

CHAPTER 339

THE RENT RESTRICTION ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

Section

Title

PART I

PRELIMINARY PROVISIONS

1. Short title.
2. Application.
3. Interpretation.
4. Application to licensee in certain cases.
5. Application to occupation under certain options and agreements.

PART II

HOUSING APPEALS TRIBUNAL AND REGIONAL HOUSING TRIBUNALS

6.-11. [Repealed.]

12. Powers of the Tribunal.

13. [Repealed.]

14. Proceedings of the Tribunal.

15. Tribunal to keep register.

PART III

RENT AND REGULATION OF TENANCY

16. Definition of expression "standard rent".

17. Standard rent as from effective date.

17A.-18. [Repealed.]

19.-22. [Repealed.]

23. Penalty for accepting excess rent or advance of rent.

24. [Repealed.]

25. Limitation as to permitted increases in rent.

26. Notices under the Act effective as notice to quit.

27. Restriction on right of possession.
28. Restriction on levy of distress for rent.
29. Restriction on premiums.
30. Limitation on rent of premises let with services.
31. A statement to be supplied as to standard rent.
32. Recovery of sums made irrecoverable.
33. Failure to supply rent book and penalty for false entry.
34. Conditions of statutory tenancy.
35. Penalty for depriving tenant of service.
36. Notification of valuation.
37. Repairs.
38. Restriction on right to assign or sub-let premises.
39. Sub-letting by tenant.
40. Penalty for subjecting tenant to annoyance.
- 41.-42. [Repealed.]

PART IV

APPEALS AND MISCELLANEOUS PROVISIONS

- 43. [Repealed.]
- 44. Power of the Housing Appeals Tribunal.
- 45. Appeals to the High Court.
- 46. Failure to comply with or observe order or decision of Tribunal.
- 47. Protection of members of the Tribunal.
- 48. No agreement to be made at variance with Act.
- 49. Chairman may be empowered to exercise powers of the Tribunal.
- 50. Determinations, orders, etc., of the Tribunal to be enforced as court decree.
- 51. Regulations.
- 52. [Repeal of R.L. Cap. 479 and saving of subsidiary legislation.]
- 53. Saving of pending proceedings and orders.

CHAPTER 339

THE RENT RESTRICTION ACT

An Act to provide for rent restriction and to establish Regional Housing Tribunal and Housing Appeals Tribunal and for related matters.

[7th June, 1984]

G.N. No. 433 of 1985

Acts Nos.

17 of 1984

10 of 1986

10 of 1989

5 of 1990

13 of 1996

2 of 2002

PART I

PRELIMINARY PROVISIONS (ss 1-5)

[PCh339s1]1. Short title

This Act may be cited as the Rent Restriction Act.

[PCh339s2]2. Application

(1) This Act shall apply to all dwelling houses and commercial premises, furnished or unfurnished, situate or in course of creation or hereafter to be erected in any rent restriction area in Tanzania Mainland, other than—

(a) premises which are the property of the Government, a parastatal organisation or of a local authority, where such premises are used by or are for use by employees of the Government, the parastatal organisation or the local authority; and

(b) any premises, or class of premises, in Mainland Tanzania, which the Minister may with approval of the National Assembly signified by a resolution, by order published in the Gazette, exempt from all or any of the provisions of this Act.

(2) The Minister may, from time to time, by notice published in the Gazette, suspend the application of all or any of the provisions of this Act to any area of Mainland Tanzania to which such provisions previously applied, and may after any such suspension apply any provision of this Act to such area.

(3) For the purposes of this Act, premises on land for a Government lease or land held subject to right of occupancy shall not be premises which are the property of the Government, and the provisions of this Act relating to landlord and tenant shall not apply in relation to the Republic in its capacity as landlord of land held for a Government lease or to a person, who holds a Government lease in his capacity as a tenant of the Republic.

(4) Nothing in this Act shall apply to the relations subsisting between a mortgagor and a mortgagee in such capacity.

[PCh339s3]3. Interpretation Act No. 2 of 2002 Sch.

(1) In this Act, unless the context otherwise requires—

"Chairman" includes a Deputy-Chairman;

"commercial premises" means a building or part of a building let for business, trade or professional purposes or for the public service where such letting does not include land other than the site and curtilage of such building or part of a building and comprised in the letting;

"construction date" means the date when the premise was constructed;

"the court" means a court of a Resident Magistrate;

"dwelling house" includes hostel and any house or a part of a house or room let as a separate dwelling (whether or not such house, part of a house or room occupied by one or more tenants and whether or not the terms of the letting include the use of the other accommodation in common with the landlord and other persons) where such letting does not include any land other than the site of the dwelling house and garden or other premises within the curtilage of the dwelling house;

"effective date" means the date when this Act comes into operation;

"High Court" means the High Court (Land Division);

"landlord" includes, in relation to any premises, any person, other than the tenant, who is or would be, but for the provisions of this Act, entitled to possession of the premises and any

person from time to time deriving title under the original landlord, and any person deemed to be a landlord under section 4 or section 5;

"let" includes sub-let and any arrangement deemed to be a letting under section 4 or section 5;

"local government authority" means a city council, municipal council, town council, district council or township authority or village council having jurisdiction in any city, municipality, district, township or village in which any premises are situated and in relation to premises in any area other than a city, a municipality, a town, a township, a district or such officer or authority as the Minister may, by notice in the Gazette, declare to be a local authority for the purposes of this Act;

"Minister" means the Minister responsible for Housing;

"premises" means any dwelling house or commercial premises to which this Act is applied by subsection (1) of section 2;

"rent" include any sum paid as valuable consideration for the occupation of any premises and any sum paid as rent or hire for the use of furniture or as a service charge where premises are let furnished or where premises are let and furniture in them is hired by the landlord to the tenant or where premises, furnished or unfurnished, are let with services, and also includes any consideration deemed to be rent under section 4 or section 5;

"rent officer" means an officer of the Ministry responsible for house rents appointed for the purposes of administering this Act;

"rent restriction area" means an area within the jurisdiction of any District Council or Township Council established under the Local Government (District Authorities) Act *, or City Authority, Municipal Council or Town Council established under the Local Government (Urban Authorities) Act *;

"replacement cost or value" means the cost of providing an acceptable substitute property at the time of valuation, less an allowance of accrued depreciation and obsolescence in the same place or elsewhere;

"service" means in respect of any premises the use of water, light or power, conservancy, sewerage facilities, sweeper, watchmen, telephone or other amenity or facility available to any premises save and except the supplying of meals, and the right of access to any place or accommodation accorded to a tenant by reason of his occupation of the premises;

"service charge" means a charge for any service rendered;

"standard rent" in relation to any premises has the meaning assigned to it by section 16;

"statutory undertaking" and "statutory duties or powers" include respectively any undertaking established and any powers or duties imposed or exercised under any order having the force of law;

"tenant" includes any person deemed to be a tenant under section 4 or section 5 and a sub-tenant and any person from time to time deriving title under the original tenant, and the widow of a tenant who was residing with him at the time of his death, or where the tenant has no widow or is a woman, such member of the tenant's family so residing as may be decided upon by

the tribunal notwithstanding that the right under the tenancy may have passed on in tenant's death to some other person, and, in the case of commercial premises of which the landlord could, but for the provisions of this Act, have recovered possession, includes the legal representative of a deceased tenant or other person entitled to carry on or wind up the business of a deceased tenant, for such period as the tribunal may decide to be reasonable necessary for winding up the business of a deceased tenant;

"tenancy" includes sub-tenancy and shall bear a similar construction to that given to the expression "tenant";

"the Tribunal" means the District Land and Housing Tribunal.

(2) For the purposes of this Act, premises shall be deemed to be used as a dwelling house when such premises, although used by the tenant partly for business, trade or professional purposes or for public service, are used by him mainly as a dwelling house; and conversely premises shall be deemed to be used as commercial premises when such premises, although used by the tenant partly as a dwelling house, are used by him mainly for business, trade or professional purposes or for the public service.

[PCh339s4]4. Application to licensee in certain cases

(1) Subject to the provisions of subsection (2), where pursuant to the permission of the owner of any land given in that behalf for valuable consideration, any person (hereafter in this section referred to as the licensee) enters on such land and builds thereon and occupies a dwelling house, then, for the purposes of this Act, the licensee shall be deemed to be the tenant of such dwelling house and the owner of such land shall be deemed to be the landlord thereof and

the said consideration shall be deemed to be rent, and the provisions of this Act shall, in all respects, apply as if such dwelling house were let by such owner as landlord to the licensee as tenant.

(2) The provisions of this section shall apply only—

(a) to an area to which the provisions of this section have been applied under the provisions of subsection (3); and

(b) where the value of the dwelling house occupied by the licensee as aforesaid in such an area does not exceed such amount as may be prescribed.

(3) The Minister may, by order published in the Gazette declare that this section shall apply to any rent restriction area and thereupon this section shall apply to that area.

(4) An order made under the provisions of subsection (3) shall be laid before the National Assembly.

(5) For the purposes of subsection (1)—

(a) "owner" includes any person, other than the licensee, who is or would be, but for the provisions of this section, entitled to possession of the land, and any person from time to time deriving title under the original owner; and

(b) it shall be immaterial whether the permission given by the owner is express or implied, oral or in writing.

[PCh339s5]5. Application to occupation under certain options and agreements

(1) Where, in any rent restriction area—

(a) any person has entered into occupation of any premises in pursuance of a licence, being a person to whom an option to purchase those premises or associated premises was granted (whether before or after or at the time of the granting of the licence), and either the licence is revoked or the licence expires on the expiry, or by reference to the expiry, of the option period without any agreement for the purchase, or any purchase of the premises or such associated premises having been concluded or completed between the parties; or

(b) any person—

(i) has entered into occupation of any premises which he has agreed to purchase under an agreement which provides that part of the purchase price shall be paid in advance of the remainder thereof; or

(ii) has entered into occupation of any premises associated with any premises which he has so agreed to purchase; or

(iii) has entered into occupation of any premises in the circumstances to which paragraph (a) of this subsection relates and continue in occupation of those premises or associated premises in connection with any such agreement to which the foregoing provisions of this paragraph relate,

and such agreement is avoided by reason of the failure of the occupier to pay the balance of the purchase price or the refusal or failure of either party to do any act necessary for completion,

the occupier may apply to the tribunal for a declaration that his occupation shall be deemed to have been a tenancy; and on any such application, the tribunal shall, unless the person who granted the option or entered into the agreement to sell, as the case may be (hereinafter in this section referred to as "the grantor"), satisfied the Tribunal that such option or agreement was granted or entered into in good faith and that the transaction was not designed to grant the occupier a temporary period of occupation of the premises, possession thereof, otherwise than subject to the provisions of this Act, make such declaration accordingly:

Provided that in any case to which paragraph (b) refers, where the agreement is avoided within ninety days of the making thereof, the Tribunal shall not make a declaration under this section unless it is satisfied, by or on behalf of the applicant, that such option or agreement was not granted or entered into in good faith and that the transaction was designed to grant the occupier a temporary period of occupation of the premises, and to enable the grantor to recover possession thereof otherwise than subject to the provisions of this Act.

(2) Where the Tribunal makes a declaration under subsection (1)–

(a) the occupier shall be deemed to have been and to be the tenant of the premises, the grantor shall be deemed to have been and to be the landlord of the premises, and the consideration given for the licence and option or the part payment shall be deemed to have been rent for the period up to the revocation or expiry of the option or the avoidance of the agreement as the case may be;

(b) where the sum deemed, in accordance with paragraph (a) of this subsection, to be the rent exceeds the sum of the standard rent for such premises; during the same period, the

excess shall be recoverable from the landlord or his legal personal representative by the tenant, and any such sum may, in addition to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord;

(c) the Tribunal shall, unless it makes an order for the recovery of possession or ejectment against the tenant under section 34, determine the terms and conditions of the tenancy, and in determining such terms and conditions shall give effect, so far as the same are not inconsistent with the tenancy and this Act, to the terms and conditions as in its opinion are just; and the terms and conditions so determined shall, for the purposes of section 34 be deemed to be the terms and conditions of the original contract of tenancy.

(3) The making of any declaration under subsection (1) or the determination of any terms or condition under subsection (2) shall not render the landlord or any person acting on his behalf liable to prosecution for any offence against this Act in respect of any act or omission of such act landlord or any person before the making of such declaration, if such act or omission would not have constituted an offence but for such declaration or determination.

(4) Where any application is made to the Tribunal under subsection (1) of this section, and proceedings are pending for the recovery from the applicant of possession of any premises to which such application relates or for the ejection of the applicant therefrom, the proceedings shall be stayed pending the determination of such application.

(5) In this section "occupier" includes the widow of the occupier and such members of the occupier's family as would, were the occupier a tenant within the definition thereof set out in section 3(1) be included in that definition.

(6) For the purposes of this section "premises" shall be deemed to be associated with other premises if either form part of the other or are contained within the same cartilage as the other.

PART II

HOUSING APPEALS TRIBUNAL AND REGIONAL HOUSING TRIBUNALS (ss 6-15)

[PCh339s6]6.-11. Repealed

[Repealed by Act No. 2 of 2002 Sch.]

[PCh339s12]12. Powers of the Tribunal

(1) The Tribunal shall, in relation to every rent restriction area within its jurisdiction, have power to do all things which it is required or empowered to do by or under the provisions of this Act, and without prejudice to the generality of the foregoing shall have power—

(a) to determine whether or not any premises whatsoever are premises to which this Act applies;

(b) to determine or assess from time to time the standard rent of any premises either on the application of any person interested or of its own motion;

(c) to determine any questions as to any increase or purported increase or decrease of the standard rent of any premises;

(d) to fix date, not being earlier than the construction date, from which a standard rent is to have effect in relation to any premises;

(e) to apportion the rent or standard rent of any premises at any date in relation to which the standard rent of any premises is to be determined or assessed;

(f) to apportion the liability for payment of the rent of premises among tenants sharing the occupation thereof;

(g) where the rent chargeable in respect of any premises includes a payment by way of service charge, to fix the amount of such service charge;

(h) to make orders, upon such terms and conditions as it shall think fit, for the recovery of possession and for the payment of arrears of rent and mesne profits which orders may be applicable to any person, whether or not he is a tenant, being at any material time in occupation of any premises;

(i) to approve lettings, sub-lettings, or assignments of premises and any prospective tenants, subtenants, or assignees;

(j) for the purposes of enabling additional buildings to be erected, to make orders permitting landlords to excise vacant land out of premises of which, but for the provisions of this Act, the landlord could have recovered possession where such a course is in the opinion of the Tribunal desirable in the public interest;

(k) (i) to allocate to any suitable tenant, at such rent as the Tribunal may fix, any house or part thereof which without good cause has been left unoccupied for a period exceeding one month and, if any house is in an unfinished condition to cause such house to be finished in all respect and rendered fit for habitation;

(ii) to recover the cost of finishing any such house as in subparagraph (i) aforesaid and rendering it fit for habitation either from the owner thereof or by directing the tenant to whom the house has been allotted to pay rent thereof to the Tribunal until such cost is satisfied, and the tenant shall be bound to pay such rent accordingly, and the receipt of Tribunal shall be a good discharge for any rent so paid;

(l) where the landlord fails to carry out any repairs for which he is liable—

(i) to have required repairs carried out at the cost of the landlord and, if the landlord fails to pay the cost of such repairs, to recover the cost thereof by requiring the tenant to pay rent to the Tribunal for such period as may be required to defray the cost of such receipts, and so that the receipt of the Tribunal shall be a good discharge for any rent so paid; or

(ii) to authorise the tenant to carry out the required repairs, and to deduct the cost of such repairs from rent payable to the landlord;

(m) to permit the levy of distress for rent;

(n) to allow any increase of the standard rent of any premises which a Tribunal is empowered to allow under the provisions of this Act;

(o) to reduce the standard rent of any premises in any case where under the provisions of this Act a tribunal is empowered to make such reduction and to restore the standard rent of any premises after any reductions so made;

(p) to determine the date of letting of any premises or the date of the completion of the erection or substantial reconstruction of any premises, to determine whether any

reconstruction of any premises is or is not substantial reconstruction of such premises for the purposes of this Act;

- (q) to impose conditions in any order made under the provisions of this section;
- (r) to vary or rescind any order made under the provisions of this section;
- (s) to exercise jurisdiction in all civil matters on questions arising out of this Act.

(2) A Tribunal may appoint and employ officers, valuers, inspectors, clerks and other staff for the better carrying out of the provisions of this Act:

Provided that where a Tribunal has appointed a valuer, inspector, officer or other person to inspect or view any premises, any report made in that behalf shall be communicated to the landlord or tenant or their representatives.

(3) In respect of premises for which the standard rent does not exceed two hundred shillings a month, a Tribunal may delegate all or any of its powers under this Act to a rent officer or any other person authorised by such Tribunal in that behalf. For the purpose of this subsection, a person occupying such premises in consideration of payment of rent shall be deemed to be tenant of the person to whom such rent is paid for the purpose of this Act, notwithstanding that he shares the accommodation in such premises with any other person or persons.

(4) A Tribunal shall not have or exercise any jurisdiction in any criminal matter or entertain any criminal proceedings for any offence whether against this Act or otherwise.

[Repealed by Act No. 2 of 2002 Sch.]

[PCh339s14]14. Proceedings of the Tribunal

(1) The Tribunal or any person authorised by the Tribunal shall have power at all reasonable times to enter and inspect any premises for the purpose of carrying out any of the powers, duties or functions of the Tribunal under the provisions of this Act.

(2) The Tribunal shall have power to order persons to attend and give evidence, to administer oaths and to order the discovery and production of documents in like manner as in proceedings before the High Court.

(3) In its determination of any matter, the Tribunal may take into consideration any evidence which it considers relevant to the subject of the inquiry before it, notwithstanding that such evidence would not be admissible under the law relating to evidence.

(4) The Tribunal shall have power to award the costs of any proceedings before it and to direct that costs shall be taxed upon any prescribed scale or to award a specific sum as costs.

(5) In so far as no or no sufficient provision is made by regulations under section 51, the Tribunal may regulate its own procedure.

(6) All notices or other documents issued under the hand of the Chairman of the Tribunal shall be deemed to be issued by the Tribunal.

(7) The proceedings of the Tribunal shall ordinarily be open to the public, but the Tribunal may in its discretion direct that the public be excluded from any meeting or part thereof.

(8) Record shall be kept for all proceedings of the Tribunal including a summary of any oral evidence given.

(9) Any interested party may be represented before the Tribunal by an advocate, or by any other person whom the Regional Tribunal may in its discretion admit to be heard on his behalf.

(10) The proceedings of the Tribunal shall be deemed to be judicial proceedings.

[PCh339s15]15. Tribunal to keep register

(1) The Tribunal shall prepare and keep up to date a register of orders and decisions of such Tribunal and shall make such register available for inspection and the making of extracts on payment of a prescribed fee in such convenient place as the Tribunal may determine.

(2) Every such register shall contain the following particulars in respect of premises which have formed the subject matter of any order or decisions of the Tribunal—

(a) a description of the said premises;

(b) the names of the landlord and tenant of the said premises, and so far as the same may be necessary or ascertainable, of any premises in which the said premises are comprised or which are comprised in the said premises;

(c) the standard rent of the said premises, and so far as the same may be necessary or ascertainable, of any premises in which the said premises are comprised or which are comprised in the said premises;

(d) any particulars available to the Tribunal of the tenancy of the said premises and so far as the same may be necessary or ascertainable, of any premises in which the said premises are comprised, or which are comprised in the said premises;

(e) any other particulars that may be prescribed.

(3) A copy of an entry in the said register certified by any person duly authorised in that behalf by the Tribunal shall be receivable without further proof as evidence of that entry and the truth of the contents thereof in all courts and in any proceedings.

(4) Any person requiring such a certified copy as aforesaid shall be entitled to obtain it on payment of a prescribed fee.

PART III

RENT AND REGULATION OF TENANCY (ss 16-42)

[PCh339s16]16. Definition of expression "standard rent"

The expression "standard rent" in relation to any premises means a rent determined by the Tribunal to be the rent at which premises may be let.

[PCh339s17]17. Standard rent as from effective date

(1) As from the effective date, the standard rent in respect of any premises shall be an annual rent to be assessed by the Tribunal which shall not exceed the total of an amount equal to fourteen per centum, in the case of residential premises, and eighteen per centum, in the case of commercial premises, of the replacement cost or value of the premises.

(2) For the purposes of calculating rent under this paragraph, it shall be assumed that the landlord will pay—

- (a) the ground rent (if any) or an annual equivalent thereof in the case of freehold land;
- (b) the premium for insuring against fire risk;
- (c) the rates leviable upon the premises under any law for the time being in force;
- (d) any repairs from which he is liable by agreement or custom or under this Act or any other law;
- (e) such other outgoings as the Tribunal may determine.

(3) Notwithstanding anything contained in the foregoing provisions of this section in the case of any premises—

- (a) in regard to which the Tribunal is satisfied that in the special circumstances of the case it would be fair and reasonable to alter whether by way of increase or reduction the amount of the standard rent as ascertained in accordance with subsection (1), the Tribunal may assess the standard rent of such premises at such figure as the Tribunal shall in all the circumstances of the case consider reasonable;
- (b) in existence prior to the commencement of this Act and in regard to which the Tribunal is satisfied that having regard to the age or other circumstances relating to the premises it is reasonable to reduce the amount of the standard rent as ascertained in accordance with

subsection (1), the Tribunal may reduce the standard rent of such premises at such amount as it shall in all the circumstances consider reasonable;

(c) in regard to which the Tribunal is satisfied that it is not reasonably practicable to obtain sufficient evidence to ascertain the rent at which such premises were let at the construction date, or that the rent at the construction date was a nominal, fictitious or collusive rent, the Tribunal shall have power to determine the rent at the construction date as being of such amount as the Tribunal thinks proper having regard to the rents at which premises of a similar character in the neighbourhood were let at the construction date.

(4) For the purposes of paragraph (a), "special circumstances" shall include but shall not be restricted to—

(a) the temporary nature of the construction of the premises concerned or the temporary nature of the lease or licence under which the land on which the premises are situated is held, or the fact that the premises can be expected to be let only during a certain period of the year, as a result of which factors, the standard rent as defined in subsection (1) would yield an uneconomic return to the landlord;

(b) any change in the size or character of the premises, or any expenditure incurred by the landlord on substantial improvements or structural alteration to the premises, other than for ordinary or necessary repairs, or on substantial improvements made to any land on which the premises are erected or to any roadway adjacent to such land other than for necessary maintenance and drainage, or in providing a suitable water supply or sewerage system or the extension of such a water supply sewerage system from which the tenant derives benefit;

(c) any case where the rates payable by the landlord at time are less than the rates which were payable by the landlord at the time when the premises were let to the tenant.

(5) Where the Tribunal assesses a standard rent under this section—

(a) in respect of any premises situated in a building which includes other premises the Tribunal may first determine the market cost of the erection of reconstruction or the whole building and thereafter apportion such cost, in such proportion as may be just and equitable between the several parts, and in making such apportionment the Tribunal shall have regard to the division of such items as relate to or benefit the building as a whole or to more than one part among the several parts to which such items relate or which they benefit and to the appropriation to particular parts of items peculiar to such parts; and

(b) for the avoidance of doubts, it is hereby declared that the decision of the Tribunal as to the market cost of any premises shall be a decision of fact and for the purpose of arriving at such decision the Tribunal may, if it thinks fit, deem the actual cost of such premises to be the market cost thereof.

(6) The Tribunal shall have power on the application of a landlord or a tenant or of its own motion to give further consideration on fresh evidence to the amount of the standard rent of any premises, and to make a further determination or assessment in accordance with subsection (1) or (2).

(7) The Tribunal may fix any date, not being earlier than the construction date, as the date at which a standard rent is to have effect in relation to any premises.

(8) The Tribunal may, on the application of a tenant, reduce the standard rent of the premises if the tenant satisfies the Tribunal that the landlord has failed to carry out such repairs and maintenance to the premises as he is obliged to do either by agreement or custom or under the provisions of this section:

Provided that the landlord may apply to the Tribunal for the full standard rent to be restored as soon as he has carried out the necessary repairs or maintenance.

(9) Where by virtue of any determination, assessment or reduction under subsection (5), (6), (8), the standard rent of any premises has been affected, the new standard rent shall be deemed for the purposes of this Act from any date at which it is affixed to have effect and for so long as it remains in effect, to be the standard rent of such premises.

[PCh339s17A]17A.-18. Repealed

[Repealed by Act No. 13 of 1996 s. 40].

[PCh339s19]19.-22. Repealed

[Repealed by Act No. 2 of 2002 Sch.]

[PCh339s23]23. Penalty for accepting excess rent or advance of rent

Where, after the commencement of this Act, the landlord of any premises, or any agent, clerk or other person employed by him, accepts any rent in respect of such premises which exceeds the standard rent thereof by more than any amount permitted under this Act, or, without the previous consent in writing of the Tribunal accepts an advance of rent exceeding two months' standard rent, then without prejudice to any other remedy under this Act, such landlord, agent,

clerk, or other person shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding six thousand shillings or to imprisonment not exceeding twelve months or to both such fine and imprisonment; and without prejudice to any other method of recovery thereof, the court by which he is convicted may order that the rent or advance so far it exceeds the amount permitted under this Act shall be irrecoverable and that the amount of any such excess shall be repaid to the tenant.

[s. 21]

[PCh339s24]24. Repealed

[Repealed by Act No. 2 of 2002 Sch.]

[s. 22]

[PCh339s25]25. Limitation as to permitted increases in rent

(1) Nothing in this act shall be taken to authorise any increase of rent except in respect of a period during which but for this Act, the landlord would be entitled to obtain possession.

(2) Notwithstanding any agreement to the contrary, where the rent of any premises is increased, no such increase shall be due or recoverable until or in respect of any period unless—

(a) in the case of any increase permitted under paragraph (a) of subsection (1) of section 24, a date one clear week after the service of notice in writing by the landlord upon the tenant of his intention to increase the rent;

(b) in the case of any increase permitted under paragraph (b) of subsection (1) of section 24, a date four clear weeks after the service of a notice in writing by the landlord upon the tenant of his intention to increase the rent.

(3) Where a notice of an increase of rent has been served on any tenant the increase may be continued without service of any fresh notice on any subsequent tenant.

(4) A notice served, before the commencement of this Act of an intention to make any increase of rent which is permissible only under this Act shall not be a valid notice for the purposes of this section.

(5) If any notice served or purporting to be served under the provisions of this section contains any statement or representation which is false or misleading in any material respect, the landlord shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding four hundred shillings, unless he proves that the statement was made innocently and without intent to deceive.

[s. 23]

[PCh339s26]26. Notices under the Act effective as notice to quit

Where application is made to the Tribunal by a landlord under the provisions of this Act for increase or determination or assessment of the standard rent of any premises and a notice to determine the tenancy is necessary in order to make any increase granted by the Tribunal effective, a notice of such application made in the prescribed form and duly served on the tenant, shall have effect and shall be deemed always to have had effect as if it were or had been also a

notice to terminate the existing tenancy on the earliest day, after the service of such application, on which if it had been a notice to terminate the tenancy, it would have been effective for that purpose.

[s. 24]

[PCh339s27]27. Restriction on right of possession Act No. 5 of 1990 Sch

(1) No order of judgment for recovery of possession of any premises to which this Act applies, or for the ejectment of a tenant therefrom shall be made or given unless—

(a) any rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy (whether under the agreement of tenancy or under this Act) so far as the same is consistent with the provisions of this Act has been broken or not performed; or

(b) the tenant or any person residing with him which is a nuisance or annoyance to and joining occupiers, or has been convicted of using premises or allowing the premises to be used for an immoral or illegal purpose, or the condition of the premises has, in the opinion of the Tribunal deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any such person; or

(c) the tenant has given notice to quit, and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps as a result of which he would, in the opinion of the Tribunal, be seriously prejudiced if he could not obtain possession; or

(d) the Tribunal is satisfied that the tenant has sublet the whole or any part of the premises for rent in excess of the rent recoverable under the provisions of this Act; or

(e) (i) in the case of a dwelling house, it is reasonably required as a residence for himself or occupation as a residence for himself or for his wife or children, or for any person bona fide residing, or to reside with him, or for some person in his whole time employment or for the occupation of the person who is entitled to the enjoyment of such dwelling house under a will or settlement and (except as otherwise provided by this section) the Tribunal is satisfied that alternative accommodation, reasonable equivalent, is available or will be available at the time that the order takes effect, or that the tenant has built or owns a dwelling house suitable for his own accommodation which is available to him or would be so available but for his own act in disposing of the same; or

(ii) in the case of commercial premises, they are reasonably required by the landlord and the landlord has given to the tenant a notice to quit of not less than six months or such other period as the Tribunal may consider reasonable in the circumstances:

Provided that if within three months next after the date upon which the landlord obtains under the provisions of this paragraph vacant possession of such dwelling house or commercial premises he does not effectively occupy the same he shall give to the tenant who under the provisions of this paragraph was required to give up possession of such house or premises the first option to lease and take possession of the said house premises. If any landlord fails to give such possession he shall be guilty of an offence and shall be liable on conviction to a

fine of not less than fifty thousand shillings or to a term of imprisonment not exceeding two years or to both such fine and such imprisonment; or

(f) the premises are reasonably required for the purposes of the execution of the statutory duties or powers of a local authority or statutory undertaking, or for any purpose which, in the opinion of the Tribunal, is in the public interest, in which case the Tribunal may include in any ejectment order for such purpose an order requiring any landlord or other person to grant to the tenant a new tenancy of any new, reconstructed or rebuilt premises or part thereof on such terms as may be reasonably equivalent to the old tenancy and fixing a date for the completion of such premises and for their occupation by the tenant and imposing such reasonable conditions as the Tribunal may think necessary:

Provided that the Tribunal shall first be satisfied that the execution of the statutory duties or powers of the local authority or statutory undertaking or the purpose for which the premises are required will permit any order included as aforesaid to be effectively carried out and that public interest will not be adversely affected thereby.

A certified copy of any such last mentioned order shall for the purposes of the Land Registration Act *, where the land concerned is registered land, for the purposes of the Registration of Documents Act * in all other cases, be registrable as a deed or document creating an interest in land and, when registered, shall be binding on subsequent purchasers of the land concerned; or

(g) the tenant has, without the consent of the landlord, or the consent or approval of the Tribunal assigned, sub-let or transferred the possessions of the premises or any part thereof:

Provided that for the purposes of this paragraph if the tenant is a private limited company or partnership the transfer, without the consent of the landlord, of more than fifty per centum of the share capital of the company or the interest of the partners in the partnership shall be deemed to be an assignment of the premises; or

(h) the landlord is the owner of premises which he has previously occupied as a residence for himself and reasonably required such premises for occupation as a residence for himself or for his wife or children; and has complied with the terms relating to the giving of notice contained in any agreement or lease into which he has entered with the tenant in respect of such premises, or in the absence of any such lease, has given the tenant one month's notice to quit:

Provided that if within twelve months after the date upon which the landlord obtains under the provisions of this paragraph vacant possession of such premises, he wishes again to let such premises (whether for a consideration or without consideration) he shall give to the tenant who, under the provisions of this paragraph, was required to give up possession of the premises, the first option to lease and take possession thereof. If any landlord fails to give such option, or to give up possession to the tenant accepting such option, he shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding two thousand shillings or to a term of imprisonment not exceeding six months or to both such fine and imprisonment; or

(i) the landlord requires possession of the premises to enable the reconstruction or rebuilding thereof to be carried but in which case the Tribunal may include in any ejectment order for such purpose an order requiring the landlord to grant to the tenant a new tenancy of the

reconstructed or rebuilt premises or part thereof on such terms as may be reasonably equivalent to the old tenancy, and fixing a date for the completion of the new building and for its occupation by the tenant and imposing such reasonable conditions as the Tribunal may think necessary.

A certified copy of any such order shall, for the purposes of the Land Registration Act *, where the land concerned is registered land, and for the purposes of the Registration of Documents Act * in all other cases, be registrable and when registered, shall be binding on subsequent purchasers of the land concerned; or

(j) (i) the landlord has, with the consent of the Tribunal let the premises for a definite period; or

(ii) the tenancy is for a term certain, and the landlord requires the premises at the expiry of the said tenancy for his own occupation or for the occupation of his wife or children or for some person in his whole time employment; or

(k) the condition or location of the premises or the number of persons accommodated therein is such that in the opinion of the Tribunal the premises are overcrowded or constitute, for any reason, a danger to the said premises or to the neighbours; or

(l) the tenant of a dwelling house uses the premises mainly for business, trade or professional purpose without the consent of the landlord; or

(m) a local authority has approved a scheme of re-development of the site on which the premises stand and such scheme involves demolition of premises and the tenant has both

given such notice to quit as the Tribunal shall consider reasonable and is sufficient to enable the landlord to comply with any demolition order:

Provided that when any tenant has quitted the property under a notice to quit or an order of the Tribunal given or made under the provisions of this paragraph and the landlord occupies or permits any other person to occupy the property prior to its demolition, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty shillings for each day on which the property is so occupied; or

(n) the landlord requires possession of the premises for purposes of re-development otherwise than as a dwelling house and the Minister has certified that such re-development is in the public interest.

(2) In any case arising under subsection (1), no order for the recovery of possession of premises shall be made unless the Tribunal is satisfied by or on behalf of the landlord that having regard to all the circumstances of the case it is reasonable to make such an order and, where the order is sought on any of the grounds specified in paragraphs (c), (e), (h) and (i) of subsection (1), that unless such an order is made great hardship will be caused to the landlord.

(3) The existence of alternative accommodation shall not be a condition of the making of any order on any of the grounds specified in paragraph (e) of subsection (1)–

(a) where the tenant was in the employment of the landlord or a former landlord, and the premises were let to him in consequence of that employment and he has ceased to be in that employment; or

(b) where the landlord gave up the occupation of the premises for the purpose of taking leave outside Tanzania and specifically entered into an agreement with the tenant to lease the premises to him for a fixed period not exceeding one year and the landlord wishes himself to re-occupy the premises immediately upon the termination of the agreement, but save as aforesaid the provisions of the said paragraph (e) shall be applicable.

(4) Nothing in paragraph (e) or paragraph (h) of subsection (1) shall be deemed to permit a landlord to recover possession of a dwelling house if by such recovery he or his wife and minor children would be in occupation of more than one dwelling house at the same time.

(5) At the time of the application for the making of any order for the recovery of possession of any premises or for the ejectment of a tenant therefrom, or in the case of any such order which has been made, whether before or after the passing of this Act, and not executed, at any subsequent time, the Tribunal or the Court making or executing the order, as the case may be, may adjourn the application, or stay or suspend execution on any such order, or postpone the date of possession for such period or periods as it thinks fit, and, if such conditions are complied with, the Tribunal may, if it thinks fit, discharge or rescind any such order.

(6) An order against a tenant for the recovery of possession of any premises or ejectment therefrom under the provisions of this section shall not affect the right of any sub-tenant, to whom the premises or any part thereof have been lawfully sub-let before proceedings for any recovery of possession or ejectment were commenced, to retain possession under the provisions of this section or be in any way operative against any such sub-tenant but such sub-tenant shall,

subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms as he would have held from the tenant if the tenancy had continued.

(7) Where a landlord has obtained an order or permission under this section on the ground that he requires any premises for his own occupation, and it is subsequently made to appear to the Tribunal or to the Court that the order or permission as obtained by misrepresentation or the concealment of material facts, the Tribunal or the Court may order the landlord to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by such tenant as the result of the order or permission. Without prejudice to the foregoing provisions of this subsection, a landlord who has obtained such an order or permission by misrepresentation or concealment of material facts shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(8) Any person who contravenes or fails to comply with any order made under subsection (1) shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(9) Where a landlord has obtained an order or permission under this section on the ground that the premises are required for the purpose of being repaired, improved or rebuilt and has given an undertaking that the tenant will be given an opportunity of renewing his tenancy after completion of the repairs, improvements or alterations, and it is subsequently made to appear to the Court or Tribunal which made the order that the landlord has failed to carry out such

undertaking the Court or the Tribunal may order the landlord to reinstate the tenant or to pay to the tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as the result of the failure on the part of the landlord to carry out such undertaking. A landlord who has obtained such order or permission by misrepresentation or concealment of material facts shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(10) In granting an order or permission under this section on the ground that the landlord requires the premises as a residence for himself or for any member of his family or for some person residing with him or in his employment, the Tribunal or the Court may require the landlord to pay to the tenant such sum as, appears sufficient as compensation for damage or loss sustained by the tenant and such order shall not be given effect to unless such sum is paid.

(11) For the purposes of paragraph (n) of subsection (1), a certificate purporting to be signed by the Minister that the re-development to which the certificate relates is in the public interest shall be admissible in evidence before the Tribunal or the Court without further proof.

[s. 25]

[PCh339s28]28. Restriction on levy of distress for rent

No distress for rent of any premises shall be levied, except with the leave of the Tribunal and the Tribunal shall, with respect to any application for such leave, have the same or similar

powers with respect to adjournment, stay, suspension, postponement or otherwise as are conferred by subsection (5) of section 27, in respect of an application for recovery of possession.

[s. 26]

[PCh339s29]29. Restriction on premiums

(1) No person shall as a condition express or implied of the grant assignment, renewal or continuance of a tenancy, lease, sub-lease, sub-letting or, occupation of any premises, require the payment of or made or give any fine, premium or other like sum, or any pecuniary consideration, in addition to the rent; and where any such payment of consideration so required or taken as aforesaid has been made or given to any person or under any agreement, whether relating to such grant, assignment, renewal or continuance, or to any other matter, made in the case of a dwelling house after the fourteenth day of February, 1962 and in the case of commercial premises, after the thirtieth day of November, 1966, the amount or value thereof shall be recoverable by the person by whom it was made or given.

(2) Where the purchase of any furniture or other articles, or the acquisition of any right or benefit, or the incurring of any right or benefit, or the incurring of any liability, is required in consideration of the grant, assignment, renewal or continuance of a tenancy, lease, sub-lease, sub-letting or occupation of any premises, the requirement made shall, at the request of the person upon whom it is made, be stated in writing and if the price of the pecuniary value which in the opinion of the Tribunal is sought to be attributed to such right, benefit or liability exceeds the reasonable price of the articles or the reasonable pecuniary value of the right or benefit to be acquired or the liability to be incurred the excess shall be treated as if it were a condition of the

grant, assignment, renewal or continuance as aforesaid and the provisions of this section, including the Penal Code * provisions, shall apply accordingly:

Provided that any question arising as to whether such price exceeds the reasonable price or such pecuniary value exceeds the reasonable pecuniary value shall, on the application of tenant, be determined by the Tribunal and no proceedings shall be taken under subsection (3) in respect of any such excess unless such determination has been made.

(3) Any person requiring, taking or giving any payment or consideration in contravention of this section shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding fifteen thousand shillings, or to both such fine and imprisonment, and the court by which he is convicted may order the amount paid or the value of the consideration to be repaid to the person by whom the same was paid or given but such order shall be without prejudice to any other method of recovery prescribed by this Act.

[s. 27]

[PCh339s30]30. Limitation on rent of premises let with services

Where any person lets or has let any premises, furnished or unfurnished, at a rent which includes payment in respect of a service charge, the maximum rent which may be charged shall be the standard rent applicable to the premises, furnished or unfurnished, as the case may be permitted by the Tribunal and any rent or charge levied in excess of such standard rent and permitted charge shall, notwithstanding any agreement to the contrary, be irrecoverable by the person by whom it was paid.

[s. 28]

[PCh339s31]31. A statement to be supplied as to standard rent

(1) A landlord of any premises shall, on being so requested in writing by the Tribunal or the tenant of the premises, supply to the Tribunal and to the tenant a statement in writing as to the amount of the standard rent of the premises and if, without reasonable excuse, he fails within fourteen days to do so, or supplies a statement which is false in any material particular, he shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding two thousand shillings or to imprisonment for two months or to both such fine and imprisonment:

Provided that this subsection shall only apply in case where the standard rent has been determined or assessed under this Act by the Tribunal.

(2) The expression "landlord" in subsection (1) of this section shall include any agent, clerk or other person employed by the landlord and if any such agent, clerk or other person fails to supply the Tribunal or the tenant with a statement in writing as to the amount of the standard rent of the premises in accordance with the provisions of this section, the landlord, shall be answerable for such omission, and the landlord, the agent, clerk and other person shall be jointly and severally liable or to the penalty provided by subsection (1).

[s. 29]

[PCh339s32]32. Recovery of sums made irrecoverable

(1) Where any sum has been paid on account of any rent which is, or any amount which is under the provisions of this Act, irrecoverable by the landlord or other person the sum so paid

shall be recoverable from the landlord or other person, or from his legal personal representative by the tenant or other person by whom it was paid, and the sum which, under the provisions of this Act, is recoverable by a landlord to a tenant, may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(2) If—

(a) any person in any rent book or other document makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum which under the provisions of his Act is irrecoverable; or

(b) where any such entry has been made by or on behalf of any landlord, and the landlord on being requested by or on behalf of the tenant so to do refuses or neglects to cause the entry to be deleted, within seven days,

that person or landlord shall be guilty of an offence and shall, on conviction be liable to a fine not exceeding four hundred shillings unless he proves that at the time of the making of the entry or the neglect or the refusal to cause it to be deleted, the landlord had a bona fide claim that such sum was recoverable.

(3) Any sum paid by a tenant or other person, which under subsection (1) is recoverable by him, shall be recoverable at any time within two years from the date of the payment thereof.

(4) Nothing in this section shall revive any claim which was barred by limitation at the commencement of this Act.

[PCh339s33]33. Failure to supply rent book and penalty for false entry

(1) If a landlord or any person on his behalf fails to supply his tenant with a rent book on demand or fails to enter or to cause to be entered therein the standard rent, or any payment account of rent, or makes therein any false or incorrect entry, the landlord or such person shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding four hundred shillings unless he proves that he acted innocently and without intent to deceive.

(2) The Tribunal in its discretion may order a landlord or any person acting on his behalf to supply the tenant of such landlord with rent book and may order such landlord or person to enter or cause to be entered in such rent book the standard rent of any premises and all payments made on account of rent therefor and to sign such entries.

[s. 31]

[PCh339s34]34. Conditions of statutory tenancy

(1) A tenant who, under provisions of this Act, retains possession of any premises shall so long as he retains possession, observe and be entitled to the benefit of all the terms and conditions entitled, the benefit of all the terms and conditions of the original contract of tenancy, so far as the same are consistent with the provisions of this Act, and shall be entitled to give up possession of the premises only on giving such notice as would have been required under the original contract of tenancy, or; if no notice would have been so required, then, notwithstanding any provision to the contrary in any written law, on giving not less than one month's notice:

Provided that, notwithstanding anything in the contract of recovery, a landlord who obtains an order for the tenancy of possession of any premises or for the ejectment of a tenant retaining possession as aforesaid shall not be required to give any notice to quit to the tenant.

(2) Any tenant retaining possession as aforesaid shall not, as a condition of giving up possession, ask for or receive payment of any sum, or any other consideration from the landlord or any other person; and any tenant who asks or receives any such sum or consideration shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term of two months or to both such fine and imprisonment and the court by which he was convicted may order any such payment or the value of such consideration to be returned to the person by whom the same was given and any such order shall be in lieu of any other method of recovery.

(3) Where the interest of a tenant of any premises is determined, either as the result of an order for possession or ejectment or for any other reason, any sub-tenant to whom the premises or any part thereof have been lawfully sub-let shall, subject to the provisions of this Act be deemed to become the tenant of the landlord on the same terms as he would have held from the tenant if the tenancy had continued.

[s. 32]

[PCh339s35]35. Penalty for depriving tenant of service

(1) No landlord shall deprive or attempt to deprive a tenant of any service without the consent of the Tribunal.

(2) Any landlord who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding four hundred shillings or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

[s. 33]

[PCh339s36]36. Notification of valuation

Where, for the purpose of determining or assessing the standard rent, a valuation of premises has been made by the Tribunal, a landlord or tenant or their representatives shall be entitled to receive written notification from the Tribunal that the details of such valuation are available for their information and that before the standard rent is determined or assessed, they may, if they wish, appear before the Tribunal on a date to be specified in the notification and object to the valuation.

[s. 34]

[PCh339s37]37. Repairs

(1) For the purposes of this Act it shall be deemed to be the obligation of the landlord of any premises to keep and maintain the premises in a state of good structural repair and in a condition suitable from human habitation (which state and condition is in this section referred to as "a proper state of repair") and it shall be deemed to be the obligation of the tenant of any premises to maintain the premises in the same state, fair, wear and tear and damage arising from irresistible force accepted, in which the premises were at the commencement of the tenancy.

(2) Where a local authority is satisfied that any premises are not in a proper state of repair, it shall be the duty of the authority upon payment of a fee of one shilling or other prescribed fee, to issue a certificate to that effect if application for such a certificate is made by the tenant of the premises.

(3) Where, after the issue of any such certificate, the landlord has executed to the satisfaction of a local authority the repairs which required to be executed to put the premises in a proper state of repair, the authority shall, on the application of the landlord and upon payment of a fee of a one shilling or other prescribed fee issue a report to that effect.

(4) An instrument purporting to be certificate of the local authority and to be signed by an officer of the authority shall, without further proof, be taken to be a certificate of the authority unless the contrary is proved.

[s. 35]

[PCh339s38]38. Restriction on right to assign or sub-let premises

Notwithstanding the absence of any covenant against the assigning or sub-letting of any premises, no tenant shall have the right to assign, sub-let or transfer the possession of such premises or any part whereof except with the consent of the landlord, or where such consent shall be unreasonably withheld, with the consent of the Tribunal.

[s. 36]

[PCh339s39]39. Sub-letting by tenant

(1) Notwithstanding anything contained in this Act, the tenant of any premises may—

(a) with the consent in writing of the landlord (which consent shall not be unreasonably withheld) and with the consent of the Tribunal; or

(b) in any case where, in the opinion of the Tribunal the consent of the Tribunal alone, sub-let for a period of not more than six months,

which period may with the consent of the Tribunal be extended for a further period of six months, any premises of which the tenant as in personal occupation; and upon the expiration of the period for which such premises have been sub-let, the tenant shall be entitled to resume personal occupation of the premises.

(2) Any sub-tenant to whom subsection (1) applies who fails, without the consent of the tenant, to give the tenant vacant possession of the premises upon the due date shall be liable to pay to the tenant on demand in writing by the tenant a sum of one hundred shillings in respect of each day on which he continues to occupy the premises adversely to the tenant and any such sum may be recovered by the tenant as a civil debt.

(3) Notwithstanding anything contained in this Act, the landlord of any premises in personal occupation of such premises may, with the consent of the Tribunal let the premises for a period of not more than twelve months and upon the expiration of the period for which such premises have been let, the landlord shall be entitled to resume personal occupation thereof.

(4) Any tenant to whom subsection (3) applies, who fails, unless he is excused by the landlord, to give to the landlord, vacant possession of the premises upon the due date, shall be

liable to pay to the landlord on demand in writing a sum of one hundred shillings in respect of each day on which he continues to occupy the premises adversely to the landlord, and any such sum may be recovered by the landlord as a civil debt.

(5) If, at the date of expiry of the period specified in subsection (1) the tenant has not re-entered into personal occupation of the premises, the person in occupation thereof shall be deemed to be the tenant of the landlord from the date of expiry of the specified period and, from such date, the landlord shall have against such occupant all the rights and remedies which he would have against his own tenant, and, in addition, the rights and remedies which the tenant would have against his own tenant under subsection, (1) and (2).

[s. 37]

[PCh339s40]40. Penalty for subjecting tenant to annoyance

A landlord or his agent or servant who wilfully subjects a tenant to annoyance with the intention of compelling the tenant to vacate the premises, or to pay, directly or indirectly, a higher rent for the premises shall be liable on conviction by the court to a fine not exceeding two thousand shillings or to a term of imprisonment not exceeding six months, or to both such fine and imprisonment.

[s. 38]

[PCh339s41]41.-42 Repealed

[Repealed by Act No. 2 of 2002 Sch.]

[ss. 39 and 40]

PART IV

APPEALS AND MISCELLANEOUS PROVISIONS (ss 43-53)

[PCh339s43]43. Repealed

[Repealed by Act No. 2 of 2002 Sch.]

[s. 41]

[PCh339s44]44. Power of the Housing Appeals Tribunal

In the exercise of its appellate jurisdiction under this Act, the Housing Appeals Tribunal shall have the power to—

(a) give directions as to time within which any further step in the proceedings shall be taken by the appellant or any other party, and may extend any such period;

(b) order fresh evidence to be recorded before the Regional Housing Tribunal and to be certified to the Housing Appeals Tribunal;

(c) confirm or reverse, amend or vary in any manner the decision or order appealed against.

[s. 42]

[PCh339s45]45. Appeals to the High Court

(1) Except as hereinafter provided, where any appeal or question is, under the provisions of this Act, to be decided or determined by the Housing Appeals Tribunal the decision or determination by such Tribunal shall be final and conclusive:

Provided that an appeal from any other decision or determination of the Housing Appeals Tribunal shall lie to the High Court upon any point of law or mixed facts and law.

(2) On such appeals as in subsection (1) aforesaid, the High Court may make such order as it thinks proper including any directions as to costs of proceeding before the Housing Appeals Tribunal.

(3) The Chairman of the Housing Appeals Tribunal or any member appointed in that behalf shall be entitled to be heard on any such appeal but no order to costs shall be made against him personally.

(4) The Chief Justice may make rules governing any such appeals to the High Court and providing for the taking of further evidence, the fees to be paid, the scale of costs of any such appeal, the procedure to be followed and the manner of notifying the Tribunal or the parties of an appeal, and until any such rules are made and subject to such rules when made, the provisions of the Civil Procedure Code * shall apply as if the order, decision or determination of the Tribunal was a decree of a court exercising original jurisdiction.

[s. 43]

[PCh339s46]46. Failure to comply with or observe order or decision of Tribunal

Any person who fails to comply with or observe—

(a) any order or decision made or given by the court or the Tribunal in the exercise of the powers vested upon it by this Act; or

(b) where an appeal has been preferred against any such order or decision, any order or decision substituted therefor,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding six months or to both such fine and imprisonment:

Provided that no person shall be liable to be prosecuted an offence under this section in respect of any act done or omission by him prior to the expiration of the time allowed for an appeal from the order or decision concerned.

[s. 44]

[PCh339s47]47. Protection of members of the Tribunal

No matter or thing done by any chairman, member, officer, servant or agent of the Tribunal shall, if done bona fide in the execution or purported execution of the provisions of this Act, subject to any such person as aforesaid to any action, liability, claim or demand whatsoever.

[s. 45]

[PCh339s48]48. No agreement to be made at variance with Act

(1) No effect shall be given by any court or the Tribunal to any agreement or contract or any term or condition thereof which is at variance with the provisions of this Act.

(2) Notwithstanding the provisions of subsection (1) or of any other written law, an agreement or contract entered into prior to the commencement of this Act, shall not, by reason only that its terms and conditions or any of them are at variance with any provision of this Act become void, but such contract or agreement shall be deemed to have been amended so as to conform with the provisions of this Act and may as so amended be enforced by the parties thereto.

[s. 46]

[PCh339s49]49. Chairman may be empowered to exercise powers of the Tribunal

Notwithstanding the provisions of section 10, the Minister may by order empower the Chairman of the Tribunal or rent officer of that region to exercise alone any of the powers or functions of the Tribunal which may be specified in such order.

[s. 47]

[PCh339s50]50. Determinations, orders, etc., of the Tribunal to be enforced as court decree

(1) A duly authenticated copy of any determination or order of the tribunal may be filed in the court by any party to the proceeding, and on such order being filed and notice of such filing being served on the tribunal by any party filing the same, such determination or order may be enforced as a decree of the court.

(2) In any case in which such determination or order has been filed by a party, the tribunal shall, on being served with notice of the filing of such determination or order, transmit to the court its record of the proceedings before it and the same shall be filed by the court along with the certified copy of the determination or order.

[s. 48]

[PCh339s51]51. Regulations

(1) The Minister may make such regulations and give such directions as may be necessary for the purposes of better giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, regulations made under subsection (1) may prescribe—

- (a) the manner in which the Tribunal shall conduct its business;
- (b) the procedure in connection with any application to or the determination of any matter by the Tribunal;
- (c) the matters which shall be taken into account by the Tribunal in exercising its powers under this Act;
- (d) the circumstances or cases in which the Tribunal may grant or withhold consent under the provisions of this Act;
- (e) the fees which shall be payable in respect of any matter or thing to be done under this Act;

(f) the scale and taxation of costs and expenses of witnesses in proceedings before the Tribunal; and

(g) any other matter or thing which is to be or may be prescribed under this Act.

(3) The Chief Justice may, in addition to the powers conferred upon him by section 45(4) and subject to the provisions of that section, make rules prescribing any procedures, fees and costs in any proceedings under this Act before the High Court.

(4) In so far as no or no sufficient provision is made by rules made under subsection (3) the fees and costs in any proceedings under this Act before the High Court shall be regulated by rules for the time being in force regulating such fees and costs in proceedings of a civil nature before the High Court.

[s. 49]

[PCh339s52]52. Repeal of R.L. Cap. 479 and saving of subsidiary legislation

(1) [Repeals the Rent Restriction Act with savings.]

(2) Nothing in this Act shall be construed to revive any of the laws repealed by the Rent Restriction Act * or in any way alter amendments consequent to the enactment of that Act.

(3) Except for the exemption and application orders made by the Minister under subsection (2) of section 1 of the Rent Restriction Act *, any applicable regulation made under that Act comes into operation shall remain in force as if they have been made under this Act until such time as they are revoked by the rules made under this Act.

[PCh339s53]53. Saving of pending proceedings and orders

(1) Notwithstanding the repeal of the Rent Restriction Act *, any matter arising out of the provisions of that Act and pending before the court or Tribunal may be continued and decision or order made therein sealed with the seal of such Court or Tribunal as the case may be.

(2) Where any matter has been pending before the Court or Tribunal established under that Act and whose presiding magistrate or chairman is unable to continue to handle such matter, a Tribunal established under this Act and which has jurisdiction in that particular rent restriction area shall continue with such proceedings from the point which had been reached, and shall continue and conclude the same accordingly.

(3) Every decision or order of the Court or Rent Tribunal which shall not have been fully executed or enforced before the effective date may be enforced and executed on and after that day as if it were, in the case of magistrate's or Chairman's decision or order, the Tribunal and in the case of High Court, the decision or order of the Housing Appeals Tribunal.

(4) Where the Court, Tribunal or High Court has before the effective date commenced any proceedings or appeals arising out of the Rent Restriction Act *, the Court, Tribunal or High Court, as the case may be, may, notwithstanding the provisions of this Act, continue and conclude such matter and make perfect order and decision therein as if such order or decision were made under the provisions of this Act.