as he has a duty to carry out either by agreement or under this Act;
- (l) to order a refund of any sum paid by a tenant on account of rent, being a sum irrecoverable by the landlord under this Act:
Provided that no application may be made under this paragraph after a period of two years from the date of payment of the sum sought to be refunded, or, in the case of more than one payment, from the date of last payment;
- (m) at any time, of its own motion, or for good cause shown on an application by any landlord or tenant, to reopen any proceedings in which it has given any decision, determined any question, or made any order, and to revoke, vary or amend such decision, determination or order, other than an order for the recovery of possession of premises or for the ejection of a tenant therefrom which has been executed:
Provided that—
 - (i) nothing in this paragraph shall prejudice or affect the right of any person under section 8 to appeal from any such decision, determination or order, or from the revocation, variation or amendment of any such decision, determination or order;

Rent Restriction

- (ii) the powers conferred on the tribunal by this paragraph shall not be exercised in respect of any decision, determination or order while an appeal therefrom is pending or in a manner inconsistent with or repugnant to the decision of the appellate tribunal on such an appeal;
- (n) at any time, of its own motion, or for good cause shown on an application by any landlord or tenant, adjourn an application, or stay or suspend execution of any order of the tribunal, or postpone the date of possession, for such period or periods and subject to such conditions with regard to payment by the tenant of arrears of rent or otherwise as the tribunal thinks fit.

(2) A tribunal may appoint and employ valuers, inspectors, clerks and other staff for the better carrying out of the provisions of this Act:

Provided that, where a tribunal has deputed a valuer, inspector or other person to inspect or view any premises, any report made by him shall be communicated to the landlord and the tenant or their representatives.

(3) In respect of premises whereof there is no standard rent or whereof the standard rent does not exceed two hundred shillings a month the tribunal may from time to time delegate all or any of its powers under this Act to an administrative officer or any other person, so, however, that no such officer or other person shall be authorized to assess any standard rent at a sum exceeding two hundred shillings a month or to vary or amend any decision, determination or order so as to increase any standard rent to a sum exceeding two hundred shillings a month.

(4) A delegation under subsection (3) may be made in respect of any class or description of premises, including premises situate in any specified area or place, and may be made with respect to any premises, or class or description of premises, which may appear to the administrative officer or other person to be likely to be premises whereof the standard rent does not or will not exceed two hundred shillings a month; and several delegations may be made so as to be effective at the same time.

(5) A delegation effected under subsection (3) shall not prejudice or affect the power of the tribunal itself to exercise any of its powers under this Act in respect of any premises for the time being affected by the delegation.

(6) Where the tribunal has under subsection (3) delegated any of its powers to any person, that person shall have power to administer oaths, to order persons to attend and give evidence or to produce and give discovery and inspection of documents, in the same manner as in proceedings before the tribunal.

(7) For the purpose of subsection (3), a person occupying those premises in consideration of payment of rent shall be deemed, for the purposes of this Act, to be a tenant of the person to whom the rent is paid, and shall be protected by the provisions of this Act, notwithstanding that he shares the accommodation in those premises with any other person.

[Act No. 37 of 1966, Sch., Act No. 1 of 1971, s. 5, Act No. 5 of 1981, s. 5.]

6. Investigation of complaints by the tribunal

(1) In addition to any other powers specifically conferred on it by this Act, the tribunal may investigate any complaint relating to the tenancy of premises made to it by either a tenant or the landlord of those premises.

(2) Any tenant or any landlord making any such complaint to the tribunal shall pay such fee as may be prescribed.

(3) Nothing in this section shall preclude the tribunal from taking cognizance of any infringement of this Act or of any dispute or matter likely to lead to a dispute between a tenant and a landlord of which no complaint has been made to the tribunal under the provisions of this Act.

(4) Where a complaint has been made against a tenant or a landlord, or against the agent or servant of either of them, or where the tribunal has taken cognizance of any dispute or of any facts which are likely to lead to a dispute between a landlord and a tenant, the tribunal may order the parties or the landlord or tenant, as the case may be, to appear before the tribunal at a specified time and place for the purpose of investigating the complaint or dispute.

(5) Where the tribunal investigates any complaint or other matter under this section it may make such order in the matter, being an order which it is by this Act empowered to make, as the justice of the case may require.

[Act No. 37 of 1966, Sch.]

7. Penalty for failure to comply with lawful order of the tribunal

Any person who fails to comply with any lawful order or decision of the tribunal after the expiration of the time allowed for an appeal therefrom, or, if an appeal has been filed, after such order or decision has been upheld, shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

[Act No. 37 of 1966, Sch., Act No. 1 of 1971, s. 6.]

8. Appeals

(1) Except as provided by subsection (2), every decision, determination and order of the tribunal under the provisions of this Act shall be final and conclusive, and no appeal shall lie therefrom to any court.

(2) An appeal shall lie to the Environment and Land Court from any such decision, determination or order in the following cases—

- (a) in the case of an order under subsection (5) of section 6; or
- (b) on any point of law; or
- (c) in the case of premises whereof the standard rent exceeds one thousand shillings a month, on any point of mixed fact and law,

and for the purposes of this subsection, the determination of any rent or of any sum shall be a matter of fact.

(3) Any person who is aggrieved by any decision, determination or order of a person acting under powers delegated to him under subsection (3) of section 5 may apply to the tribunal for a review of that decision, determination or order, and the tribunal may make such order thereon as it thinks fit.

Rent Restriction

(4) No appeal shall lie from the determination of an appeal given under subsection (2), or an order of the tribunal given under subsection (3), of this section.

[Act No. 37 of 1966, Sch., Act No. 1 of 1971, s. 7, Act No. 5 of 1981, Sch., Act No. 25 of 2015, Sch.]

9. Restriction on increasing rent

Subject to this Act, the landlord of premises shall not be entitled to recover any rent in respect thereof in excess of the standard rent, notwithstanding any tenancy agreement or lease executed between the landlord and the tenant or any other agreement, in writing or otherwise, as to the amount of rent payable made between the landlord and the tenant prior to or after the assessment of the standard rent.

[Act No. 37 of 1966, s. 6, Act No. 5 of 1981, s. 6.]

10. Penalty for accepting excess rent

Where, after the commencement of this Act, the landlord of any premises, or any agent, clerk, or other person employed by him, demands or accepts any rent in respect of such premises which exceeds the standard rent thereof by more than any amount permitted under this Act, or demands or accepts an advance of rent exceeding two months' standard rent, then, without prejudice to any other remedy under this Act, the landlord, agent, clerk, or other person shall be guilty of an offence and liable to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment; and the court by which he is convicted may order that any rent or advance accepted so far as it exceeds the amount permitted under this Act shall be repaid to the tenant.

11. Permitted increases in rent

(1) A landlord may, by notice in writing to the tenant a copy whereof shall be delivered to the tribunal, increase the rent of any premises as follows—

(a) in the case of premises—

- (i) upon which rates payable by the landlord have increased since the premises were let to the tenant, by the amount of that increase; or
- (ii) upon which rates payable by the landlord have become payable since the premises were let to the tenant, by the amount of the rates,

and in this paragraph "**rates**" includes water, light or conservancy charges;

- (b) in any case where the landlord has, since the 1st January, 1981, incurred expenditure on the improvement or structural alteration of premises (not including expenditure on redecoration or repairs, whether structural repairs or not) or in connexion with the installation or improvement of a drainage or sewerage system or the construction or making good of a street or road executed by or at the instance of a local authority, by an amount calculated at a rate per annum not exceeding ten per centum of the expenditure so incurred.

(2) A notice served before the commencement of this Act of an intention to make any increase of rent which is permissible only under this Act shall not be a valid notice for the purpose of this section.

(3) Any transfer to the tenant of any burden or liability previously borne by the landlord shall, for the purposes of this Act, be treated as an alteration of rent, and where, as the result of any such transfer, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased, whether or not the sum periodically payable by way of rent is increased; but any increase of rent in respect of any transfer to a landlord of any burden or liability previously borne by the tenant where, as the result of any such transfer, the terms on which any premises are held are on the whole not less favourable to the tenant than the previous terms, shall be deemed not to be an increase of rent for the purposes of this Act:

Provided that the rent shall not be deemed to be increased where the liability for rates is transferred from the landlord to the tenant, if a corresponding reduction is made in the rent.

(4) Where a notice, served under the provisions of subsection (1), which at the time was valid has been served on any tenant, the increase may be continued without service of any fresh notice on any subsequent tenant.

[Act No. 37 of 1966, Sch., Act No. 1 of 1971, s. 8, Act No. 5 of 1981, Sch.]

12. Penalty for false statement in notice

If a notice served under the provisions of subsection (1) of section 11 contains any statement or representation which is false or misleading in any material respect, the landlord shall be guilty of an offence and liable to a fine not exceeding one thousand shillings, unless he proves that the statement was made innocently and without intent to deceive.

13. Limitation as to permitted increase in rent

(1) Nothing in this Act shall be taken to authorize any increase of rent except in respect of a period during which, but for the provisions of this Act, the landlord would be entitled to obtain possession.

(2) Notwithstanding any agreement to the contrary, where the rent of any premises is increased, no such increase shall be due or recoverable until, or in respect of any period before, the landlord has served upon the tenant a valid notice in writing of his intention to increase the rent.

14. Restriction on right to possession

(1) No order for the recovery of possession of any premises or for the ejectment of a tenant therefrom shall be made unless—

- (a) some rent lawfully due from the tenant has not been paid, or some other obligation of the tenancy (whether under the contract of tenancy or under this Act) so far as it is consistent with the provisions of this Act has been broken or not performed; or
- (b) the tenant, or any person residing with him, has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers, or has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose, or the condition of the premises has, in the opinion of the tribunal, deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any such person; or

Rent Restriction

-
- (c) the tenant has given notice to quit, and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps as a result of which he would, in the opinion of the tribunal, be seriously prejudiced if he could not obtain possession; or
 - (d) the tribunal is satisfied that the tenant has sublet the whole or any part of the premises (that part being also premises to which this Act applies) for a rent in excess of the rent recoverable under the provisions of this Act; or
 - (e) the dwelling-house is reasonably required by the landlord for occupation as a residence for himself or for his wife or minor children, or for any person *bona fide* residing or to reside with him, or for some person in his whole-time employment or in the whole-time employment of some tenant of his or for the occupation of the person who is entitled to the enjoyment of the dwelling-house under a will or settlement, and the landlord has given to the tenant not less than twelve months' notice to quit; and in that case the tribunal shall include in any order for possession a requirement that the landlord shall not without its consent let the premises or any part thereof within eighteen months after the date on which possession is to be given; or
 - (f) the premises are reasonably required for the purpose of the execution of the statutory duties or powers of a local authority or public body, or for any purpose which, in the opinion of the tribunal, is in the public interest:

Provided that where, upon completion of any work undertaken, the landlord wishes again to let the dwelling-house (whether for a consideration or without consideration), he shall give to the tenant who, under the provisions of this paragraph was required to give up possession of the dwelling-house, the first option to let and take possession thereof; or

- (g)
 - (i) the tenant has, without the consent in writing of the landlord, assigned, sublet or parted with the possession of the premises or any part thereof;
 - (ii) a landlord who has obtained or is entitled to obtain an ejectment order on this ground may at his option either obtain a similar order against the occupier or treat the occupier as his tenant;
 - (iii) *Deleted by Act. No. 20 of 1989, Sch.*
- (h) the landlord is the owner of a dwelling-house which he has previously occupied as a residence for himself and reasonably requires the house for occupation as a residence for himself or for his wife or minor children, and has complied with the terms relating to the giving of notice contained in any lease into which he has entered with the tenant in respect of the house, or, in the absence of any such lease, has given the tenant three months' notice to quit:

Provided that if, within twelve months next after the date upon which the landlord was, under the provisions of this paragraph, entitled to vacant possession of the dwelling-house, he wishes again to let the house (whether for a consideration or without consideration), he shall

Rent Restriction

give to the tenant who, under the provisions of this paragraph was required to give up possession of the house, the first option to let and take possession thereof; or

- (i) the landlord requires possession of the premises to enable the reconstruction or rebuilding thereof to be carried out, and has given to the tenant not less than six months' written notice of that requirement; in which case the tribunal shall include in any order for possession a requirement that the reconstruction or rebuilding shall be completed within such specified time as the tribunal may consider reasonable:

Provided that where, upon completion of any work undertaken, the landlord wishes again to let the dwelling-house (whether for a consideration or without consideration), he shall give to the tenant who, under the provisions of this paragraph was required to give up possession of the dwelling-house, the first option to let and take possession thereof; or

- (j) the tenant or his or her wife or husband owns a dwelling-house to which this Act does not apply, and the landlord has given to the tenant—
 - (i) twelve months' notice to quit; and
 - (ii) an option, exercisable within six months of the date of the notice, to take the premises for a period of three years from the date of the notice at a rent and on terms to be determined, in default of agreement, by the tribunal, which shall determine the rent to be at the annual rate of one-tenth of such sum as it finds to be the open market value of the dwelling-house sold with vacant possession at the date of the notice; or
- (k) the landlord has, with the consent of the tribunal, let the premises for a definite period, and the landlord requires the premises at the expiry of that tenancy for his own occupation or for the occupation of his wife or minor children or for some person in his whole-time employment; or
- (l) the premises are occupied by a larger number of persons than can reasonably be accommodated so that in the opinion of the tribunal the premises are overcrowded or constitute, for any reason, a danger to the premises or to the neighbours; or
- (m) the application for the recovery of possession of the premises is made by a person who, having been the tenant of the premises, has been unlawfully dispossessed thereof, and in any such case—
 - (i) any tenant who, if the application is successful, is liable to be ejected from the premises shall be made a party to the proceedings;
 - (ii) where any such tenant is so ejected, the tribunal may order that the landlord pay to that tenant such sum by way of compensation as the tribunal thinks just in all the circumstances of the case;
 - (iii) where any tenant has been lawfully dispossessed, and upon an application for recovery of possession, the tribunal may order that the landlord pay that tenant such sum by way of compensation as the tribunal thinks just in all the circumstances of the case.

Rent Restriction

(2) In any case arising under any of paragraphs (a) to (d), (f) to (h) and (k) to (m), inclusive, of subsection (1), no order for the recovery of possession of premises shall be made unless the tribunal considers it reasonable to make such an order.

(3) Nothing in paragraph (e) or paragraph (h) of subsection (1) shall permit a landlord to recover possession of a dwelling-house if by that recovery he or his wife or minor children or any person *bona fide* residing or to reside with him would be in occupation of, or would acquire the right to occupy, more than one place of residence at the same time.

(4) Where the tribunal makes an order for the recovery of possession of premises or for the ejectment of a tenant therefrom subject to conditions it may—

- (a) where those conditions are complied with, discharge or rescind the order; or
- (b) where those conditions are not complied with, on application by notice of motion, make the order absolute.

(5) An order against a tenant for the recovery of possession of any premises or ejectment therefrom under the provisions of this section shall not affect the right of any subtenant to whom the premises or any part thereof have been lawfully sublet before proceedings for recovery of possession or ejectment were commenced to retain possession under the provisions of this section, or be in any way operative against any such subtenant.

(6) Any landlord who, in contravention of the proviso to paragraph (f), (h) or (i) of subsection (1), fails to give a first option to the tenant required to give up possession of the dwelling-house or fails to give up possession of the dwelling-house to the tenant who has accepted the option shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment, and in addition the court may—

- (a) order the offender to pay to the tenant concerned compensation for any loss or damage suffered by him in consequence of having been required to give up possession;
- (b) order any person to whom the dwelling-house has been let or who is actually occupying it to give up possession thereof within such period as the court may consider reasonable; and
- (c) order the offender to reinstate the tenant in the dwelling-house.

(7) Where a landlord has obtained an order for possession or ejectment under this section, and it is subsequently made to appear to the tribunal that the order was obtained by misrepresentation or the concealment of material facts, the tribunal may order the landlord to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by such tenant as the result of the order; and any landlord who so obtains such an order shall be guilty of an offence and liable to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(8) Any person who contravenes or fails to comply with any order made under subsection (1) or any requirement contained in any such order shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

[Act No. 37 of 1966, Sch., Act No. 1 of 1971, s. 9, Act No. 5 of 1981, s. 7, Act No. 20 of 1989, Sch.]

15. Notices to quit

Where notice to quit is required to be given in respect of premises it shall be in writing, and where the required period of notice is not elsewhere specified in this Act it shall be not less than one month's notice ending at the end of a tenancy month:

Provided that the tribunal shall construe notices to quit liberally and without undue regard to technicalities.

[Act No. 5 of 1981, s. 8.]

16. Restriction on levy of distress for rent

No distress for the rent of any premises shall be levied except with the leave of the tribunal.

[Act No. 37 of 1966, Sch., Act No. 5 of 1981, Sch.]

17. Restriction on premiums

(1) No person shall, as a condition of the grant, assignment, renewal or continuance of a tenancy, lease, sublease, subletting or occupation of any premises require the payment of or take any fine or premium or other similar sum, or any consideration consisting of money or money's worth, in addition to the rent; and, where any such payment or consideration has been made or given in respect of any premises under an agreement, the amount or value thereof shall be recoverable by the person by whom it was made or given.

(2) Any person who requires or takes any payment or consideration in contravention of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding twelve months.

(3) This section shall not apply to the grant, assignment, renewal or continuance of a tenancy for a term of fourteen years or more.

(4) Notwithstanding any rule of law or of practice to the contrary, in a prosecution for an offence under this section, no person shall be deemed to be an accomplice or to be unworthy of credit, neither shall the uncorroborated evidence of any person be held to be insufficient to support a conviction, merely by reason of the fact that that person, whether before or after the coming into force of this section in its present form, paid, gave or offered, or agreed or attempted to pay or give, any such fine, premium or other similar sum or consideration, to the person charged or to any other person.

[Act No. 37 of 1966, Sch., Act No. 5 of 1981, Sch.]

18. Penalty for excessive charges for furnished lettings

Where any person lets, or has let, any premises at a rent which includes payment in respect of the use of furniture, the maximum rent per annum which may be charged shall be the standard rent applicable to furnished premises and, if service is included, such service charge as may be permitted by the tribunal; and any rent or charge levied in excess of the standard rent and permitted charge shall, notwithstanding any agreement to the contrary, be irrecoverable from the tenant.

[Act No. 37 of 1966, Sch.]

19. Recovery of certain sums paid on account of rent

(1) Where any sum has been paid on account of any rent, being a sum which is, under the provisions of this Act, irrecoverable by the landlord, the sum so paid shall be recoverable from the landlord who received payment, or from his legal personal representative, by the tenant by whom it was paid, and any such sum, and any

other sum which under the provisions of this Act is recoverable by a tenant from a landlord or payable or repayable by a landlord to a tenant, may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(2) If—

- (a) any person in any rent book or similar document makes an entry showing or purporting to show any tenant as being in arrear in respect of any sum which under the provisions of this Act is irrecoverable; or
- (b) where any such entry has been made by or on behalf of any landlord, the landlord on being requested by or on behalf of the tenant so to do refuses or neglects to cause the entry to be deleted within seven days, that person or landlord shall be guilty of an offence and liable to a fine not exceeding four hundred shillings unless he proves that at the time of the making of the entry or the neglect or refusal to cause it to be deleted the landlord had a *bona fide* claim that the sum was recoverable.

(3) Any sum paid by a tenant which under subsection (1) is recoverable by him shall be recoverable at any time within two years from the date of the payment thereof.

(4) Nothing in this section shall revive any claim which was barred by limitation at the commencement of this Act.

[Act No. 37 of 1966, Sch.]

20. Statement to be supplied as to standard rent

(1) A landlord of any premises shall, on being so requested in writing by the tribunal or the tenant of the premises, supply to the tribunal and to the tenant a statement in writing as to the amount of the standard rent of the premises and if, without reasonable excuse, he fails within fourteen days to do so, or supplies a statement which is false in any material particular, he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings:

Provided that this subsection shall apply only in cases where the premises were on the 1st January, 1981, let or where the standard rent has been determined by the tribunal.

(2) In subsection (1), “**landlord**” includes an agent, clerk or other person employed by the landlord, and if any such agent, clerk or other person fails to supply the tribunal or the tenant with a statement in writing as to the amount of the standard rent of the premises in accordance with the provisions of this section the landlord shall be answerable for that omission, and the landlord and the agent, clerk or other person shall each be guilty of the offence created by subsection (1).

[Act No. 37 of 1966, Sch., Act No. 5 of 1981, Sch.]

21. Rent book

(1) Every landlord of premises, other than premises the standard rent of which exceeds two thousand five hundred shillings per month, shall keep or cause to be kept in respect of the premises a rent book, in such form as the Minister may approve, and shall provide his tenant with a copy.

(2) The landlord shall maintain or cause to be maintained in the rent book a record of the parties to the tenancy, the premises, the standard rent and the rent payable, and of all payments of rent made, and the landlord shall sign, or cause to be signed by his agent, each entry in the rent book.

(3) Any landlord who contravenes subsection (1) or (2) shall be guilty of an offence and liable to imprisonment for a term not exceeding two months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

[Act No. 37 of 1966, s. 7, Act No. 5 of 1981, Sch.]

22. Removal of furniture by landlord

(1) Where a landlord of any furnished premises wishes to remove the furniture or soft furnishings, or any of them, with which the premises were let, he shall apply to the tribunal for permission so to do.

(2) Upon any application being made under subsection (1), the tribunal may grant the application upon such terms and subject to such conditions as the tribunal may consider reasonable, or may refuse the application.

(3) Where an application under subsection (1) has been granted and the furniture or the soft furnishings or any part thereof with which such premises were let is or are removed by the landlord, the standard rent of the premises shall be reduced—

- (a) if the whole of the furniture or the soft furnishings or of both (as the case may be) are removed, by the percentage or by the respective percentages of the value thereof which was or were added to the standard rent in accordance with paragraph (b) of the definition of “standard rent” in section 3;
- (b) if part only of the furniture or the soft furnishings or of both (as the case may be) is removed, by such proportion as the tribunal may think reasonable of the percentage or of the respective percentages of the value thereof as was added to the standard rent in accordance with that paragraph.

(4) In this section, “**soft furnishings**” includes linen, cutlery, kitchen utensils, glassware and crockery, if any.

[Act No. 37 of 1966, Sch., Act No. 1 of 1971, s. 10.]

23. Penalty for depriving tenant of service

(1) No landlord shall, except with the prior consent of the tribunal, and no person other than a landlord shall without lawful authority, do any act whereby—

- (a) any tenant is or may be, either directly or indirectly, deprived; or
- (b) any other person is or will be enabled, either directly or indirectly, to deprive any tenant,

of any water, light, conservancy, sweeper or other service.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding six thousand shillings or to a term of imprisonment not exceeding six months, or to both such fine and imprisonment.

[Act No. 37 of 1966, Sch., Act No. 1 of 1971, s. 11.]

24. Conditions of statutory tenancy

(1) A tenant who, under the provisions of this Act, retains possession of any premises shall, so long as he retains possession, observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as they are consistent with the provisions of this Act, and shall be entitled to give up possession of the premises only on giving such notice as would have been required under the original contract of tenancy, or, if no notice would have been so required, then, notwithstanding any provision to the contrary in any law in force, on giving not less than one month's notice:

Provided that, notwithstanding anything in the contract of tenancy, a landlord who obtains an order for the recovery of possession of any premises or for the ejection of a tenant retaining possession shall not be required to give any notice to quit to the tenant.

(2) A tenant retaining possession shall not, as a condition of giving up possession, ask for or receive payment of any sum, or any other consideration, from the landlord or any other person; and a tenant who asks or receives any such sum or consideration shall be guilty of an offence and liable to a fine not exceeding two thousand shillings, and the court by which he is convicted may order the payment or the value of the consideration to be returned to the person by whom it was given, and any such order shall be in lieu of any other method of recovery.

(3) Where the interest of a tenant of any premises is determined, either as the result of an order for possession or ejection or for any other reason, any subtenant to whom the premises or any part thereof have been lawfully sublet shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms as those on which he would have held from the tenant if the tenancy had continued.

25. Notification of estimate of market cost of construction or market value of land

Where, for the purpose of determining the standard rent, an estimate of the cost of construction or market value has been made by order of the tribunal, the tribunal shall forthwith send written notification to the landlord and the tenant, or their representatives, that the details of the estimate are available for their information and that before the standard rent is determined any such party or his representative may appear before the tribunal on a date to be specified in the notification and object to the estimate.

[Act No. 37 of 1966, Sch.]

26. Repairs

In the absence of any provision to the contrary in the contract of tenancy, for the purposes of this Act it shall be deemed to be the obligation of the landlord of any premises to maintain and keep the premises in a state of good structural repair and in a condition suitable for human habitation, and it shall be deemed to be the obligation of the tenant of any premises, other than a tenement house, to maintain the premises in the same state as that in which the premises were at the commencement of the tenancy, fair wear and tear, damage arising from irresistible force and structural repairs for which the landlord is liable excepted.

27. Restriction on right to assign or sublet premises

Notwithstanding the absence of any covenant against the assigning or subletting of the premises, no tenant shall have the right to assign, sublet or part with the possession of any premises or any part thereof except with the written consent of the landlord or, where such consent is unreasonably withheld, the consent of the tribunal:

Provided that this section shall not apply to a tenant holding a tenancy commencing after the commencement of the Increase of Rent (Restriction) Act, (No. 22 of 1949) (now repealed), for a term exceeding one year, or holding any tenancy the unexpired residue whereof at that date exceeds one year.

[Act No. 37 of 1966, Sch.]

28. Subletting by tenant

(1) Notwithstanding anything contained in this Act, the tenant of any dwelling-house may—

- (a) with the consent in writing of the landlord (which consent shall not be unreasonably withheld), a copy whereof shall be delivered by the tenant to the tribunal; or
- (b) in any case where, in the opinion of the tribunal, the consent of the landlord has been unreasonably withheld, with the consent of the tribunal,

sublet for a period of not more than six months (which period may with the consent of the landlord or of the tribunal be extended for a further period of three months) any dwelling-house of which the tenant is in personal occupation; and upon the expiration of the period for which the dwelling-house has been sublet the tenant shall be entitled to resume personal occupation of the dwelling-house.

(2) Any subtenant to whom subsection (1) applies who fails, without the consent of the tenant, to give the tenant vacant possession of the dwelling-house upon the due date shall be liable to pay to the tenant on demand in writing by the tenant a sum equal to five times the standard rent of the premises in respect of each day on which he continues to occupy the premises adversely to the tenant or such smaller sum in respect of each day as the tribunal may determine; and any such sum may be recovered by the tenant as a civil debt recoverable summarily.

[Act No. 37 of 1966, Sch., Act No. 5 of 1981, s. 9.]

29. Penalty for subjecting tenant to annoyance

A landlord and any agent or servant of a landlord who evicts a tenant without the authority of a tribunal or wilfully subjects a tenant to any annoyance with the intention of inducing or compelling the tenant to vacate the premises or to pay, directly or indirectly, a higher rent for the premises shall be guilty of an offence and liable to a fine not exceeding six thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

[Act No. 1 of 1971, s. 12.]

30. Jurisdiction

In and for the exercise of the powers conferred upon it by this Act, a tribunal shall have the same jurisdiction and powers in civil matters as are conferred upon the High Court, and in particular (but without prejudice to the generality of the foregoing) shall have power—

Rent Restriction

- (a) to administer oaths, and to order persons to attend and give evidence or to produce and give discovery and inspection of documents, in the same manner as in proceedings in the High Court, and for that purpose to authorize the chairman to issue summonses to compel the attendance of persons before it; and
- (b) upon the determination of any application or other proceeding, in its discretion, to order any party thereto to pay the whole or any part of the costs thereof, and either itself to fix the amount of those costs or to direct taxation thereof by the taxing officer of the High Court, either on the High Court scale or on the subordinate court scale.

[Act No. 37 of 1966, s. 8.]

31. Enforcement of orders

(1) A copy of any determination or order of a tribunal, certified by the chairman of the tribunal, to be a true copy, may be filed in a court by any party to the proceedings which gave rise to it, and thereafter, if notice in writing of the filing has been given to the tribunal by the party filing it, the determination or order may be enforced as a decree of the court.

(2) Where a determination or order has been filed and served on a tribunal under subsection (1), the tribunal shall transmit to the court its record of the proceedings, and the record shall be filed by the court with the certified copy of the determination or order.

[Act No. 37 of 1966, s. 8, Act No. 1 of 1971, s. 13.]

32. Service of documents

Where under this Act any summons, notice or other document is required to be served upon any person, it shall be sufficiently served on that person if it is served on him personally or, if it cannot be served, is served in such other manner as the chairman of the tribunal may direct.

[Act No. 37 of 1966, s. 8.]

33. Compensation in case of frivolous or vexatious applications

If, on the dismissal of any application, the tribunal is of opinion that the application was frivolous or vexatious, the tribunal may order the applicant to pay to any other party to the application a reasonable sum as compensation for the trouble and expense to which that party may have been put by reason of the application.

[Act No. 37 of 1966, Sch.]

34. Right of entry

The tribunal, and any person authorized by the tribunal in writing in that behalf, may, for the purpose of carrying out its duties and functions under this Act, at all reasonable times enter upon and inspect any dwelling-house.

[Act No. 37 of 1966, Sch.]

35. Proceedings

(1) A member of a tribunal shall be free from civil liability for anything done or said by him in his capacity as such member.

(2) If any proceedings whatsoever of a civil nature are brought against a tribunal, or against any member of a tribunal, the tribunal or that member shall be represented by the Attorney-General for the purpose of those proceedings, and any costs and expenses incurred in those proceedings shall be borne by the Government.

[Act No. 29 of 1967, First Sch.]

36. Regulations

(1) The Minister may make such regulations, and give such directions, as he may think fit for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1), regulations under that subsection may—

- (a) provide for the procedure of tribunals;
- (b) prescribe the circumstances and manner in which a tenant may, notwithstanding any contractual obligation, elect to pay and pay to the tribunal rent due to his landlord, the manner in which rent so paid may be claimed from the tribunal by the landlord or, if not so claimed, may be disposed of by the tribunal, and the amount of commission which the tribunal may retain out of rent so paid to it; and
- (c) prescribing the fees to be paid in respect of any matter or thing to be done under this Act.

[Act No. 37 of 1966, s. 9.]

37. Rules

(1) The Chief Justice may make rules prescribing the procedure for enforcing determinations or orders of a tribunal under section 33, prescribing the time within which an appeal to a court may be brought and the procedure to be followed and the fees to be paid on such an appeal.

(2) Where jurisdiction or power to deal with any matter is conferred by this Act on a tribunal, no proceedings with respect to that matter shall be taken in any court except by way of an appeal under section 8 (2).

[Act No. 37 of 1966, s. 10.]

38. Amendment of Ordinance No. 61 of 1956

There shall be substituted for section 3 of the Eviction of Tenants (Control) (Mombasa) Ordinance, a new section as follows—

3. The Board

(1) For the purposes of this Ordinance there is hereby constituted a Board, to be known as the Eviction of Tenants (Control) (Mombasa) Board, which shall consist of a Senior Resident Magistrate or Resident Magistrate, who shall be chairman, and such other members as the Minister may, by notice in the *Gazette*, appoint.

(2) The chairman and two other members of the Board shall constitute a quorum.

Rent Restriction

SCHEDULE

[Deleted by Act No. 37 of 1966, s. 12.]
