

TANGANYIKA



No. 63 OF 1963

I ASSENT,

Julius K. Nyerere
President

24TH DECEMBER, 1963

An Act to amend the Rent Restriction Act, 1962

[.....]

ENACTED by the Parliament of Tanganyika.

1. This Act may be cited as the Rent Restriction (Amendment) Act, 1963, shall be read as one with the Rent Restriction Act, 1962 (hereinafter called the principal Act), and shall come into operation on such date as the Minister shall, by notice in the *Gazette*, appoint.

Short title, construction and commencement Act 1962 No. 42

2. Subsection (1) of section 2 of the principal Act is hereby amended as follows:—

Section 2 of principal Act amended

- (a) by inserting, immediately after the figure "3", in the last line of the definition "landlord", in the last line of the definition "let", in the last line of the definition "rent", and in the first line of the definition "tenant", the words, figure and letter "or section 3A"; and
- (b) by inserting, immediately after the word and comma "conservancy,", in the second line of the definition "service", the words and comma "sewerage facilities,".

3. The principal Act is hereby amended by adding, immediately below section 3, the following new section:—

New section 3A added to principal Act

"Application to occupation under certain options and agreements

3A.—(1) Where, in any area in which a Board has been established—

- (a) any person has entered into occupation of any dwelling in pursuance of a licence, being a person to whom an option to purchase that dwelling or an associated dwelling 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 dwelling or such associated dwelling having been concluded or completed between the parties; or

- (b) any person—
- (i) has entered into occupation of any dwelling 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 dwelling associated with any dwelling which he has so agreed to purchase; or
 - (iii) has entered into occupation of a dwelling in the circumstances to which paragraph (a) of this subsection relates and continued in occupation of that dwelling or an associated dwelling 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 a Board for a declaration that his occupation shall be deemed to have been a tenancy; and on any such application, the Board 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'), satisfies the Board 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 dwelling, and to enable the grantor to recover 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 Board 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 dwelling, and to enable the grantor to recover possession thereof otherwise than subject to the provisions of this Act.

- (2) Where a Board makes a declaration under subsection (1)—
- (a) the occupier shall be deemed to have been and to be the tenant of the dwelling, the grantor shall be deemed to have been and to be the landlord of the dwelling, 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) the Board shall determine the standard rent of the premises, and if the sum deemed, in accordance with paragraph (a) of this subsection, to be the rent exceeds the sum of the standard rent 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 Board shall, unless it makes an order for the recovery of possession or ejection against the tenant under section 19, 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, if any, relating to the tenant's occupancy which were contained in the licence or option or in the agreement to purchase, and shall include such other terms and conditions as in its opinion are just; and the terms and conditions so determined shall, for the purposes of section 26, 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 a standard rent or any terms or conditions under subsection (2) shall not render the landlord or any person acting on his behalf liable to prosecution for an offence against this Act in respect of any act or omission of such landlord or 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) Notwithstanding any other provision of this Act, any person aggrieved by the making or the refusal of a Board to make a declaration under subsection (1) may appeal to the High Court, and the provisions of subsections (2), (3) and (4) of section 11, and any rules made thereunder, shall apply to any such appeal.
- (5) Where any application is made to a Board under subsection (1) of this section, any proceeding pending for the recovery from the applicant of possession of any dwelling to which such application relates or for the ejection of the applicant therefrom, shall be stayed pending the determination of such application.
- (6) In this section—
'dwelling' means any house or part or room of a house occupied as a separate dwelling, and a dwelling shall be deemed to be associated with another if either forms part of the other or is contained within the same curtilage as the other;
'occupier' includes the widow of an occupier and such member of the occupier's family as would, were the occupier a tenant within the definition thereof set out in section 2, be included in that definition."

Section 4
of principal
Act amended

4. Section 4 of the principal Act is hereby amended—

(a) in subsection (1) thereof—

(i) by deleting the word “or” at the end of the second proviso to paragraph (a) and adding a third proviso as follows:—

“(iii) in the case of any premises which were let at the prescribed date but which were exempted from the provisions of the Rent Restriction Ordinance by virtue of the provisions of sub-paragraph (a) or sub-paragraph (b) of paragraph 3 of the Rent Restriction (Exemption) Order, 1958, a rent determined by a Board to be the maximum rent at which such premises could have been let at the prescribed date had they not been exempted as aforesaid or the standard rent determined in accordance with the foregoing provisions of this paragraph, whichever shall be the lesser, shall be the standard rent; or”;

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(ii) by inserting immediately after the word “premises” in the penultimate line of paragraph (b), the brackets and words “(being premises to which the provisions of the Rent Restriction Ordinance applied)”;

(iii) by deleting from the second line of paragraph (c) the words “a rent” and substituting therefor the words “an annual rent”;

(iv) by inserting immediately after the word “sum” in the third line of paragraph (d), the words “per annum”; and

(v) by deleting the comma and words “, and a sum” in the sixth line of paragraph (d) and substituting therefor the bracket, comma and words “), and a sum per annum”; and

(b) by inserting, immediately after subsection (2) thereof, the following new subsection:—

“(2A) Where a Board assesses a standard rent under paragraph (c) of subsection (1)—

(a) in respect of any premises situated in a building which includes other premises, or part of which is used for purposes other than a dwelling house, the Board may first determine the market cost of the erection or reconstruction of 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 Board 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 Board as to the market cost of erection or reconstruction in any case under the said paragraph (c) shall be a decision of fact and for the purpose of arriving at such decision the Board may, if it thinks fit, deem the actual cost of such erection or reconstruction to be the market cost thereof.”.

5. Section 6 of the principal Act is hereby repealed and replaced by the following new section: —

“Constitution of the Board

6.—(1) A Board shall consist of—

- (a) a chairman who shall (unless the Minister otherwise directs) be a resident magistrate stationed in any part of the area for which the Board is established; and
- (b) such other members as the Minister may from time to time appoint.

(2) All matters considered by a Board shall, in the event of a difference of opinion, be decided by the votes of a majority of the chairman and members present at any meeting and, in the event of an equality of votes, the chairman of the meeting shall have a casting vote in addition to his deliberative vote.

(3) Three members (one of whom shall be the chairman) shall constitute a quorum at any meeting of a Board:

Provided that where at any meeting the chairman is present but the number of other members present is insufficient to constitute a quorum, the chairman shall have and may exercise all the powers and functions conferred by this Act upon a Board and no act or proceedings of the chairman shall, in such circumstances, be invalid by reason only of the absence of a quorum.”

6. Section 16 of the principal Act is hereby amended by inserting, immediately after the word “rates” where it occurs in the fourth and eighth lines of subsection (1) and in the proviso to subsection (2), the words “or taxes”.

Passed in the National Assembly on the fourth day of December, 1963.


Clerk of the National Assembly