

## THE URBAN RENT CONTROL ACT, 1946.

[BURMA ACT No. XXXIV OF 1946.]

WHEREAS the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action by making provision for restricting rents of premises in urban areas and for other matters incidental to or connected with the purpose aforesaid ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers it is hereby enacted by the Governor of Burma as follows : — 26 Geo.  
c. 3.

1. (1) This Act may be called the Urban Rent Control Act, 1946.

Short title, extent and duration.

(2) Subject to the provisions of section 3 it shall extend to all urban areas in Burma.

(3) The Act shall come into force at once and it shall be in force for a period of five years :

Provided that the expiry of the Act shall not render recoverable any rent which during the continuance thereof was irrecoverable or affect the right of the tenant to recover any sum which during the continuance thereof was under the Act recoverable by him.

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

(a) " City of Rangoon " means the city of Rangoon as described in Schedule VI to the City of Rangoon Municipal Act as amended from time to time ;

(b) " Controller " means the Controller of Rents appointed under this Act ;

(c) " Landlord " means any person for the time being entitled to receive rent in respect of any premises, whether on his own account or on account or on behalf or for the benefit of any other person or as trustee, guardian or receiver for any other person, and includes a legal representative, as defined in the Code of Civil Procedure, and a tenant who sublets any premises and every person from time to time deriving title under a landlord ;

(d) " premises " means—

(i) any land on which a building has been erected and any building or part of a building let separately for any purpose whatever, including a stall let for the retail sale of goods in a market or any other building, and any land, furniture or fixture let together with such building or part of a building ;

Price,—Annas 0.4.0.]

- (ii) any land let separately for the purposes of being used principally for business or trade ;
  - (e) "prescribed" means prescribed by rules made under this Act ;
  - (f) "standard rent" in relation to any premises means—
    - (I) in the cases specified in section 19 the rent fixed by the Controller, subject to any order of the Chief Judge of the City Civil Court of Rangoon in respect of the City of Rangoon or to any order of the Judge prescribed under section 22 in respect of any other urban area ;
    - (II) in all other cases—
      - (A) the rent at which the premises were let on the first day of September 1939 ;
      - (B) where the premises were not let on the first day of September 1939, the rent at which they were let before that date ;
      - (C) where premises were first let after the first day of September 1939 and before the first day of January 1941 the rent at which they were first let ;
      - (D) where the premises were let on the first day of September 1939 on a lease providing for a periodical increase of rent—
        - (i) during the currency of the lease the rent so provided for from time to time, and
        - (ii) after the expiry of the lease the rent payable during the last period of the lease ;
      - (E) where the premises were let under a lease for a period of five years or upwards commencing on or before the first day of September 1934, which has expired after the first day of September 1939, the rent fixed by such lease for the period containing the first day of September 1939 :
- Provided that the Governor may prescribe generally or in the case of any urban area or of any class of premises that the standard rent as defined in sub clauses (A), (B), (C), (D) (ii) and (E) shall be increased by an amount not exceeding 25 per centum per annum if he considers that such increase is justified by prevailing economic conditions.
- (g) "tenant" means any person by whom or on whose account rent is payable for any premises, and includes a legal representative as defined in the Code of Civil Procedure and every person from time to time deriving title under a tenant ;
  - (h) "urban area" includes the City of Rangoon, any area declared to be a municipality under Chapter II of the Municipal Act, any area declared to be a notified area under section 246 of the said Act, a Cantonment as defined in the Cantonments Act and any other area that may be notified as a town under the Towns Act, 1907 as amended from time to time,

3. (1) The Governor may by notification exempt from the operation of this Act or any portion thereof any such area or class of premises as may be specified in such notification and may subsequently cancel or vary such notification.

(2) If any question arises whether any premises come within an urban area or within any area or class of premises exempted from the operation of the Act by notification under sub-section (1), the decision of the Governor on such question shall be final.

(3) Nothing in sections 9, 11 or 12 of this Act shall apply to any premises providing board as well as lodging for its tenants which the Governor shall by notification declare to be primarily intended for the accommodation of travellers.

4. The Governor may by notification appoint a Controller and one or more Assistant Controllers for any urban area in which this Act is in operation, and may by general or special order invest any Assistant Controller with all or any of the powers of the Controller.

5. (1) Subject to the provisions of this Act, where the rent of any premises has been or is hereafter during the continuance of this Act increased above the standard rent, the amount by which such increased rent exceeds the standard rent shall, notwithstanding any agreement to the contrary, be irrecoverable ;

Provided that nothing in this section shall apply—

- (a) to any rent which became due before the commencement of this Act ;
- (b) to any periodical increment of rent accruing under any agreement entered into before the first day of September 1939 ; or
- (c) to rent payable under any lease entered into before the first day of September 1939 which has not expired on the said date.

(2) For the purpose of sub-section (1) the rent shall be deemed to have accrued from day to day.

6. Where the landlord has since the first day of September 1939 incurred or during the continuance of this Act incurs increased expenditure in the maintenance and repairs owing to increased cost of building materials or expenditure on the improvement or structural alteration of any premises (not including expenditure on decorations or repairs), he may apply to the Controller to alter the standard rent.

7. (1) Where as the result of any alteration of the terms of the tenancy the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased within the meaning of this Act, whether the sum payable as rent is increased or not.

(2) Where as the result of any alteration of the terms of the tenancy the terms on which any premises are held are not on the whole less favourable to the tenant than the previous terms, the rent shall not be deemed to be increased within the meaning of this Act, whether the sum payable as rent is increased or not.

8. Where the landlord pays any municipal rates, cesses or taxes in respect of any premises, he may apply to the Controller to increase the standard rent to the extent of the increase in the amount for the time being payable by the landlord in respect of such rates, cesses or taxes over the amount paid in the period of assessment which included the first day of September 1939.

9. (1) Wherever an increase of the rent of any premises is allowable under the provisions of this Act, no such increase shall be recoverable until the expiry of one month after the landlord has served on the tenant a notice in writing of his intention to increase the rent accompanied by a certificate from the Controller fixing the standard rent.

(2) Where such a notice has been served on any tenant, the increase may be continued without service on any fresh notice on any subsequent tenant.

10. (1) It shall not be lawful for any person in consideration of the grant, renewal or continuance of a tenancy of any premises to require the payment of any fine, premium or any other like sum in addition to the rent or to demand any advance in excess of one month's rent :

Provided that nothing in this section shall apply to any payment under any written agreement entered into before the first day of September 1939.

(2) For the purpose of setting off against rents due the cost of repairs of a temporary nature carried out by a tenant shall not be taken into account ; but 50 per cent of the cost of permanent repairs shall be permitted to be set off.

11. Notwithstanding anything contained in the Transfer of Property Act or the Contract Act or the Rangoon City Civil Court Act no order or decree for the recovery of possession of any premises to which this Act applies or for the ejectment of a tenant therefrom shall be made or given unless—

Cases in which orders of ejectment may be made.

- (a) any rent lawfully due from the tenant which accrued after the resumption of civil government on the conclusion of the hostilities with Japan has not been paid to the landlord or deposited with the Controller after a written demand for payment of such rent has been sent to the tenant by registered post and has not been complied with for three weeks from the date of such demand, or any other obligation of the tenancy, whether under the contract of tenancy or under this Act, so far as the same is consistent with the provisions of this Act, has been broken or not performed ; or

- (b) any sum representing rent due from the tenant in respect of any period before the date of resumption of civil government on the conclusion of the hostilities with Japan in respect of which an order or decree has been made or given by a Civil Court in favour of the landlord as against the tenant has not been paid ; or
- (c) the tenant or any other person holding under or residing with him has been guilty of conduct which is a nuisance or annoyance to adjoining or neighbouring occupiers, or has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose, or the condition of the premises has in the opinion of the Court deteriorated owing to acts of waste by or the neglect or default of the tenant or any such person.

12. (1) In any area or in respect of any class of premises to which the Governor may by notification declare this section to apply any person, not already being a tenant of any premises, but being in occupation of such premises *bona fide* for the purpose of residence, may make application to the Controller to be permitted to continue in occupation of such premises, and the Controller shall, on the applicant making a written declaration of his willingness to pay the standard rent of such premises, thereupon issue a written order to the said applicant permitting him to continue in occupation of the said premises and shall send a copy of his order to the landlord, if his whereabouts are known.

(2) Subject to any orders passed by a Court under section 13 every order passed under sub-section (1) granting permission to any person to continue in occupation of any premises shall remain in force for so long as the provisions of this section apply to the area in which the said premises are situated or the class of premises within which the said premises come and for three months afterwards :

Provided that if during this period a person in whose favour an order has been passed shall voluntarily vacate the premises the Controller may, on the written application of the landlord cancel such order and shall not thereafter renew it.

13. (1) Notwithstanding anything contained in any other law, no order or decree for the recovery of possession of any premises which any person has been permitted to occupy under the provisions of section 12, or for the ejectment of any such person therefrom shall be made or given unless—

- (a) any rent lawfully due from such person in respect of any period subsequent to the grant to such person by the Controller of permission to occupy the said premises has not been paid to the landlord or deposited with the Controller after written demand for payment of such rent has been sent to such person by registered post and has not been complied with for seven days from the date of such demand ; or
- (b) such person or any person residing with him has been guilty of conduct which is a nuisance or annoyance to adjoining or neighbouring occupiers, or has been

convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose or the condition of the premises has in the opinion of the Court deteriorated owing to acts of waste by or the neglect or default of any such person ; or

(c) the premises are reasonably and *bona fide* required by the landlord for occupation by himself or by any member of his family or for the occupation of any person for whose benefit the premises are held or for any other purpose deemed satisfactory by the Court and the landlord executes a bond in such amount as the Court may deem reasonable that the premises will be occupied by himself or by such member or person or that he will give effect to such purpose within such period as the Court may prescribe ; or

(d) the order granting such permission has been cancelled under the proviso to section 12 (2).

(2) In making any order or decree for the recovery of possession of any premises under clause (c) of sub-section (1) of this section the Court shall specify the purpose for which such premises are required by the landlord and shall send to the Controller a copy of such order or decree and of any bond into which the landlord has entered under the provisions of clause (c) of sub-section (1). If the landlord uses the premises for any other purpose than that specified in the order or decree or bond or fails to use them for such purpose within the period therein prescribed, the Court may upon the application of the person against whom such decree or order was made or of the Controller declare that the amount entered in the bond shall be forfeited to the Government, and direct that the landlord, shall, in addition pay to the tenant such compensation as the Court thinks fit unless the landlord proves that he was prevented from using the premises for the said purpose for reasons which appear to the Court satisfactory.

(3) In lieu of awarding any compensation under sub-section (2) or in addition thereto the Court may in its discretion and if the person against whom the decree or order was made so agree, place such person in possession of the premises on the terms and condition upon which he had held the premises prior to the date of the order or decree.

(4) An order for the forfeiture of a bond or for compensation under this section may be enforced in such manner as is provided by the Code of Civil Procedure for the execution of decrees.

14. (1) At the time of the application, or the making or giving of any order or any decree, for the recovery of possession of any premises or for the ejectment of a tenant therefrom or in the case of any such order or decree which has been made or given whether before or after the commencement of this Act, the Court may, except in a case in which either clause (b) of section 11 or clause (b) of section 13 (1) applies, adjourn the application or stay or suspend execution of any such order or postpone the date of delivery of possession for such period or periods and subject to any conditions in regard to payment by the person against whom the application or order

Power of Court to rescind order in certain cases.

or decree has been made of arrears of rent or *mesne* profits or otherwise as the Court thinks fit, and if such conditions are complied with, the Court may, if it thinks fit, discharge or rescind any such order or decree.

(2) The Court shall take action of the kind permitted by sub-section (1) in any case where it is satisfied that the person against whom the application, order or decree has been made or given is unable to obtain suitable alternative accommodation and the premises to which the application, order or decree refers are in the opinion of the Court required *bona fide* as a residence by such person or his family.

15. An appeal on law and on fact shall lie to the High Court of Appeal to High Court. judicature at Rangoon from any decree or order made by any Judge of the City Civil Court of Rangoon, or any judge of district courts outside Rangoon in any suit for the recovery of possession of any premises to which this Act applies.

16. No Civil Court shall accept a plaint in any suit for the recovery of rent in respect of any premises to which this Act may apply, unless a certificate issued by the Controller certifying the standard rent of the premises has been attached to the plaint.

Courts debarred from accepting plaints without Controller's certificate.

17. (1) Where any sum as after the commencement of this Act been paid on account of rent, being a sum which is by reason of the provisions of this Act irrecoverable, such sum shall at any time within a period of six months after the date of payment be recoverable by the tenant by whom it was paid from the landlord who received the payment and may without prejudice to any other method of recovery be deducted by such tenant from any rent payable within six months by him to such landlord.

Rent which should not have been paid may be recovered.

(2) For the purpose of this section the expression "landlord" includes in the case of joint family property the joint family of which the landlord, if deceased, was a member.

18. (1) Where any sum not exceeding three hundred rupees has after the commencement of this Act been overpaid by the tenant to a landlord on account of rent of any premises of which a standard rent has been fixed, being a sum in excess of the standard rent, such sum shall at any time within a period of six months after the date of payment be recoverable without prejudice to any other mode of recovery on application by the tenant to a Magistrate from the landlord under the provisions of the Code of Criminal Procedure in like manner as if it were a fine, and the balance of any rent so recovered shall after deduction of the costs of recovery be paid to the tenant.

Mode of recovery of over-payments by tenants.

(2) In a proceeding under section (1), on the production of a certificate from the Controller certifying the standard rent of the premises, the Magistrate shall presume, until the contrary is proved, that the standard rent of the premises was as certified in the certificate.

19. (1) The Controller shall on application made to him by any landlord or tenant grant a certificate certifying the standard rent of any premises leased or rented by such landlord or tenant, as the case may be.

(2) In any of the following cases the Controller may fix the standard rent at such amount as having regard to the provisions of this Act and the circumstances of the case he deems just :—

- (a) where by reason of any premises having been let at one time as a whole and at another time in parts, or where a tenant has sublet a part of any premises let to him or where for any reason any difficulty arises in giving effect to this Act ;
- (b) where in the case of any premises let furnished or of any premises let at an inclusive charge for board and lodging it is necessary to distinguish for the purpose of giving effect to this Act the amount payable as rent from the amount payable as hire of furniture or charge for board and attendance ;
- (c) where any premises have been or are let rent free or at a nominal rent or for some consideration in addition to rent ;
- (d) where the rent paid on the first day of September 1930, or, where the premises were not let on that date, the rent at which they were last let before that date, was in the opinion of the Controller unduly low ;
- (e) where there has been a change in the condition of any premises or an increased expenditure in maintenance and repairs owing to increased cost of building materials or an increase in the municipal rates, cesses or taxes in respect of any premises subsequent to the first day of September 1939 ;
- (f) where any premises are let for the first time after the commencement of this Act :

Provided that —

- (i) under clause (d) the standard rent shall not exceed the highest rent at which the premises have been let at any time between the first day of September 1934 and the first day of September 1939 or the rent at which they were let on the first day of September 1934 plus twenty-five per cent thereof whichever amount is greater ;
- (ii) under clause (e) the Controller shall not increase the rent by more than six per cent per annum on the amount expended on the improvement or structural alteration or increased expenditure in the maintenance and repair of the premises as provided for in section 6.

(3) Before exercising any of the powers conferred on him by this Act the Controller shall give notice of his intention to the landlord and tenant, if any, and shall duly consider any application received by him from any person interested within such period as shall be specified in the notice.



(4) All orders of the Controller passed under this Act shall be in writing, and a copy thereof shall be affixed to some conspicuous part of the premises to which it relates or to some conspicuous object near such premises, and a copy shall also be delivered to the landlord or his authorized agent in such manner as the Governor may by rule prescribe.

(5) Any person affected by any order of the Controller shall be entitled to be furnished with a copy thereof duly certified by the Controller to be a correct copy on payment of such sum as the Governor may prescribe. Such copy shall be admissible in evidence in any Court to prove the order of the Controller.

20. For the purpose of any enquiry under this Act the Controller or any person duly authorized by the Controller in writing either generally or specially in this behalf may enter any building or land with or without any assistants between the hours of 9 a.m. and 6 p.m. :

Provided that no building use<sup>1</sup> for human occupation shall be so entered without the consent of the occupier, unless 24 hours previous notice has been given in writing.

21. (1) For the purposes of any enquiry under this Act the Controller may by written order require any person—  
Power to require information and to summon witnesses.

- (a) to furnish him with particulars in such form, within such time and at such place as may be specified in the order as to the rent at which and the manner in which any premises were let in the year 1934 or subsequently and as to any other matter relevant to the enquiry ;
- (b) to produce for his inspection such accounts, rent receipts, books or other documents relevant to the enquiry as such time and at such place as may be specified in the order

(2) The Controller shall, subject to any rules made under this Act and in so far as such powers are necessary for carrying out the provisions of this Act, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the case of a Court by the Code of Civil Procedure.

22 (1) If the decision of the Controller fixing the standard rent for any premises is questioned, a reference shall lie to the Chief Judge of the City Civil Court of Rangoon, should the premises be situated in the City of Rangoon, and to such Judge as may be prescribed by the Governor if the premises are situated in any urban area in which the Act is in force.  
Reference to the Chief Judge, City Civil Court of Rangoon or to other Judge from decision of the Controller.

(2) A copy of the order of the Controller shall be filed with the petition of reference.

(3) The petition of reference shall bear a Court-fee stamp of eight annas.

final.

(5) The decision of the Chief Judge of the City Civil Court of Rangoon or of the Judge of such other Court as aforesaid shall be final.

23. When disposing of references from the decision of the Controllor, the Judge may in his discretion follow as nearly as possible either the procedure laid down for the trial of suits by the City Civil Court of Rangoon or the procedure laid down for the regular trial of suits.

24. (1) Whoever knowingly receives whether directly or indirectly on account of the rent of any premises of which the standard rent has been fixed a sum in excess of the standard rent shall on conviction by a Magistrate be punishable in the case of a first offence with fine which extends to five hundred rupees or in the case of a second or subsequent offence in regard to the same or any other premises of which the standard rent has been fixed with fine which may extend to two thousand rupees.

(2) A person shall be deemed to receive a sum in excess of the standard rent, if he receives any consideration representing a money value in excess of such standard rent.

25. (1) Whoever molests or wilfully annoys any tenant or any person in whose favour an order has been made by the Controllor under the provision of section 12 with intent to induce him to vacate the premises shall be punishable on conviction by a Magistrate in the case of a first offence with fine that may extend to two hundred rupees or in the case of the second or any subsequent offence with fine which may extend to one thousand rupees.

(2) Without prejudice to the generality of the foregoing sub-section a landlord shall be deemed wilfully to annoy if he fails without reasonable cause to keep the premises as sound against wind and weather as they were at the commencement of this Act or to effect any necessary repairs or to maintain any part of the structure or fittings for the repair or maintenance of which the landlord is by any specific agreement or by custom responsible.

26. Nothing in this Act shall permit the tenant against whom a legal order or decree to vacate and give up the premises to the landlord has been made or given, to occupy or remain in possession of the said premises; and if notwithstanding such order or decree such tenant continues to occupy or remain in possession thereof he shall be deemed to have committed the offence of criminal trespass as defined in sections 441 and 442 of the Penal Code and he shall be punishable with imprisonment provided therefor in addition to a fine not exceeding double the amount of rent due by him to the landlord.

(two thousand) or with both.

28. Whoever in any case in which an order or decree for the recovery of any premises is prohibited under section 11 with the previous written consent of the Controller or save for the purpose of effecting repairs or complying with any municipal requisition wilfully disturbs any easement annexed to any premises, the standard rent of which has been fixed, or removes, destroys or renders unserviceable anything provided for permanent use therewith, or discontinues any supply or service comprised in such rent shall be punishable in the case of a first offence with fine which may extend to five hundred rupees or in the case of a second offence or subsequent offence in regard to the same or any other premises of which the standard rent has been fixed with fine which may extend to two thousand rupees.

29. No Court shall take cognizance of any offence under this Act except on complaint made and within six months from the date of the commission of the alleged offence with the previous sanction of the Controller.

30. The Governor may prescribe the amount of court-fee payable in respect of a suit for ejectment or possession of houses, land and gardens, and where such court-fee is prescribed, the court-fee in respect of such suit shall, notwithstanding anything contained in the Court-fee Act, be payable in accordance with the amount so prescribed.

31. (1) The Governor may by notification in the *Gazette* make rules for the purpose of carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing provisions such rules may—

- (a) prescribe the amount by which the standard rent as defined in sub-clauses (A), (B), (C), (D) (ii) and (E) of section 2 (f) (ii) of the Act shall be increased in the case of any urban area or class of premises ;
- (b) regulate the procedure to be followed in the enquiries by the Controller under this Act ;
- (c) prescribe the date which in the case of any urban area shall be deemed for the purposes of this Act to be the date of resumption of civil government on the conclusion of the hostilities with Japan ;
- (d) prescribe a Judge to whom in any urban area reference from the decision of the Controller shall lie under section 22 ;
- (e) prescribe a scale of costs and fees and provide for the charging or settling of costs and fees.

local body constituted under the Municipal Act or the Rural Self-Government Act is the landlord, or to any premises which have or may come into the possession of the Government or a Department of the Government or the Rangoon Development Trust or the Rangoon Corporation or any other local body constituted under the Municipal Act or the Rural Self-Government Act as a result of proceedings under the Land Acquisition Act or the Defence of Burma Act or otherwise.