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Department:
Roads and Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

STATE OWNED HOUSING RENTAL POLICY

Version 2
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1. PREAMBLE

- 1.1** Each Province is fully responsible for the safeguarding, management and maintenance of the government houses. In terms of the Government Immovable Asset Management Act, there are principles and procedures that are entrenched by the law. In the absence of the province not being in a position to dispose of the houses, to avoid the expenditure on safeguarding the property, the province should in the meantime devise means to earn revenue from the leasing out state houses.

- 1.2** The rental/lease of state owned houses could potentially be a large source of provincial revenue if it is managed correctly, taking sound business principles into account. In an endeavor to maximize revenue collection, the Northern Cape Provincial Treasury has noted with concern that the province is not generating the desired revenue from rental of state owned houses.

2. PURPOSE

- 2.1** The main purpose of the guideline is to enable the Department of Roads and Public Works as custodian to safeguard, maintain, regulate, provide, administer and allocate the state housing to employees of state. It is also to ensure that:
 - a) The allocation procedure of rental is transparent and accessible to all government employees of the province.
 - b) The rental should be market related.
 - c) To ensure that market related rentals are revised annually at market related rates.
 - d) To ensure maximization of revenue collection in the province.

- e) To ensure uniformity, efficient and effective implementation in the application of housing rental fees.

3. DEFINITION

- a) **Custodian** means a National or Provincial Department referred to in section 1 of GIAMA as presented by the Minister of such national department, Premier of a province or MEC of such provincial department, so designated by the Premier of that province.
- b) **DPSA** means Department of Public Service and Administration.
- c) **Essential Services** means a service, facility or activity of the Government that is or will be, at any time, necessary for the safety or security of the general public or a segment of the public.
- d) **GIAMA** refers to *Government Immovable Asset Management Act*.
- e) **Housing for married officials** refers to State Housing designated for an officer or employee with a family that lives with him or her.
- f) **Housing for single officials** refers to State Housing designated for an officer or employee who does not have a family that lives with him or her.
- g) **Lessee** is the party in an agreement of lease who acquires the right in terms of that lease to occupy the subject property.
- h) **Lessor** is the party in an agreement of lease who gives the other party the right to occupy the subject property of the lease.
- i) **Immovable assets** are land and improvements thereon and rights thereon or thereto, whether leasehold or freehold.
- j) **Market related rates** are tariffs of rental which applies generally for the market in the area for comparable housing.
- k) **Non-standard housing** refers to prefabricated housing that is in an acceptable state of repair.

- l) **Official** refer to the employee of government.
- m) **Operational requirement** in the context of this document implies an important service to be fulfilled for the functioning of a Department, by an official or private person, for a limited period of time which cannot be regarded being of such nature to appoint an official on a permanent basis.
- n) **PERSAL** is the integrated personnel and salary system currently utilized by government for the payment of salaries.
- o) **Retired employees** refer to a former state employee in the context of this document implies an important service to be fulfilled for the functioning of a Department, by an official or private person, for a limited period of time which cannot be regarded being of such nature to appoint an official on a permanent basis.
- p) **Rental** means the amount payable by the occupant of state housing for the right to so occupy it.
- q) **Social housing** is residential accommodation built by the state for the accommodation of those members of the general public who are otherwise unable to acquire formal residential accommodation.
- r) **Standard Housing** is defined as housing built with permanent materials and that is in an acceptable state of repair.
- s) **State housing** is residential accommodation, including buildings and outbuildings, the owner of which is the State or which is hired by the State and is under the custodianship of National or Provincial Public Works, fixed fittings, machinery and equipment, but excluding furniture in or on the premises, which is for allocation to members of staff.
- t) **Tenants** refer to both Government employees providing essential services and private individuals (such as retired employees, government employees not providing essential services and members of public not employed by the government).

- u) **User** means a National or Provincial Department that uses or intends to use an immovable asset in support of its service delivery objectives and includes a custodian in relation to an immovable asset that it occupies or intends to occupy, represented by the Minister of such National or Provincial department.
- v) **Voetstoot housing** means housing that has deteriorated to the point where it cannot be economically restored to an acceptable state of repair.

4. COVERAGE AND SCOPE OF APPLICATION

- 4.1** The policy covers all the provincial government houses that exist, under construction and still planned in any part of the Northern Cape including the houses that are occupied by the tenants and Members of the Provincial Legislature.
- 4.2** This policy shall apply to employees appointed in terms of the Public Service Act, No 103 of 1994 as amended and also applies to all housing revenue raised and collected by departments.

5. FINANCIAL RESPONSIBILITY

- 5.1** For the purposes of strengthening the accountability by enabling oversight, accountability and governance in the public sector through auditing, thereby building public confidence, the department should provide predetermined objectives so that the audit report could reflect an opinion or conclusion relating to the performance of the department against predetermined objectives.
- 5.2** To ensure efficient and effective controls, and manage risks the following minimum is necessary:
- a) Risk Management Policy
 - b) Annual risk assessment (aligned with strategic planning)
 - c) Revisit previous assumptions
 - d) Clear risk tolerance parameters developed and communicated
 - e) Regular review of risk strategy implementation
 - f) Accountability protocols (performance agreements)
 - g) Risk awareness strategy (communication)
 - h) Independent evaluation of effectiveness of Risk Management

6. LEGAL FRAMEWORK

6.1 Although not exhaustive, the following legislation provides the appropriate framework within which the Northern Cape State owned housing rental policy guideline is drafted:

- a) Constitution of the Republic of South Africa, 1996
- b) Government Immovable Asset Management Act. 19 of 2007
- c) Public Finance Management Act, 1999 as amended;
- d) Treasury Regulations,
- e) Public Service Act, No. 103, 1994 as amended;
- f) Public Service Regulation, 2001;
- g) Collective Agreement Resolution 3 of 1999;
- h) Procurement Act, No. 3, 2001;
- i) Procurement Regulations, 2001;
- j) Building Norms and Standards;
- k) Public Service Staff Code: Annexure A, Chapter D VII.
- l) Rental Housing Act No. 50 of 1999
- m) Prevention of Illegal Act 19 of 1998
- n) Northern Cape Land Administration Act of 2002

7. MANAGEMENT AND AUTHORITY

7.1 AUTHORITY

In terms of the National Treasury Regulations, the Accounting Officer must;

- a) As per paragraph 11.2.1, take effective and appropriate steps to collect all money due to the institution.
- b) Ensure maintenance of proper accounts and records for all clients, including amounts received in part payment.
- c) Referral of a matter to the state attorney, where economical, to consider a legal demand and possible legal proceedings in a court of law.

7.2 CRITERIA FOR THE SELECTION OF HOUSING COMMITTEE MEMBERS

- a) A representative from the following units at Head office:
- Legal
 - SCM
 - Finance
 - Property
 - Representative of the District where the houses available for allocation

7.3 HOUSING COMMITTEE

The Department of Roads Public Works as the custodian of all the provincially owned immovable assets shall establish a housing committee with the following functions:

- a) Ensure that all leased out houses are recorded in a database as well as in the Immoveable Asset Register.
- b) Design and review lease agreements;
- c) Ensure that all applicants are recorded on a waiting list
- d) Review the applications for houses and recommend to the HOD for approval;
- e) To provide the tenant with a copy of the new rental agreement;
- f) The housing committee shall review the rental tariffs on an annual basis;
- g) The committee shall meet as and when needed where applications have been received and a vacant house is available
- h) The committee shall submit a quarterly report on the allocation of state houses and submit to the Chief Director.
- i) The committee shall provide the classification of state housing as either standard, non- standard or "voetstoots" depending on Department of Roads

7.4 HOUSING DATABASE

The department shall therefore establish housing database wherein the following should be recorded:

- a) The number of houses
- b) Physical address of the dwelling
- c) Description of dwelling
- d) The amount charged for rental
- e) Current legal occupants
- f) Application waiting list for rental

7.5 RECORDING OF APPLICATIONS

- a) Applicants will be assessed according to the date when the applications were received.
- b) The housing committee will conduct an quarterly review of all awaiting applicants to confirm their continued need for accommodation.
- c) Applicants on the waiting list need to inform the housing committee of any changes in their circumstances with regards to their applications.

7.6 CRITERIA FOR PROVIDING STATE HOUSING

The Head of Department with the assistance of the housing committee may make available in the exceptional circumstances, state housing to an employee provided the work specification of his/her post requires that he/she be available on the terrain where such activities are performed, within and outside his/her official hours of duty and such a house is used as an instrument in the execution of his or her duties where there are vacant houses available.

and Public Works specifications, with the approval of Treasury.

7.6.1 The approval for rental that is below market rate for the professionals related to a specific department will be the responsibility of the user department with Provincial Treasury approval based on the specific Departments retention strategy.

8. CATEGORIES OF STATE RESIDENTIAL ACCOMMODATION

8.1 There are three categories of residential accommodation, namely:

- a) **Prestige state housing** - These are residential houses made available for occupation by Political Office Bearers including the Premier, Members of Executive Council and Members of the Provincial Legislature as determined by the relevant provisions of the Ministerial Handbook.
- b) **Redundant state housing** - These are houses earmarked for disposal
- c) **Non-standard state housing** - *These refer to prefabricated housing that is in an acceptable state of repair and the monthly rental thereof will be the monthly allowance given to state employees and will increase based on increases provided for by the Department of Public Service and Administration.*
- d) **Standard Housing** – these are houses built with permanent materials and that is in an acceptable state of repair.

8.1.1 The private individuals are allowed to apply for rental of state housing and their lease contract should be applicable for a period of one year.

8.1.2 The lease contract for government employees shall be over a period of three years.

9. ALLOCATION FOR HOUSING

- a) The allocation of state owned houses shall be in accordance to the waiting lists compiled by the District Office where the property is located and recommend to Head Office.
- b) An application may be deferred if it is considered that the allocation would be detrimental to the applicant financially or otherwise.
- c) Applicants will be given one valid offer of accommodation that is available.
- d) The applicant has the right to accept or decline the offer within seven working days.
- e) The applicant may decline an offer of accommodation if the offer does not meet the applicant's requirements.
- f) The applicants should be able to prove that they have at least have least 33 per cent of their salary in excess, this may include that of their partner. A checklist for expenses will be provided for the applicant to complete.

10. MANAGEMENT RESPONSIBILITIES

10.1 The Department of Roads Public Works as the custodian of all the Provincially owned immovable assets and including housing has responsibilities under contractual obligations of tenancy. These are:

- a) To provide and maintain the property in a reasonable state of repair and to be responsible for all maintenance and repairs that are not caused by neglect, misuse, willful damage.
- b) To provide possession of a property which is clean, safe and in good repair.
- c) To comply with relevant building, health and safety regulations.

- d) To inspect the property annually, to determine maintenance requirements and to establish contact with tenant for tenant verification purposes.
- e) To provide the tenant with the monthly accounts reflecting any arrears, debits and credits.

10.2 The department must conduct conditions assessments on all state houses, every 5 years, with the intention to upgrade the standard of the houses and ensure that market related rental is charged.

10.3 Houses that are linked to the function of a specific Department will be managed by the respective Department with regards to applications, allocation, signing of leases and revenue collection. The following Departments will be affected:

- **Department of Health – clinics, hospitals**
- **Department of Education – schools**
- **Department of Agriculture – Research Stations**
- **Department of Environmental Affairs and Nature Conservation - Nature Reserves**

11. RESPONSIBILITIES OF TENANTS

- a) A tenant must abide by the conditions of the rental agreement if continuation of the tenancy is to be assured.
- b) Members of the Executive Council may occupy, for official purposes, one state owned residence, in the capital of their choice, free of charge at the expense of the province.
- c) Members of the Provincial Legislature may occupy state owned housing where the Provincial Legislature is located for the duration of their term.

- d) Any tenant other than mentioned in paragraph 10.b above, shall be liable for any levy on services in respect of water and electricity, which is payable to the local municipality concerned or other relevant institution.
- e) A tenant must honor his/her financial responsibilities to pay the monthly rental
- f) A tenant may not do anything on the premises, or permit someone else entering the premises with the tenant's permission to do anything, which causes a nuisance.
- g) A tenant must not use the premises or permit the premises to be used for illegal purposes.
- h) A tenant is responsible for keeping the premises clean and undamaged, garden and yard maintained.
- i) A tenant is responsible for all costs associated with the maintenance of the property due to neglect, misuse, and willful damage.
- j) A tenant must report damage to the premises as soon as practicable after the occurrence.
- k) A tenant must give the department 30 days' notice in writing of intention to vacate a property, and remains responsible for the property as legal tenant, until the tenancy agreement is formally ended.

11.1 In the event where a tenant to whom housing is made available for occupation, is obliged to vacate such housing temporarily in order to allow for necessary repairs or renovations:-

- a) He or she shall be exempted from all obligations imposed upon him or her by this policy, until he or she again occupies such housing, and
- b) He or she shall be obliged to remove his or her personal possessions from the relevant housing.

11.2 An employee shall not be exempted from his or her obligations in terms of this policy, during periods of leave or the performance of official duty away from his or her normal place of work.

11.3 Should the tenant:-

- a) die, or
- b) be discharged in terms of section 17 (1 (a) and (b) of the Public Service Act, 1994, as amended, the employee and/or his or her household may, subject to the provisions of this policy, be permitted to stay in state housing for a period not exceeding three months following the month of his or her death or discharge.

11.4 Only an tenant and his or her household are allowed to occupy state housing and subletting may not take place.

11.5 The Department of Public Works may not supply furniture for state housing.

11.6 The Department of Public Works shall not be responsible for any loss of or damage to the personal possessions of an employee in state housing.

12. NOTICE TO VACATE

- a) The tenants will be given 30 days' notice and expected to vacate the state residence for the following reasons:
 - Termination of services in respect of official tenancy
 - Transfer of tenant to another town or province
 - Violation or breach of the terms of the lease agreement by the tenant
 - If the tenant has not been paying the monthly rental for a maximum period of three months.
- b) In cases of violation or breach of terms by the tenant, the Department will give such defaulting tenant a record of seven (7) days to remedy the breach.
- c) Where the defaulting tenants fail to remedy the breach as fore stated, the Department shall formally institute eviction procedures.

- d) All eviction action steps shall be carried out within the confines of the Rental Housing Act and the broader due process of law.

13. SAFEGUARDING AND MAINTENANCE OF STATE HOUSES

13.1 The Department of Roads and Public Works as the custodian of all immovable property will solely be responsible for the administration and maintenance of housing rental in the province for all government employees.

13.2 The Department shall fully maintain the Prestige state housing which include the official residence of the Premier, Members of Executive Council and Members of the Provincial Legislature.

13.3 The Department shall only maintain redundant state houses under the following circumstances:

- a) Where the defect is structural.
- b) Where the defect may be life threatening to tenants.
- c) Where further damage of the state house is threatened.

14. DISPOSAL OF STATE HOUSES

14.1 The department may dispose state houses after thorough examination and economic appraisal.

14.2 Treasury regulation 16A.7.3 stipulates that; any sale of immovable state property must be at market related value, unless the relevant treasury approves otherwise.

14.3 The tenant or the spouse (if married) may be given first priority to submit an offer to purchase prior to placing the property on the public market for sale by the Department of Roads and Public Works; and the department still retains the discretion to decide not to continue with the sale of the house/property.

15. APPLICATION PROCESS

The tenant must submit a completed application for state owned housing, Annexure A, to the department of Roads and Public Works giving the following information:

- a) Name and particulars of the employee
- b) Specific house required (1,2,3 bed rooms)
- c) Copy of the employment contract
- d) Copy of Identity document
- e) Copy of latest pay slip and
- f) Proof of address
- g) Breakdown of monthly expenses

16. MARKET RELATED – RATES

16.1 When housing is provided in the circumstances set out in paragraph 7.5 above, rent shall be levied at market-related rate. Market-related tariff is rental income or fees that a landlord could most likely ask for a property in the open market, indicated by current rents for comparable housing or spaces.

16.2 The houses will be graded into categories and the determination of rental will be based on the condition of the house.

- a) A grade C1 will be charged 0.5% of market related property value
- b) A grade C2 will be charged market related less the current CPIX
- c) A grade C3 will be charged market related less twice the current CPIX

16.3 Rental for the prefabricated housing will be equivalent of the state housing allocation as per PSCBC resolutions signed

17. METHOD OF PAYMENT

17.1 To ensure efficient and effective revenue collection and to minimize debts for the province, it is imperative that departments should effect payment in advance through the PERSAL system.

17.2 For private individuals, a debit or stop order should be instituted as a method of payment.

18. NOTICE OF RENTAL ADJUSTMENT

18.1 The Department of Roads and Public Works is required, according to Practice Note 1 of 2015, to submit the proposed tariffs to the Provincial Treasury for approval during the second quarter of each financial year.

18.2 The Department of Roads and Public Works must after approval of the tariffs by Provincial Treasury, notify all tenants three months in advance before the new rental is affected. New rental tariffs will be effected on the 01st July of every year.

18.3 The rental fee should escalate by no more than the CPIX of that period.

18.4 In determining the rental increase rate the department should consider the inflation rate and what is deemed reasonable based upon a multitude of factors; including amongst others the prevailing market conditions, the area, the existing rent relating to the market value, etc.

19. POLICY AUDIT

Periodic audits will be conducted by the auditor-general, when deemed or as required from time to time, to ensure appropriate application and compliance with the policy.

20. POLICY REVIEW

This policy shall be assessed and reviewed every five [5] years from its effective date to determine its effectiveness and appropriateness. This policy may be assessed before that time as necessary to reflect substantial organizational changes at the Department or any change required by law.

21. EFFECTIVE DATE OF APPLICATION

This policy is effective from the date of approval

22. APPROVAL

Comments:

Approved/not approved

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HEAD OF DEPARTMENT

05-03-19
DATE
