

FOR PSA MEMBERS: **PUBLIC SERVICE COORDINATING BARGAINING COUNCIL (PSCBC) - LIMPOPO**

18-10-2023

Feedback: Limpopo special PSCBC meeting - 16 October 2023

The following issues were discussed:

Draft Rental Management Policy

It was previously reported that a task team had been formed to deal with the above-mentioned policy. PSA members were requested to provide inputs (*Informus* dated 16 August 2023). The employer furnished parties with a final draft policy and labour was requested to provide final comments or inputs. A copy has been *attached*. The PSA cautioned the employer that the inputs submitted by the PSA were not incorporated in the final draft. It was agreed that the PSA will resubmit the inputs on or before 20 October 2023. Members are thus given another opportunity to submit final inputs to Deidre Reynecke at deidre.reynecke@psa.co.za on or before **19 October 2023**.

Restructuring and amendments of policies outside Bargaining Chambers

Labour reported that the Departments of Health and Social Development were busy with restructuring and had not tabled the matter at the Chamber. The PSA voiced concern that the Department of Economic Development, Environment and Tourism had seemingly also embarked in a process of restructuring without tabling the matter for consultation. The employer took note of the report and will investigate the concerns raised.

Members will be informed of developments.

Employees who wish to join the PSA can contact Lawrence Muvhango on 082 880 8995 / lawrence.muvhango@psa.co.za or Paulina Moloto on 082 880 8957 / paulina.moloto@psa.co.za.

Reuben Maleka
GENERAL MANAGER

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1. ACRONYMS AND ABBREVIATIONS

Abbreviation	Description
AO	Accounting Officer
CFO	Chief Financial Officer
HOD	Head of the Department
HRM	Human Resource Management
PFMA	Public Finance Management Act
PSA	Public Service Act
MEC	Member of Executive Committee

2. INTRODUCTION

2.1 The Department of Public Works, Roads, and Infrastructure as the custodian of all properties owned by the Limpopo Provincial Government is entrusted with the proper management and administration of immovable provincial properties. The Department is further entrusted with the responsibility of ensuring proper upkeep of the properties by doing maintenance, renovation, and ensuring that the state receives revenue collected from the rental and usage of these properties.

2.2 The policy seeks to provide guidelines on the allocation and rental administration of state residential accommodation under the auspices of the Department of Public Works, Roads and Infrastructure.

3. PURPOSE AND OBJECTIVE OF THE POLICY

3.1 PURPOSE

3.1.1 To provide guidance on how to manage rental matters about tenants leasing government properties.

3.1.2 To clarify the environment in which the department leases immovable assets.

3.1.3 To specify the criteria for the leasing of immovable assets.

3.1.4 To ensure that rental management is managed fairly, efficiently and effectively.

3.2 OBJECTIVE

3.2.1 To support service delivery by the provision of residential accommodation.

3.2.2 Ensure that the landlord and tenants adhere to the terms and conditions of the lease agreement.

3.2.3 To make provision for the rights and obligations of the landlord and tenants.

3.2.4 Ensure effective and efficient utilization of state residential properties.

3.2.5 To provide for the resolution of disputes between parties.

4. AUTHORITY OF THE POLICY

This policy is issued under the Executive Authority for the Department of Public Works Roads and Infrastructure: Limpopo Provincial Government.

5. LEGISLATIVE FRAMEWORK

The policy should be read in conjunction with the following legislation.

- A. Constitution of South Africa 1996.
- B. Public Finance Management Act No1 of 1999.
- C. Rental Housing Act No 50 of 1999.
- D. Occupational Health and Safety Act 85 of 1993.
- E. Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998.
- F. Promotion of Access to Information Act.
- G. Treasury Regulations 2000.
- H. National Building Regulations and Building Standards Act 103 of 1977.
- I. Government Immovable Asset Management Act 19 of 2007.
- J. Northern Province Land Admin Act 01 of 1999.

6. SCOPE OF APPLICATION

This Policy applies to all qualifying tenants in government-owned properties in the Province.

7. DEFINITIONS

Accounting Officer	Accounting Officer of the Department of Public Works Roads and Infrastructure as defined in Section 36 of the PFMA.
Arrears	This means any amount due owing and payable by the tenant to the Department of Public Works Roads and Infrastructure in respect of rental not paid on the due date.
Beneficiary	Any person who is dependent on the tenant.
Contract Employees	Public Servants who are appointed on a fixed term contract such as HODs, CEO, and officials that are attached to the contract of the Executive Authorities, etc.
Custodian	Refers to Custodian as defined in GIAMA.
Debt	Refers to all the money due to the Department of Public Works Roads and Infrastructure by private and government tenants in respect of rental Interest and other related charges.
Debtor	Rental Debtors refers to all private tenants who owe Department of Public Works, Roads, and Infrastructure rental for occupying or for the use of state-owned properties.

Default	This means failure to pay the debt
Department	Department of Public Works Roads and Infrastructure performing the Public Works Roads and Infrastructure functions.
Deposit	Refers to an amount of money specified by the Department of Public Works Roads and Infrastructure and payable by the tenant before the occupation of the property.
Directorate	Means Property and Facilities Management and Strategic Finance Directorates.
Duly Authorized Official	This means a delegated employee from the Department of Public Works, Roads and Infrastructure who has the necessary delegated authority or has been duly authorized by such person to perform the act in question.
DPWR & I	Department of Public Works, Roads and Infrastructure.
Essential Services	Services that require officials to be allocated state housing which will be utilized as an instrument in the execution of their duties because work specifications require them to be available on terrain where such activities are performed. This is in terms of the Departmental Circular No.4 of 2001 read in conjunction with Executive Council Decision 73 of 2000.
Eviction	Means to deprive a person of occupation of a house or room against his or her Will.
GIAMA	Government Immovable Assets Management Act 19 of 2007.
Interest	This means charges on arrear amounts due to the Department of Public Works, Roads Infrastructure at the rate specified by section 80(2) of the PFMA of 1999 (Act No 1 of 1999) through the Minister of Finance General Notices No 1410 of 08 August 2002. Or as may be so determined from time to time.
Lease Agreement	Refers to a written agreement between the Department of Public Works, Roads and Infrastructure and the tenant.
Maintenance	Refers to any work on existing residential state assets to prevent deterioration.
Market Related Rental	This means rental that is usually charged for the Premises let out by the Department of Public Works, Roads and Infrastructure and which is not strikingly disproportionate to the usual rental charge by Lessors for the property in question.
Occupation	Receipt of the keys and not raising any concern with the department within seven (7) days of receipt of such keys.
Official	Refers to an employee within the Department of Public Works, Roads Infrastructure.
Policy	Rental Management Policy.
Refund	Any amount entitled and payable to the tenant based on the deposit and overpayment by the tenant.

Rental due date	Refers to the date stipulated in the lease agreement as the date on which the amount owed must be paid.
State-owned Property	Means any immovable property asset owned and under the custodianship of the Department of Public Works, Roads, and Infrastructure.
Sub-let	Refers to a tenant renting out the property to a third party.
Tenant	Government official who occupies any immovable Property or assets or part thereof belonging to the Department of Public Works, Roads, and Infrastructure.
Government official	Any person who is actively employed by the government in National, Provincial and Local spheres.
PFMA	Public Finance Management Act 1 of 1999.

8. POLICY PRONOUNCEMENTS

8.1 ROLES AND RESPONSIBILITIES OF THE LANDLORD

8.1.1 Ensure that the parties conduct a joint pre-occupation inspection.

8.1.2 Determine the deposits payable and ensures that the tenant completes a preoccupation inspection form prior to signing the lease agreement.

8.1.3 ensure that the lease agreement is duly signed by both parties and monitor compliance by the tenant.

8.1.4 Must ensure that under no circumstances a prospective tenant is allowed to occupy premises until the lease agreement is duly signed by both parties and all deposits are paid.

8.1.5 shall have the right to conduct inspections at reasonable times after notifying the tenants.

8.1.6 will take appropriate action against the tenant in case of breach of contract.

8.1.7 shall maintain the property to keep it in good condition throughout the lease agreement and carry out any painting, repairs, or replacement necessary for that purpose at its own cost subject to terms and conditions outlined in the lease agreement.

8.1.8 Ensure payment of rent in terms of the lease agreement and recover unpaid rental or any other amount that is due and payable following the due processes of the law.

8.1.9 Ensure that all tenants will be treated fairly and with dignity in compliance with the law.

8.1.10 Shall at the end of the lease agreement, conduct and inspect the property before releasing the deposit of the tenant.

8.1.11 In the event of property defects that put the lessee under risk of safety and subject him\ her to health hazards, the matter shall be dealt be attended to in terms of Departmental service standards.

8.2 ROLES AND RESPONSIBILITIES OF THE TENANT

8.2.1 The tenant must ensure that he/she duly signs a lease agreement.

8.2.2 The tenant must ensure that inspection is conducted before the occupation of the property, in case of identified defects and must inform the landlord in writing after seven (7) days of commencement of the lease agreement.

8.2.3 The tenant must ensure regular payments of the rental amount and any other charges that may be payable in terms of the lease agreement.

8.2.4 Ensure that the stop order for rental payment remains in force for the whole duration of the lease agreement or stay , the contrary of which shall constitute repudiation of the contract.

9. RENTAL MANAGEMENT PROCESS

9.1 Allocation of Tenants

9.1.1 The department shall in each district establish an Allocation Committee comprising of one official from each provincial Department.

9.1.2 The committee will be headed by the Deputy Director: Property and Facilities in the District.

9.1.3 The committee will make recommendations for approval by the Department.

9.1.4 The Property and Facilities District Manager will be responsible for convening meetings of the committee about allocations.

9.1.5 The committee shall have a Secretariat that will be from Property and Facilities Management.

9.1.6 The Directorate: Properties and Facilities will keep record of all applicants by recording their information on a waiting list register. The applications will be valid for a period of three (3) months.

- 9.1.7 The Allocation Committee shall adjudicate on applications received quarterly on a first come first served basis.
- 9.1.8 The adjudication shall be fair, just, objective and free from any form of unfair discrimination.
- 9.1.9 The Allocation Committee shall lease housing accommodation preferably to essential and maintenance services Provincial public officials.
- 9.1.10 Other Provincial Public Officials will be allocated on a first come first served-basis in the event there are no essential and maintenance services applications.
- 9.1.11 The applicants must be residing at a minimum of 51km radius from the work station, with preference given, to those coming from the furthest points.

9.2 House Register

- 9.2.1 Property and Facilities Management at the District Office will keep and maintain a House Register containing all residential properties eligible for lease.
- 9.2.2 The House Register will contain information about the full description of the property, names of the tenant, tenant's date of Occupation, the rental amount payable (Treasury Approved Tariffs), employer of the tenant, employment number of the tenant, identity number and any other information that will be deemed necessary for keeping a record of occupying the property.

9.3 RENTAL ADMINISTRATION AND LEASE AGREEMENTS

- 9.3.1 The Directorate: property and Facilities will have a standard lease agreement recommended by the Accounting Officer in the department.
- 9.3.2 Lease agreements concluded in terms of this policy must not exceed a period of more than two (2) years subject to renewal by agreement between the parties.
- 9.3.3 If on the expiration of the lease the tenant remains in the dwelling with the express or tacit consent of the landlord, the parties are deemed, in the absence of a further written lease, to have entered into a periodic lease, on the same terms and conditions as the expired lease, except that at least one month's written notice must be given of the intention by either party to terminate the lease.

9.3.4 Payment of rent shall be effective from the first date of the lease agreement or acknowledgment to lease until the date the lease agreement expires or is terminated. No payment will be suspended without written approval from the duly authorized official.

9.3.5 The rental fees should be in accordance with the Treasury Approval.

9.3.6 Interest will be charged according to the PFMA Section 80 on all late payments.

9.3.7 Credit notes/write-offs and other adjustments will only be allowed if appropriately authorized and supported by relevant documentation with adequate reasons for adjustment(s).

9.3.8 The Directorate will outline procedures for management of the property before, during, and after the active occupation of the property by the tenant. The procedures must cover the following areas:

- A. Identification
- B. Applications
- C. Adjudication
- D. Pre and Post inspection
- E. Allocation lease contract
- F. Key deposit
- G. Statements of account
- H. Breach of agreement
- I. Vacation
- J. Eviction
- K. Termination of lease
- L. Refund
- M. Retirement

9.3.9 Outstanding amounts will be referred to Legal Services for recovery and advice.

10.REFUND

10.1 The deposit is refundable to the tenant subject to the terms and conditions of a lease agreement.

10.2 In the event of an overpayment by the tenant, the department shall repay the amount due upon receipt of an application to refund the tenant.

10 RENEWAL OF LEASE WITH EXISTING TENANTS

The tenant must make an application for at least three (03) months before the expiry of the lease agreement.

Where there has been a breach of contract by the tenant the Department reserves the right not to renew the lease.

11 ILLEGAL OCCUPIERS

11.1 The Lessees will NOT sub-let the whole or part of the property to anyone other than him/herself without the written consent of the Lessor.

11.2 In case of death, retirement or any nature of termination of service the lease agreement will automatically be terminated and will not be inherited by the beneficiaries.

11.3 In the event of any irregularity or breach of the lease agreement, the Department shall bar access to the property in question and take appropriate legal action against the tenants.

12 DEFAULT

12.1 Any contravention or failure to comply with the policy will lead to the termination of the lease agreement.

12.2 The procedure set out above must be strictly followed to ensure that the Rental Management Policy is uniformly applied and minimizes the Departments' potential losses and risk exposure.

13 INCEPTION DATE

13.1 This policy shall be implemented with effect from the date of approval.

14 TERMINATION AND REVIEW OF POLICY

This policy shall be reviewed every five (5) years by the Department or as and when is required.

15 ENQUIRIES

Enquiries about any matter relating to this policy will be directed to the Chief Director of Property & Facility Management in the department.

APPROVED BY

MS. N.C RAKGAOLE
MEMBER OF THE EXECUTIVE COUNCIL
LIMPOPO DEPARTMENT OF PUBLIC WORKS,
ROADS AND INFRASTRUCTURE

DATE