

THE ORISSA INDUSTRIAL HOUSING ACT, 1966

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[THE ORISSA INDUSTRIAL HOUSING ACT, 1966]

[Received the assent of the President on the 13th January 1967, first published in an extraordinary issue of the Orissa Gazette, dated the 4th February 1967]

AN ACT TO MAKE PROVISION FOR ALLOTMENT OF HOUSES TO INDUSTRIAL WORKERS AND MATTERS INCIDENTAL THERETO

BE it enacted by the Legislature of the State of Orissa in the Seventeenth Year of the Republic of India, as follows :--

1. (1) This Act may be called the Orissa Industrial Housing Act, 1966. Short title-
extent and
commence-
ment.

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force in such areas and with effect from such date as the State Government may, by notification, declare in that behalf.

2. In this Act, unless the context otherwise requires— Definitive

(a) "Advisory Committee" means the Advisory Committee constituted under section 5;

(b) "allotment" means the allotment of a house in favour of an industrial worker made in accordance with the provisions of this Act and the rules made thereunder;

1. For Statement of Objects and Reasons see *Orissa, Gazette Extraordinary*, dated the 29th September 1965 (No. 1543-A).

2. This Act came into force in the following areas with effect from the 29th October 1971, vide Notification No. 5023-IH-22/69-LEH dated the 12th April, 1969 published in *Orissa Gazette*, dated the 29th October 1971, Pt. III, p. 189. Areas to which enforced—1. Municipal limits of Cuttack Town, 2. Municipal limits of Baripada Town, 3. Municipal limits of Berhampur Town, 4. Municipal limits of Sambalpur Town, 5. Municipal limits of Jharsuguda Town, 6. Choudwar Notified Area, 7. Hirakud Notified Area, 8. Brajarainagar Notified Area, 9. Civil Township Notified Area, Rourkela, 10. Rajgangpur Notified Area, 11. Bhubaneswar Notified Area, 12. Kesinga Notified Area, 13. Titilagarh Notified Area, 14. Municipal limits of Jeypore Town, 15. Joda Notified Area, 16. Barbil Notified Area, 17. Steel Township Notified Area, Rourkela.

(Sec. 2 contd.)

(c) "house" means a house referred to in sub-section (1) of section 3 and includes—

(i) any garden, grounds and out houses appertaining to such house;

(ii) any furniture supplied by the State Government, the local authority or the Housing Commissioner, for use in such house; and

(iii) any fitting affixed to such house for more beneficial enjoyment thereof;

"(d) Housing Commissioner" means the Housing Commissioner appointed under section 4 and includes an Assistant Housing Commissioner authorised to perform any of the functions or to exercise any of the powers of the Housing Commissioners;

(e) "industrial worker" means a person who is—

(i) a worker within the meaning of clause (1) of section 2 of the Factories Act, 1948; or

63 of 1948

(ii) employed in a mine (other than a coal or mica mine) within the meaning of clause (h) of section 2 of the Mines Act, 1952;

35 of 1952

(f) "prescribed" means prescribed by rules made under this Act; and

(g) "rent" means the amount payable by an allottee or any person for use and occupation of a house.

1. Substituted by the Orissa Industrial Housing (Amendment) Act (Or. Act 37 of 1975), s. 2.

(Secs. 3—5)

3. (1) This Act shall apply to houses constructed by the State Government or any local authority for the occupation of industrial workers under the Housing Scheme for industrial workers subsidised by the Central Government (hereinafter called the Subsidised Industrial Housing Scheme) or under any other scheme of the State or Central Government to be notified in that behalf.

Application
of the Act.

(2) The State Government may, by a declaration published in the Official Gazette specify from time to time such houses with the names of the town where situate and the declaration shall be conclusive evidence that the houses were constructed by the State Government or local authority, as the case may be, for occupation by industrial workers under the Subsidised Industrial Housing Scheme.

4. The State Government shall appoint a Housing Commissioner who shall subject to the control of the State Government, be responsible for allotment of houses, realisation of rent, eviction of persons occupying such houses and generally for all matters relating to the administration of this Act.

Housing
Commis-
sioner and
his functions.

[4-A (1) The State Government may appoint one or more Assistant Housing Commissioners with such local jurisdiction as may be assigned to them by the State Government.

Appoint-
ment of
Assistant
Housing
Commis-
sioners and
their
functions.

(2) The Assistant Housing Commissioners so appointed shall, subject to the control of the Housing Commissioner, exercise such of the powers and perform such of the functions of the Housing Commissioner as the State Government may authorise in that behalf.]

5. (1) The State Government may, by notification, constitute an Advisory Committee consisting of five members to be nominated by the State Government one of whom shall be appointed by the said Government to be the Chairman of the said Committee :

Advisory
Committee.

Provided that the Advisory Committee shall include at least one member representing industrial workers and one representing the employers of such workers.

1. Inserted by the Orissa Industrial Housing (Amendment) Act, 1975 (Or. Act 37 of 1975), s. 3

(Secs. 6—9)

(2) It shall be the duty of the Advisory Committee to advise on matters relating to the administration of this Act which the State Government or the Housing Commissioner may refer to it for advice.

Occupation when deemed to be unauthorised.

6. For the purposes of this Act a person shall, save as otherwise provided in this Act, be deemed to be in unauthorised occupation of any house—

- (a) where he has entered into possession of a house otherwise than in pursuance of any allotment made by the Housing Commissioner ;
- (b) where being an allottee he has by reason of cancellation of an allotment under section 8 ceased to be entitled to occupy the house ; or
- (c) has ceased to be an industrial worker.

Explanation—A person shall not merely by reason of the fact that he has paid any amount as rent be deemed to have entered into possession of the house as allottee.

Allotment of houses and conditions therefor.

7. The allotment of houses shall be made in the prescribed manner by the Housing Commissioner on an application made in that behalf and shall be subject to such terms and conditions as may be prescribed.

Cancellation of allotment.

8. Notwithstanding anything contained in any other law for the time being in force, the Housing Commissioner may, after notice to the occupier and considering his explanation, if any, for reasons to be recorded, cancel any allotment under which a house is held or occupied by any person and upon an order cancelling the allotment being made a copy thereof shall be served upon such person.

Rent and other charges.

9. (1) There shall be payable by every person in whose favour an allotment is made, rent and other charges at such rates on such dates as may be fixed by the Housing Commissioner.

(2) All rents and other charges shall be collected in cash and shall be payable monthly by the 15th day of the following month:

Provided that the Housing Commissioner may, subject to such directions as may be issued by the State Government in that behalf, allow from time to

(Secs. 10-11)

time such further period for payment of the rent and the other charges as he may deem fit.

(3) Any rent or other charges not paid on the due date, or within the extended period as aforesaid shall be treated as an arrear.

10. If arrears of rent or other charges for which notice of demand has been served are not paid to the Housing Commissioner, or to such other Officer authorised by him, within thirty days from the date of service or such extended period as he may allow such arrears together with all costs of recovery shall be recoverable as arrears of land revenue.

Recovery of
arrears of
rent, etc.

11. (1) Notwithstanding anything contained in the provisions of sections 9 and 10 an allottee may execute an agreement in the prescribed form in favour of the Housing Commissioner, empowering the employer under whom he is employed, to make deductions from time to time from the salary or wages payable to him such amount as may be specified in the agreement and to pay the amount so deducted to the Housing Commissioner in satisfaction of the rent and other charges due to him in respect of the house allotted.

Deduction of
rent from
salary or
wages.

(2) Notwithstanding anything contained in the Payment of Wages Act, 1936 upon the execution of such agreement, the employer shall make deduction of the amount in accordance with such agreement from the salary or wages of the employee and pay in accordance with the rules made in that behalf the amount so deducted to the Housing Commissioner or such other Officer as may be authorised by him, and the employer shall be liable for any amount paid to the employee in contravention of the agreement:

Act 4 of 1936

Provided that the total amount of deduction in respect of any particular period shall not exceed twenty-five per cent of the salary or wages due for that period :

Provided further that where the total deductions authorised under this sub-section exceeds fifty per cent of the salary or wages as aforesaid, the excess may be recovered in such manner as may be prescribed.

(Sec. 12)

(3) If the employer fails to pay to the Housing Commissioner the amount deducted in accordance with sub-section (2) or pays any amount to the employee in contravention of the agreement executed under sub-section (1), the amount deducted or which he so pays with all costs of recovery shall be recoverable from the employer as arrears of land revenue.

Eviction
from the
Premises.

12.(1) If the Housing Commissioner is satisfied that—

(a) the person authorised to occupy any house—

(i) has not executed an agreement under section 11 and is in arrears of rent or other charges in respect of a period of two months or more lawfully due from him in respect of such house, or

(ii) has sub-let, the whole or any part of such house, or

(iii) has otherwise acted in contravention of any of the terms express or implied, under which he is authorised to occupy such house, or

(b) any person is in unauthorised occupation of any house,

he may, notwithstanding anything contained in any law for the time being in force, by notice served—

(i) by post, or

(ii) by affixing a copy of it on the outer door or some other conspicuous part of such house, or

(iii) in such other manner as may be prescribed,

require such person, as well as any other person who may be in occupation of the whole or any part of the house, to vacate it within one month of the date of the service of the notice:

Provided that an industrial worker where question of services is under dispute between the employer and employee as a subject-matter of an adjudication before an Industrial Tribunal as defined in the Industrial Disputes Act, 1947 is not liable to be evicted. 14 of 1967

(Sec. 13)

(2) If any person refuses, or fails to comply with the notice served under sub-section (1), the Housing Commissioner may order eviction of that person from, and take possession of, the house and may for that purpose authorise the use of such reasonable force as may be necessary.

(3) A copy of the order made under sub-section (2) shall be served upon the person against whom such order is made.

(4) If a person, who has been ordered to vacate any house under sub-clause (i) or (iii) of clause (a) of sub-section (1) pays, within one month of the date of service of the notice or such longer time as the Housing Commissioner may allow, to the Housing Commissioner the rent or other charges in arrears or carries out or otherwise complies with the terms contravened by him, to the satisfaction of the Housing Commissioner, he may, instead of evicting such person cancel his order under sub-section (1) and thereupon such person shall hold the house on the same terms as those on which he held it immediately before such notice was served and on such other terms and conditions which may be laid down by the Housing Commissioner.

13.(1) Where any person is in unauthorised occupation of any house, the Housing Commissioner, may in the prescribed manner, assess such damages on account of the use or occupation of the house as he may deem just and proper and may, by notice served by post or otherwise, order that person to pay the damages within such time as may be specified in the notice.

Powers to
recover
damages.

(2) If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered as arrears of land revenue.

(3) Nothing in sub-section (1) or (2) shall be construed to debar the person ordered to pay damages from contesting his liabilities by a suit in the court having jurisdiction:

Provided that before any such suit is instituted he shall deposit with the Housing Commissioner the amount specified in the notice under sub-section (1), if the amount has not already been realised under sub-section (2), and it shall be kept, subject to the orders of the court.

(Secs. 14-20)

Appeal

14.(1) Any person aggrieved by an order of the Housing Commissioner under section 8 or under sub-section (2) of section 12 may, within thirty days of the service of the order under the said sections prefer an appeal to the District Judge within whose jurisdiction the house is situate:

Provided that the District Judge may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred under sub-section (1) the District Judge may stay the enforcement of the order appealed against for such period and on such conditions as he thinks fit.

Power to enter into any house

15. The Housing Commissioner may with such assistants, if any, as he thinks fit, enter at all reasonable hours into any house which he considers it necessary to enter for the purpose of administering, or carrying out the provisions of this Act.

Finality of orders.

16. Save as otherwise expressly provided in this Act every order made by the Housing Commissioner or the District Judge under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

Housing Commissioner and assistants to be public servants.

17. The Housing Commissioner and the assistants acting under section 15 shall be deemed to be public servants within the meaning of section 21^{45 of 1860} of the Indian Penal Code.

Moneys to be deposited in treasury.

18. All moneys realised under this Act shall be deposited to the credit of the State Government in Government treasury.

Protection of action taken under this Act.

19. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported to be done under this Act.

Offences

20.(1) Whoever contravenes any provision of this Act or the rules made thereunder shall, on conviction, be punished with imprisonment for a term which may extend to two months or with fine which may extend to four hundred rupees or with both.

(Secs. 21-22)

(2) Any person who obstructs the lawful exercise of any power conferred by or under this Act, shall on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

21. No court shall take cognizance of any offence punishable under this Act except on the complaint or information, received from the Housing Commissioner or such official as may be authorised by him in this behalf. ^{Cognizance of offences.}

22. (1) The State Government may, after previous publication make rules for carrying out the purpose of this Act. ^{Power to make rules.}

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely: —

- (i) duties and functions of the Housing Commissioner;
- (ii) constitution and membership of the Advisory Committee under section 5;
- (iii) form of application and manner of allotment of house and conditions relating to its occupation;
- (iv) form and manner in which an appeal under section 14 shall be preferred;
- (v) fees, if any, to be paid in appeals under section 14;
- (vi) mode of service of the order under section 8 or sub-section (2) of section 12;
- (vii) mode of payment of rent and other charges;
- (viii) assessment of damages referred to in section 13;
- (ix) maintenance and upkeep of the houses; and

(Sec. 22—contd.)

(x) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall, as soon as may be after they are made, be laid before the State Legislature for a total period of 14 days which may be comprised in one or more sessions and if during the said period the State Legislature makes modifications, if any, therein, the rules shall thereafter have effect only in such modified form ; so however that such, modifications shall be without prejudice to the validity of anything previously done under the rules.

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1. Omitted by the Orissa Industrial Housing (Amendment) Act, 1975 (Or. Act 37 of 1975), s. 4.