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GOVERNMENT NOTICE

DEPARTMENT OF COMMERCE AND INDUSTRIES.

The following Government Notice is published for general information:

[22 July 1940]

REGULATIONS IN TERMS OF SECTION NINE OF THE
RENTS AMENDMENT ACT, 1940.

It is hereby notified for general information that His Excellency the Governor-General has been pleased, under and by virtue of the powers vested in him by section nine of the Rents Amendment Act, 1940 (Act No. 26 of 1940), to make the regulations set forth in the accompanying Schedule in respect of the control of rents of shops.

SCHEDULE

1. In these regulations, unless inconsistent with the context—

"Act" means the Rent Amendment Act, 1940 (Act No 26 of 1940);

"committee" means a committee constituted in terms of Regulation 2 (4) of the National Emergency Regulation --Annexure to Proclamation No. 201 of 1939;

"reasonable rent" has the same meaning in relation to a shop, as the same term as defined in section *fourteen* of the Rents Act, 1920 (Act No. 13 of 1920); as amended by the Act, has in relation to a dwelling

"shop" means a shop as defined in section one of the Shops and Offices Act, 1939 (Act No. 41 of 1939);

"control board" means the National Supplies Control Board constituted under Regulation 2 of the Annexure to Proclamation No. 201 of 1939.

BEVOEGDHED EN PLIGTE VAN RAAD VAN BEHEER.

Die raad van beheer of enige persoon deur hom gemagtig om namens hom op te tree moet—

- (a) alle aansoeke om vergunning om die huurgeld van winkels te verhoog, soos bepaal ingevolge artikel drie van die Wet;
- (b) alle klagtes ten opsigte van huurgeld van winkels wat 'n huurder as onredelik beskou, soos bepaal ingevolge artikel sewe van die Wet;
- (c) gevalle van beweerde oortreding van die bepalinge van artikel drie van die Wet;
- (d) enige ander sake wat as gevolg van die bepalinge van die Wet ondersoek moet word;

in ontvangs neem en ondersoek.

3. (1) As enige klagte, soos bepaal in artikel sewe van die Wet, ondersoek is en die raad van beheer oortuig is dat die klagte gegrond is, moet die raad die verhuurder gelas om die huurgeld wat die huurder vir die winkel moes betaal te verminder na 'n huurgeld wat die raad as 'n redelike huurgeld vir die winkel vasstel; en kan verder die verhuurder gelas om aan die huurder 'n bedrag van hoogstens vyf pond te betaal as skadevergoeding vir die onkoste van die huurder in verband met die indiening en verhoor van die klagte.

(2) As die raad van beheer van mening is dat die klagte van die huurder ergerlik was of gemaak is sonder redelike grond om 'n bevel vir vermindering van die huurgeld te vermag, kan die raad op dergelike wyse die huurder gelas om die onkoste van die verhuurder in verband met die saak te betaal.

4. As die raad van beheer, nadat 'n ondersoek na die klagte ingestel is, soos bepaal in artikel sewe van die Wet, oortuig is dat 'n onredelike huurgeld gevra is, kan hy gelas dat die verhuurder dadelik aan die huurder, met ingang van die datum van ontvangs deur die raad of die persoon deur hom gemagtig om klagtes in ontvangs te neem, van die klagte van die huurder, sodanige bedrag terugbetaal as wat meer is, as wat na mening van die raad, 'n redelike huurgeld is, min enige agterstallige huurgeld wat deur die huurder verskuldig is.

5. As 'n beweerde geval van oortreding van die bepalinge van artikel drie van die Wet ondersoek is, en die raad van beheer oortuig is dat 'n oortreding plaasgevind het, moet die raad die verhuurder gelas om aan die huurder sodanige bedrag terug te betaal, as wat meer betaal is as die bedrag wat die huurder sou betaal het as geen oortreding van die bepalinge van die Wet plaasgevind het nie.

6. Die raad van beheer kan—

- (a) deur sy voorsitter of enige lid wat namens hom optree, 'n eed afneem van enige verhuurder, huurder of getuie wat voor die raad verskyn;
- (b) bevoegde taksateurs in diens neem om hom te help;
- (c) enigeen van die kontrak- of ooreenkomsvoorwaardes vir die huur van 'n winkel wysig vir sover as wat so 'n voorwaarde teenstrydig of in stryd is met enige bepaling van die Wet.

7. Die raad van beheer kan op aansoek van of die verhuurder of die huurder weens gegronde redes enige bevel deur hom ingevolge hierdie regulasies gemaak, wysig of herroep.

DIE MANIER WAAROP EN DIE PERSOON BY WIE AANSOEK GEDOEN MOET WORD IN SAKE VERHOOGINGS EN KLAGTES IN VERBAND MET WINKELHUURGELDE.

8. (1) Aansoeke om vergunning om die huurgeld van winkels te verhoog soos bepaal in artikel drie van die Wet, en klagtes in verband met huurgeld wat deur 'n huurder as onredelik beskou word soos bepaal in artikel sewe van die Wet, moet skriftelik aan die komitee in wie se regsgebied die winkel geleë is, wat die onderwerp van die aansoek of klagte uitmaak, gerig word.

(2) In alle aansoeke en klagtes moet die redes volledig vermeld word waarom die applikant van mening is dat 'n verhoging van die huurgeld geregtig is of die klaer van mening is dat die huurgeld onredelik is, en die redes moet gestaat word deur enige feite en syfers wat betrekking het op die aansoek of klagte.

PROSEDURE WAT KOMITEES MOET VOLG TEN OPSIGTE VAN ONDERSOEKE EN NAVRAE IN SAKE AANSOEKE OM VERHOOGINGS EN KLAGTES TEN OPSIGTE VAN WINKELHUURGELDE.

9. Na ontvangs van 'n aansoek om vergunning om die huurgeld van 'n winkel te verhoog moet 'n komitee—

- (a) die verhuurder en huurder gelas om voor hom te verskyn om verhoor te word ten opsigte van sake wat betrekking het op die aansoek en om al sodanige boeke en dokumente te vertoon as wat die komitee mag vereis.
- (b) 'n verslag oor die aansoek te same met sy aanbevelings aan die raad van beheer voorleë.

10. Na ontvangs van 'n klagte deur 'n huurder dat hy 'n onredelike huur moet betaal, moet 'n komitee—

- (a) dadelik 'n afskrif daarvan per geregistreerde pos aan die verhuurder stuur;

POWERS AND DUTIES OF THE CONTROL BOARDS.

2. The control board or any person authorised by it in writing to act on its behalf shall receive and investigate:—

- (a) all applications for permission to increase rents of shops as provided under section three of the Act;
- (b) all complaints in regard to rents of shops which a lessee considers to be unreasonable as provided under section seven of the Act;
- (c) cases of alleged contravention of the provisions of section three of the Act;
- (d) any other matters arising out of the provisions of the Act which may require investigation.

3. (1) When any complaint, as provided in section seven of the Act, has been investigated and the control board is satisfied that the complaint is well founded, it shall order the lessor to reduce the rent which the lessee has been required to pay for the shop to a rent which the board fixes as a reasonable rent therefor, may further order the lessor to pay to the lessee a sum not exceeding five pounds to indemnify the lessee for his expenses in connection with the lodging and hearing of the complaint.

(2) If the control board is of the opinion that the complaint of the lessee was vexatious or made without any reasonable ground for expecting an order for reduction of rent, it may make a similar order upon the lessee in favour of the lessor in respect of the expenses of the lessor.

4. The control board, if it is satisfied, after an investigation into a complaint made as provided in section seven of the Act, that an unreasonable rent has been charged, may order the lessor forthwith to refund to the lessee, as from the date of receipt by the board or the person authorised by it to receive complaints of the complaint by the lessee, such sum as has been paid in excess of the amount which it determines to have been a reasonable rent, less any arrear rent due by the lessee.

5. When a case of alleged contravention of the provisions of section three of the Act has been investigated and the control board is satisfied that a contravention has taken place, it shall order the lessor to refund to the lessee such sum as has been paid in excess of the amount which would have been paid if no contravention of the provisions of the Act had taken place.

6. The control board may—

- (a) by its chairman or any member acting on his behalf administer an oath to any lessor, lessee or witness before it;
- (b) employ competent valuers to assist it;
- (c) vary any of the conditions of a contract or agreement for the hire of a shop in so far as such condition is repugnant to or inconsistent with any provision of the Act.

7. The control board may upon application by either the lessor or the lessee on good cause shown take into review and vary or rescind any order made by it under these regulations.

THE MANNER IN WHICH AND THE PERSON TO WHOM APPLICATIONS FOR INCREASES IN, AND COMPLAINTS IN REGARD TO, RENTS OF SHOPS SHALL BE MADE.

8. (1) Applications for permission to increase the rent of shops as provided in section three of the Act, and complaints in regard to rents which are considered by a lessee to be unreasonable as provided in section seven of the Act shall be made in writing to the committee in whose area of jurisdiction the shop the subject of the application or complaint is situate.

(2) All applications and complaints shall set out fully the reasons why the applicant considers an increase in the rent is justified, or the complainant considers that the rent is unreasonable, and shall be supported by any facts and figures which may be relevant to the application or complaint.

PROCEDURE TO BE FOLLOWED BY COMMITTEES IN REGARD TO INVESTIGATIONS AND ENQUIRIES INTO APPLICATIONS FOR INCREASES IN, AND COMPLAINTS IN RESPECT OF RENTS OF SHOPS.

9. A committee upon receipt of an application for permission to increase the rent of a shop shall—

- (a) summon the lessor and lessee of the shop to appear before it to be examined in respect of matters relevant to the application and to produce all such books and documents as may be required by the committee;
- (b) submit a report on the application together with its recommendations to the control board.

10. A committee upon receipt of a complaint by a lessee that he has been required to pay an unreasonable rent shall—

- (a) immediately serve a copy thereof by registered post upon the lessor;

(b) die verhuurder en huurder van die winkel gelas om voor hom te verskyn om ondervra te word ten opsigte van sake wat betrekking het op die klagte en om al sodanige boeke en dokumente te vertoon as wat die komitee mag vereis;

(c) 'n verslag oor die klagte te same met sy aanbevelings aan die raad van beheer voorle.

11. Deur sy voorsitter kan 'n komitee 'n eed afneem van enige verhuurder, huurder of getuie voor hom.

VOORWAARDES WAAROP VERGUNNING OM DIE HUURGELD VAN WINKELS TE VERHOOG, VERLEEN MAG WORD.

12. Enige vergunning om die huurgeld van winkels te verhoog wat deur 'n raad van beheer verleen mag word, moet skriftelik gedoen word en moet al die voorwaardes bevat waarop enige sodanige vergunning verleen word.

DAGVAARDING, ENS., VAN GETUIES.

13. (1) 'n Dagvaarding om voor die raad van beheer of voor 'n komitee te verskyn op 'n verhuurder of 'n huurder van 'n winkel of op enige getuie hoegenaamd of vir die vertoning van boeke en dokumente, moet, soveel as doenlik, in ooreenstemming wees met die vorm uiteengesit in die bylsje van hierdie regulasies, moet deur die voorsitter of sekretaris van die raad van beheer of komitee onderteken word en moet deur 'n lid van die polisiemag gedien word op dieselfde manier as wat dit gedien sou word as dit 'n dagvaarding was van die magistratuurshof van die distrik waarin die raad van beheer of die komitee sit.

(2) Enigeen wat gedagvaar word om te verskyn en getuie is af te lê voor die raad van beheer of 'n komitee of om boeke en ander dokumente by enigeen van sy sittings te vertoon, is verplig om gehoor te gee aan die dagvaarding wat op hom gedien is. Enigeen wat weier of versuim om sonder voldoende rede te verskyn of getuie is af te lê by die ondersoek van die raad van beheer of die komitee op die tyd en plek vasgestel in die dagvaarding, of om op daardie tyd en plek boeke en dokumente te vertoon wat in sy besit is of onder sy beheer is en met betrekking tot die ondersoek van die raad van beheer of die komitee in die dagvaarding genoem word, of wat weier om beëdig te word as die voorsitter hom 'n eed wil afneem, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens vyftig pond: met dien verstande dat elkeen wat aldus gedagvaar word geregtig is tot alle voorregte waartoe 'n getuie geregtig is as hy gedagvaar word om getuie is af te lê of om boeke en dokumente te vertoon voor 'n provinsiale afdeling van die Hooggeregshof.

(3) Enige getuie wat, nadat hy behoorlik beëdig is, valse getuie is voor die raad van beheer of 'n komitee afle, in verband met enige saak wat betrekking het op die ondersoek, wetende dat sulke getuie is valse is, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met straf by wet voorgeskryf vir die misdad van meeneed.

(4) Elke getuie, wat voor die raad van beheer of 'n komitee verskyn en weier om te antwoord of om volledig en bevredigend te antwoord na die beste van sy wete en vertrou op alle vrae wat wettiglik aan hom deur die raad van beheer of die komitee gestel word, en elkeen wat by enige sitting van die raad van beheer of 'n komitee opsetlik die verrigtings by sodanige sitting onderbreek, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens vyftig pond.

TOEPASSING VAN BEVELE VAN DIE RAAD VAN BEHEER.

14. (1) 'n Bevel, ingevolge die Wet of ingevolge hierdie regulasies, van die raad van beheer op 'n verhuurder om die huurgeld van 'n winkel te verminder, of om 'n bedrag terug te betaal wat meer as 'n redelike huurgeld betaal is, of om 'n bedrag terug te betaal weens oortreding van die Wet, moet deur die voorsitter en sekretaris van die raad van beheer onderteken word en word gedien deur dit per geregistreerde pos na die verhuurder of sy agent (as daar een is) te stuur, gerig aan sy jongsbekende woonplek of kantoor of besigheidsplek. Die bevel moet ook op dieselfde manier op die huurder gedien word, aan hom gerig by die winkel wat die onderwerp van die bevel uitmaak.

(2) Die bevel het die volgende uitwerking—

(a) in die geval van 'n bevel tot vermindering van huurgeld, dat geen bedrag meer as die huurgeld waarna dit verminder is, deur die huurder aan die verhuurder ten opsigte van die winkel wat die onderwerp van die bevel is, betaal mag word nie, en die vertoning van die bevel deur die huurder is 'n afdoende verweer by enige geregtelike stappe deur of namens die verhuurder teen die huurder om ten opsigte van die winkel enige bedrag te verhaal wat meer is as die bedrag waartoe die huurgeld deur die bevel verminder is, of by enige geregtelike stappe om van die huurder weer besit van die winkel te verkry of om die huurder uit te sit uit die winkel, op grond van nie-betaling van soveel van die huurgeld as wat sodanige oorbetalings verteenwoordig; en

(b) in die geval van 'n bevel tot terugbetaling van 'n bedrag wat meer as 'n redelike huurgeld betaal is, of tot terugbetaling van 'n bedrag weens oortreding van die Wet, dat die huurder deur vertoning van die bevel die bedrag op die verhuurder kan verhaal deur middel van 'n lasbrief van eksekusie uitgereik deur die klerk van die magistratuurshof wat regsag uitoefen oor die gebied waarin die winkel geleë is.

(b) summon the lessor and lessee of the shop to appear before it to be examined in respect of matters relevant to the complaint and to produce all such books and documents as may be required by the committee;

(c) submit a report on the complaint together with its recommendations to the control board.

11. A committee by its chairman may administer an oath to any lessor, lessee or witness before it.

CONDITIONS UPON WHICH PERMISSION TO INCREASE RENTS OF SHOPS MAY BE GIVEN.

12. Any permission granted by the control board to increase rents of shops shall be in writing and shall contain any conditions subject to which any such permission is granted.

SUBPOENAING, ETC., OF WITNESSES.

13. (1) A subpoena for the attendance before the control board or a committee of a lessor or lessee of a shop or of any witness whatever or for the production of books and documents shall be, as nearly as practicable, in the form set out in the Schedule to these regulations, shall be signed by the chairman or secretary of the control board or of the committee and shall be served by a member of the police force in the same manner as it would be served if it were a subpoena issued by the magistrate's court of the district in which the control board or the committee is sitting.

(2) Every person subpoenaed to attend and give evidence before the control board or a committee or to produce books and other documents at any of its sittings shall be bound to obey the subpoena served upon him. Any person who refuses or fails without sufficient cause to attend and give evidence relevant to the control board's or the committee's enquiry at the time and place specified in the subpoena or at that time or place to produce books and documents which being in his possession or under his control and relevant to the control board's or committee's enquiry, are mentioned or referred to in the subpoena, or who refuses to be sworn when the chairman desires to administer an oath to him, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds: Provided that every person so subpoenaed shall be entitled to all the privileges to which a witness subpoenaed to give evidence or to produce books and documents before a provincial division of the Supreme Court is entitled.

(3) Any witness who, after being duly sworn, gives false evidence before the control board or a committee on any matter relevant to the enquiry, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the punishment prescribed by law for the crime of perjury.

(4) Every witness who attends before the control board or a committee and refuses to answer or to answer fully and satisfactorily to the best of his knowledge and belief all questions lawfully put to him by the control board or the committee, and every person who at any sitting of the control board or a committee wilfully interrupts the proceedings at such sitting shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds.

ENFORCEMENT OF ORDERS OF CONTROL BOARD.

14. (1) An order under the Act or under these regulations by the control board upon a lessor to reduce the rent of a shop, or to refund an amount in excess of a reasonable rent, or to refund an amount for a contravention of the Act shall, signed by the chairman and secretary of the control board, be served by its being sent by registered post to the lessor and his agent (if any) addressed to each at his last known place of abode or office or place of business. The order shall also in like manner be served upon the lessee addressed to him at the shop the subject of the order.

(2) The effect of the order shall be—

(a) in the case of an order for reduction of rent, that no rent in excess of the amount to which it has been reduced, shall be payable by the lessee to the lessor in respect of the shop the subject of the order, and the production of the order by the lessee shall be a complete defence to any legal proceedings by or on behalf of the lessor against the lessee to recover, in respect of the shop, any amount in excess of the amount to which the rent has been reduced by the order, or to any legal proceedings to recover from the lessee possession of, or to eject the lessee from, the shop on the ground of non-payment of so much of the rent as represents such excess; and

(b) in the case of an order for refund of an amount in excess of a reasonable rent, or for refund of an amount for a contravention of the Act, to enable the lessee by production thereof to recover the amount from the lessor by writ of execution to be issued by the clerk of the magistrate's court having jurisdiction where the shop is situate.

BYLAË.

WYSIGINGSWET OP HUURGELDE, 1940.

(Dagvaarding ingevolge regulasie 13 van die Regulasies afgekondig by Goewermentskennisgewing No. 1195 van 1940.) Aan A.B. (naam van persoon gedagvaar, sy beroep en woonplek).

U word hierby gedagvaar om te verskyn te..... (plek) op die..... dag van..... 194... om..... uur voor die..... komitee ingestel ingevolge regulasie 2 (4) van die Landsnoodtoestand-regulasies om getuienis af te lê in sake.....

(as die persoon wat gedagvaar word dokumente moet vertoon, voeg by), en u moet..... (spesifiseer vereiste boeke en dokumente) met u saambring.

Gegee onder die hand van die voorsitter of die sekretaris van genoemde komitee op hede die..... dag van..... 194...

SCHEDULE.

RENTS AMENDMENT ACT, 1940.

(Summons in terms of Regulation 13 of the regulations published under Government Notice No. 1195 of 1940.) To AB (name of person summoned and his calling and residence.)

You are hereby summoned to appear at..... (place) upon the..... day of..... 194... at..... o'clock before the..... Committee constituted under Regulation 2 (4) of the National Emergency Regulations to give evidence respecting..... (if the person summoned is to produce any documents add), and you are required to bring with you..... (specify the books and documents required).

Given under the hand of the chairman or secretary of the said committee this..... day of..... 194...

GEMAGTIGDE UITTREKSEL UIT DIE REGULASIES KRAGTENS—

DIE FABRIEKS- WYSIGINGSWET, 1931

(Wet No. 26 van 1931)

Uittreksel No. 1—Lifte

Uittreksel No. 2—Houtbewerkings-
masjinerie

Uittreksel No. 3—Stoomketels en
Algemeen

Eksemplare van die bovermelde Uittreksels soos deur die Hoofinspekteur van Fabriek goedgekeur vir tentoonstelling deur die gebruikers van masjinerie ooreenkomstig regulasie No. 9, is by die Staatsdrukker, Pretoria, verkrygbaar in Engels of Afrikaans teen 1s. per eksemplaar.

AUTHORIZED ABSTRACTS OF REGULATIONS UNDER—

FACTORIES AMENDMENT ACT, 1931

(Act No. 26 of 1931)

Abstract No. 1—Elevators

Abstract No. 2—Woodworking
Machinery

Abstract No. 3—Boilers and
General

Copies of the above Abstracts as authorized by the Chief Inspector of Factories, for posting up by users of machinery as required by Regulation No. 9 can be obtained in either English or Afrikaans from the Government Printer, Pretoria, at a cost of 1s. per copy.

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