

REGULATIONS

LIMPOPO PROVINCIAL ADMINISTRATION

DEPARTMENT OF LOCAL GOVERNMENT AND HOUSING

RENTAL HOUSING ACT, 1999 (ACT NO. 50 OF 1999)

LIMPOPO RENTAL HOUSING TRIBUNAL REGULATIONS, 2007

The Member of the Executive Council responsible for housing matters has under section 15 of the Rental Housing Act, 1999 (Act No. 50 of 1999), made the Regulations in the Schedule.

SCHEDULE

PART I

1. Definitions

In these regulations, any expression to which a meaning has been assigned in section 1 of the Rental Housing Act, 1999 (Act No. 50 of 1999), retains that meaning and in addition –

"Chairperson" means the chairperson of the Tribunal appointed in terms of section 9(1)(a) of the Act;

"common property" in relation to a multi tenanted dwelling, means the land on which the dwelling is situated and those parts of the dwelling not reserved for the exclusive use of any person;

“complainant” means a tenant or landlord or a group of tenants or landlords or interested group that lodges a written complaint with the Tribunal in terms of section 13 of the Act;

“mediation” means a process in terms of which a Tribunal member or a nominee of the Tribunal assists parties to resolve a dispute in terms of section 13(2)(c) of the Act;

“respondent” means a person against whom a complaint has been lodged with the Tribunal;

“the Act” means the Rental Housing Act, 1999 (Act No.50 of 1999); and

“unfair practice” means a practice that directly or indirectly has or is likely to have the effect of unreasonably prejudicing the tenant or landlord's rights or interests.

2. Lodging of complaint

(1) Where a complainant lodges a complaint in terms of section 13(1) of the Act, the complaint must be in writing and in the format of Form A.

(2) A complaint contemplated in sub-regulation (1), made other than in writing, must be reduced to writing by the Tribunal.

(3) A complaint may be lodged by —

(a) registered mail; or

(b) hand delivery,

and will be deemed to be lodged with the Tribunal on the date the Tribunal receives the registered mail or where delivered by hand, on the date so delivered.

- (4) The Tribunal must enter the details of a complaint in the register contemplated in section 13(8) of the Act in the format of Form B.

3. Notice of investigation

When the Tribunal investigates a complaint contemplated in section 13(2)(b) of the Act, the Tribunal must, within seven days, give notice to the complainant and to the respondent of such investigation and alleged unfair practice in the format of Form C.

4. Dispute resolution notice

- (1) When the Tribunal is of the opinion that there is a dispute as a result of unfair practice, the Tribunal must within 30 days of receiving the complaint notify the parties that the dispute may be resolved through mediation and appoint a mediator in terms of section 13(2)(c) of the Act.
- (2) Should the mediation referred to in sub-regulation (1) not be successful, the Tribunal must —
 - (a) refer such dispute for a hearing in terms of section 13(2)(d) of the Act; and
 - (b) notify the parties of such hearing.
- (3) The notice referred to in sub-regulation (1) and (2), must be in the format of Form D and must specify the —
 - (a) date, which will not be less than 14 working days from the date of the notice;
 - (b) place; and

(c) time,
of the mediation or hearing.

5. Complaint beyond jurisdiction of Tribunal

When the Tribunal is of the opinion that the complaint does not constitute a dispute relating to unfair practice, the Tribunal must, within 30 days of receiving the complaint, notify the parties in the format of Form E that the complaint does not fall within the jurisdiction of the Tribunal.

6. Form of Summons

A summons contemplated in section 13(3)(d) or (e) of the Act must be in the format of Form F.

7. Manner of service of notice or summons

(1) A notice referred to in regulations 3, 4 and 5 or a summons referred to in regulation 6, must be issued by the Chairperson or his or her delegate in one of the following manners:

- (a) by delivery of a copy of the notice or summons to the person;
- (b) by delivery of a copy of the notice at the place of residence of the person to be served or with a person in charge or who appears to be in charge of the premises at the time of delivery and who seems to be older than 16 years of age;
- (c) by delivering a copy thereof at the place of employment of the person to be served to a person in authority or who appears to be in authority over the said person and seems to be older than 16 years of age;

- (d) if the person to be served has chosen an address at which the notice or summons may be served, by delivering a copy thereof at the address so chosen;
 - (e) in the case of a company or close corporation, by delivering a copy to a person who is in charge or who appears to be in charge of the business at its registered office or its principal place of business or, if none of the employees are willing to accept service, by affixing a copy to the main door of such office or place of business;
 - (f) by delivering a copy thereof to an agent who is duly authorised in writing to accept service on behalf of the person to be served;
 - (g) where a partnership, firm or voluntary association is to be served—
 - (i) by leaving a copy thereof at the place of business of the partnership, firm or voluntary association with a person who is or who appears to be in charge of the premises at the time of delivery and who seems to be older than 16 years of age; or
 - (ii) if such partnership, firm or voluntary association has no place of business at the time of service, by effecting service on a partner, the proprietor, the chairperson, the secretary of the committee or other managing body of the association, as the case may be.
- (2) Where the person to be served is a minor or a person without legal capacity, the notice or summons must be served in a manner mentioned in sub-regulation (1) on that person's guardian, tutor, curator or caregiver.
- (3) For the purposes of sub-regulation (1)(b), when a block of flats or other building other than an hotel, boarding-house, hostel or similar residential building is

occupied by more than one person or family, the notice or summons must be served as provided in the said sub-regulation at that part of the building which the person to be served occupies as his or her residence or place of business.

8. Witnesses

- (1) A witness giving evidence before the Tribunal must make an oath or affirmation administered by the Chairperson.

- (2) A witness summoned to appear before the Tribunal is entitled to witness fees to which a witness in any civil proceedings in a magistrate court is entitled to.

9. Appointment certificate

A person appointed as an inspector in terms of section 11(3) of the Act must be provided with a certificate in the format of Form G.

10. Interpreter

- (1) When, in the opinion of the Tribunal, it is necessary to appoint an interpreter or if the parties so desire, the Tribunal may satisfy itself as to the competence of the interpreter before he or she is employed as such.

- (2) A person appointed or designated to perform the functions of an interpreter before the Tribunal must, before commencing with the duties of an interpreter, make and sign an oath or affirmation before the Chairperson in the format of Form H.

11. Transcriber

A person appointed or designated to —

- (a) take down or record the proceedings of the Tribunal, in shorthand or by mechanical means; or
- (b) transcribe the proceedings which have been so taken down or recorded,

must, before commencing with his or her duties, make and sign an oath or affirmation before the Chairperson in the format of Form I.

12. Certificate of mediator

Where a dispute remains unresolved after mediation, the mediator must issue a certificate in the format of Form J.

13. Proceedings of Tribunal

- (1) When the Tribunal conducts a hearing contemplated in section 13(2)(d) of the Act, the Tribunal must state the alleged unfair practice and the nature of the involvement of the respondent.
- (2) The Chairperson must ask the respondent whether he or she admits to any or all of the allegations and record his or her response.
- (3) Where the respondent does not admit all the allegations, the complainant must produce or adduce evidence in support of the allegations that are denied.
- (4) The respondent must be granted the opportunity to state his or her case in defence and produce evidence in support thereof.

- (5) The Tribunal may on good cause, at any time during the proceedings, adjourn the proceedings.
- (6) A party may cross-examine any witness called on behalf of the other party.
- (7) The Tribunal may, after the parties close their case, ask questions for further clarity.
- (8) The Tribunal must grant the parties the opportunity to furnish closing statements.
- (9) Where the Tribunal finds that unfair practice has occurred, the Tribunal must afford the parties an opportunity to address the Tribunal regarding the order to be made.

14. Procedure on non attendance

- (1) Subject to sub-regulation (5), where the complainant fails to attend the proceedings before the Tribunal, the Chairperson may –
 - (a) adjourns the proceedings to a later date; or
 - (b) dismisses the dispute.
- (2) Where the Chairperson –
 - (a) adjourns the proceedings in terms of sub-regulation (1)(a), the complainant must be summoned to appear before the Tribunal on a specified date; or
 - (b) dismisses the dispute in terms of sub-regulation (1)(b), a copy of the written ruling must be send to the parties.

- (3) Subject to sub-regulation (5), where the respondent fails to attend the proceedings before the Tribunal, the Chairperson may —
 - (a) adjourns the proceedings to a later date; or
 - (b) continues with the proceedings in the absence the respondent.

- (4) Where the Chairperson —
 - (a) adjourns the proceedings in terms of sub-regulation (3)(a), the respondent must be summoned to appear before the Tribunal on a specified date; or
 - (b) continues with the proceedings in terms of sub-regulation (3)(b), the respondent must, in writing, be notified of the ruling and the order of the Tribunal.

- (5) The Chairperson must be satisfied that the complainant or respondent was properly notified of the date, time and venue of the proceedings, before making a decision in terms of sub-regulation (1) or (3).

PART II

15. General obligations of landlord

- (1) The landlord must at the commencement of a lease —
 - (a) ensure that the dwelling is in a good and clean condition which is fit for human habitation;
 - (b) take reasonable steps to ensure that the tenant enjoys undisturbed use of the dwelling; and
 - (c) in writing, furnish the tenant with the house rules.

- (2) The landlord must not —
 - (a) directly or indirectly, intimidate or discriminate against a tenant for exercising any right under the Act or these regulations; or
 - (b) preclude a tenant from establishing or being a member of a tenants' committee or similar body.

16. General obligations of tenant

- (1) The tenant must —
 - (a) pay rent at the agreed place and time;
 - (b) take proper care of the dwelling and not use it for a purpose other than that for which it was let;
 - (c) on termination of the lease, ensure that the dwelling is in the good order and condition as it was in when it was received, subject to reasonable wear and tear; and
 - (d) comply with the house rules provided by the landlord at the commencement of the lease.
- (2) The tenant must not —
 - (a) sublet the dwelling or any part thereof to any other person without the written consent of the landlord;
 - (b) allow more than the maximum number of persons specified by the landlord to reside in the dwelling; or
 - (c) engage in oppressive or unreasonable conduct in the dwelling.

17. House rules

- (1) A landlord must make house rules in relation to the control, management, administration, use and enjoyment of the dwelling.
- (2) The house rules are enforceable against a tenant only if its purpose is to —
 - (a) promote the convenience, safety, health or welfare of the tenant and neighbours of the dwelling;
 - (b) prevent the landlord's property from abuse; or
 - (c) make a fair distribution of services and facilities available to the tenant.
- (3) The house rules must —
 - (a) apply to all tenants in a fair and equal manner;
 - (b) sufficiently inform the tenant of prohibitions, directions or limitations; and
 - (c) clearly indicate the conduct expected from the tenant.

18. Repairs or reconstruction

- (1) A landlord may, upon two months written notice to the tenant, request the tenant to permanently or temporary vacate the dwelling when any repairs or reconstruction of the dwelling is urgently necessary and which cannot be undertaken while the tenant occupies the dwelling.
- (2) The landlord must under the circumstances referred to in sub-regulation (1), grant the tenant —
 - (a) a remission of rental for the period during which the tenant does not occupy the dwelling; or
 - (b) the option to cancel the lease agreement.

- (3) Where it is necessary for the landlord to repair or reconstruct a part of the dwelling and the tenant occupies the remaining part, the tenant is entitled to a remission in rental proportionate to the tenant's deprivation of use of the dwelling.

19. Demolition

Where a dwelling will be demolished, the landlord may, upon two months written notice to the tenant, cancel the lease agreement and request the tenant to vacate the dwelling.

20. Change of locks

- (1) The landlord or tenant may not change a lock providing access to the dwelling without reasonable notice and the reasons therefore to the other party.
- (2) The landlord or tenant must, provide at his or her own cost, duplicate keys of the new lock to the other party.

21. Entry of dwelling

The landlord may only enter a dwelling —

- (a) in order to —
 - (i) inspect the dwelling;
 - (ii) make repairs to the dwelling;
 - (iii) show the dwelling to —
 - (aa) a prospective tenant;
 - (bb) a purchaser;
 - (cc) a mortgagee;

- (dd) an agent of a prospective tenant, purchaser or mortgagee;
- or
- (b) pursuant to a court order.

22. Municipal Services

- (1) Where the landlord is responsible for providing municipal services, the landlord may not interrupt the provision of municipal services, except —
 - (a) in the case of an emergency; or
 - (b) after reasonable notice has been given that the landlord needs to do necessary maintenance or repairs.

- (2) The landlord must provide the tenant with a monthly statement which must contain the —
 - (a) names of the landlord and the tenant as well as the physical address of the dwelling;
 - (b) name, address and telephone number of the municipality;
 - (c) previous and current months meter readings;
 - (d) actual consumption for each service and the amounts charged therefore;
 - (e) total payment due;
 - (f) date of the next meter reading for each service; and
 - (g) amount of any arrears.

- (3) The landlord must issue a receipt for payments made by the tenant.

23. Short title

These regulations are the Limpopo Rental Housing Tribunal Regulations, 2007 and comes into operation on a date determined by the MEC in the *gazette*.

FORM A

LIMPOPO PROVINCIAL ADMINISTRATION
DEPARTMENT OF LOCAL GOVERNMENT AND HOUSING

COMPLAINT FORM FOR THE LIMPOPO RENTAL HOUSING TRIBUNAL

RENTAL HOUSING ACT, 1999
(Act No.50 of 1999)

Section 13 (1) and Regulation 2 (1)

FOR OFFICE USE ONLY

REFERENCE NO:

A. PARTICULARS OF COMPLAINANT

SURNAME:

FIRST NAME (S):

NAME OF ASSOCIATION(S)

ID NUMBER:

BUSINESS/RESIDENTIAL ADDRESS (FLAT NAME, ROOM NO, STREET NAME):

ADDRESS FOR THE SERVICE OF NOTICES AND PROCESSES
BUSINESS TELEPHONE NO:
HOME TELEPHONE NO:
FAX NO:

B. DETAILS OF DWELLING

NUMBER OF UNITS IN BUILDING (IF APPLICABLE):
NUMBER OF TENANTS LIVING IN THE DWELLING:
LOCATION OF DWELLING:

C. PARTICULARS OF TENANT/LANDLORD COMMITTEE MEMBERS

NAME:			
CONTACT NUMBER:	TEL:	FAX:	
DWELLING NUMBER:			
NAME:			
CONTACT NUMBER:	TEL:	FAX:	
DWELLING NUMBER:			
NAME:			

CONTACT NUMBER	TEL:	FAX:
DWELLING NUMBER:		
NAME:		
CONTACT NUMBER:	TEL:	FAX:
DWELLING NUMBER:		
NAME:		
CONTACT NUMBER:	TEL:	FAX:
DWELLING NUMBER:		
NAME:		
CONTACT NUMBER:	TEL:	FAX:
DWELLING NUMBER:		

D.PARTICULARS OF PERSON AGAINST WHOM THE COMPLAINT IS LODGED

NAME OF TENANT/LANDLORD: ASSOCIATION:
CONTACT TELEPHONE NO:
FAX NO:
PERMANENT RESIDENTIAL ADDRESS (FLAT NAME ,ROOM NO, STREET NAME):
ADDRESS FOR THE SERVICE OF NOTICES AND PROCESSES:

POSTAL ADDRESS(IF DIFFERENT):

E. ADDITIONAL INFORMATION

NAME OF CARETAKER:	
CONTACT NUMBER:	TEL:
	FAX:
NAME OF OWNER OF BUILDING:	
CONTACT NUMBER:	TEL:
	FAX:
PERMANENT RESIDENTIAL ADDRESS (FLAT NAME, ROOM NO, STREET NAME):	
POSTAL ADDRESS:	
NAME OF MANAGING AGENT:	
CONTACT NUMBER	TEL :
	FAX:
NAME OF BOND HOLDER:	
CONTACT NUMBER:	TEL:
	FAX:

F. PERSON/ORGANISATION THAT REFERRED THE COMPLAINANT

NAME:	
TEL:	FAX:
REF NO:	

G. LIST OF COMPLAINTS/DISPUTES

1.
2.
3.
4.
5.
6.

H. (FINANCIAL STATUS OF BUILDING)

TOTAL ELECTRICITY ARREARS	R
TOTAL WATER ARREARS	R