

## african family housing in urban areas

**B**efore 1952 there were a number of areas where Africans owned the land on which their houses were built. The Bantu (Urban Areas) Consolidation Act of 1945 as amended in 1952 abolished the right of freehold title for Africans in the White areas.

They were instead granted the right to build their own houses on 30-year leasehold plots, or they could buy houses on such plots from the local authority on a 30-year lease.

In 1968 even this limited right was abolished. The Department of Bantu Administration and Development issued a directive to local authorities stating that Africans living in urban areas could no longer be allowed to build their own homes on 30-year leasehold plots, nor were they allowed to purchase their homes from the local authority. In future all Africans would have to rent their houses.

Africans with means who wished to own their own homes were to be encouraged to go to the homelands. Those Africans who already owned houses could continue to own them but if they wished to sell, they had to sell to the local authority. They could not bequeath them to their heirs.

### **The regulations governing the control and supervision of an urban Bantu residential area**

These regulations were published in the Government Gazette of June 14, 1968. All African townships in the urban areas are administered in terms of these regulations.

There is a serious shortage of houses in many urban areas. It

is Government policy that the building of family housing in prescribed areas must give way to the provision of hostels for migrant workers. In Johannesburg there were over 14 000 families on the waiting list for houses in 1973.

In order to be accepted on to the waiting list for a house the applicant must be a man over the age of 21 who qualifies to remain in the area concerned in terms of Section 10(1)(a) or (b). He must have dependants who are lawfully in the area. This almost always means that he must be married and that his wife must have permission to live with him.

He must not already be the tenant of any house in any other prescribed area and he must be, in the opinion of the Superintendent, a fit and proper person to reside in the area. If he fulfills all these conditions he will be accepted on to the waiting list for a house but may have to wait for a number of years before a house becomes available.

Women and foreign men are not accepted on to the waiting list although the Chief Bantu Affairs Commissioner may give his consent to a residential permit being issued to a woman who has dependants if she qualifies under Section 10(1)(a) or (b) and if she has been living in the house with her husband before he dies or deserts her.

When a house becomes available a man is issued with a residential permit. His name, identity number, the number of the house and his ethnic grouping are shown on the permit. (Residential townships are divided into separate districts for the different ethnic groups.)

Every member of his family who lives with him in the house must be enumerated on the permit with their identity numbers, dates of birth, ethnic group and their relationship to him. It is an offence for him to allow anyone to stay in his house whose name does not appear on the permit.

Residential permits expire on the last day of the month in which they are issued and the holder must renew the permit before the seventh day of the following month. The acceptance of the rent for the month is deemed to be the renewal of the permit.

## **Cancellations of permits**

Residential permits can be cancelled if the holder is unemployed for more than 30 days, or has been employed outside the area for more than 30 days without the permission of the Superintendent, or if he leaves the area for more than 30 days without the written permission of the Superintendent. It may also be cancelled if he loses his rights under Section 10(1)(b), if he is sentenced to prison for more than six months or if he or his dependants leave the house.

If a man's wife deserts him or dies, the house may be taken away from him. If he deserts his wife and moves out of the

house the permit may be cancelled and the wife and children would then have to leave.

Other grounds for cancellation are if he ceases to be a fit and proper person, in the opinion of the Superintendent, to reside in the area or if he fails to carry out the instructions of the Superintendent relating to the erection or demolition of any structures on the site.

## Lodger's permits

Families whose names are on the waiting list for a house must seek lodgings for themselves in someone else's house. When they have found accommodation they must approach the Superintendent to ask for a lodger's permit. The names of all members of the family must be enumerated on this permit which expires on the last day of each month and must be renewed within three days.

All those families who do not qualify to become the tenants of a house of their own must also find accommodation and ask the Superintendent for a lodger's permit. The onus is on those in need of accommodation to find a tenant willing to accept them.

These families include all those where:

- the male head of the family does not qualify in terms of Section 10(1)(a) or (b);
- the head of the family is a woman and there is no qualified man over the age of 21 in the family.

In 1970 there were almost 10 000 families living lawfully as lodgers in Soweto.

It is now extremely difficult to find accommodation in areas such as Soweto. The tenants of houses are often reluctant to take in another family as lodgers. There is already a serious lack of privacy in the small township houses without voluntarily accepting more people who might not even be relatives.

The Advice Office has heard from many people, particularly from women with several small children, of the unending search for accommodation.

It is extremely important for people to have their names always enumerated on a residential or lodger's permit as this furnishes the necessary proofs of the recognition of rights under Section 10(1) as described earlier. It is also an offence for the tenant of a house to allow anyone to stay in his house if that person is not in possession of a permit to reside there.

The critical shortage of houses is making it impossible for many people to abide by the regulations. People sometimes find somewhere to live but the Superintendent refuses to issue a lodger's permit for them to stay there on the grounds that the house is already too full. There are also abuses where a house-

holder will allow lodgers to stay but not to have a permit and charges them an exorbitant rent for the one room they occupy.

The Superintendent must also be satisfied, before he will issue a lodger's permit, that the applicant is a "fit and proper" person to reside in the area and is lawfully employed there and that he has not refused to accept accommodation offered to him in a hostel or other dwelling provided by the local authority.

The lodger's permit can be cancelled at any time if the registered tenant of the house wishes his lodgers to move out.

The housing regulations have important effects on the rights of people to remain in the prescribed areas. This is particularly so for women who have been widowed, deserted or divorced or who have remained unmarried but have children.

## **Widows**

Women usually cannot be the registered tenant of a house and widows are seldom allowed to remain in their houses after their husband's death; but Chapter 2, Sub-Section 7 (4) of the Regulations provide that the Superintendent may, with the written permission of the Chief Bantu Affairs Commissioner, approve the tenancy of a house to a woman if she has dependants to support. This permission is sometimes given if the woman qualifies in terms of Section 10(1)(a) or (b).

In Johannesburg there are still women who are the tenants of their houses. Most of them were given this permission some years ago and the conditions of tenancy are:

- (a) she was living in the house when her husband died;
- (b) she has dependants to support;
- (c) her earnings are sufficient to pay the rent; and
- (d) she is not disqualified by either of the following conditions:
  - (i) that she is a foreigner (born outside the Republic, including Lesotho, Botswana and Swaziland).
  - (ii) that she is a South African citizen but does not qualify to be in the prescribed area in terms of Section 10(1) (a) or (b).

If she is a foreigner she will have to leave South Africa when her husband dies. It does not matter for how long she has been living in the Republic.

Widows whose husbands were not registered tenants, but whose families have been living as lodgers in someone else's house, will not be given a house. These women may continue to stay as lodgers with their children provided that the widow qualifies to be in the area in her own right. If she qualifies to be in the area in terms of Section 10(1)(c) i.e. as the wife of a qualified man, she loses those rights on his death. She has to leave the area.

## **Deserted wives**

If a man deserts his wife :

- the deserted wife has no claim to the house ;
- if the marriage is a customary union the children are regarded as belonging to the father unless the full lobola is returned to him ;
- the husband can turn his wife out of the house and keep or bring a second wife into the house, provided that he can prove that she is his wife, entered the area lawfully and is permitted to be in the prescribed area ;
- if the deserted wife is legally in the area and she qualifies in her own right to remain there, she can apply for a lodger's permit for herself and, if she has the custody of the children, for them as well. If she has not got the children, and she qualifies to remain she must live in a hostel if a bed is available ;
- if she does not qualify in her own right to remain in the area, but is registered in employment, she will be allowed to remain as long as she works for the same employer or after she acquires rights ;
- if she is not in registered employment but was a housewife living with her husband in terms of Section 10(1)(c), she will probably be endorsed out.

## **Divorced women**

The same conditions obtain for divorced wives except :

- in a divorce the Supreme Court may grant either wife or husband the guardianship and the custody of any minor children if it would be in the interests of the children to do so. Or custody may be granted to the mother while the father remains their guardian.
- if the woman is awarded custody of the minor children and qualifies in terms of Section 10(1)(a) or (b) the Chief Bantu Affairs Commissioner might give his consent to her becoming the registered tenant of the house.

## **Comment**

In practice the housing regulations lead to great hardships. A woman whose husband dies, or who is divorced or deserted by her husband, may be evicted from her house.

The Bantu Affairs Commissioner may give permission for her to remain as the tenant but this permission is often refused and she then has to leave the house with her children and seek lodgings in someone else's house. In overcrowded townships this is not easy. She will also, inevitably, have to sell or store a large part of her furniture.

If she has a son over the age of 21, permission may be given for him to become the permit holder and the family may stay

together in the same house. Frequently an adult son is told he should marry then he will be allowed to become the permit holder. Sometimes he may marry a woman who is not permitted in the area: then he may end up without a house and not be allowed to live with his wife either.

Difficulties also occur for men who are deserted by their wives. They and their children may be evicted from their house and be told to find lodgings.

Complications with reference books often arise when application is made for a house. It may be discovered at this stage, when documents are scrutinised, that the wife is not permitted in the area and she may be endorsed out. A man may have difficulty proving that he is entitled to the 10(1)(a) or (b) qualification.

## **Cases**

**MR MOKOLA** qualifies in terms of Section 10(1)(a) of the Act to remain in Johannesburg. He and his wife and children lived together in a house in Soweto. His wife died and he was told to marry again or he would lose his house. He took another wife by Bantu Custom, paying lobola to her family. He was given notice to vacate his house shortly after the marriage because he had not produced a marriage certificate.

**MRS MOKOENA** was living lawfully in a house in Soweto with her husband and three children. Her husband left her and divorced her and she was given notice to vacate the house. She had to find lodgings for herself and the three children.

**MR DIALE** is working lawfully in Johannesburg. His wife and children all qualify to remain in the area in terms of Section 10(1)(a). He has been in Johannesburg since 1935 and used to hold an "exemption pass". Believing that this meant he had a 10(1)(b) right in Johannesburg he applied for a house for himself and his family. His application was refused because the authorities say he is registered in terms of Section 10(1)(d).

They say he lost his 10(1)(b) right because he left Johannesburg on holiday for five months in 1967. He was told he could find lodgings in someone else's house and apply for a lodger's permit.

**MRS MBATA** was recently widowed. She lived in a house with her husband and 11 other members of the family — her children and grandchildren. Then her husband died and all the family were ordered to vacate the house. Although she qualifies under Section 10(1)(b) to live in Johannesburg and all her children and grandchildren in terms of Section 10(1)(a), all their names being on the house permit, the Bantu Affairs Commissioner refused to allow them to remain in the house. They are going to have to separate and seek somewhere to live in small groups or singly.