

DEPARTMENT OF HUMAN SETTLEMENTS**NO. 296****1 April 2021****REGULATIONS UNDER THE RENTAL HOUSING ACT, 1999**

I, Lindiwe Nonceba Sisulu, Minister for Human Settlements hereby publishes the draft Regulations under the Rental Housing Act, 1999, as amended for public comment. The draft Regulation is hereby attached.

Any interested persons or institutions are hereby invited to submit written comments or representations with regard to the draft Regulations within 60 days of the date of publication of this notice. All comments or presentations must be submitted in writing in one of the following ways:

(a) By post to: The Director General
 Department of Human Settlements
 Private Bag x 644
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For attention: [Ms Rose Murray and Ms Lisa Masilo]

or

(b) Delivered to: The Director-General
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Comments received after the closing date may not be considered.

DEPARTMENT OF HUMAN SETTLEMENTS

No. ...

2015

REGULATIONS IN TERMS OF THE RENTAL HOUSING ACT, 50 OF 1999

The Minister of Human Settlements has under section 15 of the Rental Housing Act, 1999, made the regulations set out in the Schedule.

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CHAPTER 1

INTRODUCTORY PROVISIONS

1 Definitions

In these Regulations, any word or expression defined in the Act has the same meaning unless the context indicates otherwise, and -

“**Act**” means the Rental Housing Act, 1999 (Act 50 of 1999);

“**common property**” in relation to a multi-tenanted dwelling means –

- (a) the land on which the dwelling is situated; and
- (b) those parts of the dwelling not reserved for exclusive use of any person;

“**complaint**” means a complaint lodged by a landowner or tenant in terms of section 13 of the Act;

“**complainant**” means a tenant, landowner or a group of tenants or landowners or interest group who lodges a complaint with the Tribunal as contemplated in section 13 of the Act;

“**days**” when prescribed for the doing of any act or for any other purpose, is calculated by excluding the first day and including the last day, unless the last day falls on a Sunday or public holiday, in which case the time is calculated by excluding the first day and such Sunday or public holiday

“e-mail” means e-mail as defined in section 1 of the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002);

“fee” means a fee determined by the Tribunal for any submission or application in terms of these Regulations;

“mediation” means the process of dispute resolution contemplated in section 13(2)(c) of the Act;

“mediator” means a person appointed as mediator by the Tribunal in accordance with section 13(2)(c);

“presiding officer” means the chairperson, deputy chairperson or member appointed as contemplated in section 10(2B) of the Act conducting a hearing as contemplated in section 13 of the Act,

“register” means the register contemplated in section 13(8) of the Act;

“Regulations” mean these Regulations and includes the Schedules attached hereto or referred to herein;

“respondent” means a person against whom a complaint has been lodged in terms of section 13 of the Act with the Tribunal; and

“services” means the provision of water, electricity, gas and refuse removal;

CHAPTER 2

SERVING AND FILING OF COMPLAINTS

2 Filing of complaint with Tribunal

(1) A complainant may lodge a complaint as contemplated in section 13 of the Act by filing a written complaint, signed by the complainant, on the form contemplated in Schedule 1 and in the manner determined in subregulation (2).

(2) A complaint may be filed in any one of the following ways:

- (a) By registered post addressed to the offices of the Tribunal;
- (b) by the physical submission of the complaint at the Rental Housing Information Office within the area of jurisdiction of the local municipality where the dwelling is situated, if applicable;
- (c) by the physical submission of the complaint at the office of the relevant Tribunal;
- (d) by facsimile to the offices of the Tribunal; and
- (e) by e-mail to the official address determined by the Tribunal for that purposes.

(3) A complainant who files a complaint by means of a facsimile as contemplated in subregulation (2)(d) must –

- (a) record the name and surname of the person receiving the facsimile at the office of the Tribunal on his or her original complaint; and
- (b) file the original complaint if requested to do so by the Tribunal within seven days after being requested to do so.

(4) A complainant who files a complaint by means of an e-mail contemplated in subregulation (2)(e) must file the original complaint if requested to do so by the Tribunal within seven days after being requested to do so.

3 Tribunal's responsibilities on receipt of complaint

The following steps must be taken in respect of any complaint received by the Tribunal:

- (a) A file must be opened and a reference number must be allocated to the complaint;
- (b) the particulars of the dwelling to which the complaint refers must be listed in the register referred to in section 13 (8) of the Act;
- (c) the complainant must be provided with an acknowledgement of receipt of the complaint which contains the reference number of the complaint;
- (d) the Tribunal must conduct such preliminary investigations as may be necessary to determine whether the complaint relates to a dispute in respect of a matter which may constitute an unfair practice, and for this purpose any additional information required to provide a full and complete description of the matter may be obtained from either the complainant or the respondent alleged to be involved in the unfair practice concerned;
- (e) if the Tribunal considers it necessary, it may instruct an inspector to compile a report on the complaint and if considered desirable require the inspector to first inspect the property concerned;
- (f) the Tribunal must within 30 days of the receipt of the complaint, determine, as contemplated by section 13(2)(b) of the Act, whether the complaint relates to a dispute in respect of a matter which may constitute an unfair practice; and
- (g) the determination contemplated by paragraph (f) must be recorded in the file referred to in paragraph (a).

4 Requirements if no dispute exists

If the Tribunal determines that the complaint does not relate to a dispute in respect of a matter which may constitute an unfair practice, the Tribunal must, within seven days of making the determination -

- (a) notify the complainant and any other affected party in writing of its determination;
- (b) if possible, furnish the complainant with an appropriate institution to which the matter should be referred, and
- (c) record that the matter has been disposed of and close the relevant file.

5 Procedure on determination that dispute exists

If the Tribunal has determined that a complaint does relate to a dispute in respect of a matter which may constitute an unfair practice, the Tribunal must—

- (a) further determine whether in its view the dispute may be resolved by mediation or whether in its view the dispute is of such a nature that it cannot be resolved by mediation; and
- (b) cause its further determination contemplated by paragraph (a) to be recorded on the relevant file; and
- (c) in writing, inform the parties of that further determination;
- (d) if it has determined that the dispute may be resolved by mediation, appoint a mediator in terms of section 13(2)(c) of the Act; or
- (e) if it has determined that the dispute is of such a nature that it cannot be resolved by mediation, arrange for a formal dispute hearing of the complaint, and, in writing, inform the parties of the particulars of the hearing.

6 Serving complaint on respondent

(1) A complainant must serve the complaint filed with the Tribunal on the respondent –

- (a) By handing a copy of the complaint to –
 - (i) the respondent;
 - (ii) a representative authorised in writing to accept service on behalf of the respondent;
 - (iii) a person who appears to be at least 16 years old and in charge of the respondent's place of residence, business or place of employment premises at the time; or
 - (iv) a person referred to in subregulation (2);
- (b) by leaving a copy of the document at-

- (i) an address chosen by the respondent to receive service; or
 - (ii) any premises in accordance with subregulation (3);
 - (c) by faxing or telexing a copy of the document to the respondent's fax or telex number respectively, or a number chosen by the respondent to receive service;
 - (d) by sending a copy of the document by registered post or telegram to the last- known address of the party or an address chosen by the party to receive service; or
 - (e) by sending a copy of the document by e-mail to the respondent to the e-mail address chosen by the respondent to receive service.
- (2) A complaint may also be served-
- (a) on a company or other body corporate, by handing a copy of the complaint to a responsible employee of the company or body at its registered office, its principal place of business within the Republic or its main place of business;
 - (b) on a partnership, firm or association, by handing a copy of the complaint to a responsible employee or official at the place of business of the partnership, firm or association or, if it has no place of business, by serving a copy of the document on a partner, the owner of the firm or the chairman or secretary of the managing or other controlling body of the association, as the case may be;
 - (c) on a municipality, by serving a copy of the complaint on the municipal manager or any person acting on behalf of that person;
 - (d) on a statutory body, by handing a copy of the complaint to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body;
 - (e) on a provincial department, by handing a copy of the complaint to a responsible employee at the head office of that department.
- (3) If no person identified in subregulation (2) is willing to accept service, service may be effected by affixing a copy of the document to-
- (a) the main door of the premises concerned; or
 - (b) if this is not accessible, a post-box or other place to which the public has access.
- (4) The Tribunal or a presiding officer may order service in a manner other than prescribed in this regulation.

7 Proof of service of complaint on respondent

- (1) A party must prove to the Tribunal or presiding officer that a document was served in terms of these Regulations, by providing the Tribunal or presiding officer -
- (a) with a copy of proof of mailing the complaint by registered post to the other party;
 - (b) with a copy of the facsimile transmission report indicating the successful transmission to the respondent of the whole document; or
 - (c) if a document was served by hand -
 - (i) with a copy of a receipt signed by, or on behalf of, the other party clearly indicating the name and designation of the recipient and the place, time and date of service; or
 - (ii) with a statement confirming service signed by the person who delivered a copy of the document to the other party or left it at any premises.
- (2) If proof of service in accordance with subregulation (1) is provided, it is presumed, until the contrary is proved, that the party on whom it was served has knowledge of the contents of the document.
- (3) The Tribunal may accept proof of service in a manner other than prescribed in this rule, as sufficient.

8 Complaint or document sent by registered post

Any complaint or document sent by registered post by a party or the Tribunal is presumed, until the contrary is proved, to have been received by the person to whom it was sent seven days after it was posted.

9 Notice of proceedings before Tribunal

The Tribunal may provide notice of a mediation session or dispute hearing before it by means of any method referred to in regulation 6 and may, in addition, give notice by means of short message service.

10 Condonation for document delivered late

- (1) This regulation applies to any document delivered outside of the applicable time period prescribed in these Regulations.
- (2) A party must apply for condonation when delivering the document to the Tribunal.
- (3) An application for condonation must set out the grounds for seeking condonation and must include details of the following:
- (a) the degree of lateness;

- (b) the reasons for the lateness;
 - (c) the referring parties' prospects of succeeding with the referral and obtaining the relief sought against the other party;
 - (d) any prejudice to the other party; and
 - (e) any other relevant factors.
- (4) The Tribunal may assist a referring party to comply with this regulation.

11 Electronic submissions

- (1) Where these Regulations -
- (a) require a person to -
 - (i) submit a document, a copy of a document or any notice to another person,
 - (ii) notify another person of any matter; and
 - (b) that other person has an address for the purposes of electronic communications,
- the document, copy, notice or notification may be sent or made by way of electronic communications.
- (2) Where these Regulations permit a person to make representations on any matter or document, those representations may be made—
- (a) in writing, or
 - (b) by way of electronic communications
- (3) The Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002) apply to any electronic communication made in terms of this regulation.

CHAPTER 3

MEDIATION

12 Notification of mediation

- (1) If the Tribunal is of the view that a dispute may be resolved through mediation, it must notify the parties to the dispute of its decision to mediate the dispute.
- (2) Notice of its decision to mediate and the date of the mediation session must be in writing and must be given in accordance with the methods provided for in regulation 6 at least 7 days before the scheduled date of the mediation session unless the method used is by registered post, in which case notice must be given 28 days before the scheduled date of the mediation session.
- (3) The parties to the dispute may agree to a shorter period of notice.
- (4) If a dispute arises between parties to an agreement, the parties may of their

own volition decide to resolve that dispute through mediation.

13 Tribunal may seek to resolve dispute before mediation session

The Tribunal or mediator may contact the parties by telephone or other means, prior to the commencement of the mediation session, in order to seek to resolve the dispute.

14 Failure to attend mediation session

(1) The parties to a dispute must attend a mediation session in person, irrespective of whether they are represented or not.

(2) If a party is represented at the mediation session but fails to attend in person, the mediator may-

- (a) continue with the proceedings in the absence of that party;
- (b) adjourn the proceedings to a later date; or
- (c) dismiss the matter by issuing a written ruling.

(3) In exercising a discretion in terms of subregulation (2), a mediator must take into account, amongst other things –

- (a) whether the party has previously failed to attend a mediation session in respect of that dispute;
- (b) any reason given for that party's failure to attend;
- (c) whether mediation can take place effectively in the absence of that party;
- (d) the likely prejudice to the other party of the mediator's ruling; and
- (e) any other relevant factors.

(4) A mediator must be satisfied that the party had been properly notified of the date, time and venue of the proceedings, before making any decision in terms of subregulation (2).

(5) If a matter is dismissed, the Tribunal must send a copy of the ruling to the parties.

15 Mediation proceedings may not be disclosed

(1) Mediation proceedings are private and confidential and are conducted on a without prejudice basis.

(2) No person may refer to anything said at mediation proceedings during any subsequent proceedings, unless the parties agree thereto in writing.

(3) No person, including a mediator, may be called as a witness during any subsequent proceedings in the Tribunal or in any court to give evidence about what transpired during mediation.

16 Mediation proceedings

- (1) The mediation session shall be conducted as follows:
- (a) The mediator shall explicitly discuss the issue of confidentiality with the parties prior to the commencement of any mediation session;
 - (b) the mediator must at the start of the mediation session inform the parties that –
 - (i) he or she merely acts as a facilitator in an attempt to resolve the dispute between them and that the decision to be arrived at will be the decision of the parties and not his or her decision; and
 - (ii) the mediation process will be conducted such that –
 - (aa) each party will be given an opportunity to outline their case;
 - (bb) each party may, at any stage of the proceedings, recess into caucus, in another room or office;
 - (cc) if the respective party does not have any objection thereto, then the mediator may attend the caucus meeting and make suggestions and proposals;
 - (dd) if the party in the caucus meeting does not have any objection, then the mediator may convey any proposal, attitude or indication or suggestion stemming from the caucus meeting to the other party.
 - (c) the mediator must conduct mediation only in those disputes in which he or she can be impartial with respect of all of the parties and the subject matter of the dispute;
 - (d) the mediator must disclose to the parties all actual or potential conflicts of interest;
 - (e) the mediator must not conduct mediation unless the parties, after being informed of the actual or potential conflict, give their consent and the mediator determines that the conflict is not so significant as to cast doubt of the integrity of the process on himself or herself;
 - (f) if, at any time, the mediator believes that any party to the mediation is unable to understand and participate fully in the proceedings due to mental impairment, emotional disturbance, intoxication, language barriers or other reasons, the mediator must limit the scope of the mediation to a level consistent with the party's ability to participate and make a recommendation that the party may obtain appropriate

assistance in order to continue with the process or terminate, adjourn or postpone the mediation session.

(2) The mediator must attempt to obtain testimony or documents voluntarily, which he or she considers necessary, from a person who is not party to the mediation and record all efforts made to obtain the information in the file.

(3) If the required testimony or documentation cannot be obtained voluntarily, the mediator may issue summons in the form of a subpoena as contemplated in Schedule 2 to these Regulations.

(4) The issue of a subpoena must be authorised by the Tribunal.

(5) A mediation process must be completed within 30 days from the date of delivery of the notice of mediation referred to in regulation 8: Provided that the Tribunal may agree to extend the period for a further 30 days.

(6) If the parties cannot reach agreement through mediation the matter must be referred to the Tribunal for a formal hearing and ruling in terms of the Act and the mediator must submit a report summarising the evidence to the Tribunal.

(7) If the mediation results in an agreement, it must be reduced to writing and signed by all the parties and the mediator.

(8) Before signing an agreement contemplated in subregulation (7) the mediator must ensure that each party fully understands the agreement and is entering into it voluntarily.

(9) No party may be coerced in any manner to reach agreement.

(10) A mediation agreement must be recorded in the register.

17 Failure to comply with mediation agreement

(1) If any party to a mediation agreement referred to in section 16(7) alleges that the other party has failed to comply with the provision of the mediation agreement, that party may seek relief by reporting the allegations to the Tribunal.

(2) Upon receipt of an allegation contemplated in subregulation (2) the Tribunal must conduct an investigation into such allegation to determine whether the clauses of the mediation agreement are being adhered to.

(3) If the Tribunal finds that a party is not adhering to the terms of a mediation agreement, the Tribunal must conduct a hearing and make such a ruling as it considers necessary.

CHAPTER 4

DISPUTE HEARINGS

18 Tribunal of record

- (1) The Tribunal is a tribunal of record and a record must be kept of -
 - (a) any decision of the Tribunal;
 - (b) any evidence given to the Tribunal;
 - (c) any objections made to any evidence received or tendered;
 - (d) any on-site inspection and any matter recorded as a result thereof; and
 - (e) the proceedings of the Tribunal generally.
- (2) The record referred to in subregulation (1) must be kept by such means, including legible notes or digital recording, as the Tribunal may deem expedient.
- (3) The record must be certified as correct by the presiding officer and thereafter filed in the register.
- (4) A party may request a copy of the record or a portion of a record kept in terms of this regulation, on payment of the applicable fee.

19 Notification of dispute hearing

The Tribunal must give written notice of the date of the dispute hearing and such notice must be given in accordance with the methods provided for in regulation (6) at least 21 days before the scheduled date of the dispute hearing unless the method used is by registered post, in which case notice must be given 28 days before the scheduled date of the dispute hearing.

20 Issuing of subpoena

- (1) Any party who requires the Tribunal or a presiding officer to subpoena a person must file a completed form as contemplated in Schedule 2 together with a written motivation setting out why the evidence of the person to be subpoenaed is necessary.
- (2) The subpoena must, in addition to the written motivation required in terms of subregulation (1), set out in clear terms –
 - (a) the full names of the person from whom the information is required;
 - (b) the information that is required; and
 - (c) the book, document or thing to be produced.
- (3) A party requesting the Tribunal to waive the requirement for the party to pay witness fees in terms of regulation 5 must set out the reasons for the request in writing at the time of requesting the Tribunal to issue a subpoena in respect of that witness.

(4) An application in terms of subregulation (1) must be filed with the Tribunal at least 14 days before the dispute hearing, or as directed by the presiding officer hearing the complaint.

(5) The Tribunal or the presiding officer may refuse to issue a subpoena if-

- (a) the party does not establish why the evidence of the person is necessary;
- (b) the party subpoenaed does not have a reasonable period in which to comply with the subpoena;
- (c) the Tribunal or the presiding officer is not satisfied that the party has made arrangements to pay the witness fees and the reasonable travel costs of the person subpoenaed.

(6) A subpoena must be served on the witness subpoenaed or his or her nominated agent personally -

- (a) by the person who has requested the issue of the subpoena or by the Sheriff, at least seven days before the scheduled date of the dispute hearing; and
- (b) if so directed by the Tribunal, accompanied by payment of the witness fees for one day in accordance with the tariff of allowances referred to in regulation 5 and the witnesses' reasonable travel costs.

21 Expert witness

A party intending to call an expert witness must give seven days' prior to the dispute hearing, notice thereof to the Tribunal and the other party together with a summary of the proposed evidence of such witness, any document on which the witness will rely during evidence and the basis on which the witness is regarded to be an expert, to enable the other party to consider the summary and obviate the need for postponement.

22 Filing of statements

(1) The Tribunal or presiding officer may direct-

- (a) the referring party in a mediation to deliver a statement of case; and
- (b) the other party to deliver an answering statement.

(2) A statement in terms of subregulation (1) must-

- (a) set out the material facts upon which the party relies and the legal issues that arise from the material facts;
- (b) be delivered within the time-period specified by the presiding officer.

23 Pre-hearing conference

(1) The parties to a dispute hearing must hold a pre-hearing conference dealing with the matters referred to in subregulation (2), if directed to do so by the Tribunal.

(2) In a pre-hearing conference, the parties must attempt to reach consensus on the following:

- (a) any means by which the dispute may be settled;
- (b) facts that are agreed between the parties;
- (c) facts that are in dispute;
- (d) the issues that the Tribunal is required to decide;
- (e) the precise relief claimed and if compensation is claimed, the amount of the compensation and how it is calculated;
- (f) the sharing and exchange of relevant documents, and the preparation of a bundle of documents in chronological order with each page numbered;
- (g) the manner in which documentary evidence is to be dealt with, including any agreement on the status of documents and whether documents, or parts of documents, will serve as evidence of what they appear to be;
- (h) whether evidence on affidavit will be admitted with or without the right of any party to cross-examine the person who made the affidavit;
- (i) which party must begin;
- (j) the necessity for any on-the-spot inspection;
- (k) securing the presence at the Tribunal of any witness;
- (l) the resolution of any preliminary points that are intended to be taken;
- (m) the exchange of witness statements;
- (n) expert evidence;
- (o) any other means by which the proceedings may be shortened;
- (p) an estimate of the time required for the dispute hearing;
- (q) the right of representation; and
- (r) whether an interpreter is required and, if so, for how long and for which languages.

(3) Unless a dispute is settled, the parties must draw up and sign a minute setting out the facts on which the parties agree or disagree.

(4) A minute in terms of subregulation (3) may also deal with any other matter listed in subregulation (2).

(5) The referring party must ensure that a copy of the pre-hearing conference minute is delivered to the appointed presiding officer within seven days of the conclusion of the pre-hearing conference.

(6) The presiding officer may, after receiving a pre-hearing minute referred to in subregulation (3) –

- (a) enrol the matter for hearing
- (b) direct the parties to hold a further pre-hearing conference; or
- (c) make any other direction to the parties concerning the conduct of the dispute hearing.

(7) The parties to a dispute hearing may agree to hold a pre-hearing conference in terms of this subregulation.

24 Jurisdiction of Tribunal

If during the dispute hearing it appears to the presiding officer that the Tribunal may not have jurisdiction to hear the dispute, that presiding officer must require the complainant to prove that the Tribunal has jurisdiction.

25 Postponement of dispute hearing

- (1) A dispute hearing may be postponed-
 - (a) in the event of an emergency;
 - (b) by agreement between the parties in terms of subregulation (2); or
 - (c) by application and on notice to the other parties in terms of subregulation (3).
- (2) The Tribunal must postpone a dispute hearing without the parties appearing if-
 - (a) all the parties to the dispute agree in writing to the postponement; and
 - (b) the written agreement for the postponement is received by the Tribunal more than seven days prior to the scheduled date of the dispute hearing.
- (3) If the conditions of subregulation (2) are not met, any party may apply in terms of regulation 30 to postpone a dispute hearing by delivering an application to the other parties to the dispute and filing a copy with the Tribunal before the scheduled date of the dispute hearing.
- (4) After considering the written application, the Tribunal may-
 - (a) without convening a hearing, postpone the matter; or
 - (b) convene a hearing to determine whether to postpone the matter.

26 Representation before Tribunal

- (1) (a) In a mediation session a party to the dispute may appear in person or be represented only by, if that party is a juristic person, a director or employee of that party and if it is a close corporation, a member thereof;

(b) In any dispute hearing, a party to the dispute may appear in person or be represented only by -

- (i) if that party is a juristic person, a director or employee of that party and if it is a close corporation, a member thereof;
- (ii) if that party is a local municipality or provincial department, by the employee delegated to appear; or
- (ii) a legal practitioner.

(2) If a party to the dispute objects to the representation of another party to the dispute or the presiding officer suspects that the representative of a party does not qualify in terms of this regulation, the presiding officer must determine the issue.

(3) The presiding officer may call upon the representative to establish why the representative should be permitted to appear in terms of this regulation.

(4) A representative must tender any documents requested by the presiding officer.

27 Joinder or substitution of party to proceedings

(1) The Tribunal or presiding officer may join any number of persons as parties in proceedings if their right to relief depends on substantially the same question of law or fact.

(2) A presiding officer may make an order joining any person as a party in the proceedings if the party to be joined has a substantial interest in the subject matter of the proceedings.

(3) A presiding officer may make an order in terms of subregulation (2) -

- (a) of its own accord;
- (b) on application by a party; or
- (c) if a person entitled to join the proceedings applies at any time during the proceedings to intervene as a party.

(4) An application in terms of this regulation must be made in terms of regulation 30.

(5) When making an order in terms of subregulation (2), a presiding officer may-

- (a) give appropriate directions as to the further procedure in the proceedings; and
- (b) make an order of costs in accordance with these Regulations.

(6) If in any proceedings it becomes necessary to substitute a person for an existing party, any party to the proceedings may apply to the Tribunal for an order substituting that party for an existing party, and a presiding officer may make such order or give appropriate directions as to the further procedure in the proceedings.

(7) An application to join any person as a party to proceedings or to be substituted for an existing party must be accompanied by copies of all documents previously delivered, unless the person concerned or that person's representative is already in possession of the documents.

(8) Subject to any order made in terms of subregulation (5) and (6), a joinder or substitution in terms of this regulation does not affect any steps already taken in the proceedings.

28 Correcting citation of party

If a party to any proceedings has been incorrectly or defectively cited, the Tribunal may, on application and on notice to the parties concerned, correct the error or defect.

29 Consolidation of disputes

The Tribunal or presiding officer, of its own accord or on application, may consolidate more than one dispute so that the disputes may be dealt with in the same proceedings.

30 Disclosure of documents

(1) All relevant documents must be disclosed by the parties before commencement of the dispute hearing.

(2) Either party may request a presiding officer to make an order as to the disclosure of relevant documents.

(3) The parties may agree on the disclosure of documents.

31 Failure to attend proceedings before Tribunal

(1) If a party to the dispute fails to attend or be represented at any proceedings before the Tribunal and that party-

(a) had referred the dispute to the Tribunal, a presiding officer may dismiss the matter by issuing a written ruling; or

(b) had not referred the matter to the Tribunal, the presiding officer may-

(i) continue with the proceedings in the absence of that party; or

(ii) adjourn the proceedings to a later date.

(2) A presiding officer must be satisfied that the party had been properly notified of the date, time and venue of the proceedings, before making any decision in terms of subregulation (1).

(3) If a matter is dismissed, the Tribunal must send a copy of the ruling to the parties.

32 Payment of witness fees

(1) A witness summoned to give evidence before the Tribunal is entitled to such fees and costs as are specified in the tariff of allowances payable to witnesses in civil cases prescribed under section 51(*bis*) of the Magistrate's Court Act, 1944 (Act 32 of 1944).

(2) The Tribunal must pay the applicable witness fee to each person who appears before a presiding officer in response to a subpoena issued by the Tribunal.

(3) Any person who requests the Tribunal to issue a subpoena must pay the witness fee too each person who appears before a presiding officer in response to the subpoena and who remains in attendance until excused by the presiding officer.

(4) The Tribunal may on good cause shown waive the requirement in subregulation (2) and pay to the witness the prescribed witness fee.

(5) Despite the provisions of subregulation (1) and (2) the presiding officer may, in appropriate circumstances, order that a witness receive no fee or only part of the applicable witness.

33 Cost order

(1) In any proceedings of the Tribunal, the presiding officer may make an order for the payment of costs according to section 13(12)(a) of the Act and when doing so have regard to -

- (a) the measure of success that the parties achieved;
- (b) consideration of fairness that weighs in favour or against granting a cost order;
- (c) any with prejudice offers that were made with a view to settling the dispute;
- (d) whether a party or the person who represented that party in the proceedings acted in a frivolous or vexatious manner –
 - (i) by proceeding with or defending the dispute in the proceedings;
 - (ii) in his or her conduct during the proceedings;
- (e) the effect that a cost order may have on a continued rental relationship;
- (f) any agreement concluded between the parties concerning the basis on which costs should be awarded;
- (g) the importance of the issues raised during the proceedings to the parties as well as to the rental property community at large; and
- (h) any other relevant factor.

(2) A presiding officer may make an award of costs in favour of a party who is represented by another person in any proceedings of the Tribunal, in respect of reasonable disbursements actually incurred in the conduct of the proceedings.

(3) The presiding officer who makes an order for the payment of costs according to this regulation must clearly specify the items and amounts in respect of which the costs are ordered.

(4) A presiding officer may make an award of costs in respect of the legal fees of a party that is represented in any proceeding of the Tribunal by a legal practitioner, only if the other party were represented by a legal practitioner.

(5) Any dispute concerning an award of costs must be submitted to the Tribunal.

CHAPTER 5

CONDONATION, JOINDER, SUBSTITUTION, VARIATION OR RESCISION

34 Submission of application for condonation, joinder, substitution, variation or rescission

(1) This regulation applies to any application for condonation, joinder, substitution, variation or rescission.

(2) An application must be brought on notice to all persons who have an interest in the application.

(3) The party bringing the application must sign the notice of application in accordance with regulation 6 and must state-

- (a) the title of the matter;
- (b) the case number assigned to the matter by the Tribunal;
- (c) the relief sought;
- (d) the address at which the party delivering the document will accept delivery of all documents and proceedings;
- (e) that any party that intends to oppose the matter must deliver a notice of opposition and answering affidavit within fourteen days after the application has been delivered to it;
- (f) that the application may be heard in the absence of a party that does not comply with subparagraph (e) ;
- (g) that a schedule is included listing the documents that are material and relevant to the application.

(4) The application must be supported by an affidavit and the affidavit must clearly and concisely set out-

- (a) the names, description and addresses of the parties;
- (b) a statement of the material facts, in chronological order, on which the application is based, in sufficient detail to enable any person opposing the application to reply to the facts;

- (c) a statement of legal issues that arise from the material facts, in sufficient detail to enable any party to reply to the document;
 - (d) if the application is filed outside the relevant time period, grounds for condonation in accordance with subregulation (9); and
 - (e) if the application is brought urgently, the circumstances why the matter is urgent and the reasons why it cannot be dealt with in accordance with the time frames prescribed in these Regulations.
- (5) (a) Any party opposing the application may deliver a notice of opposition and an answering affidavit within fourteen days from the day on which the application was served on that party.
- (b) A notice of opposition and an answering affidavit must contain, with the changes required by the context, the information required by subregulation (3) and (4) respectively.
- (6) (a) The party initiating the proceedings may deliver a replying affidavit within seven days from the day on which any notice of opposition and answering affidavit are served on it.
- (b) The replying affidavit must address only issues raised in the answering affidavit and may not introduce new issues of fact or law.
- (7) A presiding officer may permit the affidavits referred to in this regulation to be substituted by a written statement.
- (8) In an urgent application, the Tribunal or a presiding officer -
- (a) may dispense with the requirements of this regulation; and
 - (b) may only grant an order against a party that has had reasonable notice of the application.
- (9) (a) The Tribunal must allocate a date for the hearing of the application once a replying affidavit is delivered, or once the time limit for delivering a replying affidavit has lapsed, whichever occurs first.
- (b) The Tribunal must notify the parties of the date, time and place of the hearing of the application.
- (c) Applications may be heard on a motion roll.
- (10) Despite this regulation, the Tribunal or a presiding officer may determine an application in any manner it deems fit.

35 Variation or rescission of Tribunal ruling

- (1) An application for the variation or rescission of a Tribunal ruling must be made within 14 days of the date on which the applicant became aware of -
- (a) the Tribunal ruling; or

- (b) a mistake common to the parties to the proceedings.
- (2) A ruling made by a presiding officer which has the effect of a final order, will be regarded as a ruling for the purposes of this regulation.

CHAPTER 6

APPEALS

Part A: Appeal Adjudicators

36 Selection of panel of appeal adjudicator

- (1) An appeal against a dispute ruling of the Tribunal must be heard by an appeal adjudicator appointed by the MEC from a panel of adjudicators in terms of section 17A of the Act.
- (2) The MEC must create and update a panel of appeal adjudicators composed by him and her, every three years, from nominations received in terms of these Regulations.
- (3) The MEC must invite nominations on the form contemplated in Schedule 3 and from the nominations received appoint those persons who qualify for appointment as contemplated in section 17A to the panel of appeal adjudicators.
- (4) A person who is appointed to the panel of appeal adjudicators must, on appointment sign a code of conduct referred to in Schedule 4.

37 Functions of appeal adjudicator

- (1) The appeal adjudicator must consider and decide all appeals referred to it by the MEC in terms of the Act.
- (2) The appeal adjudicator must keep a record of all appeal proceedings presided over by him or her.
- (3) The appeal adjudicator must provide the reasons for any decision or determination made by it.
- (4) The appeal adjudicator must provide the Tribunal with the outcome of the appeal for recording in the register referred to in section 8 of the Act.

38 Disqualification from appointment as appeal adjudicator

- (1) A person may not be appointed or continue to serve as an appeal adjudicator, if that person –
 - (a) is not a citizen of the Republic, and resident in the province;
 - (b) is a member of parliament, a provincial legislature, a house of leaders or a municipal council in terms of the constitution.
 - (c) is an un-rehabilitated insolvent;
 - (d) is of unsound mind, as declared by a court;

- (e) has at any time been convicted of an offence involving dishonesty;
- (f) has at any time been removed from an office of trust on account of misconduct; or
- (g) has previously been removed from a Tribunal for a breach of any provision of the Act.

(2) An appeal adjudicator must vacate office if he or she becomes subject to a disqualification as contemplated in subsection (1).

39 Conflict of interest

- (1) An appeal adjudicator –
 - (a) must make full disclosure of any conflict of interest including any potential conflict of interest in any matter which he or she is appointed to consider;
 - (b) may not decide any appeal in relation to any matter in respect of which he or she has a conflict of interest.
- (2) For the purposes of this regulation, an appeal adjudicator has a conflict of interest if –
 - (a) the appeal adjudicator, or a family member, partner or business associate of the appeal adjudicator is the appellant or respondent in terms of a dispute serving before the Tribunal, or if the appeal adjudicator has a pecuniary or material interest in the ruling that has been appealed; or
 - (b) the appeal adjudicator has any other interest that may preclude, or may reasonably be perceived as precluding the appeal adjudicator from performing his or her functions in a fair, unbiased and proper manner.
 - (c) the appeal adjudicator is in the full-time employment of a party to the appeal.

Part B: Procedure for Appeals

40 Notice of appeal

- (1) A person who has lodged an appeal must simultaneously give notice of the appeal to the Tribunal and the other party to the dispute hearing.
- (2) The Tribunal or the other party to whom a notice of appeal has been given in terms of subsections (1) may oppose the appeal.

41 Hearing of appeal

After an appeal has been lodged, the MEC must –

- (a) refer the appeal to the appeal adjudicator and must determine a date and time for the hearing of the appeal; and
- (b) notify the appellant, the Tribunal and the other party to the dispute ruling who has opposed the appeal of the date and time of the hearing of the appeal.

42 Jurisdiction of appeal adjudicator

An appeal adjudicator referred to in section 17A of the Act, considers an appeal on one or more of the following:

- (a) the procedure of conducting the dispute hearing was procedurally unfair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); or
- (b) the merits of the ruling.

43 Hearing by appeal adjudicator

- (1) An appeal may be heard by an appeal adjudicator by means of -
 - (a) a written hearing; or
 - (b) an oral hearing.
- (2) A written hearing may be held if it appears to the appeal adjudicator that the issues for determination of the appeal can be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to him or her.
- (3) An oral hearing may be held –
 - (a) if it appears to the appeal adjudicator that the issues for determination of the appeal cannot be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it; or
 - (b) if such hearing would assist in the expeditious and fair disposal of the appeal.
- (4) If appropriate in the circumstances, the oral hearing may be held by electronic means.

44 Representation before appeal adjudicator

If the appeal adjudicator decides to hold an oral hearing, any party to the appeal proceedings may appear in person or may be represented by another person.

45 Opportunity to make submissions and inspect documents

The appeal adjudicator must ensure that every party to a proceeding before the appeal adjudicator is given an opportunity to present his or her case and, in particular, to inspect

any documents to which the appeal adjudicator proposes to have regard in reaching a decision in the proceeding and to make submissions in relation to those documents.

46 Decision of appeal adjudicator

- (1) An appeal adjudicator must -
 - (a) consider and determine all appeals lawfully submitted to him or her;
 - (b) confirm, vary or revoke the decision of the Tribunal;
 - (c) provide written reasons for any decision made by him or her;
 - (d) give directions relevant to its functions to the Tribunal;
 - (e) keep a record of all the proceedings of the appeal; and
 - (f) determine whether the appeal falls within its jurisdiction.
- (2) If the appeal adjudicator revokes a decision of the Tribunal it may remit the matter to the Tribunal or replace the decision with any decision it regards necessary.
- (3) The MEC may appoint a technical adviser to advise or assist the appeal adjudicator with regard to a matter forming part of the appeal.

47 Determination of appeal

- (1) An appeal must be heard by the appeal adjudicator within a period of 30 days of the date on which the appeal was referred to the appeal adjudicator by the MEC.
- (2) After the appeal has been determined, the MEC must inform the appellant, the Tribunal and the other party to the dispute hearing accordingly.

CHAPTER 7

NORMS AND STANDARDS

WE REQUIRE THE POLICY FRAMEWORK REFERRED TO IN SECTION 2(3) OF THE ACT IN ORDER TO COMPLETE THIS CHAPTER

48 Terms and conditions of lease agreement

- (1) A written lease agreement must comply with the provisions of the Act and contain the clauses required in terms of section 5 thereof.
- (2) A landowner must provide all services agreed to in the lease agreement.
- (3) A landowner and a tenant may include in a lease agreement terms and conditions not prohibited by these Regulations, the Act or any other law.
- (4) A lease agreement must exclude any provision which –
 - (a) imposes a penalty for late payment of rent whether or not the penalty takes the form of an administrative charge or any other form other than interest;

- (b) excludes the liability of either party for failing to comply with a duty under the lease agreement, these Regulations, the Act or any other law;
- (c) limits or prevents either party from using the normal rights of recourse against the other because of the other's failure to comply with any duty under the lease agreement, these Regulations, the Act or any other law; or
- (d) precludes either party from being a member of a landowner's or tenant's association.

49 Safety, health and hygiene requirements for rental housing

- (1) A landowner must –
 - (a) maintain the common property, if any, in good order or repair;
 - (b) maintain the outside of the dwelling, including the walls and roof in good order and repair;
 - (c) maintain the electrical, plumbing, sanitary, heating, ventilation, air conditioning systems and elevator system of the common property in good order and repair;
 - (d) repair any damage to the dwelling or common area caused by fair wear and tear;
 - (e) provide and maintain appropriate container and places for the removal of ashes, garbage, rubbish and other waste incidental to the dwelling and arrange for its removal;
 - (f) effect repairs for which a landowner is responsible for under a lease agreement and as identified during inspections by the landowner or on receipt of a notice from the tenant to do such repairs, but a landowner is not responsible for such repairs if a tenant, his or her household members or visitors brought about the state of disrepair; and
 - (g) effect the repairs referred to in paragraph (f) within 14 days of receipt of notice from the tenant or such further period as may be agreed to between the landowner and tenant.
- (2) A tenant must –
 - (a) use the dwelling in a proper manner and for the purpose for which it is let, and in a manner which does not contravene the Act, these Regulations or any other law;
 - (b) dispose from the dwelling all ashes, garbage, rubbish and other waste in a clean and safe manner;
 - (c) maintain the dwelling in a clean, tidy and safe state of repair;

- (d) in a reasonable manner use all electrical, plumbing, sanitary heating, ventilating, air-conditioning and other facilities and appliances, including elevators, on the premises;
- (e) refrain from intentionally or negligently damaging, defacing, impairing or removing any part of the dwelling or common property or knowingly permitting any person to do so, who is on the premises with the tenant's permission or allowed access to the premises by the tenant and the tenant is liable for the repair of such damage, fair wear and tear excluded, at the tenant's own cost;
- (f) return the dwelling in the same condition as the tenant received it in, fair wear and tear excluded;
- (g) replace globes and maintain, replace or repair electrical fittings and switches
- (h) maintain, replace or repair all water-borne taps, stoves, locks handles and windows where such damage is not due to natural causes;
- (i) maintain the garden, if any, and keep the same in a neat and tidy condition;
- (j) comply with the House Rules; which are enforceable pursuant to these Regulations;
- (k) maintain the swimming pool, including but not limited to, all pumps, hoses and accessories, in good order and repair, subject to fair wear and tear.

50 Basic living conditions

A landowner must let a dwelling which at the commencement of the lease is in a condition –

- (a) that is habitable; and
- (b) which complies with these Regulations, the Act and any other law.

CHAPTER 8

GENERAL MATTERS

51 Short title and date of commencement

These Regulations are called the Rental Housing Tribunal Regulations, 2018 and comes into operation on the date determined by the Minister by publication of a notice thereof in the *Gazette*.

**SCHEDULE 1
COMPLAINT FORM**

**COMPLAINT FORM FOR THE RENTAL HOUSING
TRIBUNAL**

FOR OFFICIAL USE

REFERENCE NO:

A. PARTICULARS OF COMPLAINANT

TITLE: _____ NAME: _____

CAPACITY e.g. LANDLORD OR TENANT: _____

ID NUMBER: _____

ADDRESS (FLAT NAME, ROOM NO., STREET NAME): _____

POSTAL ADDRESS: _____

TELEPHONE (H): _____ (W) _____

FAX: _____

B. DETAILS OF DWELLING

ADDRESS WHERE THE SUBJECT MATTER OF THE DISPUTE IS SITUATED:

DESCRIPTION OF DWELLING: HOUSE / FLAT / ROOM / GARAGE / HOSTEL
ROOM / OTHER (SPECIFY) _____

NUMBER OR UNITS IN BUILDING (IF APPLICABLE): _____

NUMBER OF TENANTS LIVING IN THE DWELLING: _____

C. PARTICULARS OF TENANT/LANDLORD COMMITTEE MEMBERS

NAME:

TELEPHONE:

FAX:

DWELLING NUMBER:

NAME:

TELEPHONE:

FAX:

DWELLING NUMBER:

NAME:

TELEPHONE:

FAX:

DWELLING NUMBER:

D. PARTICULARS OF RESPONDENT(S)

TITLE: _____

NAME: _____

CAPACITY e.g. LANDLORD OR TENANT: _____

ADDRESS (FLAT NAME, ROOM NO., STREET NAME): _____

POSTAL ADDRESS: _____

TELEPHONE (H): _____ (W) _____

FAX: _____

E. ADDITIONAL INFORMATION

NAME OF CARETAKER:	
TELEPHONE NO:	FAX:
NAME OF OWNER OF BUILDING:	
TELEPHONE:	FAX:
ADDRESS (FLAT NAME, ROOM NO., STREET NAME):	
POSTAL ADDRESS:	
NAME OF MANAGING AGENT:	
TELEPHONE:	FAX:
NAME OF BOND HOLDER:	
TELEPHONE:	FAX:

F. PERSON/ORGANISATION THAT REFERRED THE COMPLAINT

NAME:	_____
TELEPHONE:	_____
FAX:	_____
REF. NO.:	_____

G. FINANCIAL STATUS OF BUILDING

TOTAL ELECTRICITY ARREARS:	R _____
TOTAL WATER ARREARS:	R _____
TOTAL RATES & TAXES OWED TO COUNCIL:	R _____
TOTAL OWED TO THE MANAGING AGENT:	R _____

H. BACKGROUND

HAS A COMPLAINT FOR THIS BUILDING BEEN SUBMITTED BEFORE?

YES

☐

NO

☐**I. LIST OF COMPLAINTS/DISPUTES**

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

J. RENT

MONTHLY RENTAL AGREEMENT: _____

DOES THE RENTAL INCLUDE PAYMENT FOR WATER AND ELECTRICITY?

YES

☐

NO

☐

BY WHICH DATE MUST THE RENT BE PAID EACH MONTH?

WHERE AND HOW MUST THE RENT BE PAID? _____

TO WHOM DOES THE RENT HAVE TO BE PAID?: _____

DO YOU HAVE RECEIPTS FOR PAYMENT (rent, electricity, water)?

*YES ☐

NO ☐

ADDITIONAL INFORMATION: _____

*If yes, please supply.

K. PARTICULARS OF TENANT

NAME: _____

MARITAL STATUS: _____

NUMBER OF DEPENDANTS: _____

ARE THE RENTED PREMISES RENT CONTROLLED?

YES ☐

NO ☐

IF YES, WAS THE RENT FIXED BY THE FORMER RENT BOARD OR THE PRESEN
RENTAL HOUSING TRIBUNAL?

DATE ON WHICH THE RENT WAS FIXED: _____

IS RENT PAID MONTHLY OR WEEKLY? _____

AMOUNT: _____

L. LEASE AGREEMENT

WHEN WAS THE FIRST DATE OF OCCUPATION OF THE DWELLING?

WAS A WRITTEN LEASE ENTERED INTO?

YES

☐

NO

☐

DO YOU HAVE A COPY OF THE LEASE?

*YES

☐

NO

☐**VERBAL LEASE AGREEMENT**

WHAT WAS THE AGREED DURATION OF STAY IN THE DWELLING?

M. EVICTION

WERE YOU GIVEN A WRITTEN NOTICE TO VACATE?

*YES

☐

NO

☐

WHEN WERE YOU TOLD TO VACATE? _____

WHO TOLD YOU TO VACATE? _____

SUMMONS OF EVICTION

WHEN WAS THE SUMMONS SERVED ON YOU? _____

WAS THE SUMMONS SERVED ON YOU PERSONALLY?

*YES

☐

NO

☐

ADDITIONAL INFORMATION <hr style="border: 0; border-top: 1px solid black; margin-top: 10px;"/>
--

*If yes, please supply.

N. MAINTENANCE

WHAT ARE THE EXACT MAINTENANCE PROBLEMS? <hr style="border: 0; border-top: 1px solid black; margin-top: 10px;"/> <hr style="border: 0; border-top: 1px solid black; margin-top: 10px;"/> <hr style="border: 0; border-top: 1px solid black; margin-top: 10px;"/> <hr style="border: 0; border-top: 1px solid black; margin-top: 10px;"/> <hr style="border: 0; border-top: 1px solid black; margin-top: 10px;"/>
--

WAS A CHECKLIST COMPLETED WHEN YOU MOVED IN?

*YES

☐

NO

☐

WHEN DID THE MAINTENANCE PROBLEMS FIRST ARISE?

WAS IT DISCUSSED WITH THE LANDLORD/AGENT?

*YES

☐

NO

☐

IF YES, WHO DID YOU COMPLAIN TO?

WHEN DID YOU COMPLAIN?

WHAT WAS THE RESPONSE WHEN YOU COMPLAINED?

*If yes, please supply.

N. MAINTENANCE

WHAT ARE THE EXACT MAINTENANCE PROBLEMS?

WAS A CHECKLIST COMPLETED WHEN YOU MOVED IN?

*YES

☐

NO

☐

WHEN DID THE MAINTENANCE PROBLEMS FIRST ARISE?

WAS IT DISCUSSED WITH THE LANDLORD/AGENT?

*YES

☐

NO

☐

IF YES, WHO DID YOU COMPLAIN TO? _____

WHEN DID YOU COMPLAIN? _____

WHAT WAS THE RESPONSE WHEN YOU COMPLAINED? _____

*If yes, please supply.

Q. DEPOSIT

WHAT AMOUNT WAS PAID AS DEPOSIT? _____

WHEN WAS THE DEPOSIT PAID? _____

DID YOU RECEIVE A RECEIPT?

*YES

☐

NO

☐

WHEN DID YOU ASK FOR A REFUND? _____

TO WHOM WAS THE REQUEST FOR A REFUND MADE? _____

WHAT WAS THE REPLY? _____

IF PART OF THE DEPOSIT WAS REFUNDED, HOW MUCH WAS REFUNDED? _____

HOW MUCH WAS THE TOTAL DEDUCTION? _____

HAS THE LANDLORD/AGENT GIVEN ANY DETAILS FOR THE NON-REFUNDING OF THE DEPOSIT?

YES

☐

NO

☐

If yes, provide the details: _____

HAS THE LANDLORD GIVEN ANY DETAILS ABOUT THE DEDUCTIONS MADE TOGETHER WITH RECEIPTS?

*YES

☐

NO

☐

If yes, provide the details: _____

*If yes, please supply.

SIGNATURE OF COMPLAINANT

DATE: _____

FOR OFFICIAL USE

NAME OF MEMBER OF STAFF: _____

SIGNATURE: _____

DATE OF RECEIPT OF COMPLAINT: _____

SCHEDULE 2
SUBPOENA

Complaint Reference No. _____

RENTAL HOUSING TRIBUNAL OF _____ PROVINCE
ESTABLISHED UNDER SECTION 7 OF THE RENTAL HOUSING ACT, 1999

In the application of _____, and

(Insert name of applicant)

In respect of the dwelling known as _____

(Insert full description of dwelling and description of property on which the dwelling is located)

SUBPOENA

(State name, occupation and place of business and residence of person being required to appear)

BE INFORMED:

That you are hereby required to appear in person before this Tribunal at _____ on
(insert venue)

_____ of _____ at _____
(insert date) *(insert month)* *(insert time)*

And thereafter to remain in attendance until excused by the Tribunal in regard to all matters within our knowledge relating to the matter pending before this Tribunal wherein the Applicant is seeking _____

AND FURTHER BE INFORMED:

To bring and produce to this Tribunal the following:

(insert accurately the documents, book or thing to be produced)

- (1) _____
- (2) _____
- (3) _____

AND FURTHER BE INFORMED:

That should you, on any account, neglect to comply with any provisions of this Subpoena, you may render yourself liable to a fine and/or imprisonment not exceeding two years.

Signed and dated at _____ this _____ day of ____ _.

Tribunal Chairperson

SCHEDULE 3**Standard Call for Nominations for Persons to be Appointed as Appeal Adjudicators to the Panel of Adjudicators****CALL FOR NOMINATIONS FOR PERSONS TO BE APPOINTED AS APPEAL ADJUDICATORS ON THE PANEL OF APPEAL ADJUDICATORS****CLOSING DATE: (INSERT DATE)**

In terms of the Rental Housing Act, 50 of 1999, the MEC of Human Settlements for the _____ Province hereby invites nominations for members of the public to be appointed to the panel of appeal adjudicators of the _____ Province.

The period of office of an appeal adjudicator will be three years calculated from the date of appointment of such appeal adjudicator by the MEC of Human Settlements for the _____ Province.

Nominees must be persons who possess legal qualifications and expertise in rental housing matters or consumer matters pertaining to rental housing matters.

Each nomination must be in writing and must contain the following information:

- (a) The name and address of the nominator, who must be a natural person and a person may nominate himself or herself;
- (b) The name, address and identity number of the nominee;
- (d) Motivation by the nominator for the appointment of the nominee to the panel of appeal adjudicators (not exceeding one page);
- (e) A short curriculum vitae of the nominee (not exceeding two pages);
- (f) Certified copies of qualifications and registration certificates indicating registration with a relevant professional body or voluntary association.

Please note that failure to comply with the above requirements may result in the disqualification of the nomination.

Nominations must be sent to:

The MEC for Human Settlements

Prone of _____

P.O. Box _____

For Attention: _____

For Enquiries: _____

Tel _____

* I, (full names of nominee),

ID No (of nominee).....,

hereby declare that –

- (a) I am available to serve on the panel of appeal adjudicators.
- (b) there is no conflict of interest OR I have the following interests which may conflict with an appeal submitted to the MEC of Human Settlements:

- (c) I am not disqualified in terms of regulation 38 of the Rental Housing Tribunal Regulations, 2018 to serve as an appeal adjudicator and I authorise the MEC of Human Settlements to verify any record in relation to such disqualification or requirement.
- (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to appeal adjudicators.

Signature of nominee

SCHEDULE 4

Code of Conduct for a Member of the Tribunal and an Appeal Adjudicator

General conduct

1. A member of the Tribunal and an appeal adjudicator must at all times—
 - (a) act in accordance with the principles of accountability and transparency;
 - (b) disclose his or her personal interests in any decision to be made by the Tribunal or by him or her as appeal adjudicator in which he or she serves or has been requested to serve;
 - (c) abstain completely from direct or indirect participation as an advisor or decision-maker in any matter in which he or she has a personal interest and leave any chamber in which such matter is under deliberation unless the personal interest has been made a matter of public record and the Tribunal or the MEC has given written approval and has expressly authorised his or her participation.
2. A member of the Tribunal and an appeal adjudicator may not—
 - (a) use the position or privileges of a member of the Tribunal or as an appeal adjudicator or confidential information obtained as a member of the Tribunal or as appeal adjudicator for personal gain or to improperly benefit another person; and
 - (b) participate in a decision concerning a matter in which that member or that members' spouse, partner or business associate, has a direct or indirect personal interest or private business interest.

Gifts

3. A member of the Tribunal and an appeal adjudicator may not receive or seek gifts, favours or any other offer under circumstances in which it might reasonably be inferred that the gifts, favours or offers are intended or expected to influence a person's objectivity as an advisor or decision-maker in the decision-making process.

Undue influence

4. A member of the Tribunal and an appeal adjudicator may not—
 - (a) use the power of any office to seek or obtain special advantage for private gain or to improperly benefit another person that is not in the public interest;
 - (b) use confidential information acquired in the course of his or her duties to further a personal interest;
 - (c) disclose confidential information acquired in the course of his or her duties unless required by law to do so or by circumstances to prevent substantial injury to third persons; and

- (d) commit a deliberately wrongful act that reflects adversely on the Tribunal, the appeal adjudicator, MEC or provincial department by seeking business by stating or implying that he or she is prepared, willing or able to influence decisions of the Tribunal by improper means or that he or she is prepared to make a decision that serves the interest of that party.