

**THE RENT RESTRICTION (AMENDMENT)
ACT 1966**

No. 37 of 1966

Date of Assent: 19th December 1966

Date of Commencement: 20th December 1966

An Act of Parliament to amend the Rent Restriction Act

ENACTED by the Parliament of Kenya, as follows:—

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| <p>1. This Act may be cited as the Rent Restriction (Amendment) Act 1966.</p> | <p>Short title.</p> |
| <p>2. Section 2 of the Rent Restriction Act (hereinafter referred to as the principal Act) is amended by substituting for the date contained therein the date "31st December 1969".</p> | <p>Amendment of section 2 of Cap. 296.</p> |
| <p>3. There shall be substituted for section 3 of the principal Act a new section as follows—</p> | <p>Replacement of section 3 of principal Act.</p> |
| <p>Application. 3. This Act applies to every dwelling-house, other than—</p> <ul style="list-style-type: none"> (a) an excepted dwelling-house; (b) a dwelling house let on a service tenancy; (c) a dwelling-house which, if it were a dwelling-house to which this Act applies, would have a standard rent exceeding eight hundred shillings per month, or in the case of a furnished dwelling-house one thousand one hundred shillings per month. | |
| <p>4. Section 4 of the principal Act is amended—</p> <ul style="list-style-type: none"> (a) by deleting the definitions of "court", "prescribed date" and "standard rent", which appear therein; (b) by inserting therein, in their proper alphabetical positions, the following new definitions— <ul style="list-style-type: none"> "cost of construction", in relation to premises, means the cost of constructing the premises at the time of construction, increased— <ul style="list-style-type: none"> (a) where construction was completed before the 1st January 1942, by 102½ per cent; | <p>Amendment of section 4 of principal Act.</p> |

(b) where construction was completed between the 1st January 1942 and the 31st December 1945, by 56 per cent;

(c) where construction was completed between the 1st January 1946 and the 28th February 1954, by 31½ per cent;

(d) where construction was completed after the 1st March 1954, by 20 per cent;

“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;

“market value”, in relation to land, means the open market value thereof on the 1st January 1965;

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

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

“standard rent” means—

(a) in relation to an unfurnished dwelling-house—

(i) if on the 1st January 1965 it was let, the rent at which it was lawfully so let;

(ii) if on the 1st January 1965 it was not so let, a rent to be assessed by the tribunal at a monthly rate of one and one-quarter per cent 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, the standard rent which would be applicable if it were unfurnished, plus a sum at a monthly rate not exceeding one per cent 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 per cent of the value (as determined by the tribunal) of any soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery;

and any assessment or determination made for the purposes of this definition shall, within the limits imposed by the definition, be at the absolute discretion of the tribunal;

“tribunal” means a Rent Tribunal established under section 4A of this Act;

(c) by substituting for paragraphs (a) and (b) of subsection (2) thereof two new paragraphs as follows—

(a) where the tribunal is satisfied, having regard to the temporary nature of the construction of the dwelling-house, or to the short duration of the lease or licence under which the land is held, or to the fact that the dwelling-house can be expected to let only for a particular period of the year, or to the standard rent of comparable dwelling-houses taking account of the state of repair and the general condition of the dwelling-houses, that the standard rent as defined in subsection (1) of this section would yield an uneconomic return to the landlord, it 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.

Insertion of
new section 4A
in principal Act.

5. There shall be inserted in the principal Act, immediately after section 4 thereof, a new section as follows—

Rent
Tribunals.

4A. (1) The Minister shall, by notice in the Gazette, establish such Rent Tribunals, having jurisdiction in such areas, as he may think fit.

(2) Each tribunal shall consist of a chairman and not less than two nor more than four other members appointed by the Minister, and the chairman shall be a barrister, a solicitor or an advocate of not less than five years' standing.

(3) The chairman and two other members of a tribunal shall constitute a quorum; and all matters to be decided by the tribunal shall be decided by the majority of the votes of the members present and voting, and in the case of equality of votes the chairman shall have a casting vote.

Replacement
of section 10
of principal Act.

6. There shall be substituted for section 10 of the principal Act a new section as follows—

Restriction
on increasing
rent.

10. Subject to the provisions of this Act, the landlord of premises shall not be entitled to recover any rent in respect thereof in excess of the standard rent.

Replacement
of section 21
of principal Act.

7. There shall be substituted for section 21 of the principal Act a new section as follows—

Rent book.

21. (1) Every landlord of premises, other than premises the standard rent of which exceeds six 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 subsection (2) of this section 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 such fine.

8. There shall be substituted for section 31 of the principal Act three new sections as follows—

Replacement
of section 31
of principal Act.

Jurisdiction.

31. 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—

- (a) to administer oaths, and to order persons to attend and give evidence or to produce and give discovery and inspection of documents, in like manner as in proceedings in the High Court, and for such 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 such 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.

*Enforcement
of orders.*

31A. (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) of this section, 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.

*Service of
documents.*

31B. Where under this Act any summons, notice or other document is required to be served upon any person, it shall be sufficiently served on

such 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.

Amendment of section 34 of principal Act.

9. Section 34 of the principal Act is amended—

(a) by renumbering it as subsection (1) thereof; and

(b) by inserting thereafter a new subsection as follows—

(2) Without prejudice to the generality of the powers conferred by subsection (1) of this section, 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.

Replacement of section 35 of principal Act.

10. There shall be substituted for section 35 of the principal Act a new section as follows—

Rules.

35. The Chief Justice may make rules prescribing the procedure for enforcing determinations or orders of a tribunal under section 32 of this Act, 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) of this Act.

Minor amendments.

11. The provisions of the principal Act specified in the first column of the Schedule to this Act are amended in the manner provided in relation thereto in the second column of that Schedule.

12. Sections 9, 29 and 36 of, and the Schedule to, the principal Act are repealed.

Repeal of sections 9, 29 and 36, and Schedule.
Saving.

13. (1) Notwithstanding the provisions of the principal Act as amended by this Act, a tenant shall not be entitled to recover any rent overpaid in respect of any period preceding the commencement of this Act, unless he would have been entitled to such recovery apart from the amendments introduced by this Act.

(2) Any application, proceedings or other matter pending under the principal Act before a court immediately before the commencement of this Act may, notwithstanding this Act, be continued and determined under the principal Act as though this Act had not been enacted.

(3) Any order or consent of a court under the principal Act (meaning the principal Act without the amendments introduced by this Act) shall be deemed to have been made under the corresponding provision of the principal Act as amended by this Act, and may be enforced accordingly.

SCHEDULE

(s. 11)

Provision

Amendment

- s. 5. Delete "court" wherever it appears, and substitute "tribunal" in each case.
- Delete paragraphs (k) and (l).
- s. 5 (1) (m), first proviso. Delete "to the High Court".
- s. 5 (1). Insert, immediately after subsection (1), a new subsection as follows—
- (1A) 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.
- s. 5 (2) (a) and (b). Delete "seventy", and substitute "two hundred".
- s. 6. Delete "court" wherever it appears, and substitute "tribunal" in each case.
- s. 7 (1). Delete "court", and substitute "tribunal".
- s. 8 (1). Delete "court" where it first appears, and substitute "tribunal".

SCHEDULE—(Contd.)

- s. 8 (2). Delete "the High Court", and substitute "a subordinate court of the first class held by a Senior Resident Magistrate".
- Delete "seventy" in paragraph (c), and substitute "two hundred".
- Insert, immediately after paragraph (c), "and, for the purposes of this subsection, the determination of any rent or of any sum shall be a matter of fact".
- s. 8 (3). Delete "court" in both places, and substitute "tribunal" in each case.
- s. 8 (4). Delete "a decision of the High Court", and substitute "the determination of an appeal".
- Delete "of the court", and substitute "an order of the tribunal".
- s. 12 (1). Delete paragraph (a).
- s. 12 (1) (c). Delete "prescribed date" and substitute "1st January 1965".
- s. 15 (1) (b),
(c), (d), (e)
and (f). Delete "court" and substitute "tribunal".
- s. 15 (1) (g) (i). Delete "at any time after the 1st December 1941 or the prescribed date, whichever is the later,".
- s. 15 (1) (i),
(j) (ii). Delete "court" and substitute "tribunal".
- s. 15 (1) (k). The like.
- s. 15 (1) (l). Delete "court", and substitute "tribunal".
- s. 15 (2). The like.
- s. 15 (4). Delete "court" in both places, and substitute "tribunal" in each case.
- s. 15 (7) (a). The like.
- s. 16. The like.
- Delete "to which this Act applies".
- s. 17 (3). Delete all the words after "more".
- s. 18. Delete "court", and substitute "tribunal".
- s. 19 (1). Delete "since the prescribed date,".
- s. 19 (2) (b). Delete "and".
- s. 20 (1). Delete "court" wherever it appears, and substitute "tribunal" in each case.
- s. 20 (1)
proviso. Delete "were let at the prescribed date", and substitute "were on the 1st January 1965 let".
- s. 22 (1). Delete "court", and substitute "tribunal".

SCHEDULE—(Contd.)

- s. 22 (2). Delete “court” in both places, and substitute “tribunal” in each case.
- s. 22 (3) (ii). Delete “court”, and substitute “tribunal”.
- s. 23 (1). The like.
- s. 25. Delete “court” in each place, and substitute “tribunal” in each case.
- Delete “market cost of construction of any premises at the date of completing such construction or of the market value of the land at the prescribed date”, and substitute “cost of construction or market value”.
- s. 27. Delete “court”, and substitute “tribunal”.
- s. 28 (1). Delete “court” wherever it appears, and substitute “tribunal” in each case.
- s. 28 (2). Delete “court”, and substitute “tribunal”.
- s. 32. Delete “court” in both places, and substitute “tribunal”.
- s. 33. The like.