



Government of West Bengal

Judicial and Legislative (Legislative) Department

West Bengal Act XXXVIII of 1948

**The West Bengal Premises Rent
Control (Temporary Provisions)
Act, 1948**

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West Bengal Act XXXVIII of 1948

WEST BENGAL PREMISES RENT CONTROL (TEMPORARY PROVISIONS) ACT, 1948.

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West Bengal Act XXXVIII of 1948

THE WEST BENGAL PREMISES RENT CONTROL (TEMPORARY PROVISIONS) ACT, 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor General was first published in the Calcutta Gazette, Extraordinary, of the 16th November, 1948.]

An Act to make better provision for the control of rents of premises in Calcutta and in certain other areas in West Bengal.

WHEREAS it is expedient to make better provision for the control of rents of premises in Calcutta and in certain other areas in West Bengal;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the West Bengal Premises Rent Control (Temporary Provisions) Act, 1948. Short title, commencement, extent and duration.

(2) It shall come into force on such date as the Provincial Government may, by notification, appoint.

(3) It extends to the whole of Calcutta and to all areas which have been or may hereafter be constituted municipalities under the provisions of the Bengal Municipal Act, 1932:

Provided that the Provincial Government may, by notification, extend this Act or any specified part thereof to any other area specified in the notification if the Provincial Government is satisfied that the area contains a number of inhabitants not less than the number required under clause (2) of the proviso to sub-section (1) of section 6 of the Bengal Municipal Act, 1932, for the area to be declared a municipality and that three-fourths of the adult male population of the area are chiefly employed in pursuits other than agriculture:

Provided further that the Provincial Government may, by notification, direct that this Act or any specified part thereof shall not apply to any such area or to any such class of premises as may be specified in such notification and if any question arises as to whether, or not, any premises come within such area or class, the decision of the Provincial Government thereon shall be final.

(4) It shall, in the first instance, remain in force up to the 31st day of March, 1950, but if, and so often as, a resolution approving its continuance for any further period is passed by the Provincial Legislature, it shall continue in force for such further period, so, however, that it shall not, in any case, continue in force after the 31st day of March, 1953:

Provided that the expiration of this Act shall not render recoverable any sum which during the continuance thereof was irrecoverable or affect the right of a tenant to recover any sum which during the continuance of this Act was recoverable by him thereunder.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Calcutta" has the same meaning as in clause (11) of section 3 of the Calcutta Municipal Act, 1923;

(2) "Controller" means a Controller appointed under sub-section (1) of section 28 and includes an Additional Controller and a Deputy Controller appointed under sub-section (2) of that section;

(3) "hotel or lodging house" means an establishment where lodging with or without board or other service is provided for a monetary consideration;

(4) "landlord" means any person who for the time being is receiving, or is entitled to receive, the rent of any premises whether on his own account or on account, or on behalf, or for the benefit, of any other person, or as a trustee, guardian or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant and includes a legal representative, as defined in the Code of Civil Procedure, 1908, of the landlord;

(5) "manager of a hotel" includes any person in charge of the management of a hotel;

(6) "notification" means a notification published in the *Official Gazette*;

(7) "owner of a lodging house" includes any person who receives, or is entitled to receive, whether on his own account, or on account, or on behalf, or for the benefit of himself and others, or as an agent, trustee, guardian or receiver for any other person, any monetary consideration from any person on account of board or lodging or other service;

(8) "premises" means any building or part of a building or any hut or part of a hut let separately and includes—

(a) the gardens, grounds and out-houses (if any) appertaining to such building or part of a building or hut or part of a hut,

(b) any furniture supplied or any fittings affixed by the landlord for use in such building or part of a building or hut or part of a hut,

but does not include a room or part of a room or other accommodation in a hotel or lodging house or a stall in a municipal market as defined in clause (44) of section 3 of the Calcutta Municipal Act, 1923, or in any other market maintained by or belonging to a local authority or a stall let at variable rents at different seasons of the year for the retail sale of goods in any other market as defined in clause (39) of section 3 of the Calcutta Municipal Act, 1923, or clause (30) of section 3 of the Bengal Municipal Act, 1932;

Ben. Act
III of
1923.

Act V of
1908.

Ben. Act
XV of 1932.

XXXVIII of 1948.]

(Chapter II.—Provisions regarding rent and *salami*.—
Sections 3—5.)

- (9) "prescribed" means prescribed by rules made under this Act;
- (10) "standard rent" in relation to any premises means—
- where the rent of any premises has been fixed under section 9, the rent so fixed;
 - where the rent has not been so fixed, the standard rent determined in accordance with the provisions of the Schedule;
- (11) "tenant" means any person by whom, or on whose account, rent is, or but for a special contract would be, payable for any premises and includes a legal representative, as defined in the Code of Civil Procedure, 1908, of the tenant and a person continuing in possession after the termination of a tenancy in his favour.

CHAPTER II.

PROVISIONS REGARDING RENT AND *salami*.

3. (1) Subject to the provisions of this Act, where the rent of any premises has been or is hereafter during the continuance of this Act, increased so as to exceed the standard rent, the amount of such excess shall, notwithstanding any agreement to the contrary, be irrecoverable:

Restriction on the increase of rents.

Provided that nothing in this sub-section shall apply to any periodical increment of rent accrued due under any written agreement entered into before the first day of December, 1941.

(2) For the purposes of sub-section (1), the rent shall be deemed to have accrued from day to day.

4. No person shall, in consideration of the grant, renewal or continuance of a tenancy of any premises,—

Premium, *salami* or fine not to be claimed, received or asked for or advance of more than one month's rent not to be claimed or received.

(a) claim, receive, or invite offers or ask for the payment of, any premium, *salami*, fine or any other like imposition in addition to the rent, or

(b) except with the previous written consent of the Controller, claim or receive the payment of any sum exceeding one month's rent of such premises as rent in advance.

5. Notwithstanding anything contained in section 4, a landlord may receive a premium or *salami* or other like sum in addition to the rent in respect of any premises which are let on a lease for a period of not less than twenty years for the purposes of development by the lessee either by building or rebuilding if the period limited by the lease is not expressed to be terminable at the option either of the

Exception in the case of long leases for purposes of development.

landlord or of the tenant at any time within a period of five years from the date of commencement of the period so limited:

Provided that the rent payable for the premises during the continuance of this Act shall not exceed the standard rent.

Restriction on the sale of furniture in any premises let to a tenant.

6. (1) No person shall make the purchase of any furniture in any premises a condition of the grant, renewal or continuance of a tenancy of such premises and no person shall sell the furniture in any premises of which he is the landlord to the tenant of such premises or to any person to whom the premises are afterwards let except under a permit in the prescribed form from the Controller.

(2) No landlord shall be entitled to recover as the price of any furniture in any premises on sale of such furniture to the tenant of such premises or to any person to whom the premises are afterwards let, any sum in excess of the market-value of such furniture; and the Controller may, on application made to him by any person interested and on payment of the prescribed fee, determine the market-value of such furniture recoverable under this sub-section.

Refund of rent, premium, *salami*, etc., not recoverable under the Act.

7. (1) Where any sum has been paid or deposited on or after the date of the commencement of this Act or within a period of six months before such date in respect of the occupation of any premises,—

(a) on account of rent, being a sum which is by reason of the provisions of this Act irrecoverable, or

(b) as premium, *salami*, fine or other like imposition in addition to the rent or as rent in advance, the claiming or the receiving of which is prohibited under this Act, or

(c) on account of price of any furniture in such premises, being a sum which is in excess of the market-value of such furniture and the recovery of which is prohibited under this Act,

the Controller may, on application made to him in this behalf at any time within a period of six months from the date of such payment or deposit by the tenant by whom such payment or deposit was made, order the landlord by whom such payment was received or to whose credit such deposit was made, to refund such sum to such tenant or, at the option of such tenant, order the adjustment of any sum so paid or deposited in any other manner.

(2) An order of refund passed by the Controller under sub-section (1) shall be executed by the Court having jurisdiction to entertain a suit for the recovery of arrears of rent in respect of the premises in relation to which the sum ordered to be refunded was paid or deposited, as if such order of refund were a decree of that Court.

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(Chapter II.—Provisions regarding rent and salami.—
Sections 8, 9.)

8. The Controller shall, on application made to him by any landlord or tenant, grant a certificate stating the standard rent referred to in sub-clause (b) of clause (10) of section 2, of any premises let or rented by such landlord or tenant, as the case may be.

Grant of certificate of standard rent by the Controller.

9. In any of the following cases, the Controller shall, on application made to him by any landlord or tenant, fix the standard rent of the premises at such amount as, having regard to the provisions of this Act and the circumstances of the case including the municipal rates, taxes or cesses payable in respect of the premises, he deems just—

Cases in which standard rent shall be fixed by the Controller.

- (a) where any premises have been or are erected after the first day of October, 1946;
- (b) where by reason of any premises having been let at one time as a whole, and at another time in parts, or where for any other reason, any difficulty arises in giving effect to this Act;
- (c) where any premises have been or are let rent-free, or at a nominal rent, or for some consideration in addition to rent;
- (d) where some addition, improvement or alteration not included in necessary repairs or repairs which are usually made to premises in the locality, has been made at any time after the first day of October, 1946, to any premises at the landlord's expense;
- (e) where any furniture has been supplied on or after the first day of October, 1946, by the landlord for use in any premises or where any premises which were let without any furniture on or after the said date are subsequently let furnished;
- (f) where there has been an increase in the municipal rates, taxes or cesses in respect of any premises;
- (g) where for any other sufficient cause the rent at which the premises were let on the first day of October, 1946, or at which the premises are for the time being let is not, in the opinion of the Controller, just and fair; or
- (h) where the provisions of sub-section (3) of section 11 or of section 13 apply and there is a dispute about the rent or the apportionment of rent:

Provided that in fixing the standard rent,—

- (i) under clause (a), the Controller shall take into account the prevailing rate of rent in the locality for similar accommodation with similar advantages and amenities;
- (ii) under clause (d), the Controller shall not increase the rent by more than ten *per centum per annum* of the amount expended on the addition, improvement or alteration made to the premises; and
- (iii) under clause (e), the Controller shall take into consideration the market-value on the date on which the standard rent is so fixed of the furniture supplied.

[West Ben. Act

(Chapter II.—Provisions regarding rent and salami.—
Chapter III.—Suits and proceedings for eviction.—
Sections 10, 11.)

Date on
which
standard
rent fixed
by the
Controller
takes
effect.

10. In every case in which the Controller fixes the standard rent, or in fixing the standard rent allows any increase in the rate of rent payable, in respect of any premises, he shall appoint a date from which the standard rent so fixed or the increase so allowed shall be deemed to have effect and such date may be any date anterior to the date of any order of the Controller under this section if the Controller deems such anterior fixation of the date just and proper in the circumstances of the case but shall not be subsequent to the date on which the application under section 9 is made :

Provided that where the standard rent is fixed under clause (f) of section 9, such standard rent shall be deemed to have effect from the date on which the increase in the municipal rates, taxes or cesses came into force.

CHAPTER III.

SUITS AND PROCEEDINGS FOR EVICTION.

No order
for eject-
ment
ordinarily
to be
made if
rent paid
at
allowable
rate.

11. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882, the Presidency Small Cause Courts Act, 1882, or the Indian Contract Act, 1872, no order or decree for the recovery of possession of any premises shall be made as long as the tenant pays to the full extent the rent allowable by this Act and performs the conditions of the tenancy :

IV of
1882.
XV of
1882.
IX of
1872.

Provided that nothing in this sub-section shall apply,—

- (a) where the tenant has done any act contrary to the provisions of clause (m), clause (o) or clause (p) of section 108 of the Transfer of Property Act, 1882, or
- (b) where the tenant has sublet, or otherwise transferred his interest in, the premises—
 - (i) for more than six consecutive months and to the extent either of the whole or a major portion of the premises, in the absence of any contract or other authority in writing expressly permitting such subletting or transfer, or
 - (ii) in any manner in contravention of the terms of a contract in writing expressly prohibiting such subletting or transfer; or
- (c) where the tenant has been using the premises or allowing the premises to be used for immoral or illegal purposes, or
- (d) where the condition of the premises has materially deteriorated owing to acts of waste by, or negligence or default of, the tenant or any person residing with the tenant, or
- (e) where the tenant has been guilty of conduct which is a nuisance or an annoyance to occupiers of adjoining or neighbouring premises, or

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Chapter

III.—Suits and proceedings for eviction.—
Section 12.)

(f) where the premises are *bona fide* required by the landlord either for purposes of building or rebuilding, or for his own occupation or for the occupation of any person for whose benefit the premises are held.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, it shall not be lawful after the commencement of this Act, for a tenant inferior to a tenant of the first degree to let in whole or in part the premises let to him except with the consent of the landlord and of the tenants of a superior degree above him.

Explanation.—In this sub-section—

- (a) “a tenant of the first degree” means a tenant who does not hold under any other tenant;
- (b) “a tenant inferior to a tenant of the first degree” means a tenant holding immediately or mediately under a tenant of the first degree;
- (c) “landlord” means the landlord of a tenant of the first degree.

(3) Any person to whom any premises or any part thereof have been or has been lawfully sublet by a tenant shall, where the interest of the tenant in such premises or part is lawfully determined otherwise than by virtue of a decree or order obtained by the landlord on any of the grounds specified in clause (f) of the proviso to sub-section (1), be deemed to be a tenant in respect of such premises or part, as the case may be, holding directly under the landlord on the terms and conditions on which such person would have held under the tenant if the interest of the tenant had not been so determined:

Provided that it shall be competent for the landlord, or any person deemed under this sub-section to be a tenant holding directly under the landlord, to make an application under section 9 to the Controller for fixing the standard rent of the premises or part thereof in respect of which such person is so deemed to be a tenant and until any standard rent is fixed by the Controller on such application such person shall be liable to pay to the landlord the same rent as was payable by him in respect of the premises or part thereof, as the case may be, to the tenant before the interest of the tenant therein had been determined.

12. (1) No tenant shall be entitled to the benefit of section 11 in respect of any premises unless—

- (a) he pays the rent allowable by this Act and due by him in respect of such premises to the full extent within the time fixed in the contract with his landlord or, in the absence of such contract, by the fifteenth day of the month next following that for which the rent is payable, and
- (b) in the case where any rent has accrued due before the commencement of this Act, he also pays within one month after the date of such commencement all arrears of rent allowable by this

When a tenant can get the benefit of protection against eviction.

(Chapter III.—Suits and proceedings for eviction.—
Section 12.)

Act and due by him in respect of such premises to the full extent together with, where the arrears are already the subject-matter of a suit or proceeding before a Court or of any decree or order of Court, interest thereon at the rate of six and a quarter *per cent. per annum* and such costs as the Court may award, and

- (c) in the case where the Controller has, in fixing the standard rent, allowed any increase in the rate of rent payable in respect of such premises with effect from any date earlier than the date of the order, he pays also the amount that has become payable by him on account of such increase, for any period preceding the date of such order, to the full extent and within the time specified in this behalf by the Controller or, in the absence of any such specification, within one month of the date of such order, or

where the landlord refuses to accept any rent referred to in clause (a), clause (b) or clause (c), or where there is a *bona fide* doubt or dispute as to the person who is entitled to receive such rent, unless the tenant deposits such rent and all subsequent rent allowable by this Act which becomes due in respect of such premises as provided in section 19 together with, in the case mentioned in clause (b) of sub-section (1) of that section, the cost of transmission referred to in that clause within the time specified in that section.

Explanation.—A landlord shall not for the purposes of this section be deemed to have refused to accept any rent unless the rent is remitted within the period referred to in clause (a) or clause (b) or clause (c), as the case may be, of this section by postal money order to the address of the landlord and the rent so remitted is returned to the tenant by the postal authorities as undelivered either on account of the landlord having refused to accept payment thereof or for any other cause.

(2) Subject to the provisions of sub-section (3), no suit or proceeding instituted against a tenant after the commencement of this Act for the recovery of possession of any premises on the ground of default in making any payment or deposit referred to in sub-section (1) shall be further proceeded with if, within one month from the date of service of process on the tenant, he pays through the Court all arrears of rent allowable by this Act up to date together with interest thereon at the rate of six and a quarter *per cent. per annum* and such costs as the Court may award.

(3) Notwithstanding anything contained in this Act or in any other law for the time being in force, if a tenant fails for three consecutive months to pay or deposit in accordance with the provisions of this Act any rent payable by him in respect of any premises which has accrued due after the commencement of this Act, the interest of the tenant in such premises shall on such failure be *ipso facto* determined and he shall no longer be deemed to be a tenant.

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(Chapter III.—Suits and proceedings for eviction.—
Sections 13—15.)

13. Notwithstanding anything contained in this Act or in any other law for the time being in force, where a tenant has sublet in whole or in part any premises let to him for a period of not less than seven years, and such period expires on or after the 1st day of October, 1946, the tenant shall not be entitled to the benefit of section 11 in respect of such premises to the extent to which they have been so sublet and in such case the person to whom the premises have been sublet shall be deemed to be a tenant holding directly under the landlord on the terms and conditions on which he held under the tenant in so far as such terms and conditions are consistent with the circumstances of the case and with the provisions of this Act and thereupon the provisions of the proviso to sub-section (3) of section 11 shall apply.

Special provision for tenants for not less than seven years.

14. For the purposes of sections 11 and 12, the rent allowable by this Act in relation to any premises, means—

Meaning of allowable rent.

- (a) where a certificate has been granted by the Controller under section 8, the standard rent stated in such certificate, or
- (b) where the standard rent has been fixed under section 9, the standard rent so fixed, or
- (c) where no certificate has been granted under section 8 and no standard rent has been fixed under section 9, the rent agreed upon between the landlord and the tenant omitting the excess, if any, over the standard rent.

15. Where the landlord recovers possession on the ground that the premises are *bona fide* required by him for purposes of building or re-building or for his own occupation or for the occupation of any person for whose benefit the premises are held, and the building or the re-building of the premises is not commenced, or the premises are not occupied by the landlord or such person, within two months of the date of vacation of the premises by the previous tenant, or the premises, having been so occupied, are re-let within six months of the said date to any person other than the previous tenant without the permission of the Controller obtained in the prescribed manner, the Controller may, on the application of the previous tenant made within seven months of his vacating the premises, by order, direct the landlord to put the previous tenant in possession of the premises or to pay him such compensation as may be fixed by the Controller, or both :

When a tenant is entitled to restoration of possession and compensation.

Provided that the Controller may, on the application of the landlord, extend the period within which the building or the re-building of the premises is to be commenced, by two months at a time and six months in all.

(Chapter III.—Suits and proceedings for eviction.—
Sections 16, 17.)

Special provisions regarding certain suits or proceedings triable by Court of Small Causes of Calcutta.

16. (1) Notwithstanding anything contained in any other law for the time being in force, no suit or proceeding by a landlord against a tenant for the recovery of rent or possession of any premises which the Court of Small Causes of Calcutta is competent to try shall be instituted in, or tried by, any Court other than the said Court of Small Causes of Calcutta.

(2) Notwithstanding anything contained in the Presidency Small Cause Courts Act, 1882, or in any rule made thereunder, an appeal from a decree or order of the Court of Small Causes of Calcutta in a suit or proceeding referred to in sub-section (1) shall, if presented within thirty days from the date of the decree or order, as the case may be, lie to a bench of three Judges of the said Court which shall not include the Judge who made such decree or order. XV of 1882.

(3) In the event of a difference of opinion among the Judges sitting in appeal under sub-section (2), the opinion of the majority of such Judges shall prevail.

Special procedure for suits and proceedings for eviction of tenants.

17. (1) Notwithstanding anything contained in any other law for the time being in force, in every suit or proceeding for the recovery of possession of any premises on one or more of the grounds specified in the proviso to sub-section (1) of section 11 or on the ground of non-compliance with the provisions of this Act regarding payment or deposit of rent, the Court shall at the first hearing of such suit or of the application out of which such proceeding has arisen, or as soon as may be thereafter, after giving the parties an opportunity of being heard and considering any affidavits which they may file, decide first if there is sufficient cause for proceeding with the suit or proceeding:

Provided that the decision made under this sub-section shall form a part of the decree or order finally disposing of the suit or proceeding, as the case may be, and shall not be subject to any separate appeal or revision.

(2) If the decision referred to in sub-section (1) is sufficient for the final disposal of the suit or proceeding the Court may pronounce judgment or pass orders accordingly, but if the decision is not sufficient for such final disposal, the Court shall adjourn the further hearing of such suit or proceeding for the production of such further evidence or for such further argument as may be necessary for the final disposal of such suit or proceeding.

Explanation.—In this section “proceeding” does not include an execution proceeding.

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Chapter III.—Suits and proceedings for eviction.—
(Chapter IV.—Deposit of rent.—Sections 18, 19.)

18. Where any decree or order for the recovery of possession of any premises has been made, before the date of commencement of this Act, but the possession of such premises has not been recovered from the tenant by the execution of such decree or order, the Court by which the decree or order would not have been made if this Act had been in operation at the date of the making of the decree or order, rescind or vary the decree or order in such manner as the Court may think fit for the purpose of giving effect to the provisions of this Act.

Power of Court to rescind or vary decrees and orders in certain cases.

CHAPTER IV.

DEPOSIT OF RENT.

19. (1) When a landlord refuses to accept any rent referred to in section 12 remitted by postal money order by a tenant in respect of any premises, the tenant shall, in the prescribed manner,—

Deposit of rent by the tenant.

(a) deposit such rent within a fortnight of the date on which the rent so remitted is returned to the tenant by the postal authorities as undelivered, and

(b) unless the landlord signifies by notice in writing to the tenant his willingness to accept any subsequent rent which becomes due in respect of such premises, also deposit such rent within a fortnight of the date on which such rent becomes due, or from the expiry of the time within which such rent is required to be paid under clause (a) of section 12 together with the cost of transmission by postal money order of the money deposited to the landlord.

(2) Where any *bona fide* doubt or dispute has arisen as to the person who is entitled to receive any rent in respect of any premises, the tenant,—

(a) may deposit such rent, stating the circumstances under which such deposit is made, and

(b) may continue to deposit every subsequent amount of rent which becomes due in respect of such premises, also stating the circumstances under which such deposit is made, until such doubt has been removed or such dispute has been settled by the decision of any competent Court or by settlement between the parties,

within a fortnight of the date on which such rent becomes due or from the expiry of the time within which such rent is required to be paid under clause (a), clause (b) or clause (c) of section 12, as the case may be, in the same manner as has been prescribed for the deposit of rent under sub-section (1).

(3) On any deposit being made under sub-section (1) the Controller shall within fifteen days from the date of such deposit forward the same by postal money order to the address of the landlord.

(4) Where any money has been deposited under clause (a) of sub-section (1) the cost of transmission thereof to the landlord by postal money order shall be recoverable from the landlord and in forwarding the money so deposited to the landlord by postal money order the Controller shall deduct therefrom such cost of such transmission and the cost of serving notice under sub-section (5).

(5) If the money sent by the Controller under sub-section (3) by postal money order to any landlord is returned undelivered, the Controller shall cause a notice of the receipt of the deposit to be served by registered post on the landlord in the prescribed manner and the amount lying in deposit may, subject to such rules as may be made under this Act, be withdrawn by the landlord on application made by him to the Controller in that behalf, and if such amount is not so withdrawn before the expiration of five years from the date of service of such notice, it shall, subject to any order of any Court, be forfeited to His Majesty, and notwithstanding anything contained in any other law for the time being in force or in any contract, the landlord shall not be entitled to recover the said amount by suit or otherwise from the tenant by way of his dues in respect of the premises on account of which such deposit was made.

(6) When a deposit has been made under sub-section (2), the amount of such deposit shall be held by the Controller pending the removal of the doubt or the settlement of the dispute which has arisen as to the person who is entitled to receive the rent either by the decision of a competent Court or by settlement between the parties and the amount of such deposit may be withdrawn by the person who is declared by such Court to be entitled to it or who is held by the Controller to be entitled to it in accordance with such settlement.

(7) No suit or other legal proceeding shall be instituted against the Crown or against any officer of the Crown in respect of anything done in good faith by the Controller receiving a deposit under this section, but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

Penalty
for giving
incorrect
name or
address of
the
landlord.

20. If a tenant while making a deposit of any rent under section 19 wilfully gives an incorrect name or address of his landlord, he shall, on the complaint of the landlord, be liable to a fine which may extend to five hundred rupees to be imposed, after inquiry, by the Controller.

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(Chapter IV.—Deposit of rent.—Chapter V.—Hotels and Lodging Houses.—Sections 21—26.)

21. When a landlord accepts rent in respect of any premises sent by postal money order by a tenant under section 12 or by the Controller under sub-section (3) of section 19 or withdraws any rent deposited under section 19, the fact of this acceptance or withdrawal shall not be used in any way as evidence that he has admitted as correct any of the particulars set forth in the postal money order form or in the application for deposit of such rent or that he has waived any notice to quit given by him to the tenant.

Saving as to acceptance of rent.

CHAPTER V.

HOTELS AND LODGING HOUSES.

22. The Controller may, on application made by any person interested,—

Fixation of fair rate and number of lodgers.

- (a) fix a fair rate to be charged for board, lodging or other service provided in a hotel or lodging house and in fixing such fair rate specify separately the rate for lodging, board or other service; or
- (b) fix the number of lodgers to be accommodated in each room or specified accommodation in a hotel or lodging house.

23. The Controller may from time to time revise the fair rate or the number of lodgers fixed under section 22.

Revision of fair rate and number of lodgers.

24. The manager of a hotel or the owner of a lodging house shall, where the fair rate or the number of lodgers has been fixed under section 22 for a hotel or lodging house, display in a conspicuous part of the hotel or lodging house a notice of the fair rate and the number of lodgers so fixed.

Notice of fair rate and number of lodgers to be displayed.

25. An agreement for the payment of any charge in excess of the fair rate referred to in section 22 shall be null and void in respect of such excess and shall be construed as if it were an agreement for the payment only of such fair rate.

Agreement for payment of charges in excess of fair rate.

26. No manager of a hotel or owner of a lodging house shall have any right to evict or refuse board or other service to a lodger as long as he pays or tenders payment of the fair rate fixed under section 22 and observes and performs the other conditions of the agreement in so far as they are not inconsistent with the provisions of this Chapter:

No eviction if fair rate paid.

Provided that a lodger shall not be entitled to the benefit of this section—

- (a) if the lodger has been guilty of conduct which is a nuisance or an annoyance to the other lodgers of the hotel or lodging house; or
- (b) if the lodger has continuously been absent from such hotel or lodging house for a period exceeding two months; or
- (c) if the lodger having contracted to stay for any specified period stays beyond that period unless the Controller on an application made to him in this behalf extends the period.

*(Chapter V. Hotels and lodging houses. Chapter VI.
Appointment of the Controller and other officers, their
powers and functions. Sections 22, 23.)*

Punish-
ments

27. (1) Every manager of a hotel or owner of a lodging house who accommodates lodgers or permits lodgers to be accommodated in a room or specified accommodation in a hotel or lodging house in excess of the number fixed by the Controller under section 22, except with the consent of all the lodgers of such room or specified accommodation, shall on conviction in a Criminal Court be punished with fine which may extend to one thousand rupees.

(2) Every manager of a hotel or owner of a lodging house who fails to display a notice as required under section 24 of the rate or the number of lodgers fixed under section 22 shall on conviction in a Criminal Court be punished with fine which may extend to five hundred rupees.

CHAPTER VI.

APPOINTMENT OF THE CONTROLLER AND OTHER OFFICERS, THEIR POWERS AND FUNCTIONS.

Appoint-
ment of
Controller
and
Additional
and
Deputy
Controllers.

28. (1) The Provincial Government may, by notification, appoint a person to be the Controller for any area to which this Act extends to exercise the powers and discharge the duties conferred and imposed upon the Controller by or under this Act in such area.

(2) The Provincial Government may also, by notification, appoint any person to be an Additional Controller or a Deputy Controller for any area to which this Act extends.

(3) An Additional Controller or a Deputy Controller shall exercise such of the functions of the Controller as may, subject to the control of the Provincial Government, be assigned to him by the Controller and in the discharge of these functions an Additional Controller or a Deputy Controller shall exercise the same powers and discharge the same duties as the Controller.

(4) The Controller may—

(a) transfer any case pending before him for disposal to any Additional Controller or Deputy Controller, or

(b) withdraw any case pending before any Additional Controller or Deputy Controller, and

(i) dispose of such case himself, or

(ii) transfer such case for disposal to any other Additional Controller or Deputy Controller.

(5) A Controller, an Additional Controller or a Deputy Controller appointed under this section shall be either,—

(a) a member—

(i) in Calcutta, of the Judicial Branch of the Provincial Civil Service of not less than ten years' standing in such service, and

(ii) elsewhere, of the Executive or Judicial Branch of the Provincial Civil Service, or

(b) a barrister, advocate or attorney of the High Court in Calcutta of not less than ten years' standing, who has practised as such, and has experience of rent valuation and land acquisition cases in Calcutta.

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(Chapter VI.—Appointment of the Controller and other officers, their powers and functions.—Sections 29—31.)

29. (1) The hearing of every application made to the Controller under this Act shall be completed within a period of three months in the case of an application for exercise of the powers conferred on him by sections 8 and 9, and within a period of one month in the case of an application for obtaining his permission under sub-section (2) of section 38, unless, for reasons to be recorded by the Controller in writing, it is not possible for him to complete the hearing within that period.

Final hearing of certain applications.

(2) The hearing of any application referred to in sub-section (1) shall, when it has begun, be continued from day to day unless, for reasons to be recorded by the Controller in writing, it is not possible so to do.

30. Before exercising any of the powers conferred on him by this Act, the Controller shall give notice by registered post of his intention to do so to the landlord and to the tenant, if any, and shall cause a copy of such notice to be affixed in a conspicuous place at the office of the Controller, and shall duly consider any application received by him within the period specified in the notice from any person having any interest in the premises in respect of which such power is exercised.

Notice to landlords and tenants before exercising powers under the Act.

31. (1) For the purposes of any inquiry under this Act the Controller may,—

Power to enter and inspect premises, to require information and to summon witnesses.

- (a) enter and inspect any premises at any time between sunrise and sunset;
- (b) authorise any officer subordinate to him to enter and inspect any premises; or
- (c) by written order require any person to produce for his inspection such accounts, rent receipts, books or other documents relevant to the inquiry, at such time and at such place, as may be specified in the order:

Provided that no premises shall be entered under clause (a) or clause (b), without the consent of the occupier, unless at least twenty-four hours' previous notice in writing has been given.

(2) The Controller shall, subject to any rules made under this Act, and, in so far as such powers are necessary for carrying out the provisions of this Act, have power to summon and enforce the attendance of witnesses, and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the case of a Court by the Code of Civil Procedure, 1908.

(Chapter VII.—Appeal, review, jurisdiction and penalty.—
Section 32.)

CHAPTER VII.

APPEAL, REVIEW, JURISDICTION AND PENALTY.

Appeal
and
review.

32. (1) Any person aggrieved by an order of the Controller may, within thirty days from the date of the order, present an appeal in writing,—

(a) in respect of premises in the Presidency town of Calcutta, to the Chief Judge of the Court of Small Causes of Calcutta, and

(b) in respect of premises elsewhere, to the District Judge of the district in which the premises in respect of which such order is made are situated:

Provided that no appeal shall lie under this sub-section from any order made by the Controller under section 39:

Provided further that no appeal presented under this sub-section by a tenant shall be entertained unless all arrears of rent payable by such tenant in accordance with the order of the Controller appealed against has been paid or deposited in accordance with the provisions of this Act.

(2) The Provincial Government may, by notification, appoint any person who has exercised the powers of a District Judge in West Bengal to hear appeals presented under clause (a) of sub-section (1) to the Chief Judge of the Court of Small Causes of Calcutta and may, by notification, also appoint any person who is a judicial officer not below the rank of a subordinate judge to hear appeals presented under clause (b) of the said sub-section to a District Judge.

(3) The Chief Judge of the Court of Small Causes of Calcutta to whom an appeal is presented under clause (a) of sub-section (1) or a District Judge to whom an appeal is presented under clause (b) of that sub-section may transfer such appeal to any person appointed to hear any such appeal under sub-section (2) and may withdraw any appeal so transferred and either hear and dispose of it himself or transfer it to any other person appointed to hear such appeals under sub-section (2).

(4) The Chief Judge or the District Judge or any person appointed under sub-section (2) to whom an appeal is transferred under sub-section (3), as the case may be, shall then send for the record of the case from the Controller and after perusing such record and, if necessary, taking such evidence himself or personally making such further inquiries as he thinks fit, shall decide the appeal and shall not send it back on remand.

(5) Subject to such rules as may be made under this Act, any order passed under this Act by the Controller, the District Judge or a person appointed under sub-section (2) may be reviewed by the person who passed the order on the

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(Chapter VII.—Appeal, review, jurisdiction and penalty.—
Sections 33.

ground of the discovery of any new and important matter or evidence or on account of some mistake or error apparent on the face of the record or for any other sufficient cause:

Provided that before any order is passed under this sub-section which is likely to affect any person adversely such person shall be given a reasonable opportunity of being heard.

(6) The High Court, on application made in that behalf by any person aggrieved by an order passed in appeal by the Chief Judge or the District Judge or a person appointed under sub-section (2), either imposing, or confirming any order passed by the Controller imposing, a fine under section 20, section 33 or section 34 may, where the fine is not less than five hundred rupees and such application is made within thirty days of the date of such order, call for and examine the record of such appeal and, after giving the parties an opportunity of being heard, revise the order passed in such appeal.

(7) All decisions of the Chief Judge or the District Judge or a person appointed under sub-section (2), as the case may be, shall, subject to the provisions of sub-section (6), be final.

33. (1) Whoever knowingly—

- (a) receives, whether directly or indirectly, any sum on account of the rent of any premises in excess of the standard rent, or
- (b) receives, whether directly or indirectly, or invites offers or asks for, any premium, *salami*, fine or any other like imposition in addition to the standard rent except as provided in section 5, or
- (c) receives, whether directly or indirectly, any sum as rent in advance in excess of one month's rent without the written consent of the Controller,

Penalty for recovering rent in excess of the standard rent.

shall, on the complaint of the party aggrieved or of the Provincial Government, be liable,—

- (i) in the case referred to in clause (a), on the first occasion, to a fine which may extend to five times the amount recovered in excess of the standard rent, and on a second or subsequent occasion in regard to the same or any other premises, to a fine which may extend to ten times the amount of such excess;
- (ii) in the case referred to in clause (b), on the first occasion, to a fine which may extend to two thousand rupees, and on a second or subsequent occasion in regard to the same or any other premises, to a fine which may extend to five thousand rupees; and

(Chapter VII.—Appeal, review, jurisdiction and penalty.—
Sections 34—37.)

(iii) in the case referred to in clause (c), on the first occasion, to a fine which may extend to twice the amount received in excess of one month's rent, and on a second or subsequent occasion in regard to the same or any other premises, to a fine which may extend to four times the amount so received, to be imposed, in each case after inquiry, by the Controller.

(2) A person shall be deemed to receive a sum in excess of the standard rent, if he receives any consideration representing a money value in excess of such standard rent as part of such standard rent.

Penalty for
disturb-
ance of
easements,
etc.

34. Whoever, in any case in which an order or decree for the recovery of possession of any premises is prohibited under section 11, without the previous written consent of the Controller, or save for the purpose of effecting repairs or complying with any municipal requisition, wilfully disturbs any easement annexed to such premises, or removes, destroys, or renders unserviceable, anything provided for permanent use therewith, or discontinues any supply or service comprised in the tenancy of such premises, shall, on the complaint of the party aggrieved, be liable, on the first occasion, to a fine which may extend to five hundred rupees, and on a second or subsequent occasion in regard to the same or any other premises, to a fine which may extend to one thousand rupees, to be imposed, after inquiry, by the Controller.

Payment
and
recovery
of fine.

35. The fine imposed under section 20, section 33 or section 34 shall be paid by the person fined in the prescribed manner within thirty days from the date of the order of the Controller imposing the fine or within such further period as the Controller may allow for such payment for special reasons to be recorded by him in writing and in default of such payment the fine shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913.

Ben. Act
III of 1913.

Limitation
for com-
plaints.

36. No complaint under section 33 or section 34 shall be brought against any person after the expiration of six months from the date of the commission of the act in respect of which the complaint is brought.

Issue of
distress
warrants
and other
processes
barred in
certain
cases.

37. No distress warrant shall be issued under Chapter VIII of the Presidency Small Cause Courts Act, 1882, and no process under the Code of Civil Procedure, 1908, in execution of a decree passed *ex parte* thereunder, shall be issued, either for the attachment of property or for the arrest of any tenant, in connection with the recovery of the rent of any premises situated in any area to which this Act may apply, unless the person applying for execution, when making his application, swears or affirms by affidavit or otherwise that none of the rent, in respect of which execution is applied for, is irrecoverable under this Act.

XV of
1882.
Act V of
1908.

XXXVIII of 1948.]

(Chapter VIII.—Miscellaneous.—Sections 38, 39.)

CHAPTER VIII.

MISCELLANEOUS.

38. (1) The Controller shall, on application made to him in this behalf by any tenant in possession of any premises, cause a notice to be served in the prescribed manner on the landlord thereof requiring him to make any repairs which such landlord is bound to make to the premises or to take any measures for the due maintenance of any essential supply or service, such as the maintenance of the supply of water or electricity, the maintenance of conservancy or sanitary service and the maintenance of any lift, which such landlord is bound to maintain in the premises under the conditions of the tenancy or according to local usage.

Making of repairs and taking of measures for the maintenance of essential services by the tenant on the failure or neglect of the landlord to do so.

(2) If after the service of such notice the landlord fails to show proper cause or neglects to make within reasonable time such repairs or to take within reasonable time such measures, as the case may be, the tenant may submit to the Controller an estimate of the cost of such repairs or measures, and may apply to him for permission to make such repairs or to take such measures himself and, thereupon, the Controller may, after giving the landlord an opportunity of being heard and after considering such estimate of cost and making such inquiries as he may consider necessary, by an order in writing, permit the tenant to make such repairs or to take such measures, as the case may be, at a cost not exceeding such amount as may be specified in the order and it shall thereafter be lawful for the tenant to make such repairs or to take such measures himself and to deduct the cost thereof, which shall in no case exceed the amount so specified, from the rent or otherwise recover it from the landlord:

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

39. Notwithstanding anything contained in section 38, if the necessity for making any repairs or for taking any measures referred to in that section, is so urgent that any delay involved in the procedure referred to therein is likely to subject the tenant to personal loss, damage or serious inconvenience, the tenant may himself cause the notice referred to in section 38 to be served in the prescribed manner on the landlord requiring him to make such repairs or to take such measures within seventy-two hours of the service of such notice and shall in every such case submit, at the same time, a copy of such notice to the Controller together with an estimate of the cost of such repairs or measures to enable the Controller to make such inquiries as he may consider necessary about the necessity of such repairs or measures and the correctness of the estimate so submitted, and if, after the service of such notice, the landlord fails to make such repairs or to take such measures within the time mentioned in the notice, the tenant may himself make such repairs or take such measures, as the case may be, and,

Taking of measures by the tenant in case of emergency.

(Chapter VIII.—Miscellaneous.—Sections 40—43.)

after completion of such repair or measures, submit to the Controller a statement of the costs thereof and thereafter the Controller, after considering such statement and making such further inquiries as he may consider necessary, may, by an order in writing, determine the amount of the costs which the tenant is entitled to recover from the landlord, and the tenant may thereupon deduct the amount so determined from the rent or otherwise recover it from the landlord:

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

Criminal liability and refund of the consideration paid in addition to the standard rent.

40. (1) Whoever knowingly accepts or obtains or attempts to accept or obtain, whether directly or indirectly, any sum or valuable thing or any pecuniary advantage on account of any premium, *salami* or fine in addition to the standard rent, except as provided in section 5, shall also, on conviction in a Criminal Court, be punished with imprisonment for a term which may extend to two years or with fine or with both and, without prejudice to any other method of recovery, the Court may order the amount paid or the value of the consideration given to be repaid to the person by whom the payment was made or the consideration given.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under subsection (1) shall be cognizable and bailable. Act V of 1898.

Cutting off or withholding essential supply or service.

41. (1) No landlord either himself or through any person purporting to act on his behalf shall without just or sufficient cause cut off or withhold any essential supply or service enjoyed by the tenant in respect of the premises let to him.

(2) Any landlord who contravenes the provisions of subsection (1) shall, on conviction in a Criminal Court, be punished with imprisonment for a term which may extend to three months or with fine or with both.

Explanation.—In this section essential supply or service includes supply of water, electricity, lights in passages and on stair-cases, lifts and conservancy or sanitary service.

Tenant may get supply of electricity to the premises without the permission of the landlord.

42. Notwithstanding anything contained in any other law for the time being in force, a tenant may get from a licensee the supply of electricity in the premises occupied by him without the permission of the landlord.

Explanation.—In this section “licensee” has the same meaning as in clause (h) of section 2 of the Indian Electricity Act, 1910. IX of 1910.

Supply of certified copies of the order of the Controller.

43. Any person affected by any order of the Controller made under this Act shall be entitled to be furnished with a copy thereof, duly certified by the Controller to be a correct copy, on payment of such fees as may be prescribed, and such copy shall be admissible in evidence in any Court of Law to prove the order of the Controller.

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(Chapter VIII.—Miscellaneous.— Sections 44—47.)

44. A Controller appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Controller to be a public servant.

45. (1) The West Bengal Expiring Laws Act, 1948, in so far as it enacts and continues in operation the provisions of the Calcutta Rent Ordinance, 1946, is hereby repealed.

Repeal and saving.

(2) Any rules, orders and appointments made or deemed to have been made or anything done or any action taken or any proceedings commenced or deemed to have been done, taken or commenced under any of the provisions of the said Ordinance shall continue in force in so far as they are consistent with the provisions of this Act and shall be deemed to have been made, done, taken or commenced under the corresponding provision of this Act.

(3) For the removal of doubts it is hereby declared that all proceedings pending before the Controller at the commencement of this Act in connection with applications for permission to institute or prosecute a suit or proceeding, or to execute, or proceed with the execution of, a decree or order, for the recovery of possession of any premises from a tenant and all appeals preferred against, or applications filed for review of, orders passed on such applications and pending at such commencement, shall abate.

46. No suit, prosecution or other legal proceeding shall lie against any officer of the Crown for anything in good faith done or intended to be done under this Act.

Bar of proceedings.

47. (1) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form of permits referred to in sub-section (1) of section 6 and the fee referred to in sub-section (2) of that section;

(b) the manner of obtaining the permission and executing an order referred to in section 15;

(c) the manner of depositing rent under sub-section (1) of section 19;

(d) the method of withdrawal of the deposit of rent by the landlord under sub-section (5) of section 19;

(e) the procedure for summoning and enforcing the attendance of witnesses and compelling the production of documents referred to in sub-section (2) of section 31;

(f) the procedure to be followed in inquiries under this Act, by the Controller, the Chief Judge of the Court of Small Causes of Calcutta, the District Judge and any person appointed under sub-section (2) of section 32;

(The Schedule.—Part A.)

- (g) the procedure for review of orders referred to in sub-section (6) of section 32;
- (h) the manner of payment of the fine referred to in section 35;
- (i) the manner of service of notices issued under this Act;
- (j) the charging or remitting of costs and fees and the fixing of a scale of costs and fees.

(3) All rules made under this Act shall, as soon as may be after they have come into force, be laid before the Provincial Legislature.

The Schedule.

[See section 2(10).]

PART A.

Provisions for determining the standard rent of premises in Calcutta.

1. In this part of this Schedule “basic rent” in relation to any premises means—

- (a) where the rent of the premises has been fixed by the Controller under the Calcutta House Rent Control Order, 1943, or the Calcutta Rent Ordinance, 1946, the rent so fixed, Ben. Ord.
V of 1946
- (b) where the rent of the premises has not been so fixed the rent which would, in the opinion of the Controller, have been fixed under the Calcutta Rent Ordinance, 1946.

2. Where the premises are used for residential purposes or mainly for residential purposes, the standard rent shall be the basic rent increased by—

- (a) $6\frac{1}{4}$ per cent., if the basic rent *per mensem* is not more than Rs. 50,
- (b) $12\frac{1}{2}$ per cent., if the basic rent *per mensem* is more than Rs. 50 but not more than Rs. 150,
- (c) $18\frac{3}{4}$ per cent., if the basic rent *per mensem* is more than Rs. 150 but not more than Rs. 300,
- (d) 20 per cent., if the basic rent *per mensem* is more than Rs. 300.

Explanation.—In this paragraph and in the next succeeding paragraph of this part of this Schedule, the expression “residential purposes” includes purposes of being used as a hospital, an orphanage, or an educational or charitable institution.

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(The Schedule.—Part B.)

3. Where the premises are used otherwise than for residential purposes or mainly for residential purposes, the standard rent shall be the basic rent increased by—

- (a) $12\frac{1}{2}$ per cent., if the basic rent *per mensem* is not more than Rs. 75,
- (b) 25 per cent., if the basic rent *per mensem* is more than Rs. 75 but not more than Rs. 150,
- (c) $37\frac{1}{2}$ per cent., if the basic rent *per mensem* is more than Rs. 150 but not more than Rs. 300,
- (d) 40 per cent., if the basic rent *per mensem* is more than Rs. 300.

4. Where any premises have been sub-let, the standard rent shall be the rent determined according to paragraph 2 or 3, as the case may be, omitting the excess, if any, beyond $6\frac{1}{4}$ per cent. over the standard rent or a proportionate part thereof payable by the tenant who sub-lets the premises according as the premises are sub-let in whole or in part.

PART B.

Provisions for determining the standard rent of premises in areas other than Calcutta.

1. In this part of this Schedule “basic rent” in relation to any premises means—

- (a) Where the rent of the premises has been fixed by the Controller under the Bengal House Rent Control Order, 1942, or the Calcutta Rent Ordinance, 1946, the rent so fixed.
- (b) Where the rent of the premises has not been so fixed the rent which would, in the opinion of the Controller, have been fixed under the Calcutta Rent Ordinance, 1946.

2. Where the premises are used for residential purposes or mainly for residential purposes, the standard rent shall be the basic rent increased by—

- (a) 10 per cent., if the basic rent *per mensem* is not more than Rs. 25,
- (b) 20 per cent., if the basic rent *per mensem* is more than Rs. 25 but not more than Rs. 75,
- (c) 25 per cent., if the basic rent *per mensem* is more than Rs. 75.

Explanation.—In this paragraph and in the next succeeding paragraph of this part of this Schedule, the expression “residential purposes” includes purposes of being used as a hospital, an orphanage or an educational or charitable institution.

(The Schedule—Part B.)

3. Where the premises are used otherwise than for residential purposes or mainly for residential purposes, the standard rent shall be the basic rent increased by—

- (a) 20 *per cent.*, if the basic rent *per mensem* is not more than Rs. 15,
- (b) 40 *per cent.*, if the basic rent *per mensem* is more than Rs. 15, but not more than Rs. 30,
- (c) 50 *per cent.*, if the basic rent *per mensem* is more than Rs. 30.

4. Where any premises have been sub-let, the standard rent shall be the rent determined according to paragraph 2 or 3, as the case may be, omitting the excess, if any, beyond $6\frac{1}{4}$ *per cent.*, over the standard rent or a proportionate part thereof payable by the tenant who sub-lets the premises according as the premises are sub-let in whole or in part.