

VOLUME IX

CHAPTER 43:09 - RENT CONTROL: SUBSIDIARY LEGISLATION INDEX TO SUBSIDIARY LEGISLATION

Rent Control (Application) Order
Rent Control Regulations

RENT CONTROL REGULATIONS

(under section 12)

(10th March, 1978)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Secretary of Tribunal
3. Appointments to Tribunal and its postal address to be published in *Gazette*
4. Applications for assessment and reassessment of controlled rent
5. Procedure of Tribunal
6. Register and certificates of controlled rent
7. Effect of Tribunal's decisions and of decisions on appeal
8. Tribunal may assess controlled rent on sliding scale
9. Costs
10. Receipt for payment of controlled rent
11. Fees

Schedule - Fees

S.I. 23, 1978.

1. Citation

These Regulations may be cited as the Rent Control Regulations.

2. Secretary of Tribunal

There shall be a Secretary of the Tribunal (hereinafter referred to as "the Secretary") who shall be appointed by the Minister from among members of the public service.

3. Appointments to Tribunal and its postal address to be published in *Gazette*

The Secretary shall, by notice published in the *Gazette*, notify-

- (a) the appointment of every person to be the Chairman or otherwise a member or Secretary of the Tribunal and the termination of every such appointment; and
- (b) the postal address of the Tribunal.

4. Applications for assessment and reassessment of controlled rent

Every application to the Tribunal under section 5 of the Act for the ascertainment and certification of the controlled rent of premises or under section 9 of the Act for the reassessment of the controlled rent shall-

- (a) be in such form as the Minister may require for the particular purpose;
- (b) be addressed to the Secretary and delivered by hand to his office or sent by post to the postal address of the Tribunal; and
- (c) be accompanied by the appropriate fee set out in the Schedule.

5. Procedure of Tribunal

(1) On receipt of an application under section 5 or 9 of the Act, the Secretary shall in writing forthwith inform the other party to the application that it has been made.

(2) Where the application is made by the tenant under section 5(2) of the Act, the Secretary shall require the landlord to provide him in writing, within such reasonable period of time as the Secretary shall specify, with all such information in the landlord's possession or that he may reasonably be expected to obtain as the Tribunal is required to have in order to assess the controlled rent in accordance with the Schedule to the Act.

(3) Before the commencement of the Tribunal's investigation of the application, the Secretary shall place before the Tribunal any information provided by the landlord in compliance with a requirement made under subregulation (2) and any other material information in the Secretary's possession.

(4) Any information placed before the Tribunal under subregulation (3) shall be fully disclosed to both parties to the application and may be admitted or challenged by either of them at the investigation of the application.

(5) Any person who fails, without reasonable excuse, to comply with a requirement made under subregulation (2) shall be guilty of an offence and liable to a fine not exceeding P50; and in any prosecution for such a failure the court shall presume the absence of a reasonable excuse on the part of the person charged unless the contrary is proved.

(6) Except as otherwise provided, the Tribunal shall regulate its own procedure.

6. Register and certificates of controlled rent

(1) Where the Tribunal has ascertained or reassessed the controlled rent of premises in accordance with the Act, the Secretary shall, at the expiry of 14 days immediately after the announcement by the Tribunal of the controlled rent, if no appeal is instituted in accordance with section 7(2) of the Act, or, if an appeal is so instituted, as soon as the judge pronounces a decision whereby the controlled rent is affirmed or varied, record the controlled rent in a register which he shall keep for that purpose (hereinafter referred to as "the register") and issue a certificate to the landlord and an identical certificate to the tenant, in such form as the Minister may require, attesting the controlled rent and retain one copy thereof (hereinafter referred to as "the copy certificate").

(2) Where the controlled rent of premises is increased by virtue of its reassessment in accordance with the Act, any person who, by words, writing or conduct, knowingly and fraudulently represents a certificate issued under subregulation (1) attesting the controlled rent of those premises immediately prior to the reassessment as attesting the controlled rent of those premises after the reassessment shall be guilty of an offence and liable to a fine not exceeding P200 or to imprisonment for a term not exceeding six months, or to both.

(3) The Secretary shall keep in safe custody every copy certificate retained by him under subregulation (1):

Provided that where the certificates of which the copy certificate is a copy are replaced by new certificates in consequence of the reassessment of the controlled rent, the Secretary may destroy the copy certificate at the expiry of two years immediately after the date on which the new certificates were issued.

(4) In proceedings for any purpose before any court, the court shall presume that the rent specified in a document purporting to be a copy of an extract from the register, and purporting to be certified by the Secretary as a true copy, or in a document purporting to be a certificate issued under subregulation (1) as the controlled rent of the premises specified in the document is the controlled rent of those premises, unless the contrary is proved.

(5) On application to the Secretary and on payment of the appropriate fee set out in the Schedule, the register and any copy certificate kept in safe custody by the Secretary may be examined by any person during the usual office hours.

(6) Where the Secretary is satisfied that a certificate issued under subregulation (1) has been lost, destroyed or defaced, he may, on payment of the appropriate fee set out in the Schedule, issue a duplicate thereof.

7. Effect of Tribunal's decisions and of decisions on appeal

(1) Notwithstanding the right of appeal from decisions of the Tribunal, the controlled rent of premises, as ascertained or reassessed by the Tribunal in accordance with the Act, shall be immediately payable from and including the date of the Tribunal's announcement of the controlled rent.

(2) Without prejudice to subregulation (1), where the controlled rent of premises is increased by a judge on appeal, the increased rent shall be payable from and including the date of the judge's pronouncement of his decision or from such later date as the judge may specify.

(3) Notwithstanding subregulation (1), where the controlled rent of premises is decreased by a judge on appeal, the decreased rent shall be deemed to have been payable from and including the date of the Tribunal's announcement of the controlled rent, in consequence of the Tribunal's decision in respect of which the appeal was instituted, in place of that rent as ascertained or reassessed by the Tribunal.

(4) Where the matter of determining the controlled rent of premises is referred by a judge on appeal to the Tribunal to make a fresh investigation, the controlled rent as already ascertained or reassessed by the Tribunal (hereinafter referred to as "the former controlled rent") shall continue to be payable until the Tribunal's further announcement of the controlled rent (hereinafter referred to as "the new controlled rent"), in which case the new controlled rent shall be payable from and including the date of its announcement in accordance with subregulation (1):

Provided that-

- (i) where the new controlled rent is lower than the former controlled rent, the new controlled rent shall be deemed to have been payable from and including the date of the Tribunal's announcement of the former controlled rent, in place of that rent; and
- (ii) where the new controlled rent is decreased by a judge on appeal and the resulting controlled rent is lower than the former controlled rent, the resulting controlled rent shall be deemed to have been payable from and including the date of the Tribunal's announcement of the former controlled rent, in place of that rent or of the rent deemed to have been payable under paragraph (i).

8. Tribunal may assess controlled rent on sliding scale

Where it is a term of a tenancy that rent shall or may be paid on a sliding scale, the Tribunal may assess a different controlled rent for each period of the tenancy in respect of which the rent would or might otherwise have been varied in accordance with the scale.

9. Costs

In respect of the investigation and determination by the Tribunal of an application under the Act or of any proceedings preliminary or incidental thereto, no costs shall be allowed on either side.

10. Receipt for payment of controlled rent

(1) When and as often as a tenant makes a payment of controlled rent to a landlord or his agent, the landlord or agent, as the case may be, shall forthwith issue a written receipt to the tenant specifying the amount of the payment, the date on which it was received and the period of the tenancy to which it relates and shall attest the same by subscribing his signature or other mark.

(2) Subregulation (1) shall be deemed to be complied with if the landlord or his agent to whom the payment is made enters or causes to be entered in a rent book, in a form approved by the Minister, in the possession of the tenant the particulars prescribed by that subregulation and attests the same by subscribing his signature or other mark.

(3) Any landlord or his agent who fails to comply with this regulation shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding six months, or to both.

11. Fees

The fees set out in the Schedule shall be payable in respect of the matters therein

specified as therein provided.

**SCHEDULE
FEES**

(reg. 11)

1. Application by landlord for controlled rent to be ascertained and certified or reassessed-	
(a) Residential property-	
Existing rent-	
not exceeding P50 per month	P10
exceeding P50 per month but not exceeding P100 per month	P15
exceeding P100 per month but not exceeding P150 per month ..	P20
exceeding P150 per month	P25
(b) Commercial property-	
Existing rent-	
not exceeding P100 per month	P15
not exceeding P200 per month	P25
exceeding P200 per month but not exceeding P300 per month ..	P35
exceeding P300 per month but not exceeding P500 per month ..	P50
exceeding P500 per month but not exceeding P1000 per month ..	P75
exceeding P1000 per month	P100
2. Application by tenant for controlled rent to be ascertained and certified-	
(a) Residential property-	
Existing rent-	
not exceeding P50 per month	P5
exceeding P50 per month but not exceeding P100 per month	P10
exceeding P100 per month but not exceeding P150 per month	P15
exceeding P150 per month	P20
(b) Commercial property-	
Existing rent-	
not exceeding P100 per month	P10
exceeding P100 per month but not exceeding P200 per month ..	P20
exceeding P200 per month but not exceeding P300 per month ..	P30
exceeding P300 per month but not exceeding P500 per month ..	P40
exceeding P500 per month but not exceeding P1000 per month ..	P50
exceeding P1000 per month	P75
3. Examination of register or of any one copy certificate	P1
4. Supply of certified true copy of extract from register or of copy of any one copy certificate	P1
	plus
	copying
	and
	postal
	costs
5. Supply of duplicate certificate	P2
	plus
	postal
	costs
6. Information supplied at request of applicants to Tribunal	estimated
	cost of
	service

RENT CONTROL (APPLICATION) ORDER

(under section 3)

(26th August, 1983)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Application of Act

Schedule

S.I. 108, 1983.

1. Citation

This Order may be cited as the Rent Control (Application) Order.

2. Application of Act

The Rent Control Act shall apply to each of the areas specified in the first column of the Schedule and to the premises in that area specified in the corresponding entry in the second column of the Schedule.

SCHEDULE

<i>First Column Area</i>	<i>Second Column Premises</i>
Francistown Township	All commercial buildings
Gaborone City	All commercial buildings
Jwaneng Township	All commercial buildings
Lobatse Township	All commercial buildings
Selebi-Phikwe Township	All commercial buildings