

WEST BENGAL GOVERNMENT PREMISES (TENANCY REGULATION) ACT, 1976

West Bengal Act XIX of 1976 THE WEST BENGAL GOVERNMENT PREMISES (TENANCY REGULATION) ACT, 1976. AMENDED West Ben. Act of 1980. Act of 1980. West Ben. Act XXX of 1985. West Ben. Act LIV of 1994. West Ben. Act XXXV of 1997. [1st April, 1976] An Act to provide for the regulation of certain incidents of tenancy in relation to Government premises in West Bengal. WHEREAS it is expedient to provide for the regulation of certain incidents or tenancy in relation to Government premises in West Bengal and for matters connected therewith or incidental thereto; It is hereby enacted in the Twenty-seventh Year of the Republic of India, by the Legislature of West Bengal, as follows:—

r. (1) This Act may be called the West Bengal Government Premises (Tenancy Regulation) Act, 1976. (2) It extends to the whole or West Bengal. 2. In this Act, unless the context otherwise requires,—

2(1a) "Appellate Authority" means any authority, superior in rank to the prescribed authority, appointed by the State Government in respect of a local area for the purpose of [the third proviso to clause (a) of sub-section (3) of section 3 and] sub-section (2) of section 6C, and includes different such authorities for different local areas; (a) "Government premises" means any premises which is owned by the State Government or by a Government undertaking but does not include the official residence of any person authorised to occupy any premises in consideration of the office which he holds under the State Government or a Government undertaking for the time being; For Schedules or Objects and Reasons. see the Calcutta Gazette. Extraordinary. Part I V, or the 9th March, 1976. page 1216; for proceedings of the West Bengal Legislative Assembly. see the proceedings of the Meeting of the Assembly held on the 18th March, 1976. Clause (1a) was added by s. 2 of the West Bengal Government Premises (Tenancy Regulation) (Amendment) Act, 1985 (West Ben. Act XXX of 1985). words, figures, letters and brackets were inserted by s. 2 of the West Bengal Government Premises (Tenancy Regulation) (Amendment) Act, 1985. Definitions, 398 Termination of tenancy. The West Bengal Government Premises (Tenancy Regulation) Act, 1976. [West Ben. Act (Section 3.) (b) "Government undertaking" means a body corporate constituted by or under a Central or State Act which is under the administrative control of the State Government or in which the State Government has exclusive proprietary interest. (c) "premises" means any building or hut and includes part of a building or hut and a seat in a room, let separately, and also includes— (i) the gardens, grounds and out-houses, if any, appurtenant thereto, (ii) any furniture supplied or any fittings or fixtures affixed for the use of the tenant in such building, hut or seat in a room* as the case may be; (d) "prescribed" means prescribed by rules made under this Act; (e) "prescribed authority" means an authority appointed by the State Government in respect of a local area, by notification in the Official Gazette, for carrying out the purposes of this Act and includes different such authorities for different local areas; (f) "tenant" means any person by whom the rent of any premises is, or but for a special contract would be, payable and includes in the event of such person's death, such of his heirs as were ordinarily residing with him at the time of his death. 3. (k) Every tenancy held by a tenant in respect of a Government premises shall stand terminated upon the expiry of the period referred to in a notice to quit served upon such tenant in the prescribed manner. (2) A tenancy in respect of a Government premises shall stand automatically terminated without any notice to quit where the tenant has— The West Bengal Government Premises (Tenancy Regulation) Act, 1976. of 1976.] (Section 3.) (i) subsequently built a house or acquired (by purchase, gift, inheritance, lease, exchange or otherwise) a house or an apartment, either in his own name or in the name of any member of his family, within a reasonable distance from such Government premises. Explanation.—For the purposes of this section and section 3A,— (a) "apartment" shall have the same meaning as in the West Bengal Apartment Ownership Act 1972; (b) "family" shall include parents and other relations of the tenant who ordinarily reside with him and are dependant on him; (c) "reasonable distance" shall mean any distance not exceeding twenty-five kilometres, or (ii) made default in payment of rent for consecutive months: Provided that where the tenancy has terminated on account of default in payment of rent for three consecutive months the prescribed authority may, upon application made by the tenant within such time as may be prescribed and upon deposit of all the arrears of rent together with interest at the prescribed rate, grant renewal of the tenancy in favour of the tenant: Provided further [that the prescribed authority may, on sufficient cause being shown, grant renewal of the tenancy in favour of the tenant on deposit of fifty per cent. of the arrears of rent along with the application

for renewal of tenancy and direct the tenant to deposit the balance of the arrears of rent with interest on the entire amount at the prescribed rate in twelve monthly instalments commencing from the month following the month of such renewal of tenancy, and if (he tenant fails to deposit any such instalment the tenancy so renewed shall stand automatically terminated: *IIProvided further that the prescribed authority may, if it is satisfied (hat the tenant has failed to pay rent due to circumstances beyond his control and is not in a position I This clause was sub*iluled for the previous clause (ia) by s. 2 or the West Bengal Government Premises (Tenancy Regulation) (Second Amendment) Act, 1980 (West Ben. Act XLVI or 1980). hiot 10 this sub*ilUli011 clause (iii) was inscnd by s. 2(a) or the West Bengal Government Pcc:niscs (Tenancy Regulation) (Amendment) Act. 1980 (Wes(Ben. Act VUI 1980). was inserted by s, 2(b) of the West Bengal Governmem Premises (Tenancy Regulation) (Amendment) Act. 1980 (West Ben. Act VIII or 1980). 'This further pmviso was trrhaps added here on account of clerical mistake made. lthrough inadvcence. in the West Bengal Governmcnl Premises (Tcnancy Regulation) (Amendment) Act- 1980 399 wesl Ben. Act XVI of 400 The West Bengal Govenunenl Prenises (Tenancy Regulation) 1976. [West Ben. Act (Secrion 3.) 10 fifty per cent. of the arrears of rent along with the application for renewal of tenancy, grant renewal of the tenancy in favour of tenant on deposit of twenty-five per cent. of the amcars of renl along with (he application for renewal of tenancy and direct the tenant to deposit the balance of the arrears of rent with interest on the entire amount at the prescribed rate in such number of monLhly instalments, not less than twelve and not more than thirty- six, as the prescribed authority may consider reasonable, commencing from the month following the month of such renewal of lenancy, and if the tenant fails Lo deposit any such instalment. the tenancy so renewed shall sland automatically terminated]; Provided also that notwithstanding the termination of the tenancy the State Government or the Government undertaking, as the case may be, shall be entitled Lo recover all anears of rent for the period for which the tenancy subsisted and mesne profits thereafter for so long as (he tenant remained in occupaLion of the premises. '(3) (a) Where any Government premises allotted to a tenant remains under lock and key for a period of more than three consecutive months or where the tenon' or any member of his family is not ordinarily resident of such Government premises, the tenancy in respecL of such Government premises shall stand automatically len-ninatedl: Provided (hat if the prescribed authority is satisfied that the circumstances, under which such Government premises remains under lock and key for more than three consecu•ive months or the tenant or any member by his family is not ordinarily a resident of such Government premises, are beyond the control of the tenant. it may allow the tenancy to subsist; 2Provided further lhal the prescribed authority shall give the tenant a notice and an opportunity of being heard before such Lermination: 2Provided also that an appeal shall lie to the Appellate Authority against an ocder determining non-occupation for a period or three consecutive months or non-residence by the tenant or any member of his family under the above provisos within fifteen days from the date of (he order passed by the prescribed authority and, in such case, the decision of the Appellate Authority shall be final. [Sub-section (3) inserted by s. 2 or the West Bengal Govcmmcm Premises acnancy Regulation) (Amendment) Act. 1994 (West Ben. ACI LIV 1994), hv nf the WNI Bempal Gnvemmenl Premises The West Bengal Governmenf Pren:ises (Tenancy Regulation) 1976. XIX of 1976.] 9 of 1872. west Ben. 1956. (Sections 3A, 4 & j) (b) A tenant shall be deemed to be ordinarily resident of a Government premises if he any member of his family generally resides in such Government premises for not less than ninety days in a period of four consecutive monLhs. (c) The provisions oflhis sub.section shall have effect notwithstanding anything contained in this Act or in any other law for the lime being in force or in any instrument having effect by virtue of any law other than this Act, or in any decree or order of any count tubunal or other authority, and noLhing contained in the Transfer of Property Act, 1882, or the Indian Contract Act, 1872 , or the West Bengal Premises Tenancy Act, 1956. shall apply, or shall be deemed over to have applied, to the tenancy as aforesaid and such tenancy shall lake effect, and shall be deemed always to have taken effect, as if the Transfer of Property Act, 1882, or the Indian Contract Act, 1872. or the West Bengal Premises Tenancy Act. 1956, had not been passed. 13A. A tenancy in respect of a Government premises shall be deemed to be void where on the date of allotment of such Government premises the tenanc is, or had been. the owner or a house or an apartment, either in his own name or in the name of any member of his family, within a re.*Lsonable distance from such Government premises. 4. (I) Upon terminati0Q or a tenancy under any of the provisions of section 3 2[or upon a tenancy being void under section 3A] the tenant shall forthwith restore vacant possession of the premises occupied by him in favour of the

prescribed authority. (2) If the tenant fails to restore possession of the premises under sub-section (1), the prescribed authority or any officer authorised by him in his behalf may take such steps or use such force as may be necessary to take possession of the premises and may also enter into such premises for the aforesaid purpose.

5. If any tenant sublets or induces any person in the premises occupied by him or in any part of it, in violation of the terms of lease governing his tenancy the tenant as well as the person in unauthorised occupation of the premises shall be liable on conviction to imprisonment for a term which may extend to six months or to fine which may extend to one thousand rupees or to both. Section 3A was inserted by s. 3 of the West Bengal Government Premises (Tenancy Regulation) (Second Amendment) Act, 1980 (West Bengal Act XLVI of 1980). Words, "acute and leuc" within the square brackets were inserted by s. 4, ibid. 401 Tenancy to be void if held by a tenant owning a house or apartment on the date of allotment of a Government premises. Restoration of possession, Penalty for unauthorised subletting. 402 Penalty for failure to deposit rent in time. Evidentiary of unauthorised occupants and penalty for 50th occupation offence under the Act to be cognizable, Payment of compensation- The West Bengal Government Premises (Tenancy Regulation) 1976. [West Bengal Act (Sections 6, 6A-6C.) 6. If by virtue of a written agreement an employer is authorised to collect the rent payable by the tenant who is the employee or such employer and deposit the same in favour of the State Government or the Government undertaking, as the case may be, then for failure on the part of the employer to make such deposit within the time agreed upon, the employer or in case the employer is a company or other body corporate or an association or persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be liable on conviction to a fine which may extend to five thousand rupees and in case of a continuing offence, to a further fine which may extend to one hundred rupees for each day during which the offence continues. 16A. Where any person, not being a tenant, occupies, or remains in occupation of, any Government premises without the written order of the prescribed authority,— (a) the prescribed authority, or any officer authorised by it in his behalf, may take such steps and use such force as may be necessary to take possession of the premises and may also enter into the premises for the said purpose; and (b) such person shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. 16B. An offence punishable under section 5 or clause (b) of section 6A shall be cognizable. 16C. (1) Where any reasonable wear and tear has been caused to any Government premises the possession of which has been taken from a tenant under the provisions of section 4, or where any damage has been caused to any Government premises possession of which has been taken under the provisions of section 6A, such tenant or such person as the case may be, shall be liable to pay for the repair of such damage such compensation, not exceeding the cost of repair, as may be determined by order, by the prescribed authority, after giving the tenant or the person, as the case may be, an opportunity of being heard. (2) An appeal shall lie to the Appellate Authority against an order determining compensation under sub-section (1) within fifteen days from the date of the order. Section 6A, 6B, 6C and 6D were inserted by s. 3 of the West Bengal Government Premises (Tenancy Regulation) (Amendment) Act, 1976. [West Bengal Act III of 1913, 45 of 1860, West Bengal Act XXI of 1962. (Sections 6D, 7-12.) (3) The decision of the Appellate Authority shall be final. 161). The amount of compensation determined under section 6C by the prescribed authority or the Appellate Authority, as the case may be, shall be payable by the tenant or the person, as the case may be, liable to pay such compensation, within thirty days from the date of the order."

7. Any claim for arrears or rent or for mesne profits [or for compensation] under this Act shall, if not duly paid, be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913.

8. (1) The State Government or the Government undertaking may appoint such officers and employees for carrying out the purposes of this Act as the State Government or the Government undertaking may deem fit. (2) The prescribed authority may delegate, subject to such conditions as the State Government may think fit to impose, to any officer appointed under sub-section (1) any of its powers under this Act.

9. The prescribed authority (the Appellate Authority) and the officers and other employees authorised to carry out any of the purposes of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

10. No suit, prosecution or other legal proceeding whatsoever shall lie against any person for anything in good faith done or intended to be done under this Act

11. If any difficulty arises in giving effect to the provisions of this Act, the State Government may make such order or do such thing, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

12. (1) The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force, or in any contract, express or implied, or in any custom or usage to the contrary. (2) In particular and without prejudice to the generality of the foregoing provisions, the West Bengal Public Land (Eviction or Unauthorised Occupants) Act, 1962 shall not be applicable to any premises for payment or compensation. Recovery or claim of demand, Appointment of officers, etc. and delegation of powers. Certain persons to be deemed to be public servants; Indemnity. Power to remove difficulties. Act to override other laws. to which this Act applies. See footnote 1 on page 402. ante. words within the square brackets were inserted by s. 5 of the West Bengal 1985 ("West Ben, ibid. 404 jurisdiction or civil courts. Prosecution subject to sanction of the prescribed authority. Power to make rules. Reliance and savings. The West Bengal Government Premises (Tenancy Regulation) 1976. [West Ben. Act XIX of 1976.] (Sections 13-16.) 13. No civil court shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with under the provisions of this Act

14. No Court shall cognizance of any offence under this Act except with the previous sanction of the prescribed authority, and no Court inferior to that of a Magistrate of the First Class shall try such offence.

15. (1) The State Government may make rules for carrying out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be or are required to be prescribed. 16. (1) The West Bengal Government Premises (Tenancy Regulation) Ordinance, 1976, is hereby repealed. (2) Anything done or any action taken under the West Bengal Government Premises (Tenancy Regulation) Ordinance, 1976, shall be deemed to have been validly done or taken under this Act as if this Act had commenced on the 7th day of January, 1976. West Ben. Ord. I of 1976,