

Scope of RHA jurisdiction

Legal structure governing relationships under rental agreement

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WHAT is the Rental Housing Act (RHA) about?

- It is a law passed by Parliament for landlords and tenants of residential dwellings.
- It is the law of general application¹
- It was first published in December 15, 1999 and became law on August 01, 2000 as the Rental Housing Act, No 50 of 1999.
- The RHA was amended for the first time and the amended Act came into force on May 13, 2008²
- The RHA informs both landlord and tenant about their rights, duties and responsibilities when they enter into a lease agreement (verbal or written).
- It tells both landlords and tenants how to behave and conduct themselves, what they must do, what

they cannot do and what would happen if they “violate” each others rights or fail to carry out their duties.

- The common law rights and duties continue to exist but the RHA changed some aspects of it.
- The RHA protects both tenants and landlords from exploiting each other and against other forms of “unfair practice”.
- “Unfair practice” is a very important concept that allows parties to lodge a complaint with the provincial Rental Housing Tribunal (RHT).
- The RHT is an independent body that is required by the RHA to resolve disputes between landlords and tenants of residential dwellings.
- No Minister or any government official including the Head of the department of Housing can interfere with the functions and duties of the RHT.

Does the RHA apply to Business / Commercial Property?

No.

Does the RHA apply to Residential Dwelling?

It applies to all residential dwellings – dwellings used for rental housing purposes.

What does the RHA say about a dwelling?

A dwelling includes any house, hostel room, hut, shack, flat, apartment, room, outbuilding, garage or similar structure a landlord leases to a tenant to live in.

A storeroom, outbuilding, garage or demarcated parking space can form part of the leased dwelling if this was agreed between the landlord and tenant³.

Can a Municipality or Provincial or National Government be considered a Landlord?

Yes! Owners of private dwelling, municipalities, provincial and national governments – any person or entity (e.g. Close Corporation, Company) who leases a dwelling to a tenant is a landlord. This includes departments or components within the government acting on its behalf such as the department of housing or public works.

What happens when a Tenant or a Landlord breaks the Law in terms of

the RHA or their relationship breaks down?

They can contact the Rental Housing Tribunal for advice; file a complaint so that any dispute or conflict regarding an unfair practice or matters affecting the relationship between parties in respect of their lease contract can be resolved.

In Summary: the Rental Housing Act (RHA) is the law that deals with landlord-tenant matters in respect of residential dwellings.

The Rental Housing Tribunal (RHT) is the body that has the power to resolve complaints and to instruct and guide parties to do what is required of them under the RHA.

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Endnotes

[1] s36. Limitations (Bill of Rights in the Constitution of the Republic of South Africa, Act 108 of 1996):

- (1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including:
 - (a) the nature of the right;
 - (b) the importance of the purpose of the limitation;
 - (c) the nature and extent of the limitation;
 - (d) the relation between the limitation and its purpose; and
 - (e) less restrictive means to achieve the purpose.

- (2) Except as provided for in subsection

- (1) or any other provision of this Constitution, no law shall limit any right entrenched in the Bill of Rights.

[2] Rental Housing Amendment Act, 2007

[3] Definitions, chapter 1 of the RHA