

Statutory Instrument 32 of 2007.

Rent Regulations, 2007

SI 32/2007

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IT is hereby notified that the Minister of Local Government, Public Works and Urban Development has, in terms of sections 23 and 24 of the Housing and Building Act [Chapter 22:07] made the following regulations:—

PRELIMINARY

1. Title

These regulations may be cited as the Rent Regulations, 2007.

2. Application

- (1) Subject to subsection (2), these regulations shall apply only to dwellings situated within— (a) an area for which a municipal or town council has been established; (b) any part of the area of a Rural District Council which is a designated area in terms of the Rural District Councils Act [Chapter 29:13]; (c) an area set aside or deemed to have been set aside as a township in terms of the Communal Land Act [Chapter 20:04]; (d) a local Government area, as defined in the Urban Councils Act [Chapter 29:15];
- (2) These regulations shall not apply to— (a) the letting of a dwelling by the State or a local authority; (b) the letting of a dwelling by any authority, board, commission, council or other like body, having corporate personality and established for public purposes directly by an Act of Parliament; (c) the letting and hiring of a dwelling during the absence of the lessor for a period not exceeding six months for holiday, business, health or other like reasons; (d) the letting of new rental dwelling constructed after the date of commencement of these regulations. New rental dwellings shall be registered with the Rent Board, and the rentals being charged for such dwellings shall not be controlled for a period of ten years.

3. Interpretation

In these regulations—

- “appropriate board”, in relation to a dwelling, means the board within the area of jurisdiction of which the dwelling is situated;
- “authorised rent” in relation to a dwelling means the rent fixed by a board and is the sum of the standard rent and the permitted increases;
- “board” means a rent board established by the Minister in terms of section 23 of the Act;
- “dwelling” means any room, flat, apartment, house or other immovable property occupied as a human habitation under a lease, and includes the grounds, parking space, garages, outside rooms, workers’ quarters and other improvements let therewith or provided therewith for the convenience of the lessee, but does not include a human habitation which is let at a rent which includes any payment in respect of a meal;
- “lease” means a written lease agreement signed by both parties;

“lessee”, in relation to a dwelling, includes— (a)

- any sub lessee thereof; or
- (b) the widow or widower of a lessee who was living with the lessee therein at the time of the lessee’s death; or
- (c) a lodger; but excludes a person who occupies a dwelling as part of his or her contract of employment;

“lessor”, in relation to a dwelling, includes the owner thereof, the person to whom the rent therefore is normally paid, and a lessee who has sublet the dwelling or part thereof and any agent of the lessor;

“lodger” means a person who hires a room, rooms or portion thereof for personal habitation;

“owner”, in relation to a dwelling, includes—

- (a) where the dwelling is subject to an exclusive right of occupation by reason of a share-holding in the company owning the dwelling, the person entitled to occupy the dwelling;
- (b) where the dwelling is subject to an exclusive right of occupation registered in accordance with the provisions of section 25A of the Deeds Registries Act [*Chapter 20:05*], the registered holder of that right;
- (c) where the dwelling is the subject of a deed of sale and registered in terms of section 62 of the Deeds Registries Act [*Chapter 20:05*], the beneficial owner thereof;

“permitted increases” in relation to a dwelling include moneys which the lessee pays to or on behalf of the lessor in respect of amenities, facilities, services and other things provided therewith by the lessor;

“recurrent expenditure” means expenditure, which the board, in all the circumstances of the case, considers to be reasonable, regard being had to any or all of the following:—

- (a) the amount expended by the lessor in supplying electric current, water, fuel, sanitary or other services and amenities, and in meeting the cost of rates in respect of the dwelling;
- (b) the amount expended by the lessor in meeting the cost of insurance premiums in respect of the dwelling, its equipment, furniture and other contents;
- (c) the cost to the lessor in respect of maintenance and cleaning of the dwelling, its equipment, furniture and other contents;
- (d) the amount of collection charges;
- (e) the cost to the lessor in respect of caretaking of the dwelling, its equipment and contents, and the upkeep of the grounds; and
- (f) any amount expended by the lessor on the provision of furniture and equipment.

“rent”, in relation to a dwelling, means the sum of money payable in terms of the lease agreement; “rent order” means a rent order issued or deemed to have been issued in terms of section 16 or 17;

“room” means—

- (a) a portion of a dwelling enclosed by walls or partitions; or
- (b) a veranda or porch or similar portion of a dwelling; or (c) an outbuilding;

Provided that, where any part of a dwelling has been divided up or partitioned or extended otherwise than in accordance with plans and specifications approved by the local authority concerned, the whole of that part of the dwelling which has been so divided up or extended shall be regarded as a single room;

“standard rent” in relation to a dwelling means—

- (a) rent recommended in a current valuation by a registered valuer and approved by the appropriate board with the concurrence of the Government Chief Valuation and Estates Officer or his or her representative; or
- (b) where there is no current valuation of a dwelling, rent determined as being fair by the appropriate board with the concurrence of the Government Chief Valuation and Estates Officer or his or her representative;

“value” means such value fixed by the board with the concurrence of the Government Chief Valuation and Estates Officer.

PART I

BOARDS

4. Proceedings of boards

(1) The procedure followed by a board shall be as simple and informal as possible, and a board shall act in such a manner and on such principles as it deems best fitted to do substantial justice and to carry out the objects and provisions of these regulations.

(2) The chairperson and one member shall form a quorum in any proceedings of a board.

(3) All questions on matters requiring to be decided by a board shall be decided by a majority, and, in the event of an equality of votes, the chairperson shall have a casting vote, in addition to a deliberative vote:

Provided that any matter of law arising for a decision at any sitting of a board, and any question arising as to whether a matter for decision is a matter of fact or a matter of law, shall be decided by the chairperson, and no other member of the board shall have a voice in the decision of that matter or question.

(4) The chairperson shall cause to be maintained such records of the proceedings of the board as he or she considers appropriate, and those records shall be kept and filed in the office of the secretary of the board.

5. Representation of parties

(1) Subject to subsection (3), in the hearing of any matter by a board, any party thereto may—

- (a) appear in person; or
- (b) be represented by—
 - (i) a legal practitioner; or
 - (ii) any other person duly appointed, in writing in that behalf by the party; or
- (c) make written representations to the board, in which case such party shall serve a copy thereof on the other party.

(2) The appointment of a representative for the purposes of subsection (1)(b) may be made at the time of the hearing in question or at any time prior thereto.

(3) If, at the time of the hearing, the lessor or lessee in question is absent from Zimbabwe, a board may permit any person who satisfies it that he or she represents the lessor or lessee to appear on behalf of the lessor or lessee, although he or she has not been duly appointed in writing as required by subsection (1).

6. Evidence

(1) In the hearing of any matter by a board, evidence may be given on oath, either orally or by affidavit:

Provided that the maker of an affidavit may be required to attend in person if a party to a hearing requires the maker to give oral evidence before the board.

(2) Any copy or extract of a valuation roll, rate-book, record, plan or document of a local authority, which purports to be certified as a true copy or extract by the person having custody of such valuation roll, rate-book, record, plan or document, shall be received in evidence before a board on its mere production by any person, and shall be *prima facie* proof of its contents.

7. Powers of board to call for information, et cetera

(1) A board may, of its own motion or at the request of a party to an application, by notice of not less than fourteen days given under the hand of its secretary, summon any person—

- (a) who, in its opinion, may be able to give information relevant to any matter which is to be the subject of a hearing by the board; or
- (b) who it suspects or believes has in his or her possession or custody or under his or her control any book, document or thing which is relevant to any matter to be decided by the board; to appear before it at a time and place specified in the notice, in order to be examined under oath or to produce that book, document or thing.

(2) A board may call and, by its chairperson, administer an oath to any person present at a hearing of any matter who was, or might have been summoned in terms of sub-section (1) and examine him or her or require him or her to produce any book, document or thing in his or her possession or custody or under his or her control.

(3) A board may employ a competent valuer or other technical advisor to assist it in connection with its functions in terms of these regulations, on such conditions as to remuneration and allowances as the Minister may, from time to time, determine.

8. Privileges of witnesses

Any person called upon to appear before a board and give evidence thereto, or to produce any book, document or thing, shall be entitled to the same privileges and immunities, as if he or she were subpoenaed to attend, or were giving evidence at a trial in a magistrate's Court.

9. Offence to fail to render a return or comply with notice

(1) Any lessor who is required to render a return in terms of a notice issued in terms of section 7(1) and who—

- (a) fails, without reasonable cause, to render such return within the period specified in such notice;
- (b) renders an incomplete return; or
- (c) wilfully makes a false statement in the return in any material particular; shall be guilty of an offence.

(2) Where any person is charged with a contravention of subsection (1)(a), it shall be presumed, until the contrary is proven, that he or she had knowledge of the terms of the notice concerned.

10. Offences of witnesses

Any person who, after being called upon to appear before a board—

- (a) to be examined or to produce any book, document or thing fails, without sufficient cause, to attend at the time and place specified in the notice to him or her to do so; or;
- (b) fails to remain in attendance until excused by such board; or
- (c) fails to produce any book, document or thing in his or her possession or custody or under his or her control when lawfully required to do so; or
- (d) refuses, without sufficient cause, the onus of proof whereof rests upon him or her, to be sworn or affirmed as a witness; or
- (e) fails to answer fully and satisfactorily, to the best of his or her knowledge and belief, any question lawfully put to him or her; or
- (f) makes any false statement, knowing it to be false or not reasonably believing it to be true; shall subject to section 8, be guilty of an offence.

11. Misbehaviour during proceedings

Any person who, in any hearing before a board, wilfully insults any member of such board, or wilfully interrupts the proceedings or otherwise misbehaves, shall be guilty of an offence.

12. Powers of entry and inspection

(1) Any member of a board, or any valuer or other technical advisor appointed by a board, in terms of section 7(3), shall be entitled, for the purpose of carrying out his or her duties, to enter and inspect any dwelling at any reasonable time after due notice to the lessor and the lessee.

(2) Any person who obstructs or hinders a member of a board or a valuer or other technical advisor conducting such inspection shall be guilty of an offence.

13. Costs

(1) If a board considers that an application or an objection to an application was frivolous or vexatious or made without reasonable expectation of success, it may order the person who made the application or objection, as the case may be, to pay to the other party such sum as the board considers just, in order to indemnify that party for his or her expenses in connection with the proceedings.

(2) An order for the payment of any sum in terms of sub section (1) shall have the effect of a civil judgment of a magistrate's court in favour of the lessor or lessee, as the case may be, and may be enforced as if it were such a judgment.

PART II

ORDERS

14. Applications

(1) To address the problem of steep rent escalation the Minister may introduce measures to restrict rent increases, including the option of a general rent freeze, for a specified period.

(2) Where a lessor and a lessee do not agree on the proposed rent increase the lessor or lessee may apply to a board for—

- (a) a rent order; or
- (b) the variation of a rent order.

(3) Where two or more dwellings are contained within one building, or are otherwise so related to each other as to constitute a composite whole, an application in terms of this section may relate to any or all of such dwellings.

(4) An application in terms of this section shall—

- (a) be on a form obtainable free of charge from the secretary of the appropriate board;
- (b) be submitted to the secretary of the appropriate board, together with a payment of a non-refundable application fee specified in the Second Schedule; (c) include the following information—
 - (i) the description and situation of the dwelling, including the stand number;
 - (ii) the name and postal address of the lessor or lessee;
 - (iii) the existing rent;
 - (iv) a copy of the agreement of lease, if any; and
 - (v) details of the current rent order, if any; and
 - (vi) where applicable, a certified copy of entry in the current valuation roll pertaining to the dwelling or property.
- (d) in the case of an application for a rent order, include the following information, in addition to that mentioned in paragraph (c)—
 - (i) the rent which the applicant is requesting the board to fix as fair rent for the dwelling, and the reasons of the applicant in support of that figure; and
 - (ii) details of the dwelling and the amenities, services, facilities and other things provided by the lessor;

- (e) in the case of an application for the variation of a rent order, include, in addition to the information mentioned in paragraph (c), the variation of the rent order requested by the applicant, and the reasons of the applicant in support of that request;
- (f) include such other information as the board may require or the applicant may wish to place before the board;
- (g) be made in duplicate:

Provided that, if the secretary of the board requires more than two copies of the application, the applicant shall furnish such number of copies of the application as the secretary may direct.

15. Procedure on receipt of application

Where he or she has received an application in terms of section 14, the secretary of a board shall—

- (a) serve a written notice of the application on the respondent requiring him or her to submit, in writing and within a period of fourteen days, his or her reasons for opposing the application;
- (b) furnish the applicant with the reasons given by the respondent for opposing the application within fourteen days of receiving such reasons;
- (c) forthwith invite the applicant and respondent for a consultation with a view to reaching an agreement as to a fair rent. If agreement is reached between the lessor and lessee, issue a rent order and place all relevant papers before the board;
- (d) if no agreement has been reached, place all relevant papers before the board for its consideration.

16. Power of board to issue order or require hearing

Where any papers have been placed before a board in terms of section 15, the board shall, without a hearing, consider such papers, and may—

- (a) confirm a rent order;
- (b) issue a rent order;
- (c) issue a variation of the existing rent order;
- (d) require its secretary to invite the lessor and the lessee concerned to attend a hearing of the application; or
- (e) dismiss the application, if the applicant has requested a variation of an existing rent order and no grounds warranting such a variation are disclosed in the application.

17. Hearings

(1) Where, in terms of section 16, the secretary of a board is required to invite a lessor and lessee to attend a hearing, the chairperson of the board shall fix the date of hearing, and the secretary shall, not later than fourteen days before the hearing, serve written notice on the parties concerned, inviting them to attend.

(2) At a hearing arranged in terms of subsection (1), the board shall proceed to consider and determine the matter concerned in accordance with the provisions of the regulations, and shall—

- (a) issue a rent order fixing a fair rent in respect of the dwelling or grant a variation of the existing rent, as the case may be; or
- (b) dismiss the application concerned or, where the hearing has not resulted from an application, decline to issue a rent order.

18. Determination of fair rent

A board shall fix as a fair rent in respect of a dwelling, a rent which is equal to the sum of the standard rent and the permitted increases calculated under the provisions of these regulations.

19. Variation of a rent order

A board shall not grant an application for the variation of a rent order unless the board considers that—

- (a) a material or substantial change has occurred, or will occur, in the dwelling, or in the recurrent expenditure or amenities, facilities, services and other things provided therewith, or in the locality; or
- (b) the true facts were not placed before the board at the proceedings resulting in the issue of the existing rent order, and the failure to do so was not attributable to the fault of the applicant for the variation of the rent order; or
- (c) such other circumstances exist as to justify such variation.

20. Revocation of a rent order or variation

Where a rent order or variation of rent order has been granted by a board— (a) in terms of section 16(c); or

- (b) as the result of a hearing at which either party concerned was not represented and had not made written representations;

a party in default may apply, not later than one month after he or she has obtained knowledge of such order, or variation, to the board for the revocation or amendment of such order or variation, and the board may, on good cause shown, and after giving the other party concerned an opportunity to be heard, grant such application.

21. Validity of orders

(1) Subject to the provisions of section 16, in every order or variation of a rent order, the issuing authority shall specify the date from which such order or variation, as the case may be, shall have effect, which shall not be a date prior to—

- (a) the date on which the application concerned was received by the secretary of the board concerned; or
- (b) the date fixed in terms of section 17(1) for the bearing in the case of a rent order which has not resulted from an application.

(2) A rent order shall be valid for a period of one year from the date it is effected; or for the period of occupation by the lessee, whichever is the lesser.

22. Notification to parties of issue of orders, et cetera

The secretary of a board shall give written notification to the parties concerned of the decision—

- (a) of himself or herself or of the board, as the case may be, to issue an order or the decision of the board to grant variation of a rent order or the amendment of a rent order, and shall send therewith, free of charge, to each of the parties, a copy of the order, variation or amendment, as the case may be, signed by the secretary;
- (b) of the board to dismiss an application, not to grant a rent order, to revoke a rent order or variation, or to extend the period of validity of a provisional order.

23. Report of a board's reasons

(1) Within fourteen days of the receipt of notification of a decision of a board in terms of section 22, the lessor or lessee concerned may, in writing, and on payment of a fee prescribed in the Second Schedule, request the secretary of the board to furnish him with a report by the chairperson, setting out the facts, findings and reasons of the board in relation to that decision.

(2) On receipt of a request duly made in terms of sub-section (1), the secretary shall forthwith inform the chairperson of the board of the request, and the chairperson shall forthwith prepare a report, which shall be signed by him or her and sent to the person who made the request.

(3) The lessor or lessee, as the case may be, shall be deemed to have received notification given in terms of section 22 within seven days of its dispatch by the secretary.

24. Copies of orders for other persons

Copies of any order or variation of a rent order may be obtained by any person from the secretary of the board concerned, on payment of a fee prescribed in the Second Schedule.

25. Notice of order or authorised rent to subsequent lessor

(1) The lessor of a dwelling shall give written notice to any person who immediately succeeds him or her as a lessor of a dwelling of the existence of the authorised rent and terms of any order which is in force in relation to the dwelling within seven days of the date on which such person succeeds him or her as a lessor.

(2) A lessor who contravenes subsection (1) shall be guilty of an offence.

PART III

PROHIBITED PAYMENTS

26. Excessive Rent

(1) No lessor of a dwelling in respect of which an order has been issued fixing the authorised rent therefor, shall, during the period of validity of that order, require or permit a lessee to pay for that dwelling a rent in excess of the rent fixed by the order.

(2) No lessor of a dwelling shall quote or demand payment in any currency other than the Zimbabwean dollar.

27. Payments on grant, continuation or renewal of lease

(1) No lessor shall, in respect of a dwelling let or to be let by him or her, require or permit the lessee or prospective lessee of the dwelling, in consideration of the grant, renewal or continuation of the lease of the dwelling, to pay—

- (a) more than one month's rent in advance; or
- (b) any amount in excess of one month's rent by way of a deposit; or
- (c) any bonus, premium or other like sum in relation to the rent; or
- (d) where the lessor himself or herself has drawn or prepared a lease agreement, a fee or charge in excess of five *per centum* of the first full month's rent in respect of the drawing or preparation of such agreement; or
- (e) where the lessor himself or herself has drawn or prepared a new lease agreement on the renewal or continuation of the lease, a fee or charge in excess of five *per centum* of the first full month's rent on the renewal or continuation of the lease in respect of the drawing or preparation of such agreement; or
- (f) any amount for negotiating the lease.

(2) A lessor who has received a deposit in consideration of the grant continuation or renewal of a lease shall refund such deposit within a period of fourteen days from the date on which the lessee from whom it was received vacates the dwelling concerned, unless he or she had, within that period, given written notice to such lessee of any loss to himself or herself, or damage to the dwelling, for which the lessee is liable.

28. Recovery of payments made in contravention of section 26 or 27

Where any payment has been made in contravention of the section 26 or 27, the lessee who made the payment may recover from the lessor who received the payment—

- (a) the amount thereof in the case of payment made in contravention of section 27(c) or 27(f);
- (b) the amount by which the payment exceeds the maximum payment permitted in terms of the appropriate provision, in any other case.

29. Offences

(1) Any lessor who contravenes section 26 or 27 shall be guilty of an offence, and the court which convicts him or her may, in addition to any penalty which it may impose in terms of section 46, order him or her forthwith to refund to the lessee the appropriate amount referred to in section 28, or the deposit concerned.

(2) An order for the refund of any sum in terms of subsection (1) shall have the effect of a civil judgment of a magistrate's court in favour of the lessee, and may be enforced as if it were such a judgment.

PART IV

RESTRICTIONS REGARDING EJECTION AND REFUSAL TO LEASE

30. Limitation on ejection of lessees

(1) For the purpose of sub-section (2), "rent due", in relation to a dwelling, means—

- (a) so long as an order fixing the rent for a dwelling is in force, the authorised rent fixed by that order; or (b) rent agreed under the terms of the lease agreement.

(2) No order for the recovery of possession of a dwelling or for the ejection of a lessee therefrom, which is based on the fact of the lease having expired, either by effluxion of time or in consequence of notice duly given by the lessor, shall be made by any court so long as the lessee continues to pay the rent due within seven days of the due date and performs the other conditions of the lease, unless in addition— (a) the lessee has done, or is doing material damage to the dwelling; or

- (b) the lessee has been guilty of conduct likely to cause material damage to the dwelling or material or substantial inconvenience to occupiers of neighbouring or adjoining property or to the lessor; or
- (c) the lessor has given the lessee not less than three calendar months written notice to vacate the dwelling on the grounds that the dwelling is required—
 - (i) by the owner; or
 - (ii) where the lessee is a sublessee, by the person letting the dwelling of the sublessee; for his or her personal residential occupation or the personal occupation of his or her child, parent, brother, sister or employee; or
- (d) the lessor has given the lessee not less than three calendar months written notice to vacate the dwelling on the ground that the dwelling is required for the purpose of a reconstruction or rebuilding scheme, and the nature of such reconstruction or rebuilding would preclude human habitation; or
- (e) the appropriate board has issued a certificate to the effect that the requirement that the lessee vacate the dwelling is fair and reasonable on some other ground stated therein, and the date specified in the certificate for the vacation of the dwelling has passed.

(3) No notice to vacate a dwelling given by a lessor for the purpose of— (a) subsection (2)(c) shall not be of any force or effect—

- (i) if it does not specify the person for whose personal occupation the dwelling is required; or
- (ii) if it is given by a person who is not the owner or lessee who sublets the dwelling, unless the person giving such notice has previously been furnished with a request, in writing, to give such notice by the owner or lessee who sublets, as the case may be;

- (b) subsection (2)(d) shall not be of any force or effect unless it specifies the nature of the reconstruction or rebuilding scheme, the date by which it is proposed to commence the scheme and the date by which it is proposed to complete the scheme.

(4) No order for the ejection of a lessee from a dwelling shall be made on the grounds referred to in subsection (2)(c) or (d) unless the appropriate board has, on the application of the lessor, issued a certificate to the effect that the requirement that the lessee vacate the dwelling is fair and reasonable, and the date specified in the certificate for the vacation of the dwelling has passed.

(5) If, in any notice to vacate a dwelling given for the purposes of this section, the lessor has given any reason or made any statement which is false, he or she shall be guilty of an offence.

(6) If a lessor has, in any manner whatsoever, caused or induced a lessee to vacate a dwelling on the grounds that the dwelling is required by the lessor for personal occupation by— (a) himself or herself, his or her parent, child, brother, sister or employee;

(b) any person referred to in 2(c)(ii), as the case may be, and the dwelling is not, without reasonable excuse, occupied by the person concerned within one month of the date of vacation by the lessee, and is not uninterruptedly so occupied for a continuous period of six months thereafter, the lessor shall be guilty of an offence.

(7) If a lessor, who is not— (a) the owner of; or

(b) a lessee who sublets; a dwelling, gives notice to vacate the dwelling for the purposes of subsection (2)(c) without previously having been furnished with a request, in writing, to give such notice by such owner or lessee, as the case may be, the lessor shall be guilty of an offence.

(8) If a lessor has, in any manner whatsoever, caused or induced a lessee to vacate a dwelling on the grounds that the dwelling is required for the purpose of reconstruction or rebuilding scheme, and the reconstruction or rebuilding scheme is not, without reasonable excuse, commenced or completed by the appropriate time specified by the lessor in the notice to vacate, the lessor shall be guilty of an offence.

31. Rights and duties of a statutory tenant

A lessee who, by virtue of provisions of these regulations, retains possession of any dwelling 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 lease, so far as the same are consistent with the provisions of these regulations, and shall be entitled to give up possession of the dwelling only on giving such notice as would have been required under the contract of lease or, if no notice would have been so required, on giving one month's notice:

Provided that, notwithstanding anything contained in the contract of lease, a lessor who obtains an order for the recovery of possession of the dwelling, or for the ejection of a lessee retaining possession as aforesaid shall not be required to give any notice to vacate to the lessee.

32. Board may grant certificate permitting ejection

(1) If a lessor requires a dwelling to be vacated on any ground in respect of which a certificate is required, in terms of section 30(2) or (4), he or she shall make a written application, in duplicate, to the appropriate board for the issue of such certificate:

Provided that, if the secretary of the board requires more than two copies of the application, the applicant shall furnish such number of copies thereof as the secretary may direct.

(2) On receipt of an application made in terms of sub-section (1), the chairperson shall fix a day for the bearing of the application and the secretary shall—

(a) forthwith serve written notice on the lessee of the details of the application; and

(b) not later than fourteen days before the date of hearing fixed by the chairperson, serve written notice on the lessee and lessor of the day, time and place of the hearing, and invite their attendance at the hearing.

(3) A board may grant or dismiss an application in terms of subsection (1).

(4) In considering an application made in terms of subsection (1), a board may have regard to all or any of the following matters—

(a) whether other suitable accommodation is available to the lessor or to the lessee;

(b) the period during which the lessee has been in continuous occupation of the dwelling;

(c) whether any proposed change of occupancy is likely to result in the depreciation in value of surrounding residential property.

(5) If a board grants such certificate, it shall specify therein the date on or before which the lessee shall vacate the dwelling.

(6) The secretary of the board shall forthwith give written notification of the decision of the board to each party, and, in the case where the board has granted such certificate, shall send therewith to each party, free of charge, a copy of the certificate signed by the chairperson.

(7) Within fourteen days of receipt of notification of the decision of the board, in terms of subsection (6), the lessor or lessee may, in writing and on payment of the fee prescribed in the Second Schedule request the secretary of the board to furnish him or her with a report by the chairperson, setting out the facts, findings and reasons of the board in relation to that decision, and the secretary shall forthwith inform the chairperson, who shall forthwith prepare a report, which shall be signed by him or her and sent to the person who made the request.

(8) The lessor or lessee, as the case may be, shall be deemed to have received notification of the decision of the board within seven days of its dispatch by the secretary in terms of subsection (6).

33. Illegal removal of property by lessor or obstruction in use and disconnection of water and electricity of dwelling

(1) If a lessor—

- (a) without a lessee's consent, causes the removal from a dwelling of any property belonging to the lessee; or
- (b) prevents a lessee from using or occupying a dwelling; or
- (c) disconnects water or electricity; and the lessor has not obtained an order of court for the removal of such property if appropriate, or for the recovery of possession of the dwelling or for the disconnection of water or electricity; or for the ejectment of the lessee therefrom, the lessor shall be guilty of an offence.

(2) A court convicting a lessor for contravening subsection (1) may, in addition to the imposition of a penalty authorised by section 46—

- (a) order the lessor to compensate the lessee for any loss which the lessee is proved to have suffered; and
- (b) order the lessor to restore possession to the lessee; and such order shall have the effect of a civil judgement of a magistrate's court in favour of the lessee, and may be enforced as if it were such a judgment.

34. Occupation by children no ground for refusal to lease or ejectment

(1) No lessor who has, in any manner whatsoever, made known that he or she has a dwelling to let shall—

- (a) refuse to let the dwelling to a prospective lessee solely on the ground that that person intends to permit a child to reside therein; or
- (b) declare, whether expressly or by implication, in any notice issued by him or her on his or her behalf by way of advertisement or otherwise that he or she is not prepared to let the dwelling to any person who intends to permit a child to reside therein; or
- (c) inquire from a prospective lessee of the dwelling whether he or she intends to permit a child to reside therein.

(2) No lessor shall, in any manner whatsoever, cause or induce a lessee to vacate a dwelling or cancel a lease of or give notice to vacate a dwelling solely on the grounds—

- (a) that the lessee has permitted, or intends to permit, a child to reside therein; or
- (b) that the maximum number of persons who, in terms of the lease, may occupy the dwelling is exceeded by reason of the fact that a child has been born to, or legally adopted by the lessee after the date on which the lease was concluded:

Provided that the provisions of this paragraph shall not apply after the child concerned has reached the age of three years.

(3) Any person who contravenes the provisions of subsection (1) or (2) shall be guilty of an offence.

(4) If, in any prosecution for a contravention of subsection (1)(a), it is proven that—

- (a) the lessor refused to let a dwelling to a prospective lessee after he or she became aware of the fact that the prospective lessee intends to permit, a child to reside therein; and
- (b) that the prospective lessee tendered to the lessor a sum of money equal to the rent of such dwelling for one month in advance at the time when the lessor represented that the dwelling was available. it shall be presumed, until the contrary is proven, that refusal was based solely on the ground mentioned in the said paragraph (a).

(5) If, in any prosecution for a contravention of subsection (1)(a), it is proven that the lessor caused or induced the lessee of, or gave notice to vacate, a dwelling, after he or she became aware of the fact that the lessee had permitted, or intended to permit a child to reside in the dwelling, it shall be presumed, until the contrary is proven, that refusal was based solely on the ground mentioned in the said paragraph (a).

(6) Any provision in the lease which, either expressly or by implication, seeks to prohibit a child from residing in a dwelling shall be void and of no force or effect.

PART V

APPEALS AGAINST DECISIONS OF BOARDS

35. Noting of appeal

(1) Any lessor or lessee who is aggrieved by a decision of a board other than a decision to issue a provisional order, may—

- (a) within fourteen days of the receipt of the report furnished in terms of section 23 or 32(7); or
- (b) where he or she has not requested such report, within thirty days of the receipt of the notification of the decision of the board;

or within such extended period as may be allowed by the President of the Administrative Court, on good cause shown by the person concerned, appeal against that decision to the Administrative Court by lodging a written notice of appeal, in duplicate, with the secretary of the board:

Provided that, if the secretary requires more than two copies of the notice of appeal, the applicant shall lodge such number of copies of the notice of appeal as the secretary may direct.

(2) A notice of appeal shall state clearly and specifically the grounds of appeal, and, unless payment has already been made in terms of section 23 or section 32(7), shall be accompanied by a fee of fifty dollars.

(3) On receipt of a notice of appeal and, where appropriate, the fee prescribed by subsection (2), the secretary of the board shall forthwith transmit to the Registrar of the Administrative Court—

- (a) a report by the chairperson of the board setting out the facts, findings and reasons of the board in relation to the decision appealed against; and
- (b) the notice of appeal; and
- (c) the record of the proceedings;

(4) The lessor or lessee, as the case may be, shall be deemed to have received— (a) the report furnished in terms of section 23 or section 32(7); or

(b) notification of the decision of the board; within seven days of its dispatch by the secretary.

36. Preparation for appeal

On receipt of the documents referred to in section 34(3), the Registrar of the Administrative Court shall— (a) notify the President of the Administrative Court, who shall fix a day for the hearing of the appeal; and (b) not later than fourteen days before the day of hearing—

- (i) serve written notice on the appellant and respondent of the day, time and place of the hearing, and invite their attendance at the hearing; and
- (ii) provide the respondent with a copy of the notice of appeal; and
- (iii) provide the appellant and the respondent on payment of a fee prescribed in the Second Schedule, with a copy of the report of the chairperson of the board:

Provided that, if the appellant or respondent has obtained a report in terms of section 23 or section 32(7) which does not differ from such report, it shall not be necessary to provide him or her with a copy of such report.

37. Powers of the Administrative Court

(1) An appeal to the Administrative Court, in terms of this Part, shall be an appeal on the record, but the Administrative Court shall, in respect of any such appeal, have all the powers conferred upon it in terms of the Administrative Court Act, [*Chapter 7:01*], including the power to summon witnesses and to call for the production of books and documents.

(2) The Administrative Court may, subject to the provisions of these regulations—

- (a) confirm, vary or reverse the decision of the board; or
- (b) take such other course as seems to it to be best calculated to lead to a just, prompt and inexpensive settlement of the proceedings.

(3) A decision of the Administrative Court under this section shall, for all purposes, be deemed to be the decision of the board against whose decision the appeal was lodged.

PART VI

GENERAL

38. Notice by lessor

Subject to the provisions of section 30, the minimum period of notice which a lessor shall be required to give in order to terminate the lease of a dwelling shall be two months, expiring on the last day of the month.

39. Lease agreements, lodgers permits, rent books or cards.

(1) With effect from the date of commencement of these regulations all landlords are required to enter into formal written lease agreements with their tenants.

(2) Subject to section 30(3), the minimum period for a lease agreement between a lessor and a lessee who occupies a whole dwelling shall be twelve months.

(3) Subject to section 30(3), the minimum period for a lodger's permit shall be six months.

(4) The lessor of a dwelling may be permitted to apply for a variation of the standard rent after six months from the date of the signing of the lease agreement. Any variation of the standard rent which is 30% or less does not require approval by the Rent Board.

(5) The lessor of a dwelling shall issue a rent book or card in respect of each lessee to whom he or she lets the dwelling, and shall enter therein the particulars prescribed in the First Schedule.

(6) A lessor shall issue the original of the rent book or card referred to in subsection (5) to the lessee, and retain a copy thereof for himself or herself.

(7) Any lessor or lessee who makes, or causes to be made, any unauthorised alterations to, or false entry in a rent book or card; shall be guilty of an offence.

40. Agreement to evade regulations void

Any agreement by which any person purports to limit his or her right to proceed under these regulations for the issue of a rent order or the variation of a rent order by a board, or to limit or to affect any other rights to which he or she would be entitled under these regulations, shall be void.

41. Threats prohibited

A person who, by threat, endeavours to dissuade or prevent any other person from making or prosecuting any application or appeal under these regulations, or from appearing as a witness in order to give evidence to a board, shall be guilty of an offence.

42. Evasion of regulations prohibited

A person who, in consideration of the grant, renewal or continuation of the lease of a dwelling, imposes or accepts any condition, or enters into or carries out any agreement, which has the effect of defeating the objects of these regulations shall be guilty of an offence.

43. Inspection and taking of copies of local authority documents

The person having the custody of the valuation rolls, rate-books or other records, plans or documents of a local authority which are considered by a board to be relevant to an application before it shall, free of charge— (a) allow any person authorised by the board—

- (i) to inspect the said rolls, books, records, plans or documents; and
 - (ii) to take copies thereof or extracts therefrom; and
- (b) if satisfied that such copy or extract is a true copy or extract, at the request of a person referred to in paragraph (a), certify the copy or extract accordingly.

44. The serving of notice by post

Where notice is required to be given in terms of these regulations, and such notice is given by post, it shall be deemed, until the contrary is proven, to have been effected at ten o'clock in the forenoon on the seventh day after the postmarked date upon the receipt for registration.

45. Fees

An application for a formal hearing shall be accompanied by a fee prescribed in the Second Schedule and payable by affixing a revenue stamp to the letter or form for the application.

46. Penalties

Any person who is convicted of an offence under these regulations shall be liable to a fine not exceeding level eight or to a term of imprisonment for a period not exceeding twelve months.

47. Repeals and savings

- (1) The regulations specified in the Third Schedule are repealed.
- (2) Any rent order issued in terms of the regulations repealed by subsection (1) shall be deemed to be a rent order issued and, where appropriate, varied in terms of section 16 or 17 as the case may be.

FIRST SCHEDULE (Section 39)

PARTICULARS TO BE INCLUDED IN RENTBOOK ORCARD

Stand number/Flat number
Street address
Lessor's business address (physical, not postal)
Lessee's business address (physical, not postal)
Rent payable
Standard rent or details of current order and variation, if any, thereof
Payment for furniture content
Payment for garage or garage space
Lessee's deposit payable
Whether lease is a written one
Commencing date of lease
Expiry date of lease
If renewed, new expiry date of lease
Schedule of payments made, including amount paid and date paid.

SECOND SCHEDULE (Section 14(4)(b) 23, 24, 32(7), 36(b)(iii), 45)

FEES

Item

Charge

\$

1. For copy of any order or variation of rent 1 000,00
2. For copy of the report of chairperson of board 5 000,00
3. For an application for a hearing 2 000,00

THIRD SCHEDULE (Section 47)

REPEALS

<i>Title</i>	<i>Statutory instrument</i>
Housing and Building (Lodgers Rent Restrictions) Rent Regulations, 1990	575 of 1980
Rent Regulations, 1982	626 of 1982