

BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL RULES, 1948

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BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL RULES, 1948

In exercise of the powers conferred by section 49 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, (Bom. LVII of 1947), the Government of Bombay is pleased to make the following rules, namely:

CHAPTER 1 Preliminary

1. Title. :-

These rules may be called the Bombay Rents, Hotel and Lodging House Rates Control Rules, 1948 .

2. Definition. :-

In these rules, unless there is anything repugnant in the subject or context,

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

(b) "miscellaneous application" means an application for fixing the standard rent, except where the said relief is claimed in a pending suit or proceeding an application for determining the permitted increase, an application by a tenant for reinstatement an application for a direction for the restoration of any essential supply or service or an application by a member of the tenants family under sub-clause (c) of clause (11) of Section 5 ;

(c) words and expressions not defined in these rules shall have the same meanings as are assigned to them in the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

CHAPTER 2 Receipt for rent

3. Receipt for rent. :-

A receipt given under Section 26 for the amount of rent received in respect of any premises shall be in Form 1.

CHAPTER 2A Increase of Rent on account of Special Repairs, etc

3A. Increase of rent on account of special repairs, etc. :-

An amount not exceeding five percent per annum of the expenses incurred to execute any work of special or heavy repairs or special additions to premises or special alterations therein or additional amenities provided for the premises or on account of improvements or structural alterations under Section 3 (hereinafter referred to as the amount of permitted increase) may be added to the rent in the following manner namely:

(1) Where any such work is carried out in the premises occupied by one tenant only at the instance of a local authority and is for the benefit of such tenant or is carried out with the consent of such tenant the whole amount of permitted increase may be added to the rent of such premises;

(2) When any such work is carried out at the instance of a local authority, or with the consent in writing of the majority of tenants,

(i) for the benefit of any two or more tenements in any premises, or

(ii) for the proper upkeep, stability and other requirements of any premises taken as a whole, the amount of permitted increase shall be allocated to the tenements in such premises in proportion to their respective annual rental values.

Explanation. For the purpose of this rule, the expression "annual rental value" means the annual rent for which any tenement is actually let and when any tenement is not let, the rent for which such tenement might reasonably be expected to let from year to year.

(3) Where the rent is payable by the month, the amount of permitted increase which may be added to such rent per month shall be the quotient obtained by dividing the amount of permitted increase under clause (1) or (2) by twelve.

CHAPTER 3 Payment of Rent according to British calendar

4. Calculation of rent according to British calendar. :-

If, before the Act comes into force, the rent in respect of any premises was chargeable according to a calendar other than the British calendar, the landlord shall recover from the tenant, rent for broken period of the month, year or portion of the year immediately preceding the date on which the Act comes into force,

proportionate amount according to the aforesaid calendar month, year or portion of the year at which the rent was then chargeable. After such date the landlord shall recover rent according to the British W[^]calendar. The rent chargeable per month according to the British calendar shall not exceed the rent which was chargeable per month according the other calendar followed immediately before such date.

CHAPTER 4 Procedure to be followed by the Court of Small Causes, Bombay, in suits, proceedings, appeals, etc.

5. Procedure for suits the value of the subject matter of which does not exceed Rs.3.000 and for proceedings for execution of decrees and orders passed therein and for distress warrants. :-

In such of the following suits and proceedings as are cognizable by the Court of Small Causes, Bombay, on the date of the coming into force of these Rules, namely :

(1) suits relating to the recovery of rents or charges for boarding, lodging or other service provided in a hotel or lodging house when the amount or value of the subject-matter does not exceed Rs. 3,000;

(2) proceedings under Chapters VII and VIII of the Presidency Small Cause Courts Act, 1882; and

(3) proceeding for execution of any decree or order passed in any such suit or proceedings; the Court of Small Causes, Bombay, shall follow the practice, and procedure provided for the time being (a) in the said Act, except Chapter IV thereof, and (b) in the rules made under Section 9 of the said Act.

6. Affidavits in distress warrant applications. :-

Every application for a distress warrant under Chapter VIII of the Presidency Small Cause Courts Act, 1882, shall be accompanied also by an affidavit of the applicant or his duly constituted agent stating that the amount claimed is not in excess of the rent

recoverable under the Act.

7. Procedure in applications simpliciter for fixing standard rent, etc :-

(1) In miscellaneous applications the Court of Small Causes, Ahmedabad, shall follow at its discretion, the provisions of Order XIX of the Civil Procedure Code. But incises where the Court decides not to follow the procedure under Order XIX or, where cross-examination is permitted by the Court of a person who has filed the affidavit, the Court shall follow the procedure prescribed in Rule 8 for recording evidence.

(2) In applications for fixing standard rent or permitted increase where a Court in exercise of the powers conferred by rule 9 of Order"•-* XXVI of the Code appoints a Commissioner for ascertaining the market value of any premises, the Court may also require the Commissioner to submit his report as to the facts which may enable the court to ascertain the fair return in respect of such premises by appointment or otherwise"

8. Procedure for other suits. :-

In suits and proceedings other than those referred to in rule 5 and 7, the Court of Small Causes, Bombay, shall, as far as may be and with the necessary modification, follows the procedure prescribed for a court of first instance by the Code, 3[including Order XXXVII as modified in its application to the State of Bombay:]

Provided that costs in respect of employing a legal practitioner when allowed shall be, in respect of any legal practitioner entitled to appear, not more than 2[Rs. 75] per diem of 5 hours of actual hearing or 2[Rs. 125] if the case is disposed of on the first day.

9. Procedure in appeal. :-

(1) In appeals under Section 29(1) of the Act the Court 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.

(2) If, in any such appeal, the Judges constituting the bench differ, the Chief Judge, if he is one of the Judges or, in his absence, the Judge, /** first in rank and precedence shall have the casting voice.

(3) The costs in respect of employing a legal practitioner when allowed shall be on the following scale in respect of any legal practitioner entitled to appear:

(a) In an appeal from an order in a miscellaneous application.	Not more than Rs. 45
(b) In an appeal from a decree or order in a suit or proceedings.	According to the scale application for an original suit or proceedings.
(c) In revisional proceedings under sub-section (3) of section 29.	Not more than Rs. 45.

CHAPTER 4A Procedure to be followed by Court of Small Causes established under the Provincial Small Cause Courts Act 1887, in suits, proceedings, etc., and by the District Court in appeals

9A. Procedure for suits the value of the subject-matter of which does not Rs. 2,000 and for proceedings for execution of decrees and orders passed therein. :-

A Court of Small Causes established under the Provincial Small cause Courts Act, 1887, shall follow the practice and procedure prescribed for the time being by or under the said Act, in trying and hearing.

(1) suits or proceedings relating to the recovery or rent or charges for boarding, lodging or other service provided in a hotel or lodging Wifehouse or the recovery of possession of any premises, when the amount or value of the subject-matter does not exceed Rs. 2,COO, and

(2) proceedings for execution of any decree or order passed in any such suit or proceeding.

9B. Procedure in applications for fixing standard rents, etc.

:-

In miscellaneous applications a Court of Small Causes established under the Provincial Small Cause Courts Act, 1887, shall follow, as far as may be, and with the necessary modifications, the procedure applicable to suits or proceedings referred to in rule 9A as if such applications were suits of the description referred to therein.

9C. Procedure for other suits and proceedings. :-

In suits or proceedings other than those referred to in rules 9-A and 9-B, a Court of Small Causes established under the Provincial Small Causes Courts Act, 1887 shall follow, as far as may be, and necessary modifications, the procedure prescribed for Court of first instance by the Code.

9D. Procedure in appeal. :-

In an appeal under Section 29(1)(b) of the Act from a decree or order of a Judge of the Courts of Small Causes established under the Provincial Small Cause Courts Act, 1887, the Districts Court shall, as far as may be and with the necessary modifications, follow the practice and procedure prescribed for appeals from original decrees by or under the Code.

CHAPTER 5 Procedure to be followed by a Court of Civil Judge (Junior Division or Senior Division) in suits, proceedings, etc., and by the District Court in appeals

10. Procedure for suits the value of the subject-matter of which does not exceed Rs. 500 and for proceedings for execution of decrees and orders passed therein. :-

In such of the following suits and proceedings are cognizable on the date of the coming into force of these Rules by a court invested with the jurisdiction of a Court of Small Causes under the Provincial Small Causes Courts Act, 1887; namely

(1) suits relating to recovery of rent or charges for boarding lodging

or other service provided in a hotel or lodging house or recovery of possession of any premises, when the amount or value of the subject-matter does not exceed Rs. 500, and

(2) proceedings for execution of any decree or order passed in any such suit or proceeding; the court of Civil Judge (Junior Division or Senior Division) shall follow as far as may be and with the necessary modification, the procedure prescribed in the Code to be followed by the courts invested with the jurisdiction of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887.

11. Procedure in applications for fixing standard rents, etc.

:-

In miscellaneous applications the court of Civil Judge (Junior Division or Senior Division) shall follow, as far as may be and with the necessary modifications, the procedure applicable to suits referred to in rule 10 as if such applications were suits of the description referred to therein.

12. Procedure for other suits and proceedings. :-

In suits and proceedings other than those referred to in rules 10 and 11, the court of Civil Judge (Junior Division or Senior Division) shall follow, as far as may be and with the necessary modifications, the procedure prescribed for a courts of first instance by the Code.

13. Procedure in appeals :-

In an appeal under Section 29(1)(b) of the Act from a decree or order made by the court of Civil Judge (Junior Division or Senior Division) the District Court shall, as far as may be and with the necessary modifications, follow the practice and procedure prescribed for appeals from original decree by the Code.

CHAPTER 6 Court Fees

14. Court fees to be levied in Greater Bombay :-

(1) The Court fees leviable in suits and proceedings mentioned in

rule 5 shall be the fees for the time being chargeable in the Court of Small Causes under the Presidency Small Cause Courts Act, 1882.

(2) The Court fees leviable to miscellaneous applications mentioned in rule 7 shall be eight annas and the court fees leviable in appeals against orders passed in such applications shall be one rupee.

(3) The court fees leviable in suits and proceedings mentioned in rule 8 and in all appeals filed under Section 29(1)(a) of the Act in the Court of Small Causes, Bombay, shall be the court fees chargeable for the time being for such suits and appeals instituted in the courts other than the High Court and the Court of Small Causes, Bombay, under Chapter III of the Court-fees Act, 1870 ! [as amended from time to time in its application to the State of Bombay] and the provisions of that Act, as far as may be and with the necessary modifications shall apply to the recovery of the said court fees.

(4) Whenever any suit or proceeding mentioned in rule 5 or 8 is settled by agreement of the parties before the hearing half the amount of the court fees paid in respect of the plaint or application by which the suit or proceeding was instituted shall be repaid by the Courts of Small Causes, Bombay, to the parties by whom the same have been paid.

15. Court fees in courts outside Greater Bombay :-

(1) The court fees leviable in miscellaneous applications in courts outside Greater Bombay shall be eight annas and in appeals against orders passed in such miscellaneous applications shall be one rupee.

(2) In suits, appeals and other proceedings in courts outside Greater Bombay the court fees leviable shall be the same as are chargeable under Chapter III of the Court fees Act, 1870 ! [as

amended from time to time in its application to the State of Bombay]and the provisions of that Act shall apply to the recovery of such court fees.

(3) Whenever any suit or proceeding in any court outside Greater Bombay is settled by agreement of the parties before the hearing, the parties shall be entitled to a certificate from the court authorising them to receive back from the Collector half the amount of the court fees paid in respect of the plaint or application by which such suit or proceeding was instituted. if

CHAPTER 6A Procedure for suits, proceedings, appeals etc., in city of Ahmedabad and court fees therefor.

15A. Procedure in the Court of Small Causes of Ahmedabad.

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Notwithstanding anything contained in Chapter V and Rule 15, in the city of Ahmedabad the provisions of Chapter IV and Rule 14 shall mutatis mutandis apply to suits, proceedings, applications, appeals and execution of orders under Section 28 and 29 of the Act.

CHAPTER 7 General

16. The provisions of the 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.

CHAPTER 8 Inquiries before the Controller

17. Commencement of inquiry by Controller. :-

The Controller may start the inquiry under Part III of the Act for fixing the fair rate under Section 33 or revision thereof under section 34, or for fixing the number of lodgers to be accommodated in each room or specified accommodation in any hotel or lodging house under Section 33 situate within his jurisdiction either suo motu or on an application made to him in writing signed by the person making and it and delivered to the Controller either in

person or sent to his officer address by registered post.

18. Register of inquiries. :-

Every such inquiry made by the Controller or inquiry in connection with the issue of a certificate under Section 39 shall bear a separate number and each such inquiry shall be entered in a separate register which shall be maintained in Form 2.

19. Procedure for application to Controller :-

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 Controller either in person or sent to his office address by registered post.

20. Contents of application to Controller. :-

The application for the revision of fair rates shall state the material grounds on which the revision is sought and the application for a certificate shall state the name, description and postal and address of the lodger against whom the certificate is sought as also the grounds for the same and 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 Controller 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 lead.

(2) The Controller shall, as far as practicable, make such inquiries as he deems necessary from other lodgers in the hotel or lodging home.

22. Procedure for certificate against lodgers. :-

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

23. Manner of recording oral evidence. :-

The Controller shall make a short memorandum of the substance of the oral evidence recorded by him.

24. Forms and manner of service of summonses. :-

A summons issued to a witness (a) for giving evidence shall be in Form 3 and (b) for production of documents shall be in Form 4. The summons shall be served by registered post.

25. Contents of the order of Controller. :-

The final order passed by the Controller 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 Controller 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 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 39 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.

28. Procedure for obtaining inspection and copies of record relating to inquiries under section 41. :-

(1) Any person who is a party to any inquiry under Section 41 or

has under section 76 of the Indian Evidence Act, 1872, or any other law for the time being in force a right to inspect the record relating to any such inquiry or to obtain copies thereof and who desires to have such inspection or copies may make an application in writing to the Controller stating the purpose for which the request is made. Such application shall be accompanied by the inspection fee or as the case may be the copying fee provided for in sub-rules (2) and (3). On receipt of such application the Controller shall by order, in writing either grant or if he is of opinion that the applicant is not a party interested in the inquiry or has no right to inspection or copies of the record or has not complied with any other requirements of this rule, refuse to grant the request made. Where the request is refused the grounds for such refusal shall be communicated to the applicants.

(2) The fee for inspection of the record shall be fifty naye paise per inquiry per day or part thereof on which such inspection is allowed.

(3) Subject to a minimum fee of one rupee, the fee for furnishing copies of any record shall be at the rate of thirty-five naye paise per folio of one hundred words or fraction thereof.