



PARLIAMENT OF UGANDA

**REPORT OF THE COMMITTEE ON PHYSICAL INFRASTRUCTURE ON THE
LANDLORD AND TENANT BILL, 2021**

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Office of the Clerk to Parliament
Parliament Building
Kampala

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December
2021

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1.0 Introduction

The Landlord and Tenant Bill 2021 was read for the first time on Wednesday 29th September 2021 and referred to the Parliamentary Committee on Physical Infrastructure for consideration.

In accordance with Rules 129 and 189 (c) of the Rules of Procedure of Parliament, the Committee scrutinized the Bill and now presents its report to the House for consideration.

2.0 Background

The relationship between landlord and tenant is currently governed by the Rent Restriction Act Cap 231, the Distress for Rent (Bailiffs) Act, Cap 76 which were enacted in 1949 and 1933 respectively and the Principles of Contract Law. These Statutes are outdated as new issues that require regulation in the landlord-tenant relationships have emerged since their enactment. As a result, there is lack of proper regulation of the relationship and hence disharmony among the key players and disruption of the industry.

It is against this background that the government introduced the Landlord and Tenant Bill, 2021 with the following objectives:

- a) to regulate the relationship between the landlord and tenant;
- b) to reform and consolidate the law relating to the letting of premises;
- c) to provide for the responsibilities of landlords and tenants in relation to the letting of premises; and
- d) to provide for related matters.

A similar Bill entitled "The Landlord and Tenant Bill, 2018" had been presented to the 10th Parliament. It was considered and passed by that Parliament with some amendments and with confirmation that it complied with Human Rights, the Sustainable Development Goals, and it addressed the gaps in the existing law.

In accordance with Article 91 of the Constitution of the Republic of Uganda the Landlord and Tenant Bill, 2018 as passed by Parliament was sent to the President for Assent on 5th May 2019. However, H.E the President in his letter dated 27th October 2020 to the Rt. Hon. Speaker returned the Bill to Parliament requesting for reconsideration in the following areas:

1. Clause 2 of the Bill provides for the interpretation of the meaning of "Business Premises" and "Residential Premises". In view of the changes in the working environment as a result of COVID-19, the President proposed that the interpretations therein, should factor in the emerging trend of home offices and home-stay tourism. As more business professionals and e-commerce enterprises switch to home-working on account of COVID-19, the definition of residential premises should be expanded to accommodate the mixed-use of houses for residential and office businesses that do not require physical interface with customers.
2. Clause 15(1) provides that tenants should not use rented premises (or permit their use) in a manner that causes a nuisance to any occupier of neighbouring premises. This clause presumes that physical planning by Local Governments will adhere to the separation of Residential and Commercial areas and will do the same in their issuance of Trading Licences to avoid situations whereby one licensed commercial activity ends up becoming a nuisance to another activity that is equally licensed by the same Local Government. In addition not enforcing Noise Pollution

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By-laws and Standards is currently a major nuisance and public health concern for the majority of urban dwellers.

Attached herewith as:

- i. annex 1, is H.E. the President's letter dated 27th October 2020 addressed to the Rt. Hon. Speaker of Parliament
- ii. annex 2, is the Landlord and Tenants Bill, 2018 as passed by Parliament and sent to H.E. the President for assent.

The 10th Parliament elapsed before reconsidering of the Bill.

In accordance with Rule 235 of the Rules of Procedure of Parliament, the Rt. Hon. Speaker directed that all Bills that lapsed with the 10th Parliament but are still relevant should be reintroduced to the House. The Landlord and Tenant Bill 2021 was thus read for the 1st time on 29th September 2021 and referred to the Committee of Physical Infrastructure for consideration. The initial instruction was that the Committee should limit itself to H.E. the President's concerns.

In the course of its deliberations however, the Committee noted that there were some changes to the Bill that made it different from the Landlord and Tenant Bill, 2018 as passed by Parliament and sent to H.E. the President for assent; the basis on which he raised concerns and returned the Bill to Parliament for reconsideration of particular clauses.

Against this background, the Committee sought permission from Parliament on 2nd November 2021 to consider the Landlord and Tenant Bill 2021 in its totality and for more time to consider the Bill. The request was granted.

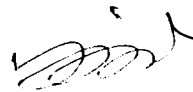


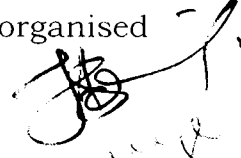
The Committee thus considered the Landlord and Tenant Bill, 2021 and hereby presents its report to the House for consideration.

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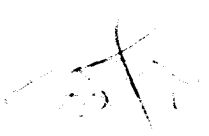
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3.0 Methodology

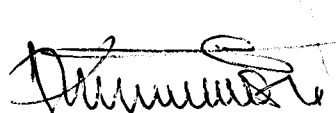
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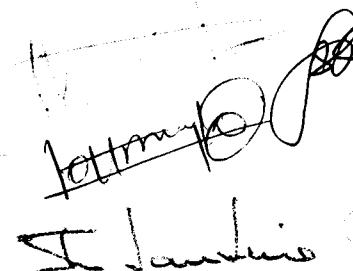
1. Perused the Landlord and Tenants Bill, 2021.
2. Considered H.E. the President's concerns as contained in his letter to the Rt. Hon. Speaker dated 27th October 2020 on the Landlord and Tenants Bill, 2018 as passed by Parliament.
3. Held consultative meetings with key stakeholders: namely
 - i. Minister of Lands, Housing and Urban Development (MoLHUD); the sponsor of the Landlord and Tenants Bill 2021.
 - ii. Uganda Electricity Regulatory Authority; the regulator of the electricity sector in Uganda
 - iii. UMEME Ltd; the largest distributor of electricity to Ugandans. 
 - iv. Kampala Arcaders Advocacy Forum (KAAFO); a registered non-Profit Forum that was formed by Ugandan traders operating in the arcades of Kampala to organize themselves and promote a conducive trade environment, increase business opportunities, have good trade order in the city and create good working relations with the Government, KCCA and other landlords. 
 - v. The Landlord's and Developer's Association; an association of Landlords and Real Estate developers predominantly around Kampala. 
 - vi. Kampala City Traders Association (KACITA); a business association in Uganda aimed at facilitating trade, bringing together the business community and mobilising them into a viable, organised and social sustainable market place. 

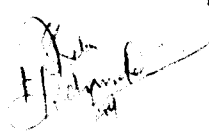


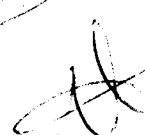




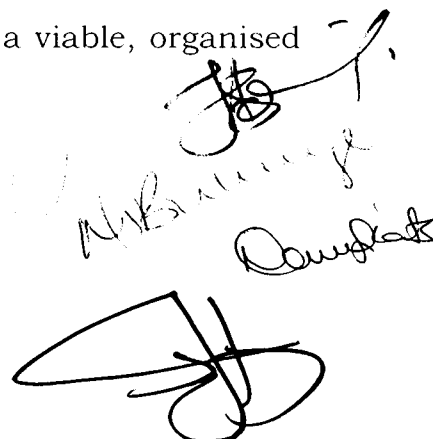












4. Received and considered a written submission from Kalungi Estates Limited.

4.0 Committee Observations and Recommendations

1. Issues that emerged from engagements with the MoLHUD

The Committee found that there were differences between the Landlord and Tenants Bill 2021 and the Landlord and Tenant Bill 2018 as passed by Parliament and sent to the President for assent. The affected clauses were as follows: 1(2), 2, 3(2), 9(2), 13, 16 (2), 26 (2), 27 (1), 31(1), 31(6), 46(2) and 53(d).

The Committee however noted that:

- i. whereas the differences in Clauses 1(2), 2 (on the definitions of Business and Residential Premises), 3(2), 16(2), 27(1) , 31(1), 46(2) and 53 (d) were substantive those identified in Clauses 2 (on definition of currency point), 9(2), 13, 26(2) and 31(6) were alterations arising from legislative drafting.
- ii. the differences in Clauses 2 (on the definition of Residential Premises), 16(2) and 53(d) were to accommodate the concerns of H.E. the President.
- iii. the substantive differences were as follows:
- a) The Landlord and Tenant Bill 2021 excludes the words “a person” in the definition of the word “business” thereby excluding activities that are carried on by one person. The Landlord and Tenant Bill, 2018 as sent to the President for assent had defined business to *inter-alia* include business carried out by a person
- b) the words “with approval of Parliament” as contained in the Landlord and Tenant Bill, 2018 as passed by Parliament were removed from clauses 1(2) and 27(1) of the Landlord and Tenant Bill 2021; thereby:

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- in 1(2) eliminating the requirement for Parliamentary approval in situations where the Minister chooses to exempt particular premises (apart from those already listed in this law) from the operation of this Act.
- in 27(1) eliminating the requirement for Parliamentary approval in situations where the Minister is permitting a landlord to increase rent by more than ten percent annually. The Landlord and Tenant Bill, 2018 as passed by Parliament and sent to the President for Assent prohibits a landlord from increasing rent at a rate of more than ten percent annually.

c) the word “may” in 3(2) and 31(1) was replaced with the word “shall”. This makes mandatory requirements that Parliament had ruled to be optional.

d) clause 46(2) provides for a penalty for a landlord who unlawfully evicts or attempts to evict a tenant from premises. The words “a fine equivalent to three months’ rent payable” contained in the Landlord and Tenants Bill, 2018 as passed by Parliament was replaced with the words “a fine not exceeding two hundred and fifty currency points” in the Landlord and Tenants Bill 2021.

The Committee notes that the alteration in wording is not proper because it undermines the principal of fairness. Two hundred and fifty currency points are standard yet the rent charged for different premises is different. The penalty imposed on the landlord as provided in the Landlord and Tenant Bill 2021 is the equivalent of UGX. 5,000,000 which may be too much or too little depending on the rent charged for the premise.

Observation

The Committee observes that any alteration to a law that amounts to a change in the meaning of a provision as passed by Parliament amounts to usurping the powers of Parliament to make laws.

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The Committee was however informed that the differences found between the Landlord and Tenant Bill, 2018 as passed by Parliament and the Landlord and Tenant Bill 2021, apart from improvements in legislative drafting and the incorporation of H.E. the President's concerns, were not deliberate. The substantive changes noted herein were inadvertently made and the Minister agreed that the provisions revert to what had been passed by Parliament as contained in the Landlord and Tenants Bill 2018 as sent to the President for assent.

Recommendations

The Committee recommends that:

- i. Clauses 2 specifically on the definition of currency point, 9(2), 13, and 26(2) of the Landlord and Tenant Bill 2021 be adopted.
- ii. the content of Clauses 2 specifically definition of Business, 1(2), 3(2), 27(1) and 31(1) of the Landlord and Tenant Bill 2021 revert to what is contained in the Landlord and Tenant Bill, 2018 as passed by Parliament, sent to the President for assent and returned to Parliament by the President for reconsideration.

2. Issues that arose from the concerns of H.E. the President

- i. The President was of the view that the interpretation of "Business Premises" and "Residential Premises" should be expanded to accommodate the mixed-use of houses for residential and office businesses that do not require physical interface with customers.

The Committee noted that the President's concern has been catered for in the Landlord and Tenant Bill, 2021.

- ii. The President noted that Clause 15(1) presumed that physical planning by Local Governments would adhere to the separation of Residential and

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Commercial areas and will do the same in their issuance of Trading Licences to avoid situations whereby one licensed commercial activity ends up becoming a nuisance to another activity that is equally licensed by the same Local Government. The Clause in question stipulates that:

“A tenant shall not use rented premises or permit the use of the rented premises in any manner that causes a nuisance to any occupier of neighbouring premises.”

The Committee noted that the President’s concern had been catered for in the Landlord and Tenant Bill, 2021 by inserting a new sub-clause 16 (2) to read as follows:

“Subsection (1) applies to premises located in areas which are planned in accordance with the laws and regulations on Physical Planning.”

Observations

The Committee observes that:

- i. infact H.E the President was referring to Clause 16 (1) of the Landlord and TenantBill, 2018 as sent to him for Assent and not Clause 15 (1) as captured in his letter.
- ii. the new insertion is redundant because the Physical Planning Act, 2010 provides that all parts of Uganda are a planning area. There is therefore no part of the Country that is unplanned as implied in the new insertion.
- iii. offences relating to nuisance can be addressed using other laws like the National Environment Act and bye-laws enacted by Local Governments.

Recommendation

The Committee recommends that sub-clause 16(2) be deleted.

3. Issues that emerged from interactions with other stakeholders:

i. Electricity

The Committee received concerns from the Tenants of Kampala Arcades in regard to exorbitant Electricity Bills from landlords; and that in some premises where meters have been installed, the landlords continue to interfere with the tenant's peace in this area.

Observation

The Committee noted that Clause 12 of the Bill provides that a landlord shall install a prepaid electricity meter for each of the rented premises.

However:

- i. the Electricity Act, 1999 through Statutory Instruments enacted therefrom namely, the Bulk Metering Guidelines and the Electricity Regulations (Primary Grid Code Regulations) provide for Bulk metering for loads over 100amps; and Commercial buildings are in this category. Bulk metering is not pre-paid and the Bulk Metering Regulations provide that every building will be provided with one meter at the edge of the grid. It is the responsibility of landlord to do the wiring through certified wiring companies when installing other meters within the buildings.
- ii. the ability to provide other meters by the landlords is greatly hinged on the original wiring of the building. The original wiring in many of the commercial buildings did not envisage the provision of other meters within the building.

Recommendations

The Committee recommends that Clause 12 should be deleted.

ii. Other Extra Expenses

The Committee received complaints about other extra expenses that are exorbitant and unfair to the tenants of Kampala Arcades. These include parking space and toilet facilities.

a. Parking Space

In regard to parking fees charged to the tenants of Kampala Arcades, they have to pay UGX. 20,000 per day even in arcades that are built with parking space. In their opinion the extra expense is exorbitant and unfair; moreso in the arcades that are built with parking space.

Observation

The Committee observes that parking space should be an arrangement between the landlord and tenant; and the terms should be clearly stipulated in the tenancy agreement for buildings that have parking space. Otherwise street parking is in the jurisdiction of city councils.

Recommendation

The Committee recommends that the aspect of parking space should be agreed upon by the landlord and the tenant and clearly stated in the tenancy agreement.

b. Toilet Facilities

Some stakeholders informed the Committee that tenants in some arcades in Kampala are required to pay for the use of toilets on top of paying rent. This is seen as unfair.

Worse still landlords in some arcades have transformed the toilet areas into shops so the tenants of those arcades have to look for toilets from other neighbouring areas. This too is unfair and very inconveniencing to the tenants.

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The Committee recommends that the payment of "good will" by tenants to landlords be outlawed.

iii. Receipting of Rent Payments

Tenants complained about non issuance of receipts upon payment of rent. Instances have arisen where landlords only issue a piece of paper indicating "cleared" for tenants who have paid their rent dues. In other instances the amount indicated on the receipt issued to the tenant is just a small fraction of what has been paid to the landlord by the tenant.

Observation

The Committee observes that there is need for a legal provision that compels the landlord to issue a receipt to the tenant upon payment of rent; and that the receipt must be formatted to include the actual amount paid and period covered by the amount paid.

Recommendation

The Committee recommends that the Bill be amended to provide for amount paid and the duration covered by the said amount.

4. Other areas that emerged during consideration of the Bill

i. Tenancy Agreements

The Bill provides a rigid format for tenancy agreements that are made in writing. The format may not accommodate all issues that the parties to a tenancy agreement would like to mutually include in their contract.

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Observation

The Committee observes that the Bill restricts the nature of tenancy agreements and yet the laws of Uganda provide for freedom of contract.

Recommendation

The Committee proposes that the Bill should allow for freedom of contract and uphold the right of parties to determine the terms of their tenancy.

ii. Circumstances underwhich the tenant may repair premises

The Bill allows a tenant to carry out repairs where he/she has taken reasonable steps to arrange for the landlord to carry out repairs but is unable to get the landlord to carry out the repairs. It further provides that the tenant immediately after carrying out the repairs gives the landlord written notice of repairs done and the cost implications for reimbursement within fourteen days.

Observation

The Committee observes that the provision as is encourages exploitation of the landlord since there is no time frame given within which the tenant should notify the landlord for the need for the repair; and also that the cost of repairs are open to exaggeration by the tenant.

Recommendation

The Committee proposes that the Bill should be amended to:

- i. provide for a fair timeframe between a notice to the landlord alerting him of the need for a given repair and the commencement of repair works by the tenant.
- ii. the cost of the repair must be based on the going market rates.

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iii. Increase of rent

The Bill provides that the landlord shall give a tenant at least ninety days notice of a proposed increment in rent.

Observation

The Committee observes that parties may mutually agree on how rent should be increased especially with a long term tenancy. Sixty days notice would be more reasonable in the circumstances.

Recommendation

The Committee proposes that the minimum period of notice for increase in rent should be amended to provide for a shorter period of sixty days.

iv. Failure to pay rent by tenant and claims for rent arrears

The Bill provides that where a tenant defaults in paying rent the landlord may apply to a court of competent jurisdiction to recover the rent owed.

Observation

The Committee observes that the court processes are very time consuming and instances have arisen where the defaulting tenant continues to occupy the premises until an order of eviction is obtained; which causes the landlord further financial loss.

Recommendation

The Committee proposes that in order to save the landlord from further financial loss, the Bill should allow the landlord to re-enter the premises and take possession thereof in the presence of the local authorities without prejudice to the right to recover the rent arrears.

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v. Termination after notice

The Committee was concerned that when a notice of termination of contract is issued by the landlord to the tenant, sometimes the tenant interprets the notice as end of contract although they continue to occupy the premises until the period of the notice has elapsed; during which period they do not pay rent.

a. Observation

The Committee observes that this is tantamount to breach of contract because at that point the contract is still subsisting and the tenant though due to vacate the premises must continue to pay their rent until they actually vacate the premises.

Recommendation

The Committee proposes that a new sub-clause be provided to cover this scenario.

b. Observation

The Committee further observed that matters pertaining to the termination of tenancy in a business premise should be covered in the tenancy agreement as opposed to this law.

Recommendation

The Committee proposes that matters pertaining to the termination of a tenancy in a business premise should be left to the tenancy agreement

vi. Termination by abandonment

The Bill provides that a tenancy is considered terminated by abandonment where the tenant leaves the premises permanently without ending the period stipulated in the tenancy agreement.

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