AUTHORITATIVE ENGLISH TEXT

THE HIMACHAL PRADESH URBAN RENT COTROL ACT, 1987 ARRANGEMENT OF SECTIONS

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THE HIMACHAL PRADESH URBAN RENT COTROL ACT, 1987 (ACT No. 25 OF 1987)[1]

(Received the assent of the President of India on the 20th October, 1987 and was published in Hindi in R.H.P. Extra., dated 20-10-1987, P. 2069-2090 and in English in R.H.P. Extra., dated 10-11-1987, P. 2241-2258).

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

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

1. Short title extent and commencement.-(1)This Act may be called the Himachal Pradesh Urban Rent Control Act, 1987.

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

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

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

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

(iii)provisions contained in section 4 and section 29 of the Himachal Pradesh Urban Rent Control Act, 1971 (23 of 1971), shall be deemed to have remained in force during the period reckoned

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R. H. P. Extra., dated 10-9-87, p. 1682 and 1702.

from the day on which these were substituted or inserted, as the case may be in the said Act, till the appointed day; and

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

2.Definitions.-Inthis Act, unless the context otherwise requires, -

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

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

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

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

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

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

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

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

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

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

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

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

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

(j)"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 termination of the tenancy and in the event of the death of such person such of his heirs as are mentioned in Schedule-I to this Act and who were ordinarily residing with him at the time of his death, subject to the order of succession and conditions specified, respectively in Explanation-I and Explanation-II to this clause, but does not include a person placed in occupation of a building or rented land by its tenant, except with the written consent of the landlord, or a person to whom the collection of rent or fees in a public market, cart-stand or slaughter house or of rents for shops has been farmed out or leased by a municipal corporation or a municipal committee or a notified area committee or a cantonment board ;

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

(a)firstly, his surviving spouse;

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

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

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

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

(k)"urban area" means any area administered by a municipal corporation, a municipal committee, a cantonment board, or a notified area

committee or any area declared by the State Government, by notification, to be an urban area for the purposes of this Act.

3. Exemptions.-(1) The State Government may direct that all or any of the provisions of thisAct 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.

4. Determination of fair rent.-(1) The Controller shall, on application by the tenant or the landlord of a building or rented land, and after holding such enquiry as he may think fit, fix the fair rent for such a building or rented land. (2) The fair rent under sub-section (1) shall be.

(a)in respect of the building, the construction whereof was completed on or before the 25th day of January, 1971 or in respect of land let out before the said date, the rent prevailing in the locality for similar building or rented land let out to a new tenant during the year 1971 ; and

(b)in respect of the building, the construction whereof is completed after the 25th day of January, 1971 or in respect of land let out after the said date, the rent agreed upon between the landlord and the tenant preceding the date of the application, or where no rent has been agreed upon, the rent shall be determined on the basis of the rent prevailing in the locality for similar building or rented land on the date of application.

(3) Notwithstanding that the fair rent for building or rented land has been fixed under the East Punjab Urban Rent Restriction Act, 1949 (3 of 1949) or under the Himachal Pradesh Urban Rent Control Act, 1971, (23 of 1971), a landlord or tenant of such a building or rented land shall be entitled to get its fair rent fixed under this section.

(4) Notwithstanding anything contained in this Act, the Controller may fix the fair rent on the basis of the compromise arrived at between the parties to the proceedings and such rent shall be binding only on the parties and their heirs.

(5) The fair rent fixed under this section shall be operative from the date on which the application is filed under this section.

5. Revision of fair rent in certain cases. - (l)Save as provided in sub-section (2), when the fair rent of a building or rented land has been fixed under section 4, no further increase or decrease in such fair rent shall be premissible for a period of five years:

Provided that the decrease may be allowed in cases where there is a decrease or diminution in the accommodation or amenities provided.

(2) Notwithstanding anything contained in any law for the time being in force or in any contract, a landlord shall in addition to the increase in rent provided in this Act be entitled to increase the rent of a building or land at the

rate of 10 % (per cent) of fair rent Or the agreed rent, as the case may be, after every

five years and such increase shall be,-

(a)in a case where such a building or land has been let out for a period of five years or more immediately preceding the commencement of this Act -

(i)first with effect from the date of such commencement ; and

(ii) again with effect from the expiry of the period of every five years from such commencement; and

(b)where such a building or land has been let out before such commencement for a period shorter than five years and the maximum period within which such building or land remains let out extends beyond five years from the d1.te of the commencement of such a tenancy

(i) first with effect form the date of expiry of five years from the commencement of such tenancy ;

(ii)again with effect from the date of expiry of the period of every five years from the date on which revision made under clause (i) takes effect.

(3) Any dispute between the landlord and the tenant in regard to any increase or decrease in rent under this section shall be decided by the Controller.

6. Increase in fair rent in what cases admissible. - Save as provided under section 5, when the fair rent of a building or rented land has been fixed under section 4, no further increase *in* such fair rent shall be permissible except *in* cases where some addition, improvement or alteration has been carried out in the building or rented land 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.

7. Landlord not to claim anything ill excess of fair rent.-Save as provided in this Act, when the Controller has fixed the fair rent of a building or rented land under section 4-

(a)the landlord shall not claim or receive any premium or other like sum in addition to fair rent or any rent inexcess 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.

8. (1) 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 payment of any premium, pugree, fine advance or any other like sum in addition to the rent.

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

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

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

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

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

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

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

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

sub-section (4).

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

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

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

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

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

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

Explanation-II.-Forthe 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.-Noperson 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 ill good repairs.-(l)Every landlord shall be bound to keep the building or rented land in good and tenantable repairs.

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

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

(3) Where any repairs without which the building or rented land is no longer habitable or useable, except with undue inconvenience, are to be made and the landlord neglects or fails to make them after receiving notice in writing, the tenant may apply to the Controller for permi5sion to get such repairs done on his own and may submit to the Controller an estimate of the cost of such repairs, and thereupon the Controller may after giving the landlord an opportunity of being heard and after considering such estimate of the cost and making such inquiries as he may consider necessary, by an order in writing, permit the tenant to make such repairs at such cost as may be specified in the order and it shall thereafter be lawful for the tenant to get such repairs done on his own and to deduct the cost

thereof from the rent, which shall in no case exceed the amount so specified or otherwise recover it from the landlord :

Provided that the amount so deducted or recoverable in any year shall not

exceed 3 months' rent payable by the tenant:

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

14. Eviction of tenants.-(l)A tenant in possession of a building or rented

land shall not be evicted therefrom in execution of a decree passed before or after the commencement of this Act or otherwise, whether before or after the termination of the tenancy, except in accordance with the provisions of this Act.

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

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

Provided that If the tenant on the first hearing of the application for ejectment after due service pays or tenders the arrears of rent and interest at the rate of 9 per cent per annum on such arrears together with the cost of application assessed by the Controller, the tenant shall be deemed to have duly paid or tendered the rent within time aforesaid:

Provided further that if the arrears pertain to the period prior to the appointed day, the rate of interest shall be calculated at the rate of 6 per cent per annum:

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

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

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

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

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

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

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

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

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

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

(a)in the case of a residential building, if-

(i)he requires it for his own occupation :

Provided that he is not occupying another residential building owned by him in the urban area concerned:

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

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

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

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

*Explanation-I***.-**Forte purposes of this sub-clause-

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

(2) "family" means parents and such relation(s) of landlord as ordinarily

reside with him and is/are dependent upon him ;

(iv)the tenant has, whether before or after the commencement of this Act,

built or acquired vacant possession of or been allotted, a residence reasonably sufficient for his requirements

(b)in the case of rented land, if

(i)he requires it for his own use:

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

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

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

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

(c)in the case of any building or rented land, if he requires *it* to carry out any building work at the instance of the Government or local authority or any Improvement Trust under some improvement or development scheme or if it has become unsafe or unfit for human habitation or is required bona fideby him for carrying out repairs which cannot be carded out without the building or rented land being vacated or that the building or rented land is required bona-fideby 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;

(d)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

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

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

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

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

Provided further that where a landlord has obtained possession of any building under the provisions of clause (d),he shall not be entitled to apply again

under the said clause for the use of, or for the residence of the same son, as the case may be.

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

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

(5) Where a landlord who has obtained possession of the building or rented land in pursuance of an order under sub-section (3) does not occupy it himself or if possession was obtained by him for his family in pursuance of an order under sub-clause (iii)of clause (a)of sub-section. (3), his family does not occupy the residential building, or ifpossession was obtained by him on behalf of his son in pursuance of an order under clause (d)of sub-section (3) his son does not occupy it for the purpose for which the possession was obtained, for a conti-nuous period of twelve months from the date of obtaining possession or if possession was obtained under sub-section (2) of section 15 he does not occupy it for personal use for a continuous period of3 months from the date of obtaining possession or where a landlord who has obtained possession of a building under clause (c)of sub-section (3) puts that building to any use other than that for which it was obtained or lets it out to any tenant other than the tenant evicted from it, the tenant who has been

evicted may apply to the Controller for an order directing that he shall be restored to possession of such building or rented land and the Controller shall make an order accordingly.

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

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

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

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

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

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

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

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

(c)in the case of death of such specified landlord after the appointed day

and the date of his retirement, within one year of the date of such retirement ;

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

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

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

Explanation.-Forthe purposes of this section, the expression "retirement"

includes the voluntary retirement but does not include resignation, discharge or dismissal from service.

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

Provided that where the landlord had received,-

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

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

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

16. Special procedure for the disposal of applications for eviction on the ground of bon a fide requirement under section 14(3) *(*a) (iii) andsections 15.-(1)Every application by a .landlord for the recovery of possession of any premises under sub-clause (iii)of clause (a)of sub-section (3) of section 14 or section 15 shall be dealt with in accordance with the procedure specified in this section.

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

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

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

is satisfied about the correctness of the endorsement, he may declare that there has been a valid service of summons on the tenant.

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

be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction on the ground aforesaid.

(5) The Controller shall give to the tenant leave to contest the application

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

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

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

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

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

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

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

17. Recovery of possession in case of tenancies for limited period.- Where a landlord does not require the whole or any part of any premises for a particular period, and the landlord, after obtaining the permission of the Controller in the prescribed manner, lets the whole of the premises or part thereof as

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

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

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

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

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

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

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

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

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

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

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

(d)such other particulars as may be prescribed.

(3) On such deposit of the rent being made, the Controller shall send in the prescribed manner a copy or copies of the application to the landlord or

persons claiming to be entitled to the rent with an endorsement of the date of the deposit.

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

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

(5) If at the time of filing the application under sub-section (4), but not after the expiry of thirty days from receiving the notice of deposit, the landlord or the person or persons claiming to be entitled to the rent complains to the Controller that the statements in the tenant's application of the reasons and circumstances which led him to deposit the rent are untrue, the Controller, after giving the tenant an opportunity of being heard, may levy on the tenant a fine which may extend to an amount equal to two months rent, ifthe 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 issatisfied that the landlord, without any reasonable cause, refused to accept rent though tendered to him within the time referred to in section 20 and may further order that a sum out of fine realised be paid to the tenant as compensation.

22. Time limit for making deposit and consequences of incorrect particulars in application for deposit.-(1)No rent deposited under section 21 shall be considered to have been validly deposited under that section, unless the deposit ismade within twenty-one days of the time referred to in section 20 for payment of the rent.

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

(3) If the rent is deposited within the time mentioned in sub-section (l) and does not cease to be a valid deposit for the reason mentioned in sub-section

(2), the deposit shall constitute payment of rent to the landlord as if the amount deposited had been validly tendered.

23. Savings to acceptance of rent and forfeiture of rent in deposit.-(l) The withdrawal of rent deposited under section 21 in the manner provided therein shall not operate as an admission against the person with-drawing 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 indeposit by registered post at the last known address of such landlord of person or persons and shall also publish the notice in his office and in any local newspaper.

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

(b)Save as otherwise provided in this Act, any person aggrieved by an order passed by the Controller, except the orders for the recovery of possession made by the Controller in accordance with the procedure prescribed under section 16, may, within fifteen days from the date of such order or such longer period as the appellate authority may allow for reasons to be recorded in writing, prefer an appeal in writing to the appellate authority having jurisdiction. (In computing the periodof 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 inthe 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, ifnecessary, 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 inquestion in any court of law except as provided insub-section (5) of this section.

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

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

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

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

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

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

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

29. landlord and tenant to furnish particulars.-Everylandlord 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.

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

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

(3) The specified landlord or widow, widower, mother, father, child, grandchild or widowed daughter-in-law of such landlord, as the case may be. who having evicted tenant from a building in pursuance of an order made under sub-section (2) of section 15 does not occupy it for a continuous period of three months from the date of such eviction or lets out the whole or any

part of such building, from which the tenant was evicted, to any person other than the tenant

shall be punishable with imprisonment for a term which may extend to six months or withfine which may extend to one thousand rupees or both.

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

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

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

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

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

33. Power to make rules.-(l)The State Government may, by notification, make rules for tile 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 itis 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 isso laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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

34. Repeal and Savings.-(1)The Himachal Pradesh Urban Rent Control Act, 1971, (23 of 1971) is hereby repealed.

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

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

35. Repeal of H.P. Ordinance No.5 of1987.-(1) The Himachal Pradesh Urban Rent Control Ordinance, 1987 is hereby repealed.

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

SCHEDULE-I

[See clause (j)of section 2]

1. Spouse; 2. Son; 3. Daughter; 4. Mother; 5. Father; 6. Widow of pre-deceased son; 7. Son of pre-deceased son; 8. Daughter of pre-deceased son.

SCHEDULE-II

(Seesection 16)

FORM OF SUMMONS IN A CASE WHERE RECOVERY OF PQSSESSION

OF PREMISES IS PRAYED FOR ON THE GROUND OF A BONAFIDE REQUIREMENT UNDER SUB-CLAUSE (iii)OF CLAUSE (a)OF SUB SECTION (3) OF SECTION 14 OR SECTION 15

To

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

Whereas Shri.....has filed an application (copy of which is annexed) for your eviction from. . . . . (here insert the particulars of the premises) on the ground specified in sub-clause (iii)of clause (a) of sub-section (3) of section 14 or in section 15.

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 16.

Given under may hand and seal of the Court this day the. . .. . of. 19

Controller.

NOTIFICATIONS AND RULES

UNDER

THE HIMACHAL PRADESH URBAN RENT CONTROL ACT, 1987

APPOINTMENTS AND DELEGATIONS

(Issued and published in Hindi in R.H.P. Extra., dated 17.10.2006, p. 5309)

URBAN DEVELOPMENT DEPARTMENT

NOTIFICATION

Shimla-2, the 10th October, 2006.

No. LSG-A (3)-1/71-II.- In supersession of this Department notification of even number dated 26-5-1988, published in Rajpatra,

Himachal Pradesh (Extra-ordinary), dated 7th June, 1988 and in exercise of the powers vested in him under sub-section (1) of Section 24 of the Himachal Pradesh Urban Rent Control Act, 1987 (Act No. 25 of 1987) the Governor, Himachal Pradesh is pleased to confer the powers of appellate authorities on all the District and Sessions Judges/Additional District and Sessions Judges in respect of the urban areas in their respective existing jurisdictions to hear appeals against the orders made by the Rent Controllers under sections 4, 5, 11, 12, 13, 14 [except 14(3) (a) (iii)] and 21 of the said Act.

(R.H.P.Extra., dated 17.10.2006, p. 5310)

[Issued in Hindi and published in R.H.P. Extra., dated 7-6-1988, P. 988].

Shimla-2, the 26th May, 1988

No. LSG-A (3)-l/71-II.-In supersession of this department notification No.1-30/70-LSG-II, dated 7th July, 1975. and in exercise of the powers conferred by clause (c)of section 2 of the Himachal Pradesh Urban Rent Control Act, 1987 (Act No. 25 of 1987), the Governor of Himachal Pradesh, with the prior approval of the Hon'ble High Court of Himachal Pradesh, is pleased to appoint all the Senior Sub-Judges and Sub-Judges in Himachal Pradesh to perform the functions of the Controllers under the aforesaid Act within their respective jurisdictions, with immediate effect.

[R.H.P. Extra., dated 7-6-1988, P. 988].

EXCLUSION OF KANDAGHAT

(Issued and published in Hindi in R.H.P. Extra., dated 29-4-1995, P.1945).

Shimla-171002, the 18th April, 1995

No. LSG-D (1)-2/84-III.- Whereas the area of Kandaghat (Sirinagar) which was under the territorial jurisdiction of Shimla district at that time, was declared as urban area under clause (j) of section 2 of the East Punjab Urban Rent restriction Act, 1949 vide notification No. 5695-ICI-65-23008, dated 29-6-1965 and published in the Punjab Government Gazette dated 9-7-1965.

Whereas thereafter the East Punjab Urban Rent restriction Act, 1949, was repealed by the Himachal Pradesh Urban Rent Control Act, 1971, while all suits and other proceedings under said Act, pending at the commencement of this Act, before any Court or other authority were served and to be disposed off in accordance with the provisions of repealed Act. The Himachal Pradesh Urban Rent Control Act, 1971 has also been repealed by the Himachal Pradesh Rent control Act, 1987.

Now, in exercise of the powers conferred by clause (k) of section 2 of the Himachal Pradesh Urban rent Control, Act, 1987 read with section 20 of Himachal Pradesh General Clauses Act, 1968, the Governor, Himachal

Pradesh, is pleased to rescind the said notification with immediate effect. Provided that the cases instituted under the said repealed Acts or the Himachal Pradesh Rent Control Act, 1987 as the case may be, in various courts and other authorities, if any, having jurisdiction over said area shall be disposed off in accordance with the provisions of the said repealed Acts, or the Himachal Pradesh urban rent control Act, 1987, as the case may be.

(R.H.P. Extra., dated 29-4-1995, p. 2946).

EXEMPTION FROM THE OPERATION OF THE ACT

[Issued in Hindi and published in R.H.P. Extra., dated 27-4-1989, p. 1059]

Shimla-2, the 15th march, 1989

No. 14-109/73-LSG. - In exercise of the powers conferred by sub-section (1) of section 3 of the Himachal Pradesh Urban rent Control Act, 1987 (Act No. 25 of 1987), read with section 20 of the Himachal Pradesh General Clauses Act, 1968, the Governor, Himachal Pradesh, is pleased to rescind this Government notification of even number, dated 16-8-1978, which was published in Himachal Pradesh Rajpatra, dated 19-8-1978, with immediate effect.

(R.H.P. Extra., dated, 27-4-1989 p. 1059)

(Issued and published in Hindi in R.H.P. Extra., dated 11.11.1998, p. 3895)

Shimla-171002, the 11th November, 1998

No. UD-E(3)35/97.- In exercise of the powers conferred by clause (k) of section 2 of the Himachal Pradesh Urban Rent Control Act, 1987 (Act No. 25 of 1987), the Governor, Himachal Pradesh is pleased to declare the area of Kandaghat (a part of Gram Panchayat Sirinagar) District Solan comprising 843 Khasra No. (759 Khasra Nos. in UP Mohal Sirinagar i.e. 236 to 728, 794, 800 to 1055 and 93 Khasra Nos. in Up Mohal Dolag from 1 to 10, 23 to 36, 85 to 135, 191 to 196, 200 to 211) to be an urban area for the purpose of the said Act with immediate effect.

(R.H.P.Extra., dated 11.11.1998, p. 3896)

(Issued and published in Hindi in R.H.P. Extra., dated 2. 6. 2003. p. 483)

Shimla-171002, the 30th May, 2003.

No UD-E (3) -35/97. - Whereas the area of Kandaghat, a part of Gram Panchayat Sirinagar, District Solan was declared as urban area for the

purpose of the Himachal Pradesh Urban Rent Control Act, 1987 under clause (k) of section 2 of the Himachal Pradesh Urban Rent Control Act, 1987 vide notification of even number dated 11-11-1991;

And whereas residents of the Kandaghat area have represented to the Government for withdrawal of the said notification;

And whereas, the Government considered and examined the demand of the residents of the Kandaghat area;

Now, in exercise of the powers conferred by clause (k) of section 2 of the Himachal Pradesh Urban Rent Control Act, 1987 read with section 20 of the Himachal Pradesh General Clauses Act, 1968, the Governor, Himachal Pradesh is pleased to rescind the said notification with immediate effect, provided that the cases, if any, instituted under the Himachal Pradesh Urban Rent Control Act, 1987 in various courts and other authority, having jurisdiction over said area, shall be disposed off in accordance with the provisions of the said Act.

(R.H.P. Extra., dated 2.6.2003. p 484)

(Issued and published in Hindi in R.H.P. Extra., dated 13.6.2003, p 519)

Shimla-2, the 30th May, 2003.

No. UD-E (3) -35/97. - Where as the area of Kandaghat a part of Gram Panchayat, Sirinagar, District Solan was declared as urban area for the purpose of

Himachal Pradesh Urban Rent Control Act, 1987 under clause (k) of section 2 of the Himachal Pradesh Urban Rent Control Act, 1987 vide notification of even number dated 11-11-1998;

And whereas residents of the Kandaghat area have represented to the Government for withdrawal of the said notification;

And whereas the Government considered and examined the demand of the residents of the Kandaghat area;

Now, in exercise of the powers conferred by clause (k) of section 2 of the Himachal Pradesh Urban Rent Control Act, 1987 read with section 20 of the Himachal Pradesh General Clauses Act, 1968 the Governor, Himachal Pradesh is pleased to rescind the said notification with immediate effect, provided that the cases, if any, instituted under the Himachal Pradesh Urban Rent Control Act, in 1987 in various courts and other authority, having jurisdiction over said area, shall be disposed of in accordance with the provisions of the said Act.

(R.H.P. Extra., dated 13.6.2003, p 520)

Shimla-2, the 2nd May,
2005

No. UD-A(1)-4/2004.- The Governor, Himachal Pradesh is pleased to declare/notify the areas presently falling under the jurisdiction of Special Development Authority at Dhalli, Totu and New Shimla (Kasumpti) to be an Urban Area under clause (k) of Section 2 of the Himachal Pradesh Urban Rent Control Act, 1987 (Act No. 25 of 1987) for the purpose of the Act ibid in public interest with immediate effect.

(R.H.P. Extra., dated 6th May, 2005, p. 633.)

THE HIMACHAL PRADESH URBAN RENT CONTROL RULES, 1990

ARRANGEMENT OF RULES

Rules:

1. Short title
2. Definitions
3. Application under sections 4, 5, 6, 11, 14 and 15
4. Procedure for permission and recovery of possession under section 17
5. Manner in which applications are to be made
6. Appearance before Controller
7. Receipt to be given for rent paid
8. Deposit of rent
9. Payment of rent deposit
10. Accounting of deposit
11. Particulars to be furnished to the Controller, under section 29
12. Procedure to be followed by Controller, in disposing of an application
13. Inspection
14. Procedure for filling appeals
15. Revision under section 24
16. Penalty
17. Repeal

Form A to E

THE HIMACHAL PRADESH URBAN RENT CONTROL RULES, 1990 LOCAL SELF GOVERNMENT DEPAR'I'MENT NOTIFICATION

Shimla-2, the 19th July, 1990.

No. LSG-A (3) I/77-n (Rules).-In exercise of the powers conferred by section 33 of the Himachal Pradesh Urban Rent Control Act, 1987 (Act No

25 of 1987), the Governor, Himachal Pradesh, is pleased to make the followingrules, namely:

1. Short title.-These rules may be called the Himachal Pradesh Urban Rent Control Rules, 1990.

2. Definitions.- (1) In these rules, unless there is anything repugnant in the subject or context,-

(a)"Act" means the Himachal Pradesh Urban Rent Control Act, 1987 (Act No. 25 of 1987);

(b)"Form" means a form appended to these rules;

(c)"Recognised agent" means a person holding a power of attorney authorising him to act on behalf of his principal or an agent empowered by written authority under the hand of his principal; and

(d)"Section" means a section of the Act.

(2) All other words and expressions used but not defined in these rules shall have the meanings as assigned to them in the Act.

3. Application under sections 4, 5, 6, 11, 14 and 15.-Every application to the Controller under sections 4,5,6,11,14 and 15 shall be made in Form "A" and shall state the grounds on which it is made.

4. Procedure for permission and recovery of possession under section

17 of the Act-(1) Every application, to the Controller for obtaining the permission for letting the whole or part of his premises in pursuance of the provisions of section 17 shall be in Form-B together with a copy of the agreement entered into between the landlord and the tenant.

(2) The Controller, after satisfying himself, shall grant permission in writing and cause a copy of such permission delivered .to both the parties.

(3) The landlord, in case the tenant does not vacate the premises after the expiry of agreed date, shall submit the application, alongwith an attested copy of the agreement and the copy of permission granted under sub-rule (2) above, in Form-A, within a period of six months after the expiry of the period of tenancy.

5. Manner in which application are to be made.-(l) Every application under the Act shall be signed and verified in the manner prescribed under rules 14 and 15 of Order VI of the First Schedule to the Code of Civil Procedure, 1908, arid shall be presented by the applicant or his recognised agent to the C0ntroller.

(2) Every such application shall be accompanied by a copy or sufficient number of copies thereof for service on the respondent or respondents mentioned therein.

6. Appearance before Controller-A party may appear before the Controller either in person or by a recognised agent provided that if the Controller so directs the party shall appear in person.

7. Receipt to be given for rent paid.-A receipt required to be given by the landlord or his authorised agent under section 20 in respect of rent paid for any premises shall be in

8. Deposit of rent.-(l) A deposit of rent under section 21 shall be made in cash and shall be accompanied by an application by the tenant in

Form-D.

(2) On such deposit being made, the Controller shall send a copy or copies of the application by registered post with acknowledgement due, at the cost of the applicant, to the landlord or persons claiming to be entitled to the rent with an endorsement of the date of deposit.

9. Payment of rent deposit. -The Controller, in accordance with the provisions of sub-section (4) of section 21, shall order the amount of rent deposited to be paid to the landlord or persons entitled to the rent either in cash or by cheque.

10. Accounting of deposit. -Subject to the provisions of section 21, all sums deposited shall be treated as Civil Court, deposits and accounted for and dealt with according to the rules of Civil Court deposits ii1force in Civil Courts *in* Himachal Pradesh.

11. Particulars to be furnished to the Controller under Section 29.-Then an application is made to the Controller under this Act the landlord or as the case my be the tenant of, a building of rented land shall furnish to the Controller, or any person authorised by him in that behalf, the following particulars, namely:-

(a)name and number of the building or related land, if any, or its description and boundaries sufficient to identify it;

(b)street and municipal ward of division in which the building or rental land is situated;

(c)Name and address of the landlord if the particulars are furnished by the tenant and name and address of the tenant, if the particulars are furnished by the landlord;

(d)whether the building is a residential, Non-residential; and

(e)nature of amenities provided by the landlord to the tenant.

12. Procedure to be followed by Controller in disposing of an application.- (1) When an application under the Act is presented to the Controller, he shall fix the date, time and. place at which the enquiry in respect of the application will be held and send a notice alongwith a copy of the application to each respondent in Form-E appended to these rules.

(2) The Controller shall give to the parties, a reasonable opportunity to state their case. He shall also record the evidence of the parties and witnesses examined on either side and ill doing so and in fixing dates for the hearing of the parties and their witnesses, in adjourning the proceedings, and dismissing application for default or for other sufficient reasons, the Controller shall be guided by the principles of the procedure as laid down in the Code of Civil Procedure, 1908.

13. Inspection.-In any application or proceeding pending before the Controller or the appellate authority as the case may be, if he thinks fitto do so for the purpose of elucidating any matter in dispute or for determining the

fair rent of any building or rented land, inspect either personally or through a Commissioner, any such building or rented land.

14. Procedure for filing appeals. - (1) Every appeal under section 24 of the Act shall be presented in the form of a memorandum signed by the appellant or his recognised agent to the appellant authority. The memorandum shall be accompar1ied by a certified copy of the order appealed against and with such number of spare copies of the memorandum for service on the respondents mentioned therein.

(2) The memorandum shall set forth, concisely and under distinct heads, the grounds of objection to the order appealed against without any argument or narrative and such grounds shall be numbered consecutively.

(3) Where the memorandum of an appeal is not drawn up in the mariner here-in-before prescribed or is not accompanied by a certified copy of the order appealed against, it may reject, or return to the appellant or his recognised agent for the purpose of being amended or attaching to it a certified copy of the order appealed against, as the case may be, within a time to be fixed by the appellate authority.

15. Revision under section 24.-Every application made under subsection (5) of section 24 shall be signed by the applicant or his recognised agent and presented to the High Court. Such application shall be accompanied by a certified

copy of the order of the Rent Controller or the appellate authority, as the case may be, with a spare copy or such number of spare copies of such application for service on the respondents mentioned therein.

16. Penalty. - The Controller may direct that a breach or an abetment of a breach of these rules, shall be punishable with fine which may extend to Rs. 500/-and when the breach is a continuing one with further fine which may extend to Rs. 1,000/-.

17. Repeal.-(l) The Himachal Pradesh Urban Rent Control Rules, 1973 are hereby repealed.

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

FORM-A

[Seerule 3 and sub-rule (3) of rule 4]

Before.....
…Controller. Name
.....Applicant/Petitioner.

versus

Name ..... .Respondent/Defendant/Tenant.

Application..... ..... *determination of fair rent
revision/ increase of fair rent.

Restoration of essential supply on service.
Eviction of tenant.

Under Section..... ....

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*Strike out whatever
inapplicable.

1. Municipal No. of the premises and the name, if any.

2. Street and municipal ward of division in which the premises are situated.

3. (a)Name and address of the landlord.

(b)Name and address of the tenant/tenants.

4. Whether the premises are residential or non-residential?

5. In the case of residential premises, the number of persons occupying the same and in the case of non-residential premises, the purpose for which they are used and the number of employees, if any, working therein.

6. Whether a1ty furniture is supplied by the landlord for use in the premises

7. Details of fittings, if any, provided by the landlord.

8. Details of accommodation available together with particulars as regards ground area, garden and out-houses, if any (plan to be attached).

9. Whether the premises are occupied by a single tenant or by more than one tenant?

10. Amenities available in regard to lighting, water, sanitation and the like.

11. Monthly rent together with details of house tax, electricity, water and other charges paid by the tenant.

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*This information should be given in the application for fixation of fair rent.

12. (a)Date of completion of construction of the premises and the cost thereof.

(b)Whether completion report was obtained from the local authority and the date thereof?

13. (a)Rate able value as entered in the last property assessment book of the Municipal Corporation, Municipal Committee/Notified Area Committee, as the case may be.

(b)Rate of rent of similar building having similar amenities, if any in the locality.

14. Date on which the premises were let to the tenant and detail of Agreement, if any, with the landlord, (copy of the agreement to, be attached).

15. Whether the fair rent of the premises has been fixed under the Himachal Pradesh Urban Rent Control Act, 1987 or any other law in force at the time of letting out and if so, the amount of such rent and the date from which it took effect.

**16. Whether there are any sub-tenant and if so, the date of such subletting, accommodation sub-let, whether with or without the written consent of the landlord and the rent charged from such sub-tenant. This information should be given in the application for eviction due to unauthorised sub-letting.

***17.Whether any additions or alterations have been made since the rent was fixed as stated under item No. 15 and if so, date On which

**This information should be given in the application for eviction due to unauthorised sub-letting.

***This information should be given in the application for increase of rent due to additions for alterations.

such additions or alterations were made, the cost of such additions or alterations and whether they were carried out with the approval of the tenant or of the Controller? This information should be given in the application for increase of rent due to additions or alterations.

****18. (a)The grounds on which the eviction of the tenant is sought.

(b)Whether notice required has been given and if so, particulars Thereof? Copies of such notice and the tenant's reply if any should be furnished.

19. This information should be given in the application for eviction of tenants.

20. Any other relevant information.

21. Relief claimed.

22. (Verification).

Signature of
applicant/authorised
agent.

Place... .....

Date ....

FORM-B

[Seesub-rule (l) of rule 4]

APPLICATION FOR PERMISSION OF THE CONTROLLER FOR LETTING THE WHOLE OR PART OF THE PREMISES FOR A LIMITED PERIOD

Before the Rent Controller,.....

In the matter of:-

.....

An agreement having been entered into between the landlord /applicant on the first part and the tenant on the second part on day of .....19 whereby the premises/ house No ……...situated in …….within the jurisdiction of Municipal Committee/Corpora-tion/Notified Area Committee agreed to be let by the applicant/landlord to the tenant for a period of…….months/years as per copy of the agreement annexed hereto;

****This information should be given in the application for eviction of tenants.

And further the tenant respondent having agreed to handover the vacant possession of the premises/part of the premises house No. aforesaid to the applicant/landlord immediately on expiry of the period agreed to.

It is, therefore, respectfully prayed that permission for letting the premises by the landlord/applicant to the tenant respondent as agreed to, as required under section 17 of the Himachal Pradesh Urban Rent Control Act, 1987, may be granted.

Applicant/Landlord.

FORM-C

(Seerule 7)

FORM OF RENT RE CEIPT AND COUNTERFOIL Counterfoil Serial No.

Name of the landlord..... .....

Address of the landlord ....
Received with thanks
from..... a sum of Rs. (in figures)..... (in words) .....only as payment of rent for the
period..... for the premises ....this day of the month of .....: ....in the year.....

Signature or thumb-impression of the
landlord or authorised agent.

The rent charged included:-
**1. Rates, cesses and taxes of the local authority. **2. Electric charges.
**3. Water charges,
**4. …….
**5. …….
*It does not include:-
1. Rates, cesses and taxes of the local authority.
2. Electricity charge-so
3. Water charges.
4. .....
5. .....

---

* Strike out whatever is inapplicable.
**State the exact charges if possible.

Serial No……..

Rent Receipt

Name of the landlord

Address of the landlord

Received with thanks

from.....

a sum of Rs. (in figures) ....(in words)..... only as payment of rent at the rate of.. ..... for the period ... .for the premises:..... this day the .....day of the month of..... in the year.

Signature or thumb-impression of the landlord or authorised agent.

*The rent charged includes:-

**(1) Rates, cesses and taxes of the local authority. **(2) Electric charges.

**(3) Water charges.

**(4) .....

**(5) .....

*It does not include:

(1) Rates, cesses and taxes of the local authority. (2) Electric charges.

(3) Water charges.

(4) .....

(5).....

*Strikeout whatever is inapplicable.

**State the exact charges it possible.

FORM-D
(Seerule 8)

APPLCATION FOR DEPOSIT OF RENT

Before..... . .Controller.

Name
.....Petitioner/Applicant.

VERSUS

Name... .... …….. . Landlord/Respondent.

1. The premises for which the rent is deposited with description sufficient for identifying the premises.

2. Period for which the rent is deposited and the rate per month.

3. The name and address of the landlord or the person or persons claiming to be entitled to such rent.

4. The reasons and circumstances for which application for depositing the rent is made.

5. The amount of the rent deposited.

6. Whether electricity, water charges, property tax etc., are included in the rent, and if so, particulars thereof?

7. How thereJ1twastenderedtothelandlord whether in person or by postal money order or by cheque etc. and whether it was refused by him in writing or, otherwise?

8. Whether there is a bona fide doubt as to the person or persons to whom the rent is payable and if so, why?

9. Date on which1herent was last paid to the landlord and the receipt, if any, obtained from him therefor.

10. Any other relevant information.

The statements, made above are true to the best of my knowledge and belief and I. . . . . the app1ic3ntfauthotised agent have/has signed the application on the. . . . . day of the month of.....in the year, 19 . Date .....

Place. . . . .

Signature of the applicant/
authorised agent.

FORM-E

[Seerulel2 (1)]

NOTICE TO THE RESPONDENT UNDER THE HIMACHAL PRADESH URBAN RENT CONTROL Act, 1987

Office of the Rent Controller, exercising powers under the Himachal Pradesh Urban Rent Control Act, 1987.

Miscellaneous application No. . . . . of. . ... ……Applicant.

Versus

. . . . . Respondent. Whereas. . . . . applicant has filed an application. . . . . .under section. . . . . .of the Himachal Pradesh Rent Control Act, 1987 (a copy whereof is attached) against you in this office and the said application has been fixed for hearing before me for…….. You are hereby required to appear in my office on the aforesaid date at…….in person or by a recognised against and to put in whatever objections you may have against the application. In default of your appearance, proceedings shall betaken against you ex-parte.

Given under my hand and seal of the office, this. . . . . day of.. 19

Rent Controller.

--- (R.H.P., Extra.. dated 4-8-1990, P. 1783-1790).
