

The Bihar House and Business Premises Rent Control Order, 1942

JHARKHAND

India

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Rule

THE-BIHAR-HOUSE-AND-BUSINESS-PREMISES-RENT-CONTROL-ORDER of 1942

- Published on 1 November 1941
- Commenced on 1 November 1941
- [This is the version of this document from 1 November 1941.]
- [Note: The original publication document is not available and this content could not be verified.]

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1. Short title and extent.

(1)This Order may be called the Bihar House and Business Premises Rent Control Order, 1942.(2)This Order shall extend to the whole of the Province of Bihar but it shall not come into force in any local area until it is applied thereto by notification, issued by the Provincial Government or by an order in writing issued by any authority empowered in this behalf by the Provincial Government.

2. Definitions.

- In this Order, unless there is anything repugnant in the subject or context-(a)"Business Premises" means generally premises used for purposes of business, trade or commerce or industry;(b)"Controller" for any district means the District Magistrate of that district or any officer authorised in this behalf by the District Magistrate;(c)"date of the commencement of this Order" means, in respect of any local area : the date on which this Order is applied thereto under clause (2) of paragraph I;(d)"house" means a building or part of a building suitable for occupation as a residence and includes-(i)the garden, grounds and out houses (if any), appurtenant to such building or part of a building; and(ii)any furniture supplied by the landlord for use in such building or part of a building; and(e)"landlord" includes the person who is receiving or entitled to receive the rent of a house whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent or be entitled to receive the rent if the house were let to a tenant.

2A.

In clause (e) of paragraph 2 and in the subsequent paragraphs, reference to 'house' wherever it occurs shall include a reference to business premises.

3. Salami or Premium not to be charged.

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

4. Continuation of existing tenancies from month to month and bar against increase of rent.

- Notwithstanding anything contained in any agreement or law to the contrary, where a tenant is, on the date of the commencement of this Order, in possession of any house on a tenancy from month to month-(a)he shall not be liable to be ejected except for non-payment of rent or breach of the conditions of the tenancy, and(b)the landlord shall not be entitled to increase the rent which was on the date of commencement of this Order, payable for such house:Provided that the Controller may on the application of the landlord and after making such inquiry as he thinks fit:(i)if he is satisfied that the house is reasonably and in good faith required by the landlord for his own occupation or for the occupation of any person for whose benefit the house is held by him, direct the tenant to vacate the house on or before such date as may be specified in the order not being less than three months after the date of the order.(ii)increase such rent in the same circumstances, to the same extent and with the same effect as the fair rent of a house may be increased under paragraph 7.(2)When an order directing the tenant to vacate the house has been made under provision (i) to clause (1) and the house is not occupied by the landlord or by the person for whose benefit the house is held by him as the case may be within fifteen days of the vacation of the house by the original tenant, or having been so occupied, is re-let within two months of the said date to any person other than the original tenant, the Controller may, on the application of the original tenant made within three months of his vacating the house, cancel the previous order made under the provision (i) in clause (1) and direct the landlord to place the original tenant in possession of the house and to pay him such compensation as may be fixed by the Controller.(3)If a landlord ejects from a house a tenant who by virtue of the provisions of clause (a) of sub-paragraph (1) is not liable to be ejected, from such house, the Controller may, on the application of the tenant made within one month of the date of the ejection, direct the landlord to place the tenant in possession of the house and to pay the tenant such compensation as the Controller may fix.

5. Determination of fair rent of house in occupation of a tenant other than a tenant from month to month.

(a)When on a written complaint or otherwise the Controller has reason to believe that the rent of any house, which, on the date of the commencement of this Order, is in the possession of a tenant other than a tenant who holds on a tenancy from month to month, is excessive, he shall hold a

summary inquiry and record a finding.(b)If, on a consideration of all the circumstances of the case, including any amount paid or to be paid by the tenant by way of premium or any other like sum in addition to rent, the Controller finds that the rent of the house is excessive, he shall determine the fair rent to be charged for the house.

6. Determination of fair rent of houses other than houses referred to in paragraph 4 or 5.

(a)The Controller may, on the application of the landlord or a prospective tenant or on his own motion, and after making such enquiry as he thinks fit, fix the fair rent of any house other than a house referred to in paragraph 4 or 5 and such fair rent shall be fixed as for a tenancy from month to month.(b)If any house the rent of which has been fixed under clause (a) is let, the landlord shall be entitled to charge for each month of the tenancy-(i)if the house is let for a period not exceeding six months, rent fixed under clause (a) increased by 10 per cent;(ii)if the house is let for a period exceeding six months, but not exceeding nine months, the rent fixed under clause (a) increased by 2 per cent;(iii)if the house is let for a period of more than nine months, the rent fixed under clause (a).(c)A landlord who wishes to let after the date of the commencement of this Order, any house, the fair rent of which has not been fixed under clause (a) may apply to the Controller for fixing the fair rent of such house and the Controller shall fix the fair rent of such house as if such application had been made under clause (a) and if such house is let, the landlord shall be entitled to charge rent for such house in accordance with the provision of clause (b) as if the fair rent of such house had been fixed under clause (a).

7. Re-determination of fair rent in certain cases.

(1)If at any time after the fair rent of a house has been determined under this Order it appears to the Controller that subsequent to such determination some addition, improvement or alteration, not included in necessary repair or repairs usually made to houses in the locality, has been made to the house at the landlord's expense, the Controller may after making such enquiry as he thinks fit, re-determine the fair rent of the house.(2)Any increase in fair rent allowed under (1) shall not exceed 7½ per cent of the cost of the addition, improvement or alteration and shall not be chargeable with effect from date earlier than the date on which the addition, improvement or alteration was completed.

8. Power of Controller in enquiries.

- For the purposes of inquiry under this Order, the Controller may-(a)require the landlord to produce any books of account, or other document or to furnish any information relating to house;(b)enter and inspect the house; and(c)authorise any officer to enter and inspect the house.

9. Matters to be considered in fixing the fair rent.

- In fixing the fair rent of a house under this Order, the Controller shall have due regard to the prevailing rates of rent for the same or similar accommodation in similar circumstances at any time during the twelve months prior to 1st November, 1941, and in the case of a house which has been constructed after that, also to any general increase in the cost of sites and building construction.

10. Controller to maintain list of fair rent.

(1)The Controller shall maintain up-to-date a list showing the fair rents of houses as fixed by him from time to time under this Order.(2)A copy of the list shall during office hours, be kept open to inspection, free of charge, at the office of the Controller, and copies of the list shall also be made available to the public at a price not exceeding one rupee a copy.

11. Bar of claims in excess of fair rent and refund of excess payment.

- When the fair rent of a house has been determined under this Order-(a)the landlord shall not claim, and shall not be entitled to any rent in excess of such fair rent;(b)any agreement for the payment of rent in excess of such fair rent shall be null and void in respect of such excess and be construed as if it was an agreement for payment of the said fair rent;(c)any sum in excess of such fair rent paid whether before or after the date of the commencement of this Order, in respect of occupation for any period after the date of the commencement of this Order, shall be refunded to the person by whom it was paid or at the option, of such person, otherwise adjusted.

12. Continuation 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, wishes 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; and upon the delivery of such notice 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 clause (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 house is reasonably and in good faith required by the landlord for his own occupation or for occupation of any person for whose benefit the house is held by him; or(b)that the tenant has not been performing any of the conditions of the tenancy; or(c)that the landlord has any other good and sufficient reason for determining the tenancy on the expiry of the originally agreed period;The Controller shall pass an order disallowing the extension demanded by the tenant.(3)When an order under clause (2) has been made by the Controller on the ground that the house is required by the landlord for his own occupation or for the occupation of any person for whose benefit the house is held by him, and the house is not occupied by the landlord or by the aforesaid person, as the case may be, within fifteen days of the vacation of house by the original tenant, or having been so occupied is re-let within two months of the said date

to any person other than the original tenant, the Controller may, on the application of the original tenant made within three months of his vacating the house, cancel the previous order made under clause (2) and direct the landlord to place the original tenant in possession of the house and to pay him such compensation as may be fixed by the Controller.

13. Bar against orders for recovery of possession of house in possession of a tenant.

- No order for the recovery of possession of any house shall be made so long as the tenant pays or is ready and willing to pay rent to the full extent allowable by this Order and performs the conditions of the tenancy.

14. Appeals from orders of the Controller and finality of decision.

(1) Any person aggrieved by an order of the Controller may within fifteen days from the date on which the order is communicated to him, present an appeal in writing to the Commissioner of the Division. (2) The Commissioner shall then send for the record of the case from the Controller and after examining such record and, after making such further inquiry as he thinks fit either personally or through the Controller, shall decide the appeal. (3) The decision of the Commissioner and subject only to such decision, an order of the Controller shall be final, and shall not be questioned in any Court.