



## THE MODEL TENANCY ACT, 2021

Central Government on 2<sup>nd</sup> June 2021, gave acceptance to **THE MODEL TENANCY ACT, 2021(ACT)**, to regulate renting of premises and to protect the interests of landlords and tenants and to provide speedy adjudication mechanism for resolution of disputes between them across the country.

### **Scope & Applicability of the ACT**

- ✚ State Government/Union territory Administration shall establish Rent Authority, Rent Court and Rent Tribunal as per the provisions of this **ACT** and shall come into force on such dates as mentioned in the notification of their Official Gazette.
- ✚ State Government/Union territory Administration can make rules for carrying out the provisions of this **ACT** which shall not be inconsistent with the provisions of this **ACT**.
- ✚ **ACT** is applicable only prospectively and it will have no retrospective effect on the existing tenancies.
- ✚ **ACT** is applicable to all kind of tenancies which include residential or commercial properties in both urban and rural areas with an exception for:
  - Hotel, lodging house, dharamshala, and Industries.
  - Premises owned or promoted by the Central Government or State Government or Union territory Administration or local authority or a government undertaking or enterprise or a statutory body or Cantonment Board;
  - premises owned by a company, University or organisation given on rent to its employees as part of service contract;
  - premises owned by religious or charitable institutions as may be specified in the notification;



- premises owned by Waqf, trust, or category of buildings specifically exempted in public interest by notification.

### **Salient Features of the ACT**

#### **+ Tenancy Agreement:**

- Rental, Advance, Duration, Increment of Tenancy shall be strictly as per the Terms and Conditions of the Tenancy Agreement.
- Registration of the Tenancy Agreement in prescribed template jointly to Rent Authority within 2 months or else by any party individually within 1 month after expiry of this 2 months. Failure to which this **ACT** shall not be applicable to the parties. After registration of the tenancy agreement each of the Landlord and Tenant will be provided with Unique Identification Number.

#### **+ Security Deposit:**

- Cap on Security Deposit to be paid by the Tenant:
  - 2 Months of Rent for Residential Premises and 6 months of Rent for Non-Residential Premises. Security deposit shall be refunded to the tenant on the date of taking over vacant possession of the premises from the tenant, after making due deduction of any liability of the tenant.
  - No Ceiling on the upper limit of the rent. Rent Control Act will be repealed.

#### **+ Sub-Letting:**

- Tenant can sub-let the premises by entering supplementary agreement with the Landlord

#### **+ Property Manager:**

- Property Manager given more power to represent the Landlord in managing the property, negotiation and collection of rent and enforcing of tenancy agreement.



#### ✚ **Maintenance Responsibilities:**

- Guidelines on the responsibility to maintain the premises.
- Essential services of the tenant cannot be blocked by the Landlord or Property Manager for whatsoever reason it may be.

#### ✚ **Dispute Resolution:**

- Formation of Rent Authority, Rent Court and Rent Tribunal to resolve the dispute within 60 days from the date of receipt of the application or appeal.
- Proceedings and Orders passed by Rent Court and Rent Tribunal will as per the civil court however it will be guided by the principles of natural justice and shall have all power to regulate their own procedure.
- Civil courts barred from entertaining any suit or proceeding which relates to the provisions of this Act
- Rent Court will be resolving dispute related to tenancy agreement and will not pass order related to title or ownership of premises

#### ✚ **Execution of Orders:**

- Heavy penalty (2 times of the rent for the 1<sup>st</sup> two months and 4 times of the rent after two months till the time of vacating) to be paid by the Tenant for not vacating the premises on the expiration of the tenancy agreement or termination of tenancy by an order or notice under the provisions of this **ACT**.
- Rent Court may take the help from the local body or police for the execution of the final orders.

## SUMMARY

Particulars	Landlord	Tenant
Security Deposit	Losses bargaining power	Lower Security Deposit than the current prevailing market standards



<b>Refund of Security Deposit</b>	Has to be refunded on the day of vacating of the Premises by the Tenant by deducting any damages	Interest has to be paid for any delay in refund of security deposit.
<b>Rent</b>	Can demand Market Prevailing Rent	Have to pay prevailing rent since Rent Control Act will be repealed
<b>Force Majeure (In the event Premises is uninhabitable)</b>	Loss of Rent	Waiver on Rent
<b>Essential Services</b>	Cannot be disconnected and if done will penalty will be imposed	Will be compensated in case of any unlawful disconnection
<b>Pendency of Dispute</b>	Rent gets deposited with the Rent Court thereby securing the rent	Rent has to be paid otherwise Tenant losses rights in the tenancy
<b>Eviction</b>	Swift within 60 days from the application made	Very high penalty for not vacating the premises

**Conclusion:**

- ✚ **ACT** will help Resolving Tenancy Disputes in a shorter and time bound manner bringing more investment and confidence in the Leasing Industry by avoiding lengthy court battles.
- ✚ Everyone has to wait till the **ACT** is notified by their respective State /Union territory although it's not mandatory to implement the **ACT** in their territories.
- ✚ Recognition of Property Managers in the **ACT** will reduce challenges of Landlords.
- ✚ No clarity in the **ACT** on *Lease Agreements* executed under the Transfer of Property Act, 1882 Or *Leave and Licence agreement* executed under the Indian Easements Act, 1882.
- ✚ Not Mandatory provisions for the Registration of *Tenancy Agreement* with the Rent Authority



- ✚ No clarity for the registration of *Tenancy Agreement* after the lapse of statutory time period.
- ✚ No clarity on how to submit the documents to the Rent Authority.
- ✚ *Tenancy Agreements* are generally *private and confidential* between the parties, but after this **ACT**, *Tenancy Agreement* will become a Public Document and details of which will be accessible to all.
- ✚ Cap on Security Deposit will give financial relief to the tenants and on the other hand bring financial stress to the Landlords.
- ✚ Repeal of *Rent Control Act* may result in financial exploitation of Tenants by way of higher rent and its increment.
- ✚ There is uncertainty if there will be any charges for the registration of *Tenancy Agreement* or its renewal.
- ✚ Guidelines on maintenance will help parties to negotiate effectively on sharing their responsibilities. If the terms and conditions of maintenance is not covered clearly in the *Tenancy Agreement*, then the guidelines of the **ACT** shall prevail.
- ✚ Establishment of Rent Authority, Rent Court and Rent Tribunal will bring additional burden to the state exchequer
- ✚ Strict compliance and execution of the orders passed by the **ACT** will have to be done otherwise **ACT** will lose its relevance

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