The Kerala Buildings (Lease and Rent Control) Act, 1965

Act No. 2 of 1965. 36 sections. Bare Act with the official footnotes.

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An Act to regulate the leasing of buildings and to control the rent of such buildings in the State of Kerala.

[Preamble.-WHEREAS it is expedient to regulate the leasing of buildings and to control the rent of such building in the State of Kerala;

BE it enacted as follows:-]

Section 1. Short title, extent, application and commencement

(1) This Act may be called the Kerala Buildings (Lease and Rent Control) Act, 1965.

(2) It extends to the whole of the State of Kerala.

(3) It applies to the areas mentioned in the Schedule and the Government may, by notification in the Gazette, apply all or any of the provisions of this Act to any other area in the State with effect from such date as may be specified in the notification, and may, by like notification, cancel or modify such notification or withdraw the application of all or any of the provisions of this Act from any area mentioned in the Schedule :

Provided that no such notification shall be issued unless it is supported by a resolution passed by the local authority or authorities, if any, of the areas affected by the notification.

(4) It shall be deemed to have come into force on the first day of April 1965.

Section 2. Definitions

In this Act, unless the context otherwise requires,-

(1) "building" means any building or hut or part of a building or hut, let or to be let separately for residential or non-residential purposes and includes-

(a) the garden, grounds, wells, tanks and structures, if any, appurtenant to such building, hut or part of such building or hut, and let or to be let along with such building or hut;

(b) any furniture supplied [1][xxxx] by the landlord for use in such building or hut or part of a building or hut, but does not include a room in a hotel or boarding-house ;

[2][(c) any fittings or machinery belonging to the landlord, affixed to or installed in such building or part of such building, and intended to be used by the tenant for or in connection with the purpose for which such building or part of such building is let or to be let.]

(2) "Accommodation Controller" means any person appointed to perform the functions of an Accommodation Controller under this Act;

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

Explanation.-A tenant who sub-lets shall be deemed to be a landlord within the meaning of this Act in relation to the sub-tenant ;

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

(5) "Rent Control Court" means the Court constituted under section 3 ;

[3][(6) "tenant " means any person by whom or on whose account rent is payable for a building and includes-

(i) the heir or heirs of a deceased tenant, and

(ii) a person continuing in possession after the termination of the tenancy in his favour, but does not include a Kudikidappukaran as defined in the Kerala Land Reforms Act, 1963 (Kerala Act I of 1964), or a person placed in occupation of a building by its tenant, or a person to whom the collection of rents 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 Council, Municipal Corporation, Township Committee or Panchayat;]

(7) "unconscionable rent" means any rent which is more than double the maximum of the fair rent that could be fixed for a building under section 5.

[1] Omitted by Act 7 of 1966.
[2] Inserted by Act 7 of 1966.
[3] Substituted by Act 7 of 1966.

Section 3. Constitution of Rent Control Courts and appointment of Accommodation Controllers

(1) The Government may, by notification in the Gazette, appoint a person who is or is qualified to be appointed, a Munsiff to be the Rent Control Court for such local areas as may be specified therein.

(2) The Government may, by notification in the Gazette, appoint any Officer not below the rank of a Tahsildar to be the Accommodation Controller for any area to which this Act applies.

(3) The Accommodation Controller shall exercise his powers and perform his functions subject to such general directions as the Government may issue.

Section 4. Notice of vacancy

(1) (a) Every landlord may within fifteen days before completion and shall, within fifteen days after the construction or re-construction of a building intended to be let out or after a building becomes vacant by his ceasing to occupy it, or by the termination of a tenancy, or by release from requisition by the Government or any other competent authority, give notice of the availability or vacancy in writing to the Accommodation Controller. Every tenant shall within fifteen days of his vacating a building occupied by him give notice of the same in writing to the Accommodation Controller :

Provided that this sub-section shall not apply to a building in respect of which the landlord has obtained an order for possession on any of the grounds specified in sub-section (3), clause (iv) of sub-section (4) and sub-sections (7) and (8) of section 11.

(b) Every notice given under clause (a) shall contain such particulars as may be prescribed.

(2) If the tenant of a building puts another person in occupation thereof and does not re-occupy it within a period of three months, then, on the expiry of such period, the tenancy shall be deemed to have terminated and it shall be the duty of the tenant, and also of the landlord, if he is aware of such termination, to give notice thereof in writing to the Accommodation Controller within fifteen days of such termination:

Provided that the tenant may, before the expiry of three months, apply to the Accommodation Controller to re-occupy the building within a period of six months and if such permission is granted, this sub-section shall have effect as if for the period of three months specified therein, a period of six months were substituted.

Explanation.-This sub-section shall not apply where the building has been sub-let by a tenant entitled to do so, after giving due notice to the Accommodation Controller under sub-section (1) and in conformity with the provisions of this section.

(3) If, within fifteen days of the receipt by the Accommodation Controller of a notice under sub-section (1) or sub-section (2), the Accommodation Controller does not intimate to the landlord in writing that the building is required for the purpose of the State or Central Government or of any local authority or of any public institution or for the occupation of any officer of such Government, or local authority or for the occupation of such class of non-officials as may be prescribed having regard to the importance of their service to society, the landlord shall be at liberty to let the building to any tenant or to occupy it himself.

(4) The landlord shall not let the building to a tenant or occupy it himself, before the expiry of the period of fifteen days specified in sub-section (3) unless in the meantime he has received intimation that the building is not required for the purposes or for occupation by any of the persons specified in that sub-section.

(5) If the building is required for the purposes of the State or Central Government or a local authority or any public institution or for the occupation of any officer of such Government or local authority, or for occupation by any of the persons specified in sub-section (3), the landlord shall deliver possession of the building to the Accommodation Controller and the Government, the local authority or public institution or officer or person shall be deemed to be the tenant of the landlord, with retrospective effect from the date on which the Accommodation Controller received notice under sub-section (1) or sub-section (2), the terms of the tenancy being such as may be agreed upon between the landlord and the tenant and in default of an agreement, as may be determined under section 5 :

Provided that the rent payable shall be the fair rent, if any, fixed for the building under the provisions of this Act, and, if no fair rent has been so fixed, such fair rent as may be determined in accordance with the provisions of this Act :

Provided further that a building used as a residential building, shall not be used as a non-residential building or vice versa unless the Accommodation Controller after hearing the landlord grants permission under sub-section (1) of section 17 :

Provided also that no structural alterations shall be made in the building, unless the consent of the landlord is also obtained therefor.

(6) (a) Where a landlord has two or more residential buildings in the same city, town or village and they have not been let by him, the landlord may choose any one of such buildings for his own occupation and shall give notice to the Accommodation Controller specifying the building so chosen by him and every other building not so chosen.

(b) When giving notice as aforesaid, the landlord shall also specify therein-

(i) whether any building other than the one chosen by him under clause (a) has been continuously in the occupation of any member of his family or of any dependant of the landlord ; or

(ii) whether he requires any such building for the occupation of any member of his family.

(c) In the case referred to in sub-clause (i) of clause (b), the Accommodation Controller may, if he is satisfied that the occupation of the building by any member of the family, or of any dependant of the landlord is bona fide, make an order permitting the landlord to allow such member or dependant to continue to occupy the building; and if the Accommodation Controller is not so satisfied, he shall make an order refusing such permission.

(d) In the case referred to in sub-clause (ii) of clause (b), the Accommodation Controller may, if he is satisfied that the building is required by any member of the family of the landlord bona fide for such occupation, make an order permitting the landlord to allow such member to occupy the building; and if the Accommodation Controller is not so satisfied, he shall make an order refusing such permission.

(e) Any landlord who is aggrieved by any order passed by the Accommodation Controller under clause (c) or clause (d) may, within fifteen days from the date of the receipt of such order, prefer an appeal in writing to the District Collector within whose jurisdiction the building in respect of which the order appealed against is situate and he shall pass such orders on the appeal as he may think fit.

(f) Every notice given by the landlord under clause (a) shall in so far as it relates to any building other than the one chosen by him for his own occupation, be deemed to be a notice under sub-section (1) and the provisions of sub section (3) shall thereupon apply in respect of such buildings:

Provided that in respect of any building referred to in clause (a), whereof an order under clause (c) or clause (d) or clause (e) is made, the provisions of sub-section (3) shall apply as if notice had been given by the landlord under sub-section (1) immediately after the lapse of a period of fifteen days from the date of receipt by the landlord of the order passed by the Accommodation Controller or, if an appeal has been preferred to the District Collector against that order within that period, as if notice had been given as aforesaid by the landlord on the date of the order passed on the appeal.

(g) The Accommodation Controller shall allot the building vested in him under sub-section (5) or sub-section (6) to persons mentioned in sub-section (3) according to the rules and priorities prescribed by the Government.

(7) (a) Any officer empowered by the Government in this behalf may summarily dispossess-

(i) any landlord, tenant or other person occupying any building in contravention of the provisions of this section or any landlord who fails to deliver possession of any building under sub-section (5),

(ii) any officer, person, local authority or public institution continuing to occupy, or failing to deliver possession of, any building after the termination of his or its licence to occupy such building, and take possession of the building including any portion thereof which may have been sub-let:

Provided that in cases where any landlord has been refused permission for the occupation of a building under clause (c) or clause (d) of sub-section (6), not less than one week's notice to show cause to the contrary shall be given before action is taken under this sub-section.

(b) If free access to the building is not afforded to the officer empowered under clause (a) he may, between 6 A. M. and 6 P. M. after giving reasonable warning and facility to withdraw to any woman not appearing in public according to the customs of the country, remove or open any lock or bolt or break open any door or do any other act necessary for effecting such dispossession.

(c) Any landlord, tenant or other person or any officer, local authority or public institution, liable to be summarily dispossessed under clause (a) shall pay to the Government-

(i) the fair rent payable for the building under the provisions of this Act for the period of his or its occupation or possession thereof as described in that clause; and

(ii) the expenses, if any, incurred by the Government in effecting such summary dispossession, as determined by them, which determination shall be final.

(8) Nothing contained in this section shall apply-

(a) to any building of which the rent does not, or where the rent has not been fixed, the fair rent would not, when fixed, exceed fifteen rupees per mensem; or

(b) to any building or buildings owned by any company, association or firm, whether incorporated or not and bona fide intended solely for the occupation of its officers, servants or agents and situated in the same city, town or village.

Section 5. Determination of fair rent

(1) The Rent Control Court shall, on application of the tenant or landlord of a building, fix the fair rent for such building after holding such enquiry as it thinks fit.

(2) In fixing the fair rent the Court shall take into consideration the property tax or house tax fixed for the building at the time of letting in the property tax register or house tax register of the local authority within whose area the building is situated:

Provided that in the case of-

(i) any residential building, or

(ii) any non-residential building, excepting a building [1][to which fittings have been affixed or in which machinery have been installed and such fittings or machinery have been excluded] from valuation for the purpose of fixing the property tax or house tax by a local authority,

[2][the fair rent fixed may in proper cases be lower than, but shall in no case exceed by more than fifteen per cent, the monthly rent on the basis of which the property tax or house tax for the building, prevailing two years immediately before the date of the application, was fixed, or if the building was not assessed to property tax or house tax before the said period of two years, the monthly rent on the basis of which the property tax or house tax prevailing immediately before the date of the application was fixed.]

(3) If there is no property tax or house tax fixed for the building or if it is not based on a rental basis or if the building is situated in an area which is not a City, Municipality, Panchayat or in any other local authority, the fair rent shall be fixed after taking into consideration the prevailing rates of rent in the locality for similar accommodation in similar circumstances during the twelve months preceding the letting.

(4) In case the allotment of the building is made by the Accommodation Controller, he may, provisionally fix the fair rent for the building and the Rent Control Court may, on application by an aggrieved party modify the fair rent so fixed.

(5) The Rent Control Court shall intimate the fair rent of the building fixed to the local authority within whose jurisdiction the building, in respect of which the fair rent has been fixed, is situated. The local authority on receipt of such intimation shall make a record of the fair rent fixed in the register kept for the purpose and shall make the register available for inspection in such places and in such manner as may be prescribed. The register so prepared shall be kept up-to-date so as to contain full particulars in regard to the rent fixed in respect of a building by the Rent Control Court and also the subsequent variation thereto made by the said Court.

[1] Substituted by Act 7 of 1966.

[2] Substituted by Act 7 of 1966.

Section 6. Increase in fair rent in what cases admissible

(1) When the fair rent of a building has been fixed under this Act, no further increase in such fair rent shall be permissible except in cases where some necessary addition, improvement or alteration has been carried out at the landlord's expense :

Provided that the fair rent as increased under this sub-section shall not exceed the fair rent payable under this Act for a similar building in the same locality with such additional improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed :

Provided further that any dispute between the landlord and the tenant in regard to any increase claimed under this sub-section shall be decided by the Rent Control Court.

(2) Where, after the fair rent of a building has been fixed under this Act, there is a decrease or diminution in the accommodation or amenities provided, the tenant may claim a reduction in the fair rent as so fixed, and any dispute between the landlord and the tenant in regard to any reduction so claimed shall be decided by the Rent Control Court.

Section 7. Increase of rent in certain cases

(1) Where the amount of the taxes and cesses payable by the landlord in respect of any building to a local authority has increased after fixation of the fair rent, such increase shall be recoverable by the landlord from the tenant :

Provided that no such increase exceeding five per cent of the original fair rent shall be so recovered from the tenant.

(2) Any dispute between the landlord and the tenant in regard to any increase claimed under sub-section (1), shall be decided by the Rent Control Court.

Section 8. Landlord not to claim or receive anything in excess of fair rent or agreed rent

(1) Where the Rent Control Court has determined the fair rent of a building-

(a) the landlord shall not claim, receive or stipulate for the payment of (i) any premium or other like sum in addition to such fair rent, or (ii) save as provided in section 6 or section 7, anything in excess of such fair rent :

Provided that the landlord may receive, or stipulate for the payment of an amount not exceeding one month's rent, by way of advance;

(b) save as provided in clause (a), any premium or other like sum or any rent paid in addition to, or in excess of such fair rent, whether before or after the commencement of this Act, in consideration of the grant, continuance or renewal of the tenancy of the building after such commencement, shall be refunded by the landlord to the person by whom it was paid or at the option of such person, shall be otherwise adjusted by the landlord :

Provided that where before the determination of the fair rent, rent has been paid in excess thereof, the refund or adjustment shall be limited to the amount paid in excess for a period of three years immediately before the institution of any proceedings for such determination.

(2) Where the fair rent of a building has not been determined under section 5-

(a) notwithstanding anything contained in any contract, the rent payable for the building in case it is a building falling under clause (i) or clause (ii) of the proviso to sub-section (2) of section 5 shall be, where the property tax or house tax has been fixed by the local authority, the maximum rent that may be fixed by the Rent Control Court as provided for in sub-section (2) of section 5, or the agreed rent whichever is less, and in cases where no property tax or house tax has been fixed for the building or where it has been fixed not on a rental basis, the agreed rent ;

(b) the landlord shall not, claim, receive or stipulate for the payment of, any premium or other like sum in addition to the rent payable under clause (a) for a building falling under clause (i) or clause (ii) of the proviso to sub-section (2) of section 5, and the agreed rent in the case of any other building :

Provided that the landlord may receive, or stipulate for the payment of, an amount not exceeding one month's rent, by way of advance ;

(c) save as provided in clause (b) any sum paid in excess of the rent payable under clause (a) in the case of a building falling under clause (i) or clause (ii) of the proviso to sub-section (2) of section 5, and the agreed rent in the case of any other building, in consideration of the grant, continuance or renewal of the tenancy of the building after the commencement of this Act, shall be refunded by the landlord to the person by whom it was paid or, at the option of such person, shall be otherwise adjusted by the landlord.

(3) Any stipulation in contravention of sub-section (1) or sub-section (2) shall be null and void.

Section 9. Right of tenant paying rent or advance to receipt

(1) Every tenant who makes a payment on account of rent or advance shall be entitled to obtain a receipt in the prescribed form for the amount paid, duly signed by the landlord or his authorised agent.

(2) Where a landlord refuses to accept, or evades the receipt of, any rent lawfully payable to him by a tenant in respect of any building, the tenant may either remit the rent to the landlord by money order after deducting the money order commission and continue to remit any rent which may subsequently become due in respect of the building in the same manner until the landlord signifies by a written notice to the tenant his willingness to accept the rent or may by notice in writing, require the landlord to specify within ten days from the date of receipt of the notice by him, a bank into which the rent may be deposited by the tenant to the credit of the landlord:

Provided that such bank, if specified as aforesaid, shall be one situated in the city, town or village in which the building is situated or if there is no such bank in such city, town or village, within three miles of the limits thereof.

Explanation.-It shall he open to the landlord to specify, from time to time, by a written notice to the tenant and subject to the proviso aforesaid, a bank different from the one already specified by him under this sub-section.

(3) If the landlord specifies a bank as aforesaid, the tenant shall deposit the rent in the bank and shall continue to deposit in it any rent which may subsequently become due in respect of the building.

(4) If the landlord does not specify a bank as aforesaid, the tenant shall remit the rent to the landlord by money order, after deducting the money order commission and continue to remit any rent which may subsequently become due in respect of the building in the same manner until the landlord signifies by a written notice to the tenant his willingness to accept the rent or specifies a bank in which the rent shall be deposited in accordance with the provisions of sub-section (2).

Section 10. Right of tenant to deposit rent in certain cases

(1) Where the address of the landlord or his authorised agent is not known to the tenant, he may deposit the rent lawfully payable to the landlord in respect of the building together with such fee as may be prescribed for the service of the notice referred to in sub-section (2) before such authority and in such manner as may be prescribed, and continue to deposit any rent which may subsequently become due in respect of the building, together with the fee prescribed, as aforesaid, before the same authority and in the same manner until the address of the landlord or his authorised agent becomes known to the tenant.

(2) The rent so deposited may, subject to such conditions as may be imposed by the Rent Control Court, be withdrawn by the landlord or his authorised agent, on application to the Court.

(3) Where any bona fide doubt or dispute arises as to the person who is entitled to receive the rent for any building, the tenant may deposit such rent before such authority and in such manner as may be prescribed and shall report to the Rent Control Court the circumstances under which such deposit was made by him, and may continue to deposit any rent which may subsequently become due in respect of the building before the same authority and in the same manner until the doubt is removed or the dispute is settled by the decision of a competent Court or by a settlement between the parties or until the Rent Control Court makes an order under clause (b) of sub-section (4), as the case may be.

(4) (a) The Rent Control Court to whom a report is made under sub-section (3) shall, if satisfied that a bona fide doubt or dispute exists in the matter, direct that, pending removal of the doubt or settlement of the dispute as aforesaid, the deposit be held by the authority concerned.

(b) If the Rent Control Court is not so satisfied, it shall forthwith order payment of the amount deposited to the landlord.

(5) (a) Where the Rent Control Court passes an order under clause (a) of sub-section (4), any amount or amounts deposited under sub-section (3) may be withdrawn only by the person who is declared by a competent Court to be entitled thereto, or in case the doubt or dispute is removed by a settlement between the parties, only by the person who is held by the Rent Control Court to be entitled to the amount or amounts in accordance with such settlement.

(b) An order passed by the Rent Control Court under clause (b) of sub-section (4) shall not debar the aggrieved party from establishing his claim in any competent Court.

Section 11. Eviction of tenants

(1) Notwithstanding anything to the contrary contained in any other law or contract a tenant shall not be evicted, whether in execution of a decree or otherwise, except in accordance with the provisions of this Act:

Provided that nothing contained in this section shall apply to a tenant whose landlord is the State Government or the Central Government or other public authority notified under this Act:

Provided further that where the tenant denies the title of the landlord or claims right of permanent tenancy, the Rent Control Court shall decide whether the denial or claim is bona fide and if it records a finding to that effect, the landlord shall be entitled to sue for eviction of the tenant in a Civil Court and such Court may pass a decree for eviction on any of the grounds mentioned in this section, notwithstanding that the Court finds that such denial does not involve forfeiture of the lease or that the claim is unfounded.

(2)(a) A landlord who seeks to evict his tenant shall apply to the Rent Control Court for a direction in that behalf.

(b) If the Rent Control Court, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied that the tenant has not paid or tendered the rent due by him in respect of the building 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, it shall make an order directing the tenant to put the landlord in possession of the building, and if it is not satisfied it shall make an order rejecting the application thereof by him:

Provided that an application under this sub-section shall be made only if the landlord has sent a registered notice to the tenant intimating the default and the tenant has failed to pay or tender the rent together with interest at six per cent per annum and postal charges incurred in sending the notice within fifteen days of the receipt of the notice

or of the refusal thereof.

[1][(c) The order of the Rent Control Court directing the tenant to put the landlord in possession of the building shall not be executed before the expiry of one month from the date of such order or such further period as the Rent Control Court may in its discretion allow; and if the tenant deposits the arrears of rent with interest and cost of proceedings within the said period of one month or such further period, as the case may be, it shall vacate that order.]

(3) A landlord may apply to the Rent Control Court for an order directing the tenant to put the landlord in possession of the building if he bona fide needs the building for his own occupation or for the occupation by any member of his family dependent on him:

Provided that the Rent Control Court shall not give any such direction if the landlord has another building of his own in his possession in the same city, town or village except where the Rent Control Court is satisfied that for special reasons, in any particular case it will be just and proper to do so:

Provided further that the Rent Control Court shall not give any direction to a tenant to put the landlord in possession, if such tenant is depending for his livelihood mainly on the income derived from any trade or business carried on in such building and there is no other suitable building available in the locality for such person to carry on such trade or business:

Provided further that no landlord whose right to recover possession arises under an instrument of transfer inter vivos shall be entitled to apply to be put in possession until the expiry of one year from the date of the instrument:

Provided further that if a landlord after obtaining an order to be put in possession transfers his rights in respect of the building to another person, the transferee shall not be entitled to be put in possession unless he proves that he bona fide needs the building for his own occupation or for the occupation by any member of his family dependent on him.

(4) A landlord may apply to the Rent Control Court for an order directing the tenant to put the landlord in possession of the building,-

(i) if the tenant after the commencement of this Act, without the consent of the landlord, transfers his right under the lease or sub-lets the entire building or any portion thereof if the lease does not confer on him any right to do so; [2][xxxx]

[3][Provided that an application under this clause shall not be made for the first time in respect of one and the same tenancy unless the landlord has sent a registered notice to the tenant intimating the contravention of the said condition of the lease and the tenant has failed to terminate the transfer or the sub-lease, as the case may be, within thirty days of the receipt of the notice or the refusal thereof].

[4][Explanation.-Where on the partition of a joint family or of the rights of co-tenants, or on the dissolution of a firm, the right of the joint family or the co-tenants or the firm under a lease is vested in a member of the joint family, or a co-tenant or a partner, as the case may be, whether by act of parties or otherwise, no transfer by the tenant of his right under the lease shall be deemed to have taken place within the meaning of this clause; or]

(ii) if the tenant uses the building in such a manner as to destroy or reduce its value or utility materially and permanently; or

(iii) if the tenant already has in his possession a building or subsequently acquires possession of or puts up a building, reasonably sufficient for his requirements in the same city, town or village; or

(iv) if the building is in such a condition that it needs reconstruction and if the landlord requires bona fide to reconstruct the same and if he satisfies the Court that he has the plan and license, if any required, and the ability to rebuild and if the proposal is not made as a pretext for eviction:

Provided that the landlord who evicts a tenant and does not reconstruct completely the building within a time which may be fixed or extended by the Rent Control Court, shall on a petition before that Court be liable to a fine of rupees five hundred, if it is proved that he has wilfully neglected to reconstruct completely the building within such time:

Provided further that the Court shall have power at any time to issue directions regarding the reconstruction of the building and on failure of compliance by the landlord, to give effect to the order in any manner the Court deems fit and in appropriate cases to put the tenant back in possession or award to the evicted tenant damages equal to the excess rent he has to pay for another building that he is occupying in consequence of such eviction:

Provided further that the tenant who was evicted shall have the first option to have the reconstructed building allotted to him with liability to pay its fair rent; or

(v) if the tenant ceases to occupy the building continuously for six months without reasonable cause.

(5) A landlord who wants to renovate the building may apply to the Rent Control Court for an order directing the tenant to permit the landlord to enter and carry out the renovation within a time to be fixed by the Court and the Court may issue such orders, as it deems fit, and the tenant shall be bound to abide by the orders of the Court.

(6) A tenant whose building has been renovated under sub-section (5) shall be liable to pay enhanced rent so as to assure the landlord a rent equal to the rent for a similar building with similar amenities in the locality.

(7) Where the landlord of a building is a religious, charitable, educational or other public institution, it may, if the building is needed for the purposes of the institution, apply to the Rent Control Court, for an order directing the tenant to put the institution in possession of the building.

(8) A landlord who is occupying only a part of a building, may apply to the Rent Control Court for an order directing any tenant occupying the whole or any portion of the remaining part of the building to put the landlord in possession thereof, if he requires additional accommodation for his personal use.

(9) Where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply to the Rent Control Court before the expiry of such period.

(10) The Rent Control Court shall, if it is satisfied that the claim of the landlord under sub-section (3), (4), (7) or sub-section (8) is bona fide, make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Rent Control Court, and if the Court is not so satisfied, it shall make an order rejecting the application :

Provided that, in the case of an application made under sub-section (8), the Rent Control Court shall reject the application if it is satisfied that the hardship which may be caused to the tenant by granting it will outweigh the advantage to the landlord :

Provided further that the Rent Control Court may give the tenant a reasonable time for putting the landlord in possession of the building and may extend such time so as not to exceed three months in the aggregate.

(11) Notwithstanding anything contained in sub-sections (1) to (10) no order for eviction or for putting the landlord in possession shall be passed,-

(i) against any tenant who is engaged in any employment or class of employment notified by the Government as an essential service for the purpose of this sub-section, unless the landlord is himself engaged in any employment or class of employment which has been so notified, and the landlord requires the building for his own occupation; or

(ii) in respect of any building which has been let for use as an educational institution, and is actually being used as such, provided that the institution has been recognised by the Government or any authority empowered by them in this behalf, so long as such recognition continues.

(12) Where a landlord who has obtained possession of a building in pursuance of an order under sub-section (3), does not occupy it without reasonable cause within one month of the date of obtaining possession, or having so occupied it, vacates it without reasonable cause within six months of such date, the tenant who has been evicted may apply to the Rent Control Court for an order directing that he shall be restored to possession of the building, and the Court shall make an order accordingly notwithstanding anything contained in section 4.

(13) Where a tenant who is entitled to apply for possession under sub-section (12) fails to do so without reasonable cause within one month from the date on which the right to make the application accrued to him, the officer referred to in sub-section (1) of section 4, shall have power, if the building is required for any of the purposes or for occupation by any of the officers or persons specified in sub-section (3) of that section to give intimation to the landlord that the building is so required, and thereupon the provisions of sub-sections (5) and (8) of section 4 shall apply to the building :

Provided that this sub-section shall not apply to a building the monthly rent of which does not exceed fifteen rupees.

(14) Where the Rent Control Court is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Rent Control Court may direct that compensation not exceeding fifty rupees be paid by such landlord to the tenant.

(15) Where an application made under sub-section (2), (3), (4), (5), (7) or sub-section (8) for evicting a tenant has been rejected by the Rent Control Court, the tenancy shall, subject to the provisions of this Act, be deemed to continue on the same terms and conditions as before and shall not be terminable by the landlord except on one or more of the grounds mentioned in the above said sub-sections.

(16) Notwithstanding anything contained in this section, no person who is receiving or is entitled to receive the rent of a building merely as an agent of the landlord shall, except with the previous written consent of the landlord, be entitled to apply for the eviction of a tenant.

(17) Notwithstanding anything contained in this section a tenant who has been in continuous occupation of a building from 1st April 1940 as a tenant, shall not be liable to be evicted for bona fide occupation of the landlord or of the occupation by any member of his family dependent on him, provided that a landlord of a residential building shall be entitled to evict such a tenant of that building if the landlord has been living in a place outside the city, town or village in which the building is situated for a period of not less than five years before he makes an application to the Rent Control Court for being put in possession of the building and requires the building, bona fide for his own permanent residence or for the permanent residence of any member of his family or the landlord is in dire need of a place for residence and has none of his own.

Explanation.-In computing the period of continuous occupation from 1st April 1940, the period, if any, during which the landlord was residing outside the city, town or village in which the building is situate shall be excluded.

[1] Substituted by Act 7 of 1966.
[2] Omitted by Act 7 of 1966.
[3] Inserted by Act 2 of 1973.
[4] Inserted by Act 7 of 1966.

Section 11A. Special provisions for the members of the Armed Forces

[1][Notwithstanding anything contained in section 11, in the case of a residential building where the landlord is a member of the Armed Forces of the Union of India, and the building is required for the occupation of himself on his release from service, and he makes an application for eviction of the tenant to the Rent Control Court, or where on the occurrence of death in action of a member of the Armed Forces, a member of his family requires recovery of possession of the building for his own residence or where on the posting of a member of the Armed Forces to serve under special conditions, a member of his family requires recovery of possession of the building for his own residence and an application is made to the Rent Control Court for eviction of the tenant, the Rent Control Court shall dispose of the same, as far as may be, within one month, and if the claim of the landlord or member of his family is accepted, the court shall make an order directing the tenant to put the landlord or the member of his family, as the case may be, in possession of the building on a date to be specified in the order, and such date shall not be later than fifteen days from the date of the order:

Provided that an application under this section for recovery of the possession of a building on the ground that the landlord is serving under special conditions of service shall not be entertained by the Rent Control Court unless the same is accompanied by a certificate of the prescribed authority referred to in section 7 of the Indian Soldiers (Litigation) Act, 1925 (Central Act 4 of 1925) that the landlord is serving under special conditions within the meaning of section 3 of the said Act.

Explanation.-For the purpose of this section, "family" shall mean such relations of the landlord as ordinarily live with him and are dependent on him.]

[1] Inserted by Act 16 of 1974.

Section 12. Payment or deposit of rent during the pendency of proceedings for eviction

(1) No tenant against whom an application for eviction has been made by a landlord under section 11, shall be entitled to contest the application before the Rent Control Court under that section, or to prefer an appeal under section 18 against any order made by the Rent Control Court on the application, unless he has paid or pays to the landlord, or deposits with the Rent Control Court or the appellate authority, as the case may be, all arrears of rent admitted by the tenant to be due in respect of the building up to the date of payment or deposit, and continues to pay or to deposit any rent which may subsequently become due in respect of the building, until the termination of the proceedings before the Rent Control Court or the appellate authority, as the case may be.

(2) The deposit under sub-section (1) shall be made within such time as the Court may fix and in such manner as may be prescribed and shall be accompanied by the fee prescribed for the service of notice referred to in sub-section (4):

Provided that the time fixed by the Court for the deposit of the arrears of rent shall not be less than four weeks from the date of the order and the time fixed for the deposit of rent which subsequently accrues due shall not be less than two weeks from the date on which the rent becomes due.

(3) If any tenant fails to pay or to deposit the rent as aforesaid, the Rent Control Court or the appellate authority, as the case may be, shall, unless the tenant shows sufficient cause to the contrary, stop all further proceedings and make an order directing the tenant to put the landlord in possession of the building.

(4) When any deposit is made under sub-section (1), the Rent Control Court or the appellate authority, as the case may be, shall cause notice of the deposit to be served on the landlord in the prescribed manner, and the amount

deposited may, subject to such conditions as may be prescribed, be withdrawn by the landlord on application made by him to the Rent Control Court or the appellate authority in that behalf.

Section 13. Landlord not to interfere with amenities enjoyed by the tenant

(1) No landlord shall, without just or sufficient cause, cut off or withhold any of the amenities enjoyed by the tenant.

(2) A tenant in occupation of a building may, if the landlord has contravened the provisions of this section, make an application to the [1][Accommodation Controller] complaining of such contravention.

(3) If the tenant satisfies the [2][Accommodation Controller] that the amenities were cut off or withheld with a view to compel him to vacate the building or to pay an enhanced rent, the [3][Accommodation Controller] may pass an interim order, directing the landlord to restore the amenities immediately, pending the enquiry referred to in sub-section (4).

Explanation.-An interim order may be passed under this sub-section without giving notice to the landlord. Any interim order so passed may be modified or cancelled by final order and the [4][Accommodation Controller] may give effect to such modification or cancellation.

(4) If the [5][Accommodation Controller] on inquiry finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the landlord without just or sufficient cause, [6][he] shall make an order directing the landlord to restore such amenities and for the purpose of enforcement of such orders, the [7][Accommodation Controller] may exercise all the powers of a Civil Court in executing a decree for injunction or for specific performance.

(5) The [8][Accommodation Controller] may in [9][his] discretion direct that compensation not exceeding fifty 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 amenities frivolously or vexatiously.

[10][Any application under section 13 of the Principal Act pending before the Rent Control Court immediately before the commencement of the Kerala Buildings (Lease and Rent Control) Amendment Act,1966, shall stand transferred to the Accomodation Controller who may proceed to deal with it either afresh or from the stage at which it stands transferred and any order of the Rent Control Court under the said section 13 shall have effect not only asan order of that Court, but also as an order made by the Accomodation Controller.]

[11][(6) (a) A tenant or landlord aggrieved by an order passed by the Accommodation Controller under this section may within thirty days from the date of receipt of such order prefer an appeal in writing to the District Collector within whose jurisdiction the building in respect of which the order appealed against is passed is situate and he shall pass such orders on the appeal as he may deem fit.

(b) The District Collector shall have the powers vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the matters specified in clauses (a) to (k) of sub-section(1) of section 23, for the purpose of disposing of an appeal under this sub-section.]

[1] Substituted by Act 7 of 1966.
[2] Substituted by Act 7 of 1966.
[3] Substituted by Act 7 of 1966.
[4] Substituted by Act 7 of 1966.
[5] Substituted by Act 7 of 1966.
[6] Substituted by Act 7 of 1966.
[7] Substituted by Act 7 of 1966.
[8] Substituted by Act 7 of 1966.
[9] Substituted by Act 7 of 1966.
[10] Inserted by Act 7 of 1966.
[11] Inserted by Act 2 of 1973.

Section 14. Execution of Orders

Every order made under section 11 [1][or section 12] or section 13 or section 19 or section 33 and every order passed on appeal under section 18 or on revision under section 20 shall, after the expiry of the time allowed therein be executed by the Munsiff or if there are more than one Munsiff, by the Principal Munsiff having original jurisdiction over the area in which the building is situated as if it were a decree passed by him :

Provided that an order passed in execution under this section shall not be subject to an appeal but shall be subject to revision by the Court to which appeals ordinarily lie against the decisions of the said Munsiff.

[1] Inserted by Act 7 of 1966.

Section 15. Decisions which have become final not to be reopened

The Rent Control Court shall summarily reject any application under sub-section (2), (3), (4), (5), (7) or sub-section (8) of section 11 which raises between the same parties or between parties under whom they or any of them claim substantially the same issues as have been finally decided or purports to have been finally decided in a former proceeding under this Act or under the corresponding provisions of any law in force prior to the commencement of this Act or the corresponding provisions of any law repealed or superseded by such law.

Section 16. Orders of Rent Control Court to be pronounced in open Court

Every order passed by a Rent Control Court under this Act shall be pronounced in open Court on the day on which the case is finally heard, or on some future day of which due notice shall be given to the parties.

Section 17. Conversion of buildings and failure by landlord to make necessary repairs

(l) No residential building shall be converted into a non-residential building or vice versa and no such building shall be divided into separate portions for letting on rent or for other purposes except with the permission in writing of the Accommodation Controller :

Provided that where such conversion involves structural alteration of the building, the consent of the landlord shall also be necessary.

(2) Notwithstanding any law, custom, usage or contract to the contrary, the landlord shall be bound to attend to the periodical maintenance and necessary repairs of the building. If a landlord fails to attend to such maintenance or repairs to the buildings and amenities thereto within a reasonable time after notice is given by the tenant, it shall be competent for the Accommodation Controller to direct on application by the tenant that such maintenance and repairs may be attended to by the tenant and that the charges and cost thereof may be deducted with interest at six per cent per annum from the rent which is payable by him.

Section 18. Appeal

(1) (a) The Government may, by general or special order notified in the Gazette, confer on such officers and authorities not below the rank of a Subordinate Judge the powers of appellate authorities for the purposes of this Act in such areas or in such classes of cases as may be specified in the order.

(b) Any person aggrieved by an order passed by the Rent Control Court may, within thirty days from the date of such order, prefer an appeal in writing to the appellate authority having jurisdiction. In computing the thirty days aforesaid, 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 send for the records of the case from the Rent Control Court and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as it thinks fit either directly or through the Rent Control Court, shall decide the appeal.

Explanation.-The appellate authority may, while confirming the order of eviction passed by the Rent Control Court, grant an extension of time to the tenant for putting the landlord in possession of the building.

(4) The appellate authority shall have all the powers of the Rent Control Court including the fixing of arrears of rent.

(5) The decision of the appellate authority, and subject to such decision, an order of the Rent Control Court shall be final and shall not be liable to be called in question in any Court of law, except as provided in section 20.

Section 19. Costs

Subject to such conditions and limitations, if any, as may be prescribed, the costs of and incident to all proceedings before the Rent Control Court or the appellate authority referred to in section 18 shall be in the discretion of the Rent Control Court or the appellate authority which shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose.

Explanation.-The appellate authority may set aside or vary any order passed by the Rent Control Court in regard to the costs of and incident to the proceedings before it.

Section 20. Revision

(1) In cases where the appellate authority empowered under section 18 is a Subordinate Judge, the District Court, and in other cases the High Court, may, at any time, on the application of any aggrieved party, call for and examine the records relating to any order passed or proceedings taken under this Act by such authority for the purpose of

satisfying itself as to the legality, regularity or propriety of such order or proceedings, and may pass such order in reference thereto as it thinks fit.

(2) The costs of and incident to all proceedings before the High Court or District Court under sub-section (1) shall be in its discretion.

Section 20A. Power to remand

[1][In disposing of an appeal or application for revision under this Act, the appellate authority or the revising authority , as the case may be, may remand the case for fresh disposal according to such directions as it may give.]

[1] Inserted by Act 7 of 1966.

Section 21. Order under the Act to be binding on sub-tenants

Any order for the eviction of a tenant passed under this Act shall be binding on all sub-tenants under such tenant, whether they were parties to the proceedings or not, provided that such order was not obtained by fraud or collusion. In cases where sub-letting is allowed under the original agreement of tenancy the sub-tenant shall be made a party to the proceedings if he had given notice of the sub-tenancy to the landlord.

Section 22. Proceedings by or against legal representative

The provisions of section 146 and Order XXII of the Code of Civil Procedure, 1908 (5 of 1908), shall, as far as possible, be applicable to the proceedings under this Act.

Section 23. Summons, etc

(1) Subject to such conditions and limitations as may be prescribed, the Accommodation Controller, the Rent Control Court and the appellate authority shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters:-

(a) discovery and inspection;

(b) enforcing the attendance of witnesses, and requiring the deposits of their expenses;

(c) compelling the production of documents;

(d) examining witnesses on oath;

(e) granting adjournments;

(f) reception of evidence taken on affidavit;

(g) issuing commission for the examination of witnesses and for local inspection;

(h) setting aside ex parte orders;

(i) enlargement of time originally fixed or granted;

(j) power to amend any defect or error in orders or proceedings; and

(k) power to review its own order.

(2) The Accommodation Controller, the Rent Control Court or the appellate authority may summon and examine suo motu any person whose evidence appears to it to be material; and it shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (5 of 1898).

Section 24. Time within which proceedings have to be disposed of

The Rent Control Court shall, as far as may be practicable, pass final orders in any proceeding before it within four months from the date of appearance of the parties thereto.

Section 25. Exemptions

(1) Notwithstanding anything contained in this Act the Government may, in public interest or for any other sufficient cause, by notification in the Gazette, exempt any building or class of buildings from all or any of the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, the Government may, by notification in the Gazette, exempt from the provisions of sections 4, 5, 6, 7 and 8 any class of buildings the construction of which has begun after the commencement of this Act, and in respect of which, -

(a) the assessment to property tax or house tax by a local authority is based on a monthly rent of fifty rupees or more; or

(b) there has been no such assessment to property tax or house tax by a local authority and the monthly rent will

be fifty rupees or more, having regard to prevailing rates of rent in the locality for similar accommodation in similar circumstances and the Accommodation Controller certifies that rent of the building will be fifty rupees or more.

Explanation.-For the purposes of this sub-section, construction shall not include reconditioning or renovation or partial reconstruction.

Section 26. Executive authorities of local bodies to furnish certified extracts from property tax or house tax assessment books

The executive authority of a Municipal Council [1][or Township Committee] or Panchayat or the Revenue Officer of a Corporation shall, on application made in this behalf and on payment of such fee as may, from time to time, be fixed by the Government, by notification in the Gazette, grant to the applicant a certified copy of the extract from the property tax or house tax assessment book of the Municipal Council [2][or Township Committee] or Panchayat or Corporation, as the case may be, showing the rental value of the building or buildings in respect of which application has been made, relating to the period specified in the application. Such certified copy shall be received as evidence of the facts stated therein in proceedings under this Act.

[1] Inserted by Act 7 of 1966.

[2] Inserted by Act 7 of 1966.

Section 27. Landlord and tenant to furnish particulars

Every landlord and every tenant of a building shall be bound to furnish to the Accommodation Controller, the Rent Control Court or any person authorised by it in that behalf, such particulars in respect of the building as may be prescribed by rules made under this Act.

Section 28. Inspectors

(1) The Government may, by notification in the Gazette, appoint such officers as they think fit to be Inspectors for the purpose of enforcing the penal provisions of this Act and may assign to them such local limits as they may think fit.

(2) For the purpose of any investigation or enquiry under the Act the Inspector may enter any premises with such assistance as he thinks necessary.

Section 29. Penalties

(1) If any person contravenes any of the provisions of sub-sections (1), (2), (4), (5) and (6) of section 4, clause (a) of sub-section (1) and clause (b) of sub-section (2) of section 8, sub-section (1) of section 13, sub-section (1) of section 17 and section 27, he shall be punishable with fine which may extend to two thousand rupees and in default to simple imprisonment which may extend to two weeks.

(2) If any landlord receives unconscionable rent in respect of any building he shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

Section 30. Fixation of fair rent suo motu by Court

(1) If during the course of a prosecution under this Act, it is disclosed that a landlord was receiving a rent in excess of the rent that may be fixed under section 5, the Court before which the complaint was filed shall, after the close of the proceedings before it, forward to the Rent Control Court the relevant extracts of the proceedings for the purpose of fixing the fair rent.

(2) The Rent Control Court, on receipt of such extracts of proceedings, shall issue notice to the concerned landlord and tenant and after giving them an opportunity of being heard, fix the fair rent of the building and the fair rent so fixed shall be deemed to be fair rent as determined under section 5.

Section 31. Power to make rules

(1) The 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) all matters expressed required or allowed by this Act to be prescribed;

(b) the procedure to be followed by the Rent Control Courts, Accommodation Controllers and appellate authorities in the performance of their functions under this Act;

(c) the manner in which notices and orders under this Act shall be given or served;

(d) setting aside ex parte orders passed under this Act;

(e) applications for making legal representatives of deceased persons parties to proceedings under this Act and the time within which such applications shall be preferred ;

(f) the order of priority in which buildings have to be allotted among the applicants ;

(g) the officers or classes of officers who may be appointed as Inspectors.

(3) In making a rule under this section, the Government may provide that a person who contravenes any of the provisions thereof shall be punishable with fine which may extend to two thousand rupees.

(4) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

(5) All rules made under this section shall be published in the Gazette.

[1][(6) Every rule made under this Act and every notification issued under section 25 shall be laid as soon as may be after it is made or issued before the Legislative Assembly for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or notification or decides that the rule or notification should not be made or issued, the rule or notification 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 or notification.]

[1] Substituted by Act 8 of 1968.

Section 32. Protection of action taken in good faith

(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 any rule, order or direction made or issued thereunder.

(2) No suit or other legal proceeding shall lie against the Government, any officer or authority 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 this Act, any rule, order, or direction made or issued thereunder.

Section 33. Restoration of possession in certain cases

If, in pursuance of any decree or order made by a Court, any tenant has been evicted from a building on or after the 1st day of April, 1965 and before the date of publication of this Act, and such eviction would have been barred if this Act had been published on the 1st day of April, 1965, then, notwithstanding anything contained in any other law, the Rent Control Court may, on application made to it in this behalf by such evicted tenant within one month from the date of publication of this Act and after giving the landlord an opportunity of being heard, direct the landlord to put the tenant in possession of the building:

Provided that the tenant shall not be entitled to be restored to possession in cases where a lease of the building has been granted bona fide to a third party and possession given in pursuance thereof before the date of publication of this Act.

Section 34. Savings and special provision

(1) Notwithstanding the expiry of the Kerala Buildings (Lease and Rent Control) Act, 1959 (Kerala Act 16 of 1959) (hereinafter in this section referred to as the said Act), the provisions of sections 4 and 23 of the Interpretation and General Clauses Act, 1125 (Kerala Act VII of 1125), shall apply upon the expiry of the said Act as if it had then been repealed by this Act :

Provided that any investigation, legal proceeding or remedy which could have been instituted, continued or enforced under the said Act if it had not expired, may be instituted, continued or enforced under the corresponding provisions of this Act.

(2) Notwithstanding anything in this Act, no person shall be convicted of an offence under section 29 for having committed the same on or after the 1st day of April, 1965 and before the date of publication of this Act.

(3) If, after the 31st day of March, 1965 and before the publication of this Act, any suit or other proceeding has been instituted in any Civil Court which could not have been instituted if the Kerala Buildings (Lease and Rent Control) Act, 1959 (Kerala Act 16 of 1959), had been in force on the date of such institution, then such suit or proceeding, if it is pending on the date of such publication, shall abate.

Schedules

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THE SCHEDULE (official file, page 28)

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