

ODISHA HOUSE RENT CONTROL ACT, 1967

The Odisha . Gazette EXTRAORDINARY PUBLISHED BY AUTHORITY 'THE ORISSA HOUSE RENT CONTROL ACT, 1967 | [Received the assent of the President on the 17th February 1968, first published in an extraordi- nary issue of the Orissa Gazette, daled the 4th March 1968] AN ACT TO PROVIDE FOR THE CONTROL OF HOUSE* RENT IN STATR OF ORISSA E it enacted by the Legislature of the Slate B Of Orissa in the Eighteenth Year of the Rew public of India, as follows:— 1. (1) This Act may be called tho Orissa Short ti tle extent, com- House-Rent Control Act, 1967. meocmeat and duration. (2) It extends to the whole of the State of Orissa. (3) It shall be deemed to have come into force on the 4th day of May, 1967 in those local areas of the State in which the Orissa House-Rent Control Act, Orissa Act 31 1958 was in force immediately prior to its expiry of 1958 and it shall come into force in such other local area or areas on such date as the State Government may, by notification,. appoint in that behalf: Provided that sectipns 17 and 18 into force in there@rlier mentioned local areas on the day on which the assent' of the President to this Act is first published in thé Gazette. (4) It shall cease to have effect 2[on the 4th day of May, 198t I except as respects things done or omitted to be done before the expiration thereofi and section 5 of the Orissa Orissa Act General Clauses Act, 1937 shall apply upon the 1937 expiry of this Act as if it had then been repealed by an Orissa Act

1. Por Statement;of Objects and Reasons, see Orissa Gazelle.Bxtra• ordinary (Nm 979), dated the August 1967 and for Report or the Select Committee, see, ibid* dated the 15th Deccmbcc 1967 (No. 1599). 2: Substituted by the Ottssa House-reut ContfO! (Amendmeøi) Kef, 1974 (Or. Act 10 of 1974), s. 2, on the expiry ofseven years from the date of its cemmencemDt." w-c.t 13th Juw 1974. 367 368 Definitions THE ORISSA HOUSE-RENT CONTROL ACT, 1967 [Or. Act 2. In this - Act unless the context otherwise requires— in respect of any area means the Subdivisional Judicial Magistrate J having juris- diction over that area and shall include any-Magi- strate of the first class .having jurisdiction over such area to Whom the Sl.libdiviSiondl ludicial Magistrate] may transfer any application •for disposal; (2) " fair-rent" •means ;rent •considered reaso- nable having regard to 'the •Situation, locality, condi- tion of the premises, amenities provided therein and the rental value fixed 'by the local -authority, if any; (3) " house" includes any building or part Ufa building with its appurtenances and out-houses used for any purpose whatsoever; (4) " landlord" includes any person who is receis•ing or is,entitled-to •of a house whether on his own account or on behalf of another or on behalf of himselfand,others; (5) " tenant " emeans any person by rwhom• or -on whose behalf rent is •payable for •any- house end inclüdes- every person «who•fromttme to: time derives . title undertenant* or-ta persomcontinuitrgin posses- Sion after the "termination 50f his *tenancy zotherwise than under . the pruisions of this Act •.and shall person against'Wbom:a suit for ejectment is' ipendipg in a Court:of -competent.juiisdiction but not -aperson against whom a decree ot order 'for eviction has been made by such a-Court. After •the, (date of Salami Premium not a:landlord shakL•notr.be-entitled to charge salami tor be to charged. Landlord entitled to fair-rent. Determina- tion of fair- premium!for-.lettingiany house or for renewing '*the löase•of any house. 4. 'Su'bjedt •to the provisions of -this Act; and notwithstanding any contract to the Contrary, no landlord shall be entitled to charge rent for.any :bouse at a-sum higher ;than the.fa*ir-rent. 5: (1) Any landlord •or 8nY 'tenant :may make an applicationato-the fdir:rent.r I. Substituted by the Orissa House-rent Control (Amendment) Act* 1914 (Or. Act 10 of 1974 s

3. April, 1974.of 19681 THE ORISSA HOUSE-RENT CONTROL ACT, 1967 (secs. 6-7) (2) Pending final decision on the application 369 the Controller shall fix a provisional rent, Final deci- Sion when made, shall be deemed to have taken effect from the date of the application and all amounts paid as provisional rent shall be adjusted towards payment of final rent. (3) The application of the tenant shall be dismissed, if he fails to pay the provisional rent regularly

6. Notwithstanding anything to the contrary Cootinuance contained in any agreement or law no tenant Shal(of tenancy.be liable to be ejected except as provided in section 7. 7. (I) A landlord who seeks to evict his tenant Conditions shall apply to the Controller for a direction in that undet which behalf. a tenant be *ted. (2) If the Controller, after giving the tenant reasonable opportunity of showing cause against the application, is satisfied— (i) t _hat the tenant has not paid or tendered the rent due from him in respect of the house within thirty days after the expiry of, the time fixed iN the agreement of the tenancy

with the landlord for payment of rent or in the absence of any such agreement by the last day of the month next following that for which the rent is payable; or (ii) that the tenant has without the written consent of the landlord— (a) transferred his right under the lease or sub-let the entire house or any portion thereof (if the lease does not confer on him any right to do so); or (b) used the house for a purpose other than that for which it was let out; or (iii) that the tenant has committed such acts of damage as are likely to impair materially the value or utility of the house ; or (iv) that the tenant has denied the title of the landlord or claimed a right of permanent tenancy and that such denial or claim is not bona fide, [Law-I THE ORISSA HOUSE-RENT CONTROL ACT, 1967 [(h) Sec. 8) he shall make an order directing the tenant to put the landlord in possession of the house and if the Controller is not so satisfied, he shall make an order rejecting the application: Provided that in any case falling under clause (i) if the Controller is satisfied that the tenant's default to pay or tender rent was not wilful, he may give the tenant a reasonable time not exceeding fifteen days to pay or tender the rent due from him to the landlord up to the date of such payment or tender and on such payment or tender the application shall be rejected. (3) When an application is made for the eviction of any tenant on the grounds specified in clause (i) of sub-section (2) the tenant shall remit the arrear rent as admitted by him up to the date of such remittance to the landlord or deposit the same with Controller failing which he shall not be entitled to contest the proceedings. (4) The landlord may, subject to the provisions of this Act, apply to the Controller for an order directing the tenant to put him in possession of the house, if he requires the house in good faith for the occupation or use of himself, any member of his family or of any person or persons for whose benefit the house is held by him. (5) Notwithstanding anything contained in section 106 of the Transfer of Property Act, 1882 it shall not be necessary for the landlord to serve a notice for termination of the tenancy on the tenant for the purposes of proceedings under this section. (6) No proceedings, whether for eviction of the tenant or for execution of an order of eviction, instituted under the Orissa House Rent Control Act, 1958 shall be challenged merely on the ground that no such notice as aforesaid had been served on the tenant before institution of such proceedings; Bar of 8. When the Controller has determined the fair rent of a house— the landlord shall not claim and shall not be entitled to any rent in excess of the rent so determined; (Secs. 9-10) (b) any agreement for the payment of rent in excess of the rent so determined, shall be null and void in respect of such excess and be construed as if it were an agreement for payment of such determined rent; and (c) any sum in excess of the determined rent paid after the date of application under section 5 in respect of a house for any period after the said date shall be refunded to the person by whom it was paid, or at the option of such person otherwise adjusted. 9. (1) If at any time after the fair rent of a house has been determined under section 5, it appears to the Controller that subsequent to such determination, in connection with some addition, improvement or alteration, not being in the nature of necessary repairs or repairs usually made to houses in that locality, has been made to the house at the landlord's expense, he may, after making such enquiries as he thinks fit, redetermine the fair rent of the house: Provided that the excess rent payable for the house shall not exceed seven and a half per cent per annum on the cost of such addition, improvement or alteration and shall be chargeable from the date of completion of such addition, improvement or alteration. (2) Notwithstanding the determination or redetermination of the fair rent as aforesaid if the Controller is satisfied that there is a general rise in the value of houses and house-sites in any Municipality or in any area within the jurisdiction of any other Local authority and that such Municipality or other Local authority has imposed a higher rate holding-tax on the annual value of the holding in the locality, he may redetermine the fair rent in such cases as he may think fit, commensurate with the enhancement in the holding-tax. 10. (1) If the landlord fails to effect normal repairs to the house and thereby renders the house unfit for habitation, the tenant may make an application to the controller, who may, after making such enquiry as he deems fit, direct the landlord to effect such repairs as may be necessary in the opinion of the Controller within a reasonable period to be fixed by him. (sec. 11) (2) In case the landlord fails to comply with the directions issued under sub-section (1) the Controller may authorise the tenant to effect the repairs at his own cost and to adjust the amount so spent against the rent payable to the landlord in such number of instalments as may be fixed by the Controller: Provided that the tenant shall not be entitled to adjust any amount spent in excess of the amount which, in the opinion of the Controller, would have been reasonably necessary for effecting the said repairs. Continuance 11. (1) If a tenant in possession of any house of tenancies other than held on a tenancy other than a tenancy from

month tenantes to month wished to extend the period of tenancy by from month to month. not less than six and not more than twelve months, he may give the landlord, not less than one month before the expiry of the tenancy, a written notice of his intention after depositing with the Controller or paying to the landlord the arrears of rent, if any, and upon the delivery of such notice and upon such deposit or payment being made the tenancy shall, save as hereinafter provided, be deemed to have been extended for the period specified in the notice. (2) Where the landlord to whom a notice has been given under sub-section (1) wishes to object to the extension demanded by the tenant, he may within fifteen days of the delivery to him of such notice, apply to the Controller in that behalf, and if the Controller is satisfied— (a) that the house is in good faith required by the landlord for the occupation of himself or any member of his family or for the occupation of any person or persons for whose benefit the house is held by him ; or (b) that the tenant has done any of the acts provided in clauses (i) to (iv) of sub- section (2) of section 7 ; he shall pass an order disallowing the extension demanded by the tenant. Of 1968] § of 1908 36 of 1963 THE ORISSA HOUSE RENT CONTROL ACT, 1961 (secs. 12-15) '373 12. (1) An enquiry under this Act shall be Of a Enquiries and summary nature and shall, so far as practicable, be held in accordance with the provisions contained in the Code of Civil Procedure, 1908. (2) All proceedings under this Act shall, so far as possible, be disposed of within a period of six months from the date of its institution. (3) For the purposes of an enquiry under this Act the Controller may— (a) enter and inspect the house; or (b) authorise any omcer subordinate to him to enter and inspect the house. (4) Subject to the provisions of this Act, the provisions of the Limitation Act, 1963 except scctions 6, 7, 8, 9, 18 and 19 shall apply to all appeals and applications under this Act. 13. (1) Any person aggrieved by an order of Appeal the Controller may within thirty days from the date on which the order is communicated to him, present an appeal in writing to 2[the Chief Judicial Magis- trate] or any other omcer specially appointed by the State Government for the purpose. (2) The authority before Whom an appeal is presented shall send for the record of the from the Controller and, after perusing such record, hearing the parties and after making such fuither enquiries, as he thinks fit, shall decide the appeal

14. All orders passed by the Controller shall, Finality of subject to the decision, if any, made in an appeal, grder, be final and shall not be called into question in any Court

15. The order of the Controller made under Court to deliver section 7 directing the tenant to put the landlord in poss*ion.possession of the house, shall be deemed to be a decree and shall' be executable as such in the Court of the Munsif \Yithin the local limits of whose jurisdiction the house is situate. I. Omitted by the Orissa House Rent Control 1969 (Or. Act 12 of 1969), l.c. s.- 2

2. Substituted by the Orissa House Rent Control 1974 (Or.Act 10 of 1974). 8.4, for Additional Judicial)" w.e.f. 1st April 1974. (Amendment) Act, (Amendment) Act, District Magistrate Shy THE ORJSSA H0USE RENT CONTROL ACT, 1967 (Ot. Act 4 (Secs. 16-19) 16. (1) Notwithstanding anything in any law execution of or in any of the other provision of this Act, where d#ree or for a person who continues in possession of a •house eviction in in spite ofa decree or order for eviction therefrom certain cases Penalty False 'tate- meats. Protection of action taken under tbe Act. made against him before the commencement ot' this Act and would but for such decree or order be a tenant within the meaning of this Act* has preferred an appeal against, or made an application for review or revision of, the decree or order to a Court of competent jurisdiction, such Court may for sumcient cause order stay of execution of the decree or ordet pending the disposal of the appeal or, as the case may be, the application for revieit or revision. (2) The Court may, while ordering stay of -execution under sub-section (I), impose such terms and conditions in respect of the quantum and manner,of .payment ot' rent of the house or in respect of the manner of possession thereof as the Court may deem fit; and on breach of any such terms and conditions by the person aforesaid, •the Court may, after giving such person a reasonable oppor- z.tunity of being heard, vacate the •order of •stay of execution .of,the decree or order

17. If any person contravenes any provision of this Apt or Qf.any rules or .o.rderg made thereunder, he shall .be •deemed to have committed nn offence shall be punishable with imprisonment for a t9rm which may extend to six months or with fine whiph ,may extend 'to two hundred rupees or with both. !18. Ilf any person, when required by or •under thisjAct 'to -make any •statement or to furnish -any information, makes any statement of furnishes any information •which is false in material particulars ane 'Which ihe knows or has reasonable cause to believe {Q be false or does not believe.to be true, shall be punishable with fine not

exceeding two hundred rupees. 19. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of the rules or orders made thereunder. (Secs., 20-22) (2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any provision of this Act or of any rule or order made thereunder. 20. (1) None of the provisions of this Act shall apply to the (a) houses owned by the Union Government, a State Government or a Local authority; and (b) houses the construction of which is completed after the commencement of this Act for a period of five years from the date of their completion. (2) The State Government may, by notification, exempt any other house or class of houses from all or any of the provisions of this Act. 21. (1) The State Government may make rules* Power to carry out the purposes of this Act. make rules. (2) Without prejudice to the generality of the foregoing power, such rules may provide for— (a) the procedure to be followed by Controllers and appellate authorities in the performance of their functions under this Act; and (b) the manner in which notices and orders under this Act shall be given or served. Orissa Act 22, Notwithstanding the expiration of Orissa Validation 31 of 1958. House Rent Control Act, 1958— of certain actions. (a) anything done, any action taken, any order, appointment or rules made or any notification issued in exercise of or in purported exercise of any power conferred by or under the said Act; and For rules under section 21 see Notification No. 14156-L. E. q. , (dated the 16th November 1968 published in Orissa Gazette, dated the 31st January 1969, Pt. II, p. 135. *YOO] (Sec. 22—contd.) (b) any proceedings instituted thereunder shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act and, as the case may be, shall be deemed to have been instituted under this Act as if this Act were in force on the day on which such thing was done, action was taken, order, appointment or rules were made, notification was issued or proceedings were instituted; (c) all such proceedings pending before the Controller appointed under the said Act and all appeals pending thereunder shall respectively stand transferred to the Subdivisional Judicial Magistrate and the Chief Judicial Magistrate]

1. Substituted by the Orissa House Rent Control (Amendment) Act, 1974 (Or. Act 10 of 1974), s. 5, Cor "Subdivisional Magistrate and the Additional District Magistrate (Judicial)" w. c. f. 1st April, 1974.