THE SINDH RENTED PREMISES ORDINANCE
(XVII OF 1979)

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THE SINDH RENTED PREMISES ORDINANCE
(XVII OF 1979)

21st November 1979.

An Ordinance to make effective provisions for regulation of relations between Landlords, tenants and protect their interests in respect of rented premises Within urban areas.

Preamble: Whereas it is expedient to make effective provisions for regulation of relations between landlords and tenants and protect their interests in respect of rented premises within urban area;
Now, therefore, in pursuance of the Proclamation of the fifth day of July, 1977 and the Laws (Continuance in Force) Order, 1977, the Governor Sindh is pleased to make and promulgate the following Ordinance.

1: Short title and commencement: (1) This Ordinance may be called the Sindh Rented Premises Ordinance, 1979.

(2) It shall come into force at once.

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

(a) “building” means any building or any part thereof, together with all fittings and fixtures therein, if any, and includes any garden, garage, outhouse and open space attached or appurtenant thereto;

(b) “Controller” means a Controller appointed under Section 4 and includes a person working as Controller immediately before coming into force of this Ordinance;

(c) “Fair rent” means the fair rent by any premises determined by the Controller under this Ordinance;

(d) “Government” means the Government of Sindh;

(e) “land” means land or open space, not being agricultural land or land or open space attached or appurtenant to any building;

(f) “landlord” means the owner of the premises and includes a person who is for the time being authorized or entitled to receive rent in respect of such premises;

(g) “personal use” means the use of the premises by the owner thereof or his wife (or husband), son or daughter;

(h) “premises” means a building or land, let out on rent, but does not include a hotel;

(i) “rent” includes water charges, electricity charges and such other charges which are payable by the tenant but are unpaid.

(j) “tenant” means any person who undertakes or is bound to pay rent as consideration for the possession or occupation of any premises by him or by any other person on his behalf and includes :-

( i ) any person who continues to be in possession or occupation of the premises after the termination of his tenancy;

(ii) heirs of the tenant in possession or occupation of the premises after the death of the tenant; and

(k) “urban area” means an area within the jurisdiction of a Town Committee, Municipal Committee, Municipal Corporation or Metropolitan Corporation.
3: **Applicability:** (1) Notwithstanding anything contained in any law for the time being in force, all premises other than those owned or requisitioned under any law, by or on behalf of the Federal Government or Provincial Government, situated within an urban area, shall be subject to the provisions of this Ordinance.

{(XXXXXXXXXXX) [Provisio omitted by Sindh Ordinance IV of 1984].}

*Omitted proviso is given below:*

“Provided that nothing contained in Section 8 and 9 shall apply to a building for a period of ten years immediately after it has been wholly built or re-built and has become ready for occupation.”

(2) Government may by notification, exclude any class of premises or all premises in any area from operation of all or any of the provisions of the Ordinance.

4: **Controller:** (1) Government may appoint one or more Controllers in any district and if more than one Controller, is appointed in the same district Government shall define the local limits within which each of such Controller shall exercise jurisdiction.

Provided that the Controllers working immediately before coming into force of this Ordinance shall continue to exercise their respective territorial jurisdiction until it has been altered by Government.

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

(3) Government may authorize the District Judge or Deputy Commissioner, to transfer cases from one Controller to another within the District.

5: **Agreement between landlord and tenant:** (1) The agreement by which a landlord lets out any premises to a tenant shall be in writing and if such agreement is not compulsorily registerable under any law for the time being in force, it shall be attested by, signed by, and sealed with the seal of, the Controller within whose jurisdiction the premises is situate or; any Civil Judge or First Class Magistrate.

Provided that nothing in this section shall effect any agreement between the landlord and tenant immediately before coming into force of this ordinance.

(2) Where any agreement by which a landlord lets out any premises to a tenant is compulsorily registerable under any law for the time being in force, a certified copy of the registered deed and where the agreement is not so registerable the original deed duly attested under sub-section (1), shall be produced and accepted in proof of the relationship of the landlord and tenant.
6: Tenure of tenancy: No tenancy shall, at a time be valid beyond such period as the landlord and tenant have, by mutual agreement, fixed before or after the commencement of the tenancy.

Provided that nothing in this section shall effect any tenancy existing immediately before coming into force of this Ordinance.

7: Higher rent not chargeable: No landlord shall charge or receive rent in respect of any premises; at the rate higher than that mutually agreed upon by the parties, and if the fair rent has been fixed by the Controller in respect of such premises, at the rate higher than the fair rent.

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

(a) the rent of similar premises situated in the similar circumstances, in the same or adjoining locality;

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

(c) the imposition of new taxes, if any, after commencement of the tenancy; and

(d) the annual value of the premises, if any, on which property tax is levied.

(2) Where any addition to, or improvement in, any premises has been made or any tax, or other public charge has been levied, enhanced, reduced or withdrawn in respect thereof, or any fixtures such as lifts or electric or other fittings have been provided thereon subsequent to the determination of the fair rent of such premises, the fair rent shall, notwithstanding the provisions of Section 9, to be determined or, as the case may be, revised after taking such changes into consideration.

9: Limit of fair rent: (1) Where the fair rent of any premises has been fixed no further increase thereof shall be effected unless a period of three years has elapsed from the date of such fixation or commencement of this Ordinance, whichever is later.

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

10: Payment of rent: (1) The rent shall, in the absence of any date fixed in this behalf by mutual agreement between the landlord and tenant, be paid not later than the tenth of the month next following the month for which it is due.
(2) The rent shall, as far as may be, be paid to the landlord, who shall acknowledge receipt thereof in writing.

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

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

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

11: Discontinuance of amenities and services: (1) No landlord shall discontinue or cause to be discontinued any service such as electricity, gas or water, except with the previous consent of the tenant or in compliance with the requisition of the concerned authority or after obtaining the direction of the Controller in this behalf.

(2) Where the landlord has discontinued or caused to be discontinued any service in contravention of sub-section (1), the tenant may make an application to the Controller for restoration thereof.

(3) Where the Controller is, after making such inquiry as it deems fit, satisfied that the service has been discontinued without sufficient cause, he shall make an order directing the landlord to have the service restored within such period as may be specified in the order.

(4) Where the landlord has failed to comply with the order of the Controller made under sub-section (3), the Controller may take necessary steps or get the service restored and recover the costs of such restoration from the landlord.

(5) Where the landlord has contravened the provisions of sub-section (1), he shall be punished with simple imprisonment for a period not exceeding six months or with fine or with both.

12: Repairs: (1) Subject to the agreement, if the landlord fails to make such repairs or white-washing as may be necessary to keep the premises in proper shape, the Controller may, on application made to him by the tenant and after such inquiry as the Controller deems fit to make, direct that such repairs or white-washing may be made by tenant and the cost thereof may be deducted from the rent payable to the landlord.

(2) Where any authority empowered by a law for the time being in force has required the landlord to make such repairs within such period as may be specified by such authority and the landlord has made default in this behalf, such authority may require the tenant to make such repairs.

(3) Where the tenant has made the repairs as aforesaid the authority ordering
the repairs shall after the verification of the details of the expenditure incurred by the
tenant, certify the cost of repairs and the tenant may thereupon deduct the amount so
certified from the rent payable to the landlord.

13: **Eviction:** No tenant shall be evicted from the premises in his possession
except in accordance with the provisions of this Ordinance.

14: **Delivery of vacant possession:** (1) Notwithstanding anything contained in
this Ordinance or any other law for the time being in force, the landlord of a building
who is a widow, or a minor whose both parents are dead or a salaried employee due
to retire within the next six months or has retired or a person who is due to attain the
age of sixty years within the next six months or has attained the age of sixty years,
may, by notice in writing, inform the tenant that he or she needs the building for
personal use and require him to deliver vacant possession of the building within such
time as may be specified in the notice, not being earlier than two months from the
receipt thereof.

(Provided that nothing in this sub-section shall apply where the landlord
has rented out the building after he has retired or attained the age of sixty years or, as
the case may be, had become widow or orphan) *.{Proviso substituted by Sindh
Ordinance XII of 1980.}

(2) The landlord shall not be entitled to avail the benefit of sub-section (1)
if he is in occupation of a building owned by him in any locality.

(3) Where the tenant has failed to deliver the possession of the building
under sub-section (1), the Controller shall, on application by the landlord in this
behalf, order eviction of the tenant from the building in a summary manner, by using
such force as may be necessary.

(4) **(XXXXXXXX) [Omitted by Sindh Ordinance II of 1980].

15. **Application to Controller:** (1) Where a landlord seeks to evict the tenant
otherwise than in accordance with Section 14, he shall make such application to the
Controller.

(2) The Controller shall make an order directing tenant to put the landlord in
possession of the premises within such period as may be specified in the order, if he
is satisfied that :-

***{(i) XXXXXX} [Omitted by Sindh Ord. IV of 1984].

(ii) the tenant has failed to pay rent in respect of the premises in his possession
within fifteen days after the expiry of the period fixed by mutual agreement between
the tenant and landlord for payment of the rent, or in the absence of such agreement,
within sixty days after the rent has become due for payment.

(iii) the tenant has, without the written consent of the land:

(a) handed over the possession of the premises to some other person;
(b) used the premises for the purpose other than that for which it was let out;
(c) infringed the conditions on which the premises was let out;

(iv) the tenant has committed such acts as are likely to impair the material value or utility of the premises.

(v) the tenant has indulged in such activities as are causing nuisance to the neighbours:

(vi) the premises is required by the landlord for reconstruction or erection of a new building at the site and landlord has obtained necessary sanction for such reconstruction or erection from the authority competent under any law for the time being in force to give such sanction.

(vii) the landlord requires the premises in good faith for his own occupation or use or for the occupation or use of his spouse or any of his children.

(3) Where the landlord who has obtained the possession of the premises for the purpose of reconstruction of the building or erection of a new building shall demolish the existing building within six months of the taking over of the possession of the premises or, as the case may be, commence the erection of the new building within two years of the taking over the possession of the premises, and in case the landlord fails to demolish the building as aforesaid the tenant shall be entitled to be put into possession of premises *{ and for that purpose may apply to Controller for an order in that behalf}. {Inserted by Sindh Ordinance II of 1980.}

{(4) Where the landlord constructs the building as aforesaid the tenant who was evicted from the old building may, before the completion of 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, be deems just and on payment of rent to be determined by him on the basis of rent of similar accommodation in the locality.} **. {Added by Sind Ord. IV of 1984}.

***{15A. Penalty for use of premises other than personal use: Where the landlord who has obtained the possession of a building under section 14 or premises under clause (vii) of section 15, re-lets the building or premises to any person other than the previous tenant or puts it to a use their than personal use within one year of such possession :-(substituted by Ordinance IV of 1984)

(i) He shall be punishable with fine which shall not exceed one year’s rent of the building or the premises, as the case may be, payable immediately before the possession was so obtained;

(ii) the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of the building or the premises, as the case may be, and the Controller shall make an order accordingly.
16: **Arrears of rent:** (1) Where a case for eviction of the tenant has been filed, the Controller shall, upon application by the landlord and after such summary inquiry as he deems fit to make, determine the arrears of the rent due and order the tenant to deposit the same within such period as the Controller may fix in this behalf and further direct the tenant to deposit monthly rent regularly on or before the tenth of every month, until final disposal of the case.

(2) Where the tenant has failed to deposit the arrears of rent or to pay monthly rent under sub-section (1), his defence shall be struck off and the landlord shall be put into possession of the premises within such period as may be specified by the Controller in the order made in this behalf.

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

17: **Compensation for vexatious Application:** Where the Controller is satisfied that any application made by a landlord for eviction of the tenant is frivolous or vexatious he may direct that compensation not exceeding ten times the monthly rent be paid by such landlord to the tenant.

18: **Change in ownership:** Where the ownership of a premises in possession of the tenant has been transferred by sale, gift, inheritance or by such other mode, new owner shall send an intimation of such transfer in writing by registered post to the tenant and the tenant shall not be deemed to have defaulted in payment of the rent for the purpose of clause (ii) of sub-section (2) of Section 15, if the rent due is paid within thirty days from the date when the intimations should, in normal course, have reached the tenant.

19: **Procedure:** (1) Where an application other than the application under Section 14 has been made to the Controller under this Ordinance, he shall, unless the application is summarily dismissed by him for reasons to be recorded, issue a notice to the respondent to file written reply, if any, within such period not exceeding fifteen days of the receipt of the notice.

(2) Where on the day fixed in the notice for the respondent to file written reply, it is found that notice has been served but the respondent has failed to file his reply, without any reasonable excuse the Controller may proceed to make an ex parte order and after such order has been made the Controller shall have no power to rescind such order.

(3) Where the respondent has filed the written reply, the Controller shall proceed to receive evidence first of the appellant and his witnesses.

(4) A party to a case under this Ordinance shall prove the evidence of his witness by producing the affidavit of such witness, a copy of which shall simultaneously be supplied to the other party and such other party shall the right to cross-examine the witness on such affidavit and if the witness has been cross-examined the party producing the witness may re-examine him.
(5) The Controller shall, instead of formally framing issues arising between the parties, state them briefly in the judgment and shall record findings on each such issue separately.

20. **Power of Civil Court:** Subject to this Ordinance, the Controller and the appellate authority shall, for the purpose of any case under this Ordinance, have powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of only the matters, namely:–

   (a) summoning and enforcing the attendance of any person and examining him on oath.

   (b) compelling production or discovery of documents;

   (c) inspecting the site; and

   (d) issuing commission for examination of witnesses or documents.

21. **Appeal:** Any party aggrieved by an order, not being an interim order, made by the Controller may, within thirty days of such order prefer an appeal to the High Court.

   (2) The Appellate authority may pending the final disposal of the appeal, grant injunction staying further proceedings or action on the order of the Controller.

Provided that no injunction shall be granted if the appeal has been preferred from the order under Section 14.

(3) The appellate authority shall, after perusing the record of the case and giving the parties an opportunity of being heard and if necessary, after making such further enquiry either by himself or by the Controller, make an appropriate order, which shall be final.

*. **22. Execution of orders:** Final orders passed under this Ordinance shall be executed by the Controller and all questions arising between parties and relating to the execution, discharge or satisfaction of the order shall be determined by the Controller and not by a separate suit.

**Explanation:** In the execution proceedings relating to the order of ejectment, no payment, compromise or agreement shall be valid unless such payment, compromise or agreement is made before or with the permission of the authority passing the order.} *(Substituted by Sindh Act I of 1986).*

23. **Judicial Proceedings:** The Controller and the appellate authority shall be deemed to be a Civil Court within the meaning of Section 480 of the Code of Criminal Procedure, 1898 (Act V of 1898).

24. **Cognizance of offence:** No Court shall take cognizance of an offence under
this Ordinance except upon complaint in writing made by the Controller.

25: **Indemnity:** No suit or legal proceeding shall lie against Government or any authority or person in respect of anything done or intended to be done in good faith under this Ordinance.

26: **Rules:** Government may make rules for carrying out the purposes of this Ordinance.

27: **Repeal:** (1) The Sindh Urban Rent Restriction Ordinance, 1959, is hereby repealed.

(2) All appeals, and such cases before a Controller as are fixed for arguments or judgment which have been filed under the Ordinance mentioned in sub-section (1) shall, notwithstanding the repeal thereof, be disposed of in accordance with the said Ordinance.

*(3) All other cases instituted under the Ordinance mentioned in sub-section (1) and which immediately before the commencement of this Ordinance were pending before a Controller shall, notwithstanding any orders made otherwise by the Controller, be continued and disposed of in accordance with the provisions of this Ordinance and any proceedings taken or order made in any such cases; as aforesaid shall for all purposes have effect as proceedings taken or order made under this Ordinance.*

(4) Notwithstanding the provisions of sub-section (2) all orders made in pursuance thereof order made under the Ordinance mentioned in sub-section (1) in any proceedings before the commencement of this Ordinance shall be deemed to have effect as an order under this Ordinance and be executed in accordance with the provisions of Section 22.} *(Added by Sindh Ordinance II of 1980).*