

**THE RENT RESTRICTION (AMENDMENT)  
ACT, 1981**

**No. 5 of 1981**

*Date of Assent: 29th June, 1981*

*Date of Commencement: 3rd July, 1981*

**An Act of Parliament to amend the Rent Restriction Act**

ENACTED by the Parliament of Kenya as follows:—

1. This Act may be cited as the Rent Restriction (Amendment) Act, 1981. Short title.

2. The Rent Restriction Act, in this Act called the principal Act, is amended by repealing section 3 and substituting the following— Repeal and replacement of section 3 of Cap. 296.

Application. 3. (1) This Act shall apply to all dwelling-houses, other than—

- (a) excepted dwelling-houses;
- (b) dwelling-houses 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.

3. Section 4 (1) of the principal Act is amended—

(a) by deleting the definition of “cost of construction” and substituting the following—

“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;

Amendments to section 4.

- (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 31st 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;
- (b) by inserting in appropriate alphabetical sequence the following new definition—
- “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;
- (c) in the definition of “market value”, by deleting “1st January, 1965” and substituting “1st January, 1981”;
- (d) in the definition of “standard rent”—
- (i) by deleting “1st January, 1965” wherever it appears and substituting “1st January, 1981”;
- (ii) in paragraphs (a) (iii) and (b) (iii) of the definition, by adding in both cases after the expression “not let,” in the first line the expression “or not erected, or the tribunal is unable to determine whether or not it was on that date let or erected,”;
- (iii) in paragraph (a) (iii) of the definition, by deleting “one and one-quarter per cent” and substituting “not less than one and one-quarter and not more than one and one-half per cent”.

**4.** Section 4A of the principal Act is amended—

- (a) by deleting the proviso to subsection (5) and substituting the following—

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.;

(b) by deleting subsection (6) and substituting the following—

(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.

5. Section 5 (1) of the principal Act is amended—

Amendments  
to section 5.

(a) by deleting paragraph (c) and substituting the following—

(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;

(b) in paragraph (e), by deleting the words and commas “to fix a rent inclusive of the standard rent and a payment for water, light, conservancy, sweeper, watchman or other service charge” and substituting “to apportion such charges to each of the tenants”;

(c) by inserting in appropriate sequence the following new paragraphs—

- (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;

- (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.

Amendment  
to section 10.

6. Section 10 of the principal Act is amended by adding at the end the words and commas “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”.

Amendments  
to section 15.

7. Section 15 of the principal Act is amended—

- (a) by adding to paragraphs (f) and (i) of subsection (1) the following new proviso in each case—

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;

- (b) by deleting subparagraph (iii) of paragraph (g) of subsection (1) and substituting the following—

(iii) for the purposes of this paragraph, if the tenant is a private limited company or a partnership the transfer, without the consent of the landlord, of more than fifty per cent of the nominal value

of the issued shares of the company, or of more than fifty per cent of the interest of the partners, shall be deemed to be an assignment of the premises; or;

(c) in subsection (3), by inserting after “minor children” the words “or any person *bona fide* residing or to reside with him”;

(d) by deleting subsection (4) and substituting the following—

(4) Where the tribunal makes an order for the recovery of possession of premises or for the ejection 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.;

(e) in subsection (6), by deleting “paragraph (h)” and substituting “paragraphs (f), (h) and (i)”.

8. The principal Act is amended by inserting the following new section—

Insertion of new section 15A.

Notices to quit.

15A. 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.

9. Section 28 (1) of the principal Act is amended by inserting in paragraph (a), immediately after the words in brackets, the words and commas “, a copy whereof shall be delivered by the tenant to the tribunal”.

Amendment to section 28.

10. The provisions of the principal Act set out in the first column of the Schedule to this Act are amended in the manner set out in the second column thereof.

Further amendments.

## SCHEDULE

(s. 10)

<i>Section</i>	<i>Amendment</i>
4 (2)	Delete "1st January, 1965" from paragraph (a) (iv) and substitute "1st January, 1981".
8 (2)	Delete "two hundred shillings" from paragraph (c) and substitute "one thousand shillings".
12 (1)	Add to paragraph (b) the following new subparagraph— <p style="margin-left: 40px;">· (iii) in this paragraph "rates" includes water, light or conservancy charges;</p> Delete "1st January, 1965" from paragraph (c) and substitute "1st January, 1981".
16	Substitute a full stop for the semi-colon in the second line and delete the remainder of the section.
17 (1)	Delete the word "pecuniary" in the fifth line and insert after "consideration" in that line the words "consisting of money or money's worth".
20 (1)	Delete "1st January, 1965" from the proviso and substitute "1st January, 1981".
21 (1)	Delete "six hundred shillings" and substitute "two thousand five hundred shillings".