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PART I

GOVERNMENT OF SIND

LAW DEPARTMENT

NOTIFICATION

Karachi, the 21st November, 1979.

No. S. Legis. 1(17)/79—The following ordinance by the Governor of Sind is hereby published for general information:—

THE SIND RENTED PREMISES ORDINANCE, 1979.

SIND ORDINANCE No. XVII OF 1979.

AN

ORDINANCE

- *to make effective provisions for regulation of relations between landlords and tenants and protect their interests in respect of rented premises within urban areas.*

WHEREAS it is expedient to make effective provisions for regulation of relations between landlords and tenants and protect their interests in respect of rented premises within urban areas; Preamble.

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977 and the Laws (Continuance in Force) Order, 1977, the Governor of Sind is pleased to make and promulgate the following Ordinance:—

Short title
and
commence-
ment.

1. (1) This Ordinance may be called the Sind Rented Premises Ordinance, 1979.

(2) It shall come into force at once.

Definitions.

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

- (a) "building" means any building or part thereof, together with all fittings and fixtures therein, if any, and includes any garden, garrage, out-house and open space attached or appurtenant thereto;
- (b) "Controller" means a Controller appointed under section 4 and includes a person working as Controller immediately before coming into force of this Ordinance;
- (c) "fair rent" means the fair rent of any premises determined by the Controller under this Ordinance;
- (d) "Government" means the Government of Sind;
- (e) "land" means land or open space, not being agricultural land or land or open space attached or appurtenant to any building;
- (f) "landlord" means the owner of the premises and includes a person who is for the time being authorized or entitled to receive rent in respect of such premises;
- (g) "personal use" means the use of the premises by the owner thereof or his wife (or husband), son or daughter;
- (h) "premises" means a building or land, let out on rent, but does not include a hotel;
- (i) "rent" includes water charges, electricity charges and such other charges which are payable by the tenant but are unpaid;
- (j) "tenant" means any person who undertakes or is bound to pay rent as consideration for the possession or occupation of any premises by him or by any other person on his behalf and includes—
 - (i) any person who continues to be in possession or occupation of the premises after the termination of his tenancy;
 - (ii) heirs of the tenant in possession or occupation of the premises after the death of the tenant; and
- (k) "urban area" means an area within the jurisdiction of a Town Committee, Municipal Committee, Municipal Corporation or Metropolitan Corporation.

3. (1) Notwithstanding anything contained in any law for the time being in force, all premises other than those owned or requisitioned under any law, by or on behalf of the Federal Government or Provincial Government, situated within an urban area, shall be subject to the provisions of this Ordinance: Applicability

Omitted-1
 [Provided that nothing contained in sections 8 and 9 shall apply to a building for a period of ten years immediately after it has been wholly built or rebuilt and has become ready for occupation.]

(2) Government may, by notification, exclude any class of premises, or all premises in any area from operation of all or any of the provisions of this Ordinance.

4. (1) Government may appoint one or more Controllers. Controllers in any district and if more than one Controller is appointed in the same district Government shall define the local limits within which each of such Controllers shall exercise jurisdiction:

Provided that the Controllers working immediately before coming into force of this Ordinance shall continue to exercise their respective territorial jurisdiction until it has been altered by Government.

(2) No person shall be appointed as a Controller unless he has worked or, has been working, as a Civil Judge or First Class Magistrate, for not less than three years.

x
 (3) Government may authorize the District Judge or Deputy Commissioner, to transfer cases from one Controller to another within the District.

5. (1) The agreement by which a landlord lets out any premises to a tenant shall be in writing and if such agreement is not compulsorily registerable under any law for the time being in force, it shall be attested by, signing by, and sealing with the seal of, the Controller within whose jurisdiction the premises is situate or, any Civil Judge or First Class Magistrate. Agreement between landlord and tenant.

(2) Where any agreement by which a landlord lets out any premises to a tenant is compulsorily registerable under any law for the time being in force, a certified copy of the registered deed and where the agreement is not so registerable, the original deed duly attested under subsection (1), shall be produced and accepted in proof of the relationship of the landlord and tenant:

Provided that nothing in this section shall affect any agreement between the landlord and tenant immediately before coming into force of this Ordinance.

Omitted-2
 2. [6. No tenancy shall, at a time, be valid beyond such period as the landlord and tenant have, by mutual agreement, fixed before or after the commencement of the tenancy: Tenure of tenancy.

Provided that nothing in this section shall affect any tenancy existing immediately before coming into force of this Ordinance.]

x See Notification No. VIII(3)503/75. dt. 13.4.80, S.G.G. Pt. I dt. 29.5.80, P-420.

1. Omitted by ord. IV of 1984.

2. Omitted by *ibid*.

Higher rent
not
chargeable.

7. No landlord shall charge or receive rent in respect of any premises, at the rate higher than that mutually agreed upon by the parties, and, if the fair rent has been fixed by the Controller in respect of such premises, at the rate higher than the fair rent.

Fair rent.

8. (1) The Controller shall, on application by the tenant or landlord determine fair rent of the premises after taking into consideration the following factors:—

- (a) the rent of similar premises situated in the similar circumstances, in the same or adjoining locality;
- (b) the rise in cost of construction and repair charges;
- (c) the imposition of new taxes, if any, after commencement of the tenancy; and
- (d) the annual value of the premises, if any, on which property tax is levied.

(2) Where any addition to, or improvement in, any premises has been made or any tax or other public charge has been levied, enhanced, reduced or withdrawn in respect thereof, or any fixtures such as lifts or electric or other fittings have been provided thereon subsequent to the determination of the fair rent of such premises, the fair rent shall, notwithstanding the provisions of section 9 be determined or, as the case may be, revised after taking such changes into consideration.

Limit of
Fair rent.

9. (1) Where the fair rent of any premises has been fixed no further increase thereof shall be effected unless a period of three years has elapsed from the date of such fixation or commencement of this Ordinance which ever is later.

(2) The increase in rent shall not, in any case, exceed ten per cent per annum on the existing rent.

Payment of
rent.

10. (1) The rent shall, in the absence of any date fixed in this behalf by mutual agreement between the landlord and tenant, be paid not later than the tenth of the month next following the month for which it is due.

(2) The rent shall, as far as may be, be paid to the landlord, who shall acknowledge receipt thereof in writing.

(3) Where the landlord has refused or avoided to accept the rent, it may be sent to him by postal money order or, be deposited with the Controller within whose jurisdiction the premises is situate.

(4) The written acknowledgement, postal money order receipt or receipt of the Controller, as the case may be, shall be produced and accepted in proof of the payment of the rent:

Provided that nothing contained in this section shall apply in the cases pending before the Controllers on the commencement of this Ordinance.

11. (1) No landlord shall discontinue or cause to be discontinued any service such as electricity, gas or water, except with the previous consent of the tenant or in compliance with the requisition of the concerned authority or after obtaining the direction of the Controller in this behalf. Discontin-
ance of
amenities
and
services.

(2) Where the landlord has discontinued or caused to be discontinued any service in contravention of sub-section (1), the tenant may make an application to the Controller for restoration thereof.

(3) Where the Controller is, after making such inquiry as he deems fit, satisfied that the service has been discontinued without sufficient cause, he shall make an order directing the landlord to have the service restored within such period as may be specified in the order.

(4) Where the landlord has failed to comply with the order of the Controller made under sub-section (3), the Controller may take necessary steps to get the service restored and recover the costs of such restoration from the landlord.

(5) Where the landlord has contravened the provisions of sub-section (1), he shall be punished with simple imprisonment for a period not exceeding six months or with fine or with both.

12. (1) Subject to the agreement, if the landlord fails to make such repairs or white-washing as may be necessary to keep the premises in proper shape, the Controller may, on application made to him by the tenant and after such inquiry as the Controller deems fit to make, direct that such repairs or white-washing may be made by the tenant and the cost thereof may be deducted from the rent payable to the landlord. Repairs.

(2) Where any authority empowered by a law for the time being in force has required the landlord to make such repairs within such period as may be specified by such authority and the landlord has made default in this behalf, such authority may require the tenant to make such repairs.

(3) Where the tenant has made the repairs as aforesaid the authority ordering the repairs shall, after due verification of the details of the expenditure incurred by the tenant, certify the cost of repairs and the tenant may thereupon deduct the amount so certified from the rent payable to the landlord.

13. No tenant shall be evicted from the premises in his possession except in accordance with the provisions of this Ordinance. Eviction.

14. (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, the landlord of a building who is a widow, or a minor whose both parents are dead or a salaried employee due to retire within the next six months or has retired or a person who is due to attain the age of sixty years within the next six months or has attained the age of sixty years, may, by notice in writing, inform the tenant that he or she needs the building for personal use and require him to deliver vacant possession of the building within such time as may be specified in the notice, not being earlier than two months from the receipt thereof: Delivery of
vacant
possession

Delivery of
vacant
possession.

Substituted See Slip-2
[² Provided that nothing in this sub-section shall apply where more than six months have elapsed since the landlord has retired or attained the age of sixty years or, as the case may be, has become widow or orphan.]

(2) The landlord shall not be entitled to avail the benefit of sub-section (1) if he is in occupation of a building owned by him in any locality.

(3) Where the tenant has failed to deliver the possession of the building under sub-section (1), the Controller shall, on application by the landlord in this behalf, order eviction of the tenant from the building in a summary manner, by using such force as may be necessary.

Omitted.
[¹ (4) Where the landlord, who has obtained the possession of the building under this section, relets the building to any person other than the previous tenant or puts it to a use other than personal use within one year of such possession, he shall be punishable with fine which shall not exceed one year's rent of the building payable immediately before the possession was so obtained.]

Application
to
Controller.

15. (1) Where a landlord seeks to evict the tenant otherwise than in accordance with section 14, he shall make such application to the Controller.

(2) The Controller shall, make an order directing the tenant to put the landlord in possession of the premises within such period as may be specified in the order, if he is satisfied that—

- Omitted-3*
- [(i) the tenancy has ceased to be valid under section 6;]
- (ii) the tenant has failed to pay rent in respect of the premises in his possession within fifteen days after the expiry of the period fixed by mutual agreement between the tenant and landlord for payment of the rent, or in the absence of such agreement, within sixty days after the rent has become due for payment;
- (iii) the tenant has, without the written consent of the landlord—
- handed-over the possession of the premises to some other person;
 - used the premises for the purpose other than that for which it was let out;
 - infringed the conditions on which the premises was let out;
- (iv) the tenant has committed such acts as are likely to impair the material value or utility of the premises;
- (v) the tenant has indulged in such activities as are causing nuisance to the neighbours;
- (vi) the premises is required by the landlord for reconstruction or erection of a new building at the site and the landlord has obtained necessary sanction for such reconstruction or erec-

- Omitted by Sind Ord. II of 1980, s.2.*
- Proviso Subs. by Ord. XII of 1980, s.2.*
- Omitted by Sind Ord. IV of 1984.*

tion from the authority competent under any law for the time being in force to give such sanction;

- (vii) the landlord requires the premises in good faith for his own occupation or use or for the occupation or use of his spouse or any of his children.

(3) Where the landlord who has obtained the possession of the premises for the purpose of reconstruction of the building or erection of a new building, shall demolish the existing building within six months of the taking over of the possession of the premises or, as the case may be, commence the erection of the new building within two years of the taking over of the possession of the premises, and in case the landlord fails to demolish the building as aforesaid, the tenant shall be entitled to be put into possession of the premises. *[And for the purpose he may apply to the Controller for an order in that behalf.]*

15. A inserted Sec 15-2] 16. (1) Where a case for eviction of the tenant has been filed, the Controller shall, on application by the landlord and after such summary inquiry as he deems fit to make, determine the arrears of the rent due and order the tenant to deposit the same within such period as the Controller may fix in this behalf and further direct the tenant to deposit monthly rent regularly on or before the tenth of every month, until final disposal of the case. Arrears of rent.

(2) Where the tenant has failed to deposit the arrears of rent or to pay monthly rent under sub-section (1), his defence shall be struck off and the landlord shall be put into possession of the premises within such period as may be specified by the Controller in the order made in this behalf.

(3) Where the rent has been deposited under this section, it shall, subject to such order as the Controller may make in this behalf, be paid to the landlord at the conclusion of the case or on such earlier date as may be specified by the Controller.

17. Where the Controller is satisfied that any application made by a landlord for eviction of the tenant is frivolous or vexatious he may direct that compensation not exceeding ten times the monthly rent be paid by such landlord to the tenant. Compensation for vexatious eviction.

18. Where the ownership of a premises in possession of the tenant has been transferred by sale, gift, inheritance or by such other mode, the new owner shall send an intimation of such transfer in writing by registered post, to the tenant and the tenant shall not be deemed to have defaulted in payment of the rent for the purpose of clause (ii) of sub-section (2) of section 15, if the rent due is paid within thirty days from the date when the intimation should, in normal course, have reached the tenant. Change in ownership.

19. (1) Where an application other than the application under section 14 has been made to the Controller under this Ordinance, he shall, unless the application is summarily dismissed by him for reasons to be recorded, issue a notice to the respondent to file written reply, if any, within such period not exceeding fifteen days of the receipt of the notice. Procedure.

(2) Where on the day fixed in the notice for the respondent to file written reply, it is found that the notice has been served but the respondent

1. Words added by Sind Ord. II of 1980, S. 3.

2. 15A inserted by ibid.

3. S.S. (4) added by Sind Ord. IV of 1984.

4. Section (15A) Subs. by Sind Ord. IV of 1984.

has failed to file his reply without any reasonable excuse, the Controller may, proceed to make an ex parte order and after such order has been made the Controller shall have no power to rescind such order.

(3) Where the respondent has filed the written reply, the Controller shall proceed to receive evidence first of the applicant and his witnesses and then of the respondent and his witnesses.

(4) A party to a case under this Ordinance shall prove the evidence of his witness by producing the affidavit of such witness a copy of which shall simultaneously be supplied to the other party and such other party shall have the right to cross examine the witness on such affidavit and if the witness has been cross examined the party producing the witness may re-examine him.

(5) The Controller shall, instead of formally framing issues arising between the parties, state them briefly in the judgment and shall record findings on each such issue separately.

Power of
Civil Court.

20. (1) Subject to this Ordinance, the Controller and the appellate authority shall, for the purpose of any case under this Ordinance, have powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of only the matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) compelling production or discovery of documents;
- (c) inspecting the site; and
- (d) issuing commission for examination of witnesses or documents.

Appeal.

21. (1) Any party aggrieved by an order, not being an interim order, made by the Controller may, within thirty days of such order, prefer an appeal to the High Court.

(2) The appellate authority may pending the final disposal of the appeal, grant injunction staying further proceedings or action on the order of the Controller:

Provided that no injunction shall be granted if the appeal has been preferred from the order under section 14.

(3) The appellate authority shall, after perusing the record of the case and giving the parties an opportunity of being heard and, if necessary, after making such further enquiry either by himself or by the Controller, make an appropriate order, which shall be final.

Execution of
orders.

22. An order made by the Controller or the appellate authority shall be executed in such manner as may be determined by the Controller or, as the case may be, the appellate authority.

Judicial
proceedings.

23. The Controller and the appellate authority shall be deemed to be a Civil Court within the meaning of section 480 of the Code of Criminal Procedure, 1898 (Act V of 1898).

24. No Court shall take cognizance of an offence under this Ordinance except upon complaint in writing made by the Controller. Cognizance of offence.

25. No suit or legal proceedings shall lie against Government or any authority or person in respect of anything done or intended to be done in good faith under this Ordinance. Indemnity.

26. Government may make rules for carrying out the purposes of this Ordinance. Rules.

27. (1) The Sind Urban Rent Restriction Ordinance, 1959, is hereby repealed. Repeal.

(2) All appeals, and such cases before a Controller as are fixed for arguments or judgment which have been filed under the Ordinance mentioned in sub-section (1) shall, notwithstanding the repeal thereof, be disposed in accordance with the said Ordinance.

(3) & (4) - See slip - 1

KARACHI: LIEUTENANT GENERAL S. M. ABBASI

Dated the 14th November, 1979.

Governor of Sind.

G. M. KOUREJO,

Secretary to the Government of Sind,
Law Department.

Ext-1—387.

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1. Sub-Section (3) & (4) added by Sind Ord. II of 1980, s. 5