

Bihar Buildings (Lease, Rent And Eviction) Control (Amendment) Act, 1993

4 of 1994

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SCHEDULE 1 :- APPENDIX 15

Bihar Buildings (Lease, Rent And Eviction) Control (Amendment) Act, 1993

4 of 1994

An Act to amend the Bihar Building (Lease, Rent and Eviction) Control Act, 1982. Be it enacted by the Legislature of the State of Bihar in the Forty-fourth year of the Republic of India as follows :

1. Assented by the Governor on 4.2.1994, and published in the Bihar Gazette (Extraordinary) dated 10.2.1994.

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Bihar Building (Lease, Rent and Eviction) Control (Amendment) Act, 1993. (2) It shall come into force at once. (3) It shall extend to the whole of the State of Bihar.

2. Amendment Of Section 8 Of Bihar Act 4, 1983 :-

In the Bihar Building (Lease, Rent and Eviction) Control Act, 1982 (Bihar Act 4, 1983) (here in-after referred to as the said Act) in Clause (c) of sub-section (1) of Section 8-- (i) the word Other after the word "Any" shall be deleted and it shall be deemed always to have been deleted. (ii) In the second line word and figure "1st November, 1941" shall be substituted by the word and figure "1st

December, 1980" and it shall be deemed to have always been substituted. (iii) In the fifth line of proviso the word and figure "1st November, 1941" shall be substituted by the word and figure "1st December, 1980" and shall be deemed to have always been substituted.

3. Amendment Of Section 9 Of Bihar Act 4, 1983 :-

In the said Act for the proviso of sub-section (4) of Section 9 the following shall be substituted; namely-- "Provided that if the Controller is satisfied that the repairs involved were due to the negligence of the tenant, he will order the tenant to make such repairs and the cost of repair shall be borne by the tenant and the same shall not be recoverable from the landlord by deduction from the rent."

4. Amendment Of Section 11 Of Bihar Act 4 Of 1983 :-

In Section 11 of the said Act-- (i) In Clause (d) of sub-section (1) for the words "three months" the words "Two months"; shall be substituted. (ii) In Clause (f) of sub-section (1) for the word "request" the word "order" shall be substituted.

5. Amendment Of Section 12 Of Bihar Act 4, 1983 :-

In proviso of Section 12 of the said Act the words "at the rate of" shall be deleted.

6. Insertion Of New Section After Section 14 Of Bihar Act 4, 1983 :-

The following new section shall be inserted after Section 14 of the said Act; namely-- 14-A. Special provisions for active/Ex-servicemen of Military.--(1) Where the landlord has been in active military service or is ex-servicemen or has been discharged or retired from service or is to retire or has died while in such active service and any member of his family is in actual necessity of house, then on an application being filed by the landlord or any member of his family, the competent Court after issuing notice of fifteen days and on being satisfied after hearing that the claim of the landlord is genuine, by order, shall direct the tenant to give possession of the house to the landlord or his family member and if the Court is not satisfied with the claim of such landlord, it shall pass order rejecting the application : Provided that if the landlord or his widow has more than one residential house, then such landlord or his widow shall have no right to take back possession of more than one house or if the Ex-serviceman has rented anyone house to the present tenant after his retirement, in such

circumstances, the right to have possession of one residential house shall be limited to only one application of landlord or his widow or his authorised person. (2) (a) The Court on the receipt of application shall issue summon to the tenant within seven days of filing the application. (b) In addition to this, the Court shall direct to send summon to the tenant or his agent by registered post with acknowledgment and also to stick the second copy of the summon on any conspicuously visible portion of the house. (b) If the summon with the registered post is returned with the endorsement of the postman that the tenant or his agent has refused to take the summon, the Court after enquiry as it may think fit and being satisfied with the endorsement, may declare that the summon has been legally served on the tenant. (d) The tenant against whom service of summon has been declared valid, will have no right to oppose the petition of eviction till an affidavit within fifteen days of service of summon is filed mentioning the reasons on the basis of which he opposes the petition of eviction and obtains the permission of the Court on it. In case of failure of his appearance and obtaining Courts permission, the statement of the landlord or his widow, father, mother, son, grandson, or widow daughter-in-law, as the case may be, shall be deemed, to be accepted by the tenant and the petitioner shall be entitled for the order of eviction of the tenant. (e) The Court within fifteen days of the filing of such affidavit, shall give permission to the tenant to oppose the application if the tenant has disclosed such facts which can debar the landlord, his widow, father, mother, son, grandson or widow daughter-in-law in getting back the possession of that residential house. (f) Where permission to oppose the application has been granted to the tenant, the Court shall not fix the date more than one month from the date of permission given to the tenant to oppose the application and hearing of the application shall continue day to day till the disposal of the case and as far as possible the decision shall be given within two months from the commencement of the hearing. (g) The Court shall give appropriate time to the tenant to give back the possession of the residential house to the landlord, his widow, father, mother, son, grandson or widow daughter-in-law, as the case may be, but will not extend that time altogether more than two months. (h) Where such proceeding of enquiry in which this section is applicable including the recording of the statement of witnesses the Court will follow the procedure of a Court of Small Causes. (3) No appeal shall lie against the order of the Court to give possession of any residential house as per

procedure laid down in this section : Provided that the revision petition may be filed in the High Court within sixty days from the date of the order of eviction. (4) No Court other than the High Court, shall stay the operation of eviction during the pendency of the revision petition filed under sub-section (3) of this section. (5) Where the tenant has been evicted from the residential house and the landlord or his widow, father, mother, son, grandson or widow daughter-in-law, as the case may be, does not occupy within three months continuously from the date of eviction or let out the house or a portion thereof to a person other than the evicted tenant within three years of eviction of the tenant, then the evicted tenant may file application in the Court for order for restoration of possession of that residential house to him on the same terms and conditions which were applicable at the time of his eviction and the Court shall pass order accordingly and also order to pay cost.]

7. Amendment Of Section 15 Of Bihar Act 4, 1983 :-

In sub-section (1) of Section 15 of the said Act for the words "before and after", the words "before or after" shall be substituted.

8. Amendment Of Section 16 Of Bihar Act 4, 1983 :-

In Section 16 of the said Act-- (i) Sub-section (1) shall be deleted. (ii) In sub-section (2), bracket and figure "(2)" shall be deleted.

9. Amendment Of Section 19 Of Bihar Act 4, 1983 :-

In sub-section (2) of Section 19 of the said Act, for the word "contemplated", the word "bona fide" shall be substituted.

10. Amendment Of Section 22 Of Bihar Act 4, 1983 :-

In the said Act, after sub-section (2) of Section 22, the following new sub-section shall be added namely-- "(3) The Controller, Appellate Authority and Divisional Commissioner in exercise of powers conferred upon them under this Act, shall be treated as a Court under Sections 195 and 340 of Criminal Procedure Code, 1973 (Act 2, 1974) and any proceeding before them shall be regarded as judicial proceeding under Sections 193 and 228 of the Indian Penal Code."

SCHEDULE 1

APPENDIX 15

NOTICE
From A.-C. the Landlord
To C.D.. (tenant)

Under instructions from my client A.C. of, etc., I hereby give you notice that you are to quit and vacate the house and premises (or, etc.) situate at, etc., which you now hold of my client as a tenant from month to month or, from year to year, on or before the expiry of the current month or year, and that, on and from the--day of the lease hereto before subsisting shall cease, terminate and determine, and all relations of landlord and tenant as between you and my client shall absolutely cease, and you are to deliver up possession of the said house and premises (or etc.) to my said client on--, and on your failure to do so, your wrongful occupation of the said house and premises (or, etc.) shall be that of a trespasser, and for such wrongful occupation you shall be charged at the rate of Rs.--per diem for so long as you remain in such occupation until you are ousted in due course of law.

Date :

The landlord through Pleader

Notice :--by Tenant to Repair.

From A.C. (tenant)

To CD. (landlord)

I hereby give you notice and require you, within.....days from the date hereof, to execute or casue to be executed the repairs as stipulated in the conditions to be observed by you in that behalf, contained in a deed of lease dated the-day of-- , and made between you, of the one part, and myself, of the other part. And if you fail to comply with this notice, I shall thereupon execute or cause the same to be executed and deduct the costs thereof from my next payment of rent.

Date :

Yours faithfully,

A.C. (tenant)