The Maharashtra Rent Control Act, 1999

Act Maharashtra Act No. XVIII of 2000. 60 sections. Bare Act with the official footnotes.

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[This Act received the assent of the President on the 8th March 2000; assent was first published in the Maharashtra Government Gazette, Part-IV, on the 10th March 2000.]

An Act to unify, consolidate and amend the law relating to the control of rent and repairs of certain premises and of eviction and for encouraging the construction of new houses by assuring a fair return on the investment by landlords and to provide for the matters connected with the purposes aforesaid.

WHEREAS it is expedient to unify, consolidate and amend the laws prevailing in the different parts of the State relating to the control of rents and repairs of certain premises and of eviction and for encouraging the construction of new houses by assuring a fair return and to provide for the matters connected with the purposes aforesaid; It is hereby enacted in the Fiftieth Year if the Republic of India as follows :-

CHAPTER I PRELIMINARY

Section 1. Short title, extent and commencement

(1) This Act may be called the Maharashtra Rent Control Act, 1999.

(2) It shall extend to the whole of the State of Maharashtra.

(3) It shall come into force on such date[1] as the State Government may, by notification in the Official Gazette, appoint.

[1] 31st day of March 2000, vide G.N., H. and S. A. D., No. MRA. 2000/CR- 14/Bhanika, dated the 30th March 2000, p. 297.

Section 2. Application

(1) This Act shall, in the first instance, apply to premises let for the purposes of residence, education, business, trade or storage in the areas specified in Schedule I and Schedule II.

(2) Notwithstanding anything contained in sub-section (1),it shall also apply in the premises or, as the case may be, houses let out in the areas to which the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom. LVII of 1947) or the Central Provinces and Berar Letting of Houses and Rent Control Order, 1949 issued under the Central Provinces and Berar Regulation of Letting of Accommodation Act, 1946 (C. P. and Berar Act XI of 1946) and Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954 (Hyd. Act No. XX of 1954) were extended and applied before the date of commencement of this Act and such premises or houses continue to be so let on that date in such areas which are specified in Schedule I to this Act, notwithstanding that the area ceases to be of the description therein specified.

(3) It shall also apply to the premises let for the purposes specified in sub-section (1) in such of the cities or towns as specified in Schedule II.

(4) Notwithstanding anything contained hereinabove, the State Government may, by notification in the Official Gazette, direct that,-

(a) this Act shall not apply to any to the areas specified in Schedule I or Schedule II or that it shall not apply to any one or all purposes specified in sub-section (1);

(b) this Act shall apply to any premises let for any or all purposes specified in sub-section (1) in the areas other than those specified in Schedule I and Schedule II.

Section 3. Exemption

(1) This Act shall not apply,-

(a) to any premises belonging to the Government or a local authority or apply as against the Government to any tenancy, licence or other like relationship created by a grant from or a licence given by the Government in respect of premises requisitioned or taken on lease or on licence by the Government, including any premises taken on behalf of the Government on the basis of tenancy or of licence or other or other like relationship by, or in the name of any officer subordinate to the Government authorised in this behalf; but it shall apply in respect of premises let, or given on licence, to the Government or a local authority or taken on behalf of the Government on such basis by, or in the name of such officer;

(b) to any premises let or sub-let to banks, or any Public Sector Undertakings or any Corporation established by or under any Central or State Act, or foreign missions, international agencies, multinational companies, and private limited companies and public limited companies having a paid up share capital of rupees one crore or more.

Explanation.- For the purpose of this clause the expression "bank" means,-

(i) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

(ii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(iii) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 or under section 3 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980 (40 of 1980); or

(iv) any other bank, being a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934).

(2) The State Government may direct that all or any of the provisions of this Act, shall, subject to such conditions and terms, as it may specify, not apply-

(i) to premises used for public purpose of a charitable nature or to any class of premises used for such purpose;

(ii) to premises held by a public trust for a religious or charitable purpose and let at a nominal or concessional rent;

(iii) to premises held by a public trust for a religious or charitable purpose and administered by a local authority; or

(iv) to premises belonging to or vested in an university established by any law for the time being force:

Provided that, before issuing any direction under this sub-section, the State Government shall ensure that the tenancy rights of the existing tenants are not adversely affected.

(3) The expression "premises belonging to the Government or a local authority" in sub-section (1) shall, notwithstanding anything contained in the said sub-section or in any judgement, decree or order of a court, not include a building erected on any land held by any person from the Government or a local authority under an agreement, lease, licence or other grant, although having regard to the provisions of such agreement, lease, licence or grant, the building so erected may belong or continue to belong the Government or the local authority, as the case may be, and such person shall be entitled to create a tenancy in respect of such building or a part thereof.

Section 4. Power of State Government to issue orders in respect of premises belonging to local authority, etc

Notwithstanding anything contained in this Act, the State Government may from time to time, by general or special order, direct that the exemption granted to a local authority under sub-section (1) of section 3 shall be subject to such conditions and terms as it may specify either generally or specially in any particular case, as the State Government may in its discretion determine.

Section 5. Cessation of exemption

Where there is any contravention of any conditions or terms subject to which any exemption is granted by or under the provisions of this Act, it shall be competent for the State Government to direct that such exemption shall cease to have effect from such date as may be specified in the order:

Provided that, no such order shall be made, unless the local Authority or the religious or charitable institution or the university referred to in sub-section (2) of section 3 has been given a reasonable opportunity of showing cause as to why such an order should not be issued.

Section 6. Provisions with regard to standard rent not to apply to certain premises

Notwithstanding anything contained in this Act, from the commencement of this Act, the provisions relating to standard rent and permitted increases shall not apply to any premises let to or given on licence in a building, whether newly constructed or otherwise where such premises were not let or given on licence for a continuous period of one year:

Provided that, nothing in this section shall apply to,-

(a) the premises referred to in sections 20 and 21;

(b) the premises which are constructed or reconstructed in any housing scheme, undertaken by Government or the Maharashtra Housing and Area Development Authority or by any of its Boards established under section 18 of the Maharashtra Housing Area Development Act, 1976 (Mah. XXVIII of 1977).

Section 7. Definitions

In this Act, unless there is anything repugnant to the subject or context,-

(1) "Competent Authority" means the competent authority appointed under section 40;

(2) "Government allottee",-

(a) In relation to any premises requisitioned or continued under requisition which are allotted the State Government for any non-residential purpose to any Department or office of the State Government or Central Government or any public sector undertaking or corporation owned or controlled fully or partly by the State Government or any Co-operative Society registered under the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961) or any foreign consulate, by whatever name called, and on the 7th December 1996, being the date of coming into force of the Bombay Rents, Hotel and Lodging House Rates Control, Bombay Rents, Hotel and Lodging House Rates Control, Bombay Land Requisition and Bombay Government Premises (Eviction) (Amendment) Act, 1996 (Mah. XVI of 1997) were in their occupation or possession, means the principal officer-in-charge of such office or department or public sector undertaking or corporation or society or corporation or society or consulate; and

(b) in relation to any premises requisitioned or continued under requisition which were allotted by the State Government for residential purpose to any person and on the 7th December 1996, being the date of coming into force of the Bombay Rents, Hotel and Lodging House Rates Control, Bombay Land Requisition and Bombay Government Premises (Eviction) (Amendment) Act, 1996 (Mah. XVI of 1997); such person or his legal heir was in occupation or possession of such premises for his or such legal heir's own residence, means such person or legal heir;

(3) "Landlord" means any person who is for the time being, receiving, or entitled to receive rent in respect of any premises whether on his own account or on account or on behalf, or for the benefit, of any other person or or as a trustee, guardian, or receiver, for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant; and includes any person not being a tenant who from time to time derives title under a landlord, and further includes in respect of his sub-tenant, a tenant who has sub-let any premise; and also includes, in respect of a licensee deemed to be a tenant under the provisions of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom. LVII of 1947), the licensor who has given premises on licence and in respect of the State Government, or as the case may be, the Government allottee referred to in sub-clause (b) of clause (2) deemed to be a tenant by section 27 the person who was entitled to receive the rent if the premises were let to a tenant immediately before the 7th December 1996, that is before the coming into force of the Bombay Rents, Hotel and Lodging House Rates Control, Bombay Land Requisition and the Bombay Government Premises (Eviction) (Amendment) Act, 1996 (Mah. XVI of 1997).

(4) "Legal representative" means a legal representative as defined in the Code of Civil Procedure, 1908 (V of 1908), and includes also, in the case of joint family property, the joint family of which the deceased person was a member;

(5) "Licensee" in respect of any premises or any part thereof, means the person who is in occupation of the premises or such part, as the case may be, under a subsisting agreement for a licence given for a licence fee or charge; and includes any person in such occupation of any premises or part thereof in a building vesting in or leased to a Co-operative Housing society registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961); but does not include a paying guest, a member of a family residing together, a person in the service or employment of the licensor, or a person conducting a running business belonging to the licensor or a

person having any accommodation for rendering or carrying on medical or para-medical services or activities in or near a nursing home, hospital or sanatorium or a person having any accommodation in a hotel, lodging house, hostel, guest house, club, nursing home, hospital, sanatorium, dharmashala, home for widows, orphans or like premises, marriage or public hall or like premises, or in a place of amusement or entertainment or like institution, or in any premises, belonging to or held by an employee or his spouse who on account of exigencies of service or provisions of residence attached to his or her post or office is temporarily not occupying the premises, provided that he or she charges licence fee or charge for such premises of the employee or spouse not exceeding the standard rent and permitted increase for such premises, and any additional sum for service supplied with such premises or a person having accommodation in any premises or part thereof for conducting a canteen, creche, dispensary or other services as amenities by any undertaking or institution; and the expressions "licence", "licensor" and "premises given on license" shall be construed accordingly;

(6) "local authority" means,-

(a) the Mumbai Municipal Corporation constituted under the Mumbai Municipal Corporation (Bom. III of 1888) or the Nagpur Municipal Corporation constituted under the [1]City of Nagpur Municipal Corporation Act, 1948 (C. P. and Berar II of 1950) or any Municipal Corporation constituted in respect of any city under the [2]Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949),

(b) a Municipal Council, constituted under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965),

(c) Zilla Parishad and a Panchayat Samiti constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962),

(d) a Village Panchayat, constituted under the [3]Bombay Village Panchayats Act, 1958 (Bom. III of 1959),

(e) a cantonment, constituted under the Cantonments Act, 1924 (Act 2 of 1924),

(f) the Nagpur Improvement Trust, constituted under the Nagpur Improvement Trust Act, 1936 (C. P. and Berar Act XXXVI of 1936),

(g) the Maharashtra Housing and Area Development Authority or a Board, constituted under the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977),

(h) the City and Industrial Development Corporation,

(i) the Pimpri and Chinchwad New Township Development Authority;

(7) "paying guest" means a person, not being a member of the family, who is given a part of the premises, in which the licensor resides, on licence;

(8) "permitted increase" means an increase in rent permitted under the provisions of this Act;

(9) "premises" means any building or part of a building let or given on licence separately (other than a farm building) including,-

(i) the gardens, grounds, garages and out-houses, if any, appurtenant to such building or part of a building,

(ii) any fitting affixed to such building or part of a building for the more beneficial enjoyment thereof, but does not include a room or other accommodation in a hotel or lodging house;

(10) "premises requisitioned or continued under requisition" means the premises requisitioned or continued under requisition under the [4]Bombay Land Requisition Act, 1948 (Bom. XXXIII of 1948);

(11) "prescribed" means prescribed by rules;

(12) "repealed Act" or "repealed Acts" means the Act, or Acts referred to in the section 58;

(13) "rules" means the rules made under this Act;

(14) "standard rent" in relation to any premises means,-

(a) where the standard rent is fixed by the Court or, as the case may be, the Controller under the Bombay Rents Restriction Act, 1939 (Bom. XVI of 1939), or the Bombay Rents Hotel Rates and Lodging House Rates (Control) Act, 1944 (Bom. VII of 1944) or the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom. LVII of 1947), or the Central Provinces and Berar Letting of Houses and Rent Control Order, 1949 issued under the Central Provinces and Berar Regulation of Letting of Accommodation Act, 1946 (C. P. and Berar No. XI of 1946), or the Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954 (Hyd. Act No. XX of 1954), such rent plus an increase of 5 per cent., in the rent so fixed; or

(b) where the standard rent or fair rent is not so fixed, then subject to the provisions of sections 6 and 8,-

(i) the rent at which the premises were let on the 1st day of October 1987; or

(ii) where the premises were not let on the 1st day of October 1987 or the rent at which they were last let before that day, plus increase of 5 per cent. in the rent of the premises let before the 1st day of October 1987, or

(c) in any of the cases specified in section 8, the rent fixed by the Court;

(15) "tenant" means any person by whom or on whose account rent is payable for any premises and includes,-

(a) such person,-

(i) who is a tenant, or

(ii) who is a deemed tenant, or

(iii) who is a sub-tenant as permitted under a contract or by the permission or consent of the landlord, or

(iv) who has derived title under a tenant, or

(v) to whom interest in premises has been assigned or transferred as permitted, by virtue of, under the provisions of, any of the repealed Acts;

(b) a person who is deemed to be a tenant under section 25;

(c) a person to whom interest in premises has been assigned or transferred as permitted under section 26;

(d) in relation to any premises, when the tenant dies, whether the death occurred before or after the commencement of this Act, any member of the tenant's family, who,-

(i) where they are let for residence, is residing, or

(ii) where they are let for education, business, trade or storage, is using the premises for any such purpose,

with the tenant at the time of his death, or in the absence of such member, any heir of the deceased tenant, as may be decided, in the absence of agreement by, the court.

Explanation.- The provisions of this clause for transmission of tenancy shall not be restricted to the death of the original tenant, but shall apply even on the death of any subsequent tenant, who becomes tenant under these provisions on the death of the last preceding tenant.

[1] This Act has been repealed by the Bombay Provincial Municipal Corporations (Amendment) and the city of Nagpur Corporation (Repeal) Act, 2011 (Mah. 23 of 2012), s. 7.

[2] The short title of this Act has been amended as "Maharashtra Municipal Corporations Act" by Mah. 23 of 2012, s. 4.

[3] The short title of this Act has been amended as "Maharashtra Village Panchayats Act" by Mah. 24 of 2012, s. 2, Sch. Entry No. 74, w.e.f. 1.5.1960.

[4] The short title of this Act has been amended as "Maharashtra Land Requisition Act" by Mah. 24 of 2012, s. 2, Sch., Entry No. 32, w.e.f. 1.5.1960.

CHAPTER II PROVISIONS REGARDING FIXATION OF STANDARD RENT AND PERMITTED INCREASE

Section 8. Court may fix standard rent and permitted increases in certain cases

(1) Subject to the provisions of section 9 in any of the following cases, the court may, upon an application made to it for the purpose, or in any suit or proceedings, fix the standard rent at such amount as, having regard to the provisions of this Act and the circumstances of the case, the court, deems just,-

(a) where the court is satisfied that there is no sufficient evidence to ascertain the rent at which the premises were let in any one of the cases mentioned in paragraphs (i) and (ii) of sub-clause (b) of clause (14) of section 7; or

(b) where by reasons of the premises having been let at one time as a whole or in parts and at another time, in parts or as a whole, or for any other reasons; or

(c) where any premises have been or are let rent-free or, at a nominal rent; or for some consideration in addition to rent; or

(d) where there is any dispute between the landlord and the tenant regarding the amount of standard rent.

(2) If there is any dispute between the landlord and the tenant regarding the amount of permitted increase, the court may determine such amount.

(3) If any application for fixing the standard rent or for determining the permitted increase is made by a tenant,-

(a) the court shall forthwith specify the amount of rent, or permitted increase which are to be deposited in court by the tenant, and make an order directing the tenant to deposit such amount in court or, at the option of the tenant, make an order to pay to the landlord such amount thereof as the court may specify pending the final decision of the application. A copy of the order shall be served upon the landlord;

(b) out of any amount deposited in the court under clause (a), the court may make an order for payment of such reasonable sum to the landlord towards payment of the rent or increases due to him as it thinks fit;

(c) if the tenant fails to deposit such amount or, as the case may be, to pay such amount thereof to the landlord, his application shall be dismissed.

(4) (a) Where at any stage of a suit for recovery of rent, whether with or without a claim for possession of the premises, the court is satisfied that the rent is excessive and standard rent should be fixed, the court may, and in any other case, if it appears to the court that it is just and proper to make such an order, the court may make an order directing the tenant to deposit in court forthwith such amount of the rent as the court considers to be reasonable due to the landlord, or at the option of the tenant, an order directing him to pay to the landlord such amount thereof as the court may specify.

(b) The court may further make an order directing the tenant to deposit in court periodically such amount as it considers proper as interim standard rent, or at the option of the tenant, an order to pay to the landlord, such amount thereof as the court may specify, during the pendency of the suit.

(c) The court may also direct that if the tenant fails to comply with any order made as aforesaid, within such time as may be allowed by it, he shall not be entitled to appear in or defend the suit except with leave of the court, which leave may be granted subject to such terms and conditions as the court may specify.

(5) No appeal shall lie from any order of the court under sub-sections (3) and (4).

(6) An application under this section may be made jointly by all or any of the tenants interested in respect of the premises situated in the same building.

Section 9. No application for standard rent in certain circumstances

No court shall, upon an application or in any suit or proceedings, fix the standard rent of any premises under section 8, or entertain any plea that the rent or increases are excessive, if the standard rent or the permitted increase in respect of the same premises have been duly fixed by a competent court on the merits of the case, without any fraud or collusion or an error of the fact, and there has been no structural alternations or change in the amenities or in respect of any other factors which are relevant to the fixation of the standard rent, or change in such increases, thereafter in the premises.

Section 10. Rent in excess of standard rent illegal

(1) Save as otherwise provided in section 6, it shall not be lawful to claim or receive on account of rent, for any premises any increases above the standard rent and the permitted increases, unless the landlord was, before the coming into operation of this Act, entitled to recover such increase by virtue of, or under, the provisions of any of the repealed Acts or is entitled to recover such increase under the provisions of this Act.

(2) Any contravention of provisions of sub-section (1) shall be an offence punishable, on conviction, with imprisonment not exceeding three months or fine not exceeding rupees five thousand or with both.

Section 11. Increase in rent annually and on account of improvement etc. special addition etc. and special or heavy repairs

(1) After the commencement of this Act a landlord shall be entitled to make an increase of 4 per cent. per annum in the rent of the premises let for any of the purpose referred to in sub-section (1) of section 2.

Explanation.- For the purposes of this sub-section, the period of one year on completion of which rent shall be so increased shall be computed from the date of commencement of this Act.

(2) A landlord shall also be entitled to make such increase in the rent of the premises as may be reasonable for an improvement or structural alterations of the premises which has been made with the consent of the seventy per cent. of the tenants given in writing.

Explanation.- In this sub-section, improvements and alterations do not include the repairs which the landlord is bound to make under sub-section (1) of section 14.

(3) (a) Notwithstanding anything contained in sub-section (2), but subject to the provisions of clauses (b) and (d), landlord shall further be entitled to make an increase in the rent of premises by an addition to the rent in the manner prescribed of an amount not exceeding fifteen per cent. per annum of the expenses incurred on account of special additions to premises or special alterations made therein or additional amenities provided for the premises or on account of improvements or structural alterations made under sub-section (2) after the commencement of this Act.

Explanation.- For the purpose of this clause, the expression "expenses incurred" in relation to the execution of any work specified therein, means the total cost incurred therefor as certified by the municipal authority or an architect from a panel of architects notified by the State Government for the purposes of this Act.

(b) Before making any increase under clause (a), the landlord shall obtain a certificate from the municipal authority

that he was required by it to make or to provide such additions, alterations, improvements or amenities and has completed them in conformity with its requirements.

(c) If a landlord, when required by a municipal authority to execute the work of any such additions, improvements, alterations or amenities, fails to do so, the tenant or the tenants interested in such work may seek the approval of the municipal authority for executing such work. The municipal authority shall grant the approval, unless other measures are taken by it to execute the said work. While granting the approval, the municipal authority shall specify the nature of the work. Upon such approval being granted, the tenants shall be entitled to execute the said work and the expenses incurred for such work shall, for all purposes, be binding on the landlord. The tenants shall also be entitled to deduct amount of expenses incurred for such work from the rent which from time to time becomes due by them to the landlord or otherwise recover such amount from him:

Provided that, where such work is jointly executed by the tenants the amount to be deducted or recovered by each tenant shall bear the same proportion as the rent payable by him in respect of his premises bears to the total amount of the expenses incurred for such work:

Provided further that, the total amount so deducted or recoverable shall not exceed the amount of expenses incurred for such work.

Explanation.- For the purposes of this sub-section,-

(a) the expression "municipal authority" includes,-

(i) in the case of any Municipal Corporation, the Municipal Commissioner or any officer of the Municipal Corporation authorised by him in this behalf;

(ii) in the case of any Municipal Council, the Chief Officer of the Council; and

(iii) in the case of any Cantonment, the Executive Officer of the Cantonment;

(b) the expression "expenses incurred for such work" means the total cost as certified by the municipal authority or an architect from the panel of architects notified by the State Government for the purposes of this Act.

(d) In respect of any work executed by the tenants under clause (c) and where the total amount of the expenses incurred for such work is deducted or recovered by the tenant or tenants, as the case may be, in accordance with the provisos thereto, the landlord shall be entitled to make the increase permitted under clause (a); and such increase of rent shall be payable from the month following the month in which such total amount is so deducted or recovered.

(4) (a) The Landlord shall also be further entitled to make, on account of special or structural repairs made by him in accordance with the provisions of this sub-section, a temporary increase in the rent of promises by an addition to the rent, in the manner prescribed at a rate not exceeding twenty-five per cent. of the standard rent; and the increase of rent shall be payable from the date of completion of the repairs till amount of the expenditure for such repairs is recovered from the tenant.

Explanation.- Nothing in this sub-sections shall apply to the structural repairs to buildings carried out by the Mumbai Repairs and Reconstruction Board under Chapter VIII of the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977).

(b) Before making any increase under clause (a), the landlord shall obtain, in the prescribed manner and in the prescribed form, a declaration from the prescribed authority or a certificate from an architect from a panel of architects notified by the State Government for the purposes of this Act; asserting that it is necessary to undertake such repairs and specifying the nature and extent of repairs required and the estimated cost therefor, and after such repairs are carried out, the landlord shall also obtain, in the prescribed manner and in the prescribed form, a certificate from such prescribed authority or such architect confirming that the repairs were carried out in accordance with the declaration, or as the case may be the certificate aforesaid and fixing the date of completion of the repairs and the actual expenses therefor.

(c) The increase in rent under clause (a) shall be recoverable from all tenants occupying premises in the building on the basis of the actual expenses incurred as specified in a certificate from the municipal authority or the architect as aforesaid, and the amount to be recovered from each tenant shall bear the same proportion as the rent payable by him in respect, of his premises bears to the total amount of actual expenses.

Section 12. Increase in rent on account of payment of rate, etc

(1) Where a landlord is required to pay to Government or to any local authority or statutory authority in respect of any premises any fresh rate, cess, charges, tax, land assessment, ground rent of land or any other levy on lands and buildings, he shall, notwithstanding anything contained in any other provisions of this Act but save as otherwise

expressly provided in any other law for the time being in force, be entitled to make an increase in the rent of such premises:

Provided that, the increase in rent shall not exceed the amount of any such rate cess, charges, tax, land assessment, ground rent of land or any other levy on lands and buildings, as the case may be.

(2) Where the rent is inclusive of charges for electricity and water and the landlord is required to pay any increase in these charges in respect of any premises, he shall be entitled to make an increase in the rent of such premises by an amount not exceeding the additional amount payable by him in respect of such premises on account of such increase.

(3) The amount of the increase in rent recoverable from each tenant under sub-sections (1) and (2) shall bear the same proportion as the rent payable by him in respect of his premises bears to the total amount of any such rate, cess, charges, tax, land assessment, ground rent of land or any other levy on lands and buildings, or increase in electricity or water charges, as the case may be.

Section 13. Certain increase in rent expected

Any increase of rent under any of the foregoing provisions of sections 11 and 12 shall not be deemed to be increase for the purpose of section 10.

Section 14. Landlords' duty to keep premises in good repair

(1) Notwithstanding anything contained in any law for the time being in force and in the absence of an agreement to the contrary by the tenant, every landlord shall be bound to keep the premises in good and tenantable repair.

(2) If the landlord neglects to make any repairs, which he is bound to make under sub-section (1), within a reasonable time after a notice of fifteen days is served upon him by post or in any other manner by a tenant or jointly by tenants interested in such repairs, such tenant or tenants may themselves make the same and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord.

Provided that, where the repairs are jointly made by the tenants, the amount to be deducted or recovered with interest by each tenant shall bear the same proportion as the rent payable by him in respect of his premises bears to the total amount of the expenses incurred for such repairs together with simple interest at fifteen per cent. per annum on such amount:

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

(3) For the purpose of calculating the expenses of the repairs made under sub-section (2), the accounts together with the vouchers maintained by the tenants shall be conclusive evidence of such expenditure and shall be binding on the landlord.

CHAPTER III RELIEF AGAINST FORFEITURE

Section 15. No ejectment ordinarily to be made if tenant pays or its ready and willing to pay standard rent and permitted increases

(1) A landlord shall not be entitled to the recovery of possession of any premises so long as the tenant pays, or is ready and willing to pay, the amount of the standard rent and permitted increases, if any, and observes and performs the other conditions of the tenancy, in so far as they are consistent with the provisions of this Act.

(2) No suit for recovery of possession shall be instituted by a landlord against the tenant on the ground of non-payment of the standard rent or permitted increases due, until the expiration of ninety days next after notice in writing of the demand of the standard rent or permitted increases has been served upon the tenant in the manner provided in section 106 of the Transfer of Property Act, 1882 (IV of 1882).

(3) No decree for eviction shall be passed by the court in any suit for recovery of possession on the ground of arrears of standard rent and permitted increase if, within a period of ninety days from the date of service of the summons of the suit, the tenant pays or tenders in court the standard rent and permitted increases then due together with simple interest on the amount of arrears at fifteen per cent. per annum; and thereafter continues to pay or tenders in court regularly such standard rent and permitted increases till the suit is finally decided and also pays cost of the suit as directed by the court.

(4) Pending the disposal of any suit, the court may, out of any amount paid or tendered by the tenant, pay to the landlord such amount towards the payment of rent or permitted increases due to him as the court thinks fit.

CHAPTER IV RECOVERY OF POSSESSION

Section 16. When landlord may recover possession

(1) Notwithstanding anything contained in this Act but subject to the provisions of section 25, a landlord shall be entitled to recover possession of any premises if the court is satisfied-

(a) that the tenant has committed any act contrary to the provisions of clause (o) of section 108 of the Transfer of Property Act, 1882 (IV of 1882);

Explanation.- For the purposes of this clause, replacing of tiles or closing of balcony of the premises shall not be regarded as an act of a causing damage to the building or destructive or permanently injurious thereto; or

(b) that the tenant has, without the landlord's consent given in writing, erected on the premises any permanent structure;

Explanation.- For the purposes of this clause, the expression "permanent structure" does not include the carrying out of any work with the permission, wherever necessary, of the municipal authority, for providing a wooden partition, standing cooking platform in kitchen, door, lattice work of opening of a window necessary for ventilation, a false ceiling, installation of air-conditioner, an exhaust outlet or a smoke chimney; or

(c) that the tenant, his agent, servant, persons inducted by tenant or claiming under the tenant or, any person residing with the tenant has been guilty of conduct which is a nuisance or annoyance to the adjoining or neighbouring occupier, or has been convicted of using the premises or allowing the premises to be used for immoral or illegal purposes or that the tenant has in respect of the premises been convicted of an offence of contravention of any of the provisions of clause (a) of sub-section (1) of section 394 or of section 394A of the Mumbai Municipal Corporation Act (Bom. III of 1888) or of sub-section 394 or of section 376 or of section 376A of the [1]Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), or of section 229 of the [2]City of Nagpur Municipal Corporation Act, 1949 (C. P. and Berar II of 1950); or of section 280 or of section 281 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965); or

(d) that the tenant has given notice to quit and in consequence of that notice, the landlord has contracted to sell or let the premises or has taken any other steps as a result of which he would, in the opinion of the court, be seriously prejudiced, if he could not obtain possession of the premises; or

(e) that the tenant has-

(i) on or after the 1st day February 1973, in the areas to which the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom. LVII of 1947) applied; or

(ii) on or after the commencement of this Act, in the Vidarbha and Marathwada areas of the State,

unlawfully sub-let or given on licence the whole or part of the premises or assigned or transferred in any other manner his interest therein; or

(f) that the premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and that the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment; or

(g) that the premises are reasonably and bona fide required by the landlord for occupation by himself or by any person for whose benefit the premises are held or where the landlord is a trustee of a public charitable trust that the premises are required for occupation for the purposes of the trust; or

(h) that the premises are reasonably and bona fide required by the landlord for carrying out repairs which cannot be carried out without the premises being vacated; or

(i) that the premises are reasonably and bona fide required by the landlord for the immediate purpose of demolishing them and such demolition is to be made for the purpose of erecting new building on the premises sought to be demolished; or.

(j) that the premises let consist a tenement or tenements on the terrace of a building such tenement or tenements being only in part of the total area of the terrace, and that the premises or any part thereof are required by the landlord for the purpose of the demolition thereof and erection or raising of a floor or floors on such terrace;

Explanation.- For the purpose of this clause, if the premises let include the terrace or part thereof, or garages, servants quarters or out-houses (which are not on the terrace), or all or any one of more of them, this clause shall nevertheless apply; or

(k) that the premises are required for the immediate purpose of demolition ordered by any municipal authority or other competent authority; or

(l) that where the premises are land in the nature of garden or grounds appurtenant to a building or part of a building or part of a building, such land is required by the landlord for the erection of a new building which a municipal authority has approved or permitted him to build thereon; or

(m) that the rent charged by the tenant for the premises or any part thereof which are sub-let is in excess of the standard rent and permitted increases in respect of such premises or part or that the tenant has received any fine, premium, other like sum of consideration in respect of such premises or part; or

(n) that the premises have not been used, without reasonable cause for the purpose for which they were let for for a continuous period of six months immediately preceding the date of the suit.

(2) No decree for eviction shall be passed on the ground, specified in clause (g) of sub-section (1), if court is satisfied that, having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the landlord or the tenant, greater hardship would be caused by passing the decree than by refusing to pass it.

Where the court is satisfied that no hardship would be caused either to the tenant or to the landlord by passing the decree in respect of such part of the premises, the court shall the decree in respect of such part only.

Explanation.- For the purposes of clause (g) of sub-section (1) the expression "landlord" shall not include a rent-farmer or rent-collector or estate-manager.

(3) A landlord shall not be entitled to recover possession of any premises under the provisions of clause (g) of sub-section (1) if the premises are let to the Central Government in a cantonment area and such premises, are being used for residence by members of the armed forces of the Union, or their families.

(4) The court may pass the decree on the ground specified in clause (h) or (i) of sub-section (1) only in respect of a part of the premises which in its opinion it is necessary to vacate for carrying out the work of repair or erection.

(5) Notwithstanding anything contained in any other law for the time being in force, an assignment of a decree for eviction obtained on the grounds specified in clauses (g), (h), (i) and (j) of sub-section (1) shall be unlawful.

(6) No decree for eviction shall be passed on the ground specified in clauses (i) or (j) of sub-section (1), unless the Court is satisfied,-

(a) that the necessary funds for the purpose of the erection of new building or for erecting or raising of a new floor or floors on the terrace are available with the Landlord;

(b) that the plans and estimates for the new building or new floor or floors have been properly prepared;

(c) that the new building or new floor or floors to be erected by the landlord shall, subject to the provisions of any rules, by-laws or regulations made by municipal authority contain residential tenements not less than the number of existing tenements which are sought to be demolished;

(d) that the landlord has given an undertaking,-

(i) that the plans and estimates, for the new building or new floor or floors to be erected by the landlord include premises for each tenant with carpet area equivalent to the area of the premises in his occupation in the building sought to be demolished subject to a variation of five per cent. in area;

(ii) that the premises specified in sub-clause (i) will be offered to the concerned tenant or tenants in the re-erected building or, as the case may be on the floor to floors;

(iii) that where the carpet area of the premises in the new building or on the new floor or floors is more than the carpet area specified in sub-clause (i) the landlord shall, without prejudice to the liability of the landlord under sub-clause (i), obtain the consent, in writing, of the tenant or tenants concerned to accept the premises with larger area; and on the tenant or tenants declining to give such consent the landlord shall be entitled to put the additional floor area of any permissible use;

(iv) that the work of demolishing the premises shall be commenced by the landlord not later than one month, and shall be completed not later than three months, from the date he recovers possession of the entire premises;

(v) that the work of erection of the new building or new floor or floors shall be completed by the landlord not later than fifteen months from the said date:

Provided that, where the court is satisfied that the work of demolishing the premises could not be commenced or completed, or the work of erection of the new building or, as the case may be the new floor or floors could not be completed, within time, for reasons beyond the control of the landlord, the court may, by order, for reasons to be recorded, extend the period by such further periods, not exceeding three months at a time as may, from the time to time, be specified by it, so however that the extended period shall not exceed twelve months in the aggregate.

(7) Where the possession of premises is recovered on the ground specified under clause (g), (h), (i) or (j) of

sub-section (1) and the premises and transferred by the landlord, or by operation of law before the tenant or tenants are placed in occupation, then such transfer shall be subject to the rights and interests of such tenants.

(8) For the purposes of clause (m) of sub-section (1), the standard rent or permitted increase in respect of the part sub-let shall be the amounts bearing such proportion to the standard rent or permitted increases in respect of the premises as may be reasonable having regard to the extent of the part sub-let and other relevant considerations.

(9) Notwithstanding anything contained in this Act, where the premises let to any person include-

(i) the terrace or part thereof; or

(ii) any one or more of the following structures that is to say, tower-room, sitting-out-rooms, ornamental structures, architectural features, landings, attics on the terrace of a building, or one or more rooms of whatsoever description on, such terrace (such room or rooms being in the aggregate of an area not more than one-sixth of the total area of the terrace); or

(iii) the terrace or part thereof and any such structure,

and the court is satisfied that the terrace or structure or terrace including structure as aforesaid, are required by the landlord for the purpose of demolition and erection or raising of a floor or floors on such terrace, the landlord shall be entitled to recover possession of the terrace including such tower-rooms, sitting-out-rooms, ornamental structures, architectural features, landings, attics or rooms, the court may make such reduction, if any, in the rent as it may deem just.

(10) A suit for eviction on the grounds specified in clause (h), (i), (j) or (k) of sub-section (1) may be filed by the landlord jointly against all the tenants occupying the premises sought to be demolished.

[1] The short title of the Act has been amended as "The Maharashtra Municipal Corporations Act" by Mah. 23 of 2012, s. 4.

[2] This Act has been repealed by Mah. 23 of 2012, s. 7.

Section 17. Recovery of possession for repairs and re-entry

(1) The court shall, when passing a decree on the ground specified in clause (h) of sub-section (1) of section 16, ascertain from the tenant whether he elects to be placed in occupation of the premises or part thereof from which he is to be evicted and if the tenant so elects, shall record the fact of the election, in the decree and specify in the decree the date on or before which he shall deliver possession so as to enable the landlord to commence the work of repairs.

(2) If the tenant delivers possession on or before the date specified in the decree, the landlord shall, two months before the date on which the work of repairs is likely to be completed, give notice to the tenant of the date on which the said work shall be completed. Within thirty days from the date of receipt of such notice the tenant shall intimate to the landlord his acceptance of the accommodation offered and deposit with the landlord rent for one month. If the tenant gives such intimation and makes the deposit, the landlord shall, on completion of the work of repairs, place the tenant in occupation of the premises or part thereof on the terms and conditions existing on the date of the passing of the decree for eviction. If the tenant fails to give to such intimation and to make the deposit, the tenant's right to occupy the premises shall terminate.

(3) If, after the tenant has delivered possession on or before the date specified in the decree, the landlord fails to commence the work of repairs within one month of the specified date or fails to complete the work within a reasonable time or having completed the work fails to place the tenant in occupation of the premises in accordance with sub-section (2), the court may, on the application of the tenant made within one year of the specified date, order the landlord to place him in occupation of the premises or part thereof on the terms and conditions existing on the date of passing of the decree of eviction and on such order being made, the landlord and any person who may be in occupation shall give vacant possession to the tenant of the premises or part thereof.

(4) Any landlord who, when the tenant has vacated by the date specified in the decree, without reasonable excuse fails to commence the work of repairs and any landlord or other person in occupation of the premises who fails to comply with the order made by the court under sub-section (3), shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

Section 18. Recovery of possession for occupation etc., and re-entry

(1) Where a decree for eviction has been passed by the court on the ground specified in clause (g) of sub-section (1) of section 16 and the premises are not occupied within a period of one month from the date the landlord recovers possession or the premises are re-let within one year of the said date to any person other than the original tenant, the court may, on the application of the original tenant made within thirteen months from such date, order the landlord to place him in occupation of the premises, on the terms and conditions existing on the date of passing of the decree for eviction and, on such order being made, the landlord and any person who any may be in occupation of the premises

shall give vacant possession to the original tenant.

(2) Any landlord who recovers possession on the ground specified in clause (g) of sub-section (1) of section 16 and keeps the premises unoccupied without reasonable excuse and any landlord or other person in occupation of the premises who fails to comply with the order of the court under sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.

Section 19. Recovery of possession for demolishing building

(1) Where a decree for eviction has been passed by the court on the ground specified in clause (i) or (j) of sub-section (1) of section 16, and the work of demolishing the premises has not been commenced by the landlord within the period specified in sub-clause (iv) of clause (d) of sub-section (6) of the said section, the tenant may give the landlord a notice of his intention to occupy the premises from which he has been evicted and if the landlord does not forthwith deliver to him the vacant possession of the premises on the same terms and conditions on which he occupied them immediately before the eviction, the tenant may make an application to the court within six weeks from the date on which he delivered vacant possession of the premises to the landlord.

(2) If the court is satisfied that the landlord has not substantially commenced the work of demolishing the premises within the period of one month in accordance with his undertaking, the court shall order the landlord to deliver to the tenant vacant possession of the premises on the terms and conditions on which he occupied them immediately before the eviction. On such order being made, the landlord shall forthwith deliver vacant possession of the premises to the tenant. Such order shall be deemed to be an order within the meaning of clause (14) of section 2 of the Code of Civil Procedure, 1908 (V of 1908).

(3) Any landlord who recovers possession on the ground specified in clause (i) or (j) of sub-section (1) of section 16, and fails to carry out any undertaking referred to in sub-clause (i), (ii), (iii), (iv) or (v) of clause (d) of sub-section (6) of the said section without any reasonable excuse or fails to comply with the order of the court under sub-section (1) shall, without prejudice to his liability in execution to the order under sub-section (2), on conviction, be punishable with imprisonment for a term which may extend to thirty days or with fine which may extend to five thousand rupees or with both.

Section 20. Tenants' right to give notice to landlord of his intention to occupy tenement in new building

Where a decree for eviction has been passed by the court on the ground specified in clause (i) of sub-section (1) of section 16 and the work of demolishing the premises and of the erection of new building has been commenced by the landlord, the tenant may, without prejudice to the provisions of sub-clause (ii) and (iii) of clause (d) of sub-section (6) of section 16 within six months from the date on which he delivered vacant possession of the premises to the landlord, give notice to the landlord of his intention to occupy a tenement in the new building on its completion on the following conditions, namely:-

(a) that he shall pay to the landlord the standard rent in respect of the tenement:

Provided that, in respect of a residential tenement, the tenant concerned shall not be required to pay rent in relation to the area at more than double the rate at which he paid rent for his former premises immediately before his eviction under the decree, unless the landlord obtains an order of the court fixing the standard rent in respect of the tenement at higher rate;

(b) that his occupation of the tenement shall, save as provided in condition (a), be on the same terms and conditions on which he occupied the premises immediately before the eviction.

Section 21. Landlord to intimate to tenant date of completion and tenant's right to occupy premises in new building

(1) The landlord shall, not less than three months before the date on which the erection of the new building or, completion as the case may be, new floor or floors is likely to be completed, intimate to the tenant, the date on which the said erection shall be completed. On the said date, the tenant shall be entitled to occupy the premises assigned to him by the landlord.

(2) (a) If the tenant fails to occupy the premises within a period of one month from the date on which he is entitled to occupy it under sub-section (1), the tenant's right to occupy the said premises under the said sub-section shall terminate; and the landlord shall be entitled to recover from the tenant a sum equal to three times the amount of the monthly standard rent in respect of the premises.

(b) If the landlord fails, without reasonable excuse, to comply with the provisions of sub-section (1) or to place the tenant in occupation of the premises he shall, without prejudice to his liability to place the tenant in vacant possession of the premises on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.

Section 22. Recovery of possession in case of tenancy created during service period

(1) Where any landlord intends to let any premises or any part thereof belonging to him, to his employee, such landlord and the employee may enter into an agreement in writing to create a service tenancy in respect of the said premises or an agreement in writing to create a service tenancy in respect of the said premises or any part thereof; and notwithstanding anything contained in this Act, the tenancy so created shall remain in force during the period of service or employment of the tenant with the landlord.

(2) After the creation of the service tenancy under sub-section (1), if the tenant ceases to be in the service or employment of the said landlord either by retirement, resignation, termination of service, death or for any other reason, the tenant or any other person residing with him or claiming under him fails to vacate such premises or any part thereof immediately, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the Competent Authority shall, if it is satisfied, on an application made to it in this behalf by such landlord within thirty days, make an order that the tenant or any such person as aforesaid shall place the landlord in vacant possession of such premises or part thereof; and on their refusal or failure to do so the Competent Authority may proceed to take action under section 45:

Provided that, the Competent Authority may entertain an application under this sub-section after the expiry of the said period, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time:

Provided further that, where the tenant is a workman or an employee whose services are terminated and a dispute in respect of such termination is pending before a tribunal, court or any other competent authority, the order for a eviction shall not be passed until such tribunal, court or authority, under the relevant law, finally upholds the order of such termination.

Explanation.- For the purposes of this section, the expression "landlord" shall not include, in respect of sub-tenant, a tenant who has sub-let any premises, or in respect of a deemed tenant, a tenant at whose instance the deemed tenant has come in occupation of any premises.

CHAPTER V SPECIAL PROVISIONS FOR RECOVERY OF POSSESSION IN CERTAIN CASES

Section 23. Members of armed forces of the Union, scientists or their successor-in-interest entitled to recover possession of premises required for their occupation

(1) Notwithstanding anything to the contrary contained in this Act or any contract,-

(A) a landlord, who,-

(i) is a member of armed forces of the Union, or was such a member and has retired as such (which term shall include premature retirement), or

(ii) holds a scientific post in the Department of Atomic Energy of the Central Government or in any of its aided institution (hereinafter in this section referred to as "a scientist"), or was such a scientist and has retired as such (which term shall include premature retirement), and one year has not elapsed since his retirement on the date of making of the application, or

(iii) is an employee of the Government of India, Government of any State or Union Territory, Public Sector Undertaking of the Government of India or of any State Government (hereinafter referred to as ("a Government servant"), and has retired as such (which term shall include premature retirement) and one year has not elapsed since his retirement on the date of the application,

shall be entitled to recover from his tenant the possession of any premises owned by him on the ground that such premises are bona fide required by him for occupation by himself or by any member of his family, by making an application for the purpose of recovery of possession of the premises, to the Competent Authority; and the Competent Authority shall make an order of eviction on that ground if-

(a) in the case of landlord who is a member of the armed forces of the Union, he produces a certificate signed by the authorised officer to the effect that,-

(i) he is a member of the armed forces of the Union, or that he was such a member and has retired as such, and

(ii) he does not possess any other premises suitable for residence in the local area where the premises are

situated; or

(b) in the case of a landlord who is scientist, he produces a certificate signed by an officer of the Department of Atomic Energy of, or above, of the rank of Deputy Secretary to Government to the effect that,-

(i) he is presently holding a scientific post in the Department of Atomic Energy or in any of its aided institutions specified in the certificate or he was holding such post and has now retired with effect from the date specified in the certificate; and

(ii) he does not possess any other suitable residence (excluding any residential accommodation provided by Government) in the local area where the premises are situated; or

(c) in the case of a Government servant, he produces a certificate signed by the Head Department or the Head of the office, or the Chief Executive of the Public Sector Undertaking, by whatever designation called, to the effect that,-

(i) he is presently holding the post in that Department, office or Public Sector Undertaking or he was holding such post and has now retired with effect from the date specified in the certificate; and

(ii) he does not possesses any other suitable residence (excluding any residential accommodation provided by Government or Public Sector Undertaking) in the local area where the premises are situated;

(B) a successor-in-interest who becomes the landlord of the premises owned by any landlord referred to in clause (A), as a result of death of such a landlord while in service or where he is a member of the armed forces of the Union, within five years of his retirement, or where he is scientist, or a Government servant, within one year of his retirement, shall be entitled to recover possession of such premises on the ground that such premises are bona fide required for occupation by the successor-in-interest himself or by any member of the family of the deceased landlord, by making an application for the purpose of recovery of possession of the premises, to the Competent Authority; and the Competent Authority shall make an order of eviction on that ground if,-

(a) in the case of the successor-in-interest of a member of the armed forces of the Union, he produces a certificate signed by the authorised officer to the effect that,-

(i) a successor-in-interest is a widow or any other member of the family of the deceased member of the armed forces of the Union, who died while in service on the date specified in the certificate (or of a member of the armed forces of the Union who has retired and who died within five years of his retirement on the date specified in the certificate); and

(ii) such a successor-in-interest does not possess any other premises suitable for residence in the local area where such premises are situated; or

(b) in the case of a successor-in-interest of a scientist, he produces a certificate signed by an officer of the Department of Atomic Energy of, or above, the rank of Deputy Secretary to Government, to the effect that,-

(i) the successor-in-interest is a widow or any other member of the family of the deceased scientist who died while in service on the date specified in the certificate (or of a scientist who has retired and who died within one year of his retirement on the date specified in the certificate);

(ii) such successor-in-interest does not possess any other suitable residence (excluding any residential accommodation provided by Government) in the local area where such premises situated; or

(c) in the case of a successor-in-interest of a Government servant, he produces a certificate signed by the head of his Department, Head of the office, or the Chief Executive, by whatever designation called, of the Public Sector Undertaking, to the effect that,-

(i) the successor-in-interest is a widow or any other member of the family of the deceased Government servant, who died while in service on the date specified in the certificate) (or of a Government servant who has retired and who died within one year of his retirement on the date specified in the certificate); and

(ii) such successor-in-interest does not possess any other suitable residence (excluding any residential accommodation provided by Government or the Public Sector Undertaking) in the local area where such premises are situated.

(2) Any certificate granted under sub-section (1) shall be conclusive evidence of the facts stated therein.

Explanation.- For the purposes of this section,-

(1) "authorised officer", in relation to a member of the armed forces of the Union, means the commanding officer or head of services, including,-

(i) in the case of an officer retired from the Army, the Area Commander,

(ii) in the case of an officer retired from the Navy, the Flag Officer Command-in-Chief Naval Command, and

(iii) in the case of an officer retired from the Air Force, the Station Commander;

(2) "member of the family" means any of the following members of the family of a member of the armed forces of the Union, or a scientist, or a Government servant, as the case may be, who is ordinarily residing with him and who is dependent on him and where member of the armed forces of the Union or a scientist or a Government servant has retired or died, any member of his family who is so residing or dependent at the time of his retirement, or as the case may be, death, namely :-

spouse, father, mother, son, daughter, grand-son, grand-daughter, son's wife, grand-son's wife, widow of predeceased son or grandson;

(3) "successor-in-interest" means,-

(i) if the deceased landlord has a spouse living at the time of his death, spouse, and

(ii) in any other case, any other member of his family.

Explanation.- A landlord or his successor-in-interest by inheritance or otherwise shall not be entitled to recover possession under this section from the tenant or his successor-in-interest by transmission, where the landlord has acquired the property by purchase, gift, exchange or otherwise (but excluding acquisition by inheritance or succession or in the case of premises in a Co-operative Housing Society, by acquisition of a share or right and interest in such premises by nomination), and where at the time of acquisition, by purchase, gift, exchange or otherwise the premises had been in the occupation of the tenant or his predecessor-in-interest from whom the tenancy has been transmitted and notwithstanding anything contained in any judgement, decree or order of the court or anything contained in this Act or in any other law for the time being in force, the provisions of this explanation shall always be deemed to have applied to such a case, and the landlord shall not be entitled to recover possession in any such case;

(4) "aided institution" means the Tata Institution of Fundamental Research, and the Tata Memorial Centre, and also any other institution which may be declared, from time to time, by the State Government in consultation with the Department of Atomic Energy, to be aided institution for the purposes of this section.

Section 24. Landlord entitled to recover possession of premises given on licence on expiry

(1) Notwithstanding anything contained in this Act, a licensee, in possession or occupation of premises given to him on license for residence shall deliver possession of such premises to the landlord on expiry of the period of licence; and on the failure of the licensee to so deliver the possession of the licensed premises, a landlord shall be entitled to recover possession of such premises from a licensee, on the expiry of the period of licence, by making an application to the Competent Authority, and the Competent Authority, on being satisfied that the period of licence has expired, shall pass an order for eviction of a licensee.

(2) Any licensee who does not deliver possession of the premises to the landlord on expiry of the period of licence and continues to be in possession of the licensed premises till he is dispossessed by the Competent Authority shall be liable to pay damages at double the rate of the licence fee or charge of the premises fixed under the agreement of licence.

(3) The Competent Authority shall not entertain any claim of whatever nature from any other person who is not a licensee according to the agreement of licence.

Explanation.- For the purposes of this section,-

(a) the expression "landlord" includes a successor-in-interest who becomes the landlord of the premises as a result of death of such landlord; but does not include a tenant or a sub-tenant who has given premises on license;

(b) an agreement of licence in writing shall be conclusive evidence of the fact stated therein.

CHAPTER VI PROVISIONS REGARDING SUB-TENANCIES AND OTHER MATTERS CONCERNING TENANCIES

Section 25. Certain Sub-tenants to become tenants on determination of tenancy

When the interest of a tenant of any premises is determined for any reason, any sub-tenant to whom the premises or any part thereof have been lawfully sub-let and such sub-tenancy is subsisting on the date of commencement of this Act or where sub-tenancy is permitted by a contract between the landlord and the tenant, such sub-tenant shall, subject to the provisions of this Act, be deemed to become the tenant of his landlord on the same terms and conditions as he would have held from the tenant if the tenancy had continued.

Section 26. In absence of contract tenant not to sub-let or transfer or give on licence

Notwithstanding anything contained in any law for the time being in force but subject to any contract to the contrary it shall not be lawful for tenant to sub-let or give on licence the whole or any part of the premises let to him, or to assign or transfer in any other manner his interest therein:

Provided that, the State Government may by notification in the Official Gazette, permit in any area the transfer of interest in premises held under such leases or class of leases any premises or class of premises other than those let for business, trade or storage to such extent as may be specified in the notification.

Section 27. State Government or Government allottee to become tenant of premises requisitioned or continued under requisition

(1) On the 7th December 1996, that is the date of coming into force of Bombay Rents, Hotel and Lodging House Rates Control, Bombay Land Requisition and Bombay Government Premises (Eviction) (Amendment) Act, 1996 (Mah. XVI of 1997) (hereinafter in this section referred to as "the said date"),-

(a) the State Government, in respect of the premises requisitioned or continued under requisition and allotted to a Government allottee referred to in sub-clause (a) of clause (2) of section 7; and

(b) the Government allottee, in respect of the premises requisitioned or continued under requisition and allotted to him as referred to in sub-clause (b) of clause (2) of section shall, notwithstanding anything contained in this Act, or in the Bombay Land Requisition Act, 1948 (Bom. XXXIII of 1948), or in any other law for the time being in force, or in any contract, or in any judgement, decree or order of any court passed on or after the 11th June 1996, or in any order of eviction issued by the Competent Authority, or by the Appellate Authority, under the Bombay Land Requisition Act, 1948 (Bom. XXXIII of 1948), be deemed to have become, for the purposes of this Act, the tenant of the landlord; and such premises shall be deemed to have been let by the landlord to the State Government or, as the case may be, to such Government allottee, on payment of rent and permitted increases equal to the amount of compensation payable in respect of the premises immediately before the said date.

(2) Save as otherwise provided in this section or any other provisions of this Act, nothing in this section shall affect,-

(a) the rights of the landlord including his right to recover possession of the premises from such tenant on any of the grounds mentioned in section 16 or in any other section;

(b) the right of the landlord or such tenant to apply to the court for the fixation of standard rent and permitted increases under this Act, by reason only of the fact that the amount of the rent and permitted increases, if any, to be paid by such tenant to the landlord is determined under sub-section (1);

(c) the operation and the application of the other relevant provisions of this Act in respect of such tenancy.

Section 28. Inspection of premises

The landlord shall be entitled to inspect the premises let or given on licence, at a reasonable time after giving prior notice to the tenant, licensee or occupier.

Section 29. Landlord not to cut-off or withhold essential supply or service

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

(2) A tenant in occupation of the premises may, if the landlord has contravened the provisions of sub-section (1), make an application to the court for a direction to restore such supply or service.

(3) Having regard to the circumstances of a particular case the court may, if it is satisfied that it is necessary to make an interim order, make such order directing the landlord to restore the essential supply or service before the date specified in such order, before giving notice to the landlord of the enquiry to be made in the application under sub-section (3) or during the pendency of such enquiry. On the failure of the landlord to comply with such interim order of the court, the landlord shall be liable to the same penalty as is provided for in sub-section (4).

(4) If the court on inquiry finds that the tenant has been in enjoyment of the essential supply or service and that it was cut-off or withheld by the landlord without just or sufficient cause, the court shall make an order directing the landlord to restore such supply or service before a date to be specified in the order. Any landlord who fails to restore the supply or service before the date so specified, shall, for each day during which the default continues thereafter, be liable upon further directions by the court, to that effect, to fine which may extend to one hundred rupees.

(5) Any landlord, who contravences, the provisions of sub-section (1), shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or

with both.

(6) An application under this section may be made jointly by all or any of the tenants of the premises situated in the same building.

Explanation.- In this section,-

(a) essential supply or service includes supply of water, electricity, lights in passages and on stair-cases, lifts and conservancy or sanitary service;

(b) withholding any essential supply or service shall include acts or ommissions attributable to the landlord on account of which the essential supply or service is cut-off by the municipal authority or any other competent authority.

(7) Without prejudice to the provisions of sub-sections (1) to (6) or any other law for the time being in force, where the tenant,-

(a) who has been in enjoyment of any essential supply or service and the landlord has withheld the same, or

(b) who desires to have, at his own cost, any other essential supply or service for the premises in his occupation,

the tenant may apply to the Municipal or any other authority authorised in this behalf, for the permission or for supply of the essential service and it shall be lawful for that authority to grant permission for, supply of such essential supply or service applied for without insisting on production of a 'No Objection Certificate' from the landlord by such tenant.

Section 30. Conversion of residential into commercial premises prohibited

(1) A landlord shall not use or permit to be used for a commercial purpose any premises which, on the date of the commencement of this Act, were used for a residential purpose.

(2) Any landlord who contravenes the provisions of sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

Section 31. Giving receipt for any amount received compulsory

(1) Every landlord shall give a written receipt for any amount at the time when such amount is received by him in respect of any premises in such form and in such manner as may be prescribed.

(2) Every landlord shall, without charging any consideration, issue the rent receipt in respect of the premises let out to the deceased tenant in the name of the family member referred to in sub-clause (d) of clause (15) of section 7.

(3) Any landlord or person who fails to give a written receipt for any amount received by him in respect of any premises shall, on conviction, be punishable with fine which may extend to one hundred rupees for each day of default.

Section 32. Recovery of rent according to British Calendar

(1) Notwithstanding anything contained in any law for the time being in force or any contract, custom of local usage to the contrary, rent payable by the month or year or portion year shall be recovered according to the British Calendar.

(2) The State Government may prescribe the manner in which rent recoverable according to any other calendar before the coming into operation of this Act shall be calculated and charged in terms of the British Calendar.

CHAPTER VII PROVISIONS REGARDING JURISDICTION OF COURTS, SUITS, APPEALS, PRACTICE AND PROCEDURE

Section 33. Jurisdiction of courts

(1) Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of Chapter VIII, and notwithstanding that by reason of the amount of the claim, or for any other reason, the suit or proceeding would not, but for this provision, be within its jurisdiction,-

(a) in Brihan Mumbai, the Court of Small Causes, Mumbai,

(b) in any area for which a Court of a Small Causes is established under the Provincial Small Causes Courts Act, 1887 (IX of 1887), such court, and

(c) elsewhere, the court of the Civil Judge (Junior Division) having jurisdiction in the area in which the premises are situate or, if there is no such Civil Judge, the court of the Civil Judge (Senior Division) having ordinary jurisdiction, shall have jurisdiction to entertain and try any suit of proceeding between a landlord and a tenant relating to the recovery of rent or possession of any premises and to decide any application made under this Act (other than the

application which are to be decided by the State Government or an officer authorised by it or the Competent Authority) and subject to the provisions of sub-section (2), no other court shall have jurisdiction to entertain any such suit, proceeding, or application or to deal with such claim or question.

(2) (a) Notwithstanding anything contained in clause (b) of sub-section (1), the District Court may at any stage withdraw any such suit, proceeding or application pending in a Court of Small Causes established for any area under the Provincial Small Causes Courts Act, 1887 (IX of 1887), and transfer the same for trial or disposal to the Court of the Civil Judge (Senior Division) having ordinary jurisdiction in such area;

(b) where any suit, proceeding or application has been withdrawn under clause (a), the Court of the Civil Judge (Senior Division) which thereafter tries such suit, proceeding or application, as the case may be, may either retry it or proceed from the stage at which it was withdrawn;

(c) The Court of the Civil Judge trying any suit, proceeding or application withdrawn under clause (a) from the Court of Small Causes, shall, for purposes of such suit, proceeding or application, as the case may be, be deemed to be the Court of Small Causes.

Section 34. Appeal

(1) Notwithstanding anything contained in any law for the time being in force, an appeal shall lie-

(a) in Brihan Mumbai from a decree or order made by the Court of Small Causes, Mumbai exercising jurisdiction under section 33, to a bench of two judges of the said Court which shall not include the Judge who made such decree or order;

(b) elsewhere, from a decree or order made by a Judge of the Court of Small Causes established under the Provincial Small Causes Courts Act, 1887 (IX of 1887), or by the Court of the Civil Judge deemed to be the Court of Small Causes under clause (c) of sub-section (2) of section 33 or by a Civil Judge exercising such jurisdiction, to the District Court:

Provided that no such appeal shall lie from,-

(a) a decree or order made in any suit or proceeding in respect of which no appeal lies under the Code of Civil Procedure, 1908 (V of 1908);

(b) a decree or order made in any suit or proceeding (other than a suit or proceeding relating to possession) in which the plaintiff seeks to recover rent in respect of any premises and amount or value of the subject matter of which does not exceed-

(i) where such suit or proceeding is instituted in Brihan Mumbai, Rs. 10,000; and

(ii) where such suit or proceeding is instituted elsewhere, the amount upto which the Judge or Court specified in clause (b) is invested with jurisdiction of a Court of Small Causes, under any law for the time being in force;

(c) an order made upon on an application for fixing the standard rent or for determining the permitted increases in respect of any premises except in a suit or proceeding in which an appeal lies;

(d) an order made upon an application by a tenant for a direction to restore any essential supply or service in respect of the premises let to him.

(2) Every appeal under sub-section (1) shall be made within thirty days from the date of the decree or order, as the case may be:

Provided that, in computing the period of limitation prescribed by this sub-section the provisions contained in sections 4, 5 and 12 of the Limitation Act, 1963 (XXVI of 1963) shall, so far as may be, apply.

(3) No further appeal shall lie against any decision in appeal under sub-section (1).

(4) Where no appeal lies under this section from a decree or order in any suit or proceeding in Brihan Mumbai, the bench of two Judges specified in clause (a) of sub-section (1) and elsewhere, the District Court may, for the purpose of satisfying itself that the decree or order made was according to law, call for the case in which such decree or order was made and the bench or court aforesaid or the District Judge or any Judge to whom the case may be referred by the District Judge, shall pass such order with respect thereto as it or he thinks fit.

Section 35. Saving of suit involving tittle

Nothing contained in sections 33 and 34 shall be deemed to bar a party to a suit, proceeding or appeal mentioned therein in which a question of title to premises arises and is determined from using in a competent court to establish, his title to such premises.

Section 36. Compensation in respect of proceedings which are not bona fide or are false, frivolous or vexatious

If the court finds that any suit, proceeding or application instituted or made before it is not instituted, or made, bona fide or is false, frivolous or vexatious, the court may, after hearing the plaintiff or applicant and for reasons to be recorded, order that compensation, not exceeding two thousand rupees, be paid by such plaintiff or applicant to the defendant or opponent, as the case may be.

Section 37. Procedure of courts

The Courts specified in sections 33 and 34 shall follow the prescribed procedure in trying and hearing suits, proceedings, applications and appeals and in executing orders made by them.

Section 38. Time limit for disposal of suits, proceedings or appeals

Notwithstanding anything contained in this Act or in any other law for the time being in force-

(a) a suit or proceeding under this Act shall be heard and disposed of as expeditiously as possible and endeavour shall be made to dispose of the case, as far as may be practicable, within a period of twelve months from the date of service of summons, or as the case may be, notice on the defendant;

(b) an appeal against the decree or order made by the Court, shall be heard and disposed of as expeditiously as possible and endeavour shall be made to dispose of the appeal, as far as may be practicable, within a period of six months from the date of service of notice of appeal on the Respondent.

CHAPTER VIII SUMMARY DISPOSAL OF CERTAIN APPLICATIONS

Section 39. Provisions of this Chapter to have overriding effect

The provisions of this Chapter or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained elsewhere in the Act or in any other law for the time being in force.

Section 40. Appointment of Competent Authority

(1) The State Government may, by notification in the Official Gazette, appoint one or more persons to be called Competent Authority for the purpose of exercising the powers conferred, and for performing the duties imposed, on him under this Act in such local area as may be specified in the said notification; and one or more such Competent Authorities may be appointed for one or more such local areas.

(2) A person to be appointed as a Competent Authority shall be one-

(a) who is holding or has held as office, which in the opinion of the State Government, is not lower in rank than that of a Deputy Collector; or

(b) who is holding or has held a post of a Civil Judge, Junior Division; or

(c) who has been for not less than five years an Advocate, enrolled under the Advocates Act, 1961 (25 of 1961).

Section 41. Definition of landlord for the purpose of Chapter VIII

For the purposes this Chapter, landlord means a landlord who is,-

(a) a person who has created a service tenancy in respect of his premises or a part thereof in favour of his employee under section 22;

(b) a member of the armed forces of the Union or a scientist or a Government servant or a successor-in-interest, referred to in section 23; or

(c) a person who has given premises on licence for residence or a successor-in-interest referred to in section 24.

Section 42. Special provision for making application to Competent Authority by landlord to evict tenant or licensee

Notwithstanding anything contained in this Act or any other Law for the time being in force or any contract to the contrary or any judgement or decree or order of any court, but subject to the provisions of section 22 or 23 or 24, as the case may be, a landlord may submit an application to the Competent Authority, signed and verified in a manner provided in rules 14 and 15 of Order VI of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), as if it were a plaint, to the Competent Authority having jurisdiction in the area in which the premises are situated, for the purpose of recovery of possession of the premises from the tenant or licensee, as the case may be.

Section 43. Special procedure for disposal of applications

(1) Every application by a landlord under this Chapter for the recovery of possession shall be accompanied by such fees as may be prescribed. The Competent Authority shall deal with the application in accordance with the procedure laid down in this section.

(2) The Competent Authority shall issue summons in relation to every application referred to in sub-section (2) in the form specified in Schedule III.

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

(b) When an acknowledgement purporting to be signed by the tenant or licensee or their agent is received by the Competent Authority 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 licensee or their agent had refused to take delivery of the registered article, the Competent Authority may proceed to hear and decide the application as if there has been a valid service of summons.

(4) (a) The tenant or licensee on whom the summons is duly served in the ordinary way or by registered post in the manner laid down in sub-section (3) shall not contest the prayer for eviction from the premises, unless within thirty days of the service of summons on him as aforesaid, he files an affidavit stating grounds on which he seeks to contest the application for eviction and obtains leave from the Competent Authority 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 in the application for eviction shall be deemed to be admitted by the tenant or the licensee, as the case may be, and the applicant shall be entitled to an order for eviction on the ground aforesaid.

(b) The Competent Authority shall give to the tenant or licensee leave to contest the application if the affidavit filed by the tenant or licensee discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in section 22, 23 or 24.

(c) Where leave is granted to the tenant or licensee to contest the application the Competent Authority shall commence the hearing of the application as early as practicable and shall, as far as possible, proceed with the hearing from day to day, and decide the same, as far as may be, within six months of the order granting of such leave to contest the application.

(5) The Competent Authority shall, while holding an inquiry in a proceeding to which this Chapter applies, follow the practice and procedure of a Court of Small Causes, including the recording of evidence.

Section 44. Order of Competent Authority to be non-appealable and revision by State Government

(1) No appeal shall lie against an order for the recovery of possession of any premises made by the Competent Authority in accordance with the procedure specified in section 43.

(2) The State Government or such officer, not below the rank of an Additional Commissioner of a Revenue Division, as the State Government may, by general or special order, authorise in this behalf, may, at any time suo motu or on the application of any person aggrieved, for the purposes of satisfying itself that an order made in any case by the Competent Authority under section 43 is according to law, call for the record of that case and pass such order in respect thereto as it or he thinks fit:

Provided that, no such order shall be made except after giving the person affected a reasonable opportunity of being heard in the matter:

Provided further that, no powers of revision at the instance of person aggrieved shall be exercised, unless an application is presented within ninety days of the date of the order sought to be revised.

Section 45. Effect of refusal or failure to comply with order of eviction

If any person refuses or fails to comply with the order of eviction made under section 43 within thirty days of the date on which it has become final, the Competent Authority or any other officer duly authorised by the Competent Authority in this behalf, may evict that person from, and take possession of, the premises and deliver the same to the landlord and for that purpose, use such force as may be necessary.

Section 46. Pending Suits and proceedings in courts

(1) Subject to sub-section (2), all suits and proceedings filed by landlords, being the landlords referred to in clause (a) or (b) or (c) of section 41 for eviction of tenant on the grounds specified in section 22 or 23 or 24 and pending on the date of commencement of this Act, unless the landlord withdraws the same in relation to relief of recovery of possession of the premises claimed therein, be heard, proceeded with and disposed of by the Court in which such suit or proceeding is pending as if this Act had not been passed.

(2) Any such landlord seeking to evict the tenant on the grounds specified in section 22 or 23 or 24 may, if he has already proceeded against the tenant in a suit or in a proceeding in the court and withdraws the suit or proceeding in relation to the claim made therein with leave of court proceed against the tenant in accordance with the provisions of this Chapter.

Section 47. Bar of jurisdiction

Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Competent Authority or the State Government or an officer authorised by it is empowered by or under this Act, to decide, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power so conferred on the Competent Authority or the State Government or such officer.

Section 48. Section 18 to apply with modification

(1) In respect of recovery of possession by a landlord referred to in clause (b) or (c) of section 41 in pursuance of an order of the Competent Authority, the provisions of section 18 shall apply as if, for sub-sections (1) and (2) thereof, the following sub-sections had been substituted, namely:-

"(1) Where a landlord, being the landlord referred to in clause (b) of section 41 who has obtained possession of the premises in pursuance of any order passed by the Competent Authority, does not occupy the premises or re-lets either the whole or any part of the premises, within two years from the date such landlord recovers possession, to any person other than the evicted tenant, the Competent Authority may, on the application of the evicted tenant, made within twenty-five months of such date, order the landlord or any other person claiming under him to place the evicted tenant in occupation of the premises on the original terms and conditions, and on such order being made the landlord or such person who may be in occupation of the premises shall give vacant possession to the evicted tenant.

(2) Any such landlord who keeps such premises unoccupied or re-lets the same as aforesaid and any such landlord or other person in occupation of the premises who fails to comply with order of the Competent Authority under sub-section (1), shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.".

(2) Nothing in section 20 shall apply to a landlord referred to in clause (c) of section 41.

Section 49. Competent Authority to be deemed to be public servant

A Competent Authority appointed under this Chapter shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Section 50. All proceedings before Competent Authority to be judicial proceedings

All proceedings before a Competent Authority shall be deemed to be judicial proceedings for the purposes of sections 193 and 228 of the India Penal Code (45 of 1860).

Section 51. Competent Authority to be deemed to be civil court for certain purpose

Every Competent Authority shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

Section 52. Protection of action taken under this Act

No suit, proceeding or other legal proceedings shall lie against the Competent Authority in respect of anything in good faith done or intended to be done under this Act.

CHAPTER IX MISCELLANEOUS

Section 53. Certain offences to be cognizable

Offence under section 10 shall be non-cognizable and offences under sections 17, 18, 19, 21, 29, 30 and 31 shall be cognizable and shall not be triable by any court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class.

Section 54. Offences by companies, etc

Where person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not) or a firm, every Director, Manager, Secretary, Agent or other officer or person concerned with the management thereof, and every partner of the firm shall, unless be proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Section 55. Tenancy agreement to be compulsorily registered

(1) Notwithstanding anything contained in this Act or any other law for the time being in force, any agreement for leave and licence or letting of any premises, entered into between the landlord and the tenant or the licensee, as the case may be, after the commencement of this Act, shall be in writing and shall be registered under the Registration Act, 1908 (XVI of 1908).

(2) The responsibility of getting such agreement registered shall be on the landlord and in the absence of the written registered agreement, the contention of the tenant about the terms and conditions, subject to which a premises have been given to him by the landlord on leave and licence or have been let to him, shall prevail, unless proved otherwise.

(3) Any landlord who contravenes the provisions of this section shall, on conviction, be punished with imprisonment which may extend to three months or with fine not exceeding rupees five thousand or with both.

Section 56. Right of tenant and landlord to receive lawful charges

Notwithstanding anything contained in this Act, it shall be lawful for,-

(i) the tenant or any person acting or purporting to act on behalf of the tenant to claim or receive any sum or any consideration, as a condition of the relinquishment, transfer or assignment of his tenancy of any premises;

(ii) the landlord or any person acting or purporting to act on behalf of the landlord to receive any fine, premium or other like sum or deposit or any consideration in respect of the grant, or renewal of a lease of any premises, or for giving his consent to the transfer of a lease to any other person.

Section 57. Power to make rules

(1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for,-

(a) the manner in which addition to the rent shall be made under sub-section (2) or clause (a) of sub-section (3) of section 11;

(b) the authority from which a declaration, and the manner and the form in which declaration or a certificate from a notified architect asserting that it is necessary to undertake repairs and the extent thereof and estimated cost thereof, to be obtained by the landlord, and the manner and the form in which, a certificate from such authority or such architect confirming that the repairs were carried out in accordance with the declaration, or as the case may be, the certificate aforesaid, and fixing the date of completion of the repairs and the actual expenses thereof, to be obtained by the landlord under clause (b) of sub-section (5) of section 11;

(c) the form and the manner in which a receipt is to be given under sub-section (1) of section 31;

(d) the manner in which rent recoverable according to any calendar other than the British calendar before the commencement of this Act shall be calculated and charged in terms of the British calendar under sub-section (2) of section 32.

(e) the procedure to be followed in trying or hearing suits, proceedings including proceedings for execution of decrees and distress warrants, applications, appeals and execution of orders;

(f) levy of court-fees in suits, proceedings and applications instituted before a court or Competent Authority;

(g) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty 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, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date of publication of a notification in the Official Gazette of such decision, 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 or omitted to be done under that rule.

Section 58. Repeal and saving

(1) On the commencement of this Act, the following laws, that is to say,-

(a) the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom. LVII of 1947);

(b) the Central Provinces and Berar Regulation of Letting of Accommodation Act, 1946 (C. P. and Berar Act XI of 1946) including the Central Provinces and Berar Letting of Houses and Rent Control Order, 1949; and

(c) the Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954 (Hyd. Act No. XX of 1954), shall stand repealed.

(2) Notwithstanding such repeal,-

(a) all applications, suits and other proceedings under the said Acts, pending on the date of commencement of this Act before any Court, Controller, Competent Authority or other office or authority, shall be continued and disposed of, in accordance with the provisions of the Acts so repealed, as if the said Acts had continued in force and this Act had not been passed;

(b) the provisions for appeal under the Acts so repealed shall continue in force in respect of applications, suits and proceedings disposed of thereunder;

(c) any appointment, rule and notification made or issued under any of the repealed Acts and in force on the date of commencement of this Act shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been made or issued under this Act and shall continue in force until it is superseded or modified by any appointment, rule or notification made or issued under this Act;

(d) all prosecutions instituted under the provisions of any of the repealed Acts shall be effective and disposed of in accordance with the law.

Section 59. Removal of doubt as regards proceedings under Chapter VII of the Presidency Small Causes Court Act, 1882

For the removal of doubt it is hereby declared that, unless there is anything repugnant in subject or context, references to suits or proceedings in this Act shall include reference to proceedings under Chapter-VII of the Presidency Small Causes Courts Act, 1882 (XVI of 1882), and reference to decrees in this Act shall include reference to final orders in such proceedings.

Section 60. Removal of difficulty

If any difficulty arises in giving effect to the provisions of this Act unifying, consolidating and amending the laws relating to the control of rent and eviction and other connected matters in the repealed Acts, and as are contained in this Act, the State Government may, as occasion arises, by order do anything which appears to it to be necessary for the purpose of removing the difficulty:

Provided that, no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

Schedules

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

SCHEDULE I (official file, page 32)

SCHEDULE II (official file, page 43)

SCHEDULE III (official file, page 44)

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