

RENT RESTRICTION LAWS

I. MAIN REPORT

The Pakistan Law Commission has taken notice of the fact that there is a general complaint about inordinate delays in the disposal of rent cases and implementation of the Courts' orders passed in those cases. On the one hand there are some tenants who are interested in retaining the possession of the rented premises and for that purpose exploit the procedural loop-holes in the Rent Laws to prolong the litigation, while, on the other, there are certain landlords who, in order to get the maximum amount of rent, try to eject one tenant after the other with the intention of increasing the rent of the premises substantially on each such occasion.

2. The Law Commission constituted a Special Committee to examine, and suggest amendments, in the Rent Laws so that they may equally protect the interests of the landlords as well as of the tenants and also to recommend ways and means to make the Rent Laws uniform in all the provinces of the Country.

3. The Special Committee held a number of meetings in this connection, and by means of a Press Note invited suggestions from the general public as well. A large number of persons and organisations sent their suggestions to the Committee and it examined them in detail. The Committee was of the view that, besides the procedural loop-holes in the Rent Laws, paucity of judicial officers is also a major cause of delay in the disposal of rent cases. While considering,

therefore, amendments in the Rent Laws the fact that there should be sufficient judicial manpower to administer those laws should not be lost sight of.

4. In the opinion of the Committee the main defect lies on the administrative side. The data collected in this respect shows that a rent case takes about 2 to 3-1/2 years in the Court of the Rent Controller; about 8 to 10 months before the Appellate Court (District Judge) and when a second appeal or a revision was competent before the High Court it took about 7 or 8 years to be finally disposed of.

5. The Rent Restriction Laws in force in the Provinces were designed to control the relationship between the landlord and the tenant for the benefit of both sides. While they protect a tenant and secure his tenancy by not permitting the landlord to eject him at his whim, they also protect the landlord, inasmuch as he is provided with a speedy remedy, by laying down the grounds on which a tenant may become liable to ejection. Broadly speaking, these grounds are:-

- (i) default in payment of rent;
- (ii) subletting the building without permission of the landlord;
- (iii) putting it to a use different from the one for which it was leased out, without the permission of the landlord;
- (iv) causing damage to the building or impairing its value or utility;

- (v) making any unauthorised construction thereon i.e. without landlord's permission;
- (vi) when the owner needs the premises genuinely for his own use or for the use of his wife and children, and
- (vii) when the house in question is to be demolished for reconstruction.

The tenant is also protected inasmuch as the landlord can neither arbitrarily increase the rent nor can he with-hold any of the residential amenities e.g. water, gas, electricity etc., and, if he does so, the tenant can approach the Rent Controller for suitable relief.

6. The Rent Controller is basically a Civil Judge but functions as persona designata and is required to decide the cases expeditiously and un-hampered by the laws relating to evidence or procedure.

7. The Commission took into consideration the report of the Special Committee and unanimously decided to submit the following recommendations for consideration of the Federal Government:-

A. LEGAL (SUBSTANTIVE & PROCEDURAL)

- (a) Section 6(2)

In case there is a regular rent deed mutually agreed upon, drawn up and signed by the parties concerned, the Court should, in the first instance, try to enforce the terms of the deed and take suitable deterrent legal action against the

defaulting party but no order for ejectment of the tenant should be passed except in accordance with the provisions of the proposed Ordinance.

(b) Section 20

(b) It may be provided in the rent laws that ejectment of a tenant from the disputed premises on the plea of personal requirement of the landlord shall be ordered only if it is proved to the satisfaction of the Rent Controller that the premises are required by the landlord genuinely for his personal use and, in the event of his death, by his widow and minor children only. This provision exists in the Punjab Laws and should be introduced in Sind.

(c) Section 31

In order to curb the tendency of taking frivolous pleas on the part of the parties to a tenancy dispute a provision may be made on the lines of Section 17 of the Sind Rental Premises Ordinance, 1979, for payment by the party concerned, by way of compensation, of an amount not exceeding ten times the monthly rent of the disputed premises to the party against whom such a plea was taken and found by the Court to be frivolous and vexatious.

(d) Section 25

Cases relating to property owned by widows, orphans and retiring Government servants, who do not actually possess any property other than that in dispute, should be speedily disposed of by the Law Courts particularly with regard to ejectment proceedings against the tenants. For this purpose some suitable time limit should be prescribed for the disposal of those cases by the

Rent Controllers, decision of appeal in the High Court and, finally, in respect of the execution proceedings e.g. 6 months, 4 months and 3 months, respectively.

(e) Section 8

As regards Immovable Properties (Houses and Shops), which are exclusively meant for being rented out and are actually on rent for a long time, there should be a provision for an automatic increase in their rent, proportionate to the rise in prices and the cost of living. It is suggested that an increase of 10% in the case of houses and 15% in case of shops and business premises should automatically be allowed after every three years or so. In this way the interest of the landlords as well as of the tenants would be fully safeguarded and it would lead to an appreciable decrease in the tenancy litigation. This periodical increase in the rent should be determined and fixed by the Provincial Governments concerned in the same manner in which the assessment of Urban Immovable Property is made periodically by those Governments for purposes of Urban Property Tax.

(f) Section 18

In case a landlord seeks the premises to be vacated for the purpose of reconstruction, he may be required to produce before the Court concerned an approved plan along with a proof of availability of funds for this purpose. In such a case ejectment may be made within 6 months and the landlord required to start the reconstruction work within a reasonable period after vacation of the premises by the tenant, e.g., within four months or so, failing which the previous tenant may be put back into the possession on the same old rent. In the event of

reconstruction of premises they should in the first instance, be offered to the ejected tenant on a rent prevalent in the locality at that time. There should also be, for this purpose, an age limit for the houses, keeping in view the strength of their structure and general condition, e.g., a landlord, who wishes to rebuild an old dilapidated house, should be able to get the vacant possession from the tenant as expeditiously as possible, but in case of recently built houses and those in very good condition the plea of reconstruction for ejectment of the tenants should not be entertained by the Rent Controller.

(g) Section 21

Where a landlord gets his house vacated from the tenant on the ground of his personal use, he should be required to occupy the premises in dispute within a period of one month or so from the date of ejectment of the tenant and must not be allowed to let it out to a new tenant, at least, for a period of three years. In case the landlord does not occupy the premises within the specified period or he lets it out to some one else, the previous tenant should be put back into possession of the premises and the landlord should also be suitably penalised.

(h) Section 2

At present in Sind, according to the definition of "rent" in Sind Rental Premises Ordinance, 1979, and in Punjab in accordance with Explanation (i) to Section 13(2) of the Punjab Urban Rent Restriction Ordinance, 1959, the water and electricity charges payable by the tenant to the landlord are to be considered as part of "rent". In Punjab, however, only those charges form part of the rent

which are payable by the tenant to the landlord. There is no mention, however, of those charges which are sometimes payable by the tenant directly to the water and electricity supplying Bodies. In order to make this position absolutely clear and to avoid multiplicity of litigation the term rent should be defined clearly so as to include electricity, water, gas or other charges which are payable by the tenant either to the landlord or to the Agencies concerned but remain unpaid.

(i) Section 33

The law with regard to appeals in rent cases should be uniform in all the provinces of the Country. In Sind, according to the Sind Rental Premises Ordinance, 1979, only one appeal lies direct to the High Court from the decision of the Rent Controller whereas in the Punjab, according to Ordinance IX of 1979, only one appeal lies to the District Judge. In Punjab, however, people still approach the High Court from the decisions of the District Judges by means of Writ Petitions. It is, in the circumstances, proposed that a uniform provision should be made for only one appeal from the Judgment of the Rent Controller which should lie to the High Court. Suitable time limits can be fixed for disposal of rent cases in the Courts of Original Jurisdiction and that of appeals in the High Court. It can be provided that the Rent Controllers should decide the suits on the basis of record and facts in four or five hearings within a period of six months and the High Court may not, if possible, take more than four months for the disposal of a rent appeal.

(j) Section 32

According to Section 19 of the Sind Rental Premises Ordinance, 1979, where on the date fixed for the respondent to file his written reply, it is found that the notice has been duly served but the respondent has failed to file his reply without any apparent cause, the Rent Controller can make an ex parte order, and after such an order has been passed he has no power to rescind it for any reason whatsoever. This provision is being widely mis-used in the Province of Sind. A clever landlord has merely to wait till the expiry of the limitation period of 30 days for the tenant's appeal after his obtaining an ex-parte order. The Rent Controller is helpless as he has no power to set aside his ex parte order and Section 5 of the Limitation Act is, according to the Judgments of the Sind High Court, in-applicable to the Rent Appeals. The High Court has, therefore, no power to condone the delay. The tenant is thus left without any remedy. It is, in the circumstances, necessary to give power to the Rent Controller to set aside his ex parte order if it is proved that the said order was not obtained in a bona fide manner or the respondent could not file his reply due to reasons beyond his control. This object can be achieved by making Section 5 of the Limitation Act applicable to cases under the Rent Restriction Laws.

(k) Section 37

An amendment granting power of restitution to the Rent Controller is also necessary because in a case where a tenant has failed to obtain a stay order but succeeds in his appeal he cannot be put back into possession of the premises from which he had been ejected.

(1) Section 2(p)

In the Cantonment Areas rent disputes are, at present, being adjudicated upon by the Cantonment Executive Officers, who are not trained judicial officers and from whose orders appeals lie either to the Courts of the District Judges in the Punjab or to the High Court in Sind. It is proposed that the term 'Urban Area' used in the Rent Laws should be re-defined so as to include the Cantonment Areas also. Rent suits in Cantonment Areas too should be heard and decided by the Rent Controllers (Judicial Officers) only.

B. ADMINISTRATIVE STEPS

8. The main causes of inordinate delay in the disposal of rent cases are as follows:-

- (i) The main reason for delay is the shortage of judicial manpower and the extraordinary heavy load of judicial work in the Law Courts at all levels. Before the Partition there used to be a list of about 300 units in the Court of each Civil Judge, while now this number has increased to 2000 or so.
- (ii) On account of rush of work in the Law Courts it has not been possible to assign the duties of Rent Controllers to a sufficient number of Civil Judges with the result that institution of rent cases in a given period is much more than their disposal, leading, consequently, to a constant increase in the work load. In order to meet this situation we have to provide a large number of Rent Controllers for cities like Karachi, Lahore, Faisalabad, Rawalpindi, Peshawar etc.

(iii) Delay in disposal of cases can also be attributed, to some extent, to the defective method of service of notices or summons. When a notice is issued by a Court to the respondent or a summons to a witness, it is sent by the Clerk of the Court to the office of the Nazir (). The Nazir then distributes the summons for service to different process servers known as (). Their number is usually very small, and they are expected to serve the process on the parties in the cases instituted in all the Civil Courts of the city. Their remuneration is also very small e.g., about paisa 50 per service. Moreover, they are expected to travel long distances at odd hours to serve a party who is usually not willing to be served with the process. It may be mentioned that one of the parties in a civil case is always interested in delaying its disposal. For instance, if a rent case lingers on for long, the tenant can remain in possession for that period on the same old rent. Therefore, he wins over the process server and asks him to report that he could not be found or was out of the town. The matter is then reported to the Court on the next date of hearing which passes the required orders, in succession, ultimately leading to publication of notice or summons in the newspapers, which is called substituted service, after taking a number of other steps.

9. The Government is very keen to provide "inexpensive" justice to the people within the shortest possible time. For this purpose it has reduced the court fee. The court fee in rent cases is Re.1/-, and a party can approach the Rent Controller by affixing court fee stamp of Re.1/- only on his application. This is, however, not the only expenditure that he has to incur. His lawyer's fee may be any thing from Rs.500/- to Rs.2000/- depending on the status of the lawyer engaged by him. In addition to the lawyer's fee, the party has to pay 10% of the fee to the Clerk of the Advocate and also to bear other miscellaneous expenses e.g., typing charges etc. The main

expenditure, however, starts when he has to attend the Court on numerous dates of hearing, over a period of years particularly when he has to take the witnesses to the Court on every date of hearing. Each time he has to arrange for their conveyance and food while they are waiting for their evidence to be recorded. But since some times the Courts are busy with other work, the case does not often reach and all the witnesses have to return without having their evidence recorded and are re-summoned by the Court for the next date which usually comes after two or three months. The reason for such long dates is that there is a large number of cases fixed before every Civil Judge (or Rent controller), and even if he tries his best he cannot find any date before the expiry of that period, due to the cases already fixed during the intervening period. The result is that not only the parties are exhausted but they have to bear a great financial burden also. While the tenant may be saving in rent, the landlord, on the other hand, may be losing a lot of money on litigation.

10. The following suggestions are made to meet the situation effectively, which can be given effect to by means of Rules to be framed by the High Courts:-

- (a) A large number of Rent Controllers should be appointed according to the population of the city in question. As for example, about 10/15 Rent Controllers may be required for the City of Lahore. They should be selected from the cadre of the Civil Judges so as to ensure that they have sufficient experience as judicial officers.
- (b) The Rent Controllers and judicial officers should be given reasonable emoluments commensurate with the office they hold and the power they wield, so that they are in a position to resist all kinds of temptations and other pressures. In this connection it must be remembered that rent cases, some times, involve a

good deal of money and it is a well known fact that for certain premises tenants demand 5 to 10 lacs of rupees for vacating them.

- (c) Offices of the Rent Controllers should be accommodated in a building near the High Courts in the Provincial Capitals and Civil Courts in other cities.
- (d) There should be a sufficient number of Process Servers in the Process Serving Agencies, at least at the rate of two Process Servers per Civil Court, including those of the Rent Controllers. The Process Servers should be paid suitably for effected service of each notice or summons, so that they may not be tempted to accept money from the party avoiding such service. If, however, a process server fails to successfully effect service of 80% of notices or summons entrusted to him in any particular month, a warning should be given to him. If within a period of six months, it is found that the process server has not been able to effect the service of 80% of the notices and summons entrusted to him, his services should be terminated.
- (e) The process servers should also be provided with bicycles so that they do not complain about lack of means of conveyance etc. Similarly suitable allowances should be payable to them to cover their expenses in respect of the journeys involving long distances. For this purpose the process fee should be suitably increased e.g., Rs.15/- or so per person required to be served with notice or summons.
- (f) The applicant should be required (by Rules of the Court) to file all the documents, on which he relies, along with his application. Similarly, the respondent must attach the documents, on which he relies, with his reply or written statement. Both parties should also give the names and addresses of their

witnesses and at the same time deposit the process fee so that there is no delay in the service of notices or summons on the persons concerned.

- (g) The Rent Controller must dispose of cases expeditiously and discourage deliberate attempts to get them adjourned. He should hear the case before him, from day to day. If an adjournment has to be granted in any case, it should not be for more than two days at a time, and that too, on payment of costs by the party seeking it. If a longer date is required e.g. on the ground of illness of a witness, it should be determined whether the case can be decided without the testimony of that witness and if the same cannot be dispensed with an adjournment of not more than two weeks should be allowed. A provision for exercise of the power by the Rent Controller to impose such costs should be made in the relevant laws.
- (h) The District Judges and the Chief Justice of the High Court should be regularly informed, (through a chart) about the disposal of cases by each Rent Controller. This chart should also show the progress of each case, and the time taken in its disposal. If it is found that the Controller has taken more than six months in disposing of any particular case his explanation should be called. In case a Rent Controller persistently takes long periods in the disposal of cases before him, it should be considered "inefficiency" on his part, and dealt with suitably under the Efficiency and Discipline Rules.

11. A question would arise as to how the resultant additional expenses are to be met with? In this respect it may be mentioned that even today, the judiciary is a source of income to the Government and contributes to the Exchequer. More money is earned by the courts each year through court fees etc., than is spent on them. In any case, the additional expenditure can be met with by enhancing the court fee. It is suggested that on an application for ejectment the applicant

should be required to pay court fee equal to one month's rent of the disputed premises. It is expected that the money thus collected would be sufficient to meet the extra expenditure but the correct position shall come to be known after some time. A party should, however, be willing to pay the enhanced court fee if he can be assured that his case shall be disposed of early. This object can easily be achieved if the Courts are vigilant and do not allow the parties to adopt delaying tactics. In this way the actual expenses to be incurred by parties will be far less than those to be borne by them if the litigation is a prolonged one.

12. Part-II of this report contains the draft Rental Premises Ordinance, 1982, which includes useful provisions of :-

- (i) the Punjab Rent Restriction Ordinance, 1959;
- (ii) the Sind Rental Premises Ordinance, 1979, and recommendations of the Law Commission in this respect.

PART-II DRAFT RENTAL PREMISES ORDINANCE, 1982

WHEREAS it is expedient to make effective provisions for regulation of relations between the landlords and tenants and protect their interests in respect of rented premises within the urban areas;

NOW, THEREFORE, in pursuance of the proclamation of the 5th day of July , 1977, read with the Laws (Continuance in Force) Order, 1977, (I of 1977), the Governor of _____ is pleased to make and promulgate the following Ordinance:-

1. Short title, extent, application and commencement.-

- (1) This Ordinance may be called the Rental Premises Ordinance, 1982.
- (2) It extends to all the urban areas of the Province of _____
- (3) It shall come into force at once.

2. Definitions.- In this Ordinance, unless there is anything repugnant in the subject or context,-

- (a) "building" means any building or part thereof, together with all fittings and fixtures therein, if any, and includes any garden, garrage, out-house or open space attached or appurtenant thereto, but does not include any place of religious worship;
- (b) "commencing day" means the day on which this Ordinance comes into force;
- (c) "commercial building" means a building used solely for the purposes of trade or business;
- (d) "Controller" means a Controller appointed under Section 4, and includes a person working as Controller immediately before the commencing day;
- (e) "fair rent" means the rent of any building or land determined by the Controller under the provisions of this Ordinance;

- (f) "Government" means the Government of the Province of _____;
- (g) "land" means land or open space used mainly for the purposes of trade or business, but does not include agricultural land or open space attached or appurtenant to any building;
- (h) "landlord" means any person for the time being entitled to receive rent in respect of any premises, whether on his own account or on behalf, or for the benefit, of any other person as a trustee, guardian or receiver, and includes a tenant who, under the terms of the tenancy agreement, is authorised to sublet the premises and does so, and every other person for the time being deriving title from the landlord;
- (i) "member of family" means the wife or husband and dependent children of the landlord;
- (j) "premises" includes a residential building, commercial building or a land let out on rent;
- (k) "rent" means rent of the premises payable by the tenant, and includes water, electricity and gas charges and other charges payable by the tenant either to the landlord or to the Bodies concerned;
- (l) "residential building" means any building used for the purposes of residence, but does not include a boarding house, hostel, hotel or a motel;
- (m) "scheduled building" means a residential building which is being used by a (1) lawyer, (2) architect, (3) dentist, (4) engineer or (5) medical practitioner, partly for his business and partly for his residence;
- (n) "tenancy agreement" means an agreement entered into between a landlord and a tenant in relation to any premises;

- (o) "tenant" means any person who undertakes, or is bound, to pay rent as consideration for the possession or occupation of a premises by him or by any other person on his behalf, and includes -
- (i) any person who continues to be in possession or occupation of a premises after the termination of his tenancy, and
 - (ii) in the event of death of the tenant, his wife and dependent children, and after the termination of tenancy, his wife and children who continue to be in possession or occupation of the premises.
- (p) "urban area" means an area within the jurisdiction of a Town Committee, Municipal Committee, Municipal Corporation, Metropolitan Corporation or a Cantonment Board or any other area which may, from time to time, be declared as an urban area by the Federal or a Provincial Government.

3. Power of Government to exempt premises from operation of the Ordinance.- The Government may, by notification in the official Gazette, exempt any premises or class of premises in any area, from the operation of all or any of the provisions of this Ordinance.

4. Controllers.- (1) The Government may appoint one or more Controllers in any District, and if more than one Controllers are appointed in the same District, it shall define the local limits within which each such Controller shall exercise jurisdiction:

Provided that the Controllers working immediately before the commencing day shall continue to exercise their respective territorial jurisdiction, till such time it is altered by the Government.

(2) No person shall be appointed as a Controller unless he has worked or has been working as a Civil Judge or a Magistrate of the First Class for a period of not less than three years.

(3) The Government may authorise the District Judge to transfer cases from one Controller to another within his jurisdiction.

5. Payment of rent.- (1) The rent shall, in the absence of any date fixed in this behalf by mutual agreement between the landlord and tenant, be paid not later than the tenth of the month next following the month for which it is due.

(2) The rent shall, as far as may be, paid to the landlord, who shall acknowledge receipt thereof in writing.

(3) Where the landlord has refused or avoided to accept the rent it may be sent to him by postal money order or, be deposited with the Controller within whose jurisdiction the premises are situated.

(4) The written acknowledgement, postal money order receipt or receipt of the Controller, as the case may be, shall be produced and accepted in proof of the payment of the rent:

Provided that nothing contained in this section shall apply in the cases pending before the Controllers on the commencement of this Ordinance.

6. (1) Tenancy agreement to be conclusive proof of relationship between landlord and tenant.- Where a tenancy agreement is compulsorily registerable, a certified copy of the tenancy agreement, and, where such agreement is not compulsorily registerable, the original tenancy agreement attested by the Controller within whose territorial jurisdiction the premises are situated with his official seal affixed thereto, when produced before the Controller, shall be conclusive proof of the existence of relationship of landlord and tenant between the parties in respect of a premises.

(2) In the event of a dispute between the landlord and tenant, the Controller shall, in the first instance, enforce the terms of the tenancy agreement, but no order for ejection of tenant shall be passed except in accordance with the provisions of this Ordinance.

7. Fair rent.- (1) The Controller shall, on application by the tenant or landlord determine fair rent of the premises after taking into consideration the following factors:-

- (a) the rent of similar premises situated in the similar circumstances, in the same or adjoining locality;
 - (b) the rise in cost of construction and repair charges;
 - (c) the imposition of new taxes, if any, after commencement of the tenancy,
- and
- (d) the annual value of the premises, if any, on which property tax is levied.

(2) Where any addition to or, improvement in, any premises has been made or any tax, or other public charge has been levied, enhanced, reduced or withdrawn in respect thereof, or any fixtures such as lifts or electric or other fittings have been provided thereon subsequent to the determination of the fair rent of such premises, the fair rent shall, notwithstanding the provisions of sub-section (3) be determined or, as the case may be, revised after taking such changes into consideration.

(3) Where the fair rent of any premises has been fixed no further increase thereof shall be effected unless a period of three years has elapsed from the date of such fixation or commencement of this Ordinance whichever is later.

(4) The increase in rent shall not, in any case, exceed ten per cent per annum on the existing rent.

8. Increase of rent on account of rise in prices and the cost of living.- The Government shall, in its discretion, keeping in view the rise in prices and the cost of living, order an increase in the rent of the buildings after every three years, not exceeding 10 per cent in the case of residential buildings and not exceeding 15 per cent in the case of commercial buildings and business premises.

9. Transfer of ownership of the premises.- Where the ownership of a premises is transferred by way of sale, gift, inheritance or otherwise, the person to whom the ownership is transferred shall inform the tenant of such transfer by registered post, and the tenancy shall be deemed to be as between the new owner and the tenant for the remaining period thereof and the rent shall become payable to the new landlord.

10. Duties of landlord.- A landlord shall -

- (a) keep the premises reasonably maintained by carrying out such works of repairs, not being structural alterations, as may become necessary;
- (b) carry out such works of construction in the premises as he is required by the local authorities to do;
- (c) not discontinue or cause to be discontinued any of the amenities enjoyed by the tenant without just and sufficient cause;
- (d) not increase rent except in accordance with sections 7 and 8; and
- (e) comply with the terms and conditions of the tenancy agreement, if any;

Explanation: For the purposes of clause (a), a premises is reasonably maintained if -

- (i) all floors, walls, pillars, arches and roofs are sound and water-tight;
- (ii) all doors and windows are intact, properly painted or oiled and are provided with hooks and bolts or other necessary fittings;
- (iii) all rooms, out-houses and appurtenant buildings are properly colour-washed or white-washed; and
- (iv) all electric, water, gas and sanitary fittings are in proper order.

11. Failure of landlord to maintain premises.-

(1) Where a landlord has failed to carry out such repairs as are specified in clause (a) of section 10, the tenant may make an application to the Controller praying for an order for the repairs to be carried out in the premises.

(2) If the Controller is satisfied that the repairs asked for by the tenant are necessary for the reasonable maintenance of the premises, he may by order,-

- (a) direct the landlord to carry out such repairs in the premises within such period as may be specified in the order; or
- (b) authorise the tenant to have such repairs carried out in the premises at the expense of the landlord and to adjust the amount, not exceeding three months' rent, against the rent payable by him to the landlord:

Provided that where the Controller considers the amount insufficient, he may authorise such reasonable amount as he thinks fit.

12. Failure of landlord to carry out works directed by local authorities.- (1) Where a landlord has failed to carry out any work of construction or repairs in the premises, which he is required by the local authorities to do, and the failure of the landlord to carry out such works is likely to affect the peaceful occupation of the premises by the tenant, the tenant may, after obtaining permission from the local authority concerned, complete the work.

(2) The tenant may, within three months after the completion of the work, submit to the local authority concerned an account of the expenditure incurred by him, and, after the local authority has verified it, may adjust the amount against the rent payable by him to the landlord.

13. Restoration of amenities discontinued by landlord.- (1) Where a landlord has discontinued or caused to be discontinued any of the amenities enjoyed by the tenant without just and sufficient cause or without the consent of the tenant, the tenant may make an application to the Controller requesting him to make an order for the restoration thereof.

(2) If the Controller is satisfied that the request of the tenant is valid, he may make an order -

- (a) directing the landlord to restore to the tenant such amenities within such period as may be specified in the order; or
- (b) authorising the tenant to have such amenities restored to himself at such cost as may be specified in the order and to adjust the amount so spent against the rent payable by him to the landlord.

14. Landlord to comply with other conditions.- Where in relation to a premises the landlord has failed to do anything which he is required to do or has done anything which he is not authorised to do under this Ordinance or the tenancy agreement the tenant may make an application to the Controller for an order in this behalf, and the Controller shall make such order as he thinks fit.

15. Eviction of tenant.- A tenant in possession of any premises on the commencing day, shall not be evicted therefrom except in accordance with the provisions of this Ordinance.

16. Eviction of tenant from Government premises.- Where a tenant in occupation of any premises of the Federal Government or a Provincial Government or any other statutory body is guilty of breach of any one or more conditions of tenancy he shall be liable to summary ejection.

17. Eviction of tenant for non-compliance of terms and conditions of tenancy agreement.-

(1) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied that ----

(i) the tenant has not paid or tendered rent due by him in respect of the premises within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord, or in the absence of any such agreement, within sixty days from the period for which rent is payable;

or

(ii) the tenant has, without written consent of the landlord -

(a) transferred his right under the lease or sublet entire premises or any portion thereof, or

(b) used the premises for a purpose other than that for which it was leased, or has infringed any condition of the tenancy on which the premises is held by the landlord; or

- (iii) the tenant has committed such acts as are likely to impair materially the value or utility of the premises; or
- (iv) the tenant has been guilty of such acts and conduct as are a nuisance to the occupants of the premises in the neighbourhood; or
- (v) where the premises are situated in a place other than a hill station, the tenant has ceased to occupy such premises for a continuous period of one year without reasonable cause;

the Controller may make an order directing the tenant to put the landlord in possession of the premises within a period of three months.

(2) If the Controller is not satisfied about the correctness of allegations made in the application he shall reject the same with reasonable costs, payable to the tenant, not exceeding six month's rent of the premises.

18. Eviction of tenant for reconstruction of premises.- Where the premises are reasonably and in good faith required by the landlord for reconstruction or erection of a new building on the site, and the landlord has obtained the necessary sanction for the said reconstruction or erection from the Town Improvement Trust, Municipal Corporation, Municipal Committee, Town Committee or Cantonment Board for the area where such premises are situated and he can satisfy the Controller about availability of funds for reconstruction or erection of a new building, the Controller may on an application from the landlord make an order directing the tenant to put

the landlord in possession of the premises within a period of six months and if the Controller is not so satisfied he shall make an order rejecting the application:

Provided that if the landlord does not start reconstruction of the vacated premises within a period of four months of its vacation, the ejected tenant shall, on his application to the Controller, be put back into possession on the same rent.

Provided further that in the event of reconstruction, the premises shall, in the first instance, be offered to the ejected tenant on a rent prevalent in the locality at that time.

Explanation.- For the purposes of this section the age limit of a building, the strength of its structure and general condition will be relevant factors to be taken into consideration by the Controller, e.g., a landlord, who wishes to rebuild an old dilapidated house, should be able to get the vacant possession as expeditiously as possible, but in case of recently built houses and those in good condition, the plea of re-construction for ejection of the tenants should not, as a matter of routine, be entertained by the Rent Controller.

19. Landlord not starting reconstruction within specified time.- Where a landlord, who has obtained possession of the premises in pursuance of an order under section 18, for the purpose of reconstruction of the building or erection of a new building, does not have the building demolished and start its reconstruction or, as the case may be, does not start erection of a new building, within a period of six months from the date of taking possession of the same, he shall, unless he satisfies the Controller that he was unable to start construction work within the specified time for reasons beyond his control, be punished with imprisonment for a term which

may extend to six months or with fine, not exceeding three years' rent of the premises, or with both.

20. Eviction of tenant for personal use.- A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession ----

(i) in the case of a residential building, if ----

- (a) he requires it in good faith for his own occupation or any member of his family;
- (b) he is not occupying another residential building suitable for his needs at the time in the urban area in which such building is situated; and
- (c) he has not vacated such a building without sufficient cause after coming into force of this Ordinance in the said urban area;

(ii) in the case of a commercial building or a scheduled building or land, if ----

- (a) he requires it in good faith for his own use or for the use of any member of his family;
- (b) he or the said member of his family is not occupying in the urban area in which such building is situated for the purpose of his business any other such building or land, as the case may be, suitable for his needs at the time; and
- (c) he has not vacated such a building or land without sufficient cause after coming into force of this Ordinance in the said urban area:

Provided that where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply under this section before the expiry of such period:

Provided further that where the landlord had obtained possession of a residential, scheduled or commercial building or land under the provisions of sub-paragraph (i) or sub-paragraph (ii) he shall not be entitled to apply again under the said sub-paragraphs for the possession of any other building of the same class or land unless the Controller is satisfied that such residential, scheduled, or commercial building or land is no longer suitable for his needs at the time.

21. Non-occupation of vacated premises by landlord or its reletting to a new tenant.- (1)

Where a landlord, who has obtained possession of the premises in pursuance of an order made under sub-paragraph (i) or sub-paragraph (ii) of section 20, does not himself, or where the premises have been got vacated for the occupation of any member of his family such member does not occupy it within one month of the date of obtaining possession, or having so occupied the premises relets within a period of three years of the said date to any person other than the ejected tenant, the tenant may apply to the Controller for an order directing that he shall be given back the possession of such premises on the old rent subject to any increase under sections 7 and 8. The landlord shall also, in the event of reletting the premises before the expiry of three years, be punished with imprisonment which may extend to six months or with fine, not exceeding two years' rent of the premises, or with both.

22. Delivery of possession by tenant.- The Controller shall, if he is satisfied that the claim of the landlord is bona fide, make an order directing the tenant to put the landlord in possession of

the premises on such date as may be specified by the Controller and if the Controller is not so satisfied, he shall reject the application:

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the premises and may extend such time so as not to exceed six months in the aggregate:

Provided further that if the application is in respect of a residential building, the Controller shall direct the tenant within four weeks of the application to put the landlord in possession of the building, if, after summary enquiry, he is satisfied that the tenant, his wife or any of his dependent children owns a residential building or owned such a building within sixty days preceding the filing of the application within the same urban area.

23. Reoccupation by tenant of the reconstructed building.- Where, in pursuance of an order under section 18, a landlord has obtained possession of a building and constructs a new building on the same site, the tenant who was evicted from the old building may, before the completion of the new building and its occupation by another person, apply to the Controller for an order directing that he be put in possession of such area in the new building as does not exceed the area of the old building of which he was in occupation, and the Controller shall make an order accordingly in respect of the area applied for or such smaller area, as considering the location and type of the new building and the needs of the tenant, he deems just, and on payment of rent of similar accommodation in the locality.

24. Procedure.- (1) In proceeding under the provisions of this Ordinance on the first date of hearing or as soon as possible after that date and before the issues are framed, the Controller

shall direct the tenant to deposit all the rent due from him and also to deposit regularly till the final decision of the case, before the tenth day of each month the monthly rent due from him. If there is any dispute about the amount of rent due or the rate of rent, the Controller shall determine such amount approximately and direct that the same be deposited by the tenant before a date to be fixed for the purpose.

(2) If the tenant makes default in the compliance of such an order, then if he is the petitioner, his application shall be dismissed summarily and if he is the respondent his defence shall be struck-off and the landlord put into possession of the premises without taking any further proceedings in the case.

(3) Where the rent has been deposited under this section, it shall, subject to such order as the Controller may make in this behalf, be paid to the landlord at the conclusion of the case or on such earlier date as may be specified by the Controller.

25. Summary ejectment where landlord is a retired Government employee or a widow or an orphan.- (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force,-

- (a) the widow, or any minor child of the deceased landlord, within one year after the death of the landlord; or
- (b) the landlord who is a salaried employee and has retired, or is due to retire within a period of one year,

may by a notice, in writing, inform the tenant that he or she needs the residential building for his or her personal use, and require him to deliver vacant possession of the building within such time, not being less than three months, as may be specified in the notice:

Provided that sub-section (1) will not apply when more than one year has elapsed since the landlord has retired or, as the case may be, has become widow or orphan.

(2) A person, who is the landlord of more than one residential buildings in any urban area, shall be entitled to avail the benefit of this section in respect of one of such residential buildings.

(3) Any person, who is in occupation of a residential building owned by him in the same locality in which the residential building from which the tenant is sought to be ejected are situated, shall be entitled to avail the benefit of this section only if he offers building in his occupation to the tenant in exchange of the residential building sought to be vacated for the remaining period of tenancy on such terms and on payment of such rent as may be determined by the Controller and the tenant has refused to accept the offer.

(4) Where the tenant, on receipt of a notice under sub-section (1), has failed to deliver vacant possession of the residential building and, if an offer was made to him under sub-section (3), has not accepted the offer within the time specified in the notice, the Controller shall, on an application made to him, issue a notice to the tenant, and, on being satisfied that the claim of the landlord is bona fide, shall order the ejection of the tenant from the residential building in a summary manner, by using such force as may be necessary, and put the landlord in possession of the building.

(5) Any person who, having obtained possession of a residential building under subsection (4), relets such building to any person other than the tenant who was ejected, before the expiry of a period of three years, shall be punished with imprisonment not exceeding six months or with fine which may extend to an amount equal to three years' rent of the building, or with both.

26. Tenant to hand over possession of premises when rightful owner declared by court.- (1) Where a person, who lets out on rent any building or land the ownership of which is in dispute, is declared by any Court not to be its owner, any agreement relating to such land or building shall become invalid and the person in occupation of such building or land shall hand over its possession to the person declared by the Court to be the rightful owner.

(2) If the person in occupation of such building or land fails to hand over its possession to the rightful owner, the owner may apply to the Controller praying for the ejection of such person and directing him to hand over its possession to him, and the Controller shall, after satisfying himself of the validity of the claim, order ejection of such person directing him to hand over possession of such building or land to the rightful owner within a period not exceeding six months' as may be specified in the order.

27. Money wrongly paid by tenant to be recovered from landlord.- Where, after the commencing day, any money in respect of any premises has been paid to a landlord which the tenant was not lawfully bound to pay, the tenant may, within six months from the date of such payment and without prejudice to any other mode of recovery, make an application to the

Controller for its recovery, and the Controller may, after satisfying himself about validity of the claim, make an order -

- (a) directing the landlord to deposit such sum in his office within such period as may be specified in the order; or
- (b) authorising the tenant to adjust the said sum against the rent payable by him to the landlord.

28. Rejection of application.- Where the Controller is not satisfied that an application made to him, under any provision of this Ordinance, discloses any ground for an order in favour of the applicant, he may reject the application.

29. Power to award costs.- Notwithstanding anything contained in this Ordinance, the Controller may, when passing a final order, award costs to the successful party which may extend to six months' rent of the premises, and may also direct the party against whom costs have been awarded to deposit the sum in his office within such period as may be specified in the order.

30. Controller to reject applications which raise matters already settled.- The Controller shall summarily reject any application under this Ordinance which raises substantially the questions which have been finally decided in any former proceedings under this Ordinance, unless any new grounds or circumstances have arisen after the final order in such proceedings.

31. Compensation to be paid to a party where opposite party makes frivolous application.- Where the Controller is satisfied that an application made by a party is frivolous or vexatious, he

may make an order for the payment of such compensation, not exceeding ten months' rent of the premises, to the aggrieved party by the applicant as he thinks fit.

32. Setting aside of ex-parte order.- (1) Where an application, other than an application for delivery of vacant possession under section 25 of this Ordinance is made to the Controller, he shall, unless he dismisses the said application summarily for reasons to be recorded, issue a notice to the respondent to file his written reply, if any, within a period not exceeding fifteen days of the receipt of the notice.

(2) Where on the date fixed in the notice for the respondent to file his written reply it is found that notice has been served but the respondent has failed to file his reply, the Controller may proceed to make an ex parte order, which he shall not rescind unless he is satisfied, on an application filed by the respondent within thirty days of the date of the ex parte order, that either the notice was not duly served on the respondent or that he was prevented by circumstances beyond his control from filing the written reply within the time specified in the notice.

33. Appeal.- (1) Any party aggrieved by an order of the Controller finally disposing of an application made by him under this Ordinance may, within thirty days of such order, prefer an appeal to the High Court:

Provided that no appeal shall lie against an order of the Controller determining after enquiry the arrears of rent payable by the tenant or against an interlocutory order passed by him.

(2) The provisions of section 5 of the Limitation Act, 1908, shall apply to the appeals filed under this Ordinance.

(3) The High Court may, pending the final disposal of the appeal, grant injunction staying further action on the order of the Controller for a period not exceeding six months.

34. Powers of the Controller and Procedure.- (1) For the purposes of hearing an application or holding an enquiry or executing an order under this Ordinance, the Controller shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, (Act V of 1908), when trying a suit or executing a decree in respect of the following matters, namely:-

- (a) summoning and enforcing attendance of any person and examining him on oath;
- (b) compelling the discovery and production of any document and other material evidence, and
- (c) issuing commission for examining the witnesses.

(2) Service of summons once effected on a party shall be sufficient for the purposes of the entire proceedings before the Controller.

(3) Production of witnesses shall be the responsibility of the parties and the Controller shall not summon any witness unless he is satisfied that the witness is a servant of the Federal Government, a Provincial Government, a local authority or a corporate body and that he has to produce official record of such Government, local authority or corporate body, as the case may be.

(4) Except for sufficient reasons to be recorded in writing, the Controller shall dispose of an application under this Ordinance finally as expeditiously as possible, but not later than the expiry of six months from the date of the filing of the application.

(5) The proceedings of every enquiry under this Ordinance shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, (Act XLV of 1960).

35. Execution of orders.- All orders made by the Controller or the High Court shall be executed by the Controller within a period not exceeding three months in such manner as may be determined by him, and the provisions of Order XXI of the First Schedule to the Code of Civil Procedure, 1908, (Act V of 1908), shall, as far as may be, apply to the execution of such orders.

36. Order of the Controller not to be questioned in Court.- All orders of the Controller shall, subject to appeal under this Ordinance, be final, and no such order shall be called in question in any Court, by suit, appeal or otherwise.

37. Restitution of possession of premises to tenant.- If the order whereunder a tenant has been dispossessed of any premises is reversed, the Controller, on an application made to him in this behalf, shall restore the possession of such premises to the ejected tenant, and in executing the restitution order he may use or cause to be used such reasonable force as may be necessary.

38. Penalties.- Whoever contravenes or fails to comply with any provision of this Ordinance or the rules made thereunder shall, if no other penalty is provided in this Ordinance for such contravention or failure, be punished with fine which may extend to five thousand rupees.

39. Cognizance of offence.- No Court shall take cognizance of an offence under this Ordinance except upon a complaint made by the Controller, in writing, within three months of the date of the commission of the offence.

40. Controller to be public servant.- The Controller shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

41. Indemnity.- No suit or other legal proceedings shall lie against the Controller or any other person acting under his orders in respect of anything in good faith done or intended to be done under this Ordinance.

42. Power to make rules.- The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

43. Repeal.- (1) The _____ Ordinance, _____ is hereby repealed.

(2) All cases under the Ordinance mentioned in sub-section (1), which were, immediately before the commencing day, pending before a Controller shall be proceeded with and disposed of in accordance with the provisions of this Ordinance.

(3) All appeals under the Ordinance mentioned in sub-section (1) which were, immediately before the commencing day, pending before the District Judge shall stand transferred to the High Court Bench within whose territorial jurisdiction the premises are situated and shall be disposed of in accordance with the Provisions of this Ordinance.