



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**THE GOA BUILDINGS (LEASE, RENT
AND EVICTION) CONTROL
(AMENDMENT) BILL, 2008**

(Bill No. 15 of 2008)

AS
~~(To be~~ introduced in the Legislative Assembly of the State of Goa)

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA
MARCH, 2008.**

**THE GOA BUILDINGS (LEASE, RENT AND
EVICTION) CONTROL (AMENDMENT)
BILL, 2008**

(Bill No. 15 of 2008)

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BILL

further to amend the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968 (Act 2 of 1969).

5 BE it enacted by the Legislative Assembly of the State of Goa in the Fifty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1)
10 This Act may be called the Goa Buildings (Lease, Rent and Eviction) Control (Amendment) Act, 2008.

(2) It shall come into force at once.

2. *Amendment of Section 23A.*— In Section 23A of the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968 (Act 2 of 1969), after sub-section (3A), the following sub-section shall be inserted, namely:—
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“(3B) (a) Notwithstanding anything contained in this Act, a Non-resident Indian, on an application made in this behalf to the Controller,
20 shall be entitled to recover possession of any premises on the grounds that the premises are bonafide required by him for occupation by himself or any member of his family.

(b) The Controller shall pass an Order for eviction of tenant on an application by a Non-resident Indian under clause (a) above supported by a certificate from the concerned District Magistrate that he is a Non-resident Indian and is now willing to reside in the State of Goa. The District Magistrate shall issue such certificate on an affidavit sworn by Non-resident Indian before the Competent Authority to the effect that he does not possess any other suitable residence in the local area where he or member of his family can reside.

(c) Every application filed before the Controller under clause (a) above shall be dealt with in accordance with the procedure specified in sub-section (3A) and the provisions thereof in so far as they are applicable, shall apply to such proceedings.

Explanation.— For the purposes of this sub-section, "Non-resident Indian" means a person residing outside Indian, who is either a citizen of India or is a person of Indian origin".

Statement of Objects and Reasons

Section 23A of the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968 (Act 2 of 1969) (hereinafter referred to as the "said Act"), deals with the right to recover immediate possession of premises which accrues in favour of certain persons and in terms of sub-section (3) thereof, a landlord, who is a member of the armed forces of the Union or who is an employee of the Central Government or Railways or any Public Sector undertaking of the Central Government whose employees are subject to transfers from their original place of posting or who was such member or employee, as the case may be, and is duly retired, shall be entitled to recover possession of any premises on the grounds that the premises are bonafide required by him for occupation by himself or any member of his family.

The Bill seeks to amend said section 23A of the said Act, by inserting a new sub-section (3B) therein, so as to protect the property rights of Non-resident Indians and enable them to recover possession of their premises when the same are bonafide required by them for their own occupation or for the occupation of any member of their family.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

**Memorandum Regarding Delegated
Legislation**

No delegated legislation is involved in
this Bill.

Panaji, Goa
18th February, 2008

JOSE PHILIP D'SOUZA
Minister for Revenue

Assembly Hall,
Porvorim, Goa
18th February, 2008

R. KOTHANDARAMAN
Secretary Legislature

ANNEXURE

(Bill No. 15, 2008)

**THE GOA BUILDINGS (LEASE, RENT & EVICTION)
CONTROL (AMENDMENT) BILL, 2008**

23A. *Right to recover immediate possession of premises to accrue to certain persons.*— (1) Where a land-lord who, being a person in occupation of any residential premises allotted to him by the Government or any local authority is required, by , or in pursuance of any general or special order made by the Government or such authority to vacate such residential accommodation or in default , to incur certain obligations, on the ground that he owns in the place where such residential premises has been allotted to him either by the Government or by such local authority, a residential accommodation either in his own name or in the name of his wife or dependent child there shall accrue on and from the date of such order to such landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract, (whether express or implies), custom or usage to the contrary, a right to recover immediately possession of any premises let out by him.

Provided that nothing in this section shall be construed as conferring a right on a landlord owning in the place where the residential accommodation has been allotted to him by the Government or such local authority two or more dwelling houses whether in his own name or in the name of his wife or dependent child, to recover the possession of more than one dwelling house and it shall be lawful for such landlord to indicate the dwelling house, possession of which he intends to recover.

(2) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract, custom or usage to the contrary where the landlord exercise the right of recovery conferred on him by sub-section (1) , no compensation shall be payable

by him to the tenant or any person claiming through or under him and no claim for such compensation shall be entertained by any court, tribunal or other authority.

Provided that where the landlord had received:

(a) any rent in advance from the tenant, he shall within a period of ninety days from the date of recovery of the premises by him, refund to the tenant such amount as represents the rent payable for the unexpired portion of the contract agreement or lease;

(b) any other payment, he shall, within the period aforesaid, refund to the tenant a sum which shall bear the same proportion to the total amount as received, as the unexpired portion of the contract or agreement or lease bears to the total period of contract or agreement or lease:

Provided further that, if any default is made in making any refund as aforesaid the landlord shall be liable to pay simple interest at the rate of six percent per annum.

(3) Notwithstanding anything contained in this Act,-

(a) a landlord, who is a member of the armed forces of the Union or who is an employee of the Central Government or Railways or any Public Sector Undertaking of the Central Government whose employees are subject to transfers from their original place of posting or who was such member or employee as the case may be, and is duly retired (which term shall include premature retirement), shall be entitled to recover possession of any premises on the grounds that the premises are bonafide required by him for occupation by himself or any member of his family (which term shall include a parent or other relation ordinarily residing with him and dependent on him), and the Controller shall pass an order for eviction on

such grounds if the landlord, at the hearing of the suit, produces a certificate signed by the Head of his Services or his Commanding Officer or by the Head of his Department or Head of the Public Sector Undertaking, as the case may be, to the effect.-

(i) he is presently a member of the armed forces or the Union or employee of the Central Government or Railways or a Public Sector Undertaking of the Central Government or he was such member or employee as the case may be, and is now retired ex-serviceman or employee as the case may be; and

(ii) he does not possess any other suitable residence in the local area where he or the members of his family can reside:

Provided that in the case of an ex-serviceman or an ex-employee referred to in sub-clause (i) above, an affidavit sworn before the competent authority to the effect as envisaged in sub-clause (ii) shall be sufficient;

(b) Where a member of the armed forces of the Union or employee of the Central Government or Railways or any Public Sector Undertaking of the Central Government whose employees are subject to transfers from their original posting place, as the case may be, dies while in service or such member is duly retired and dies within five years of his retirement, his widow who is or becomes a landlord of any premises, shall be entitled to recover possession of such premises, on the ground that the premises are bonafide required by her for occupation by herself or any member of her family (which term shall include her husband's parent or other relation ordinarily residing with her) and the Controller shall pass an order for eviction on such ground, if such widow, at the hearing of the suit, produces a certificate signed by the Area or Sub-Area Commander within whose jurisdiction the premises are situated or by the

Head of Department or Head of the Public Sector Undertaking whereof, her deceased husband was employee to the effect that—

(i) she is a widow of a deceased member of the armed forces or the employee of the Central Government or Railways or any Public Sector Undertaking of the Central Government, as the case may be: and

(ii) she does not possess any other suitable residence in the local area where she or the members of her family can reside:

Provided that the landlord or his widow, as the case may be, shall be entitled to recover only one of the premises chosen by him or her, under this section, in case more than one premises have been let out by him or her.

Explanation 1.— For the purpose of this sub-section,

(i) "armed forces" means an armed force of the Union constituted under an Act of Parliament and includes a member of the police force constituted under the Police Act as applicable to the State of Goa;

(ii) any certificate granted by the concerned authority there under shall be conclusive evidence of the facts stated therein.

Explanation 2.— For the purpose of clause (a) of this sub-section, the expression the Head of his Services" in the case of Officers retired from the Indian Navy, includes the Flag Officer-in-Chief, Western naval Command and in the case of Officers retired from the Indian Air Force, includes the Station Commander."

(c) The provisions of this sub-section shall be applicable to all applications including those pending proceedings before any Controller/Tribunal/Court and all such, proceedings shall be disposed of in accordance with the provisions of this section.

(d) During the pendency of proceedings for recovery of possession under this sub-section, the tenant shall continue the regular payment of rent due to the landlord or deposit such amounts with the Controller/Tribunal/Court for payment to the landlord:

Provided that nothing in this sub-section shall be so constructed as conferring a right on any person to recover possession of more than one residential building inclusive of any part or parts thereof if it is let out in part or parts:

Provided further that the Controller may give the tenant a reasonable period for putting the landlord or as the case may be, his widow in possession of the residential building and may extend such time so as not to exceed six months in the aggregate.

(3A) (a) Every application under sub-section (3) shall be dealt with in accordance with the procedure specified in this sub-section:

(b) After an application under sub-section (3) is received, the Controller shall issue summons for services on the tenant in the form specified in the Schedule.

(c) The summons issued under sub-clause (b) shall be served on the tenant as far as may be, in accordance with the provisions of Order V of the First Schedule to the Code of Civil Procedure 1908 (Central Act 5 of 1908). The Controller shall in addition direct that a copy of the summons be also simultaneously sent by registered post acknowledgment due addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and that another copy of the summons be affixed

at some conspicuous part of the building in respect whereof the application under sub-section (3) 1 been made.

(d) When an acknowledgement purporting to be signed by the tenant or his agent is received by the Controller or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent has refused to take delivery of the registered article and an endorsement is made by a process server to the effect that a copy of the summons has been affixed as directed by the Controller on a conspicuous part of the building and the Controller after such enquiry as he deems fit, is satisfied about the correctness of the endorsement, he may declare that there has been a valid service of the summons on the tenant.

(e) The tenant on whom the service of summons has been declared to have been validly made under clauses (c) or (d) of sub-section (3A), shall have no right to contest the prayer for eviction from the residential buildings unless he files an affidavit within 15 days from the date stating the grounds of service on which he seeks to contest the applications for eviction and obtains leave from the Controller as hereinafter provided and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord or as the case may be, the widow, of such landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction of the tenant.

(f) The Controller may give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord or, as the case may be, the widow, of such

landlord from obtaining an order for the recovery of possession of the residential building under sub-section (3)

(g) Where leave is granted to the tenant to contest the application, the Controller shall commence the hearing on a date not later than one month from the date on which the leave is granted to the tenant to contest and shall hear the application from day to day till the hearing is concluded and application decided.

(h) No appeal or second appeal shall lie against an order for the recovery of possession of any residential building made by the Controller in accordance with the procedure specified in this sub-section:

Provided that the High Court may, for purpose of satisfying itself that an order made by the Controller under this sub-section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.

(4) save as provided in sub-sections (3) and (3A) any landlord who desires to exercise the right conferred by this section shall make an application to the Controller and the provisions of section 25 in so far as they are applicable, shall apply to such proceedings.

Assembly Hall,
Porvorim, Goa
18th February, 2008

R. KOTHANDARAMAN
Secretary Legislature