

Jammu and Kashmir Houses and Shops Rent Control Rules, 1981

JAMMU & KASHMIR

India

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Rule

JAMMU-AND-KASHMIR-HOUSES-AND-SHOPS-RENT-CONTROL-RULES of 1981

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Jammu and Kashmir Houses and Shops Rent Control Rules, 1981Published vide Revenue Department Notification SRO-396, dated 8.9.1981In exercise of the powers conferred by section 33 of the Jammu and Kashmir Houses and Shops Rent Control Act, 1966 the Government hereby make the following rules, the same having previously been published as required by sub-section (3) of said section, namely:-

1. Short title and commencement

(1) These rules may be called the Jammu and Kashmir Houses and Shops Rent Control Rules, 1981.(2)They shall come into force on their publication in the Government Gazette.

2. Definitions

In these rules, unless the context otherwise requires,-(i)'Act' means the Jammu and Kashmir Houses and Shops Rent Control Act, 1966.(ii)'Form' means a form appended to these rules(iii)'Schedule' means a schedule appended to the Act; and(iv)'Section' means section of the Act.

3. Manner of making applications under section 8 for fixation or increase of fair rent or revision of fair rent

(1) An application under section 8 shall be made in Form 'A' by any land-lord or tenant to the Controller for fixation or increase of fair rent stating fully the facts of the case or the grounds on

which the increase in fair rent or the revision of fair rent is claimed.(2)The Controller shall consider the facts and ensure that the application contains sufficient material which warrants determination of fair rent in respect of premises in occupation of the tenant or let by landlord to any person. After hearing both the parties and taking into account all the evidence produced before him, he may pass any order for increasing the fair-rent in accordance with clauses (a), (b), (c), (d) and (f) sub-section (1) of section 8 and Schedule 'A' of the Act .(3)Where no provisions of the Act for fixing fair-rent apply to any premises the fair rent shall be determined by the Controller after taking into account following factors:-(a)reasonable cost of construction of the house or shop as on the date of its constructions;(b)reasonable price of the land included in the house or shop as on the date of the commencement of the construction; and(c)prevailing rate of rent in the locality for similar accommodation with similar advantages and amenities and the comparative advantages or disadvantages or the accommodation in the house or shop.(4)Whenever an application is made to the Controller for revision of fair rent, he shall cause a notice to be served on the tenant given sufficient time for mentioning _reasons as to why the fair rent shall not be re-revised or increased in accordance with the provisions of the Act including Schedule 'A' thereof.

4. Form of permit for purchase or hire of any furniture in any house or shop

The permit referred to in section 5 shall be granted by the Controller in Form 'B' on an application made to him by the landlord after considering reasonableness of price of hire of such furniture, as the case may be.

5. Manner of obtaining permission of the Controller for re-letting of any house or shop under section 13

(1) A landlord desirous of obtaining the permission of the Controller under section 13 for re-letting any house or shop within six months of the date of his occupation of the house or shop to any person other than the previous tenant, shall make an application in writing to the Controller stating fully the reasons for so re-letting the house or shop and also furnish such other evidence in support of his prayer as the Controller may require.(2)On receiving an application under sub-rule (1), the Controller shall cause a notice together with a copy of the application to be served on previous tenant requiring such tenant to appear before him and to file objections, if any, on such date and at such time as may be specified in the notice, to be served by registered post with acknowledgement due or if the address of the previous tenant be not known, the Controller shall publish the notice in any local news paper and affix a copy of the notice in the house or shop in question, as the case may be, and another copy in a conspicuous place in the office of the Controller. The cost of transmission by post and the cost of publication of such notice shall be borne by the applicant.

6. Restoration of possession to Defence personnel

On receipt of application for restoration of possession of a residential building by any member of the Defence forces or wife of a deceased member of Defence forces, the Controller shall make such summary enquiry as he may deem necessary and after ascertaining bona fide requirements of such

applicant, shall, while, passing an order for restoration, specify in his order that the applicant shall be put in physical possession of the residential building within seven days from the date of order. Provided that such order shall not be made unless an opportunity of being heard is given to the tenant.

7. Deposit, of rent by the tenant

(1) The deposit of rent under section 14 may be made in the office of the Controller either by the tenant himself, or by any person authorised by him in this behalf. The application referred to in sub-section (2) of section 14 shall be filed in Form 'C' and it shall be accompanied by challans prepared in triplicate as nearly as possible in Form 'D' furnishing the particulars referred to in the said form. While filing the application, the tenant or the authorised person, as the case may be shall deposit Rs. 5/- as fee for sending to the landlord or to persons mentioned in sub-section (4) of section 14, the notice of the deposit, accompanied by a copy of the application by registered-post with acknowledgement due or in such other manner as the Controller may deem fit. In case there are more persons than one for receiving the rent, the application shall be accompanied by as many copies as there are such persons. (2) On receipt of deposit, the Controller shall cause a copy or copies of application for deposit to be sent by registered post with acknowledgement due to the person to whom the rent was last paid as also to the person or persons mentioned in the application.

8. Manner of withdrawal of deposit of rent

(1) The application for withdrawal of rent deposited under section 14 shall be filed in Form 'E' by the landlord or by the person or persons claiming to be entitled to the rent either personally or through an authorised person or legal practitioner. Where the application for withdrawal of rent is filed personally by the landlord or by person or the persons claiming to be entitled to the rent or by a duly authorized person, such landlord, person or persons.. claiming to be entitled to the rent or duly authorised agent as the case may be shall get himself identified before the Controller by a legal practitioner. (2) The name and address of the legal practitioner, through whom an application for withdrawal of rent is filed or who identifies a landlord, a person or persons claiming to be entitled to rent, or a duly authorised person shall be entered in the registers maintained in the office of the Controller such legal practitioner shall, if required by the Controller, produce his licence before him and in such cases the particulars of the licence shall also be entered in the said registers. (3) The Controller shall order the amount of rent deposited to be paid to the landlord or person or persons entitled to the rent either in cash or by cheque. (4) Subject to the provisions of the the all sums deposited shall be treated as Civil Court deposits and accounted for and dealt with according to the Rules of Civil Court deposits in-force in civil courts.

9. Procedure to be followed in inquiries

In making inquiries under the Act, the Controller or the District Judge shall follow' procedure laid down:- (a) in the case of inquiries relating to officers in the Code of Criminal Procedure, Samvat 1989, for the trial of cases; and (b) in the case of all other inquiries, the Code of Civil Procedure, samvat 1977, for the trial of suits, recording a memorandum of substance only of the evidence and

the reasons for his findings as in cases in which no appeal lies.

10. Manner of service of notices issued under the Act

In the matter of service of notices, fee payable on every application made before the Controller or memorandum of appeal filed before the District Judge under the Act and process fee chargeable therefore including any other proceedings arising therefrom, the procedure laid down in the rules and orders for the guidance of Courts subordinate to the High Court of Jammu and Kashmir shall, with such modification as may be necessary, apply.

11. Manner of payment of fine or any sum ordered to be paid under the Act

(1) The Controller shall issue a notice of demand to the person on whom a fine is imposed or who has been ordered to pay any sum under the Act. (2) The fine or the sum ordered to be paid under the Act as the case may be, shall be paid by such person in cash in the office of the Controller and obtain a receipt therefor. The amount so recovered shall be entered in the account register to be maintained for the purpose and deposited in the Treasury under relevant account head. (3) In default of payment within the period prescribed under section 24, the Controller shall refer the case to the Assistant Collector of the First Class of the district concerned for recovery of such fine or the sum as arrears of land revenue.

12. Payment of costs for making repairs, etc.

(1) A tenant requiring the landlord to make repairs to the house or shop or to take measures for the due maintenance of any essential services to the house or shop in possession of that tenant shall make an application to the Controller stating full particulars of the repairs needed or the measures to be taken for maintenance of any essential services. (2) While making application under sub-rule (1), the tenant shall submit with the application the estimates of cost of such repairs duly attested by an Assistant Engineer of Public Works Department. Explanation: The expression 'repairs' include such measures as may be necessary to maintain essential services to the house or shop. (3) On receipt of the application, the Controller shall cause a copy of the application together with a copy of estimates of repairs to be served on the landlord. (4) In case of emergency referred to in section 28, the tenant shall himself cause a notice to be served on the landlord requiring him to make any repairs urgently to the house or shop or to take urgent measures for the maintenance of any essential services to the house or shop in his possession. Form 'A' (See rule 3) To The

Controller, _____ Respectfully, I _____ S/o _____ R/o _____ say that I am tenant/landlord of the house/shop situate in estate _____ Tehsil _____ No _____ and to request kindly to fix the fair rent/ increase the rent by a suitable percentage to the possible extent after taking into consideration all factors conducive in arriving at final conclusion for determination of such rent. Yours faithfully, (Tenant/Landlord) S/o

_____ R/o _____ Form 'B' (See rule 4) Shri _____ S/o _____

R/o _____ Landlord of the House/Shop situates in estate _____ Tehsil

No. _____ is permitted to provide the following articles of furniture for bonafide use of the tenant of house/shop.

Descriptions of Furniture Price Hire

Subject to the conditions that the price/hire of each article of furniture does not exceed the price/hire as mentioned against each item. Seal and signature of the Controller. Form 'C' (See rule 7) Application for deposit of Rent under section 14 of the J&K Houses and Shops Rent Control Act, 1956 Before the Controller _____ Name _____ Tenant-Applicant. Versus Name _____ Landlord/person or persons claiming to be entitled to rent. The applicant prays for permission to deposit the rent of premises as per particulars furnished below:-(i) Particulars of the premises with description thereof sufficient for identifying the premises (e.g. No. of premises, name of street, Police Station, etc. _____) (ii) Period for which the rent is deposited (iii) Amount of the rent deposited (iv) the name and address of the landlord, or the person or persons claiming to be entitled to such rent _____ (v) The reasons and circumstances for the application for deposit of the rent _____ (To be filled in for Subsequent Deposits only) (vi) The period for which rent was last deposited _____ (vii) No of challan with date under which the above deposit was made _____ (viii) Reasons and circumstances for the deposit of rent last made _____ Verification The statements made above true to the best of my knowledge and belief and I _____ the applicant/the authorised person sign this application on the _____ day _____ 19. Signature of the Applicant/Authorised person Form 'D' (See rule 7) Part-I - To be Filled in by the Prayer

Location of the Premises	Name and address of the person or persons on whose behalf the money is tendered	Name and address of landlord or person or persons to whose credit the amount is to be placed in deposit.	In the case of bona fide doubt as to the person or persons to whom rent is payable the person or persons to whom the rent was last paid and the name and address of the person or persons who, to the tenant's best information and belief, is the landlord entitled to receive it.			Particulars of receipt	Amount deposited
The specification of the Premises in respect of which the	The period for which the rent is deposited.	As rent	As process fee or other charges.	Total	Remarks		

deposit is
made.

1 2 3 4 5(a) 5(b) 6(a) 6(b) 6(c) 7

(in words) Rupees.....Dated.....Signature of the person tendering the money.

Part II – To be filled in by the Clerk in charge.

Number and date in the Register of Challans	Amount to be credited whether Civil deposit, fines and forfeitures, stamp duty and penalties, or miscellaneous or other receipts.	Remarks
1	2	3

Part III – To be used by the Cashier of the Controller's Office.

Received payment of Rs. _____ (in figures) Rupees _____ (in words). Dated
_____ Cashier of the Controller's Office

Part IV – . To be used by the Controller's Office (in the case of deposits made in the Controller's Office.)

Certificate Examined And Entered In The Books of The Controller's Office. Dated.....Signature
of the Controller. Form 'E' (See rule 8) Application for withdrawal of rent deposited under section 14
of the Jammu and Kashmir Houses and Shops Rent Control Act, 1966. Before the Controller
_____ Name _____ Petitioner. Versus Name _____
Depositor. Praying that the above named landlord/landlords/person/ persons claiming to be entitled
to the rent be paid the amount of rent as per following deposits, the other particulars of which are
given in the Annexure: Rent for the month of _____ Challan No. _____ Deposit No.
Rs. _____ (Rupees
_____) Applicant _____ Applicant-Landlord/Landlords or Duly Authorised
person/Legal Practitioner for Applicant-Landlord/Applicant-Landlords. Identified by
_____ Dated Signature. Annexure Order For Withdrawal of Rent
Deposited Under Section 14 of The Jammu And Kashmir Houses And Shops Rent Control Act, 1966

Part I – To be Filled in by the Petitioner

Remarks

Name/names and address/addresses of applicant or applicants	Name/names and address/addresses of the landlord or person or persons to whose credit the rent was deposited.	Name and address of the tenant on whose behalf the rent was deposited.	Specification of the premises and the period to which the rent relates.	Amount of rent deposited with Controller, number and date of the original deposit.	
1	2	3	4	5	6

Examined and found Correct. Signature of the Controller's Office. Signature of applicant/applicants or Authorised person/Legal practitioner for applicant/applicants.

Part II – To be Filled In by The Controller's Office

Sl. No. & date of payment order	Challan No. & date of the original deposit from which the payment is sought	Amount in deposit	At whose credit in deposit
1	2	3	4

Verified Please pay Rupees.....to Please issue cheque in favour of for Rupees..... Signature of the Controller

Part III – To be Filled In by The Payee

Received contents, Rupees..... Payee's Signature.