

The West Bengal Government Premises (Tenancy Regulation) Act, 1976

WEST BENGAL

India

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Act 19 of 1976

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The West Bengal Government Premises (Tenancy Regulation) Act, 1976 West Bengal Act 19 of 1976 [1st April, 1976] Assent of President of India was published in the Calcutta Gazette, Extraordinary, dated the 1st April, 1976. An Act to provide for the regulation of certain incidents of tenancy in relation to Government premises in West Bengal. Whereas it is expedient to provide for the regulation of certain incidents of tenancy in relation to Government premises in West Bengal and for matters connected therewith or incidental thereto; It is hereby enacted as follows:-

1. Short title and extent.

(1) This Act may be called the West Bengal Government Premises (Tenancy Regulation) Act, 1976. (2) It extends to the whole of West Bengal.

2. Definitions.

- In this Act, unless the context otherwise requires, -(1a) ["Appellate Authority" means any authority, superior in rank to the prescribed authority, appointed by the State Government in respect of a local area for the purpose of [the third proviso to clause (a) of sub-section (3) of section 3 and] [Clause (1a) inserted by W.B. Act 30 of 1985.] sub-section (2) of section 6C, and includes different such authorities for different local areas;](a) "Government premises" means any premises which is owned by the State Government or by a Government undertaking but does not include the official residence of any person authorised to occupy and premises in consideration of the office which he holds under the State Government or a Government undertaking for the time being;(b) "Government undertaking" means a body corporate constituted by or under a Central or State Act which is under the administrative control of the State Government or in which the State Government has exclusive proprietary interest;(c) "premises" means any building or hut and

includes part of a building or hut and a seat in a room, let separately, and also includes, -(i)the gardens, grounds and out-houses, if any, appurtenant thereto,(ii)any furniture supplied or any fittings or fixtures affixed for the use of the tenant in such building, hut or seat in a room, as the case may be;(d)"prescribed" means prescribed by rules made under this Act;(e)"prescribed authority" means an authority appointed by the State Government in respect of a local area, by notification in the Official Gazette, for carrying out the purposes of this Act and includes different such authorities for different local areas;(f)"tenant" means any person by whom the rent of any premises is, or but for a special contract would be, payable and includes in the event of such person's death, such of his heirs as were ordinarily residing with him at the time of his death.

3. Termination of tenancy.

(1)Every tenancy held by a tenant in respect of a Government premises shall stand terminated upon the expiry of the period referred to in a notice to quit served upon such tenant in the prescribed manner.(2)A tenancy in respect of a Government premises shall stand automatically terminated without any notice to quit where the tenant has, -(i)violated the terms of the lease, or(ia)[subsequently built a house or acquired (by purchase, gift, inheritance, lease, exchange or otherwise) a house or an apartment, either in his own name or in the name of any member of his family, within a reasonable distance from such Government premises.] [[Clause (ia) first inserted by W.B. Act 8 of 1980. Thereafter the present clause (ia) Substituted by W.B. Act 46 of 1980. Previous clause (ia) was as under:-(ia) subsequently built a house of his own, or'.]]Explanation. - For the purposes of this section and section 3A, -(a)"apartment" shall have the same meaning as in the West Bengal Apartment Ownership Act, 1972;(b)"family" shall include parents and other relations of the tenant who ordinarily reside with him and are dependant on him;(c)"reasonable distance" shall mean any distance not exceeding twenty-five kilometres, or(ii)made default in payment of rent for three consecutive months :Provided that where the tenancy has terminated on account of default in payment of rent for three consecutive months the prescribed authority may, upon application made by the tenant within such time as may be prescribed and upon deposit of all the arrears of rent together with interest at the prescribed rate, grant renewal of the tenancy in favour of the tenant :Provided further that the prescribed authority may, on sufficient cause being shown, grant renewal of the tenancy in favour of the tenant on deposit of fifty per cent, of the arrears of rent along with the application for renewal of tenancy and direct the tenant to deposit the balance of the arrears of rent with interest on the entire amount at the prescribed rate in twelve monthly instalments commencing from the month following the month of such renewal of tenancy, and if the tenant fails to deposit any such instalment the tenancy so renewed shall stand automatically terminated:[Provided further that the prescribed authority may, if it is satisfied that the tenant has failed to pay rent due to circumstances beyond his control and is not in a position to deposit fifty per cent, of the arrears of rent along with the application for renewal of tenancy grant renewal of the tenancy in favour of the tenant on deposit of twenty-five per cent, of the arrears of rent along with the application for renewal of tenancy and direct the tenant to deposit the balance of the arrears of rent with interest on the entire amount at the prescribed rate in such number of monthly instalments, not less than twelve and not more than thirty-six, as the prescribed authority may consider reasonable, commencing from the month following the month of such renewal of tenancy, and if the tenant fails to deposit any such instalment, the tenancy so renewed shall stand automatically terminated:]

[Proviso added by W.B. Act 8 of 1980.] Provided also that notwithstanding the termination of the tenancy the State Government or the Government undertaking, as the case may be, shall be entitled to recover an arrears of rent for the period for which the tenancy subsisted and mesne profits thereafter for so long as the tenant remained in occupation of the premises. (3) [(a) Where any Government premises allotted to a tenant remains under lock and key for a period of more than three consecutive months or where the tenant or any member of his family is not ordinarily resident of such Government premises, the tenancy in respect of such Government premises shall stand automatically terminated:] [Sub-Section (3) inserted by W.B. Act 54 of 1994.] Provided that if the prescribed authority is satisfied that the circumstances, under which such Government premises remains under lock and key for more than three consecutive months or the tenant or any member by his family is not ordinarily a resident of such Government premises, are beyond the control of the tenant, it may allow the tenancy to subsist: [Provided further that the prescribed authority shall give the tenant a notice and an opportunity of being heard before such termination: Provided also that an appeal shall lie to the Appellate Authority against an order determining non-occupation for a period of three consecutive months or non-residence by the tenant or any member of his family under the above provisos within fifteen days from the date of the order passed by the prescribed authority and, in such case, the decision of the Appellate Authority shall be final.] [Provisos inserted by W.B. Act 35 of 1997.] (b) A tenant shall be deemed to be ordinarily resident of a Government premises if he or any member of his family generally resides in such Government premises for not less than ninety days in a period of four consecutive months. (c) The provisions of this sub-section shall have effect notwithstanding anything contained in this Act or in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act, or in any decree or order of any court, tribunal or other authority, and nothing contained in the Transfer of Property Act, 1882, or the Indian Contract Act, 1872, or the West Bengal Premises Tenancy Act, 1956, shall apply, or shall be deemed ever to have applied, to the tenancy as aforesaid and such tenancy shall take effect, and shall be deemed always to have taken effect, as if the Transfer of Property Act, 1882, or the Indian Contract Act, 1872, or the West Bengal Premises Tenancy Act, 1956, had not been passed.

3A. [Tenancy to be void if held by a tenant owning a house or apartment on the date of allotment of a Government premises. [Section 3A inserted by W.B. Act 46 of 1980.]

- A tenancy in respect of a Government premises shall be deemed to be void where on the date of allotment of such Government premises the tenant is, or had been, the owner of a house or an apartment, either in his own name or in the name of any member of his family, within a reasonable distance from such Government premises.]

4. Restoration of possession.

(1) Upon termination of a tenancy under any of the provisions of section 3 [or upon a tenancy being void under section 3A] [Words, figure and letter inserted by W.B. Act 46 of 1980.], the tenant shall forthwith restore vacant possession of the premises occupied by him in favour of the prescribed authority. (2) If the tenant fails to restore possession of the premises under sub-section (1), the

prescribed authority or any officer authorised by him in this behalf may take such steps or use force as may be necessary to take possession of the premises and may also enter into such premises for the aforesaid purpose.

5. Penalty for unauthorised subletting.

- If any tenant sublets or inducts any person in the premises occupied by him or in any part of it, in violation of the terms of lease governing his tenancy the tenant as well as the person in unauthorised occupation of the premises shall be liable on conviction to imprisonment for a term which may extend to six months or to fine which may extend to one thousand rupees or to both.

6. Penalty for failure to deposit rent in time.

- If by virtue of a tripartite agreement an employer is authorised to collect the rent payable by the tenant who is the employee of such employer and deposit the same in favour of the State Government or the Government undertaking, as the case may be, then for failure on the part of the employer to make such deposit within the time agreed upon, the employer or in case the employer is a company or other body corporate or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or persons concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be liable on conviction to a fine which may extend to five thousand rupees and in case of a continuing offence, to a further fine which may extend to one hundred rupees for each day during which the offence continues.

6A. [Eviction of unauthorised occupants and penalty for such occupation. [Sections 6A to 6D inserted by W.B. Act 30 of 1985.]

- Where any person, not being a tenant, occupies, or remains in occupation of, any Government premises without the written order of the prescribed authority, -(a) the prescribed authority, or any officer authorised by it in this behalf, may take such steps and use such force as may be necessary to take possession of the premises and may also enter into the premises for the said purpose; and (b) such person shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

6B. Offence under the Act to be cognizable.

- An offence punishable under section 5 or clause (b) of section 6A shall be cognizable.

6C. Payment of compensation.

(1) Where any damage beyond normal wear and tear has been caused to any Government premises the possession of which has been taken from a tenant under the provisions of section 4, or where any damage has been caused to any Government premises the possession of which has been taken

under the provisions of section 6A, such tenant or such person, as the case may be, shall be liable to pay for the repair of such damage such compensation, not exceeding the cost of repair, as may be determined, by order, by the prescribed authority, after giving the tenant or the person, as the case may be, an opportunity of being heard.(2)An appeal shall lie to the Appellate Authority against an order determining compensation under sub-section (1) within fifteen days from the date of the order.(3)The decision of the Appellate Authority shall be final.

6D. Period for payment of compensation.

- The amount of compensation determined under section 6C by the prescribed authority or the Appellate Authority, as the case may be, shall be payable by the tenant or the person, as the case may be, liable to pay such compensation, within thirty days from the date of the order.]

7. Recovery of certain claims as public demand.

- Any claim for arrears of rent or for mesne profits [or for compensation] [Words inserted by W.B. Act 30 of 1985.] under this Act shall, if not duly paid, be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913.

8. Appointment of officers, etc. and delegation of power.

(1)The State Government or the Government undertaking may appoint such officers and employees for carrying out the purposes of this Act as the State Government or the Government undertaking may deem fit.(2)The prescribed authority may delegate, subject to such conditions as the State Government may think fit to impose, to any officer appointed under sub-section (1) any of its powers under this Act.

9. Certain persons to be deemed to be public servants.

- The prescribed authority [the Appellate Authority] [Words inserted by W.B. Act Act 30 of 1985.] and the officers and other employees authorised to carry out any of the purposes of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

10. Indemnity.

- No suit, prosecution or other legal proceeding whatsoever shall lie against any person for anything in good faith done or intended to be done under this Act.

11. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may make such order or do such thing, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

12. Act to override other laws.

- [(1) The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force, or in any contract, express or implied, or in any custom or usage to the contrary.(2)In particular and without prejudice to the generality of the foregoing provisions, the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962 shall not be applicable to any premises to which this Act applies.] [Section 12 renumbered as sub-section (1) of that Section and sub-section (2) inserted by W.B. Act 30 of 1985.]

13. Bar to jurisdiction of civil courts.

- No civil court shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with under the provisions of this Act.

14. Prosecution subject to sanction of the prescribed authority.

- No Court shall take cognizance of any offence under this Act except with the previous sanction of the prescribed authority, and no Court inferior to that of a Magistrate of the First Class shall try such offence.

15. Power to make rules.

(1)The State Government may make rules for carrying out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be or are required to be prescribed.

16. Repeal and savings.

(1)The West Bengal Government Premises (Tenancy Regulation) Ordinance, 1976, is hereby repealed.(2)Anything done or any action taken under the West Bengal Government Premises (Tenancy Regulation) Ordinance, 1976, shall be deemed to have been validly done or taken under this Act as if this Act had commenced on the 7th day of January, 1976.