

**COMMISSION FOR GENDER EQUALITY
132 ADDERLEY STREET CAPE TOWN
PARLIAMENTARY OFFICE
30 NOVEMBER 2011**

ITS

**COMMENTS ON THE RENTAL HOUSING AMENDMENT BILL [B21-2011]
MADE TO THE PORTFOLIO COMMITTEE ON HUMAN SETTLEMENTS**

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1.1 INTRODUCTORY REMARKS

COMMENTS : RENTAL HOUSING AMENDEMENT BILL [B 21- 2011]

The Commission for Gender Equality (CGE) is a Chapter 9 Institution and in terms of Section 11 of its empowering legislation obliged to evaluate legislation and make recommendations to the relevant legislature. This responsibility is exercised with the primary aim of promoting, protecting and developing gender equality in South Africa.

1.2 SPIRIT AND PURPORT

The CGE supports the Rental Housing Amendment Bill [B 21 2011] on the basis that deep seated inequities still exist in respect of land ownership. These inequities include factors such as - more men own land in comparison to women, white ownership comprises the bulk of prime properties with high value while black ownership comprises of mostly agricultural, rural and underdeveloped land. These inequities will not disappear unless a conscious attempt is made to redress these inequities. Within this context steps must be taken to ensure that the majority of tenants are protected against unscrupulous landlords. Notwithstanding its concerns the CGE welcomes the Bill but is concerned that various issues relating to gender inequities which pose as obstacles by limiting women's access to accommodation has been totally ignored.

2. COMMENTS

2.1 AMENDMENT TO SECTION 1 of Act 1 of 50 of 199

The CGE supports the proposed amendment to this section.

2.2 AMENDMENT TO SECTION 4 of Act 1 of 50 of 199

The CGE does not support the proposed amendment in its current form because it is ambiguous. The intention of the amendment is to protect the tenant against unlawful evictions and also allow for the landlord / tenant to approach a Rental Housing Tribunal for an order in respect of disputes relating to repossession. Unfortunately the proposed amendment is drafted in a manner which allows the landlord to repossess even where the order may prohibit repossession. Accordingly, the CGE proposes the following :

“(ii) repossess rental housing property after having first obtained a ruling by the Tribunal or an order of court authorizing such repossession; and.”

2.3 AMENDMENT TO SECTION 6 of Act 1 of 50 of 199

The proposed amendment is supported.

2.4 AMENDMENT TO SECTION 7 of Act 1 of 50 of 199

This amendment is not supported in its current form because it does not set out any timeframes. A province may fail to give effect to this obligation and rely on the fact that no time frame has been provided. Furthermore, provinces may give effect to such a provision at leisure and this will translate to a situation where in some provinces the establishment of Rental Tribunals may be postponed indefinitely. Such circumstances amount to vertical discrimination and should be avoided. Accordingly the CGE proposes the following revision.

Every MEC must by notice in the Gazette establish a tribunal in the Province to be known as the Rental Housing Tribunal within 6 (six) months of promulgation of this Act.

2.5 AMENDMENT TO SECTION 9 of Act 1 of 50 of 199

The CGE rejects the proposed amendment because it is not rationally connected to the purpose of ensuring that fairness, equity, community interests and accommodation needs are addressed by the Tribunal. Instead there is a predisposition to embrace property needs only. In addition to this, **gender representation is completely ignored.** Therefore, the CGE recommends the following :

- (i) A Rental Housing Tribunal to be balanced in terms of gender representation.
- (ii) Two persons with legal qualifications to be appointed where one has to be a female.
- (iii) One individual nominated from the community
- (iv) Only one person who has expertise in property development or management.
- (v) One member having expertise in consumer matters
- (vi) The chairperson must have suitable qualifications as he or she will be expected to chair proceedings and hand down rulings.

2.6 AMENDMENT TO SECTION 10 of Act 1 of 50 of 199

This section is supported in its current form.

2.7 AMENDMENT OF SECTION 13 of Act 1 of 50 of 199

The CGE supports the proposed amendments but seeks to recommend that an extension to the jurisdiction of the Tribunal be considered which would include certain additional issues that are listed below.

The CGE has received numerous complaints concerning rental accommodation and the following issues were dominant :

- (a) Lessors charge exorbitant deposits and contravene the law by not refunding same with interest upon termination of the lease.
- (b) The deposits levied vary from one month's rent to up to six months rent in other instances.

- (c) Key deposits are levied and when keys are replaced the cost of replacement is levied and the deposit is also forfeited.
- (d) The lessor uses the accommodation deposit to set - off maintenance costs arising from normal wear and tear which is unlawful.
- (e) Exploitative rentals are levied and annual increases exceed the cpi which makes the cost of renting unaffordable within a few years.

Therefore, in such instances the Tribunal should be able to adjudicate and make the requisite rulings instead of referring the matter to a competent body as contemplated in Section 13(4) (b) of the Act.

In addition to the above there should be an attempt to regulate on the maximum deposits that may be levied by lessors/landlords. The fact that lessors /landlords are allowed to set their own deposits this allows for discriminatory practices to be implemented and economic abuse of lessee's. Such a situation is untenable in the current economic climate which is aggravated by the disparities in property ownership.

2.8 AMENDMENT OF SECTION 14 Act 1 of 50 of 199

The marketing of services and the jurisdiction of Rental Tribunals is important for effective service delivery. Therefore, it is necessary that an independent party must provide information on the services offered by Rental Tribunals. This is essential to ensure that among others disadvantaged people are made aware so that they are able to seek relief swiftly and informally at Rental Tribunals. Accordingly, all municipalities must be under a duty to set up a Rental Information Office in their area of jurisdiction. It should not be optional but compulsory for all municipalities to set up Rental Information Offices. In addition to this regulations should set out the qualifications, responsibilities and relationship that must exist between the Information Office and Tribunals.

2.9 AMENDMENT OF SECTION 15 of Act 1 of 50 of 199

The proposed amendment is supported.

2.10 AMENDMENT OF CHAPTER 4 AND 5 of Act 1 of 50 of 199

This amendment is supported as proposed.

3. CONCLUSION

A major concern of the Commission is that gender related issues have not been embraced in respect of rental accommodation. In this regard issues such as reduced deposits being levied in respect of women who are single parents and safety of women and children have not been considered. The aforementioned are pertinent issues that must be taken into account given the gender and economic disparities which prevail in South Africa.

Notwithstanding the above, the Commission for Gender Equality welcomes the Rental Housing Amendment Bill and trusts that its recommendations will be considered favourably.

The Commission also takes this opportunity to wish the Honourable Chairperson of the Portfolio Committee on Human Settlements all the best over the festive period.

Kind regards

Parliamentary Office
Commission for Gender Equality
Cape Town

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