The Chhattisgarh Rent Control Act, 2011

Act Chhattisgarh Act No. 19 of 2012. 14 sections. Bare Act with the official footnotes.

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An Act to provide for adjudication of matters relating to rent by a Tribunal and to promote leasing of accommodation by balancing the interests of landlords and tenants.

Be it enacted by the Chhattisgarh Legislature in the Sixty-second year of the Republic of India, as follows :-

Section 1. Short title, extent and commencement

(1) This Act may be called the Chhattisgarh Rent Control Act, 2011.

(2) It shall extent in first instance to such of the Municipal areas which are comprising the Distict Headquarters in the State and later on to such of the other Municipal areas or any areas within the state as the State Government may, by Notification in the Official Gazette, specify from time to time.

(3) It shall come into force from the date of its publication in the Official Gazette.

Section 2. Definitions

In this Act, unless the context otherwise requires,-

(1) "Accommodation" means any building or part of a building, whether residential or non-residential, leased out by the landlord to the tenant and includes open space, staircase, grounds, garden, garage and all facilities and amenities forming part of the agreement between them of any land which is not being used for agricultural purposes;

(2) "Agreement" means the written agreement executed by the landlord and the tenant as required under this Act;

(3) "District" means the district as construed in Chhattisgarh Land Revenue Code, 1959;

(4) "Habitual Defaulter" means a tenant who fails in a period of 12 months on three or more occasions to pay in full the rent and all dues to the landlord on the due date in accordance with the agreement;

(5) "Landlord" means a person who for the time being is receiving or is entitled to receive, the rent of any accommodation, whether on his own account or on account of or on behalf of or for the benefit of any other person or as a trustee, guardian or receiver for any other person or who would so receive the rent or to be entitled to receive the rent, if the accommodations were let to a tenant;

(6) "Municipal area" means the Municipal area or Nagar panchayat area as defined under Chhattisgarh Municipal Corporation Act, 1956 (No. 23 of 1956) or Chhattisgarh Municipalities Act, 1961 (No. 37 of 1961), as the case may be;

(7) "Notification" refers to the relevant notification of the Government as published in the Official Gazette;

(8) "Old Act" means the Chhattigarh Accommodation Control Act, 1961 (No. XLI of 1961) with all amending acts;

(9) "Rent" means the consideration payable by the tenant to the landlord against an accommodation;

(10) "Rent Controller" means the official so appointed under sub-section (1) of Section 7 of the Act;

(11) "Rent Control Tribunal" means the body constituted under Section 6 (1) of the Act;

(12) "Repealed Act" refers to Chhattisgarh Accommodation Control Act, 1961 (No. XLI of 1961) with all amending acts up to the date of selective repeal vide Section 10(1) of this Act;

(13) "Social Nuisance" means a tenant who frequently uses the accommodation to commit any or all of the acts listed in serial No. 10 of the Schedule 4;

(14) "Tenant" means-

(i) the person by whom or on whose account or behalf rent is, or but for, a contract express or implied, would be payable for any accommodation to his landlord including the person who is continuing its possession after the termination of his tenancy otherwise than by an order or decree for eviction passed under the provisions of this Act; and

(ii) in the event of death of the person referred to in sub-clause (i)-

(a) in case of accommodation let out for residential purposes, his 'surviving spouse, son, daughter, mother and

father who had been ordinarily residing with him in such accommodation as member of his family up to his death;

(b) in case of accommodation let out for commercial or business purposes, his surviving spouse, son, daughter, mother and father who had been ordinarily carrying on business with him in such accommodation as member of his family up to his death.

Section 3. Exemptions

Nothing in this Act shall apply to.-

(1) Any accommodation belonging to or owned by any department of Government and/or Board and/or Corporation promoted by and/or owned by the Government.

(2) Any other building and/or category of building(s) specifically exempted in public interest by the Government through notification.

Section 4. Tenancy Agreement

(1) Notwithstanding anything contained in Section 107 of the Transfer of Property Act, 1882 (Central Act 4 of 1882), no person shall, after the commencement of this Act, let or take on rent any accommodation except by an agreement in writing.

(2) Where, in relation to a tenancy created before the commencement of this Act,-

(a) an agreement in writing was already entered into shall be filed before the rent Controller.

(b) no agreement in writing was entered into, the landlord and the tenant shall enter into an agreement in writing with regard to that tenancy and file the same before the Rent Controller;

Provided that where the landlord and the tenant fail to present jointly a copy of tenancy agreement under clause (a) or fail to reach an agreement under clause (b) such landlord and the tenant shall separately file the particulars about such tenancy.

(3) Every agreement referred to in sub-section (1) or required to be executed under sub-section (2) shall be in such format and in such manner and within such period as may be prescribed.

Section 5. Rent to be as agreed

(1) The rent payable for any accommodation shall, subject to other provisions of this Act, be such as may be agreed upon between the landlord and the tenant and it shall not include the charges payable for amenities which may be agreed upon separately; and shall be payable accordingly.

(2) Unless agreed otherwise every tenant shall pay the rent by the fifteenth day of the month next following the month for which the rent is payable.

Section 6. Constitution of the Rent Control Tribunal

(1) The State Government shall by notification constitute, within thirty days of this Act, a Tribunal in terms of Article 323-B of the Constitution, to be called as Chhattisgarh Rent Control Tribunal, to give effect to the provisions of this Act, and for the adjudication or trial of any disputes, complaints, or offences with respect to rent, its regulation and control and tenancy issues including the rights, title and obligations of landlords and tenants.

Explanation- Matters relating to transfer of property and/or disputes regarding title over any property shall continue to be considered under relevant laws by the courts of law.

(2) The State Government in consultation with the High Court shall appoint the Chairman of the Rent Control Tribunal. District Judge not below the rank of super time scale, shall be eligible to be appointed as Chairman of the Rent Control Tribunal.

(3) The Tribunal shall have such other members as the State Government may decide from time to time, but not less than three members including the Chairman, at any time.

(4) An officer not below the rank of Deputy Secretary to the State Government shall be Member-Secretary of the Tribunal.

(5) From the date, the Tribunal becomes functional, which date shall be published in the State Gazette, the jurisdiction of all courts, except the jurisdiction of the Supreme Court under Article 136 of the Constitution, shall stand excluded in respect of all matters falling within the jurisdiction of the Tribunal:

Provided, however, that all cases pending before any court or authority immediately before the establishment of the Tribunal, shall continue to be processed under the old Act, as amended from time to time.

Section 7. Establishment of Rent Controller

(1) For every district, the State Government shall appoint one or more officers not below the rank of a Deputy Collector, as Rent Controller with territorial jurisdiction as to be specified by the District Collector.

(2) Rent Controller shall be subordinate to the Rent Control Tribunal.

Section 8. Powers and functions of Rent Control Tribunal

(1) The Rent Control Tribunal, shall have such powers as the Government may by notification vest in it, which shall include the following :-

(a) Enabling and ensuring the active existence of Rent Controller(s) at all times for due fulfilment of the purposes of this Act.

(b) Functioning as appellate authority, to consider applications of all person(s) aggrieved by any order of the Rent Controller.

Explanation-The Rent Control Tribunal shall exercise such powers as was exercised by the High Court in adjudicating matters under the repealed Act.

(2) The Rent Control Tribunal shall have powers to punish for contempt of its authority, as if it were a High Court.

Section 9. Powers and functions of Rent Controller

(1) The Rent Controller shall exercise such powers, perform such functions and discharge such responsibilities within its territorial jurisdiction, as the Government may by notification vest in him, which shall include the following :-

(a) Reconciling dispute(s) between landlord and tenant.

(b) Securing the rights of landlords and tenants as available to them under this Act.

(c) Enforcing the obligations enjoyed upon landlords and tenants under this Act.

(2) All proceedings before the Rent Controller shall ordinarily conclude within six months from the date of first appearance of the Respondent in response to the summons issued for his appearance in the case or from the date on which the respondent is set ex-parte.

Section 10. Procedure to be followed by Rent Conroller(s) and Rent Control Tribunal

(1) The Rent Controller and the Rent Control Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (Central Act 5 of 1908), but shall be guided by the principle of natural justice and subject to other provisions of this Act or the Rules made thereunder and shall have powers to regulate their own procedure, and for the purpose of discharging their functions under this Act they shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit or an appeal in respect of following matters, namely :-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) reviewing its decision;

(d) issuing commissions for the examination of witnesses or documents;

(e) dismissing petition for default or deciding it ex-parte;

(f) setting aside any order of dismissal of any petition for default or any order passed by it ex-parte;

(g) bringing legal representatives on record; and

(h) any other matter as may be prescribed.

(2) Rent Control Tribunal shall not grant any adjournment without written application and recording the reasons therefor in writing.

(3) Any proceeding before the Rent Control Tribunal or Rent Controller shall deemed to be a judicial proceeding within the meaning of Sections 193 and 228 and for the purpose of Section 196 of the Indian Penal Code, 1860 (Central Act 45 of 1860) and the Rent Controller shall be deemed to be a Civil Court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

Section 11. Execution of the Order

(1) The Rent Controller shall, on application of any party, execute, in the manner prescribed, a final order or any other order passed under this Act by Adopting any one or more of the following modes, namely :-

(a) attachment and sale of the movable or immovable property of the opposite party;

(b) arrest and detention of the opposite party;

(c) attachment of any one or more bank accounts of the opposite party and satisfaction of the amount of order to be paid from such account;

(d) attachment of salary and allowance of a Government Servant or employee of any Nationalized Bank, Local Authority, Corporation, Government Company;

(e) appointing any advocate as Commissioner on such remuneration as may be fixed or deputing any officer of the Tribunal or local administration or local body for execution of the order.

(f) delivery of possession of the premises to the applicant.

(2) The Controller may, in order to execute the final order or any other order passed under this Act require the help from the local administration or local body or the police.

(3) If the tenant does not vacate the premises within three months of the date of issue of certificate for recovery of the possession, he shall be liable, from the date of issue of certificate for recovery of possession to pay mesne profits at the rate of 2 times the rent in case of accommodations let out for residential purposes, at the rate of 3 times the rent in case of accommodations let out for commercial purposes and at the rate of 3 times the rent in case cetificate for recovery of immediate possession has been issued.

(4) The Rent Controller shall conduct the execution proceedings in relation to a final order or any other order passed under this Act in summary manner and dispose of the application for execution made under this section within forty five days from the date of service of notice on opposite party.

Explanation- Filing of an appeal or other proceeding against the order of issue of certificate for recovery of possession or immediate possession will not save the tenant from his liability to pay mesne-profits, at the rates specified under sub-section (3), unless specifically ordered otherwise by the Appellate Rent Controller or the Court before which such an order is under challenge and if the order of issue of recovery certificate is finally maintained, the tenant shall be liable to pay mesne-profits at the rates specified under sub-section (3) from the date on which the recovery certificate was initially issued.

Section 12. Rights and Obligations of Landlords and Tenants

(1) Every tenant shall have rights according to Schedule 1. The Tribunal and Rent Controller(s) shall act at all times to secure to the tenant these rights.

(2) Every landlord shall have rights according to Schedule 2. The Tribunal and Rent Controller shall act at all times to secure to the landlord these rigths:

Provided that-

(a) In case of any clash of interests of the landlord and the tenant, and/or any point of doubt in respect of matters relating to rent, the benefit thereof shall be granted to the tenant.

(b) In case of any clash of interests of the landlord and the tenant, and/or any point of doubt in respect of matters relating to returning possession of the accommodation to the tenant, benefit thereof shall be granted to the landlord.

(3) Every landlord shall have obligations according to Schedule 3. The Tribunal and Rent Controller(s) shall act at all times to enforce upon the landlord these obligations.

(4) Every tenant shall have obligations according to Schedule 4. The Tribunal and Rent Controller(s) shall act at all times to enforce upon the tenant these obligations.

(5) Any willful attempt or act by the landlord to undermine or deny to the tenant the rights available to him in terms of Schedule 1 shall constitute an offence under this Act, punishable with fine not exceeding Rs. 5000 or simple imprisonment for a period not exceeding three months or both.

(6) Any willful attempt or act by the tenant to undermine or deny to the landlord the rights available to him in terms of Schedule 2 shall constitute an offence under this Act, punishable with fine not exceeding Rs. 5,000 or simple imprisonment for a period not exceeding three months or both.

(7) Any attempt by the landlord to neglect for unsubstantial and/or insufficient reasons the obligations enjoined upon him in terms of Schedule 3 shall constitute an offence under this Act, punishable with fine not exceeding Rs. 5,000 or simple imprisonment for a period not exceeding three months or both.

(8) Any attempt by the tenant to neglect for unsubstantial and/or insufficient reasons the obligations enjoined upon him in terms of Schedule 4 shall constitued an offence under this Act, punishable with fine not exceeding Rs. 5,000 or simple imprisonment for a period not exceeding three months or both.

Section 13. Appeal

(1) Notwithstanding anyting to the contrary contained in this Act, a landlord and/or tenant aggrieved by any order of the Rent Controller shall have the right to appeal in the prescribed manner within the prescribed time to the Rent Control Tribunal.

(2) Appeal against an order of the Rent Control Tribunal shall lie with the Supreme Court.

Section 14. Repeal and Savings

(1) On this Act, becoming law, through notification in the Official Gazette, the Chhattisgarh Accommodation Control Act, 1961 (No. XLI of 1961) in its application to the State of Chhattisgarh is hereby repealed.

(2) The repeal under sub-section (I) shall not affect the previous operation of this enactment so repealed and anything done or action taken or deemed to have been done or taken (including any appointment or delegation made, notification, order, direction or notice issued, or rules made), by or under the provisions of the repealed enanctment shall, so far as it is not inconsistent with provisions of this Act, be deemed to have been done or taken under the provisions of this Act and shall continue in force unless and until suspended by anything done or any action taken under this Act.

Schedules

The Schedules are not reproduced in this PDF. Each is in the official file, at the page given:

SCHEDULE I Tenant's Rights Available Under The Act (official file, page 22)

SCHEDULE 2 Landlord's Rights Available Under The Act (official file, page 23)

SCHEDULE 3 Landlord's Obligations Under The Act (official file, page 25)

SCHEDULE 4 Tenant's Obligations Under the Act (official file, page 26)

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