

KARNATAKA RENT CONTROL RULES, 1961

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KARNATAKA RENT CONTROL RULES, 1961

In exercise of the powers conferred by Section 59 of the Karnataka Rent Control Act, 1961 (Karnataka Act 22 of 1961), the Government of Karnataka hereby makes the following Rules, the same having been previously published as required by sub-section (1) of the said Section.

CHAPTER 1

Preliminary Lease of buildings, deposit of rent and receipt for rent

1. Title :-

These Rules may be called the Karnataka Rent Control Rules, 1961.

2. Definitions :-

In these Rules, unless the context otherwise requires-

(a) "Act" means the Karnataka Rent Control Act, 1961 ;

(b) "Code" means the Code of Civil Procedure, 1908 ;

(c) "Form" means a Form appended to these Rules;

(d) "Section" means a Section of the Act.

3. Intimation of vacancy and notification of vacancies :-

(i) The intimation of vacancy of the building to be given by a landlord under sub-section (1) of Section 4 of the Karnataka Rent Control Act, 1961 shall be in Form I in triplicate.

(ii) Immediately after the receipt of intimation of vacancy of any

building, the Controller shall specify a date of hearing for considering the causes, if any, shown by the landlord and other persons. He shall send a copy of the intimation of vacancy and report the date to which the case stands posted for selecting the public authority or person in whose favour an order may be made under Section 8 of the Karnataka Rent Control Act, 1961 , to the State Government or where an Officer has been authorised under the proviso to sub-section (2) of Section 8 of the Karnataka Rent Control Act, 1961 , to such Officer and shall notify on the notice board of his office the particulars of the building given in items 1, 2, 4 and 9 of Form I, and also notify the date to which the case stands posted and shall keep a copy of the intimation in the office for the inspection of all [The date of the first hearing of the case shall also be communicated to the landlord by the controller.]

4. Order of priority :-

(1) Where no direction is issued under the proviso to sub-section (2) of Section 8 of the Karnataka Rent Control Act, 1961 , the Controller shall observe the following order of priority in selecting the public authority or other person in whose favour an order may be made under the said Section, namely:-

(A) In case of non-residential buildings.-

(1) The Government of Karnataka;

(2) The Central Government;

(3) Any local authority when such building is required for the use of such local authority;

(4) A Corporation established by a State Act when the building is required for the use of such Corporation;

(5) A Corporation established by a Central Act when the building is required for the use of such Corporation;

(6) A Government Company when the building is required for the use of such Company;

(8) A public Charitable Institution registered under the Karnataka Societies Registration Act, 1960, when the building is required for use of such institution;

(9) A public Religious Institution under the management and control of the State Government when the building is required for

the use of such institution;

(10) Where the monthly rent of the building.-

(i) exceeds Rs. 500, to any person who has obtained the consent of the landlord for the lease of the building in his favour;

(ii) is Rs. 500 or less.

(a) a clinic or nursing home, when the building is required for use as such by a Doctor who does not have a clinic or nursing home;

(b) a general or departmental store, when the building is required by such store for business in foodgrains, food products, oil, fuel, textile, stationery and other essential commodities;

(c) a restaurant run by any co-operative society or a person who does not run such business elsewhere.

(B) In case of residential buildings.-

(1) The Government of Karnataka for providing accommodation to any Minister, Judge of the High Court or Tribunal, Members of the Legislature, the Presiding Officers of the Legislature, Deputy Presiding Officers, Government whips of both the Houses, Members of any Committee or Board or Corporation or its employees;

(2) Central Government for accommodating the employees of Central Government;

(3) Any person who vacates the Government residential accommodation or who has been evicted from Government Buildings;

(4) Any person who has been served with notice for termination of tenancy under the proviso to clause (b) of Section 21A of the Karnataka Rent Control Act, 1961 ;

(5) Any person who has been ordered to be evicted under clause (h) of sub-section (1) of Section 21 of the Karnataka Rent Control Act, 1961 ;

(6) Any other public authority for providing accommodation to its employees;

(7) Members of the State Legislature or Parliament;

(8) Officers employed under the State Government who are not in possession of any alternative accommodation;

(9) Officers employed under the Central Government who are not in possession of any alternative accommodation;

(10) Officers employed under any public authority who are not in possession of any alternative accommodation;

(11) Honorary Medical Officers employed in Government Hospital in the area in which building is situate, if they are not in possession of any alternative accommodation;

12) Part-time Professors or Lecturers employed in Government Hospitals in the area, if they are not in possession of any alternative accommodation;

(13) Persons employed in any Bank, who are not in possession of any alternative accommodation;

Explanation.-In this clause 'Bank' means any Banking Company as defined in clause (e) of S.5 of the Banking Regulation Act, 1949, and includes-

(a) the Reserve Bank of India constituted under Reserve Bank of India Act, 1934 ;

(b) State Bank of India constituted under the State Bank of India Act, 1955 ;

(c) a subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;

(d) a corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

(14) A member of any Committee, Board or Corporation constituted by the Government of Karnataka and who are not in possession of any alternative accommodation (as licensee, tenant, sub-tenant, mortgagee in possession or owner) and who is required by virtue of his position as such member, to reside in the area;

(15) Any person employed in Indian Institute of Science, ICAR, CSIR who is not in possession of any alternative accommodation: Provided that no person other than a public authority shall be entitled to priority unless he has registered his name as specified in sub-rule (3): Provided further that where more othan one person is eligible under the order of priority, the person who has registered his name earlier shall be preferred to the person who has registered his name later: Provided also that no person shall be entitled for

priority in respect of any residential building, the monthly rent of which is less than ten per cent of his monthly income.

Explanation.-

(1) In computing the income of the applicant, the income of all the members of the family shall be taken into account.

(2) Any person who is eligible for allotment under sub-rule (1) may make an application in Form 1-A to the Controller for registering his name specifying, his address, locality in which accommodation is required and the rent he is willing to pay.

(3) A fee of Rs. 5 shall be payable in respect of every application for registration and such fee may be paid in the form of Court-fee stamp affixed to such application,

(4) On receipt of the application, the Controller shall, if he is satisfied that the particulars contained in the application are correct and complete and the applicant is eligible under the Act and these Rules for allotment, register his name.

(5) If the Controller is not satisfied that the particulars contained in the application are correct and complete or that the applicant is eligible for allotment, he shall reject the application.

(6) The Controller shall, if he is satisfied that the person registered has secured alternative accommodation either by way of allotment or otherwise, cancel the registration.

(7) The Controller shall cause to be maintained a register in which the particulars furnished in the application of the person whose name is ordered to be registered, are entered.

(8) The registration by the Controller shall not dispense with the taking of an application in Form II as required by sub-rule (5) of Rule 8, for allotment.]

5. Procedure to be followed in issuing direction under proviso to Section 8(2) :-

(1) The State Government or the Officer authorised under the proviso to sub-section (2) of Section 8 of the Karnataka Rent Control Act, 1961 (hereinafter referred to in this Rule as "the authorised officer"), as the case may be, shall, on receipt of a copy of the intimation from the Controller under Rule 3, consider the communications, received on behalf of any Department of the

Government of [Karnataka] or of the Government of India or of any public authority, and applications received from the officers of the Government of [Karnataka] or the Government of India, as regards the need for the building for the Government concerned or other public authority officer.

(2) Where the building is required for any Government or public authority, having regard to all the circumstances and the public interest, the State Government or authorised officer shall determine the Government or other public authority, to which the building is required and accordingly issue a direction to the Controller.

(3) If no communication in respect of the building has been received on behalf of any Department of any Government or other public authority, the State Government or the authorised officer shall, having regard to all the circumstances of each officer of the different Government, including the office held by him and the essential nature of his official duties, determine the officer for whom in public interest the building is required, and issue a direction to the Controller, accordingly.

(4) For purposes of determining whether in the public interest a building is required for the purpose of any Government or other public authority or the occupation of an officer of any Government, the [authorised officer] may make a reference to the State Government and thereupon the State Government shall consider all the circumstances, and pass orders as regards the Government or other public authority or officer to whom the house is required in public interest and the authorised officer shall issue a direction to the Controller in accordance with the orders of the State Government.

6. Application for allotment :-

Every application by a person other than a public authority for allotment of a building for his use or occupation shall be made in duplicate in Form II.

6A. Procedure regarding deposits of rent under Section 8 and refund thereof :-

(1) The Controller shall acknowledge the receipt of the advance amount deposited in pursuance of clause (ii) of sub-section (5) of Section 8 of the Karnataka Rent Control Act, 1961 and he shall credit such advance amount to "P.D. Account of the House Rent Controller" under the minor head "Personal Deposits".

(2) The Controller shall after making an order under sub-section (4) of Section 8 of the Karnataka Rent Control Act, 1961 , -

(a) refund to the unsuccessful applicant the advance amount deposited by him:

[Provided that if at any time before such order is made, the application for allotment is withdrawn, in writing by the applicant, the Controller shall immediately refund such advance amount to him.]

(b) direct the payment of advance amount deposited by the successful applicant to the landlord.

(3) The maintenance of cash and other accounts shall be in accordance with the provisions contained in Chapter XX of the Karnataka Financial Code.]

7. Form of permit for sale or hire of furniture :-

The permit to be issued under sub-section (1) of Section 15 of the Karnataka Rent Control Act, 1961 for the sale or hire of furniture in a house to the tenant of the house shall be in Form III.

8. Deposit of rent under Section 19 :-

(1) The deposit of rent in Court under sub-section (1) or sub-section (3) of Section 19 of the Karnataka Rent Control Act, 1961 by the tenant shall be made either in person or through Postal Money Order along with an application containing the following particulars.-

(i) the name and address of the person on whose behalf the money is tendered;

(ii) the name and address of the landlord to whose credit the amount is to be placed in deposit, in cases where there is no bonafide dispute or doubt about the person entitled to receive (he rent;

(ii) the names and addresses of persons who claim to be entitled to receive the rent, in cases of bonafide doubt or dispute about the person entitled to receive the rent;

(iv) the particulars of deposit, namely:-

(a) specification of the premises, in respect of which the deposit is made;

(b) the period to which the rent relates;

(c) the amount deposited as rent;

(d) the process fee paid;

(v) head of deposit, namely "CIVIL DEPOSIT (Rent)".

(2) The fee for the service of the notice shall be the same as that fixed for service of summons to a defendant under the Karnataka Court Fees and Suits Valuation Act, 1958, and shall be paid in the same manner.

(3) The notice referred to in sub-rule (2) shall be in Form IV and shall be served as far as practicable in the same manner as that prescribed for service of summons to a defendant under Order V of the Code of Civil Procedure, 1908.

(4) In case where the amount is remitted by postal money order, the money order shall be addressed to the Presiding Officer of the Court and the particulars referred to in items (i), (ii), (iii) and (iv) of sub-rule (1) shall be noted in the money order coupon unless a separate application is sent by registered post, along with the money order. When such a separate application is sent, the fact of its being sent shall be noted in the money order coupon.

(5) For withdrawal of rent deposited under Section 19 of the Karnataka Rent Control Act, 1961, the landlord or person or persons entitled to receive rent shall file a petition in Form V along with the notice, if any, received in respect of such deposit.

8A. Period for vacation of residential building in certain cases :-

Any person who being in occupation or possession of a residential building as a tenant on allotment by the House Rent Controller acquires or constructs either in his own name or in the name of any member of his family a residential building in the same City, Town or Village, shall vacate the building of which he is such tenant.-

(a) within a period of one year from the date of commencement of this Rule where the acquisition or construction is on or after the twentieth day of August, 1976, but before the date of commencement of [this Rule;] or

(b) within 30 days from the date of acquisition or construction where such acquisition or construction is on or after the

commencement of [this Rule.]

9. Deposit of rent under Section 29 :-

(1) The time within which a deposit of rent under sub-section (1) of Section 29 of the Karnataka Rent Control Act, 1961 , may be made shall be fifteen days of the last date fixed in the agreement of tenancy with the landlord for payment of the rent or in the absence of such agreement fifteen days from the last date of the month next following that for which the rent is payable.

(2) The procedure for the deposit of rent under Section 29 of the Karnataka Rent Control Act, 1961 , the fee for the service of notice of deposit and the manner of paying the fee shall be, as far as practicable, the same as those prescribed in Rule 8 for deposits of rent made under Section 19 of the Karnataka Rent Control Act, 1961 .

(3) Notice of the deposit shall be in Form IV and shall be served on the landlord in the same manner as that prescribed in sub-rule (3) of Rule 8.

(4) The conditions subject to which the amount deposited may be withdrawn by the landlord shall be those as may be fixed by the Court.

10. Form of the statement to the competent authority under Section 38 :-

The statement to be submitted to the competent authority by a manager of a hotel or an owner of a lodging house under Section 38 of the Karnataka Rent Control Act, 1961 , shall be in Form VI.

11. Form of receipt for rent and the manner of its issue :-

(1) A receipt to be given under Section 47 of the Karnataka Rent Control Act, 1961 for the amount of rent received in respect of any premises shall be in Form VII.

(2) The receipt to be given shall be in duplicate and serially numbered. The original shall be given to the tenant and the duplicate retained with the landlord.

12. Particulars to be furnished under Section 53 :-

(1) The particulars to be furnished under Section 53 of the Karnataka Rent Control Act, 1961 by a landlord shall be-

- (i) those enumerated in items (1) to (13) in Form I under Rule 3;
- (ii) if the building is not occupied by the landlord whether it is occupied by a single tenant or by more than one tenant; and
- (iii) in the case of a residential building, the number of persons occupying the building, the purpose for which the building is used and the number of employees, if any, working therein.

(2) The particulars to be furnished under Section 53 of the Karnataka Rent Control Act, 1961 by a tenant shall be.-

(i) those enumerated in items (1) to (10) and (12) in Form I under Rule 3;

(ii) if the building is occupied by more than one tenant, the names of other tenants [known to him] and the portions occupied by each of them; and

(iii) in the case of a non-residential building, the purpose for which the building is used and the number of employees, if any, working therein.

CHAPTER 2

Procedure in application and appeals under the Act

13. Procedure to be followed by the Controller in applications made under the Act :-

(1) When an application under Part III of the Act is presented to the Controller, the Controller shall give notice of the same to the respondent or respondents mentioned in the application, specifying the date on which the enquiry in respect of the application will be held. A copy of the application or a substance of the contents of such application shall be sent along with the notice.

(2) The Controller shall give to the parties a reasonable opportunity to state their case and shall also make a memorandum of the substance of

14. Procedure in applications made to the Court under the Act :-

In applications made under the Act to the Court, the Court shall follow, as far as may be and with the necessary modifications, the procedure applicable to small cause suits prescribed in the Code of Civil Procedure, 1908, when such suits are tried by Courts invested with the jurisdiction of a Court of Small Causes under any law

relating to Small Cause Courts in force in any area of the State.

15. Procedure in appeals under Section 12 and Section 41

:-

(1) Every appeal under Section 12 of the Karnataka Rent Control Act, 1961 or Section 41 of the Karnataka Rent Control Act, 1961 to the Deputy Commissioner or the Divisional Commissioner, as the case may be, shall be preferred in the form of a memorandum signed by the appellant or his advocate and shall be presented to the appellate authority or such officer as it appoints. The memorandum shall set forth concisely and under distinct heads, the grounds of objection to the order appealed against, without any argument or narrative and shall be accompanied by a certified copy of the order appealed against and such number of [x x x x] copies of the memorandum of appeal as there are respondents mentioned in the said memorandum.

(2) The appellate authority shall fix a day for hearing of the appeal and cause notices of the appeal to be served on the respondent or respondents mentioned in the memorandum of appeal. A [x x x] copy of the memorandum of appeal filed by the appellant along with the appeal, shall also be sent with the notice to each respondent.

(3) On the date fixed for hearing of the appeal or such further date to which the appeal may be adjourned, the appellate authority, shall, after hearing the parties or their advocates, pass such orders on the appeal as it deems fit.

(4) If the appellate authority decides to make further inquiry, it may take additional evidence or require such evidence to be taken by the Controller or the competent authority, as the case may be.

16. Procedure in appeals under Section 48 :-

In an appeal under Section 48 of the Karnataka Rent Control Act, 1961 from an order passed by the Controller or the Court, the District Judge, shall as far as may be and with the necessary modifications, follow the practice and procedure prescribed for appeals from original decrees by the Code of Civil Procedure, 1908.

CHAPTER 3

Inquiries before Competent Authority

17. Commencement of inquiry by the competent authority :-

The competent authority may, under Part VI of the Act, either suo

motu or on an application made to him in writing signed by the person making it, and delivered to the competent authority either in person or sent to his office address by registered post, make inquiry for fixing the fair rate under Section 32 of the Karnataka Rent Control Act, 1961 or revision thereof under Section 33 of the Karnataka Rent Control Act, 1961 , or for fixing the number of lodgers to be accommodated in each room or specified accommodation in any hotel or lodging house under Section 32 of the Karnataka Rent Control Act, 1961 situate within his jurisdiction.

18. Register of inquiries :-

Every inquiry made under Rule 17 and every inquiry in connection with the issue of a certificate under Section 37 of the Karnataka Rent Control Act, 1961 shall bear a separate number and each such inquiry shall be entered in a separate register which shall be maintained in Form VIII.

19. Procedure for applications to competent authority :-

An application for the revision of fair rates when made by the manager of a hotel or owner of a lodging house or for a certificate against a lodger shall be in writing signed by the manager or proprietor of the hotel or lodging house and delivered to the competent authority either in person or sent to his office address by registered post.

20. Contents of application to competent authority :-

The application for the revision of the fair rates shall state the material grounds on which the revision is sought and the application for a certificate shall state the same description and postal address of the lodger against whom the certificate is sought, as also the grounds for the same and a brief statement of the material facts in support thereof.

21. Procedure for fixing fair rates or for revising them or for fixing the number of lodgers :-

(1) Before fixing the fair rates or revising them or fixing the number of lodgers, the competent authority shall receive and consider such oral and documentary evidence as the applicant, if any, and the manager of a hotel or owner of a lodging house may adduce.

(2) The competent authority shall, as far as practicable, make such inquiries as he deems necessary from other lodgers of the hotel or lodging house.

22. Procedure for certificate against lodgers :-

Before making an order granting or refusing to issue a certificate against a lodger, the competent authority shall receive and consider such evidence as the lodger and the manager of a hotel or owner of a lodging house may adduce.

23. Manner of recording oral evidence :-

The competent authority shall make a short memorandum of the oral evidence given before him.

24. Forms and manner of service of summons :-

A summons issued to a witness-

(a) for giving evidence shall be in Form IX, and

(b) for production of documents shall be in Form X. The summons shall be served by registered post.

25. Contents of the order of competent authority :-

The final order passed by the competent authority in an inquiry under the Act shall state in brief the reasons in support of the order made. The order shall be signed by the competent authority and shall bear the date on which it was passed.

26. Copies of the order to be sent to parties :-

A copy of the order passed by the competent authority shall be sent by registered post to the parties concerned. A copy of the order fixing the fair rates or revision thereof or for fixing the number of lodgers shall also be sent to the police station within whose Jurisdiction the hotel or lodging house to which the order relates is situated.

27. Certificate to be sent to the manager :-

The certificate issued under Section 37 OF THE Karnataka Rent Control Act, 1961 shall be sent to the manager of the hotel or owner of the lodging house concerned and a copy thereof to the lodger concerned, by registered post. An office copy of the certificate shall be kept in the record of the inquiry.

CHAPTER 4

Miscellaneous

28. Manner in which intimation, notices and orders under the Act shall be given or served :-

(1) Save as otherwise provided for in the Act or in these Rules, all

notices, intimations and orders shall be served on the person concerned personally, by delivering or tendering to him the notice, intimation or order.

(2) If such person is not found' and service under sub-rule (1) is not possible, service may be effected by giving or tendering the notice, intimation or order to an adult member of the family and taking his acknowledgment. If there, is no adult member willing to accept the service, service may be effected by affixing a copy of the notice, intimation or order on some conspicuous part of the last known place of abode or business of the person concerned.

(3) Notwithstanding anything contained in sub-rule (1) or (2), the Controller or the Court may direct a notice, intimation or order to be sent to the person concerned by registered post, pre-paid for acknowledgment. Any acknowledgment received through post and any 'share' or endorsement made by a postal official thereon shall be accepted as evidence of the fact stated therein without any further proof.

28A. Prescribed Authority under Section 31-B :-

The House Rent Controller of the area concerned shall be the prescribed Authority for the purpose of Section 31B of the Karnataka Rent Control Act, 1961 .]

28B. Prescribed Authority under Section 21-A :-

The Controller of the area concerned shall be the prescribed Authority for the purpose of Section 21A of the Karnataka Rent Control Act, 1961 .]

29. Procedure regarding ex-parte orders :-

(1) Any ex-parte order passed under the Act may be set aside on sufficient cause being shown for non-appearance and the provisions of Order IX of the Code of Civil Procedure, 1908, shall, as far as may be and with necessary modifications, be followed,

(2) An application for setting aside an ex-parte order passed under the Act shall be made to the Court or the authority making such order within thirty days from the date of [knowledge] of such order:

Provided that in computing the period of thirty days under this sub-rule the time taken to obtain a certified copy of the order shall be excluded.

30. Applications for making legal representatives of deceased persons or parties to proceedings under the Act.

:-

Applications by or against legal representatives under Section 51 of the Karnataka Rent Control Act, 1961 shall be made within fifteen days from the date of death of the party or person concerned or the date of knowledge of the death of the party or person concerned, and for this purpose, the provisions of Order XXVI of the Code of Civil Procedure, 1908, shall, as far as may be and with the necessary modifications, be followed.

31. Levy of fees in respect of applications, petitions, certificates, etc., under the Act :-

(1) A Court-fee of rupees ten shall be paid on every application filed under Section 14 of the Karnataka Rent Control Act, 1961 , Section 21 of the Karnataka Rent Control Act, 1961 [x x x]. All other applications filed under the Act shall be stamped in accordance with the fee prescribed in the Karnataka Court Fees and Suits Valuation Act, 1958.

(2) A Court-fee of fifteen rupees shall be paid on every memorandum of appeal presented to an Appellate Authority or the District Judge, under the Act.

(3) The fees for service of notices and other processes issued under the Act other than those specifically provided for in these Rules shall be paid in accordance with the scale of fees prescribed under the Process Rules for the time being in force, made by the High Court of [Karnataka] under the Karnataka Court Fees and Suits Valuation Act, 1958.

32. Inspection of buildings :-

(1) Every landlord who has given intimation of vacancy under sub-section (1) of Section 4 of the Karnataka Rent Control Act, 1961 , or whose building is vacant, shall afford all reasonable facilities for inspection of the building by prospective tenants at such time or times as may be specified by the Controller during the period of fifteen days specified in sub-section (2) of Section 4 of the Karnataka Rent Control Act, 1961 or the period specified by an order of the Controller under clause (d) of sub-section (1) of Section 8 of the Karnataka Rent Control Act, 1961 , and the landlord shall also take all necessary steps for keeping watch over the building, its fixtures, fittings, etc., during such inspection.

(2) The Controller or any person authorised by him in that behalf may, if he thinks fit to do so, personally inspect any building in connection with any proceeding under the Act and may call for any particulars in respect of the said building from the landlord or tenant or occupant or any previous tenant or occupant thereof who shall thereupon furnish such particulars. The landlord or tenant or other person in occupation of the building shall give all reasonable facilities for such inspection.

33. Penalty for contravention of certain Rules 5 :-

If any person contravenes any of the Rules specified in column (1) of the Table below, he shall be punishable with fine which may extend to the amount indicated in the corresponding entry in column (3) thereof.

34. Adoption of Forms :-

Save as otherwise provided for in these Rules, the Forms and registers prescribed for use of the Civil Courts shall, as far as may be and with the necessary modifications, be adopted and used or maintained in respect of proceedings under the Act. Applications, petitions, appeals or other proceedings under the Act shall be registered as Rent Control applications, petitions, appeals or proceedings, as the case may be.

35. The provisions of the Civil Procedure Code to be generally followed :-

In deciding any question relating to procedure not specifically provided for by these Rules, the Court shall, as far as possible, be guided by the provisions contained in the Code of Civil Procedure, 1908.