

THE AZAD KASHMIR RENT RESTRICTION ACT, 1952

(Passed under Council Order No. 659/52 dated 24.12.52).

Whereas it is expedient to provide for the control of rents of certain immovable property it is hereby enacted as follows:-

1. **Short title, extent and commencement:-** (i) This Act may be called the Azad Kashmir Rent Restriction Act of 1952 ;
 - (ii) It shall extend to such places or areas in Azad Kashmir Territory as may be notified by the Government;
 - (iii) It shall come into force at once.
2. **Definitions:-** In this Act unless there is anything repugnant in the subject or context:
 - (a) "building" means any building or part of a building let for any purpose, whether being actually used for that purpose or not , including any land, godowns, out-houses or furniture let therewith but does not include a room in a hotel or boarding house ;
 - (b) "Deputy Commissioner" means the Deputy Commissioner of the district in which the property is situated;
 - (c) "Landlord" means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf of or for the benefit of any other person, or as a trustee, guardian, receiver, executor or administrator for any other person and includes a tenant who sublets any building or rented land in the manner hereinafter authorised, and every person from time to time deriving title under a Landlord ;
 - (d) "non-residential building" means a building being used solely for the purpose of business or trade;
 - (e) "prescribed" means prescribed by rules made under this Act ;
 - (f) "rented land" means any land let separately for the purpose of being used principally for business or trade ;
 - (g) "residential building" means any building which is not a non-residential building ;
 - (h) "scheduled building" means a residential building which is being used by a person engaged in one or more of the professions specified in the Schedule to

this Act, partly for his business and partly for his residence ;

- (i) "tenant" means any person by whom or on whose account rent is payable for a building or rented land and includes a tenant continuing in possession after the termination of the tenancy in his favour, but does not include a person placed in occupation of a building or rented land by its tenant, unless with the consent in writing of the landlord, or a person to whom the collection of rent or fees in a public market, cart-stand or slaughter-house or of rents for shops has been framed out or leased by a municipal, town or notified area committee, or by a corporation ; and
- (j) "urban area" means any area administered by a municipal corporation, a municipal committee, a cantonment board, a town area committee or a notified area committee.

- 3. **Exemptions:-** The Government may direct that all or any of the provisions of this Act, shall not apply to any particular building or rented land or any class of buildings or rented lands.
- 4. **Determination of fair rent:-** (1) The Deputy Commissioner shall on application by the tenant or landlord of a building or rented land fix the fair rent for such building or rented land after holding such inquiry as the Deputy Commissioner thinks fit.
 - (2) In fixing the fair rent under this section, the Deputy Commissioner shall take into consideration:-
 - (a) the prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances during the twelve months prior to:-
 - (i) the 1st of January, 1946, in the case of a building in existence before the 1st January, 1946.
 - (ii) the date on which the building is first let in the case of a building constructed after the 1st of January, 1946 ; and
 - (b) the rental value of such building or rented land if entered in property tax assessment register of the municipal town or notified area committee or cantonment board as the case may be relating to the period mentioned in clause (a).
 - (3) Nothing in this section shall be deemed to entitle the Deputy Commissioner to fix the fair rent of a building or rented land at an amount less than the rent payable for

such building or rented land under a subsisting lease entered into before the 1st day of January, 1946.

5. **Increase in fair rent in what case admissible:-** When the fair rent of a building or rented land has been fixed under section 4, no further increase in such fair rent shall be permissible except, in cases where some addition, improvement or alteration has been carried out at the landlord's expense and if the building or rented land is then in the occupation of a tenant, at his request;

Provided that the fair rent as increased under this section shall not exceed the fair rent payable under this Act for a similar building or rented land in the same locality with such addition, improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed ;

Provided further that any dispute between the landlord and tenant in regard to any increase claimed under this section shall be decided by the Deputy Commissioner ;

Provided further that nothing in this section shall apply to any periodical increment of rent accruing under any subsisting agreement entered into before the first day of January, 1946.

6. **Landlord not to claim anything in excess of fair rent:-**
(1) Save as provided in section 5 when the Deputy Commissioner has fixed the fair rent of a building or rented land under section 4:

- (a) the landlord shall not claim or receive any premium or other like sum in addition to fair rent or any rent in excess of such fair rent but the landlord may stipulate for and receive in advance an amount not exceeding one month's rent;
- (b) any agreement for the payment of any sum in addition to renter of rent in excess of such fair rent shall be null and void.

(2) Nothing in this section shall apply to the recovery of any rent which became due before the 1st day of January 1946.

7. **Fine or premium not to be charged for grant, renewal or continuance of tenancy :-** (1) No landlord shall in consideration of the grant, renewal or continuance of a tenancy of any building or rented land require the payment of any fine, premium or any other like sum in addition to the rent.

(2) Nothing in this section shall apply to any payment under any subsisting agreement entered into before the

1st day of January 1946.

8. **Rent which should not have been paid may be recovered:-** (1) Where any sum has, whether before or after the commencement of this Act, been paid which sum is by reason of the provisions of this Act irrecoverable, such sum shall at any time within a period of six months after the payment or in the case of a payment made before the commencement of this Act, within six months after the commencement thereof be recoverable by the tenant by whom it was paid or his legal representative from the landlord who received the payment or his legal representative, and may without prejudice to any other method of recovery be deducted by such tenant from any rent payable within such six months by him to such landlord.
- (2) In this section the expression "legal representative" has the same meaning as in the Code of Civil Procedure, 1908, and includes also, in the case of joint family property, the joint family of which the deceased person was a member.
9. **Increase of rent on account of payment of rates, etc., of local authority, but rent not to be increased on account of payment of other taxes etc.** (1) Notwithstanding anything contained in any other provision of this Act, a landlord shall be entitled to increase the rent of a building or rented land if after the commencement of this Act a fresh rate, cess or tax is levied in respect of the building or rented land by any local authority, or if there is an increase in the amount of such a rate, cess or tax being levied at the commencement of the Act ;
- Provided that the increase in rent shall not exceed the amount of any such rate, cess or tax or the amount of the increase in such rate, cess or tax as the case may be.
- (2) Notwithstanding anything contained in any law for the time being in force or any contract no landlord shall recover from his tenant the amount of any tax or any portion thereof in respect of any building or rented land occupied by such tenant by any increase in the amount of the rent payable or otherwise, save as provided in sub section (1).
10. **Landlord not to interfere with amenities enjoyed by the tenant:-** (1) No landlord shall, without just or sufficient cause, cut off or withhold any of the amenities enjoyed by the tenant.
- (2) A tenant in occupation of a building or rented land may, if the landlord has contravened the provisions of this

section, make an application to the Deputy Commissioner complaining of such contravention.

(3) If the Deputy Commissioner on enquiry finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the landlord without just or sufficient cause, he shall make an order directing the landlord to restore such amenities.

11. **Conversion of a residential building into a non-residential building:-** No person shall convert a residential building into a non-residential building except with the permission in writing of the Deputy Commissioner.
12. **Failure by landlord to make necessary repairs:-** If a landlord fails to make the necessary repairs to a building other than structural alterations, it shall be competent for the Deputy Commissioner to direct on application by the tenant, and after such inquiry as the Deputy Commissioner may think necessary, that such repairs may be made by the tenant, and that the cost thereof may be deducted from the rent which is payable by him.
13. **Eviction of tenants :-** (1) A tenant in possession of a building or rented land shall not be evicted therefrom in execution of a decree passed before or after the commencement of this Act or otherwise and whether before or after the termination of the tenancy, except in accordance with the provisions of this section.

(2) A landlord who seeks to evict his tenant shall apply to the Deputy Commissioner for a direction in this behalf. If the Deputy Commissioner, 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 by him in respect of the building or rented land within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord 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 after the commencement of this Act without the written consent of the landlord :-
 - (a) transferred his right under the lease or sublet the entire building or rented land or any portion thereof, or
 - (b) used the building or rented land for a purpose other than that for which it was

leased; or

- (iii) that the tenant has committed such acts as are likely to impair materially the value or utility of the building or rented land; or
- (iv) that the tenant has been guilty of such acts and conduct as are a nuisance to the occupiers of buildings in the neighbourhood; or
- (v) that where the building is situated in a place other than a hill station, the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause, the Deputy Commissioner may make an order directing the tenant to put the landlord in possession of the building or rented land and if the Deputy Commissioner is not so satisfied he shall make an order rejecting the application ;

Provided that the Deputy Commissioner may give the tenant a reasonable time for putting the landlord in possession of the building or rented land and may extend such time so as not to exceed three months in the aggregate.

- (3) (a) A landlord may apply to the Deputy Commissioner for an order directing the tenant to put the landlord in possession:
 - (i) in the case of a residential or a scheduled building if:-
 - (a) he requires it for his own occupation ;
 - (b) he is not occupying another residential or a scheduled building as the case may be, in the urban area concerned ; and
 - (c) he has not vacated such building without sufficient cause after the commencement of this Act, in the said urban area ;
 - (ii) in the case of a non-residential building or rented land if:-
 - (a) he requires it for his own use ;
 - (b) he is not occupying in the urban area concerned for the purpose of his business any other such building or rented land as the case may be; and

- (c) he has not vacated such a building or rented land without sufficient cause after the commencement of this Act, in the urban area concerned ;

Provided that where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply under this sub-section before the expiry of such period:

Provided further that where the landlord has obtained possession of a residential, a scheduled or non-residential building or rented land under the provisions of sub-paragraph (i) or paragraph (ii) he shall not be entitled to apply again under the said sub-paragraphs for the possession of any other building of the same class or rented land:

- (b) The Deputy Commissioner shall, if he is satisfied that the claim of the landlord is bonafide, make an order directing the tenant to put the landlord in possession of the building or rented land on such date as may be specified by the Deputy Commissioner and if the Deputy Commissioner is not so satisfied, he shall make an order rejecting the application :

Provided that the Deputy Commissioner may give the tenant a reasonable time for putting the land lord in possession of the building or rented land and may extend such time so as not to exceed three months in the aggregate.

- (4) Where a landlord who has obtained possession of a building or rented land in pursuance of an order under sub-paragraph (i) or sub-paragraph (ii) of paragraph (a) of sub-section (3) does not himself occupy it within one month of the date of obtaining possession, the tenant who has been evicted may apply to the Deputy Commissioner for an order directing that he shall be restored to possession of such building or rented land and the Deputy Commissioner shall make an order accordingly.

- (5) Where the Deputy Commissioner is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Deputy Commissioner may direct that compensation not exceeding one hundred rupees be paid by such landlord to the tenant.

14. **Decisions which have become final not to be re-opened:-** The Deputy Commissioner shall summarily reject any application under sub-section (2) or under sub-section (3) of section 13 which raises substantially the same issues as have been finally decided in a former proceeding under this Act.
15. **Appeal:-**
- (1) (a) The Government may by a general or special order by notification confer on such officers and authorities as they think fit, the powers of appellate authorities for the purpose of this Act, in such area or in such classes of cases as may be specified in the order:
- (b) any person aggrieved by an order passed by the Deputy Commissioner may, within fifteen days from the date of such order or such longer period as the appellate authority may allow for reasons to be recorded in writing, prefer an appeal in writing to the appellate authority having jurisdiction.
- (2) On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.
- (3) The appellate authority shall decide the appeal after sending for the records of the case from the Deputy Commissioner and after giving the parties an opportunity of being heard and, if necessary after making such further inquiry as it thinks fit either personally or through the Deputy Commissioner.
- (4) The decision of the appellate authority and subject only to such decision, an order of the Deputy Commissioner shall be final and shall not be liable to be called in question in any Court of Law whether in a suit or other proceeding by way of appeal or revision.
16. **Power to summon and enforce attendance of witnesses, etc.:-** For the purposes of this Act, an appellate authority or a Deputy Commissioner appointed under the Act shall have the same powers of summoning and enforcing the attendance of witnesses and compelling the production of evidence as are vested in a Court under the Code of Civil Procedure, 1908.
17. **Execution of orders:-** Every order made under section 10, or section 13, and every order passed on appeal under section 15 shall be executed by a Civil Court having jurisdiction in the area as if it were a decree of that Court.

18. **Landlord and tenant to furnish particulars:-** Every landlord and every tenant of a building or rented land shall be bound to, furnish to the Deputy Commissioner, or any person authorised by him in that behalf, such particulars in, respect of such building or rented land as may be prescribed.
19. **Penalties:-** (1) If any person contravenes any of the provisions of sub-section (1) of section 10, section 11 or section 18, he shall be punishable with fine which may extend to one thousand rupees.
- (2) No Court shall take cognizance of an offence under this section except upon :-
- (a) a complaint of facts which constitute such offence filed with the sanction of the Deputy Commissioner in writing, or
- (b) a report in writing of such facts made by the Deputy Commissioner.
20. **Power to make rules:-** The Government may, by notification, make rules for the purpose of carrying out all or any of the provisions of this Act.

SCHEDULE

1. Lawyers.
2. Architects.
3. Dentists.
4. Engineers.
5. Veterinary Surgeons.
6. Medical Practitioners, including practitioners of indigenous System of medicines.