

COMMENTS ON THE LANDLORD AND TENANT BILL, 2021

No.	Paragraph	Proposed amendment/ input	Justification/comments
5(a)	Powers of a Tribunal	<ul style="list-style-type: none"> ▪ The Bill provides that the Tribunals established under the law shall have the power to determine, assess or vary rents payable ▪ The Section (5(a) should be deleted or amended to reflect that these variations shall not be arbitrary and shall follow a consultative process 	This could be perceived as an attempt by the State to control rent prices. The section violates the freedom of contract which requires that parties to a contract should determine the terms and conditions that should govern their relationship, without government's interference.
18	Permitted increase of rent	<ul style="list-style-type: none"> ▪ Prohibits landlords from increasing rent without a notice period of ninety days ▪ This should be revised to accommodate the different types of leases that may exist 	Increase in rent should be based on the type of tenancy between the landlord and the tenant. An arbitrary determination of a minimum 90 day period may not be reasonable in all circumstances.
25(1) a	Termination of tenancy without reference to Tribunal	<ul style="list-style-type: none"> ▪ This section provides that one of the grounds upon which the landlord is entitled to terminate a tenancy without reference to the Tribunal is where the landlord has given prior notice of not less than 24 months for business premises and 12 months for residential premises ▪ This should be amended to 12 months and 6 months respectively 	The current notice period required of landlords is unreasonably long and should also be based on the type of tenancy agreement.
25(1) 2	Filing of notice	<ul style="list-style-type: none"> ▪ Requires all notices served by the landlord to be filed with the Tribunal ▪ Delete the clause 	The requirement is unreasonable. It should suffice to require the landlord to keep a record of any notices filed, in case the notice is contested in future.
30(1) (C)	Additional grounds for	<ul style="list-style-type: none"> ▪ This section currently lists the anticipated grounds for termination of a tenancy, 	The list of grounds provided is currently not exhaustive.

and (d)	termination notice	<p>read together with section 25.</p> <ul style="list-style-type: none"> An additional section should be added after (g), to the effect that any other substantial breach of obligations by the tenant is ground for termination. 	This addition will cover any other unanticipated substantial breaches by the tenant
30(1) (C)	Illegal acts and illegal trade	<ul style="list-style-type: none"> One of the grounds provided for termination of a tenancy is where the tenant or a person permitted by the tenant commits illegal acts or carries on an illegal trade. We propose an amendment to this section, stating that the notice period in this instance shall be thirty days 	The nature of the illegalities or illegal trade by the tenant may expose the landlord and the property to various risks. The law should therefore be flexible in allowing for prompt vacation of the property in such instances.
32 (2)	Consent for subletting of rented premises	<ul style="list-style-type: none"> Provides that a landlord shall not 'unreasonably' withhold consent to subletting of rented properties <p>This sub-section should be deleted.</p>	<p>The determination of what would amount to a 'reasonable refusal' would be subject to debate and possible litigation.</p> <p>A landlord should be at liberty to determine whether or not the tenant can sublet the property. This should be stated in the agreement between the landlord and the tenant and does not require government's direction.</p>
Schedule	Terms and Conditions to be implied in tenancies	<ul style="list-style-type: none"> Section 5 of the Schedule to the Bill provides that all repairs to roofs, main walls, drains, main electric wiring and structures shall be the responsibility of the lessor. A proviso should be added to this clause, exempting instances where it can be demonstrated that the destruction to the property has directly been caused by acts/omissions of the lessee 	The current drafting of the Bill implies that any destruction to the listed items would occur naturally. It does not take into consideration that various acts or omissions by the lessee or tenants may cause such damage. In this instance, it would be unreasonable to place such obligation to the lessor.