

THE LANDLORD AND TENANT (AMENDMENT) BILL
(No IV of 2005)

Explanatory Memorandum

The object of this Bill is –

- (a) to provide that the Landlord and Tenant Act shall no longer apply to the letting of business premises;
- (b) to provide that existing business lettings presently governed by the Landlord and Tenant Act shall be granted a moratorium of 7 years;
- (c) to provide that the rent of existing business lettings may be increased yearly in an amount equivalent to 15% of the difference between the market rent of the business premises and the actual rent paid;
- (d) to give jurisdiction to the Fair Rent Tribunal to determine the market rent of business premises;
- (e) to provide that the determination of an application before the Fair Rent Tribunal shall be made not later than 12 weeks after the start of the hearing of the application; and
- (f) to allow a landlord to convert premises governed by the Landlord and Tenant Act into business premises.

18 February 2005

G.P. LESJONGARD
*Minister of Housing and Lands and
Minister of Fisheries*

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ARRANGEMENT OF CLAUSES

Clause

1. Short title
2. Interpretation
3. Section 2 of principal Act amended
4. Section 3 of principal Act amended
5. Section 9 of principal Act amended
6. Section 11 of principal Act amended
7. Section 12 of principal Act amended
8. Section 14 of principal Act amended
9. Section 26 of principal Act amended
10. Section 29 of principal Act amended
11. Second Schedule to principal Act repealed and replaced
12. Commencement

A BILL

To amend the Landlord and Tenant Act

ENACTED by the Parliament of Mauritius, as follows -

1. Short title

This Act may be cited as the Landlord and Tenant (Amendment) Act 2005.

2. Interpretation

In this Act –

“principal Act” means the Landlord and Tenant Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended –

- (a) in the definition of “business premises”, by inserting immediately after the word “industrial”, the words “, office”;
- (b) in the definition of “premises” –

- (i) in paragraph (b)(ii), by inserting immediately after the words “worship;”, the word “and”;
- (ii) in paragraph (b)(iii), by deleting the word “and”; and
- (iii) by deleting paragraph (b)(iv).

4. Section 3 of principal Act amended

Section 3 of the principal Act is amended in subsection (2), by inserting immediately after paragraph (a), the following new paragraphs –

- (aa) business premises let after 1 July 2005;
- (ab) business premises, where they were let on or before 1 July 2005, after 30 June 2012;

5. Section 9 of principal Act amended

Section 9 of the principal Act is amended –

- (a) in subsection (4) –
 - (i) by deleting the words “, other than industrial premises;”;
and
 - (ii) by deleting the words “15 August 1999” and replacing them by the words “1 July 2005”;
- (b) in subsection (5), by deleting the words “15 August 1999” and replacing them by the words “1 July 2005”;
- (c) by repealing subsections (6), (7) and (8); and
- (d) in subsection (9), by deleting the words “, other than premises referred to in subsection (8), are” and replacing them by the words “that are”.

6. Section 11 of principal Act amended

Section 11 of the principal Act is amended –

- (a) in subsection (1)(a), by inserting immediately after the words “15 August 1999”, the words “or the market rent of business premises let on or before 1 July 2005”; and
- (b) in subsection (3)(b), by inserting immediately after the word “premises”, the words “, other than business premises,”.

7. Section 12 of principal Act amended

Section 12 of the principal Act is amended by adding immediately after subsection (9), the following new subsection –

(10) The Tribunal shall make a determination not later than 12 weeks after the start of the hearing of an application to the Tribunal under section 11.

8. Section 14 of principal Act amended

Section 14 of the principal Act is amended in paragraph (a), by inserting immediately after the word “premises”, the words “or of the market rent of the business premises”.

9. Section 26 of principal Act amended

Section 26 of the principal Act is amended in subsection (1)(b)(i), by inserting immediately after the word “reconstruction”, the words “, conversion into business premises”.

10. Section 29 of principal Act amended

Section 29 of the principal Act is amended in paragraph (b)(i), by inserting immediately after the words “reconstruction”, the words “, conversion into business premises”.

11. Second Schedule to principal Act repealed and replaced

The Second Schedule to the principal Act is repealed and replaced by the Schedule to this Act.

12. Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

SCHEDULE

(section 11)

SECOND SCHEDULE

(section 9(4))

Formula to determine increase of rent

1. For the purpose of section 9(4), the rent may be increased every year, starting from the date of the request for increase of rent up to 30 June 2012, in the amount calculated as follows -

Amount of increase = 15% x (A – B)

2. In paragraph 1 of this Schedule -

“A” means the market rent of the business premises at the date of the request for increase of rent; and

“B” means the rent payable under the existing tenancy at the date of the request for increase of rent.