

THE WEST PAKISTAN URBAN RENT RESTRICTION ORDINANCE, 1959

WEST PAKISTAN ORDINANCE NO VI OF 1959.

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SCHEDULE

' Inserted vide Khyber Pakhtunkhwa OrdNo.IX of 1979.

* Inserted as 13A vide Ordinance No.XXI of 1965 and then renumbered as 13B vide Ordinance No.IX of 1979.

THE WEST PAKISTAN URBAN RENT RESTRICTION

ORDINANCE, 1959

WEST PAKISTAN ORDINANCE NO VI OF 1959.

[23rd February, 1959]

AN

ORDINANCE

to restrict the increase of rent of certain premises within the limits of urban areas and the eviction of tenants there from in the province of West Pakistan.

WHEREAS, it is expedient in the public interest to restrict the increase of Preamble.

rent of certain premises within the limits of urban areas and the eviction of tenants therefrom in Province of West Pakistan;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and having received the previous instructions of the President, the Governor of West Pakistan is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance: —

1. (1) This Ordinance may be called the West Pakistan Urban Rent Restriction Ordinance, 1959.

(2) It extends to all the urban areas in the [Province of Khyber Pakhtunkhwa] except *[* * * *]>[the Tribal Areas].

(3) Nothing contained in this Ordinance shall be deemed to affect any evacuee property as defined in the Pakistan (Administration of Evacuee Property) Act, 1957.

(4) Sub-section (5) of section 13 and section 19 shall come into force at once and the remaining provisions of this Ordinance shall be deemed to have taken effect on and from the date of expiry of the “[West Pakistan Urban Rent Restriction Act, 1957.]

1. In sub-section, 25 section-1, for the words “West Pakistan”, these words “North-Words “North-West Frontier Province”, subs, by Khyber Pakhtunkhwa Adapt Order, 1975 and then subs vide Khyber Pakhtunkhwa Act No. IV of 2011.

2. The Words “the Federal Capital and” omitted by West Pakistan Ordinance No. XXXVIII of 1962.

3. In sub-section (2) of section-1, for the words “Special Areas”, the words Tribal Areas” subs. by W. P. Adaptation of Laws Order, 1964.

4 The W. P. Urban Rent Restriction Act, 1957, expired on the 15th of January, 1958.

Short title, extent,
exception and
commencement .

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

(a) "building" means any building or part of a building let for any purpose, whether being actually used for that purpose or not, including any land, godowns, out-houses, together with furniture let therewith but does not include a room in a "Sarai", hotel, hostel or boarding house;

(b)

"Controller" means a judicial officer who is appointed by the 'Provincial Government to perform the functions of a Controller under this Ordinance;

(c) "landlord" means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf or for the benefit of any other person, or as a trustee, guardian, receiver executor or administrator for any other person, and includes a tenant who sublets any building or rented land in the manner hereinafter authorized and every person from time to time deriving title under a landlord;

(d) "non-residential building" means a building being used solely for the purpose of business or trade;

(e) "prescribed" means prescribed by rules made under this Ordinance;

(f) "rented land" means any land let separately for the purpose of being used principally for business or trade;

(g) "residential building" means any building which is not a non-residential building;

(h)

"scheduled building" means a residential building which is being used by a person engaged in one or more of the professions specified in the schedule to this Ordinance, partly for his business and partly for this residence;

(i) "tenant" means any person by whom or on whose account rent is payable for a building or rented land and includes (a) a tenant continuing in possession after the termination of the tenancy in his

' All Senior Subordinate Judges and Subordinate Judges in Quetta, all Civil Judges in Kalat Division and all First and Second Class Civil Judges and Subordinate Judges in the rest of the areas of the Province have been appointed to perform the function of Controllers, see Gazette of West Pakistan 1959, Extraordinary, Page 167.

favour and (b) the wife and children of a deceased tenant, but does not include a person placed in occupation of a building or rented land by its tenant, unless with the consent in writing of the landlord, or a person to whom the collection of rent or fees in a public market, cart-stand, or slaughter-house or of rents for shops has been farmed out or leased by [a Municipal Corporation, a Municipal Committee, Town Committee, the Provincial Urban Development Board or any authority subordinate to it;]

*[i] "Urban area" means an area Administered by a Municipal Corporation, a Municipal Committee or a Town Committee].

3. Government *[or an officer authorized by it in this behalf] may direct by a Exemption. [notification published in the Gazette that all or any of the provisions of this

Ordinance shall not apply to any particular building or rented land or any class or buildings or rented lands.

°[4. — (1) The Controller shall, on an application by the tenant or landlord of a Determination building or rented land, fix fair rent for such building or rented land after holding © fair rent. such enquiry as the Controller thinks fit.

(2) The fair rent shall be fixed after taking into consideration the following factors;

(a) the rent of the same building or similar accommodation in similar circumstances prevailing in the locality during the period of twelve months prior to the date of making the application;

(b) the rise the cost of construction and in the repairing charges;

(c) the imposition of new taxes after the building or rented land was rented out; and

. Subs. by Khyber Pakhtunkhwa Ordinance No.IX of 1979.

. Cause (j), subs. by Khyber Pakhtunkhwa Ord.No. IX of 1979.

*. In Section -3, after the word "Government, the word or an officer authorized by it in this behalf", ins. by W.P Ord. No. VI of 1970.

4. The following properties have been exempted from the provisions of the Ordinance :-

(i) Properties under the control and management of the Charitable Institutions Department, Peshawar.

(ii) Properties attached to the Dayal Singh College, Trust Society, Lahore, and,

(iii) Buildings and rented lands, administration control, management and maintenance where of is taken over and assumed by the Chief Administrator of Augaf. West Pakistan, under s.6 of the W.P Waqf Properties Ordinance, 1959.

See Gazette of West Pakistan 1959, Extraordinary pages 429 and 665, and ibid, 1960 Part I, pages 241.

5. Section-4 , subs. by Khyber Pakhtunkhwa Ord No. IX of 1979.

(d) the rental value of the building or rented land entered in the Property Tax Assessment Register of the Taxation Department or the Local Authority relating to the period mentioned in clause (a), if any:

Provided that the increase in the rent to be fixed under this section shall not exceed twenty-five percent of the rent being paid by the tenant on the date of the filling of the application under sub-section (1).

(3) The fair rent fixed under this section shall be payable by the tenant from a date to be fixed by the Controller not earlier than the date of filing the application.]

115 (1) When the fair rent of a building or rented land has been fixed under section 4, or where the rent of any building or rented land has been determined by an agreement between the landlord and the tenant, no further increase in such fair rent shall, during the continuance of tenancy, be permissible within a period of three years from the date fixed by the Controller under sub-section (3) of section 4, or, as the case may be, from the date of the agreement, except in cases where some addition, improvement or alteration has been carried out at the landlord's expense, and at the request of the tenant.

(2) The fair rent as increased on grounds of some addition, improvement or alteration made permissible under this section shall not exceed the fair rent payable under this Ordinance for a similar building or rented land in the same locality with such addition, improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed.

(3) Any dispute between the landlord and tenant in regard to any increase claimed on grounds of some addition, improvement or alteration made permissible under this section shall be decided by the Controller.]

6. (1) Save as provided in section 5, when the Controller has fixed the fair rent of a building or rented land under section 4 —

(a) the landlord shall not claim or receive any premium of other like sum in addition to fair rent, or any rent in excess of such fair rent; but the landlord may stipulate for and receive in advance an amount not exceeding one month's rent;

¹ Section-5, subs. by Khyber Pakhtunkhwa Ord. No.IX of 1979.

Case in which
further increase
in fair rent
permissible.

Landlord not to
claim anything
in aexcess of
fair rent.

(b) any agreement for the payment of any sum in addition to rent or of rent in excess of such fair rent shall be null and void [;]

*[(c)any sum in excess of the fair rent paid in respect of any use or occupation of the building or rented land from the date of application for the fixation of fair rent shall be refunded to the person by whom it was paid or at the option of such person, otherwise adjusted.]

(2) Nothing in this section shall apply to the recovery of any rent which became due before the 1st of January, 1950.

7. (1) No landlord shall, in consideration of the grant, renewal or continuance of a tenancy of any building or rented land, require the payment of any fine, premium or any other like sum in addition to the rent.

(2) Nothing in this section shall apply to any payment under any subsisting agreement entered into before the 1st day of January, 1950.

8. (1) Where any sum has, before the date of publication of this Ordinance been paid by the tenant, which sum is by reason of the provisions of this Ordinance irrecoverable, such sum may, without prejudice to any other method of recovery, be deducted by the tenant by whom it was paid, or by his legal representative, from any rent payable by him to such landlord or to his legal representative;

Provided that the tenant before making such deduction obtains the approval of the Controller by an application made to him within six months of the said date.

Explanation —In computing the said period of six months the time spent after the date of the payment, in the proceedings for determination of fair rent shall be excluded.

(2) In this section the expression "legal representative" has the same meaning as in the Code of Civil Procedure, 1908, and includes, in the case of joint family property, the joint family of which the deceased person was a member.

9. (1) Notwithstanding anything contained in any other provision of this Ordinance, a landlord shall, subject to the approval of the Controller, be entitled to increase the rent of a building or rented land if after the commencement of this Ordinance a fresh rate, cess or tax is levied in respect of the building or rented land

¹ In clause (b) at the end for the full-stop, the semi-colon, subs. by W.P. Ord. No. XXI of 1965, s. 3.

>. Clause (c), ins, by ibid.

Fine or
premium not to
be charged for
grant, renewal
or continuance
of tenancy.

Rent which
should not have

been paid may
be recovered.

Increase of rent
on account of
payment of rate,
etc., of local

by '[Government or] any local authority, or if there is an increase in the amount of such a rate, cess or tax being levied at the commencement of this Ordinance:

Provided that the increase in rent shall not exceed one half of the amount of any such rate, cess or tax or the amount of the increase in such rate, cess or tax, as the case may be.

(2) Notwithstanding anything contained in any other law for the time being in force or any agreement, no landlord shall recover from his tenant the amount of any tax or any portion thereof in respect of any building or rented land occupied by such tenant by any increase in the amount of the rent payable, or otherwise, save as provided in sub-section (1).

10. 7[(1) No landlord or his Contractor, workman, or servant shall, without the previous consent of the Controller or save for the purpose of effecting repairs or complying with a requisition from *[a Municipal Corporation, a Municipal Committee, a Town Committee, or the Provincial Urban Development Board] willfully disturb any convenience or easement annexed to the premises or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service comprised in the fair rent.]

(2) A tenant in occupation of a building or rented land may, if the landlord has contravened the provisions of this section, make an application of the Controller complaining of such contravention.

(3) If the Controller, on inquiry, finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the landlord without just or sufficient cause, he shall make an order directing the landlord to restore such amenities.

11. No person shall convert a residential building into a non-residential building, except with the permission in writing of the Controller.

12. If a landlord fails to make the necessary repairs other than structural

' Ins. by W. P. Ord No.XXX of 1960.

? Sub-Section (1) of Section 10 sub vide W. P. Ord. No. XXI of 1965.

*. Subs, by Khyber Pakhtunkhwa Ord. No.IX of 1979.

authority, but
rent not to be
increased on
account of
payment of
other taxes, etc.

landlord not to
interfere with
amenities
enjoyed by the
tenant.

Conversion of a
residential
building into a
nonresidential
building.

Failure by
Landlord to

alterations, to a building, it shall be competent for the Controller to direct, on application by the tenant and after such inquiry as the Controller may think necessary, that such repairs may be made by the tenant, and that the cost thereof may be deducted from the rent which is payable by him.

[12-A. (1) Where a local authority, in exercise of its functions under any law for the time being in force, directs the owner of a building to make such repairs to the building as may be specified and on failure of the owner to comply with such direction the tenant is directed to make the said repairs, the tenant may comply with the direction.

(2) The account of the expenses incurred by the tenant under sub-section (1) shall be submitted to the local authority concerned, which shall, after due verification, certify the cost of repairs and the tenant may thereon deduct the amount so certified from the rent payable by him.]

13. (1) A tenant in possession of a building or rented land shall not be evicted there from in execution of a decree passed before or after the commencement of this Ordinance, or otherwise, and whether before or after the termination of the tenancy, except in accordance with the provisions of this section 7[or as the case may be, section 13-A.]

(2) 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 building or rented land, 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, *Twithin sixty days from the period] for which the rent is payable; or

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

(a) transferred his right under the lease or sub-let the entire building or rented land or any portion thereof; or

' Ins. by W. P. Ord. No.XXX of 1960.

? Inserted by Khyber Pakhtunkhwa Ord No.IX of 1979.

*. Subs by W. P. Ord. XXX of 1960.

make necessary
repairs.

Re-
imbursement of
expenses
incurred on
repairs under
the orders of a
local authority.

Eviction of

tenant.

(b) used the building or rented land for a purpose other than that for which it was leased; [or has infringed any condition of the tenure on which the building or rented land 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 building or rented land; or

(iv) the tenant has been guilty of such acts and conduct as are a nuisance to the occupants of buildings in the neighborhood; or

(v) where the building is situated in a place other than a hill-station, the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause; or

*T(vi) the building or rented a land is reasonably and in good faith required by the landlord for the reconstruction or erection of a building on the site, and the landlord has obtained the necessary sanction for the said reconstruction or erection from the *[Municipal Corporation, the Municipal Committer, the Town Committee or the Provincial Urban Development Board for the area where such building or rented land is situated].

the Controller may make an order directing the tenant to put the landlord in possession of the building or rented land and if the Controller is not so satisfied he shall make an order rejecting the application:

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building or rented land and may extend such time so as not exceed four months in the aggregate;

'Provided further that where the application made by the landlord is on the ground mentioned in clause (i) and the tenant on the first date of hearing admits liability to pay the rent due from him, the Controller shall, if he is satisfied that the tenant has not made such default on any previous occasion, direct the tenant to deposit all the rent due from him on or before a date to be fixed for the purpose, and upon such deposit being made he shall make an order rejecting the application.

>[Explanation —For the purpose of clause (i) —

' Ins, by W.P. Ord. No. XXI of 1965.

2. Subs by Ord ibid.

> Subs by Khyber Pakhtunkhwa Ordinance No.IX of 1979.

4. Proviso ins by Khyber Pakhtunkhwa Act No. III of 1972.

*. Subs. for the original explanation by W. P. Ord. No XXX of 1960.

- (i) where the water charges or electricity charges or both are payable by the tenant to the landlord such charges shall be deemed to be rent;
- (ii) rent remitted by money-order to the land lord or deposited in the office of the Controller having jurisdiction in the area where the building or rented land is situated shall be deemed to have been duly tendered.]

(3) (a) 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 this own occupation or for the occupation of any of his children;
 - (b) he is not occupying another residential building, suitable for his needs at the time, in the same urban area in which such building is situated; and
 - (c) he has not vacated such a building without sufficient cause after the commencement of this Ordinance in the said urban area;
- (ii) in the case of a non-residential building or a scheduled building or rented land, if —
 - (a) he requires it in good faith for this own use or for the use of any of his '[* * *] children;
 - (b) he or his said child is not occupying in the same urban area in which such building is situated for the purpose of his business any other such building or rented land, as the case may be, suitable for his needs at the time; and
 - (c) he has not vacated such a building or rented land without sufficient cause after the commencement 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 sub-section before the expiry of such period:

¹ Omitted vide Khyber Pakhtunkhwa Ordinance No.III of 1985 .

Provided further that where the landlord had obtained possession of a residential, scheduled or non-residential building or rented land under the provisions of sub-paragraph (7) 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 rented land unless such residential, scheduled or non-residential building or land is no longer suitable for his needs at the time.

(b) 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 building or rented land on such date as may be specified by the Controller and if the Controller is not so satisfied, he shall make an order rejecting the application:

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building or rented land and may extend such time so as not to exceed four 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 as summary enquiry, he is satisfied that the tenant, his wife or any of his dependent children owns a residential building within the same urban area or owned such a building within sixty days preceding the commencement of the West Pakistan Urban Rent Restriction (Amendment) Act, 1963.]

(4) Where a landlord who has obtained possession of a building or rented land in pursuance of an order made under sub-paragraph (i) or sub-paragraph (ii) of paragraph (a) of sub-section (3) does not himself or where the building has been got vacated for the occupation of any of his children, such child does not occupy it within one month of the date of obtaining possession, "or having been so occupied is re-let within two months of the said date to any person other than the original tenant,] the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of such building or rented land and the Controller shall make an order accordingly.

(5) Where a landlord has obtained possession of a building in pursuance of an order under clause (vi) of sub-section (2) of this section and does not have the building demolished within a period of four months from the date of taking possession of the same or does not construct the new building within a further period of two years after the expiry of the period of four months from the date of taking possession of the same, he shall, unless he satisfies the Court that he was unable to construct the building within the prescribed time for reasons beyond his

¹ The proviso added by W. P. Act, No. V of 1963, s. 2.

* Inserted vide W.P Ordinance No.XXI of 1965.

control, be punished with imprisonment for a term which may extend to six months or with fine or with both.

'1(5-A) Where a landlord has been convicted under the provisions of sub-section (5), the tenant, who has been evicted from the building or rented land in respect of which the landlord is convicted, may apply to the Controller for an order directing that he shall be restored to possession of such building or rented land, and except in the case of a building which has been demolished, the Controller shall make an order accordingly.

(5-B) Where in pursuance of an order under clause (vi) of sub-section (2), a landlord has obtained possession of a building (in this sub-section referred to as the old 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 to be determined by him on the basis of rent of similar accommodation in the locality.]

(6) In proceedings under this section on the first date of hearing or as soon as possible after that date and before 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 *fifteenth] 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. 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 in to possession of the property without taking further proceedings in the case.

*[The Controller shall finally determine the amount of rent due from the tenant and direct that the same be paid to the landlord, subject to adjustment of the approximate amount deposited by the tenant.]

(7) Where the Controller is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Controller may direct that compensation not exceeding ten times the monthly rent be paid by such landlord to the tenant.

¹ Ins. by W. P. Ord. No.XXI of 1965.

>. Subs vide Ordinance ibid.

* _ Add: by W. P. Ord No. XXX of 1960.

(8) The rent deposited by the tenant under this section shall, subject to the final determination of rent as payable by the tenant, be paid to the landlord at the conclusion of the proceedings or on such earlier date as may be specified by the Controller.

[13-A (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force —

(a) in a case where the landlord has died; or

(b) in a case where the landlord is a salaried employee and has retired or is due to retire within a period of six months, a notice in writing may be given by such landlord or the widow or, as the case may be, minor child of the deceased landlord, to the tenant of a residential building informing him that he or she needs the building for personal use and requiring him to deliver vacant possession of the building within a period of two months from the date of receipt of the notice.

(2) The right to seek ejectment under sub-section (1) shall also be available to a landlord of a residential building who is the wife, husband or a minor child of a salaried employee, referred to in, sub-section (1).

(3) In the case of a landlord referred to in sub-section (1) or sub-section (2), who happens to be a landlord of more than one residential building, whether or not in the same locality, action as provided for in this section shall be competent in respect of one of such residential buildings only.

(4) A landlord referred to in clause (b) of sub-section (1), or in sub-section (2), who is in occupation of a residential building owned by him, shall not be entitled to seek ejectment of a tenant from a residential building situated in the locality in which the building in occupation of the landlord is situated unless he offers the building in his occupation in exchange of the building in possession of the tenant on such terms and conditions and on payment of such rent as may be determined by the Controller:

Provided that the benefit of exchange shall not be available to the tenant who refuses to accept the offer or the terms and conditions and the rate of rent determined by the Controller.

¹ Section 13-A inserted vide Khyber Pakhtunkhwa Ord No, IX of 1979.

Eviction of
tenants where
the landlord is a
salaried
employee,
widow or minor
orphan.

(5) A tenant who on receipt of the notice referred to in to sub-section (1), fails to deliver vacant possession of the building to the landlord or to the widow or minor child of the deceased landlord with in the time allowed in the notice shall be liable to be ejected summarily by the Controller on an application being made to him in this behalf:

Provided that no application under this section shall be maintainable, it is made after six months from the date of the death of the landlord or, in the case of the retirement of a salaried person, before six months from or after six months of the date of his retirement:

Provided further that, in a case where the landlord has died or a salaried person has retired before the commencement of this Ordinance, an application may be made within a period of six months from the date of such commencement.

Explanation. —In computing the period of six months from the date of the death of the landlord or from the date of retirement of a salaried person, the period of notice mentioned in sub-section (1) shall be excluded.

(6) On an application being made to him under sub-section (5) the Controller shall issue a notice to the tenant and on being satisfied with the bona fide of the request of the landlord or the widow or minor child of a deceased landlord, shall order summary ejectment of the tenant.

(7) A landlord or a widow or minor child of a deceased landlord referred to in sub-section (1), or sub-section (2), who, within one year of his having obtained possession of a building as provided for in sub-section (6), relets the building to any person other than the previous tenant, shall be punishable with fine which may extend to five thousand rupees unless the benefit derived by the landlord is greater than the amount of fine in which case it shall be equal to the annual rent obtained by him by re-letting the building.

(8) The notice referred to in sub-section (1), or sub-section (2) may, in the case of landlord who is a minor, be given by the guardian of the said minor].

'113-B. Where the ownership of a building in the possession of a tenant or rented land has been transferred by way of sale, gift, inheritance or in any other manner, whatsoever, from one person to another, the new owner shall send an intimation of such transfer in writing by registered post, to the tenant of such building or rented land, and the tenant shall not be deemed to have defaulted in the payment of rent for the purposes of clause (i) of sub-section (2) of section 13, if the rent due is paid within thirty days from the date when the intimation should in the normal course have reached him.

¹ Inserted as 13A vide OrdNo.XXI of 1965 and then renumbered as Section 13B vide OrdNo.IX of 1979.

Tenant to be informed in case of transfer of ownership.

14. The Controller shall summarily reject any application under sub-section (2) or under sub-section (3) of section 13 which raises substantially the same issues as have been finally decided in a former proceeding under this Ordinance.

'115. Appeal. —1) Any party aggrieved by an order made by the Controller under section 4, section 10, section 12 or section 13 may, within thirty days of the date of such order, prefer an appeal in writing to the District Judge having jurisdiction over the area where the building or rented land, in relation to which the order is passed, is situated;

Provided that no appeal shall lie against an order made by a Controller under sub-section (6) of section 13 determining approximately the amount of rent due or the rate of rent and directing the tenant to deposit all the rent due;

Provided further that no appeal shall lie from an interlocutory order passed by the Controller.

(2) On such appeal being preferred, the District Judge may hear in it himself or refer it for disposal to an Additional District Judge having jurisdiction over the area where the building or rented land, in relation to which the order is passed, is situated.

(3) The District Judge may recall an appeal made over by him to an Additional District Judge and either hear it himself or refer it for disposal to another Additional District Judge having jurisdiction as provided in sub-section (2).

(4) On such appeal being preferred, the appellate authority may stay the operation of the order appealed against.

(5) The appellate authority admitting an appeal for hearing shall have the same powers to direct the tenant to deposit the rent as are vested in the Controller under this Ordinance and, if the tenant makes default in compliance with such an order, then, if he is the appellant, his appeal shall be dismissed summarily and, if he is the respondent, his defence shall be struck off.

(6) The appellate authority shall decide the appeal after sending for the record of the case from the Controller and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as it thinks fit, either personally or through the Controller.

' Subs by N.W.F.P. Ord. No.IX of 1979.

Decisions
which have
become final
not to be re-
opened.

Appeal.

(7) The order of the Controller, subject to the result of appeal, if any, shall be final and shall not be called in question in any Court including the High Court, by suit, appeal or otherwise.]

'TIS-A. On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its on motion without such notice.

(a) the appellate authority may at any stage withdraw any application pending with a Controller subordinate to it and transfer the same for disposal to any other Controller subordinate to it and competent to try or dispose of the same;

(b) the High Court may at any stage withdraw any appeal pending with any appellate authority and transfer the same for disposal to any other appellate authority subordinate to it and competent to dispose of the same].

16. (1) For the purposes of this Ordinance an appellate authority or a Controller appointed under this Ordinance shall have the same powers of summoning and enforcing the attendance of witnesses and compelling the production of evidence as are vested in a Court under the Code of Civil Procedure, 1908.

(2) The Controller shall for the purpose of section 480 of the Code of Criminal Procedure, 1898, be deemed to be a Court.

17. Every order made under section 10 or section 13, or section 7[13-A] and every order passed on appeal under section 15 shall be executed by a Civil Court having jurisdiction in the area as if it were a decree of that Court.

18. Every landlord and every tenant of a building or rented land shall be bound to furnish to the Controller, or any person authorized by him in that behalf such particulars in respect of such building or rented land as may be prescribed.

19. (1) If any person contravenes any of the provision of sub-section (1) of section 10, section 11 or section 18, he shall be punished with fine which may extend to one thousand rupees.

(2) No Court shall take cognizance of an offence under this section except upon —

(a) a complaint of facts which constitute such offence filed with the sanction of the Controller in writing; or

¹ Ins by W. P. Ord. No. XXXII of 1962. s. 2.

^{*} Ins by N. W. F. P. Ord. No. IX of 1979.

Power to summon
and enforce
attendance of
witnesses, etc.

Execution of

orders.

Landlord and
tenant to furnish
particulars.

Penalties.

(b) a report in writing of such facts made by the Controller.

20. Government may by notification, make rules for the purpose of carrying out Power to make all or any of the provisions of this Ordinance. tules.

21. (1) The following enactments are hereby repealed: — Repeal.

@ 'T**]

(ii) the ?[Khyber Pakhtunkhwa]House Control Act, 1956;

*[Gii) ;

(iv) * * *

(2) Notwithstanding the repeal of the enactments mentioned in sub-section

(1) and the expiry of West Pakistan Urban Rent Restriction Act, 1957,—

(a) any order made by Controller or Rent Controller or any Court or appellate or revisional authority in any proceeding under any of the said enactments before the commencement of this Ordinance “* * *” shall be deemed to have effect as an order under this Ordinance;

(b)

all proceedings which immediately before the commencement Ordinance were pending with any Controller or appellate authority under the West Pakistan Urban Rent Restriction Act, 1957, shall stand transferred to and be continued before the Controller or the appellate authority, as the case may be, appointed under this Ordinance, as if the same were instituted under the provisions of this Ordinance and any order made in any such proceedings as aforesaid shall for all purposes have effect as an order made under this Ordinance.

22. (1) Notwithstanding anything to the contrary contained in any other law for Revival of the time being in force if, as a result of the expiry of the West Pakistan Urban Rent Restriction Act, 1957 (hereinafter called the said Act), an application or an appeal proceedings or revision filed under the provisions of the said Act, has, after the date of such

expiry and before the date of publication of this Ordinance in the Official Gazette,

been dismissed otherwise than on merits, consigned to the record room or stayed,

whether such dismissal, consignment or stay was with or without the consent of the

¹ In section-21, in sub-clause (i) omitted by Khyber Pakhtunkhwa Adaptation Order, 1975.

2. Subs vide Khyber Pakhtunkhwa Act NO. IV of 2011.

* Omitted vide Khyber Pakhtunkhwa Adaptation Order, 1975.

4. Omitted vide Khyber Pakhtunkhwa Adaptation Order, 1975.

parties, it shall be restored on an application made in this behalf within sixty days of the said date by any party to the proceedings. On such, restoration the proceedings shall start from the stage at which they were at the time of the aforesaid dismissal consignment or stay.

(2) If in an application or appeal decided under the provisions of the said Act before the date of its expiry, the period of limitation for filing an appeal or an application for revision was subsisting on the aforesaid date, any party aggrieved by the decision may, within sixty days of the date of publication of this Ordinance prefer an appeal in accordance with the provisions of section 15 as if the decision was made under this Ordinance by the Controller or the appellate authority, as the case may be.

SCHEDULE

1. Lawyer.
2. Architect.
3. Dentist.
4. Engineer.
5. Veterinary Surgeon.
6. Medical Practitioner including practitioner of indigenous system of medicine.