

## The Himachal Pradesh Urban Rent Control Act, 1971

Act 23 of 1971

**Keyword(s):**

**Building, Controller, Landlord, Non-Residential Building, Rented Land, Residential Building, Scheduled Building, Tenant, Urban Area**

**Amendments appended: 9 of 1978, 23 of 1978**

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THE HIMACHAL PRADESH URBAN RENT CONTROL  
ACT, 1971

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## THE SCHEDULE

## 624 THE HIMACHAL PRADESH RENT CONTROL ACT, 1971.

(Act No. 23 of 1971)<sup>1</sup>

(Received the assent of the Governor on the 5th November, 1971, and was published in R.H.P. Extra., dated the 17th November, 1971 at pages 1393—1408)

Amended, repealed or otherwise affected by,—

- (i) H.P. Act No. 22 of 1974,<sup>2</sup> published in R.H.P. Extra., dated the 6th November, 1974, pages 1516-1517.
- (ii) H.P. Act No. 7 of 1975,<sup>3</sup> published in R.H.P. Extra., dated the 5th April, 1975, page 400-401.
- (iii) H.P. ordinance No. 6 of 1975, published in R.H.P. Extra, dated the 14th November, 1975, page 1567. (Replaced by H. P. Act No. 14 of 1976).
- (iv) H.P. Act No. 14 of 1976,<sup>4</sup> published in R.H.P. Extra., dated the 30th April, 1976 at pages 1176-77.

**An Act to provide for the control of rents and evictions within the limits of urban areas.**

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-second year of the Republic of India as follows :—

**1. Short title, extent and commencement.** (1) This Act may be called the Himachal Pradesh Urban Rent Control Act, 1971.

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

(3) It shall come into force at once.

**2.—Definitions.** In this Act, unless there is anything repugnant in the subject or context—

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

(b) “Controller” means any person who is appointed by the State Government to perform the functions of a Controller <sup>5</sup>under this Act;

<sup>1</sup>For Statement of Objects and Reasons, see R.H.P. Extra., dated the 24th September, 1971, P 1250.

<sup>2</sup>For Statement of Objects and Reasons, see R.H.P. Extra., dated the 18th October, 1973, p 1578.

<sup>3</sup>For statement of Objects and Reasons, see R.H.P. Extra. dated the 17th February, 1975, P 154.

<sup>4</sup>For Statement of Objects and Reasons, see R.H.P Extra. dated the 21st February 1976, P 614.

<sup>5</sup>Collectors appointed vide Not. appended.

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

Provided that residence in a building only for the purpose of guarding it shall not be deemed to convert a "non-residential building" to a "residential building";

- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "rented land" means any land let separately for the purpose of being used principally for business or trade;
- (g) "residential building" means any building which is not a non-residential building;
- (h) "scheduled building" means a residential building which is being used by a person engaged in one or more of the professions specified in the Schedule to this Act, partly for his business and partly for his residence.
- (i) "tenant" means any person by whom or on whose account rent is payable for a building or rented land and includes a tenant continuing in possession after the termination of the tenancy in his favour but does not include a person placed in occupation of a building or rented land by its tenant, unless with the consent in writing of the landlord, or a person to whom the collection of rent or fees in a public market, cart-stand or slaughter house or of rents for shops has been framed out or leased by a municipal, town or notified area committee, or municipal corporation, or cantonment board; and
- (j) "urban area" means any area administered by a municipal corporation, a municipal committee, a cantonment board, or a notified area committee or any area declared by the State Government by notification to be urban for the purpose of this Act.

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

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

14. (1) Notwithstanding anything contained in any other law, it shall be lawful after the death of tenant for his widow and if the tenant is the wife, the widower, to retain possession of the building or rented land as tenant of a landlord till she dies or remarries, and in the case of the widower till he dies, on the same terms and conditions on which the tenancy was held by her husband and in the case of the widower, the wife, and all the provisions of this Act shall apply to such a case.

(2) After the death or remarriage of the widow or the death of the widower or whereafter the death of a tenant there is no widow or widower, then in such a case notwithstanding anything contained in any other law, it shall be lawful for minor sons or daughters of such a tenant to retain possession of the building or rented land of the landlord till the age of majority or the sons or till the daughters get married, on the same terms and conditions on which the tenancy was held by their father or mother.

5. **Determination of fair rent.**—(1) The Controller shall on application by the tenant or landlord of a building or rented land fix the fair rent for such building or rented land after holding such inquiry as the Controller thinks fit.

(2) In determining the fair rent under this section, the Controller shall fix a basic rent taking into consideration:—

- (a) the prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances during the twelve months prior to the 15th August, 1947: and
- (b) the rental value of such building or rented land if entered in property tax assessment register of the municipal corporation, municipal town, notified area committee or cantonment board, as the case may be, prevailing at the time mentioned in clause (a).

(3) In fixing the fair rent of a residential building the Controller may allow, if the basic rent—

- (i) in the case of a building in existence before the 15th day of August, 1947,—
  - (a) does not exceed Rs. 25 per mensem, an increase not exceeding 10 per cent on such basic rent;
  - (b) exceeds Rs. 25 per mensem, but does not exceed Rs. 50 per mensem, an increase not exceeding 15 per cent on such basic rent.
  - (c) exceeds Rs. 50 per mensem, an increase not exceeding 25 per cent on such basic rent.
- (ii) in the case of a building constructed between 15th August, 1947 and 15th August, 1966—
  - (a) does not exceed Rs. 25 per mensem, an increase not exceeding 25 per cent on such basic rent.

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<sup>1</sup>Section 4 subs. for the original one, by H.P. Act No. 22 of 1974, sec. 2.

- (b) exceeds Rs 25 but does not exceed Rs 50 per mensem, an increase not exceeding 40 per cent on such basic rent;
- (c) exceeds Rs 50 per mensem, an increase not exceeding 50 per cent on such basic rent.
- (iii) In the case of a building constructed between 16th August, 1966 and 15th August, 1971,—
- (a) does not exceed Rs 25 per mensem, an increase not exceeding 40 per cent on such basic rent;
- (b) exceeds Rs 25 but does not exceed Rs 50 per mensem, an increase not exceeding 65 per cent on such basic rent;
- (c) exceeds Rs 50 per mensem, an increase not exceeding 75 per cent on such basic rent.
- (4) In fixing the fair rent of a scheduled building the Controller may allow, if the basic rent—
- (i) in the case of a building in existence before 15th August, 1947—
- (a) does not exceed Rs 25 per mensem, an increase not exceeding 15 per cent on such basic rent ;
- (b) exceeds Rs. 25 but does not exceed Rs 50 per mensem, an increase not exceeding 20 per cent on such basic rent ;
- (c) exceeds Rs. 50 per mensem, an increase not exceeding 30 per cent on such basic rent.
- (ii) in the case of a building constructed between 15th August, 1947 and 15th August, 1966—
- (a) does not exceed Rs 25 per mensem, an increase not exceeding 30 per cent on such basic rent;
- (b) exceeds Rs. 25 but does not exceed Rs. 50 per mensem, an increase not exceeding 45 per cent on such basic rent;
- (c) exceeds Rs 50 per mensem, an increase not exceeding 55 per cent on such basic rent.
- (iii) In the case of a building constructed between 16th August, 1966 and 15th August, 1971—
- (a) does not exceed Rs 25 per mensem, an increase not exceeding 45 per cent on such basic rent;
- (b) exceeds Rs 25 but does not exceed Rs 50 per mensem, an increase not exceeding 70 per cent on such basic rent ;

- (c) exceeds Rs 50 per mensem, an increase not exceeding 80 per cent on such basic rent.
- (5) In fixing the fair rent of a non-residential building or rented land, the Controller may allow, if the basic rent—
- (i) in the case of a building in existence before the 15th August, 1947 or in the case of rented land—
- (a) does not exceed Rs 25 per mensem, an increase not exceeding 30 per cent on such basic rent.
- (b) exceeds Rs 25 but does not exceed Rs 50 per mensem, an increase not exceeding 50 per cent on such basic rent;
- (c) exceeds Rs 50 per mensem, an increase not exceeding 60 per cent on such basic rent.
- (iii) in the case of a building constructed between 15th August, 1947 and 15th August, 1966—
- (a) does not exceed Rs. 25 per mensem, an increase not exceeding 40 per cent on such basic rent;
- (b) exceeds Rs 25 but does not exceed Rs 50 per mensem, an increase not exceeding 60 per cent on such basic rent;
- (c) exceeds Rs 50 per mensem, an increase not exceeding 100 per cent on such basic rent.
- (iii) in the case of a building constructed between 16th August, 1966 and 15th August, 1971 —
- (a) does not exceed Rs 25 per mensem, an increase not exceeding 50 per cent on such basic rent;
- (b) exceeds Rs 25 but does not exceed Rs 50 per mensem, an increase not exceeding 70 per cent on such basic rent;
- (c) exceeds Rs 50 per mensem, an increase not exceeding 140 per cent on such basic rent.
- (6) The provision of this section shall not apply to buildings constructed between 16th August, 1971 and 15th August, 1976.
- (7) Nothing in this section shall be deemed to entitle the Controller to fix the fair rent of a building or rented land at an amount less than the rent payable for such building or rented land under a subsisting lease entered into before the 15th day of August, 1947.

**6. Increase in fair rent in what cases admissible.**—When the fair rent of a building or rented land has been fixed under section 5, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense and if the building or rented land is then in the occupation of a tenant, at his request :

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

Provided further that any dispute between the landlord and tenant in regard to any increase claimed under this section shall be decided by the Controller :

Provided further that nothing in this section shall apply to any periodical increment of rent accruing under any subsisting agreement entered into before the 15th day of August, 1947.

**7. Landlord not to claim anything in excess of fair rent.**—(1) Save as provided in section 6, when the Controller has fixed the fair rent of a building or rented land under section 5—

(a) the landlord shall not claim or receive any premium or other like sum in addition to fair rent or any rent in excess of such fair rent, but the landlord may stipulate for and receive in advance an amount not exceeding one month's rent;

(b) any agreement for the payment of any sum in addition to rent or of rent in excess of such fair rent shall be null and void.

(2) Nothing in this section shall apply to the recovery of any rent which became due before the 15th day of August, 1947.

**8. Fine or premium not to be charged for grant, renewal or continuance of tenancy.**—(1) Subject to the provisions of this Act, no landlord shall claim or receive any rent in excess of the fair rent, notwithstanding any agreement to the contrary.

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

(3) Nothing in this section shall apply to any payment under any subsisting agreement entered into before the 15th day of August, 1947.

**9. Rent which should not have been paid may be recovered.**—(1) Where any sum has, whether before or after the commencement of this Act, been paid which sum is by reason of the provisions of this Act not payable, such sum shall, at any

time within a period of one year after the date of the payment, or in the case of a payment made before the commencement of this Act, within one year after the commencement thereof, be recoverable by the tenant by whom it was paid or his legal representative from the landlord who received the payment or his legal representative, and may without prejudice to any other method of recovery be deducted by such tenant from any rent payable within such one year by him to such landlord.

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

**10. Increase of rent on account of payment of rates, etc., of local authority, but rent not to be increased on account of payment of other taxes etc.—**(1) Notwithstanding anything contained in any other provisions of this Act, a landlord shall be entitled to increase the rent of a building or rented land if after the commencement of this Act, fresh rate, cess or tax is levied in respect of the building or rented land by Government or any local authority, or if there is an increase in the amount of such a rate, cess or tax being levied at the commencement of the Act:

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

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

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

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

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

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

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

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

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

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

*Explanation I.*—In this section, “essential supply or service” includes supply of water, electricity, lights in passages and on stair cases, conservancy and sanitary services.

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

**12. Conversion of a residential building into a non-residential building.—**

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

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

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

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

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

(3) Where any repairs without which the building or rented land is not habitable or useable except with undue inconvenience are to be made and the landlord neglects or fails to make them after notice in writing, the tenant may apply to the Controller for permission to make such repairs himself and may submit to the Controller an estimate of the cost of such repairs, and, thereupon, the Controller may, after giving the landlord an opportunity of being heard and after considering such estimate of the cost and making such inquiries as he may consider necessary, by an order in writing, permit the tenant to make such repairs at such cost as may be specified in the order and it shall thereafter be lawful for

the tenant to make such repairs himself and to deduct the cost thereof, which shall in no case exceed the amount so specified, from the rent or otherwise recover it from the landlord :

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

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

**14. Eviction of tenants.**—(1) A tenant in possession of a building or rented land shall not be evicted therefrom in execution of a decree passed before or after the commencement of this Act or otherwise and whether before or after the termination of the tenancy, except in accordance with the provisions of this section.

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

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

Provided that if the tenant on the first hearing of the application for ejectment after due service pays or tenders the arrears of rent and interest at 6 per cent per annum on such arrears together with the cost of application assessed by the Controller, the tenant shall be deemed to have duly paid or tendered the rent within the time aforesaid:

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

- (ii) that the tenant has after the commencement of this Act, without the written consent of the landlord—
  - (a) transferred his right under the lease or sublet the entire building or rented land or any portion thereof, or

- (b) used the building or rented land for a purpose other than that for which it was leased, or
- (iii) that the tenant has committed such acts as are likely to impair materially the value or utility of the building or rented land, or
- (iv) that the tenant has been guilty of such acts and conduct as are a nuisance to the occupiers of buildings in the neighbourhood, or
- (v) that where the tenant has ceased to occupy the building or rented land for a continuous period of twelve months without reasonable cause,

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

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

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

- (i) in the case of a residential building, if—
  - (a) he requires it for his own occupation;
  - (b) he is not occupying another residential or scheduled building as the case may be, owned by him, in the urban area concerned;
  - (c) he has not vacated such a building without sufficient cause within five years of the filing of the application, in the said urban area;
  - (d) it was let to the tenant for use as a residence by reason of his being in service or employment of the landlord, and the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment:

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

- (e) the landlord is a member of the Armed Forces of the Union of India and requires it for the occupation of his family and if he

produces a certificate of the prescribed authority referred to in section 7 of the Indian Soldiers (Litigation) Act, 1925, (4 of 1925) that he is serving under special conditions within the meaning of section 3 of that Act or is posted in a non-family station.

*Explanation.*—For the purpose of this sub-clause—

- (1) the certificate of the prescribed authority shall be conclusive evidence that the landlord is serving under special conditions, or is posted in a non-family station;
  - (2) “family” means parents and such relations of the landlord as ordinarily live with him and are dependent upon him;
- (f) the tenant has, whether before or after the commencement of this Act, built, acquired vacant possession of or been allotted, a residence.
- (ii) in the case of a rented land, if—
- (a) he requires it for his own use;
  - (b) he is not occupying in the urban area concerned for the purpose of his business any other rented land;
  - (c) he has not vacated such rented land without sufficient cause within five years of the filing of the application, in the urban area concerned;
  - (d) he requires rented land for construction of residential or non-residential building or for establishment of industry; and
  - (e) the tenant lets out his rented land, to some-body else, on higher rent.
- (iii) in the case of any building or rented land, if he requires it to carry out any building work at the instance of the Government or local authority or any Improvement Trust under some improvement or development scheme or if it has become unsafe or unfit for human habitation or is required bonafide by him for carrying out repairs which cannot be carried out without the building or rented land being vacated or that the building or rented land are required bona fide by him for the purpose of building or re-building or making thereto any substantial additions or alterations and that such building or re-building or addition or alteration cannot be carried out without the building or rented land being vacated.

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- (iv) in the case of any residential building, if he requires it for use as an office, or consulting room by his son who intends to start practice as a lawyer, an architect, a dentist, an engineer, a veterinary surgeon or a medical practitioner, including a practitioner of Ayurvedic, Unani or Homoeopathic system of medicine or for the residence of his son who is married, if—
- (a) his son as aforesaid is not occupying in the urban area concerned any other building for use as office, consulting room or residence, as the case may be ; and
  - (b) his son as aforesaid has not vacated such a building without sufficient cause after the commencement of this Act, in the urban area concerned :

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

Provided further that where the landlord has obtained possession of any building or rented land under the provision of sub-clause (i) or sub-clause (ii) he shall not be entitled to apply again under the said sub-clause for the possession of any other building of the same class or rented land:

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

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

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

- (c) Where an application is made under sub-clause (i)(c) of clause (a), it shall be disposed of, as far as may be within a period of one month and if the claim of the landlord is accepted, the Controller shall make an order directing the tenant to put the landlord in possession of the building on a date to be specified

in the order and such date shall not be later than fifteen days from the date of the order.

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

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

**15. Decision which has become final not to be reopened.**—The Controller shall summarily reject any application under sub-section (2) or under sub-section (3) of section 14 which raises substantially issues as have been finally decided in a former proceeding under this Act.

**16. Leases of vacant buildings.**—Whenever any building which was constructed before 15th day of August, 1966, and was being let out to tenants remains vacant for a period of three months, the Controller may on receipt of an application from a person serve on the landlord a notice informing him that he should show cause why the vacant building be not let out to a tenant, who will pay fair rent to the landlord. On hearing the landlord the Controller may on such terms on which the building was being let out may lease the same to a person who has in his occupation no other building either as a owner or as a tenant.

**17. Receipt to be given for rent paid.**—(1) Every tenant shall pay rent within the time fixed by contract or in the absence of such contract, by the fifteenth day of the month next following the month for which it is payable.

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

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

**18. Deposit of rent by the tenant.**—(1) Where the landlord does not accept any rent tendered by the tenant within the time referred to in section 17 or refuses or neglects to deliver a receipt referred to therein or where there is a bonafide doubt as to the person or persons to whom the rent is payable, the tenant may deposit such rent with the Controller in the prescribed manner.

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

- (a) the building or rented land for which the rent is deposited with a description sufficient for identifying the building or rented land;
- (b) the period for which the rent is deposited;
- (c) the name and address of the landlord or the person or persons claiming to be entitled to such rent;
- (d) the reasons and circumstances for which the application for depositing the rent is made;
- (e) such other particulars as may be prescribed.

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

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

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

(5) If at the time of filing the application under sub-section (4) but not after the expiry of thirty days from receiving the notice of deposit, the

landlord or the person or persons claiming to be entitled to the rent complains to the Controller that the statements in the tenant's application of the reasons and circumstances which led him to deposit the rent are untrue, the Controller, after giving the tenant an opportunity of being heard, may levy on the tenant a fine which may extend to an amount equal to two months' rent, if the Controller is satisfied that the said statements were materially untrue and may order that a sum out of the fine realised be paid to the landlord as compensation.

(6) The Controller may, on the complaint of the tenant and after giving an opportunity to the landlord of being heard, levy on the landlord a fine which may extend to an amount equal to two months rent, if the Controller is satisfied, that the landlord, without any reasonable cause, refused to accept rent though tendered to him within the time referred to in section 17 and may further order that a sum out of fine realised be paid to the tenant as compensation.

**19. Time limit for making deposit and consequences of incorrect particulars in application for deposit.—**(1) No rent deposited under section 18 shall be considered to have been validly deposited under that section unless the deposit is made within twenty-one days of the time referred to in section 17 for payment of the rent.

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

(3) If the rent is deposited within the time mentioned in sub-section (1) and does not cease to be a valid deposit for the reason mentioned in sub-section (2), the deposit shall constitute payment of rent to the landlord, as if the amount deposited had been validly tendered.

**20. Saving as to acceptance of rent and forfeiture of rent in deposit.—**(1) The withdrawal of rent deposited under section 18 in the manner provided therein shall not operate as an admission against the person withdrawing it of the correctness of the rate of rent, the period of default, the amount due, or of any other facts stated in the tenant's application for depositing the rent under the said section.

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

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

**21. Vesting of appellate authority on officers by State Government.—(1)**

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

(b) Any person aggrieved by an order passed by the Controller may, within fifteen days from the date of such order or such longer period as the appellate authority may allow for reasons to be recorded in writing, prefer an appeal in writing to the appellate authority having jurisdiction. (In computing the period of fifteen days the time taken to obtain a certified copy of the order appealed against shall be excluded).

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

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

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

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

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

**23. Execution of orders.—**Save as otherwise provided in section 26, any order made by the Controller or an order passed on appeal under this Act shall be executable by the Controller as a decree of a civil court and for this purpose, the Controller shall have all the powers of a civil court.

**[23-A. Power of the Controller to transfer proceedings from one Controller to another Controller.—**(1) Where there are two or more Controllers appointed at the same station to exercise jurisdiction under this Act in the same territory, it shall be the seniormost (in service) of such Controllers who alone shall be competent to initially entertain all applications and proceedings under this Act.

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

**23-B. Power of the High Court or appellate authority to transfer proceedings from one appellate authority or Controller to another.—**(1) The High Court may on an application made to it or otherwise, by order, transfer, any proceeding pending before any appellate authority to another appellate authority and the appellate authority to whom the proceeding is transferred, may subject to any special directions in the order of transfer, dispose of the proceedings.

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

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

**25. Penalties.** (1) If any person contravenes any of the provisions of section 10, section 11, section 12 or section 24 he shall be punishable with fine which may extend to one thousand rupees.

(2) If any person contravenes any of the provisions of clause (a) of sub-section (1) of section 7 or sub-sections (1) and (2) of section 8 shall be punishable with imprisonment which may extend to two years and with fine.

(3) No court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act.

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<sup>1</sup>Added by H.P. Ord. No. 6 of 1975, Sec. 2, replaced by H.P. Act No. 14 of 1976.

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

**26. Controller to exercise power of a magistrate for recovery of fine.**—Any fine imposed by a Controller under this Act shall be paid by the person fined within such time as may be allowed by the Controller and the Controller may, for good and sufficient reason, extend the time, and in default of such payment, the amount shall be recoverable as a fine under the provisions of the Code of Criminal Procedure, 1898 (5 of 1898) and the Controller shall be deemed to be a magistrate under the said Code for the purposes of such recovery.

**27. Powers to make rules.**—(1) The State Government, may, by notification, make rules<sup>1</sup> for the purposes of carrying out all or any of the provisions of this Act.

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

(3) In making any rule the Government may provide that a breach thereof shall be punishable with fine which may extend to Rs. 500 and when the breach is continuing one, with further fine which may extend to Rs. 1,000.

**28. Repeal and savings.**—(1) The East Punjab Rent Restriction Act, 1949 (3 of 1949) as amended from time to time as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966 and the East Punjab Urban Rent Restriction Act, 1949 (3 of 1949) as amended from time to time in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed.

(2) Notwithstanding such repeal, all suits and other proceedings under the said Acts pending, at the commencement of this Act, before any court

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<sup>1</sup>Rules framed,—*vide* Not. No. 1-4-/72-LSG, dated the 13th December, 1973 (Appended.)

or other authority shall be continued and disposed of in accordance with the provisions of the said Acts, as if the said Acts had continued in force and this Act had not been passed :

Provided that section 4 shall be applicable to all pending suits and proceedings for the fixation of fair rent or eviction against widows, <sup>1</sup>[widowers,] minor sons or unmarried daughters of any tenant and all such suits and proceedings shall be disposed of in accordance with the provisions of this Act :

Provided further that the provisions for appeal under the said Acts shall continue in force in respect of suits and proceedings disposed of thereunder<sup>2</sup> :

<sup>3</sup>[Provided further that notwithstanding the provisions of section 14, all orders of ejection passed whether before or after commencement of this Act under the provisions of the Acts hereby repealed, shall be executed in accordance with the provisions of the Act under which they are passed.]

#### THE SCHEDULE

[See clause (h) of section 2]

1. Lawyers.
2. Architects.
3. Dentists.
4. Engineers.
5. Veterinary Surgeons.
6. Medical practitioners, including practitioners of indigenous systems of medicine.

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<sup>1</sup>. Ins. by H.P. Act No. 22 of 1974, sec. 3.

<sup>2</sup>. Subs. for the sign full stop, by H.P. Act No. 7 of 1975, sec. 2. always been.

<sup>3</sup>. Ins. and deemed to have always been ins. by *bid*.

**THE HIMACHAL PRADESH URBAN RENT CONTROL  
(AMENDMENT) ACT, 1977**

**ARRANGEMENT OF SECTIONS**

*Sections:*

1. Short title and commencement.
2. Insertion of new sections 14-A and 14-B.
3. Amendment of section 21.
4. Insertion of Schedule II.

**THE HIMACHAL PRADESH URBAN RENT CONTROL  
(AMENDMENT) ACT, 1977**

(ACT No. 9 OF 1978)<sup>1</sup>

(Received the assent of the Governor of H.P. on the 18th February, 1978 and was published in R.H.P. Extra., dated the 25th February, 1978, P. 165-168).

*An Act further to amend the Himachal Pradesh Urban Rent Control Act, 1971 (Act No. 23 of 1971).*

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Himachal Pradesh Urban Rent Control (Amendment) Act, 1977.

(2) It shall come into force at once.

**2. Insertion of new sections 14-A and 14-B.**—After section 14 of the Himachal Pradesh Urban Rent Control Act, 1971 (23 of 1971) (hereinafter called the principal Act) the following new sections 14-A and 14-B shall be inserted, namely:—

**“14-A. Right to recover immediate possession of premises to accrue to certain persons.**—(1) Where a landlord who, being a person in occupation of any residential premises allotted to him by the Central Government, the State Government or any local authority is required, by, or in pursuance of, any general or special order made by the Central or State Government or local authority, as the case may be, to vacate such residential accommodation, or in default, to incur certain obligations, on the ground that he owns, within the urban area a residential accommodation either in his own name or in the name of his wife or dependent child, there shall accrue, on and from the date of such order, to such landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether express or implied), custom or usage to the con-

1. For statement of Objects and Reasons, see R.H.P. Extra., dated 31-12-1977, P. 1231.

## H. P. URBAN RENT CONTROL (AMENDMENT) ACT, 1977 133

trary, a right to recover immediately possession of any premises let out by him:

Provided that nothing in this section shall be construed as conferring a right on landlord owning, within the urban area, two or more dwelling houses, whether in his own name or in the name of his wife or dependent child, to recover the possession of more than one dwelling house and it shall be lawful for such landlord to indicate the dwelling house, possession of which he intends to recover.

- (2) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract, custom or usage to the contrary, where the landlord exercises the right of recovery conferred on him by sub-section (1), no compensation shall be payable by him to the tenant or any person claiming through or under him and no claim for such compensation shall be entertained by any court, tribunal or other authority:

Provided that where the landlord had received;—

- (a) any rent in advance from the tenant, he shall, within a period of ninety days from the date of recovery of the possession of premises by him, refund to the tenant such amount as represents the rent payable for the un-expired portion of the contract, agreement or lease;
- (b) any other payment, he shall, within the period aforesaid, refund to the tenant a sum which shall bear the same proportion to the total amount so received, as the un-expired portion of the contract or agreement, or lease bears to the total period of contract or agreement or lease:

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

**14-B. Special procedure for the disposal of applications for eviction on the ground of bona fide requirement under section 14-A.**—(1) Every application by a landlord for the recovery of possession of any premises on the ground specified in sub-section (1) of section 14-A shall be dealt with in accordance with the procedure specified in this section.

(2) The Controller shall issue summons, in relation to every application referred to in sub-section (1), in the form specified in Schedule II.

(3) (a) The Controller shall, in addition to, and simultaneously with, the issue of summons for service on the tenant, also direct the summons to be served by registered post, acknowledgment due, addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and may, if the circumstances of the case so require, also direct the publication of the summons in a newspaper circulating in the locality in which the tenant is last known to have resided or carried on business or personally worked for gain.

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

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

(5) The Controller shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in sub-section (1) of section 14-A.

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

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

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

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

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

(10) Save as otherwise provided in this section, the procedure for the disposal of an application for eviction on the ground specified in sub-section (1) of section 14-A shall be the same as the procedure for the disposal of applications by the Controller.

3. Amendment of section 21.—In clause (b) of sub-section (1) of section 21 of the principal Act the words, "Any person aggrieved by an order passed by the Controller" shall be substituted with the words, "Save as otherwise provided in this Act, any person aggrieved by an order passed by the Controller."

**B. P. URBAN RENT CONTROL (AMENDMENT) ACT, 1978 . 135**

4. Insertion of Schedule-II.—In the Schedule to the principal Act, the words "THE SCHEDULE" shall be substituted with the words and figure "SCHEDULE-I" and after the existing Schedule so amended the following Schedule-II, shall be inserted namely:—

**"SCHEDULE-II**

[See Section 14-B (2)]

**FORM OF SUMMONS IN A CASE WHERE RECOVERY OF  
POSSESSION OF PREMISES IS PRAYED FOR ON THE GROUND  
OF A *BONA FIDE* REQUIREMENT UNDER SUB-  
SECTION (1) OF SECTION 14-A**

To

(Name, description and place of residence of the tenant)

WHEREAS Shri.....has filed an application (a copy of which is annexed) for your eviction from (here insert the particulars of the premises) on the ground specified in sub-section (1) of section 14-A;

You are hereby summoned to appear before the Controller within fifteen days of the service hereof and to obtain the leave of the Controller to contest the application for eviction on the ground aforesaid; in default whereof, the applicant will be entitled, at any time after the expiry of the said period of fifteen days, to obtain an order for your eviction from the said premises.

Leave to appear and contest the application may be obtained on an application to the Controller supported by an affidavit as is referred to in sub-section (5) of section 14-B.

Given under my hand and seal this day of 19

Controller".

**THE HIMACHAL PRADESH URBAN RENT CONTROL (AMEND-  
MENT) ACT, 1978**

**ARRANGEMENT OF SECTIONS**

Sections :

1. Short title and commencement.
2. Amendment of section 2.
3. Addition of section 29.

**THE HIMACHAL PRADESH URBAN RENT CONTROL  
(AMENDMENT) ACT, 1978**

(ACT NO. 23 OF 1978)<sup>1</sup>

(Received the assent of the Governor, Himachal Pradesh on the 4th May, 1978 and was published in R.H.P. Extra. dated the 10th May, 1978, p. 535).

1. For statement of Objects and Reasons, see R.H.P. Extra., dated 18-4-1978, P. 356.

**B. P. URBAN RENT CONTROL (AMENDMENT) ACT, 1978 . 135**

4. **Insertion of Schedule-II.**—In the Schedule to the principal Act, the words "THE SCHEDULE" shall be substituted with the words and figure "SCHEDULE-I" and after the existing Schedule so amended the following Schedule-II, shall be inserted namely:—

"SCHEDULE-II

[See Section 14-B (2)]

**FORM OF SUMMONS IN A CASE WHERE RECOVERY OF  
POSSESSION OF PREMISES IS PRAYED FOR ON THE GROUND  
OF A *BONA FIDE* REQUIREMENT UNDER SUB-  
SECTION (1) OF SECTION 14-A**

To

(Name, description and place of residence of the tenant)

WHEREAS Shri.....has filed an application (a copy of which is annexed) for your eviction from (here insert the particulars of the premises) on the ground specified in sub-section (1) of section 14-A;

You are hereby summoned to appear before the Controller within fifteen days of the service hereof and to obtain the leave of the Controller to contest the application for eviction on the ground aforesaid; in default whereof, the applicant will be entitled, at any time after the expiry of the said period of fifteen days, to obtain an order for your eviction from the said premises.

Leave to appear and contest the application may be obtained on an application to the Controller supported by an affidavit as is referred to in sub-section (5) of section 14-B.

Given under my hand and seal this day of 19

Controller".

**THE HIMACHAL PRADESH URBAN RENT CONTROL (AMEND-  
MENT) ACT, 1978**

**ARRANGEMENT OF SECTIONS**

Sections :

1. Short title and commencement.
2. Amendment of section 2.
3. Addition of section 29.

**THE HIMACHAL PRADESH URBAN RENT CONTROL  
(AMENDMENT) ACT, 1978**

(ACT NO. 23 OF 1978)<sup>1</sup>

(Received the assent of the Governor, Himachal Pradesh on the 4th May, 1978 and was published in R.H.P. Extra. dated the 10th May, 1978, p. 535).

1. For statement of Objects and Reasons, see R.H.P. Extra., dated 18-4-1978, P. 356.

*an Act further to amend the Himachal Pradesh Urban Rent Control Act, 1971 (Act No. 23 of 1971).*

It is hereby enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Himachal Pradesh Urban Rent Control (Amendment) Act, 1978.

(2) It shall come into force at once.

2. *Amendment of section 2.*—For existing clause (d) of section 2 of the Himachal Pradesh Urban Rent Control Act, 1971 (23 of 1971) (hereinafter called the principal Act), the following clause (d) shall be substituted, namely:—

“(d) “non-residential building” means a building being used,—

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

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

Provided that if a building is let out for residential and non-residential purpose separately to more than one person, the portion thereof let out for the purpose of residence shall not be treated as a non-residential building.

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

3. *Addition of section 29.*—After section 28 of the principal Act, the following section 29, alongwith its heading, shall be added, namely:—

“29. *Special provisions relating to certain proceedings.*—Notwithstanding anything to the contrary contained in this Act, the provisions of clause (d) of section 2 as, as amended by the Himachal Pradesh Urban Rent Control (Amendment) Act, 1978 (9 of 1978) shall apply to all proceedings, under the East Punjab Urban Rent Restriction Act, 1942 (3 of 1949), or under this Act, pending, at the commencement of the said amendment, before a Rent Controller, an appellate authority or the High Court exercising revisional jurisdiction”.

#### NOTIFICATIONS & RULES

UNDER

### THE HIMACHAL PRADESH URBAN RENT CONTROL ACT, 1971

Exemption from the Operation of the Act

#### LOCAL SELF GOVERNMENT

*Shilpa-2, the 16th August, 1978*

No. 14-109/73-LSG.—In exercise of the powers conferred by section