



HIMACHAL PRADESH

Judicial Services Exam

CIVIL JUDGE (Junior Division)

Himachal Pradesh Public Services Commission

Civil Law

Volume - 1



HIMACHAL PRADESH JUDICIARY SERVICES

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Himachal Pradesh Urban Rent Control Act

Himachal Pradesh Urban Rent Control Act, 1987

(Act No. 25 of 1987)

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 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

In this 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.
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(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 non-residential building.

Explanation. - Where a building is used mainly for the purpose of business or trade, it shall be deemed to be a non-residential building even 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;
 - (h) "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
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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 up to 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 up to the date of his death ; and
- (d) Fourthly, his daughter-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 up to the date of his death;

Explanation-II. - The right 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

- (e) "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.
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3. Exemptions

- (1) The State Government may direct that all or any of the provisions of this Act shall not apply to any particular building or rented land or any class of buildings or rented lands.
- (2) The provisions of this Act shall not apply to any building or rented land owned by the Government.

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.
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5. Revision of Fair Rent in Certain Cases

- (1) Save as provided in subsection (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 permissible 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 date 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 in 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-

- (i) The landlord shall not claim or receive any premium or other like sum in addition to fair rent or any rent in excess of such fair rent, but the landlord may stipulate for and receive in advance an amount not exceeding one month's rent.
- (ii) 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. 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, puggree, 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 is by reason of the provisions of this Act not payable, such sum shall, at any time within a period of one year after the date of the payment, or in the case of 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 his legal representative, and may, without prejudice to any other method of recovery, be deducted by such tenant from any rent payable within such one year by him to such landlord.

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

10. Increase of Rent on Account of Payment of Rates etc., of local Authority but rent not to be increased on account of payment of other taxes etc.

(1) Notwithstanding anything contained in any other provisions of this Act, 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 be.

(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 the landlord to restore the amenities immediately pending the inquiry referred to in sub-section (4).

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

- (4) If the Controller, on inquiry, finds that the essential supply or service enjoyed by the tenant in respect of the building or rented land was cut off or withheld by the landlord without just and sufficient cause, he shall make an order directing the landlord to restore such supply or service.
- (5) The Controller may, in his discretion, direct that compensation, not exceeding one hundred rupees,-
 - (a) Be paid to the landlord by the tenant, if the application under subsection (2) was made frivolously or vexatious.
 - (b) Be paid to the tenant by the landlord, if the landlord had cut off or withheld the supply or service without, just and sufficient cause.

Explanation-I - In this section, "Essential supply or service" includes supply of water, electricity, lights in passages and on staircases, conservancy and sanitary services.

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

12. Conversion of a Residential Building into a Non-Residential Building.

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

13. Landlord's Duty to keep the building or rented land in good repairs. -

- (1) Every landlord shall be bound to keep the building or rented land in good and tenantable repairs.
- (2) If the landlord neglects or fails to make, within a reasonable time after receiving a notice in writing, any repairs which he is bound to make under subsection (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 use-able, except with undue inconvenience, are to be made and the landlord neglects or fails to make them after receiving notice in writing,
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the tenant may apply to the Controller for permission 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

- (1) A tenant in possession of a building or rented land shall not be evicted therefrom in execution of a decree passed before or after the commencement of this Act or otherwise, 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:
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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 1947), he shall not be liable to be evicted until the competent authority under that Act confirms the order of discharge or dismissal made against him by the landlord

- (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. - For the 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 somebody 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 fide by him for carrying out repairs which cannot be carried out without the building or rented land being vacated or that the building or rented land is required bona-fide by him for the purpose of building or re-building or making thereto any substantial additions or alterations and that such building or rebuilding 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:
