

**Himachal Pradesh Urban Rent Control (Amendment) Act,
1977**

9 of 1978

[25 February 1978]

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**Himachal Pradesh Urban Rent Control (Amendment) Act,
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An Act further to amend the Himachal Pradesh Urban Rent Control Act, 1971 (Act No. 23 of 1971).

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India as follows:-

1. Short title and commencement :-

(1) This Act. may be called the Himachal Pradesh Urban Rent Control (Amendment) Act, 1977.

(2) It shall come into force at once.

2. Insertion of new sections 14-A and 14-B :-

After section 14 of the Himachal Pradesh Urban Rent Control Act, 1971 (23 of 1971) (hereinafter called the principal Act) the following new sections 14-A and, 14-B shall be inserted, namely:-

"14-A. Right to recover immediate possession of premises to accrue to certain persons.-(1) Where a landlord who, being a person in occupation of any residential premises allotted to him by the Central Government, the State Government or any local authority is required, by, or in pursuance of, any general or special order made

by the Central or State Government or local authority, as the case may be, to vacate such residential accommodation, or in default, to incur certain obligations, on the ground that he owns, within the urban area a residential accommodation either in his own name or in the name of his wife or dependent child, there shall accrue, on and from the date of such order, to such landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether express or implied), custom or usage to the contrary, a right to recover immediately possession of any premises let out by him:

Provided that nothing in this section shall be construed as conferring a right on landlord owning, within the urban area, two or more dwelling houses, whether in his own name or in the name of his wife or dependent child, to recover the possession of more than one dwelling house and it shall be lawful for such landlord to indicate the dwelling house, possession of which he intends to recover.

(2) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract, custom or usage to the contrary, where the landlord exercises the right of recovery conferred on him by sub-section (1), no compensation shall be payable by him to the tenant or any person claiming through or under him and no claim for such compensation shall be entertained by any court, tribunal or other authority:

Provided that where the landlord had received;-

(a) any rent in advance from the tenant, he shall, within a period of ninety days from the date of recovery of the possession of premises by him, refund to the tenant such amount as represents the rent payable for the un-expired portion of the contract, agreement or lease;

(b) any other payment, he shall, within the period aforesaid, refund to the tenant a sum which shall bear the same proportion to the total amount so received, as the un-expired portion of the contract or agreement, or lease bears to the total period of contract or agreement or lease:

provided further that if any default is made in making any refund as aforesaid, the landlord shall be liable to pay simple interest at the rate of six per cent per annum.

14-B. Special procedure for the disposal of applications for eviction on the ground of bona fide requirement under section 14-A,-(1) Every application by a landlord for the recovery of possession of any premises on the ground specified in sub-section (1) of section

14-A shall be dealt with in accordance with the procedure specified in this section.

(2) The Controller shall issue summons, in relation to every application referred to in sub-section (1), in the form specified in Schedule II.

(3) (a) The Controller shall, in addition to, and simultaneously with, the issue of summons for service on the tenant, also direct the summons to be served by registered post, acknowledgment due, addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and may, if the circumstances of the case so require, also direct the publication of the summons in a newspaper circulating in the locality in which the tenant is last known to have resided or carried on business or personally worked for gain.

(b) When an acknowledgement purporting to be signed by the tenant or his agent is received by the Controller or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent had refused to take delivery of the registered article, the Controller may declare that there has been a valid service of summons.

(4) The tenant on whom the summons is duly served (whether in the ordinary way or by registered post) in the form specified in Schedule II shall not contest the prayer for eviction from the premises unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction and obtains leave from the Controller as hereinafter provided; and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction on the ground aforesaid.

(5) The Controller shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in sub-section (1) of section 14-A.

(6) Where leave is granted to the tenant to contest the application, the Controller shall commence the hearing of the application as early as practicable.

(7) Notwithstanding anything contained in section 14, the

Controller shall, while holding an enquiry in a proceeding, follow the practice and procedure of a court of Small Causes, including the recording of evidence.

(8) No appeal or second appeal shall lie against an order for the recovery of possession of any premises made by the Controller in accordance with the procedure specified in this section :

Provided that the High Court may, for the purposes of satisfying itself. that an order made by the Controller under this section is according to law call for the records of the case and pass such orders in respect thereto as it thinks fit.

(9) Where no application has been made to the High Court on revision, the Controller may exercise the powers of reivew in accordance with the provisions of Order XLVII of the FirstSchedule to the Code of Civil Procedure, 1908 (5 of 1908).

(10) Save as otherwise provided in this section, the procedure for the disposal of an application for eviction on the ground specified in sub-section (1) of section 14-A shall be the same as the procedure for the disposal of applications by the Controller.

3. Amendment of section 21 :-

In clasue (b) of sub-section (1) of section 21 of the principal Act the -words, "Any person aggrieved by an order passed by the Controller" shall be substituted with the words, "Save as otherwise provided in this Act, any person aggrieved by an order passed by the Controller."

4. Insertion of Schedule-II :-

In the Schedule to the principal Act, the words "THE SCHEDULE" shall be substituted with the words and figure "SCHEDULE-I" and after the existing Schedule so amended the following Schedule-II, shall be inserted namely:-

"SCHEDULE-II

[See Section 14-B (2)]

FORM OF SUMMONS IN A CASE WHERE RECOVERY OF POSSESSION OF PREMISES IS PRAYED FORON THE GROUND OF A BONA FIDEREQUIREMENT UNDER SUBSECTION (1) OF SECTION 14-A

To

(Name, description and place of residence of the tenant)

Whereas Shri.....has filed an application (a copy of which is annexed) for your eviction from (here insert the particulars of the

premises) on the ground specified in sub-section (1) of section 14-A;.

You are hereby summoned to appear before the Controller within fifteen days of the service hereof and to obtain the leave of the Controller to contest the application for eviction on the ground aforesaid; in default whereof, the applicant will be entitled, at any time after the expiry of the said period of fifteen days, to obtain an order for your eviction from the said premises.

Leave to appear and contest the application may be obtained on an application to the Controller supported by an affidavit as is referred to in sub-section (5) of section 14-B.

Given under my hand and seal this day of 19 Controller".