

ORISSA ACT V OF 1947
THE ORISSA HOUSE RENT CONTROL
ACT, 1947

[Received the assent of the Governor-General on the 8th March
 1947, first published in the Orissa Gazette on the
 21st March 1947]

AN ACT TO PROVIDE FOR THE CONTROL OF HOUSE RENT IN THE
 PROVINCE OF ORISSA

WHEREAS it is expedient to control the rent of houses and
 to prevent unreasonable eviction of tenants therefrom in the
 Province of Orissa;

It is hereby enacted as follows:—

Short title,
 extent,
 commence-
 ment and
 duration.

1. (1) This Act may be called the Orissa House Rent
 Control Act, 1947.

(2) It extends to the whole of the Province of Orissa.

(3) It shall come into force in such areas and on such dates
 as the Provincial Government may, by notification, appoint and
 different dates may be so appointed for different areas (*).

(4) It shall remain in force for three years; but the Provincial
 Government may from time to time, by notification extend the
 continuance of this Act for a further period or periods not
 exceeding in the aggregate two years, if in their opinion it is
 expedient so to do.

Definitions

2. In this Act, unless there is anything repugnant in the
 subject or context.—

(1) "Controller" means an officer appointed as such by
 the Provincial Government for any area to which
 this Act applies;

(2) "date of the commencement of this Act" means, in
 respect of any local area, the date on which this Act
 comes into force therein;

(3) "house" means any accommodation or class of
 accommodation fit for human occupation whether
 as a residence or otherwise (whether furnished or
 unfurnished), and whether with or without board
 and includes any shop, workshop or warehouse, and
 also (a) the garden, grounds and out-houses (if any)
 appurtenant to such building or part of a building
 and let or to be let along with such building, and
 (b) any furniture supplied by the landlord for the
 use in such building or part of a building;

(4) "landlord" includes any person who is receiving or is
 entitled to receive the rent of a house whether on
 his own account or on behalf of another or on behalf
 of himself and others as an agent or trustee, executor,
 administrator, receiver or guardian, or who would so
 receive the rent or be entitled to receive the rent if the
 house were let to a tenant;

(*) NOTE—Extended to the partially-excluded areas by notification
 No. 5179-D., dated the 3rd May 1947 (Vide *Orissa Gazette*, dated the 3rd
 May 1947, Extraordinary issue).

- (5) "tenant" means any person by whom or on whose behalf rent is payable for any house and includes every person who from time to time derives title under a tenant or a person continuing in possession after the termination of his tenancy otherwise than under the provisions of this Act.

Salami or premium not to be charged.

3. After the date of the commencement of this Act a landlord shall not be entitled to charge *salami* or premium for letting any house or for renewing the lease of any house.

Computation of house rent

4. (1) Subject to the provisions of this Act and notwithstanding any contract to the contrary no landlord shall be entitled to charge rent for any house at a sum higher than what is justified on the basis of rental shown in the municipal or union registers.

(2) In case of any difficulty regarding the fixation of rent with reference to municipal or union registers or in the absence of such registers an application shall be made to the Controller who shall fix a fair rent in the manner hereinafter provided. Pending final decision by himself the Controller may fix a provisional rent which shall be binding on all parties concerned. Final decision when made shall be deemed to have taken effect from the date of application or the creation of tenancy whichever is earlier and all amounts paid as provisional rent shall be adjusted towards payment of final rent.

Continuation of existing tenancies from month to month and bar against increase of rent.

5. Subject to the provisions of this Act and notwithstanding anything to the contrary contained in an agreement or law where a tenant on a tenancy from month to month is, on the date of the commencement of this Act, in possession of any house—

- (a) he shall not be liable to be ejected, whether in execution of a decree or otherwise, except for non-payment of rent or breach of the conditions of the tenancy, and
- (b) the landlord shall not be entitled to increase the rent which was, on the date of the commencement of this Act, payable for such house:

Provided that the Controller may, on the application of the landlord and after making such enquiries as he thinks fit, increase such rent, in the same circumstances, to the same extent and with the same effect as the fair rent of a house may be increased under section 9:

Provided further that a landlord may apply to the Controller for exemption from the provisions of clause (a) in respect of any house and if the Controller is satisfied—

- (i) that the house is reasonably and in good faith required by the landlord for the occupation of himself or any member of his family joint in mess with him, or for the occupation of any person or persons for whose benefit the house is held by him, or
- (ii) that the landlord has any other good and sufficient reason for ejecting the tenant, the Controller shall pass an order exempting the landlord from the provisions of the said clause in respect of the house:

Provided further that where in consequence of an order under the last preceding proviso a tenant has been ejected he will be entitled to be restored to possession on the same grounds,

and the same procedure and subject to the same limitations as laid down in sub-section (3) of section 10 in the case of other tenancies.

Determina-
tion of fair
rent.

6. The Controller may, on the application of the landlord or of a tenant or prospective tenant or on his own motion, and after making such enquiries as he thinks fit, determine the fair rent of any house:

Provided that in the case of a house referred to in section 5 the rent shall not be determined at a figure in excess of the rent which was payable on the date of the commencement of this Act save as provided in the first proviso to the said section.

Factors to
be taken
into consi-
deration for
determining
fair rent.

7. In determining the fair rent under section 6 read with section 5 the Controller shall have regard—

- (a) in areas other than municipal or union areas or in those municipal and union areas where assessment is not based on the rental value of the houses, to the prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances during the year 1942;
- (b) in areas other than those specified in clause (a), to the rental value as entered in the assessment book or assessment list relating to the said year of the local municipality or union; and
- (c) in the case of a house which has been constructed after the year 1942, to any general increase in the cost of house-sites and building construction.

Bar of
claims in
excess of the
determined
rent and
refund of
excess
payment.

8. When the Controller has determined the fair rent of a house—

- (a) the landlord shall not claim and shall not be entitled to any rent in excess of the rent so determined;
- (b) any agreement for the payment of rent in excess of the rent so determined, shall be null and void in respect of such excess and be construed as if it were an agreement for payment of such determined rent;
- (c) any sum in excess of the determined rent paid whether before or after the date of commencement of this Act in respect of a house for any period after the date of the commencement of this Act shall be refunded to the person by whom it was paid, or at the option of such person otherwise adjusted.

Re-determi-
nation of
fair rent in
certain cases

9. (1) If at any time, after the fair rent of a house has been determined under section 6, it appears to the Controller that subsequent to such determination some addition, improvement or alteration not included in necessary repairs or repairs usually made to houses in that locality, has been made to the houses at the landlord's expense, the Controller may, after making such enquiries as he thinks fit, re-determine the fair rent of the house.

(2) When the fair rent of a house is re-determined as provided in sub-section (1), the excess rent payable for the house shall not exceed annually seven and a half per cent on the cost of such addition, improvement or alteration and shall not be chargeable until such addition, improvement or alteration has been completed.

Continuation
of tenancies
other than
tenancies
from month
to month.

10. (1) If a tenant in possession of any house held on a tenancy other than a tenancy from month to month wishes to extend the period of tenancy by not less than six and not more than twelve months, he may give the landlord, not less than one month before the expiry of the tenancy, a written notice of his intention, and upon the delivery of such notice the tenancy shall, save as hereinafter provided, be deemed to have been extended for the period specified in the notice.

(2) Where the landlord to whom a notice has been given under sub-section (1) wishes to object to the extension demanded by the tenant, he may, within fifteen days of the delivery to him of such notice, apply to the Controller in that behalf, and if the Controller is satisfied—

- (a) that the house is reasonably and in good faith required by the landlord for the occupation of himself or any member of his family living joint in mess with him or for the occupation of any person or persons for whose benefit the house is held by him, or
- (b) that the tenant has not been performing any of the conditions of the tenancy not inconsistent with provision of this Act, or
- (c) that the landlord has any other good and sufficient reason for determining the tenancy on the expiry of the originally agreed period, the Controller shall pass an order disallowing the extension demanded by the tenant.

(3) When an order under sub-section (2) has been made by the Controller on the ground that the house is required by the landlord for the occupation of himself or any member of his family living joint in mess with him or for the occupation of any person or persons for whose benefit the house is held by him and the house is not occupied by the aforesaid person or persons within fifteen days of the date of vacation of the house by the original tenant, or having been so occupied is relet within two months of the said date to any person other than the original tenant, the Controller may, on the application of the original tenant, made within three months of his vacating the house, cancel the previous order made under sub-section (2) and direct the landlord to put the original tenant in possession of the house and pay him such compensation as may be fixed by the Controller.

Enquiries

11. For the purposes of an enquiry under this Act the Controller may—

- (a) require the landlord to produce any book of account, document or other information relating to the house;
- (b) enter and inspect the house; and
- (c) authorise any officer subordinate to him to enter and inspect the house

Appeal.

12. (1) Any person aggrieved by an order of the Controller may, within fifteen days from the date on which the order is communicated to him, present an appeal in writing to the District Magistrate.

(2) The District Magistrate shall then send for the record of the case from the Controller and, after perusing such record and after making such further enquiries as he thinks fit, shall decide the appeal.

(3) The decision of the District Magistrate and subject only to such decision an order of the Controller shall be final and shall not be called into question in any Court.

Suit or proceeding for eviction not to be instituted without previous permission of the Controller in certain cases.

13. No suit or proceeding by a landlord against a tenant in possession of a house for eviction of such tenant therefrom in which the ground specified in the second proviso to clause (b) of section 5 has been taken as a ground for such eviction shall be entertained by any Court unless the landlord has been permitted by the Controller by an order in writing to institute such suit or proceeding and has produced before such Court proof that such permission has been granted:

Provided that where the tenant denies the title of the landlord or claims the right of permanent tenancy, the Controller shall record a finding to that effect and the landlord shall be entitled to sue for eviction of the tenant in a Civil Court and the Court may pass a decree for eviction or any of the grounds mentioned in this section or section 5 notwithstanding that the Court finds that such denial does not involve forfeiture of the lease or that the claim is unfounded.

Penalty.

14. If any person contravenes any provision of this Act or of any rules or order made thereunder, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Attempts, etc., to contravene the Act.

15. Any person who attempts to contravene or abets a contravention of any provision of this Act or of any rule or order made thereunder shall be deemed to have contravened the provision of the Act or rule or order.

False statements

16. If any person when required by or under this Act to make any statement or to furnish any information makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Protection of action taken under the Act.

17. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of the rules or orders made thereunder.

(2) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any provision of this Act or of any rule or order made thereunder.

Exemptions

18. Notwithstanding anything contained in this Act, the Provincial Government may by notification in the Gazette exempt any house or class of houses from all or any of the provisions of this Act.

Power to make rules

19. (1) The Provincial Government may make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the procedure to be followed by Controllers and appellate authorities in the performance of their functions under this Act;
- (b) the manner in which notices and orders under this Act shall be given or served.

Repeal and savings.

20. (1) The Orissa House Rent Control Ordinance, 1946 is hereby repealed.

Orissa Ordinance No. III of 1946.

(2) Any order made or deemed to be made and anything done or deemed to be done under the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to be made or done under the corresponding provisions of this Act.

Effect of expiry of this Act.

21. The expiration of this Act shall not—

- (a) render recoverable any sum which during the continuance thereof was irrecoverable or affect the right of a tenant to recover any sum which during the continuance of this Act was recoverable by him thereunder.
- (b) affect any liability incurred under this Act or any punishment incurred in respect of any contravention of this Act or any rule or order made thereunder.
- (c) affect any investigation or legal proceeding in respect of any such liability or punishment as aforesaid;

and any such investigation or legal proceeding may be instituted, continued or enforced and any such punishment may be imposed, as if this Act had not expired.