

RENTAL HOUSING AMENDMENT ACT - HOW WILL THIS IMPACT YOUR LEASE AGREEMENTS?

Introduction

The Rental Housing Amendment Act (hereafter “the Act”), Act 35 of 2014, has been assented to parliament and signed by the President. The date when the Act will come into operation is yet to be announced. In the meantime, it is important that members of the public and practitioners take note of the amendments. This article will focus on giving a brief overview of the most important amendments:

1. Written lease agreements

All lease agreements will be required to be in writing.

Template agreements will be made available in all 11 languages. Copies of these agreements are not yet available, but once available we will provide our input. This is a welcome amendment but template agreements are in our opinion not the preferred choice. We always propose that tenants and landlords seek the assistance of an attorney to draft an agreement for them to suit their specific needs.

2. Criminal liability

The landlord will be guilty of an offence if certain provisions of the Act are not complied with. Examples being the requirement of a written lease agreements and the investment of the deposit amounts. If found guilty, he or she can face imprisonment or a fine.

3. Payments made to the landlord

The tenant can now request receipts from the landlord for all payments made to the landlord. This will minimize the disputes between the landlord and tenant with regards to payments made and received.

4. Maintenance of the premises

The term “maintenance” has been added and defined as follows: “*includes such repairs and upkeep as may be required to ensure that a dwelling is in a habitable condition, and ‘maintain’ has a corresponding meaning*”. The word is defined broadly and provides a benchmark for the condition of the premises. The landlord has an obligation to maintain the premises in line with aforementioned benchmark.

5. **Deposits**

The payment and receipt of deposits have also been regulated. A tenant can be required to pay a deposit. The landlord has to place the deposit in an interest bearing account. The tenant can require written proof of the interest that has accrued on the deposit. Upon expiration of the lease, the deposit and interest need to be paid back to the tenant within 7 days.

6. **Rental Tribunal**

Every province will now have a tribunal. Before the amendment, it was up to each province to decide whether to establish such a tribunal or not. The tribunal assists landlords and tenants to ensure that the rights of both are equally protected.

Conclusion

Although a few practical uncertainties are still to be ironed out, the rental industry is in much need of being regulated in more detail and the amendments are a breath of fresh air. The requirement that every lease agreement needs to be in writing is most welcome. We urge landlords and tenants to seek the assistance of an attorney and not to make use of the template agreements. We at SchoemanLaw are experts in the drafting of lease agreements. We can assist you, whether you are the landlord or a tenant, to ensure that the lease agreement meets the new requirements of the amendment Act as well as other pieces of legislation that may impact your particular lease.