

THE UTTAR PRADESH CANTONMENTS (CONTROL OF
RENT AND EVICTION) ACT, 1952

No. X of 1952

See *Judicial Code*
Vol. I

ARRANGEMENT OF SECTIONS

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See India Code
Vol. I

[27th February, 1952]

An Act to provide for the control of rent of house accommodation in cantonments in Uttar Pradesh and to prevent the eviction of tenants therefrom.

BE it enacted by Parliament as follows:—

1. Short title and extent.—(1) This Act may be called the Uttar Pradesh Cantonments (Control of Rent and Eviction) Act, 1952.

(2) It extends to all the cantonments in the State of Uttar Pradesh.

2. Act not to apply to certain accommodation.—Nothing contained in this Act shall apply to—

(a) any premises belonging to the Government;

(b) any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government; or

(c) any house which is, or may hereafter be, appropriated by the Central Government on lease under the Cantonments (House Accommodation) Act, 1923 (VI of 1923).

3. Definitions.—In this Act, unless the context otherwise requires,—

(a) “accommodation” means house accommodation, residential or non-residential, in any cantonment to which this Act applies, and includes—

(i) the gardens, grounds or outhouses, if any, appurtenant to the building or any part thereof;

(ii) any furniture supplied by the landlord for use in the house or any part thereof;

(iii) any fittings affixed to the building or any part of the building for the more beneficial enjoyment thereof;

(b) “district magistrate” includes an officer authorised by a district magistrate to perform any of his functions under this Act;

(c) “landlord” means a person to whom rent is payable by a tenant in respect of any accommodation, and includes—

(i) the agent, attorney, heir or assignee of the landlord, and

(ii) a tenant in relation to a sub-tenant;

(d) “lease” includes a sub-lease;

(e) “municipal assessment” means—

(i) in respect of accommodation which was assessed by a cantonment board on or before the 1st day of April, 1942, the annual rental value so assessed and in force on the said date, and

(ii) in respect of accommodation which was assessed by a cantonment board after the said date, the annual rental value first assessed after the said date;

(f) "officer commanding the station" means the military officer for the time being in command of the forces in a cantonment or, if that officer is the Officer Commanding the Area or Officer Commanding-in-Chief, the Command, the military officer who would be in command of those forces in the absence of the Officer Commanding the Area and Officer Commanding-in-Chief, the Command, and includes any officer authorised by the officer commanding the station to exercise the powers of an officer commanding the station under this Act;

(g) "reasonable annual rent" means—

(1) in the case of accommodation constructed before the 1st day of October, 1946,—

(i) if it is separately assessed to municipal assessment, its municipal assessment plus twenty-five per cent. thereon;

(ii) if it is a part only of the accommodation so assessed the proportionate amount of the municipal assessment of such accommodation plus twenty-five per cent. thereon;

(iii) if it is not assessed to municipal assessment—

(a) if it was held by a tenant on rent between the 1st day of April, 1942 and the 30th day of September, 1946, fifteen times the rent for the one month nearest to and after the 1st day of April, 1942; and

(b) if it was not so held on rent, the amount determined under section 7; and

(2) in the case of accommodation constructed on or after the 1st day of October, 1946, the rent determined in accordance with section 7;

(h) "tenant" means the person by whom rent is, or, but for a contract express or implied, would be payable for any accommodation, and includes any person holding or occupying the accommodation as a sub-tenant.

4. Control of rent.—(1) Except as hereafter in this section provided, the rent payable for any accommodation shall be such as may be agreed upon between the landlord and the tenant.

(2) Where the rent for any accommodation has not been agreed upon, or where in the case of tenancies continuing from any date before the 1st day of October, 1946, the landlord wishes to enhance the rent agreed upon, he may, by notice in writing, fix the annual rent at, or enhance it to an amount not exceeding, the reasonable annual rent:

Provided that the enhanced rent shall not exceed the rent, if any, payable on the 1st day of October, 1946, by more than fifty per cent. thereof:

Provided further that nothing in this section shall entitle the landlord to enhance the rent in the case of leases for a fixed term during the continuance of the term unless so permitted by the contract of tenancy.

(3) If any accommodation is let after the 16th day of January, 1952, without the rent being agreed upon between the landlord and the tenant, the rent fixed under sub-section (2) shall be payable from the date of commencement of the tenancy and where the rent agreed upon

is enhanced under the said sub-section, the enhanced rent shall be payable from the first day of the month next after the month in which the notice is given.

(4) If the landlord claims that the reasonable annual rent of any accommodation is inadequate, or if the tenant claims that the reasonable annual rent is excessive or that the agreed rent is higher than the reasonable annual rent, he may institute a suit for fixation of rent in the court of the munsiff having territorial jurisdiction if the annual rent claimed or payable is five hundred rupees or less, and if it exceeds five hundred rupees, in the court of the civil judge having territorial jurisdiction or, if there is no such civil judge, in the court of the district judge:

Provided that the court shall not vary the agreed rent unless it is satisfied that the transaction was unfair and, in the case of a lease for a fixed term made before the 1st day of April, 1942, that the term has expired.

(5) Notwithstanding anything contained in sub-sections (1), (2) and (3), the rent fixed by the court under sub-section (4) shall, so long as this Act remains in force, be payable by the tenant and from such date as the court may direct.

Explanation.—For the purposes of this section, “accommodation” includes any accommodation let on a monthly basis.

5. Procedure in suits under section 4.—In determining the amount of annual or monthly rent in any suit under sub-section (4) of section 4, the court shall take into account—

(a) in the case of accommodation constructed before the 1st day of October, 1946, the pre-war rent, the reasonable annual or monthly rent, the prevailing rent on the date of the suit for similar accommodation in the locality, the cost of maintenance of, and repairs to, such accommodation, and any other material circumstances provided by the plaintiff or the defendant;

(b) in the case of accommodation constructed on or after the said date, the cost of construction and maintenance of, and repairs to, the accommodation, its situation and any other circumstances which the court may consider material.

6. Bar of appeals from decrees or orders in suits under section 4.—No appeal shall lie from any decree or order of the munsiff, the civil judge or the district judge, as the case may be, in a suit brought under sub-section (4) of section 4:

Provided that the decree or order so passed (except in so far as it relates to the amount of rent) shall not operate as *res judicata* between the parties or their representatives in interest in any suit or proceeding under any other law.

7. Determination of reasonable annual rent in certain cases.—(1) In the case of any accommodation constructed after the 30th day of September, 1946, or falling within item (b) of sub-clause (1) (iii) of clause (g) of section 3, the district magistrate may, on the application of the landlord or the tenant, determine the reasonable annual rent thereof.

(2) In determining the reasonable annual rent under sub-section (1), the district magistrate shall take into account—

(a) in the case of accommodation constructed after the 30th day of September, 1946, the cost of construction and maintenance of, and repairs to, the accommodation, its situation and any other matter which in the opinion of the district magistrate is material, and

(b) in the case of accommodation falling within item (b) of sub-clause (1) (iii) of clause (g) of section 3, the matters set out in clause (a) of section 5.

(3) Subject to the result of any suit filed under sub-section (4) of section 4, the amount fixed by the district magistrate under this section shall be the reasonable annual rent of the accommodation.

8. Unlawful charges not to be claimed or received.—(1) Subject to the provisions of this Act, no person shall be entitled to claim or to receive any rent in excess of the rent payable under this Act notwithstanding any agreement to the contrary.

(2) No person shall, in consideration of the grant, continuance or renewal of any tenancy, claim or receive any premium or other like sum in addition to the rent payable under this Act.

9. Control of letting.—(1) The officer commanding the station may, by general or special order, require a landlord to give intimation that any accommodation of which he is the landlord has fallen vacant and to let or not to let such accommodation to any person.

(2) Every tenant occupying accommodation shall, within seven days of his vacating such accommodation, give intimation thereof in writing to the officer commanding the station.

(3) The officer commanding the station may, on application being made to him by the landlord require a prospective tenant of any accommodation in respect of which an order has been made under this section to pay to the landlord an advance of rent equal—

(a) to one month's rent, where the accommodation is to be let on a monthly basis, and

(b) to one-half of the yearly rent where the accommodation is to be let on a yearly basis.

(4) In respect of any accommodation constructed after the 1st day of October, 1946, in respect of which he has to pass an order under sub-section (1), the officer commanding the station shall allot it to the owner if the owner, not being in occupation of any other house owned by him in the cantonment, genuinely requires such accommodation for his own residence.

Explanation I.—Any accommodation newly constructed shall be deemed to be vacant as soon as it is fit for occupation.

Explanation II.—For the purposes of this section "letting" includes sub-letting.

10. Eviction of persons occupying accommodation in contravention of section 9.—(1) Where in pursuance of an order of the officer commanding the station under sub-section (1) of section 9 the vacancy of any accommodation is required to be reported and is not so reported, or where an order requiring any accommodation to be let or not to be let has been duly passed under that sub-section and the officer commanding the station believes, or has reason to believe, that any person has, in contravention of such order, occupied the accommodation or any part thereof, he may call upon the person in occupation to show cause, within such time as may be fixed by him, why he should not be evicted therefrom:

Provided that no order under this section shall be made if the officer commanding the station is of opinion that due to lapse of time or other causes it is inexpedient to do so.

(2) If such person fails to appear in reply to the notice served under sub-section (1) or, if he appears but fails to satisfy the officer commanding the station that the order under sub-section (1) of section 9 was not duly passed and that he is entitled to remain in occupation of the accommodation, the officer commanding the station may, without prejudice to any other action which may be taken against him under this Act or any other law for the time being in force, direct him to vacate the premises within such period as he may specify.

(3) Upon the making of an order under sub-section (2), the person against whom the order is made and any other person claiming under him shall vacate the accommodation and if the person does not vacate the accommodation within the time allowed or such extended period as the officer commanding the station may, on cause shown, allow, the officer commanding the station may evict, or cause to be evicted, the person or persons concerned and may use such force as may be necessary for carrying out the order and also put the person entitled under sub-section (1) of section 9 in occupation of the accommodation.

(4) No appeal shall lie from any order passed by the officer commanding the station under this section, but the Central Government or any person authorised by it in this behalf may revise the said order if it is satisfied that the officer commanding the station has acted illegally or with material irregularity or has wrongly refused to act, and may make such order in relation thereto as it thinks fit.

11. Eviction of tenants occupying accommodation under section 9.—

(1) Where any tenant who is in occupation of any accommodation in pursuance of an order made under sub-section (1) of section 9 is in arrears of rent for more than three months, the landlord may make an application to the munsiff having territorial jurisdiction for an order of eviction of the tenant from the accommodation.

(2) Every application under sub-section (1) shall contain the following particulars, namely:—

(a) the name of the landlord and, where there are more landlords than one, the names of all the landlords;

(b) a sufficient description of the accommodation from which the tenant is to be evicted or a copy of the order of allotment;

(c) the arrears claimed and the rate at which they are claimed;

(d) where the rent has already been determined in a suit under sub-section (4) of section 4, the fact that it has been so determined; and shall be verified in the manner prescribed for the verification of plaints in the Code of Civil Procedure, 1908 (Act V of 1908).

(3) On the making of an application under sub-section (1), the munsiff shall, without unnecessary delay, cause a notice to be served on the tenant in the manner prescribed by rules under this Act requiring him to pay the amount of arrears within fifteen days of the service thereof or to show cause within the said period why an order evicting him from the accommodation be not passed against him.

(4) If within the time allowed in the notice under sub-section (3) the tenant pays into court the amount mentioned therein, the munsiff shall dismiss the application and direct the amount to be deposited to be paid to the landlord in satisfaction of the arrears and shall make such order as to costs as may appear to him to be just and proper.

(5) Where the tenant has been duly served with a notice under sub-section (3) but fails to deposit the amount mentioned within the time allowed therein and does not file any objection thereto, the munsiff shall, notwithstanding anything to the contrary contained in the Transfer of Property Act, 1882 (IV of 1882), make an order directing that the tenant be evicted from the accommodation and that he shall pay the costs of the application.

(6) As soon as may be after an order has been passed under sub-section (5) the munsiff shall forward a copy of the same to the district magistrate and thereupon the district magistrate shall cause the tenant to be evicted from the accommodation, using or causing to be used such force as may be necessary for the purpose, and nothing contained in the Code of Civil Procedure, 1908 (Act V of 1908), shall apply to any such proceedings:

Provided that if the tenant at any time before his eviction deposits the amount due in the treasury or pays the landlord or the officer charged with the execution of the order for the delivery of possession the amount of arrears together with all the costs of the proceedings, the tenant shall not be evicted from the accommodation and the district magistrate shall report the proceedings to the munsiff who shall make an order quashing the proceedings:

Provided further that the district magistrate may, for sufficient reasons, allow such time as he may think fit to the tenant to pay the amount for which an order of eviction has been passed against him.

(7) Any order made under sub-section (5) or anything done or any action taken under sub-section (6) shall not be deemed in any way to affect the question of title to the property to which it relates.

12. Proceedings under section 11 may be converted into suits in certain cases.—(1) Where a tenant appears in reply to a notice under sub-section (3) of section 11 and files an objection, other than an objection as to the costs of the proceedings merely, the munsiff shall inform the applicant that he may, subject to the payment within such time as may be specified of the court-fee in respect thereof, have the application treated as a plaint in a suit for the recovery of arrears of rent alone:

Provided that the tenant shall not be permitted to file any objection unless he deposits in court the amount mentioned in the notice.

(2) If the applicant pays the necessary court-fee within the time allowed, the application shall be treated as a plaint and the proceedings as a suit and disposed of accordingly, but if no court-fee is so deposited the proceedings shall be quashed, without prejudice to the right of the applicant to file, subject to any other law for the time being in force, a separate suit for ejection and recovery of arrears.

13. Special costs for frivolous or vexatious applications or objections.—Whenever the munsiff finds that an application by the landlord under section 11 or any objection filed by the tenant under section 12 is frivolous or vexatious, he shall award, by way of special costs, to the tenant or the landlord, as the case may be, such sum not exceeding the amount of the claim as he may think fit.

14. Restrictions on eviction.—No suit shall, without the permission of the district magistrate, be filed in any civil court against a tenant for his eviction from any accommodation except on one or more of the following grounds, namely:—

(a) that the tenant has wilfully failed to make payment to the landlord of any arrears of rent within one month of the service upon him of a notice of demand from the landlord;

(b) that the tenant has wilfully caused or permitted to be caused substantial damage to the accommodation;

(c) that the tenant has, without the permission of the landlord, made or permitted to be made any such construction as in the opinion of the court has materially altered the accommodation or is likely substantially to diminish its value;

(d) that the tenant has created a nuisance or has done any act which is inconsistent with the purpose for which he was admitted to the tenancy of the accommodation or which is likely to affect adversely and substantially the landlord's interest therein;

(e) that the tenant has sub-let the whole or any portion of the accommodation without the permission of the landlord;

(f) that the tenant has renounced his character as such or has denied the title of the landlord and the latter has not waived his right or condoned the conduct of the tenant.

Explanation.—For the purposes of clause (e), a person lodging another person in any accommodation which is a hotel or a lodging house shall not be deemed to have sub-let such accommodation.

15. Penalty.—Any person who contravenes any of the provisions of this Act or any order made in pursuance thereof shall be punishable, on conviction, with simple imprisonment for a term which may extend to six months or with fine, which may extend to one thousand rupees, or with both.

16. Attempts, etc.—Any person who attempts to contravene or abets a contravention of any order made under this Act shall be deemed to have contravened that order.

17. Offences by companies.—(1) If the person contravening any order made under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate, and includes a firm or other association of individuals, and

(b) "director" in relation to a firm means a partner in the firm.

18. Act to over-ride other laws.—The provisions of this Act and of any orders or rules made thereunder shall have effect notwithstanding any thing inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

19. Pending suits for eviction.—In all suits for eviction of a tenant from any accommodation pending on the date of commencement of this Act, no decree for eviction shall be passed except on one or more of the grounds mentioned in section 14.

20. Execution of pending decrees for eviction.—Any decree for the eviction of a tenant from any accommodation passed before the commencement of this Act, in so far as it relates to the eviction of such tenant, shall not be capable of execution unless the decree is based on one or more of the grounds specified in section 14:

Provided that where the decree is based on the ground specified in clause (a) of section 14, the decree shall not be capable of execution if the tenant pays to the landlord or deposits in court the arrears of rent due from him together with all the costs of the proceedings and also agrees to pay to the landlord the reasonable annual rent or the rent payable by him before the passing of the decree, whichever is lower.

21. Orders under Act not to be questioned in any court.—Save as otherwise provided in this Act, no order made thereunder by the Government or the district magistrate or the officer commanding the station shall be called in question in any court.

22. Protection for action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under this Act.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under this Act.

23. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which any notice under this Act may be served;

(b) the procedure to be followed by district magistrates in the disposal of any proceedings under this Act;

(c) the manner in which and the conditions subject to which officers commanding the station may exercise their powers under this Act.

24. Repeal of Ordinance II of 1952.—(1) The Uttar Pradesh Cantonments (Control of Rent and Eviction) Ordinance, 1952 (II of 1952) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.