

# Debate plan for rental housing law

## Enforcement of rulings change

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THE KwaZulu-Natal legislature held a public hearing last week into the Rental Housing Bill. The Bill will lead to the second generation Rental Housing legislation and is therefore, the first set of amendments. The Bill addresses certain implementation problems, especially enforcement of its rulings, that are deemed to be magistrate's court judgment.

Since the promulgation of the Rental Housing Act, 1999 (Act No. 50 of 1999), on 1 August 2000, Rental Housing Tribunals (RHT) have encountered serious difficulties in giving effect to its rulings.

The amendment also clarifies the jurisdiction of RHTs regarding eviction orders. The argument was why the RHTs should not be given the powers to grant eviction orders. Other aspects in the Bill include lease costs, attachment orders, spoliation and interdicts.

The definition of an 'unfair practice' would be wider so that not only what is listed or stipulated in the regulations would constitute an 'unfair practice', but also any act or omission by a landlord or tenant in contravention of the Rental Housing Act.

The interaction between the public and the elected can provide a dynamic environment to have in puts into legislation on an informed, grassroots basis.

The robust discussions and criticisms went beyond the Bill and the chairperson committed himself to hold a public discussion on matters affecting the rights and obligations of tenants and landlords. There were grievances relating to the RHT and it would appear that a public "hearing" would be an appropriate means to receive the concerns from persons / parties who appeared before the Tribunal.

The only recourse an aggrieved party has is to approach the high court to have the procedure of the Tribunal's hearing reviewed. Once a ruling is given, the parties to a dispute have the benefit of a magistrate's court judgment.

Section 17 of the Rental Housing Act 50 of 1999 reads: "Without the prejudice to the constitutional right of any person to gain access to a court of law, the proceedings of a Tribunal may be brought under review before the High Court within its area of jurisdiction". The review procedure therefore does not allow for the merits of the ruling to be challenged.

The argument is that since a ruling is deemed to be a magistrate's court judgment, it follows that the Tribunal's ruling should also be "appealable". It is also incumbent on members to invest considerable time in arriving at a decision because the average tenant or landlord / landlady cannot afford the legal costs of taking a ruling of the Tribunal to the high court.

This was the argument of an extremely upset party put to the members of parliament last week. Perhaps a "standardised" set of regulations as envisaged in the Bill will provide clear guidelines to the public and members of the Tribunal regarding procedures, conduct and other related matters.

Bodies such as the Rental Housing Tribunals are formed to assist the public to resolve disputes and not to further burden people.

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