

L. C. L. Dept.
28/5/42

REGISTERED No. P. 390.



The Orissa Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY.

CUTTACK, MONDAY, MAY 25, 1942.

DEVELOPMENT DEPARTMENT.

NOTIFICATIONS.

The 25th May 1942.

No. 2472-D.-(C).—In exercise of the powers conferred by clause (bb) of sub-rule (2) of rule 81 of the Defence of India Rules, the Governor of Orissa is pleased to make the following Order, namely:—

Short title and extent.

✓ 1. (1) This Order may be called The Orissa House Rent Control Order, 1942.

(2) It extends to the whole of Orissa.

(3) It shall come into force in such areas and on such dates as the Provincial Government may, by notification in the Official Gazette, direct.

Definition.

2. In this Order, 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 Order applies;

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

(3) "house" means a building or part of a building suitable for occupation as a residence, and includes—

(a) the garden, grounds and out-houses (if any) appurtenant to such building or part of a building; and

(b) any furniture supplied by the landlord for use in such building or part of a building; and

(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 himself and others or as an agent or trustee, or who would so receive the rent or be entitled to receive the rent if the house were let to a tenant.

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

4. Notwithstanding anything contained in any agreement or law to the contrary, where a tenant is, on the date of the commencement of this Order, in possession of any house on a tenancy from month to month—

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

- (a) he shall not be liable to be ejected 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 Order, payable for such house:

Provided that the Controller may, on the application of the landlord and after making such enquiry 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 paragraph 8:

Provided further that a landlord may apply to the Controller for exemption from the provisions of clause (a) of this paragraph in respect of any house 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 joint in mess with him, or for the occupation of any person for whose benefit the house is held by him, or
- (b) 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 (a) 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, by the same procedure and subject to the same limitations as laid down in sub-paragraph (3) of paragraph 9 in the case of other tenancies.

5. 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 inquiry as he thinks fit, determine the fair rent of any house:

Determination of fair rent of houses.

Provided that in the case of a house referred to in paragraph 4, 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 Order, save as provided in the first proviso to the said paragraph.

6. In determining the fair rent under paragraph 5 the Controller shall have due regard, in areas other than municipal areas or in municipal areas where there are no assessment lists, to the prevailing rates of rent for the same or similar accommodation in similar circumstances during the twelve months prior to the date of commencement of this Order, and, in municipal

Matters to be considered in determining fair rent.

areas where there are assessment lists, to the rental value as entered in the assessment book or assessment list relating to that period of the local municipality, and shall have, in the case of a house which has been constructed after that date, due regard also to any general increase in cost of sites and building construction.

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

7. 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 Order, in respect of residence for any period after the date of the commencement of this Order, shall be refunded to the person by whom it was paid or, at, the option of such person, otherwise adjusted.

8. (1) If at any time, after the fair rent of a house has been determined under this Order 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 house at the landlord's expense, the Controller may, after making such inquiry as he thinks fit, re-determine the fair rent of the house.

(2) Any increase in rent referred to in sub-paragraph (1) of this paragraph shall not exceed annually $7\frac{1}{2}$ 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.

9. (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-paragraph (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 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 the provision of this order, 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-paragraph (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 re-let 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-paragraph (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.

10. For the purposes of an enquiry under this Order, 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.

11. (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.

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 enquiry, 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 questioned in any court.

By order of the Governor,
F. E. A. TAYLOR,
Secretary to Government.

The 25th May 1942.

No. 2473-D.-(C).—In pursuance of sub-paragraph (3) of paragraph 1 of the Orissa House Rent Control Order, 1942, the Governor of Orissa is pleased to direct that the said Order shall come into force in the Sambalpur municipality on and from the date of this notification.

By order of the Governor,
F. E. A. TAYLOR,
Secretary to Government.

The 25th May 1942.

No. 2474-D.-(C).—In pursuance of clause (1) of paragraph 2 of the Orissa House Rent Control Order, 1942, the Governor of Orissa is pleased to appoint the Deputy Commissioner of Sambalpur to be the Controller for the purposes of the said Order for the Sambalpur municipality.

By order of the Governor,
F. E. A. TAYLOR,
Secretary to Government.