

**The Goa Buildings (Lease, Rent and Eviction) Control (Amendment) Bill,  
2022**

**(Bill No. 27 of 2022)**

**A**

**Bill**

further to amend the Goa Buildings (Lease, Rent and Eviction) Control Act, 1968 (Act No. 2 of 1969).

BE enacted by Legislative Assembly of Goa in the Seventy Third Year of the Republic of India as follows:-

**1. Short title and commencement.**- (1) This Act may be called the Goa Buildings (Lease, Rent and Eviction) Control (Amendment) Act, 2022.

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

**2. Amendment of section 2.** -In section 2 of the Goa Buildings (Lease, Rent and Eviction) Control Act, 1968 (Act No. 2 of 1969) (hereinafter referred to as the “principal Act”),-

- (i) clause (a) shall be re-numbered as clause (aa) and before clause (aa) so renumbered, the following clause shall be inserted, namely:-
  - (a) “Agreement of leave and licence” means an Agreement entered into by the landlord and the licensee containing the terms and conditions for using the building on leave and licence;
- (ii) after clause (d), the following clause shall be inserted, namely:-
  - “(da) “Deputy Collector” means the Deputy Collector having jurisdiction over the area where the building is situated; ” ;
- (iii) after clause (i), the following clauses shall be inserted, namely:-
  - “(ia) “leave and licence” means a permission granted by the landlord to the licensee for use of landlord’s building by the licensee for a specific period and purpose without transfer of landlord’s interest in the building;
  - (ib) “licensee” means a person who is permitted by the landlord to use his building on leave and licence”.

**3. Substitution of section 23 .-** For section 23 of the principal Act, the following section shall be substituted, namely:-

“**23. Landlord's right to obtain possession.** — (1) A landlord may, subject to the provisions of section 24, apply to the Controller for an order directing the tenant to put him in possession of the building,—

- (a) if the landlord is not occupying a building of his own in the city, town or village concerned and requires it for his own occupation or for the occupation of any member of his family; or
- (b) if the landlord who has more buildings than one in the city, town or village concerned, is in occupation of one such building and he bonafidely requires another building instead, for his own occupation:

Provided that a person who becomes landlord after the commencement of the tenancy by an instrument 'inter vivos' shall not be entitled to apply under this sub-section before the expiry of five years from the date on which the instrument was registered:

Provided further that in case of gift from parents the above period of five years shall be reduced to two years:

Provided further that where a landlord has obtained possession of a building under this sub-section, he shall not be entitled to apply again under this section, —

- (i) in case he has obtained possession of a residential building, for possession of another residential building of his own;
  - (ii) in case he has obtained possession of a non-residential building, for possession of another non-residential building of his own.
- (2) Where the landlord of a building is a religious, charitable, educational or other public institution, it may, if the building is required for the purposes of the institution, apply to the Controller, subject to the provisions of section 24, for an order directing the tenant to put the institution in possession of the building.
- (3) A landlord who is occupying only a part of a building, may notwithstanding anything in sub-section (1), apply to the Controller for an order directing any tenant occupying the whole or any portion of the remaining part of the building to put the landlord in possession thereof, if he requires additional part of the building for his own occupation or for the occupation of any member of his family.

**Explanation:-** For the purpose of this section, a landlord means a person, on account of or for the benefit of whom the rent of a building is received but does not include an agent, trustee, guardian or receiver.”.

**Insertion of new section 40A.- After section 40 of the principal Act, the following section shall be inserted, namely:-**

- “40A.** Resumption of occupation of the building given on leave and licence basis.- (1) Notwithstanding anything contained in this Act, a licensee in occupation of any building given to him by a landlord on a leave and licence basis, shall vacate such building and allow the landlord to resume it’s occupation immediately on expiry of the period of leave and licence; and in case of failure of the licensee to so vacate the building, the landlord may apply to the Deputy Collector for an order of eviction of the licensee.
- (2) On receipt of the application under sub-section (1), the Deputy Collector shall issue a notice to the licensee to show cause why an order of eviction shall not be passed against him.
- (3) On receipt of the notice issued under sub-section (2), the licensee shall, in case he desires to contest such application, file his reply showing the cause, within a period of twenty days from the date of receipt of such notice.
- (4) The period of twenty days to file the reply as specified in sub-section (3) may be extended by the Deputy Collector in exceptional cases, on sufficient cause being shown, by a period not more than sixty days from the date of receipt of the notice under sub-section (2).
- (5) The Deputy Collector shall conduct such inquiry based solely on the documents and material produced before him. He shall consider the reply, if any, filed by the licensee and give the licensee an opportunity of being heard in the matter.
- Explanation:** For the purpose of this section, the inquiry contemplated shall be a summary inquiry for the limited purpose of ascertaining that the building was subject matter of an agreement of leave and licence and that the period of such leave and licence has expired.
- (6) The Deputy Collector, on being satisfied that the period of the leave and licence has expired and the licensee has not vacated the building, shall pass an order of eviction of the licensee and also direct the licensee to pay to the landlord the damages at double the rate of the licence fee and other charges, if any, in respect of such building as fixed under the agreement of leave and licence, till the date he vacates such building.

(7) The Deputy Collector shall not entertain any claim of whatsoever nature from any other person who is not a licensee.

(8) The Deputy Collector shall decide the application under sub-section (1) within a period of six months from the date of its filing except wherein the period is extended as stated in sub-section (4).

(9) Any licensee who fails to vacate the building, given to him by the landlord on leave and licence basis, after expiry of the leave and licence period, shall, on conviction, be punished with imprisonment which may extend to three months or with fine not exceeding rupees one lakh or with both”.

**4. Amendment of section 46.**-In section 46 of the principal Act, in sub-section (1), for the words “or the Rent Tribunal”, the words “the Rent Tribunal or the Deputy Collector” shall be inserted.

**5. Amendment of section 47.**- In section 47 of the principal Act, in second proviso, for the words “or the Rent Tribunal”, the words “the Rent Tribunal or the Deputy Collector” shall be inserted.

**6. Insertion of new section 53A.**- After section 53 of the principal Act, the following section shall be inserted, namely:--

“**53A.** Contract of lease and an agreement of leave and licence to be compulsorily registered.- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, any contract of lease or agreement of leave and licence of any building, entered into between the landlord and the tenant, or the licensee, as the case may be, after commencement of the Goa Buildings (Lease, Rent and Eviction) Control (Amendment) Act, 2022, shall be in writing and compulsorily registered before the registering officer under the Registration Act, 1908 (Act No. 16 of 1908).

(2) It shall be the duty of the landlord to get such contract or agreement registered failing which the claim of the tenant or licensee about the terms and conditions subject to which the building has been given to him by the landlord on lease basis or leave and licence basis, shall prevail, unless proved otherwise.

(3) Any landlord who contravenes the provisions of this section shall, on conviction, be punished with the imprisonment which may extend to three months or with fine not exceeding rupees one lakh or with both.

(4) The agreement of leave and licence registered as required by sub-section (1) shall be conclusive proof of the fact of such leave and licence and the licensee shall not be permitted to claim that he is tenant in respect of the building.”.

**7. Amendment of section 54.**—In section 54 of the principal Act, in sub –section (1).

- (i) the expression “a simple imprisonment for a term which may extend to two years and ” shall be omitted;
- (ii) for the word “ double ” the word “ five times ”, shall be substituted.

**8. Amendment of section 56.**— In section 56 of the principal Act, for the expression “ the controller,”, the expression “ the controller, or the “Deputy Collector,” shall be inserted.

## **STATEMENT OF OBJECT AND REASONS**

The Bill seeks to substitute section 23 of the Goa Building (Lease, Rent and Eviction) Control Act, 1968 (Act No. 2 of 1969) hereinafter referred as the “ said Act” ), existing so as to bring it in line with the judgment of Hon’ble Supreme Court dated 05/12/1995 in the matter of Harbilas Rai Bansal V/s State of Punjab & Anr. in (1996 AIR 857, 1996 SCC(1) 1 ). The Bill seeks to insert new sections 40A and 53A so as to provide for grant of premises on agreement of leave and licence, it also seeks to carry out consequential amendments to section 2 so as to facilitate and encourage landlords to give the buildings on leave and licence basis.

The Bill seeks to amend section 54 of the said Act so as to decriminalize provisions of imprisonment in said section.

The Bill seeks to achieve the above objects.

## **FINANCIAL MEMORANDUM**

No Financial Implications involved in this Bill.

## **MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 1(2) of the Bill empowers the Government to issue notification for appointing a date for bring the Act into force.

Assembly Hall,  
Porvorim-Goa,  
21<sup>st</sup> July, 2022.

(Shri. Atanasio Monserrate)  
Minister for Revenue

Assembly Hall,  
Porvorim-Goa,  
21<sup>st</sup> July, 2022.

(Namrata Ulman)  
Secretary to the Legislative  
Assembly of Goa.

-----  
**EXTRACT OF THE SECTION 2, 23, 46 (1) 47, 56 OF THE GOA,  
BUILDINGS (LEASE, RENT AND EVICTION) CONTROL  
(AMENDMENT) ACT, 2013**  
-----

**2. Definitions.** - In this Act, unless the context otherwise requires,-

- (a) "Appellate Board" means the Appellate Board constituted under sub-section (1) of section 41;
- (b) "Authorised Officer" means an officer appointed as such under sub-section (2) of section 41;
- (c) "Building" means any building, or part of a building, which is, or is intended to be, let separately for use as a residence or for commercial use or for any other purpose, and includes-
  - (i) the garden, ground and out-houses, if any, appertaining to such building or part of the building;
  - (ii) any furniture supplied by the landlord for use in such building or part of the building;but does not include a room in a hotel or lodging house;
- (d) "Controller" means a person appointed as a controller under sub-section (2) of section 41 and, except in section 42, includes an Additional Controller;
- (e) "fair rate" means the fair rate fixed under section 37 and includes the rate as revised under section 38;
- (f) "fair rent" means the fair rent fixed under Chapter III;
- (g) "Government" means the Government of Goa;
- (h) "hotel or lodging house" means a building, or part of a building, where lodging with or without board or other services is provided for monetary consideration;
- (i) "landlord" means a person who, for the time being, is receiving, or is entitled to receive, the rent of any building, whether on his own account or on account of, or on behalf of, 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;
- (j) "manager of a hotel" includes any person in charge of the management of the hotel;
- (k) "member of the family" means-

"[(i) in relation to a landlord who is an individual, his spouse, son, daughter and includes father, mother, grandson solely dependent on the landlord for maintenance:

Provided that in the case of married daughter, her husband shall not be entitled to claim any benefit under section 5, if his wife has already got the said benefit thereunder and in case her husband has already got the said benefit, the married daughter shall not be entitled to claim the same".]

(ii) in relation to a landlord who is a joint Hindu family, the members of such a family;

- (iii) in relation to joint owners other than a Joint Hindu family, the members of the family as indicated in sub-clause (i) in relation to each of such joint owners;
- (l) "owner of a lodging House" means a person who for the time being is receiving, or is entitled to receive, whether on his own account, or on account of, or on behalf of, or for the benefit of, himself or any other person or as an agent or guardian, receiver or a trustee or any other person, any monetary consideration from any person on account of board, lodging or other services provided in the lodging house;
- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "Rent Tribunal" means the Rent Tribunal constituted under sub-section (1) of section 41;
- (o) "tenant" means any person by whom or on whose account or behalf the rent of any building is, or but for special contract would be, payable and includes [in the event of his death the surviving spouse, or any son, or unmarried daughter or father or mother who had been living with him as a member of his family upto the date of his death and] a sub-tenant and also any person continuing in possession after the termination of his tenancy, but shall not include any person against whom any order, or decree for eviction has been made.

**23. Landlord's right to obtain possession.** - (1) A landlord may, subject to the provisions of section 24, apply to the Controller for an order directing the tenant to put him in possession of the building-

[\* ].

(a) in case it is a residential building,-

(i) if the landlord is not occupying a residential building of his own in the city, town or village concerned and he requires it for his own occupation or for the occupation of any member of his family; or

(ii) if the landlord who has more buildings than one in the city, town or village concerned is in occupation of one such building and he *bona fide* requires another building instead, for his own occupation;

(b) in case it is a non-residential building which is used for the purpose of keeping a vehicle or adapted for such use, if the landlord requires it for his own or to the possession of which he is entitled in the city, town or village concerned which is own or to the possession of which he is entitled whether under this Act or otherwise:

Provided that a person who becomes a landlord after the commencement of the tenancy by an instrument 'inter vivos' shall not be entitled to apply under [this sub-section] before the expiry of five years from the date on which the instrument was registered :

[Provided further that in case of gift from parents the above period of five years shall be reduced to two years]:

Provided further that where a landlord has obtained possession of a building under this section, he shall not be entitled to apply again under this section-



- (i) in case he has obtained possession of a residential building for possession of another residential building of his own;
- (ii) in case he has obtained possession of a non-residential building for possession of another non-residential building of his own.

(2) Where the landlord of a residential building is a religious, charitable, educational or other public institution, it may, if the building is required for the purposes of the institution, apply to the Controller, subject to the provisions of section 24, for an order directing the tenant to put the institution in possession of the building.

(3) A landlord who is occupying only a part of a residential building, may notwithstanding anything in sub-section (1), apply to the Controller for an order directing any tenant occupying the whole or any portion of the remaining part of the building to put the landlord in possession thereof, if he requires additional accommodation for his own use or for the use of any member of his family.

**Explanation.** - For the purpose of this section, a landlord means a person, on account of or on behalf of or for the benefit of whom the rent of a building is received but does not include an agent, trustees, guardian or receiver.

**46. Revision.** - (1) The Appellate Board may, in exceptional circumstances, on the application of the party, call for and examine the records relating any order passed under this Act by the Authorised Officer, the Controller, or the Rent Tribunal, for the purpose of satisfying itself as to the correctness, legality or property of such order and may pass such order thereon as it think fit:

Provided that no such record shall be called for after the expiry of ninety days from the date of the order.

(2) The cost of such proceedings shall be in the discretion of the Appellate Board.

**47. Powers of appellate and revisional authorities.**- Any appellate or revisional authority under this Act may confirm, modify or rescind the order in appeal or revision or its execution or may [ remand the case for disposal with such directions as deemed fit or] pass such other order as is as legal and is in accordance with the provisions of this Act:

Provided that no order shall be carried in division unless an opportunity has been given to the interested parties to appear and be heard:

Provided further that every order passed by the Authorised Officer, the Controller or the Rent Tribunal shall be final, unless varied in appeal or revision and every order passed in appeal or revision shall be final.

**54 . Penalties.**— (1) If any person contravenes the provisions of section 15 or section 16, he shall be punishable with a simple imprisonment for a term which may extend to two years and a fine which may extend to a sum double the extra amount or the like amount claimed, received or stipulated in addition to or in excess of the fair rent or the agreed rent.

(2) Any person who contravenes or attempts to contravene or abets the contravention of any of the provisions other than section 15 or section 16 of this Act, or any rule made thereunder shall be punishable with fine which may extend to five thousand rupees.

(3) Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every Director, Manager, Secretary, Agent or other Officer or person concerned with the management thereof shall unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

**56. Jurisdiction of courts barred.** - Save as provided in this Act, no court shall have jurisdiction to settle, determine or deal with any question which is by or under this Act required to be settled, determined or dealt with by the Controller, the Rent Tribunal, the Appellate Board, the Administrative Tribunal, or the Administrator, and no order passed by any such authorities under this Act shall be called in question in any court.

---