

THE MODEL TENANCY ACT, 2020

APPROVED BY UNION CABINET

IN ORDER TO PROTECT THE INTERESTS OF LANDLORDS AND TENANTS AND TO PROVIDE SPEEDY ADJUDICATION MECHANISM FOR RESOLUTION OF DISPUTES AND ALSO ESTABLISH THE RENT AUTHORITY WHICH WILL REGULATE RENTING OF PREMISES, UNION CABINET HAS APPROVED MODEL TENANCY ACT ON WEDNESDAY, JUNE 2, 2021.

STATES AND UNION TERRITORIES CAN NOW ADOPT THE MODEL TENANCY ACT BY ENACTING FRESH LEGISLATION OR THEY CAN AMEND THEIR EXISTING RENTAL LAWS.

DEFINITIONS

- "Landlord", whether called landowner or lessor or by any other name, means a person who receives or is entitled to receive, the rent of any premises, on his own account, if the premises were let to a tenant, and shall include —
 - his **successor-in-interest**; and
 - a trustee or guardian or receiver receiving rent for any premises or is entitled to so receive, on account of or on behalf of or for the benefit of, any other person such as minor or person of unsound mind who cannot enter into a contract;
- "Tenant", whether called lessee or by any other name, means a person by whom or on whose account or on behalf of whom, the rent of any premises is payable to the landlord under a tenancy agreement and includes any person occupying the premises as a sub-tenant and also, any person continuing in possession after the termination of his tenancy whether before or after the commencement of this Act; but shall not include any person against whom any order or decree for eviction has been made.
- "Premises" means any building or part of a building which is, or is intended to be, let on rent for the purpose of residence or for commercial or for educational use, except for industrial use and includes—
 - garden, garage or closed parking area, vacant land, grounds and out-houses, if any, appertaining to such building or part of the building; and
 - any fitting to such building or part of the building for the more beneficial enjoyment thereof, but does not include premises such as hotel, lodging house, dharamshala or inn;
- "Rental agent" means any person, who negotiates or acts on behalf of landlord or tenant or both in a transaction of renting of any premises and receives

to ease the burden on civil courts, unfreeze rental properties stuck in legal disputes, and prevent future issues

EXECUTIVE SUMMARY

In this Article, let us try to understand some of the basic and relevant provisions to be known in our day today practice.

This model is said to be called as Tenancy Act, 2020 with the name of respective State/Union Territory as prefix. Model contains 8 chapters, 47 clauses and 2 schedules, it shall extend to the whole of the State/Union Territory and shall come into force on such date as the State Government/Union territory Administration may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act. Highlights of this model

- Separate Rent Authority, Courts and Tribunals to be set up.
- Written agreement is must in all the new tenancies
- Will apply to the new agreements and not retrospective.
- Balancing the Interest of Landlord and Tenant.

remuneration or fees or any other charges for his services whether as a commission or otherwise and includes a person who introduces, through any medium, prospective landlord and tenant to each other for negotiation for renting of premises and includes property dealers, brokers or middlemen, by whatever name called;

TENANCY AGREEMENT & REGISTRATION

After the commencement of this Act, no person shall let or take on rent any premises except by an agreement in writing, which shall be informed to the Rent Authority¹ by the landlord and tenant jointly, in the form specified in the First Schedule within a period of two months from the date of tenancy agreement.

In case Landlord and Tenant failed to inform jointly, the landlord and tenant shall separately inform the execution of tenancy agreement to the Rent Authority within a period of one month from

the date of expiry of the period specified.

The Rent Authority shall, after receiving information about the execution of tenancy agreement along with the documents specified in the First Schedule, —

- provide a unique identification number to the parties; and
- upload details of the tenancy agreement on its website in local vernacular language or the language of the State/Union territory, within seven working days

from the date of receipt of such information

Digital Platform: The Rent Authority shall, within three months from the date of its appointment, put in place a digital platform in the local vernacular language or the language of the State/Union territory for enabling submissions of document in such form and manner as may be prescribed.

¹ The District Collector or District Magistrate shall, with the previous approval of the State Government/Union territory Administration, appoint an officer, not below the rank of Deputy Collector, to be the Rent Authority within his jurisdiction".

EXEMPTION

Model provides the list which are exempt from the applicability

- premises owned or promoted by the Central Government or State Government or Union territory Administration or local authority or a Government undertaking or enterprise or a statutory body or Cantonment Board;
- premises owned by a company, University or organisation given on rent to its employees as part of service contract;
- premises owned by religious or charitable institutions as may be specified, by notification by the State Government/Union territory Administration;
- premises owned by auqaf registered under the Waqf Act, 1995 or by any trust registered under the public trust law of the State/Union territory for the time being in force;
- other building or category of buildings specifically exempted in public interest by notification by the State Government / Union territory Administration.

Further, if the owner and tenant of the premises referred to above agrees that the tenancy agreement entered into between such landlord and tenant be regulated under the provisions of this, such landlord may inform the Rent Authority of the agreement to do so at the time of information of the tenancy agreement.

RENT/SECURITY DEPOSIT

- The rent payable in respect of a premises shall be the rent agreed to between the landlord and the tenant in accordance with the terms of the tenancy agreement.

- The revision of rent between the landlord and the tenant shall be in accordance with the terms of the tenancy agreement.

- In case of any dispute between landlord and tenant regarding revision of rent, the Rent Authority may, on an application made by the landlord or tenant, determine the revised rent and other charges payable by the tenant and also fix the date from which such revised rent becomes payable.

- The security deposit to be paid by the tenant in

advance shall be such as may be agreed upon between the landlord and the tenant in the tenancy agreement, which shall —

- o (a) not exceed two months rent, in case of residential premises; and

- o (b) not exceed six months rent, in case of non-residential premises.

RENT COURTS & RENT TRIBUNALS

The Rent Court² and the Rent Tribunal³ shall, for discharging their functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 for the purposes of,

- - summoning and enforcing the attendance of any person and examining him on oath;
 - requiring the discovery and production of documents;
 - issuing commissions for examination of the witnesses or documents;
 - issuing commission for local investigation;
 - receiving evidence on affidavits;
- dismissing an application or appeal for default or deciding it exparte;
- setting aside any order of dismissal of any application or appeal for default or any other order passed by it exparte;
- execution of its orders and decisions under this Act without reference to any civil court;
- reviewing its orders and decisions;
- revision of orders and decisions of Rent Authority and Rent Court and;
- any other matter, which may be prescribed.

Any person aggrieved by an order passed by the Rent Court, may prefer an appeal along with a certified copy of such order to the jurisdictional Rent Tribunal within the local limits of which the premises is situated, within a period of thirty days from the date of that order.

² The District Collector or District Magistrate shall, with the previous approval of the State Government/ Union territory Administration, appoint Additional Collector or Additional District Magistrate or an officer of equivalent rank, to be the Rent Court for the purposes of this Act, within his jurisdiction.

³ The State Government/Union territory Administration may, in consultation with the jurisdictional High Court, may by notification, appoint District Judge or Additional District Judge as Rent Tribunal in each district.

OTHER PROVISIONS

- Original tenancy agreement to be retained by landlord and tenant.
- Where the premises is uninhabitable without the repairs and the landlord refuses to carry out the required repairs, after being called upon by the tenant in writing to do so, the tenant may abandon the premises after giving the landlord fifteen days notice in writing.
- A landowner or property manager may enter a premise in accordance with written notice or notice through electronic medium served to the tenant at least twenty-four hours before the time of entry.
- No landlord or property manager can withhold any essential supply to the premises occupied by the tenant.
- No tenant shall, except by entering into a supplementary agreement to the existing tenancy agreement,
 - (a) sub-let whole or part of the premises held by him as a tenant;
 - (b) transfer or assign his rights in the tenancy agreement or any part thereof.

SCHEDULES

FIRST SCHEDULE: It is the Application Form For Information Of Tenancy To Rent Authority along with the Tenancy Agreement, Self-attested PAN and Aadhar of Landlord and Tenant.

SECOND SCHEDULE: Division of Maintenance Responsibility Between The Landlord And The Tenants

CONCLUSION:

Model is passed with the intention to Prevent future issues by balancing the interests of tenants and landlords, Government has come up with Model Tenancy Act by making some practical changes and giving more power at the local level and creating the separate court with the intention of speeding up the resolution of legal disputes to unfreeze the rental properties stuck and also to ease the burden on the civil courts. The model could have brought one time solution for the existing legal disputes.