The Himachal Pradesh Urban Rent Control Act, 1987

Act H.P. Act No. 25 of 1987. 35 sections. Bare Act with the official footnotes.

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Official file:
https://himachal.nic.in/law/ControlsAsync/ViewFTPFile?qs=KI3gZ53zz1xcHARKd%2FYiMZcuH4f4%2Fj6vN0mnDImosqHcXzjHDAGDjFModFCTD

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An Act to provide for the control of rents and evictions within the limits of urban areas in the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-eighth Year of the Republic of India, as follows:-

Section 1. Short title extent and commencement

(1) This Act may be called the Himachal Pradesh Urban Rent Control Act, 1987.

(2) It extends to all urban areas in the State of Himachal Pradesh.

(3) This Act shall and shall be deemed to have come into force on the 17th day of November, 1971, but-

(i) provisions contained in clauses(h) and (i) of sections 2; section 4; section 5; sub-section (2) of section 15; section 17; sub-section (3) of section 30; section 34 and Schedule-I of this Act shall be deemed to have come into force on the appointed day;

(ii) provisions contained in clause (d) of section 2; sub-sections (1) and (3) of section 15; section 16; section 27; section 28 and Schedule-II of this Act shall and shall be deemed to have come into force from the day on which the corresponding provisions were inserted in clause (d) of section 2; section 14-A; section 14-B; section 23-A and section 23-B of the Himachal Pradesh Urban Rent Control Act, 1971 (23 of 1971):

(iii) provisions contained in section 4 and section 29 of the Himachal Pradesh Urban Rent Control Act, 1971 (23 of 1971), shall be deemed to have remained in force during the period reckoned from the day on which these were substituted or inserted, as the case may be in the said Act, till the appointed day; and

(iv) provisions contained in section 35 shall come in to force at once.

Section 2. Definitions

In this Act, unless the context otherwise requires, -

(a) "appointed day" means the 18th day of August, 1987;

(b) "building" means any building or part of a building let out for any purpose whether being actually used for that purpose or not, including any land, godowns, out houses or furniture let out therewith, but does not include a room in a hotel, hostel or boarding house;

(c) "Controller" means any person who is appointed by the State Government to perform the functions of the Controller under this Act;

(d) "landlord" means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf, or for the benefit, of any other person, or as a trustee, guardian, receiver, executor or administrator for any other person, and includes a tenant who sublets any building or rented land in the manner hereinafter authorised, a specified landlord, and every person from time to time deriving title under a landlord;

(e) "non-residential building" means a building being used -

(i) mainly for the purpose of business or trade; or

(ii) partly for the purpose of business or trade and partly for the purpose of residence, subject to the condition that the person who carried on business or trade in the building resides therein:

Provided that if a building is let out for residential and non-residential purposes, separately, to more than one

person, the portion thereof let out for the purpose of residence shall not be treated as non-residential building.

Explanation.- Where a building is used mainly for the purpose of business or trade, it shall be deemed to be a non-residential building even though a small portion thereof is used for the purpose of residence;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "rented land" means any land let out separately for the purpose of being used principally for business or trade;

(h) "residential building" means any building which is not a non-residential building;

(i) "specified landlord" means a person who is entitled to receive rent in respect of a building on his own account and who is holding or has held an appointment in a public service or post in connection with the affairs of the Union or of a State;

[1][(j) "tenant" means any person by whom or on whose account rent is payable for a residential or non-residential building or rented land and includes a tenant continuing in possession after termination of the tenancy, a deserted wife of a tenant who has been or is entitled to be in occupation of the matrimonial home or tenanted premises of husband, a divorced wife of a tenant who has a decree of divorce in which the right of residence in the matrimonial home or tenanted premises has been incorporated as one of the conditions of the decree of divorce and in the event of the death of such person such of his heirs as are mentioned in Schedule-I to this Act and who were ordinarily residing with him or carrying on business in the premises at the time of his death, subject to the order of succession and conditions specified, respectively in Explanation-I and Explanation-II to this clause, but does not include a person placed in occupation of a building or rented land by its tenant, except with the written consent of the landlord, or a person to whom the collection of rent or fees in a public market, cart stand or slaughter house or of rents for shops has been farmed out or leased by a Municipal Corporation or a Municipal Council or a Nagar Panchayat or a Cantonment Board;

Explanation-I.- The order of succession in the event of death of the person continuing in possession after the termination of his tenancy shall be as follows:-

(a) firstly, his surviving spouse;

(b) secondly, his son or daughter, or both, if there is no surviving spouse, or if the surviving spouse did not ordinarily live with the deceased persons as a member of his family upto the date of his death;

(c) thirdly, his parent(s), if there is no surviving spouse, son or daughter of the deceased person, or if such surviving spouse, son, daughter or any of them, did not ordinarily live in the premises as a member of the family of the deceased person upto the date of his death; and

(d) fourthly, his daughter-in-law, being the widow of his pre-deceased son, if there is no surviving spouse, son, daughter or parent(s) of the deceased person or if such surviving spouse, son, daughter or parent(s), or any of them, did not ordinarily live in the premises as a member of the family of the deceased person upto the date of his death:

Provided that the successor has ordinarily been living or carrying on business in the premises with the deceased tenant as a member of his family upto the date of his death and was dependent on the deceased tenant:

Provided further that a right to tenancy shall not devolve upon a successor in case he or his spouse or any of his dependent son or daughter is owning or occupying a premises in the urban area in relation to the premises let.

Explanation-II.- The right of every successor, referred to in Explanation-I, to continue in possession after the termination of the tenancy, shall be personal to him and shall not, on the death of such successor, devolve on any of his heirs; and.]

(k) "urban area" means any area administered by a municipal corporation, a municipal committee, a cantonment board, or a notified area committee or any area declared by the State Government, by notification, to be an urban area for the purposes of this Act.

[1] Clause (j) substituted vide H.P. Act No. 8 of 2012.

Section 3. Exemptions

(1) The State Government may direct that all or any of the provisions of this Act shall not apply to any particular building or rented land or any class of buildings or rented lands.

(2) The provisions of this Act shall not apply to any building or rented land owned by the Government.

Section 4. Determination of standard rent

[1][(1) The Controller shall, on application by the tenant or the landlord of a building or rented land, and after holding such enquiry as he may think fit, fix the standard rent for such a building or rented land on the basis of 10% of the

aggregate cost of construction and the market price of the land comprised in the premises on the date of commencement of the construction. The standard rent so derived shall be increased by 10% from the year of construction to the present year to arrive at standard rent for the given year. However, in case of non-residential building, the standard rent shall be fixed on the basis of 15% of the aggregate cost of construction and the market price of the land comprised in the premises on the date of the construction.

Explanation.- For the purpose of fixation of standard rent, the maintenance charges, municipal taxes including water and electricity charges shall be taken into account:

Provided that-

(i) the maintenance charges shall not exceed 5% of the standard rent;

(ii) the taxes shall be as per actual tax payable on prorata basis; and

(iii) the other amenities like water and electricity shall be as agreed between the landlord and the tenant.

(2) The standard rent fixed under sub-section (1) shall become payable from the date on which the application is filed under this section.]

[1] Section 4 substituted vide H.P. Act No. 8 of 2012.

Section 5. Revision of standard rent in certain cases

[1][(l) Save as provided in section 4, when the standard rent of a land or rented building has been fixed under section 4, no further increase or decrease in such a standard rent shall be permissible for a period of three years.

(2) Notwithstanding anything contained in any law for the time being in force or in any contract, a landlord shall, in addition to the increase in rent provided in this Act, be entitled to increase the rent of a building or land at the rate of ten per cent of the standard rent or the agreed rent, as the case may be, after every three years:

Provided that such increase shall be in a case where such a building or land has been let out for a period of three years or more immediately preceding the commencement of the Himachal Pradesh Urban Rent Control (Amendment) Act, 2009 and again with effect from expiry of every three years from such commencement.

(3) The increase in standard rent shall be automatic and if there is any dispute between the landlord and the tenant in regard to any increase or decrease in rent under this section, such dispute shall be decided by the Controller.]

[1] Section 5 substituted vide H.P. Act No. 8 of 2012.

Section 6. Increase in standard rent in certain cases admissible

[1][(1) Save as provided under section 5, when the standard rent of a building or rented land has been fixed under section 4, no further increase in such standard rent shall be permissible, except in cases where some addition, improvement or alteration or special repairs has been carried out in the building or rented land by the landlord at the request in writing of the tenant:

Provided that the standard rent increased under this sub-section shall not exceed ten per cent of the cost of addition, improvement, alteration or special repairs.

(2) If the tenant fails to pay the revised standard rent, he shall be liable for eviction under section 14 of the Act.]

[1] Section 6 substituted vide H.P. Act No. 8 of 2012.

Section 7. Landlord not to claim anything in excess of standard rent

[1][Save as provided in this Act, when the Controller has fixed the standard rent of a building or rented land under section 4, the landlord shall not claim or receive any premium or other like sum in addition to standard rent or any rent in excess of such standard rent, but the landlord may stipulate for and receive in advance an amount not exceeding three month's rent in lump sum:

Provided that any agreement for the payment of any sum in addition to rent, or of rent in excess of such standard rent, shall be null and void.]

[1] Section 7 substituted vide H.P. Act No. 8 of 2012.

Section 8. Fine or premium not to be charged for grant, renewal, or continuance of tenancy

(1) Subject to the provisions of this Act, no landlord shall claim or receive any rent in excess of the [1][standard rent], notwithstanding any agreement to the contrary.

(2) No landlord shall, in consideration of the grant, renewal or continuance of a tenancy or sub-tenancy of any building or rented land, claim or receive payment of any premium, pugree, fine, advance or any other like sum in addition to the rent.

[1] Substituted for the words "fair rent" vide H.P. Act No. 8 of 2012.

Section 9. Rent which should not have been paid may be recovered

Where any sum has been paid which sum is by reason of the provisions of this Act not payable, such sum shall, at any time within a period of one year after the date of the payment, or in the case of payment made before the commencement of this Act within one year after the appointed day, be recoverable by the tenant by whom it was paid or his legal representative from the landlord who received the payment or his legal representative, and may, without prejudice to any other method of recovery, be deducted by such tenant from any rent payable within such one year by him to such landlord.

Explanation.- In this section, the expression "legal representative" has the same meaning as assigned to it in the Code of Civil Procedure, 1908 (5 of 1908) and includes also, in the case of joint family property the joint family of which the deceased was a member.

Section 10. Increase of rent on account of payment of rates etc. of local authority but rent not to be increased on account of payment of other taxes etc

(l) Notwithstanding anything contained in any other provisions of this Act, the landlord shall be entitled to increase the rent of a building or rented land, and if after the commencement of the tenancy any fresh rate, cess or tax is levied in respect of the building or rented land by the Government or any local authority, or if there is an increase in the amount of such a rate, cess or tax being levied at the commencement of the tenancy:

Provided that the increase in rent shall not exceed the amount of any such rate, cess or tax or the amount of the increase in such rate, cess or tax, as the case may be.

(2) Notwithstanding anything contained in any law for the time being in force or in any contract, no landlord shall recover from his tenant the amount of any tax or any portion thereof in respect of any building or rented land occupied by such tenant by increase in the amount of the rent payable or otherwise, save as provided in sub-section (1).

Section 11. Cutting off or withholding essential supply or service

(1) No landlord either himself or through any person purporting to act on his behalf shall, without just and sufficient cause cut off or withhold any essential supply or service enjoyed by the tenant in respect of the building or rented land let out to him.

(2) If a landlord contravenes the provisions of sub-section (1), the tenant may make an application to the Controller complaining of such contravention.

(3) If the Controller is satisfied that the essential supply or service was cut off or withheld by the landlord with a view to compelling the tenant to vacate the premises or to pay an enhanced rent, the Controller may pass an order directing the landlord to restore the amenities immediately pending the inquiry referred to in sub-section (4).

Explanation.- An interim order may be passed under this sub-section without giving notice to the landlord.

(4) If the Controller, on inquiry, finds that the essential supply or service enjoyed by the tenant in respect of the building or rented land was cut off or withheld by the landlord without just and sufficient cause, he shall make an order directing the landlord to restore such supply or service.

(5) The Controller may, in his discretion, direct that compensation, not exceeding one hundred rupees,-

(a) be paid to the landlord by the tenant, if the application under sub-section (2) was made frivolously or vexatiously;

(b) be paid to the tenant by the landlord, if the landlord had cut off or withheld the supply or service without, just and sufficient cause.

Explanation-l.- In this section, "essential supply or service" includes supply of water, electricity, lights in passages and on staircases, conservancy and sanitary services.

Explanation-II.- For the purposes of this section, withholding any essential supply or service shall include acts or omissions attributable to the landlord on account of which the essential supply or service is cut off by the local authority or any other competent authority.

Section 12. Conversion of a residential building into a non-residential building

No person shall convert a residential building into a non-residential building except with the permission in writing of the Controller.

Section 13. Landlord's duty to keep the building or rented land in good repairs

(l) Every landlord shall be bound to keep the building or rented land in good and tenantable repairs.

(2) If the landlord neglects or fails to make, within a reasonable time after receiving a notice in writing, any repairs which he is bound to make under sub-section (1), the tenant may make the same himself and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord:

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

(3) Where any repairs without which the building or rented land is no longer habitable or useable, except with undue inconvenience, are to be made and the landlord neglects or fails to make them after receiving notice in writing, the tenant may apply to the Controller for permission to get such repairs done on his own and may submit to the Controller an estimate of the cost of such repairs, and thereupon the Controller may after giving the landlord an opportunity of being heard and after considering such estimate of the cost and making such inquiries as he may consider necessary, by an order in writing, permit the tenant to make such repairs at such cost as may be specified in the order and it shall thereafter be lawful for the tenant to get such repairs done on his own and to deduct the cost thereof from the rent, which shall in no case exceed the amount so specified or otherwise recover it from the landlord:

Provided that the amount so deducted or recoverable in any year shall not exceed 3 months' rent payable by the tenant:

Provided further that if any repairs not covered by the said amount are necessary in the opinion of the Controller and the tenant agrees to bear the excess cost himself, the Controller may permit the tenant to make such repairs.

Section 14. Eviction of tenants

(l) A tenant in possession of a building or rented land shall not be evicted therefrom in execution of a decree passed before or after the commencement of this Act or otherwise, whether before or after the termination of the tenancy, except in accordance with the provisions of this Act.

(2) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the applicant, is satisfied-

(i) that the tenant has not paid or tendered the rent due from him in respect of the building or rented land within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement by the last day of the month next following that for which the rent is payable:

Provided that If the tenant on the first hearing of the application for ejectment after due service pays or tenders the arrears of rent and interest at the rate of [1][12 per cent] per annum on such arrears together with the cost of application assessed by the Controller, the tenant shall be deemed to have duly paid or tendered the rent within time aforesaid:

Provided further that if the arrears pertain to the period prior to the appointed day, the rate of interest shall be calculated at the rate of [2][12 per cent] per annum:

Provided further that the tenant against whom the Controller has made an order for eviction on the ground of non-payment of rent due from him, shall not be evicted as a result of his order, if the tenant pays the amount due within a period of 30 days from the date of order; or

(ii) that the tenant has after the commencement of this Act without the written consent of the landlord-

(a) transferred his rights under the lease or sublet the entire building or rented land or any portion thereof, or

(b) used the building or rented land for a purpose other than that for which it was leased; or

(iii) that the tenant has committed such acts as are likely to impair materially the value or utility of the building or rented land; or

(iv) that the tenant has been guilty of such acts and conduct as are nuisance to the occupiers of buildings in the neighborhood; or

(v) that the tenant has ceased to occupy the building or rented land for a continuous period of twelve months without reasonable cause;

the Controller may make an order directing the tenant to put the landlord in possession of the building or rented land and if the Controller is not so satisfied he shall make an order rejecting the application:

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building or rented land and may extend such time so as not to exceed three months in the aggregate.

(3) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession-

(a) in the case of a [3][residential and non-residential building], if-

(i) he requires it for his own occupation:

Provided that he is not occupying another [4][residential and non-residential building] owned by him in the urban area concerned:

Provided further that he has not vacated such a building without sufficient cause within five years of the filing of the application, in the said urban area; or

(ii) it was let to the tenant for use as a residence by reason of his being in service or employment of the landlord, and the tenant has ceased, whether before or after commencement of this Act, to be in such service or employment:

Provided that where the tenant is a workman who has been discharged or dismissed by the landlord from his service or employment in contravention of the provisions of the Industrial Disputes Act, 1947 (14 of 947), he shall not be liable to be evicted until the competent authority under that Act confirms the order of discharge or dismissal made against him by the landlord;

(iii) the landlord is a member of the Armed Forces of the Union of India and requires it for the occupation of his family and if he produces a certificate of the prescribed authority referred to in section 7 of the Indian Soldiers (Litigation) Act, 1925, (4 of 1925) that he is serving under special conditions within the meaning of section 3 of that Act or is posted in a non-family station.

Explanation-I.- For te purposes of this sub-clause-

(1) the certificate of the prescribed authority shall be conclusive proof of the fact that the landlord is serving under special conditions, or is posted in a non-family station;

(2) "family" means parents and such relation(s) of landlord as ordinarily reside with him and is/are dependent upon him;

(iv) the tenant has, whether before or after the commencement of this Act, built or acquired vacant possession of or been allotted, a residence reasonably sufficient for his requirements

(b) in the case of rented land, if-

(i) he requires it for his own use:

Provided that he is not occupying in the urban area concerned any other rented land for the purpose of his business:

Provided further that he has not vacated such rented land without sufficient cause within five years of the filing of the application in the urban area concerned;

(ii) he requires rented land for construction of residential or non-residential building or for establishment of industry;

(iii) the tenant lets out his rented land to somebody else on higher rent;

(c) in the case of any building or rented land, if he requires it to carry out any building work at the instance of the Government or local authority or any Improvement Trust under some improvement or development scheme or if it has become unsafe or unfit for human habitation or is required bona fide by him for carrying out repairs which cannot be carded out without the building or rented land being vacated or that the building or rented land is required bona-fide by him for the purpose of building or re-building or making thereto any substantial additions or alterations and that such building or re-building or addition or alteration cannot be carried out without the building or rented land being vacated:

[5][Provided that the tenant evicted under this clause shall have the right to re-entry on new terms of tenancy, on the basis of mutual agreement between the landlord and the tenant, to the premises in the re-built building equivalent in area to the original premisses for which he was a tenant:

Provided further that in case of non-residential premises, the landlord shall not compel the tenant for a change of business under the new terms of tenancy.]

(d) in the case of [6][residential and non-residential building], if he requires it for use as an office, or consulting room by [7][his son or his daughter] who intends to start practice as a lawyer, an architect, a dentist, an engineer, a veterinary surgeon or a medical practitioner, including a practitioner of Ayurvedic Unani or Homoeopathic System of Medicine or for the residence of his son who is married, if-

(i) his son as aforesaid is not occupying in the urban area concerned any other building for use as office consulting room or residence, as the case may be; and

(ii) his son as aforesaid has not vacated such a building without sufficient cause, after the commencement of this Act, in the urban area concerned:

Provided that where the tenancy is for a specified period, agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply under this sub-section before the expiry of such period:

Provided further that where the landlord has obtained possession of any building or rented land under the provisions of clause (a) or clause (b), he shall not be entitled to apply again under the said clause for the possession of any other building of the same class or rented land:

Provided further that where a landlord has obtained possession of any building under the provisions of clause (d), he shall not be entitled to apply again under the said clause for the use of, or for the residence of the same son, as the case may be.

(4) The Controller shall, if he is satisfied that the claim of the landlord is bonafide, make an order directing the tenant to put the landlord in possession of the building or rented land on such date as may be specified by the Controller and if the Controller is not so satisfied he shall make an order rejecting the application:

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building or rented land and may extend such time not exceeding three months in the aggregate.

(5) Where a landlord who has obtained possession of the building or rented land in pursuance of an order under sub-section (3) does not occupy it himself or if possession was obtained by him for his family in pursuance of an order under sub-clause (iii) of clause (a) of sub-section. (3), his family does not occupy the residential building, or if possession was obtained by him on behalf of [8][his son or his daughter] in pursuance of an order under clause (d) of sub-section (3) [9][his son or his daughter] does not occupy it for the purpose for which the possession was obtained, for a continuous period of twelve months from the date of obtaining possession or if possession was obtained under sub-section (2) of section 15 he does not occupy it for personal use for a continuous period of 3 months from the date of obtaining possession or where a landlord who has obtained possession of a building under clause (c) of sub-section (3) puts that building to any use other than that for which it was obtained or lets it out to any tenant other than the tenant evicted from it, the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of such building or rented land and the Controller shall make an order accordingly.

(6) Where a landlord has acquired any premises by transfer, no application for the recovery of possession of such premises shall be made under this section on the ground specified in sub-clause (i) of clause (a) of sub-section (3) unless a period of five years has elapsed from the date of such acquisition.

(7) Where the Controller is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Controller may direct that compensation not exceeding five hundred rupees be paid by the such landlord to the tenant.

[1] Substituted for the words "9 per cent" vide H.P. Act No. 8 of 2012.
[2] Substituted for the words "6 per cent" vide H.P. Act No. 8 of 2012.
[3] Substituted for the words "residential building". vide H.P. Act No. 8 of 2012.
[4] Substituted for the words "residential building". vide H.P. Act No. 8 of 2012.
[5] Provisos inserted vide H.P. Act No. 8 of 2012.
[6] Substituted for the words "residential building". vide Act No. 8 of 2012.
[7] Substituted for the words "his son" vide H.P. Act No. 8 of 2012.
[8] Substituted for the words "his son" vide H.P. Act No. 8 of 2012.
[9] Substituted for the words "his son" vide H.P. Act No. 8 of 2012.

Section 15. Right to recover immediate possession of premises to certain persons

(1) Where a person who being in occupation of any residential premises allotted to him by the Central Government, the State Government or any local authority is required by, or in pursuance of any general or special order made by the Central or State Government or local authority, as the case may be, to vacate such residential accommodation, or in default, to incur certain obligations, on the ground that he or his spouse or dependent child owns, within the urban area, residential accommodation there shall accrue, on and from the date of such order, to such a person notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether express or implied), custom or usage to the contrary, a right to recover immediate the possession of any premises let out by him:

Provided that nothing in this section shall be construed as conferring a right on the person, who himself or whose spouse or dependent child owns, within the urban area, two or more dwelling houses, to recover the possession of more than one dwelling house, and it shall be lawful for such person to indicate the dwelling house, the possession of which he intends to recover,

(2) Where a specified landlord, at any time within one year prior to or within one year after the date of his retirement or after his retirement but within one year of the appointed day whichever is later, applies to the Controller along with a certificate from the authority competent to remove him from service indicating the date of his retirement and his affidavit to the effect that he or his spouse does not own and posses any other suitable accommodation in the local area in which he intends to reside or to start his own business, to recover possession of one residential building for his own occupation, there shall accrue, on and from the date to such application to such specified landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether expressed or implied), custom or usage to the contrary a right to recover immediate possession of such residential building or any part or parts of such building if it is let out in part or parts:

Provided that in case of death of the specified landlord, the widow or widower of such specified landlord and. in the case of death of such widow or widower, mother or father or a child or a grandchild or a widowed daughter-in-law who was dependent upon such specified landlord at the time of his death shall be entitled to make an application under this section to the Controller,-

(a) in the case of death of such specified landlord before the appointed day, within one year of the said day;

(b) in the case of death of such specified landlord after the appointed day, but before the date of his retirement, within one year of the date of his death;

(c) in the case of death of such specified landlord after the appointed day and the date of his retirement, within one year of the date of such retirement;

and on the date of such application the right to recover the possession of the residential building which belongs to such specified landlord or his spouse at the time of his death shall accrue to the applicant:

Provided further that nothing in this section shall be so construed as conferring a right, on any person to recover possession of more than one residential building inclusive of any pans thereof if it is let out in part or parts:

Provided further that the Controller may give the tenant a reasonable time for putting the specified landlord or, as the case may be, the widow, widower, widower grandchild or widowed daughter-in-law in possession of the residential building and may extend such time not exceeding three months in the aggregate

Explanation.- For the purposes of this section, the expression "retirement" includes the voluntary retirement but does not include resignation, discharge or dismissal from service.

(3) Notwithstanding anything contained elsewhere in this Act, or in any other law for the time being in force or in any contract, custom or usage to the contrary where the landlord exercises the right of recovery conferred on him by this Act, no compensation shall be payable by him to the tenant or any person claiming through or under him and no claim for such compensation shall be entertained by any court, tribunal or other authority:

Provided that where the landlord had received,-

(a) any rent in advance from the tenant, he shall, within a period of ninety days from the date of recovery of the possession of premises by him, refund to the tenant such amount as represents the rent payable for the un-expired portion of the contract, agreement or lease;

(b) any other payment, he shall, within the period aforesaid, refunded to the tenant a sum which shall bear the same proportion to the total amount so received, as the un-expired portion of the contract or agreement, or lease bears to the total period of contract or agreement of lease:

Provided further that, if any default is made in making any refund as aforesaid, the landlord shall be liable to pay simple interest at the rate of nine per cent per annum.

Section 16. Special procedure for the disposal of applications for eviction on the ground of bonafide requirement under section 14(3) (a) (iii) and section 15

(1) Every application by a landlord for the recovery of possession of any premises under sub-clause (iii) of clause (a) of sub-section (3) of section 14 or section 15 shall be dealt with in accordance with the procedure specified in this section.

(2) After an application under sub-clause (iii) of clause (a) of sub - section (3) of section 14 or section 15 is received, the Controller shall issue summons, in relation to every application referred to in sub-section (1), in the form specified in Schedule-II.

(3) (a) The Controller shall in addition to and simultaneously with the issue of summons for service on the tenant also direct the summons to be served by registered post, acknowledgement due, addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and may, if the circumstances of the case so require also direct the

publication of the summons in a newspaper circulating in the locality in which the tenant is last known to have resided or carried on business or personally worked for gain.

(b) When an acknowledgement purporting to be signed by the tenant or his agent is received by the Controller or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent had refused to take delivery of the registered article, the Controller, after such inquiry as he deems fit, is satisfied about the correctness of the endorsement, he may declare that there has been a valid service of summons on the tenant.

(4) The tenant on whom the summons is duly served (whether in the ordinary way or by registered post) in the form specified in Schedule-II shall not contest the prayer for eviction from the premises unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction and obtains leave from the Controller as hereinafter provided; and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord or by the specified landlord, or as the case may be, the widow, widower, child, grandchild or widowed daughter-in-law of such specified landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction on the ground aforesaid.

(5) The Controller shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such fact as would disentitle the landlord or the specified landlord or, as the case may be, the widow, widower, child, grandchild or widowed daughter-in-law of such specified landlord from obtaining an order for the recovery of possession of the premises of the ground specified in sub-clause (iii) of clause (a) of sub-section (3) of section 14 or in section 15.

(6) Where leave is granted to the tenant to contest the application, the Controller shall commence the hearing of the application as early as practicable.

(7) Notwithstanding anything contained in section 14, the Controller shall, while holding an enquiry in a proceeding, follow the practice and procedure of a Court of Small Causes, including the recording of evidence.

(8) No appeal or second appeal shall lie against an order for the recovery of possession of any premises made by the Controller in accordance with the procedure specified in this section:

Provided that the High Court may, for the purposes of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such orders in respect, thereto as it thinks fit.

(9) Where no application for revision has been made to the High Court, the Controller may exercise the powers of review in accordance with the provision of Order XLVII(of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).

(10) Save as otherwise provided in this section, the procedure for the disposal of an application for eviction on the ground specified in sub-clause (iii) of clause (a) of sub-section (3) of section 14 or in section 15 shall be the same as the procedure for the disposal of applications by the Controller.

Section 17. Recovery of possession in case of tenancies for limited period

Where a landlord does not require the whole or any part of any premises for a particular period, and the landlord, after obtaining the permission of the Controller in the prescribed manner, lets the whole of the premises or part thereof as residence for such period as may be agreed to in writing between the landlord and the tenant and the tenant does not, on the expiry of the said period, vacate such premises, then, notwithstanding anything contained in section 14 or in another law, the Controller may, on any application made to him in this behalf the landlord within such time as may be prescribed, place the landlord in vacant possession of the premises or part thereof by evicting the tenant and every other person who may be in occupation of such premises.

Section 18. Decisions which have become final not to be reopened

The Controller shall summarily reject any application under sub-section (2) or sub-section (3) of section 14 which raises substantially issues as have been finally decided in a former proceeding under this Act.

Section 19. Leases of vacant buildings

Whenever any building which was constructed before the commencement of this Act, and was being let out to tenants remains vacant for a period of twelve months, the Controller may on receipt of any application from a person serve the landlord a notice informing him that he should show cause why the vacant building be not let out to a tenant, who will pay fair rent to the landlord. On hearing the landlord, the Controller may, on such terms on which the building was being let out, lease the same to a person who has in his occupation no other building either as an owner or as a tenant.

Section 20. Receipt to be given for rent paid

(1) Every tenant shall pay rent within the time fixed by contract or in the absence of such contract, by the fifteenth day of the month next following the month for which it is payable.

(2) Every tenant who makes payment of rent to his landlord shall be entitled to obtain forthwith from the landlord or his authorised agent a written receipt for the amount paid to him duly signed by the landlord or his authorised agent.

(3) If the landlord or his authorised agent refuses or neglects to deliver to the tenant a receipt referred to in sub-section (2), the Controller may, on an application made to him in this behalf by the tenant within two months from the date of payment and after hearing the landlord or his authorised agent, by order, direct the landlord or his authorised agent to pay to the tenant, by way of damages, such sum not exceeding double the amount of rent paid by the tenant and the costs of the application and shall also grant a certificate to the tenant in respect of the rent paid.

Section 21. Deposit of rent by the tenant

(l) Where the landlord does not accept any rent tendered by the tenant within the time referred to in section 20 or refuses or neglects to deliver a receipt referred to therein or where there is a bona fide doubt as to the person or persons to whom the rent is payable, the tenant may deposit such rent with the Controller in the prescribed manner.

(2) The deposit shall be accompanied by an application by the tenant containing the following particulars, namely:

(a) the building or rented land for which the rent is deposited with a description sufficient for identifying the building or rented land;

(b) the period for which the rent is deposited;

(c) the name and address of the landlord or the persons claiming to be entitled to such rent; and

(d) such other particulars as may be prescribed.

(3) On such deposit of the rent being made, the Controller shall send in the prescribed manner a copy or copies of the application to the landlord or persons claiming to be entitled to the rent with an endorsement of the date of the deposit.

(4) If an application is made for the withdrawal of any deposit of rent, the Controller shall, if satisfied that the applicant is the person entitled to receive the rent deposited, order the amount of the rent to be paid to him in the manner prescribed:

Provided that no order for payment of any deposit of rent shall be made by the Controller under this sub-section without giving all persons named by the tenant in his application under sub-section (2) as claiming to be entitled to the payment of such rent an opportunity of being heard and such order shall be without prejudice to the rights of such persons to receive such rent being decided by a court of competent jurisdiction.

(5) If at the time of filing the application under sub-section (4), but not after the expiry of thirty days from receiving the notice of deposit, the landlord or the person or persons claiming to be entitled to the rent complains to the Controller that the statements in the tenant's application of the reasons and circumstances which led him to deposit the rent are untrue, the Controller, after giving the tenant an opportunity of being heard, may levy on the tenant a fine which may extend to an amount equal to two months' rent, if the Controller is satisfied that the said statements Were materially untrue and may order that a sum out of the fine realised be paid to the landlord as compensation.

(6) The Controller may, on the complaint of the tenant and after giving an opportunity to the landlord of being heard, levy on the landlord a fine which may extend to an amount equal to two months' rent, if the Controller is satisfied that the landlord, without any reasonable cause, refused to accept rent though tendered to him within the time referred to in section 20 and may further order that a sum out of fine realised be paid to the tenant as compensation.

Section 22. Time limit for making deposit and consequences of incorrect particulars in application for deposit

(1) No rent deposited under section 21 shall be considered to have been validly deposited under that section, unless the deposit is made within twenty-one days of the time referred to in section 20 for payment of the rent.

(2) No such deposit shall be considered to have been validly made, if the tenant willfully makes any false statement in his application for depositing the rent, unless the landlord had withdrawn the amount deposited before the date of filing an application for the recovery of possession of the building or rented land from the tenant.

(3) If the rent is deposited within the time mentioned in sub-section (l) and does not cease to be a valid deposit for the reason mentioned in sub-section (2), the deposit shall constitute payment of rent to the landlord as if the amount deposited had been validly tendered.

Section 23. Savings to acceptance of rent and forfeiture of rent in deposit

(1) The withdrawal of rent deposited under section 21 in the manner provided therein shall not operate as an admission against the person withdrawing it of the correctness of the rate of rent, the period of default, the amount due, or of any other facts stated in the tenant's application for depositing the rent under the said section.

(2) Any rent in deposit which is not withdrawn by the landlord or by the person or persons entitled to receive such rent shall be forfeited to Government by an order made by the Controller, if it is not withdrawn before the expiration of five years from the date of posting of the notice of deposit.

(3) Before passing an order of forfeiture, the Controller shall give notice to the landlord or the person or persons entitled to receive the rent in deposit by registered post at the last known address of such landlord of person or persons and shall also publish the notice in his office and in any local newspaper.

Section 24. Vesting of appellate authority on officers by State Government

(1) (a) The State Government may, by a general or special order, by notification, confer on such officers and authorities, as it thinks fit, the powers of appellate authorities for the purposes of this Act, in such area or in such classes of cases as may be specified in the order.

(b) Save as otherwise provided in this Act, any person aggrieved by an order passed by the Controller, except the orders for the recovery of possession made by the Controller in accordance with the procedure prescribed under section 16, may, within fifteen days from the date of such order or such longer period as the appellate authority may allow for reasons to be recorded in writing, prefer an appeal in writing to the appellate authority having jurisdiction. (In computing the period of fifteen days, the time taken to obtain a certified copy of the order appealed against shall be excluded).

(2) On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

(3) The appellate authority shall decide the appeal after sending for the records of the case from the Controller and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as it thinks fit either personally or through the Controller.

(4) The decision of the appellate authority and subject only to such decision, an order, of the Controller shall be final and shall not be liable to be called in question in any court of law except as provided in sub-section (5) of this section.

(5) The High Court may, at any time, on the application of any aggrieved party or on its own motion call for and examine the records relating to any order passed or proceedings taken under this Act for the purpose of satisfying itself as to the legality or propriety of such order or proceedings and may pass such order in relation thereto as it may deem fit.

Section 25. Power to summon and enforce attendance of witnesses

For the purposes of this Act, an appellate authority or a Controller appointed under this Act shall have the same powers of summoning and enforcing the attendance of witnesses and compelling the production of evidence as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908).

Section 26. Execution of orders

Save as otherwise provided in section. 31, any order made by the Controller or an order passed on appeal under this Act, shall be executable by the Controller as a decree of a civil court and for this purpose, the Controller shall have all the powers of a civil court.

Section 27. Institution and disposal of applications

(1) Where there are two or more Controllers appointed at the same station to exercise jurisdiction under this Act, in the same territory, it shall be the senior-most (in service) of such Controllers who alone shall be competent initially to entertain all applications and proceedings under this Act.

(2) The Controller competent to entertain applications and proceedings under this Act under sub-section (1) may transfer any such proceedings or applications pending before him for disposal to any other Controller of competent jurisdiction.

Section 28. Power to transfer proceedings

(l) The High Court may, on an application made to it or otherwise by order, transfer any proceeding pending before any appellate authority to another appellate authority and the appellate authority, to whom the proceeding is

transferred, may, subject to any special directions in the order of transfer, dispose of the proceeding.

(2) The High court or appellate authority may on an application made to it or otherwise by order, transfer any proceeding pending before any Controller to another Controller within its jurisdiction and the Controller to whom the proceedings is transferred may, subject to any special direction in the order of transfer, dispose of the proceeding.

Section 29. landlord and tenant to furnish particulars

Every landlord and every tenant of a building or rented land shall be bound to furnish to the Controller, or any person authorised by him in that behalf, such particulars in respect of such building or rented land as may be prescribed.

Section 30. Penalties

(1) If any person contravenes any of the provisions of section 10, section 11, section 12 or section 29, he shall be punishable with fine which may extend to one thousand rupees.

(2) If any person contravenes any of the provisions of clause (a) of section 7 or section 8, he shall be punishable with imprisonment which may extend to two years and with fine.

(3) The specified landlord or widow, widower, mother, father, child, grandchild or widowed daughter-in-law of such landlord, as the case may be. who having evicted tenant from a building in pursuance of an order made under sub-section (2) of section 15 does not occupy it for a continuous period of three months from the date of such eviction or lets out the whole or any part of such building, from which the tenant was evicted, to any person other than the tenant shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or both.

(4) No court inferior to that of a magistrate of first class shall try any offence punishable under this Act.

(5) No court shall take cognizance of an offence punishable under this Act, unless the complaint in respect of the offence has been made within three months from the date of the commission of the offence.

Section 31. Controller to exercise power of a magistrate for recovery of fine

Any fine imposed by a Controller under this Act shall be paid by the person fined within such time as may be allowed by the Controller and the Controller may, for good and sufficient reason, extend the time, and in default of such payment, the amount shall be recoverable as a fine under the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) and the Controller shall be deemed to be a magistrate under the said Code for the purposes of such recovery.

Section 32. Validation

(l) Notwithstanding anything contained in any judgment, decree or order of any court, anything done or any action taken (including any notification or direction issued or rents fixed or permission granted or order made) or purported to have been done or taken under the Himachal Pradesh Urban Rent Control Act, 1971 (23 of 1971) prior to its repeal, shall be deemed to be as valid and effective as if the provisions contained in the said Act and in the enactments subsequently amending the said Act were enacted after procuring the assent of the President, and the said Act had been in force at all material times when such thing was done or such action was taken.

(2) Nothing in this Act shall render any person guilty of an offence for any contravention of the provisions of this Act which was not an offence under the Himachal Pradesh Urban Rent Control Act, 1971 (23 of 1971) and which occurred before the appointed day.

Section 33. Power to make rules

(l) The State Government may, by notification, make rules for the purposes of carrying out all or any of the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) In making any rule the Government may provide that a breach thereof shall be punishable with fine which may extend to Rs. 500/- and when the breach is a continuing one with further fine which may extend to Rs. 1000/-.

Section 34. Repeal and savings

(1) The Himachal Pradesh Urban Rent Control Act, 1971, (23 of 1971) is hereby repealed.

(2) Notwithstanding such repeal, but subject to the provisions contained in sub-section (3), all suits, appeals and other proceedings, including execution proceedings, under the said Act, pending before any court of appellate or revisional authority, on the appointed day shall be disposed of in accordance with the provisions of this Act, as if the provisions contained in this Act were, at the relevant time, in force.

(3) Nothing contained herein shall authorise any court or authority or tribunal to re-open any suit or proceedings in which the orders passed have already become final and executed.

Section 35. Repeal of H.P. Ordinance No.5 of 1987

(1) The Himachal Pradesh Urban Rent Control Ordinance, 1987 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act, as if this Act had come into force on the day on which such thing was done or action was taken.

Schedules

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

SCHEDULE-I (official file, page 23)

SCHEDULE-II (official file, page 24)

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