

an overview of the

# Residential Tenancy Bill



# Residential Tenancy Bill

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# Introduction

The Residential Tenancy Bill is set to bring about seismic changes to the residential rental sector of the Maldives.

The Bill, for the first time in Maldives, will regularise the sector and introduce entirely new requirements such as a legally prescribed procedure for renting residential properties, rights and obligations of landlords and tenants, protection of security deposits, and enforcement mechanisms to settle disputes related to residential tenancies.

The legislative intent of the Bill includes:

- △ defining the rights and obligations of landlords and tenants of residential properties;
- △ determining the minimum standards for residential properties;
- △ establishing a procedure for renting residential properties;
- △ establishing a mechanism to determine expeditiously disputes related to residential properties.

This Overview provides a summary of the provisions of the Bill that are worth considering.

# Renting Out



## **Permits** (Sections 5 & 6)

Landlords wanting to rent a residential property or part of such a property, are required to obtain a 'permit to rent' from the local councils of where the residential property is located.

When granting the permission to rent, local councils will check whether the property meets the minimum standards for residential properties and whether a permit is requested by the property owner or another person that has obtained the written permission to rent the property from the property owner.

## **Register of Permitted Residential Properties** (Section 7)

Local councils and the Tenancy Board will maintain a Register of all the residential properties with the permit to rent. The Register of permitted residential properties is to be made available via a website or an application by the Tenancy Board.

# Tenancy Agreements



## **Form of Agreements** (Sections 11 & 23(b))

Every tenancy agreement for a period of 6 (six) months or more, is required to be made in writing and registered at the local council. However, all the other requirements in the Bill even apply to tenancies for a period of less than 6 (six) months.

Landlords are to be responsible for all costs in respect of the formulation of the agreement.

## **Contents of Agreements** (Sections 13 & 24)

The Bill sets out the minimum information to be included in and requirements to be met by every tenancy agreement. Below are the most notable such requirements:

- △ **Prohibition on discrimination:** Landlords are prohibited from denying the availability of a residential rental property based on a person's nationality, ethnicity, region, belief, disability or age.
  
- △ **Time barred entrance:** A landlord cannot refuse entry to a tenant at a particular time of the day - for example barring entrance late at night is prohibited.
  
- △ **Social standards:** A landlord cannot require a tenant to comply with acts that conflict with acceptable social standards.

### **Period of Tenancy** (Sections 20, 21 & 68)

Maximum period for which a property can be rented as a residential property is 10 (ten) years. An exception to this is where a residential property is leased under a property development investment agreement made between a landlord and tenant in which case the maximum period that a residential property can be rented is 50 (fifty) years.

Should a tenant want to extend the tenancy, a request for an extension must be made, at least 2 (two) months before the tenancy agreement ends.

### **Security Deposit** (Section 14)

The maximum security deposit a landlord may require from a tenant is 2 (two) months' rent.

Tenants are required to deposit the security deposit to a bank account designated by the Tenancy Board and the Tenancy Board is tasked with the protection of the security deposit. When the tenant provides a deposit receipt to their landlord, it will be regarded as the security deposit being paid under the tenancy agreement.

If no disputes are lodged from either side regarding the security deposit, the Tenancy Board will release the security deposit to the tenant. Where either party lodges a dispute, the Tenancy Board will release the security deposit to the tenant, less any deductions, within 15 (fifteen) days from the date the dispute was lodged.

### **Advance Rent** (Section 25)

The Bill prohibits landlords from collecting advance rent (or any other such payments) except where the rent for the full period of a tenancy is paid in one go.

### **Rent Payable** (Sections 17 & 18)

Information as to the rent payable, method of payment and frequency of rent payments is to be agreed between parties involved and incorporated as a part of the tenancy agreement.

During the period of the tenancy agreement, a landlord cannot unilaterally increase the rent payable in respect of the tenancy. Rent payable under a tenancy agreement can only be increased where it is agreed between both the landlord and the tenant in writing.

### **Assignment and Subletting** (Sections 27 & 28)

A tenant's interests under the tenancy agreement cannot be assigned without the written permission of the landlord. However, landlords cannot withhold such permission unreasonably.

A tenant cannot sublet without the landlord's express written permission to sublet. The Bill does not bar landlords from refusing permission to sublet for any reason that they may choose.

# Obligations



The Bill imposes a number of obligations on both landlords and tenants and corresponding rights of both parties. These include mainly the following:

## Obligations of Landlords (Sections 34, 40 & 41)

- △ **Free From All Legal Impediments:** Landlords have the obligation of ensuring that the rental property is under no legal impediments to the occupation of the property by the tenant for residential purposes. Legal impediments to occupying a property as a residence may include landlord renting the property without obtaining the proper permits, government orders such as planning restrictions, building safety regulations or court orders for repossession of the property.

The duty goes so far as requiring landlords to inform tenants of any property charges or encumbrances on the property such as mortgages and court cases involving the property.

- △ **Vacant Possession:** At the beginning of the tenancy, the tenant must have the vacant possession of the premises they have rented under the tenancy agreement. Vacant possession means that the tenant has the exclusive right - no one other than the tenant, not even the landlord, to use the rented premises.



- △ **Quiet Enjoyment:** Every tenant has the right to quiet enjoyment of the rented premises without interference by the landlord. The right protects tenants from all unreasonable disturbances by the landlord, and all persons claiming under the landlord (e.g. landlord's agent, employee).

Exceptions are made where the landlord exercises the right of entry in the following circumstances:

- \* To inspect the premises after giving 24 (twenty-four) hours notice in any period of 6 (six) months.
  - \* In the event of an emergency (without giving notice and in any frequency).
  - \* To carry out repairs after giving notice in advance to the tenants
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- △ **Uninterrupted Utility Supplies:** The Bill prohibits landlords from causing utilities such as electricity, water, gas to be shut-off. Willful Interruption or termination of such utility services creates a threat to the habitability of the rented premises and may be regarded as constructive eviction.
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- △ **Responsible for all outgoings:** During the period of the tenancy, landlords are responsible for the payment of all levies (except for those attributable to tenant's use of facilities) payable in respect of the premises to government authorities.

## Obligations of Tenants (Sections 35 & 42)

- △ **Duty to Pay Rent:** Upon entering into tenancy agreements, tenants have the legal responsibility to pay rent in respect of the tenancy when it is due and payable under the tenancy agreement.
- △ **Use for residential purposes:** Tenants are prohibited from occupying the premises for purposes other than residential purposes and using the premises for unlawful purposes. However, this does not mean that the Bill prohibits tenants from using part of the residential rented premises for a home-based business. As long as tenants principally use the premises for residential use, it is likely that this obligation is met.
- △ **Keep the premises clean:** The Bill imposes an obligation on tenants to ensure that the premises are kept reasonably clean and reasonably tidy. This standard is unlikely to be an absolute standard but will vary depending on the age and condition of the rented premises.
- △ **Notify of Damages to Premises:** Every tenant has an obligation to notify their landlord of any damage to the premises as soon as possible after discovery and do everything necessary under the tenancy agreement to repair the damage. However, even where a tenant is required under the agreement to repair a discovered damage to the property, costs of such repairs must be borne by the landlord.

- △ **Maximum number of occupants:** Tenants are required to ensure that no more than the permitted maximum number of occupants under the tenancy agreement are allowed to ordinarily reside in the premises at any time during the tenancy. Short-term guests allowed to stay in the residential premises temporarily, however, will not count as an occupant. Where a tenancy agreement does not specify the maximum number of occupants, tenants must still comply with the requirements with regards to the maximum number of occupants under the regulation made pursuant to the Bill.
  
- △ **Handover of the premises:** Upon the end or termination of the tenancy, every tenant is under the legal obligation to leave the premises and hand over all keys and security passes to the landlord after removing his or her items from the rented premises. When a tenant leaves the premises, it must be in a reasonably clean state.

# Termination & Expiry



Once the Bill becomes law, a tenancy agreement entered to rent a property for residential purposes can only be ended in accordance with the provisions of the Bill.

Some ways in which a tenancy agreement can be ended provided for under the Bill include:

- △ Landlord and tenant both agree, in writing, for the tenancy to end;
- △ Upon the expiration of a fixed-term tenancy where the landlord and tenant has not agreed to renew or extend the existing tenancy;
- △ A court of law orders that the agreement is invalid;
- △ The property is mortgaged, and the mortgagee becomes entitled to the possession of the property;
- △ Where the tenancy agreement does not provide otherwise, the sole tenant dies.

## Landlord Ending the Tenancy (Section 30)

A landlord can terminate a tenancy agreement by giving notice in writing to the tenant for the following reasons:

- △ **For Landlord's Own Use:** A landlord can simply end a residential tenancy by giving a 3 (three) months' written notice where they require the property for their own use.

"Own use" of a landlord may include the following circumstances:

- \* To be used for residential purposes by landlord or landlord's parents or spouse or children or stepchildren;
- \* To carry out significant refurbishment of the property that cannot be proceeded with while the property is occupied;
- \* To sell the property;
- \* To use the property for purposes other than residential purposes; e.g. commercial letting.

- △ **On Tenant's Breach of Agreement:** A landlord can end the tenancy after giving 2 (two) months' written notice to the tenant where the tenant has breached his or her obligations under the tenancy agreement.

When serving the notice of termination for a breach, a landlord can give time to the tenant to rectify the breach, with the condition that failure to rectify the breach will result in termination of the tenancy.

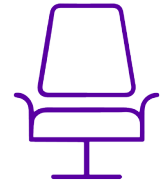
## Tenant Ending the Tenancy (Section 32)

A tenant can terminate a tenancy agreement by giving at least 1 (one) month's written notice to the landlord for the following reasons:

- △ **To Vacate the Premises:** A tenant can terminate a tenancy for simply not wanting to occupy the premises any longer. The tenant must give the landlord at least 1 (one) month's written notice before vacating the premises.
- △ **On Landlord's Breach of Agreement:** A tenant may end a tenancy if the landlord has breached his/her obligations under the agreement. In which case, the tenant must serve at least 1 (one) month's written notice of termination to the landlord.

The Bill provides some specific requirements that notices must meet for them to be valid. Further details of such requirements are expected to be provided for in the regulation made pursuant to the Bill once it becomes law.

# Tenancy Board



The Bill establishes an entirely new mechanism to deal with disputes related to residential tenancies.

## **Tenancy Board** (Sections 44, 46, 47 & 72)

The Tenancy Board is to be constituted of 3 (three) members appointed by the President for a term of up to 5 (five) years.

The Tenancy Board will hear disputes between landlords and tenants of residential tenancies. However, the Bill does not bar parties from opting to arbitrate a dispute.

Disputes lodged with the Tenancy Board must be decided upon in no more than 15 (fifteen) working days.

Further details of the procedure of proceedings at the Tenancy Board is expected to be provided for under the regulation made pursuant to the Bill.

Where either a landlord or a tenant breaches a provision of the Bill, the Tenancy Board may impose the following penalties:

- △ For first-time breach a fine between MVR 2,000 - MVR 10,000;
- △ For second-time breach a fine between MVR 10,000 - MVR 20,000;
- △ Suspension of permit to rent for a period of 6 (six) months;
- △ Termination of permit to rent.

Other notable responsibilities of the Board include:

- △ Setting minimum standards for residential rental properties;
- △ Inspecting residential rental properties;
- △ Act as safekeeping agency of security deposits;
- △ Releasing the security deposit at the end of the tenancy and after settling any disputes;
- △ Make information available for the purpose of educating the public of renting for residential purposes.

### **Advisory Committee** (Section 60)

The Advisory Committee is to be constituted of 5 (five) members appointed by the Minister. The main responsibility of the Committee is to advise the Tenancy Board in disputes submitted to the Tenancy Board.

The Advisory Committee cannot take more than 15 (fifteen) days to finalise the Committee's advice to the Tenancy Board on a dispute.



### **Appealing Tenancy Board's Decision** (Section 61)

A decision of the Tenancy Board can be appealed at a court of law by either or both by the landlord or tenant. The time limit to appeal a decision of the Tenancy Board is 30 (thirty) working days from the date the Tenancy Board makes the decision.

### **Enforcement Measures** (Sections 62 & 64)

If a decision made by the Tenancy Board has not been enforced within 30 (thirty) days from the date of the decision, the party wanting enforcement can apply for enforcement at a court with the jurisdiction.

As enforcement measures courts can make the following orders:

- △ an order to freeze bank account(s) of the party that fails to make payments as under the tenancy agreement;
- △ an order to recover rent for the period a party fails to yield possession of the property;
- △ an order to repossess the property under the administration of an enforcement authority;
- △ an order to charge for costs incurred by the enforcement authority in repossessing the property;
- △ an order to stop the person against whom the order is made from flying;
- △ an order to seize and sell belongings to recover money where it is not possible to recover money by freezing the bank accounts;
- △ where the order is to be served on a company, a public order to recover money and release the money to the party in whose favour the order is made.

# Other Highlights



## **Existing Tenancies** (Section 73)

Residential tenancy agreements already entered into before the enactment of the Bill requires to be registered at the local councils in accordance with the procedure of registration of tenancy agreements to be provided for under the regulation made pursuant to the Bill once it becomes law.

Where an existing residential tenancy agreement has no dispute resolution clauses incorporated, then the procedure for dispute resolution prescribed under this Bill will apply to such existing tenancy agreements.

If an existing tenancy is renewed after the Bill becomes a law, all the provisions in the Bill will apply to such renewed tenancy agreements.

## **Boarding Houses** (Section 67)

Special provisions under the Bill apply to boarding house tenancies. Although the Bill does not define “boarding houses”, the general understanding is that boarding houses are residential premises usually containing more than one room and communal facilities where tenants occupy particular sleeping quarters of the rooms.

Notably, the Bill prohibits landlords from allowing a minor (someone under the age of 18 (eighteen) years) to rent and occupy a room at a boarding house without obtaining consent from their parents.

The Bill provides for making a regulation addressing boarding house tenancies.

## **Social Housing** (Section 66)

Special provisions apply when renting social housing properties. However, the Bill does not make an exception to social housing properties when it comes to obtaining permit to rent, content of tenancy agreements, registration of tenancy agreements, and dispute resolution mechanisms under the Bill.

The Bill prohibits landlords from renting their entire social housing property. This means a person may rent a maximum of 2 (two) rooms out of a 3-room social housing unit.

For additional information with respect to the Residential Tenancy Bill, please contact one of the following members of our team:



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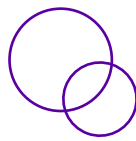
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## **ABOUT US**

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We are ranked by the Asia Law Profiles as a Highly Recommended tax disputes firm in the Maldives in addition to being recognised as a leading law firm in the Maldives from 2017.

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