

(16 February 2018 – to date)

EXTENSION OF SECURITY OF TENURE ACT 62 OF 1997

(Gazette No. 18467, Notice No. 1598. Commencement date: 28 November 1997)

REGULATIONS

*Government Notice R1632 in Government Gazette 19587 dated 18 December 1998. Commencement date:
18 December 1998*

As amended by:

*General Notice 72 in Government Gazette 41447 dated 16 February 2018. Commencement date:
16 February 2018.*

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February 2018)*

EXTENSION OF SECURITY OF TENURE ACT, 1997 (ACT NO. 62 OF 1997): REGULATIONS

The Minister of Land Affairs has under section 28(1) of the Extension of Security of Tenure Act, 1997 (Act No. 62 of 1997) made the regulations in the Schedule.

(Signed)

D. A. HANEKOM

MINISTER OF LAND AFFAIRS

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Prepared by:

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FORMS

SCHEDULE A

1. Definitions

In these regulations any word or expression to which a meaning has been assigned in the Act, shall have that meaning and, unless the context *[sic]* otherwise indicates—

"day" means a calendar day;

"official language" means an official language listed in section 6(1) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

"regulations" includes the forms in the Annexure;

"sheriff" means a person appointed in terms of section 2 of the Sheriffs Act, 1986 (Act No. 90 of 1986), and a person appointed in terms of section 5 and section 6 of that Act as an acting sheriff and a deputy sheriff, respectively;

"the Act" means the Extension of Security of Tenure Act, 1997 (Act No. 62 of 1997); and

"week day" means any day except Saturday, Sunday or a public holiday.

2. Qualifying income

(1) The prescribed amount for the purposes of paragraph (c) of the definition of "occupier" in section 1(1) of the Act shall be an income of R13, 625.00 per month.

(Regulation 2(1) substituted by regulation 2 of General Notice 72 in Government Gazette 41447 dated 16 February 2018)

(2) For the purposes of subregulation (1) "income" means—

(a) a person's gross monthly cash wage or salary; or

(b) where a person earns money—

(i) other than in the form of a monthly cash wage or salary, the average monthly amount of such person's gross earnings during the immediately preceding year; or

- (ii) in addition to a monthly cash wage or salary, such person's gross monthly cash wage or salary together with the average monthly amount of such person's additional gross earnings during the immediately preceding year:

Provided that remuneration in kind shall not be taken into account.

3. Application for certification as an owner or person in charge

- (1) An application by a person for certification as an owner or person in charge as defined in section 1(2)(a) of the Act must be submitted to the Director-General on Form A or must conform substantially to Form A in the Annexure.
- (2) In the event of the Director-General approving such an application, he or she must issue a certificate on Form B or a certificate conforming substantially to Form B in the Annexure.

4. Form of notice in terms of section 7(1)

A notice to an occupier in terms of section 7(1) of the Act must be in writing and shall be completed on Form C or must conform substantially to Form C in the Annexure.

5. Form of notice in terms of section 8(5)

A notice to an occupier in terms of section 8(5) of the Act must be completed on Form D or must conform substantially to Form D in the Annexure.

6. Form of notice in terms of section 9(2)(d)

A notice to an occupier, municipality, or head of a provincial office of the Department of Land Affairs in terms of section 9(2)(d) of the Act must be completed on Form E or F or must [sic] conform substantially to Form E or F in the Annexure, as the case may be.

7. Form of notice in terms of section 10(1)(b)

A notice to an occupier in terms of section 10(1)(b) of the Act must be completed on Form G or must conform substantially to Form G in the Annexure.

8. Form of notice in terms of section 23(5)(b)

A notice to a public prosecutor in terms of section 23(5)(b) of the Act must be completed on Form H or must conform substantially to Form H in the Annexure.

9. Manner of service

- (1) Service of a notice in terms of section 7(1), 8(5) or 10(1)(b) of the Act on an occupier must be effected—
 - (a) by reading the highlighted part of a copy of the notice to the occupier in the official language which the occupier understands best and thereafter delivering to the occupier one copy of the notice in that language and another copy in another official language, where the notice is completed on Form C, D or G in the Annexure; or
 - (b) by reading the portion equivalent to the said highlighted part, of a copy of the notice to the occupier in the official language which the occupier understands best and thereafter delivering to the occupier one copy of the notice in that language and another copy in another official language, where the notice conforms substantially to Form C, D or G in the Annexure, respectively.
- (2) Service of a notice in terms of section 9(2)(d)(i) of the Act on an occupier must be effected by the sheriff within whose area of jurisdiction the land in question is situated—
 - (a) by reading the highlighted part of a copy of the notice to the occupier in the official language which the occupier understands best and thereafter delivering to the occupier one copy of the notice in that language and another copy in another official language, where the notice is completed on Form E in the Annexure; or
 - (b) by reading the portion equivalent to the said highlighted part, of a copy of the notice to the occupier in the official language which the occupier understands best and thereafter delivering to the occupier one copy of the notice in that language and another copy in another official language, where the notice conforms substantially to Form E in the Annexure.
- (3) Where necessary, an interpreter must be used for reading the highlighted part of a copy of a notice contemplated in subregulation (1) or (2).
- (4) Where the person serving a notice in terms of subregulation (1) or (2) is unable to serve the notice on the occupier personally, service must be effected—
 - (a) by leaving a copy of the notice in an official language which the occupier is reasonably believed to understand best, and in another official language, at the occupier's place of residence with a person apparently in charge of the premises at the time of delivery and apparently not less than 16 years of age;
 - (b) by affixing a copy of the notice in an official language which the occupier is reasonably believed to understand best, and in another official language, to the door of the occupier's place of residence; or

- (c) by sending a copy of the notice in an official language which the occupier is reasonably believed to understand best, and in another official language, by registered post to the occupier's last-known postal address.
- (5) Service of a notice on an occupier who is under the age of 18 years may be effected by citing the name of the occupier on a notice served on an adult member of the household in which the occupier is ordinarily resident.
- (6) Service of a notice on a municipality or provincial office of the Department of Land Affairs in terms of section 9(2)(d)(ii) or (iii) of the Act or on a public prosecutor in terms of section 23(5)(b) of the Act must be effected—
- (a) by handing a copy of the notice to the Chief Executive Officer, Town Clerk, Deputy Town Clerk, Assistant Town Clerk or any person apparently authorised to act on his or her behalf, in the case of a municipality;
 - (b) by handing a copy of the notice to the director of the provincial office concerned or any person apparently authorised to act on his or her behalf, in the case of a provincial office of the Department of Land Affairs;
 - (c) by handing a copy of the notice to the public prosecutor concerned or any person apparently authorised to act on his or her behalf, in the case of a public prosecutor;
 - (d) by sending a copy of the notice by registered post to the municipality, provincial office or office of the public prosecutor concerned; or
 - (e) by transmitting a copy of the notice by telegram, telex or telefax to the municipality, provincial office or office of the public prosecutor concerned.
- (7) Service of all notices required to be served in terms of these regulations must be effected between 06h00 and 20h00 on any day, unless otherwise directed by a court.
- (8) Where service is effected by hand, an additional copy of the notice must be prepared, and the person receiving the notice must be requested to sign and date this copy and return it to the person serving the notice.

10. Presumption relating to time of service

Where service is effected by registered post, it shall be presumed that service was effected on the seventh week day following the day on which the notice was posted, unless the contrary is proved.

11. Proof of service

Prepared by:

- (1) It shall be presumed, unless the contrary is proved, that service of a notice under these regulations has been duly effected if the party alleging such service produces in court—
 - (a) an acknowledgment of receipt signed by the person on whom the notice was required to be served or by a person accepting service on his or her behalf;
 - (b) a return of service from the sheriff indicating that service was duly effected in terms of regulation 9;
 - (c) in the case of service by registered post, the relevant Post Office certificate; or
 - (d) in the case of service by electronic means, a copy of the relevant transmission slip showing the date and time of service.
- (2) If the court hearing a matter is not satisfied that service was effected in accordance with these regulations or if the court is not satisfied that a copy of the notice was in fact received by the person on whom it was required to be served, it may make such order as it deems fit.

12. Criteria for recognition of persons, bodies or institutions responsible for promotion of implementation of rights conferred by Act

- (1) In considering whether to recognise a particular person, body or institution for the purposes of section 2(3) of the Act, the Minister shall have regard to:
 - (a) the competence of such person, body or institution to promote the implementation of the rights conferred by the Act;
 - (b) the cost-effectiveness of any proposal made by such person, body or institution regarding the implementation of the rights conferred by the Act;
 - (c) the experience that such person, body or institution has in assisting people who do not have secure tenure of their homes;
 - (d) the financial controls that such person, body or institution undertakes to impose on the use of any funds that may be made available by the Minister;
 - (e) relevant language skills of such person, body or institution; and
 - (g) any other criteria that the Minister may consider to be relevant.

(Note: Incorrect numbering in regulation 12(1) as published in Government Notice R1632, Gazette No. 19587 dated 18 December 1998)

- (2) If at any stage after the recognition of a person, body or institution under section 2(3) of the Act the Minister becomes aware of allegations of financial impropriety against such person, body or institution, he or she may, after establishing the truthfulness of such allegations, withdraw such recognition, cancel any agreement with that person, body or institution, or impose special conditions in respect of continued recognition of that person, body or institution.

13. Criteria for recognition of persons or bodies responsible for facilitation, implementation or undertaking of development

- (1) In considering whether to recognise a person or body for the purposes of section 4(4) of the Act, the Minister shall have regard to:
- (a) the competence of such person or body to facilitate, implement or undertake a development;
 - (b) the cost-effectiveness of any proposal made by such person or body regarding the facilitation, implementation or undertaking of the development in question;
 - (c) the experience that such person or body has in facilitating, implementing or undertaking developments of the kind contemplated in section 4 of the Act;
 - (d) the financial controls that such person or body undertakes to impose on the use of any subsidies which may be granted by the Minister;
 - (e) the degree of support that such person or body enjoys among the owners, occupiers and government departments concerned;
 - (f) relevant language skills of such person or body; and
 - (g) any other criteria that the Minister may consider to be relevant.
- (2) If at any stage after the recognition of a person or body under section 4(4) of the Act the Minister becomes aware of allegations of financial impropriety against such person or body, he or she may, after establishing the truthfulness of such allegations, withdraw such recognition, cancel any agreement with that person or body or impose special conditions in respect of continued recognition of that person or body.

14. Repeal of regulation

The regulation published by Government Notice No. R1596 of 28 November 1997 is repealed.

ANNEXURE

Form A

APPLICATION FOR CERTIFICATION AS OWNER OR PERSON IN CHARGE OF STATE LAND

APPLICATION IN TERMS OF SECTION 1(2)(a) OF THE EXTENSION OF SECURITY OF TENURE ACT,
1997

To: The Director-General
Department of Land Affairs
Private Bag X833
Pretoria 0001

I, _____ [fill in name of applicant], the undersigned, acting in my capacity as _____ [fill in designation of applicant], hereby apply for a certificate referred to in section 1(2)(a) of the Extension of Security of Tenure Act, 1997 (Act No. 62 of 1997) authorising me to act as owner/person in charge [delete whichever is not applicable] for all purposes contemplated in that Act of the land described as:

[Give the full Deeds Office description of the land, if any. In the case of a farm, this must include the portion, name and number of the farm, and the name of the district in which the farm is situated.]

The grounds on which this application is based are as follows:

[List the grounds on which the application is based, including, in the case of a tribal authority, the grounds on which it is alleged that the applicant represents the tribe concerned. Attach additional pages if necessary.]

In support of this application I attach the following documents:

[List and attach any relevant supporting documents.]

Signed at _____ [name of town or city] on this _____ day of _____

[Fill in the name of the district or closest town or city and today's date.]

Prepared by:

[Signature and full name of applicant.]

[Designation.]

Applicant's return address (including tel.no., fax no. and contact person) _____

Applicant's telephone no. _____

Applicant's facsimile no. _____

Contact person _____

CERTIFICATE TO ACT AS OWNER OR PERSON IN CHARGE OF STATE LAND

CERTIFICATE ISSUED IN TERMS OF SECTION 1(2)(a) OF THE EXTENSION OF SECURITY OF TENURE ACT, 1997

To: _____

[Fill in name, designation and address of applicant.]

I, _____ [fill in name of Director-General or person signing certificate on his or her behalf] the undersigned, acting in my capacity as Director-General/duly designated officer [delete whichever is not applicable] of the Department of Land Affairs, hereby certify, in terms of section 1(2)(a) of the Extension of Security of Tenure Act, 1997 (Act No. 62 of 1997), that _____ [fill in applicant's name], in his/her capacity as _____ [fill in applicant's designation], is authorised to act as owner/person in charge [delete whichever is not applicable] for all purposes contemplated in that Act, of the land described as:

[Give the full Deeds Office description of the land concerned if any. In the case of a farm, this must include the portion, name and number of the farm, and the name of the district in which the farm is situated.]

This certificate is issued subject to the following conditions:

[Set out the conditions to which the authority to act as owner or person in charge is subject.]

Signed at _____ [name of town or city] on this _____ day of _____

[Signature and full name of the person signing this certificate.]

[Designation]

Prepared by:



Contact person: _____

Contact tel. no. _____

Address: _____

Prepared by:

NOTICE TO REMOVE TRESPASSING ANIMALS

NOTICE IN TERMS OF SECTION 7(1) OF THE EXTENSION OF SECURITY OF TENURE ACT, 1997

[Note that the issuing of this notice does not exempt the owner or person in charge from complying with the requirements of applicable pound ordinances or regulations.]

To: _____

[Fill in the name and address of the occupier.]

[Note to person serving this notice: You must read out the highlighted part in an official language which the occupier understands. If you yourself are not fluent in that language, you must use an interpreter. A copy of this notice must then be given to the occupier in that language, and in another official language. If possible the copy given to the occupier should be signed and dated by him or her and returned to the owner or person in charge as proof of service.]

This is an important notice. It is being given to you in terms of the Extension of Security of Tenure Act, which was passed by Parliament in 1997.

This notice is given to you by

[List the name of the owner or person in charge of the land.]

to inform you that the following animal/s

[Give a full description of the animal/s concerned.]

have been found without permission on the land commonly known as:

[Give the common description of the land on which the animals is/are alleged to have been trespassing.]

Prepared by:

In order to prevent the animal/s from damaging the land, it/they is/are currently being kept at:

[Give a detailed description of the current location of the animals if different from above. Otherwise, strike out this part of the notice.]

You must fetch the animal/s within _____ hours of receiving this notice. If you do not do so, it/they may be impounded in accordance with applicable pound ordinances or regulations. The cost of impounding the animal/s will be charged to you.

[Note: the period of notice given in this paragraph must not be less than 72 hours.]

The summary contained in this notice of your legal position is incomplete. If you want any further information, you should contact a lawyer, a non-government organisation or the Department of Land Affairs.

Signed at _____ on this _____ day of _____
[Fill in the name of the district or closest town or city and today's date.]

[Sign here and state whether acting as owner or person in charge. If person in charge, state in which capacity he or she is acting.]

Full name of owner or person in charge of the land: _____

Contact tel. no.: _____

Contact address: _____

Received by me at _____ on this _____ day of _____ at _____ h _____
[Fill in the name of the district or closest town or city, today's date and the time when the notice was received.]

[It is advisable for the occupier or other person accepting service on his or her behalf to sign here.]

I certify that this notice was served at _____ on this _____ day of _____ at _____ h _____

[Fill in the name of the district or closest town or city, today's date, and the time when the notice was served.]

Prepared by:

[Signature of person serving this notice.]

Full name of person serving this notice: _____

Capacity: _____

Contact tel no.: _____

Contact address: _____

More information

The Extension of Security of Tenure Act gives you the right to live on the land where you were staying on 4 February 1997 or at any time thereafter, provided you had the permission of the owner or person in charge. It also gives you the right to carry on using any other land which the owner or person in charge gave you permission to use on or after that date.

The Act says that if an animal which belongs to you or which you are looking after is found on land belonging to somebody else, without permission, it may be taken to the pound. Before this happens, the owner or person in charge of the land must give you at least 72 hours' notice. During this time you may go and collect the animal from where it is being kept.

NOTICE TO TERMINATE RESIDENCE RIGHT OF SPOUSE OR DEPENDANT OF LONG-TERM, PROTECTED OCCUPIER[sic]

NOTICE IN TERMS OF SECTION 8(5) OF THE EXTENSION OF SECURITY OF TENURE ACT, 1997

[Note: a separate notice must be served on every occupier in the household, excluding children under the age of 18. Children under the age of 18 can be cited in a notice served on an adult member of the household in which they are ordinarily resident.]

To:

Children under the age of 18:

1. _____
2. _____
3. _____

[fill in the name and address of the occupier]

[use more space if necessary]

[Note to person delivering this notice: You must read out the highlighted part in an official language which the occupier understands. If you yourself are not fluent in that language, you must use an interpreter. A copy of this notice must then be given to the occupier in that language, and in another official language. If possible the copy given to the occupier should be signed and dated by him or her and returned to the owner or person in charge as proof of service.]

This is an important notice. It is being given to you in terms of the Extension of Security of Tenure Act, which was passed by Parliament in 1997.

The notice is the first step in the procedure which the owner or person in charge has to follow in order to go to court to get an eviction order. It concerns the land commonly known as:

[Give a full description of the land as it is commonly known, including residential and grazing land, and any land which is being used for cultivation.]

If you do not leave the land within _____ of receiving this notice, the owner or person in charge may ask the court for an order saying that you can be evicted.

[Note: The period of notice given must not be less than 12 months.]

The summary contained in this notice of your legal position is incomplete. If you want any further information you should immediately contact a lawyer, a non-government organisation or the Department of Land Affairs.

Signed at _____ on this _____ day of _____

[Fill in the name of the district or closest town or city and today's date.]

[Sign here and state whether acting as owner or person in charge. If person in charge, state capacity in which he or she is acting.]

Full name of owner or person in charge of the land: _____

Contact tel. no.: _____

Contact address: _____

Received by me at _____ on this _____ day of _____ at _____ h _____

[Fill in the name of the district or closest town or city, today's date and the time when the notice was received.]

[It is advisable for the occupier or person accepting service on his or behalf to sign here.]

I certify that this notice was served at _____ on this _____ day of _____ at _____ h _____

[Fill in the name of the district or closest town or city, today's date and the time when the notice was served.]

[Signature of person serving this notice.]

Full name of person serving this notice: _____

Capacity: _____

Prepared by:

Contact tel/fax no: _____

Contact address: _____

More information

The Extension of Security of Tenure Act gives you the right to live on the land where you were staying on 4 February 1997 or at any time thereafter, provided you had the permission of the owner or person in charge. It also gives you the right to carry on using any other land which the owner or person in charge gave you permission to use on or after that date.

The Act makes it possible, in certain circumstances, for these rights to be brought to an end. The owner or person in charge must act fairly, and follow the procedures set out in the Act.

In this case, because your right to live on the land was dependent on an aged or disabled person who had been living on the land for more than 10 years, the Act gives you special protection. Just because that person has died does not mean that you have to leave the land immediately. The owner or person in charge of the land must first give you at least one year's written notice. When the notice period comes to an end, you may remain on the land until the owner or person in charge gets a court order to evict you. Before this happens, you must be given at least two further months' written notice of the date on which the owner or person in charge intends going to court.

NOTICE TO OCCUPIER OF INTENTION TO APPLY FOR EVICTION ORDER

NOTICE IN TERMS OF SECTION 9(2)(d)(i) OF THE EXTENSION OF SECURITY OF TENURE ACT, 1997

[Note: a separate notice must be served on every occupier in the household, excluding children under the age of 18. Children under the age of 18 can be cited in a notice served on an adult member of the household in which they are ordinarily resident.]

To:

[fill in the name and address of the occupier]

Children under the age of 18:

1. _____
2. _____
3. _____

[use more space if necessary]

[Note to sheriff serving this notice: You must read out the highlighted part in an official language which the occupier understands. If you yourself are not fluent in that language, you must use an interpreter. A copy of this notice must then be given to the occupier in that language, and in another official language. If possible the copy given to the occupier should be signed and dated by him or her and returned to the owner or person in charge as proof of service]

This is an important notice. It is being given to you in terms of the Extension of Security of Tenure Act, 1997.

This notice means that the owner or person in charge plans going to court in two month's time or at some time thereafter to ask an eviction order be issued against you. The owner or person in charge must ensure that you are told when and where the case will be heard. The grounds on which the eviction order will be sought are as follows:

[Give a summary of all the grounds on which the eviction order will be sought. Additional pages may be attached if necessary.]

The land to which this notice relates is commonly known as:

[Give a full description of the land as it is commonly known, including residential and grazing land, and any land which is being used for cultivation.]

The land is officially described as: _____

[Give the full Deeds Office description (if any) of the land on which the occupier is residing. In the case of a farm, this must include the portion, name and number of the farm, and the name of the district in which the farm is situated.]

The summary contained in this notice of your legal position is incomplete. For further information you should immediately contact a lawyer, a non-governmental organisation or the Department of Land Affairs.

Signed at _____ on this the _____ day of _____

[Fill in the name of the district or closest town or city and today's date.]

[Sign here and state whether acting as owner or person in charge. If person in charge, state in what capacity he or she is acting]

Full name of owner or person in charge of the land: _____

Contact tel. no.: _____

Contact address: _____

Received by me at _____ on this the _____ day of _____ at _____ h _____

[Fill in the name of the district or closest town or city, today's date and the time when the notice was received.]

Prepared by:

[It is advisable for the occupier or other person receiving the notice to sign here.]

I certify that this notice was served at _____ on this the _____ day of _____
at _____ h _____

[Fill in name of district or closest town or city, today's date and the time when the notice was served.]

[Signature and stamp of sheriff serving this notice.]

Full name of sheriff serving this notice: _____

Designation: _____

Contact tel./fax no.: _____

Contact address: _____

More information

This is an important notice. It is being given to you in terms of the Extension of Security of Tenure Act, which was passed by Parliament in 1997. The Act gives you the right to live on the land where you were staying on 4 February 1997, or at any time thereafter, provided you had the permission of the owner or person in charge. It also gives you the right to carry on using any other land which the owner or person in charge gave you permission to use on or after that date.

The Act makes it possible, in certain circumstances, for these rights to be brought to an end. The owner or person in charge must act fairly, and follow the procedures set out in the Act. The first step that the owner or person in charge must take is to end your right of residence after which you must be given this notice. This notice means that the owner or person in charge of the land plans going to court in two months' time or sometime thereafter to ask that an eviction order be issued against you. The court hearing the matter will be either the magistrate's court in your area, or the Land Claims Court in Randburg (Gauteng) or, if you agree, the provincial division of the High Court responsible for the area in which you are staying. The owner or person in charge must ensure that you are told when and where the case will be heard.

NOTICE TO MUNICIPALITY AND DEPARTMENT OF LAND AFFAIRS OF INTENTION TO APPLY FOR EVICTION ORDER

NOTICE IN TERMS OF SECTION 9(2)(d)(ii) AND (iii) OF THE EXTENSION OF SECURITY OF TENURE ACT, 1997

[Where service of this notice is effected by hand, an additional copy of the notice must be prepared. Such copy shall be signed and dated by the person receiving it and returned to the person serving the notice as proof of service.]

To: The Chief Executive Officer/Town Clerk/
Deputy Town Clerk/Assistant Town Clerk
[Delete whichever is not applicable.]

[Fill in the name and address of the municipality in whose area of jurisdiction the land is situated.]

And to: The Provincial Director
Department of Land Affairs

[Fill in the address of the relevant provincial office.]

Please take note that _____ [list period of not less than two months] after you receive this notice I, the undersigned _____ [fill in the name of the person who intends seeking the order for eviction], acting in my capacity as owner/person in charge [delete whichever is not applicable] intend applying for an order to evict _____ [fill in name of occupier) from the land described below.

Land to which this notice relates: _____

[Give a full description of the land on which the occupier is residing as it is commonly known, including any residential or grazing land, and any land which is being used for cultivation. Also give the full Deeds Office description (if any) of the land. In the case of a farm, this must include the portion, name and number of the farm, and the name of the district in which the farm is situated.]

Prepared by:

The grounds on which the eviction order will be sought are as follows: _____

[Give a summary of all the grounds on which the eviction order will be sought. Additional pages may be attached if necessary.]

I confirm that the said occupier's right of residence has been terminated in accordance with section 8 of the Extension of Security of Tenure Act, 1997 (Act No. 62 of 1997). [Attach copy of the notice of termination.]

Signed at _____ on this the _____ day of _____ [Fill in the name of the district or closest town or city and today's date.]

[Sign here].

[Capacity]

Name and contact address/tel. no of owner or person in charge of the land

Received by me on this the _____ day of _____ at _____ h _____
[Fill in the name of the district or closest town or city, today's date and the time when the notice was received.]

[Signature and name of person receiving this notice.]

[Designation]

NOTICE OF BREACH OF MATERIAL AND FAIR TERM OF AGREEMENT BETWEEN OWNER / PERSON IN CHARGE AND OCCUPIER

NOTICE IN TERMS OF SECTION 10(1)(b) OF THE EXTENSION OF SECURITY OF TENURE ACT, 1997

[Note: a separate notice must be served on every occupier in the household, excluding children under the age of 18. Children under the age of 18 can be cited in a notice served on an adult member of the household in which they are ordinarily resident.]

To:

[fill in the name and address of the occupier]

Children under the age of 18:

1. _____
2. _____
3. _____

[use more space if necessary]

[Note to person serving this notice: You must read out the highlighted part in an official language which the occupier understands. If you yourself are not fluent in that language, you must use an interpreter. A copy of this notice must then be given to the occupier in that language, and in another official language. If possible the copy given to the occupier should be signed and dated by him or her and returned to the owner or person in charge as proof of service]

This is an important notice. It is being given to you in terms of the Extension of Security of Tenure Act, which was passed by Parliament in 1997.

It is alleged that you have breached the following material and fair term of your agreement with the owner/person in charge: _____

[List the term of the agreement which has been allegedly breached.]

Prepared by:



The details of the alleged breach are as follows: _____

[Set out the nature of the alleged breach. Additional pages may be attached if necessary.]

The land to which this notice relates is commonly known as: _____

[Give a full description of the land to which this notice relates, including any residential or grazing land, and any land which is being used for cultivation.]

Signed at _____ on this the _____ day of _____ [Fill in the name of the district or closest town or city and today's date.]

[Sign here and state whether acting as owner or person in charge. If the person in charge, state the capacity in which he or she is acting]

Full name of owner or person in charge of the land: _____

Contact tel. no.: _____

Contact address: _____

Received by me at _____ on this the _____ day of _____ at _____ h_____

[Fill in the name of the district or closest town or city, today's date and the time when the notice was received.]

[It is advisable for the occupier or other person receiving the notice to sign here.]

I certify that this notice was served at _____ on this the _____ day of _____ at _____ h_____

[Fill in name of district or closest town or city today's date and the time when the notice was served.]

[Signature of person serving this notice.]

[Full name of person serving this notice:]

Capacity: _____

Contact tel/fax no.: _____

Contact address: _____

More information

The Extension of Security of Tenure Act gives you the right to live on the land where you were staying on 4 February 1997, or at any time thereafter, provided you had the permission of the owner or person in charge. It also gives you the right to carry on using any other land which the owner or person in charge gave you permission to use on or after that date.

The Act makes it possible, in certain circumstances, for these rights to be brought to an end. The owner or person in charge must act fairly, and follow the procedures set out in the Act.

The Act says that, if you break a material and fair term of such an agreement, the owner or person in charge may apply to court for an eviction order. However, before this happens, the owner or person in charge must give you at least one month's written notice to put the matter right. This is what this notice is about.

NOTICE TO PUBLIC PROSECUTOR OF INTENTION TO INSTITUTE PRIVATE PROSECUTION

NOTICE IN TERMS OF SECTION 23(5)(b) OF THE EXTENSION OF SECURITY OF TENURE ACT, 1997

[Where service of this notice is effected by hand, an additional copy of the notice must be prepared. Such copy shall be signed and dated by the person receiving it and returned to the person serving the notice as proof of service.]

The Public Prosecutor

[fill in name and address of public prosecutor]

Please take note that I/we, the undersigned _____

[fill in the names of the persons whose rights or interests have been prejudiced by the alleged offence] am/are considering instituting a private prosecution against

_____ [give full names of alleged offenders] in terms of section 23(4) of the Extension of Security of Tenure Act (Act No. 62 of 1997)].

The alleged offence to which this notice relates is as follows:

[Give full details of the events surrounding the alleged unlawful eviction.]

The land to which this notice relates is:

[Give the physical address and the full Deeds Office description of the land on which the alleged unlawful eviction took place. In the case of a farm, this must include the portion, name and number of the farm, and the name of the district in which the farm is situated.]

Prepared by:



If, within 14 days of receiving this notice you have not communicated to me/us in writing that you intend prosecuting this matter yourself, I/we intend instructing _____ [give full name/s of attorney/advocate] to institute a private prosecution on my/our behalf.

Your attention is drawn to section 23(5) of the Extension of Security of Tenure Act, 1997 (Act No. 62 of 1997).

Signed at _____ on this the _____ day of _____

[Fill in the name of the district or closest town or city and today's date]

1. _____

2. _____

3. _____

[Signature/s of person/s issuing this notice.]

Full name/s:

1. _____

2. _____

3. _____

Return address:

[The return address may be the address of a legal representative.]

Contact person: _____

Tel. No _____

Fax No. _____

Received by me on this the _____ day of _____ at _____ h_____

[Fill in the name of the district or closest town or city, today's date and the time when the notice was served.]

[Signature of public prosecutor or person apparently authorised to act on his or her behalf.]