

ASSAM ACT No. II OF 1962

THE ASSAM URBAN AREAS RENT CONTROL ACT, 1961

(As passed by the Assembly)

Received the assent of the President on the 7th March 1962

[Published in the *Assam Gazette*, Extraordinary, dated the 15th March 1962]An
Act*to fix fair rents of houses situated within the limits of urban areas in Assam including Cantonments.*

Preamble WHEREAS it is expedient to fix fair rents of houses situated within the limits of urban areas in Assam including Cantonments ;

It is hereby enacted in the Twelfth Year of the Republic of India as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Assam Urban Areas Rent Control Act, 1961.

(2) (a) It extends to all urban areas in Assam including Cantonments as defined in the Cantonments Act, 1924 ; provided that nothing in this Act shall prohibit the Officer Commanding the Station to appropriate any premises under the Cantonments (House Accommodation) Act, 1923.

Act II of 1924.

Act VI of 1923.

(b) The State Government may, by notification in the official Gazette, extend it also to all such areas as are declared town lands under rule 64 (a) of the Settlement Rules under the Assam Land and Revenue Regulation, 1886 or the Assam Land Revenue Reassessment Act, 1936.

Regulation I of 1886. Assam Act VIII of 1936.

(3) It shall come into force at once and shall remain in force for five years from the date of its enforcement:

Provided that the expiration of this Act shall not render recoverable by a Land-lord any rent, interest or other sum which during the continuance thereof was irrecoverable or affect the right of the tenant to recover any sum which during the continuance thereof was under this Act recoverable by him.

Definitions.

2. In this Act, unless there is anything repugnant in the subject matter or context,—

(a) "Court" means the Court of ordinary Civil Jurisdiction in the area in which a house is situated which would be competent to pass a decree for the eviction of a tenant from that house ;

(b) "house" means any building, hut or shed, or any part thereof, let or to be let separately for residential or non-residential purposes, and includes—

(i) the garden, ground and out-house, if any appurtenant to such building, hut, shed or part thereof ; and

(ii) any furniture supplied by the landlord for use by the tenant in such house, but does not include any premises belonging to the State Government or Central Government or a Local Authority ;

(c) "landlord" means any person who is, for the time being receiving, or entitled to receive rent in respect of any house whether on his own account, or on account, or on behalf, or for the benefit of any other person, or as a trustee guardian or receiver for any other person ; and includes in respect of his sub-tenant, a tenant who has sublet any house and further includes every person not being a tenant who from time to time derives title under a landlord but does not include the State Government or Central Government or a Local Authority ;

(d) "pucca structure" means a structure with—

- (i) cemented, or wooden floor,
- (ii) iron, brick or concrete posts, and
- (iii) roof of reinforced concrete, or of galvanised iron, aluminium or asbestos sheets ;

(e) "standard rent" in relation to any house means the rent calculated on the basis of annual payment of an amount equal to seven and half per cent of the aggregate amount of the cost of construction and the market price of the land on the date of commencement of the construction together with the total municipal taxes payable in respect of the house, and monthly rent shall be equal to one-twelfth of the annual payment so calculated.

Explanation.—For the purpose of this sub-clause, cost of construction shall mean the actual cost required for the construction of the house less depreciation at 1 per

cent for a building with pucca structure and 2 per cent for a building with non-pucca structure per annum of that amount from the actual date of completion of construction of the house provided that if the house was originally constructed as a smaller house or a non-pucca structure and was subsequently extended or developed into a pucca structure, the depreciation in respect of the portion so extended or developed shall be calculated from the date of completion of the extension or development.

(f) "tenant" means any person by whom or on whose behalf rent is payable for any house and include every person who from time to time derives title under a tenant ;

(g) "urban area" means any area declared to be or included in, a municipality under the provisions of sub-section (2) of section 5 of the Assam Municipal Act, 1956 or declared to be a notified area under the provisions of sub-section (4) of section 334 of the said Act, and includes a Cantonment as defined in section 3 of the Cantonments Act, 1924.

Assam Act
XV of 1957.

Act II of
1924.

Fair rent.

3. (1) 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 figure higher than the standard rent.

(2) If at any time after the standard rent is fixed under the provisions of this Act, any addition, improvement or alteration (not being repairs within the meaning of the provisions of section 6) is effected at the landlord's expense which was not taken into consideration in fixing the standard rent, then the landlord shall be entitled to have the monthly rent increased by an amount not exceeding one-twelfth of seven and half per cent per annum of the cost of such addition, improvement or alteration with effect from the date on which the addition, improvement or alteration was completed.

Procedure for determination of fair rent.

4. (1) If any dispute arises regarding the rent payable in respect of any house, it shall be determined by the Court.

(2) The Court shall on application made by either the landlord or the tenant issue notice on both the parties, and after making such enquiry as it thinks fit determine the monthly rent for the house in accordance with the provisions of section 3 and the rent so determined shall be binding on both the parties.

(3) Where the Court determines the monthly rent for any house under this section, it shall do so for the house in the unfurnished state, but it may allow the landlord to charge an additional amount per month on account of the furniture supplied by him :

Provided that such additional amount shall not exceed one-twelfth of seven and half per cent of the cost of such furniture on the date on which the Court determines the monthly rent for the house.

Explanation.— Where according to the terms of any arrangement by the landlord and the tenant, the rent is payable on a basis other than at a monthly or a yearly rate, the average monthly rent for such a house shall be calculated as thirty times the proportionate daily rent for the period in respect of which the arrangement is made.

Bar against passing and execution of decree and orders for ejection.

5. (1) No order or decree for the recovery of possession of any house shall be made or executed by any Court so long as the tenant pays rent to the full extent allowable under this Act and performs the conditions of the tenancy :

Provided that nothing in this sub-section shall apply in a suit or proceedings for eviction of the tenant from the house:—

(a) where the tenant has done anything contrary to the provisions of clause (m), clause (o) or clause (p) of section 108 of the Transfer of Property Act, 1882 or to the spirit of the aforesaid clauses in areas where the said Act does not apply, or Act IV of 1882.

(b) where the tenant has been guilty of conduct which is a nuisance or an annoyance to the occupiers of the adjoining or neighbouring houses, or

(c) where the house is *bonafide* required by the landlord either for purposes of repairs or re-building or for his own occupation or for the occupation of any person for whose benefit the house is held, or where the landlord can show any other cause which may be deemed satisfactory by the Court, or

(d) where the tenant sublets the house or any part thereof or otherwise transfers his interest in the house or any part thereof without permission in writing from the landlord, or

(e) where the tenant has not paid the rent lawfully due from him in respect of the house within a fortnight of its falling due, or

(f) where the tenant has built, acquired or been allotted a suitable residence.

(2) The transfer of the interest of the landlord in the house shall not affect the right of the tenant provided the tenant pays rent allowable under this Act to the transferee.

(3) Where the landlord recovers possession of a house from a tenant on the ground that the house is *bonafide* required by him for purpose of repairs or re-building or for his own occupation or for the occupation of any person for whose benefit the house is held, and the repairs or the re-building of the house is not commenced or the house is not occupied by the landlord or such person within fifteen days of the date of

vacation of the house by such tenant, or the house having been so occupied is within six months of the said date re-let to or allowed to be possessed by any other person, the Court may, on the application of the evicted tenant made within seven months of his vacating the house, direct the landlord to put the evicted tenant in possession of the house within such period as the Court may fix and to pay him such compensation as appears to the Court to be reasonable and proper. Such a direction shall be deemed to be a decree under the Code of Civil Procedure, 1908 and to be capable of execution as such under the provisions of that Code **Act V of 1908.**

(4) Where the landlord refused to accept the lawful rent offered by his tenant, the tenant may, within a fortnight of its becoming due, deposit in Court the amount of such rent together with process-fees for service of notice upon the landlord, and on receiving such deposit the Court shall cause a notice of the receipt of such deposit to be served on the landlord, and the amount of the deposit may thereafter be withdrawn by the landlord on application made by him to the Court in that behalf. A tenant who has made such deposit shall not be treated as a defaulter under clause (e) of the proviso to sub-section (1) of this section.

Duties of landlords. 6. Every landlord shall be bound to keep wind proof and water proof any house which is in occupation of a tenant and to carry out other repairs which he is bound to by law, contract or custom and also to maintain the existing essential supplies and services such as sanitary arrangement, water-supply, supply of electricity or drainage service in respect of the house.

Explanation —“Repair” includes annual white-washing and recolouring.

Notice on landlord to perform duties. 7. (1) If the landlord neglects to make such repairs or to maintain such existing essential supplies and services as he is bound to do under the provisions of section 6, the Court may, on the application of the tenant direct the landlord by notice to appear before it and to show cause against the application of the tenant.

(2) If the landlord fails to show sufficient cause, the Court may direct him to make such repairs or as the case may be, to take such measures for the restoration of the essential supplies and services as contemplated in section 6 within a period fixed by the Court.

(3) If the landlord fails or neglects to make such repair or to take such measures within a period fixed by the Court, the Court may on application of

tenant permit him to make such repairs or take such measures, as the case may be, at a cost not exceeding the amount determined by the Court after taking such evidence as it may consider necessary; and it shall thereafter be lawful for the tenant to make such repair or take such measures and to deduct the cost thereof from the rent or to recover the amount from the landlord through the Court by execution, and for the purpose of this sub-section the order of the Court shall be deemed to be a decree under the Code of Civil Procedure, 1908 and to be capable of occupation as such under the provisions of this Code. Act V of 1908.

Appeals. 8. A landlord or a tenant aggrieved by any decision or order of the Court under the provisions of sections 4, 5, 7 (2) of this Act shall have a right of appeal against the same as if such decision or order were a decree in a suit for ejection of the tenant from the house and such appellate Court's decision shall be final.

Rules. 9. (1) The State Government may, by notification in the official Gazette, make rules prescribing the Court fees to be paid on applications made to the Court under the provisions of this Act and also for the purpose of the carrying out of the provisions thereof.

(2) All rules made under this section shall be laid for not less than fourteen days before the Assam Legislative Assembly as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

Repeal and Savings. 10. (1) The Assam Urban Areas Rent Control Act, 1955 is hereby repealed. Assam Act III of 1956.

(2) Notwithstanding such repeal—

(a) any decision given, order made, anything done, any action taken or any proceedings commenced under any of the provisions of the Act repealed and in force immediately before the commencement of this Act shall, in so far as they are not inconsistent with the provisions of this Act, continue in force and shall be deemed to have been given, made, done, taken or commenced under the corresponding provisions of this Act;

(b) if a decree or order has been made by any Court under the provisions of the Act repealed, fixing the rent of any house then the rent so fixed shall be liable to be refixed under the corresponding provisions of this Act.