

**NOTICE 719 OF 2010****DEPARTMENT OF HUMAN SETTLEMENTS  
RENTAL HOUSING AMENDMENT BILL, 2010**

I, Tokyo Mosima Gabriel Sexwale, Minister of Human Settlements hereby publishes the Rental Housing Amendment Bill, 2010 for public comment. A draft Bill together with a Memorandum on the Objects of the Bill is attached.

Interested persons and institutions are invited to submit written comments on the draft Bill on or before the 31 August 2010 to the Director-General, Department of Human Settlements, for the attention of the following person:

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**REPUBLIC OF SOUTH AFRICA**

**RENTAL HOUSING AMENDMENT BILL**

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*(As introduced in the National Assembly (proposed section 76); Explanatory  
Summary of Bill published in Government Gazette No.     of     ) (The English text  
is the official text of the Bill)*  
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**(MINISTER OF HUMAN SETTLEMENTS)**

**[B - 2010]**

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**GENERAL EXPLANATORY NOTE:**

- [            ] Words in bold type in square brackets indicate omissions from existing enactments.  
\_\_\_\_\_ Words underlined with a solid line indicate insertion in existing enactments.
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**BILL**

**To amend the Rental Housing Act, 1999, so as to substitute certain definitions; to extend the application of Chapter 4 to all provinces; to require the MEC's and local authorities to establish Rental Housing Tribunals and Rental Housing Information Offices, respectively; to extend the powers of the Rental Housing Tribunals to rescind any of its rulings; and to provide for matters connected therewith.**

**BE IT ENACTED** by the Parliament of the Republic of South Africa, as follows—

**Amendment of section 1 of Act 50 of 1999**

1. Section 1 of the Rental Housing Act, 1999 (hereinafter referred to as the Principal Act), is hereby amended—

(a) by the substitution for the definition of "Minister" of the following definition:

“ **‘Minister’** means the Minister of **[Housing] Human Settlements;**”;

and

(b) by the substitution for the definition of "prescribed" of the following definition:

“ **‘prescribed’** means prescribed by regulation **[by the MEC, by notice in the Gazette];**”.

**Amendment of section 6 of Act 50 of 1999**

2. The following section is hereby substituted for section 6 of the principal Act:

**“Application of Chapter**

6. This Chapter applies to all Provinces in the Republic of South Africa.”.

**Amendment of section 7 of Act 50 of 1999**

3. The following section is hereby substituted for section 7 of the principal Act:

**“Establishment of Rental Housing Tribunals**

7. ~~[The] Every MEC [may] must~~ by notice in the *Gazette* establish a tribunal in the Province to be known as the Rental Housing Tribunal.”.

**Amendment of section 13 of Act 50 of 1999**

4. Section 13 of the principal Act is hereby amended by the insertion after subsection (12) of the following subsection:

“(12A) The Tribunal may, acting on its own accord or on application by any affected person, rescind any of its rulings if such rulings-  
(a) were erroneously sought or granted in the absence of the person affected by it;  
(b) contain an ambiguity or patent error or omission, but only to the extent of clarifying that ambiguity or correcting that error or omission; or  
(c) were granted as a result of a mistake common to all parties to the proceedings.”.

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**Amendment of section 14 of Act 50 of 1999**

5. Section 14 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) **[A] Every** local authority **[may] must** establish a Rental Housing Information Office to advise tenants and landlords **[in] with** regard to their rights and obligations in relation to dwellings within **[the area of such local authority’s] their** area of jurisdiction.”.

**Amendment of section 15 of Act 50 of 1999**

6. Section 15 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The Minister must, after consultation with the **[standing or portfolio on housing] relevant parliamentary committees** and every MEC, by notice in the *Gazette*, make regulations relating to—”.

**Amendment of Chapters 4 and 5 of Act 50 of 1999**

7. Chapters 4 and 5 of the principal Act are hereby amended by removing section 15 from Chapter 4 and inserting it under Chapter 5 before section 16.

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**Short title and commencement**

8. This Act is called the Rental Housing Amendment Act, 2010 and comes into operation on a date determined by the President by Proclamation in the *Gazette*.

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**MEMORANDUM ON THE OBJECTS OF THE RENTAL HOUSING AMENDMENT BILL, 2010****1. BACKGROUND**

1.1 Since the promulgation of the Rental Housing Amendment Act, 2007 (Act No. 43 of 2007), came into operation on 13 May 2008, the Department undertook a monitoring and implementation process with regard to the Act. It was identified that there is a need for each and every province to establish Rental Housing Tribunals. All provinces are faced with similar Rental Housing challenges, whether formal or backyard.

1.2 It was evident from the monitoring and implementation process that not all provinces have established Rental Housing Tribunals. Some of the provinces have only recently established their Rental Housing Tribunals and only after intervention by the Department. Furthermore, there are currently several local authorities which have not established Rental Housing Information Offices despite a dire need thereof.

1.3 In view of the above, the Bill seeks to amend sections 7 and 14(1) of the Rental Housing Act, 1999 (Act No. 50 of 1999), (the principal Act) in order to render the establishment of Rental Housing Tribunals in every province and the establishment of Rental Housing Information Offices in every local authority mandatory.



## **2. OBJECTS OF BILL**

The objects the Bill are therefore to-

- 2.1 substitute certain definitions;
- 2.2 extend the application of Chapter 4 to all the provinces;
- 2.3 require the MECs and local authorities to establish Rental Housing Tribunals and Rental Housing Information Offices, respectively; and
- 2.4 extend the powers of the Rental Housing Tribunals to rescind any of its rulings.

## **3. PERSONS OR BODIES CONSULTED**

Representations were requested from the Head of Legal Services in the Provincial Departments and from the various Rental Housing Tribunals. Written and verbal presentations were received in this regard.

## **4. IMPLICATIONS FOR PROVINCES**

It will be obligatory for each province to establish a fully operational Rental Housing Tribunal.

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## **5. IMPLICATIONS FOR LOCAL SPHERE OF GOVERNMENT**

It will be mandatory for every local authority to establish Rental Housing Information Office to advise tenants and landlords with regard to their rights and obligations in relation to dwellings within their area of jurisdiction.

## **6. FINANCIAL IMPLICATIONS TO STATE**

6.1 The costs involved will be for the establishment and operations of the provincial Rental Housing Tribunals. However, in this regard, it should be mentioned that all the Provinces already have partly or fully operational Rental Housing Tribunals.

6.2 The other costs involved will be for the establishment and operations of the Rental Housing Information Offices in every local authority.

6.3 The Department will incur the costs associated with the implementation of the legislation. The Department will furthermore incur the cost for the publication of the Bill for public comments, information sessions, translations and other incidental costs in relation to the Bill. The said costs will be defrayed from the Department's budget.

## **7. PARLIAMENTARY PROCEDURE**

7.1 The State Law Advisers and the Department of Human Settlements are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 76(1) or (2) of the Constitution of the Republic of South Africa, 1996, since

it falls within a functional area listed in Schedule 4 of the Constitution, namely "Housing".

7.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.