

# The Orissa House Rent Control Act, 1967

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### Act 4 of 1968

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The Orissa House Rent Control Act, 1967Orissa Act 4 of 1968For Statement of Objects and Reasons, see Orissa Gazette, Extraordinary (No. 979), dated the 1st August 1967 and for Report or the Select Committee, see, ibid, dated the 15th December 1967 (No. 1599).[Received the assent of the President on the 17th February 1968, first published in an extraordinary issue of the Orissa Gazette, dated the 4th March 1968]An act to provide for the control of house-rent in the state of Orissa.Be it enacted by the Legislature of the State of Orissa in the Eighteenth Year of the Republic of India, as follows:-

### 1. Short title extent, commencement and duration.

(1)This Act may be called the Orissa House-Rent Control Act, 1967.(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, 1958 was in force immediately prior to its expiry 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 sections 17 and 18 shall come into force in the earlier mentioned local areas on the day on which the assent of the President to this Act is first published in the Gazette.(4)It shall cease to have effect [on the 4th day of May, 1981] [Substituted by the Orissa House-rent Control (Amendment) Act, 1974 (Orissa Act 10 of 1974), Section 2, for 'On the expiry of Seven years from the date of its commencement.' w.e.f. 13th July 1974.] except as respects things done or omitted to be done before the expiration thereof and section 5 of the Orissa General Clauses Act, 1937 shall apply upon the expiry of this Act as if it had then been repealed by an Orissa Act.

### 2. Definitions.

- In this Act unless the context otherwise requires -(1)"Controller" in respect of any area means the [Subdivisional Judicial Magistrate] [Substituted by the Orissa House-rent Control (Amendment) Act, 1974 (Orissa Act 10 of 1974 ), Section 3. w.e.f. 1st April, 1974.] having jurisdiction over that area and shall include any Magistrate of the first class having jurisdiction over such area to whom the

[Subdivisional Judicial Magistrate] [Substituted by the Orissa House-rent Control (Amendment) Act, 1974 (Orissa Act 10 of 1974 ), Section 3. w.e.f. 1st April, 1974.] may transfer any application for disposal;(2)"fair-rent" means rent considered reasonable having regard to the-situation, locality, condition of the premises, amenities provided therein and the rental value fixed by the local authority, if any;(3)"house" includes any building or part of a building with its appurtenances and out-houses used for any purpose whatsoever;(4)"landlord" includes any person who is receiving or is entitled-to-receive the rent of a house whether on his own account or on behalf of another or on behalf of himself and others;(5)"tenant" means any person by whom or on whose behalf rent is payable for any house and includes every person who from time to time derives title under a tenant, or a person continuing in possession after the termination of his tenancy otherwise than under, the provisions of this Act and shall include any person against whom a suit for ejectment is pending in a Court of competent Jurisdiction but not a person against whom a decree or order for eviction has been made by such a Court.

### **3. Salami or premium not to be charged.**

- After the (date of commencement of this Act a landlord shall not be entitled to charge salami or premium for letting any house or for renewing the lease of any house.

### **4. Landlord entitled to fair-rent.**

- Subject to the provisions of this Act: and notwithstanding any contract to the contrary, no landlord shall be entitled to charge rent for any house at a sum higher than the fair-rent.

### **5. Determination of fair-rent.**

(1)Any landlord or any tenant may make an application to the Controller to fix a fair-rent.(2)Pending final decision on the application the Controller shall fix a provisional rent. Final decision 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. Continuance of tenancy.**

- Notwithstanding anything to the contrary contained in any agreement or law no tenant shall be liable to be ejected except as provided in section 7.

### **7. Conditions under which a tenant can be ejected.**

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

## **8. Bar of claims in excess of the determined rent and refund of excess payment.**

- When the Controller has determined, the fair-rent of a house-(a)the landlord shall not claim and shall not be entitled to any rent in excess of the rent so determined;(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. Redetermination of fair-rent in certain cases.**

(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, 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 of 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. Landlord to effect repairs.**

(1) If the landlord fails to effect normal repairs to the house and there by renders the house uninhabitable, 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. (2) In case the landlord fails to comply with the directions issued under sub-section (i) 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.

## **11. Continuance of tenancies other than tenancies from month to month.**

(1) If a tenant in possession of any house held on a tenancy other than a tenancy from month to month wished to extend the period of tenancy by 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.

## **12. Enquiries and Procedure.**

(1) An enquiry under this Act shall be of a Enquiries 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 officer 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 sections 6, 7, 8, 9, 18 and 19 shall apply to all appeals and applications under this Act.

### **13. Appeal.**

(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 [\* \*] [Omitted by the Orissa HUse Rent Control (Amendment) Act, 1969 (Order Act 12 of 1969), l.c. Section 2.] [the Chief Judicial Magistrate] [Substituted by the Orissa House Rent Control (Amendment) Act, 1974 (Order Act of 1974), Section 4 for 'the Additional District Magistrate Judicial]' w.e.f. 1st April 1974.] or any other officer 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 case from the Controller and, after perusing such record, hearing the parties and after making such further enquiries, as he thinks fit, shall decide the appeal.

### **14. Finality of orders.**

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

### **15. Count to deliver possession.**

- The order of the Controller made under court to section 7 directing the tenant to put the landlord in possession of the house, shall be deemed to be a decree and shall be executable as such in the Court of the Munsif within the local limits of whose jurisdiction the house is situate.

### **16. Stay of execution of decree or order for eviction in certain cases.**

(1)Notwithstanding anything in any law or in any of the other provision of this Act, where a person who continues in possession of a house in spite of a decree or order for eviction therefrom made against him before the commencement of 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 sufficient cause order stay of execution of the decree or order pending the disposal of the appeal or, as the case may be, the application for review or revision.(2)The Court may, while ordering stay of execution under sub-section (1), impose such terms and conditions in respect of the quantum arid manner of payment of 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 opportunity of being heard, vacate the order of stay of execution of the decree or order.

## **17. Penalty.**

- If any person contravenes any provision of this Act or of any rules or orders made thereunder, he shall be deemed to have committed an offence shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees or with both.

## **18. False statements.**

- If any person, when required by or under this Act to make any statement or to furnish any information, makes any statement or furnishes any information which is false in material particulars and which he knows or has reasonable cause to believe to be false or does not believe to be true, he shall be punishable with fine not exceeding two hundred rupees.

## **19. Protection of action taken under the Act.**

(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. (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. Exemption.**

(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. Power to make rules.**

(1) The State Government may make [rules] [For rules under section 21 (1), see Notification No. 14156-L. E. H., dated the 16th November 1968, published in Orissa Gazette, dated the 31st January 1969, Part III, page 135.] to carry out the purposes of this Act. (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.

## **22. Validation of certain actions.**

- Notwithstanding the expiration of Orissa House Rent Control Act, 1958—(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 (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 things 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] [Substituted by the Orissa House Rent Control (Amendment) Act 1974 (Orissa Act 10 of 1974), Section 5 for 'Subdivisional Magistrate and the Additional District Magistrate (Judicial)' w.e.f. 1st April, 1974.].