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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

**GOVERNMENT OF WEST BENGAL**

**LAW DEPARTMENT**

**Legislative**

**NOTIFICATION**

No. 1064-L.—9th July, 2010.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

**Bill No. 23 of 2010**

**THE WEST BENGAL THIKA TENANCY (ACQUISITION AND REGULATION) (AMENDMENT) BILL, 2010.**

**A**  
**BILL**

*to amend the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001.*

WHEREAS it is expedient to amend the West Bengal *Thika* Tenancy (Acquisition and Regulation) Act, 2001, for the purposes and in the manner hereinafter appearing;

West Ben. Act  
XXXII of 2001

It is hereby enacted in the Sixty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the West Bengal *Thika* Tenancy (Acquisition and Regulation) (Amendment) Act, 2010.
- (2) Save as otherwise provided, it shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

*The West Bengal Thika Tenancy (Acquisition and Regulation) (Amendment) Bill, 2010.*

(Clauses 2-6.)

Amendment of  
long title and  
preamble of West  
Ben. Act XXXII  
of 2001.

**2.** In the West Bengal *Thika* Tenancy (Acquisition and Regulation) Act, 2001 (hereinafter referred to as the principal Act),—

- (1) in the long title, for the words “in *thika* tenancies”, the words “in *thika* tenancies and certain other tenancies” shall be deemed to have been substituted with effect from the 1st day of March, 2003;
- (2) in the preamble, for the words “in *thika* tenancies”, the words “in *thika* tenancies and certain other tenancies” shall be deemed to have been substituted with effect from the 1st day of March, 2003.

Amendment of  
section 2.

**3.** In section 2 of the principal Act,—

- (1) in clause (1),—
  - (a) for the words “for any structure or part thereof”, the words “for any structure including *pucca* structure, if any, or part thereof,” shall be substituted;
  - (b) for the words “resident of a structure”, the words “resident of any structure including *pucca* structure, if any,” shall be substituted;
- (2) in clause (2), for the words and figures “under section 10”, the words and figure “under section 9” shall be deemed to have been substituted with effect from the 1st day of March, 2003;
- (3) in clause (14), for the words “by purchase or gift any structure on such land”, the words “by purchase or gift any structure including *pucca* structure, if any, on such land” shall be substituted;
- (4) after clause (14), the following clause shall be inserted:—
 

‘(15)“*thika* land” means any land comprised in and appurtenant to, tenancies of *thika* tenant irrespective of the fact whether there is any claim of such tenancy or not and includes open areas and roads on such land;’.

Amendment of  
section 4.

**4.** In section 4 of the principal Act, for clause (a), the following clause shall be substituted:—

“(a) *thika* land;”.

Amendment of  
section 5.

**5.** In section 5 of the principal Act,—

- (1) for sub-section (3), the following sub-section shall be substituted:—
 

“(3) If any question arises as to whether a person is a *thika* tenant or not or whether the land in question is *thika* land or not, the Controller, either on his own motion or upon receiving any information, may, after giving the persons interested an opportunity of being heard and after examining all such documents and particulars as may be considered necessary, enquire upon and decide such question.”;
- (2) in sub-section (5), for the words “to construct *pucca* structures”, the words “to construct *pucca* structures or to change the nature, character and dimension of an existing structure on the land” shall be substituted.

Amendment of  
section 6.

**6.** In section 6 of the principal Act,—

- (1) in sub-section (2), for the words, figures and brackets “, or sub-section (5) of section 5 or proviso to sub-section (1) of this section”, the words, figures and brackets “, or sub-section (5), or proviso to sub-section (5), of section 5” shall be deemed to have been substituted with effect from the 1st day of March, 2003;

*The West Bengal Thika Tenancy (Acquisition and Regulation) (Amendment) Bill, 2010.*

(Clauses 7, 8.)

(2) in sub-section (5), for the words “grant him licence as per terms as may be prescribed.”, the words “grant licence to such *Bharatia* in respect of so much area of such structure as is occupied by such *Bharatia* and such licence may be granted on such terms and conditions, and in such manner, as may be prescribed.”.

Amendment of section 8.

**7. In section 8 of the principal Act,—**

(1) for the marginal note, the following marginal note shall be substituted:—  
“Incidents for tenancies of *Bharatias*.”;

(2) in sub-section (1), for the words and figures “the West Bengal Premises Tenancy Act, 1956”, the words and figures “the West Bengal Premises Tenancy Act, 1997” shall be substituted;

(3) for sub-section (2), the following sub-section shall be substituted:—  
“(2) If any question arises as to whether a person is a *Bharatia* under a particular *thika* tenant, the Controller, either on his own motion or upon receiving any information, may, after giving the persons interested an opportunity of being heard and after examining all such documents and particulars as may be considered necessary, enquire upon and decide such question.”;

(4) for sub-section (5), the following sub-section shall be substituted:—  
“(5) An order passed by the Controller under the provisions of this Act shall be executable by the Controller as a decree of a Civil Court and for this purpose, the Controller shall have all the powers of a Civil Court.”;

(5) in sub-section (6), for the words and figures “the West Bengal Premises Tenancy Act, 1956”, the words and figures “the West Bengal Premises Tenancy Act, 1997” shall be substituted;

(6) for sub-section (8), the following sub-section shall be substituted:—  
“(8) Where there is no *thika* tenant or the *thika* tenant is not traceable for any reason whatsoever, a *Bharatia* shall be liable to deposit rent with the Controller in respect of the area of the structure as is occupied by him at such rate, and in such manner, as may be prescribed.”;

(7) after sub-section (8), the following sub-section shall be inserted:—  
“(9) Notwithstanding anything contrary contained in the Act, the State Government shall not be deemed to be a landlord as defined in clause (c) of section 2 of the West Bengal Premises Tenancy Act, 1997, but be a licensor and the *Bharatia* shall be a licensee under the State, where there is no *thika* tenant.”.

West Ben. Act XII of 1956. West Ben. Act XXXVII of 1997.

Amendment of section 9.

**8. In section 9 of the principal Act,—**

(1) for sub-section (2), the following sub-section shall be substituted:—  
“(2) A Controller may be an officer belonging to the Indian Administrative Service or the West Bengal Civil Service (Executive).”;

(2) for sub-section (3), the following sub-section shall be substituted:—  
“(3) An Additional Controller and Deputy Controller may be an officer belonging to the West Bengal Civil Service (Executive) or a Special Revenue Officer, Grade-I.”.

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(Clauses 9-13.)

Amendment of section 11.

**9.** Section 11 of the principal Act shall be renumbered as sub-section (1) of that section and after sub-section (1) so renumbered, the following sub-sections shall be inserted:—

“(2) The Controller may transfer any proceeding pending before him for disposal to any Additional Controller or Deputy Controller or withdraw any proceeding pending before any Additional Controller or Deputy Controller and dispose of such proceeding himself or transfer such proceeding for disposal to any other Additional Controller or Deputy Controller.

(3) Any clerical or arithmetical mistake in any order passed by the Controller or any error arising out of any accidental omission may, at any time, be corrected by the Controller on an application received by him in this behalf from any of the parties or otherwise.

(4) The Controller may, at any stage of proceeding, either on his own motion or upon the application of either of the parties and on such terms as may appear to him to be just, order that the name of any party improperly joined be struck out and the name of any person who ought to have been joined, whether as a petitioner or as an opposite party or whose presence before him may be necessary in order to enable him effectively and completely to adjudicate upon settle all the questions involved in the proceedings, be added.

(5) The Controller may, for reasons to be recorded in writing, by order, require the personal appearance of either party.

(6) The Controller may, for causing delivery of possession of any premises to a *thika* tenant or *Bharatia*, send a requisition, in writing, to the officer-in-charge of the police station within the jurisdiction of which the premises is situated or to any police officer superior to such officer-in-charge in rank and on receipt of such requisition, the officer-in-charge or the police officer, as the case may be, shall render all necessary and lawful assistance to the Controller for effecting the delivery of possession of such premises.”.

Amendment of section 14.

**10.** In section 14 of the principal Act, for the marginal note, the following marginal note shall be deemed to have been substituted with effect from the 1st day of March, 2003:—

“Power of West Bengal Land Reforms and Tenancy Tribunal to withdraw and transfer any proceeding.”.

Amendment of section 17.

**11.** In section 17 of the principal Act, for the word and figures “section 13”, the word and figures “section 12” shall be deemed to have been substituted with effect from the 1st day of March, 2003.

Omission of section 26.

**12.** Section 26 of the principal Act shall be omitted.

Validation.

**13.** The amendments made in the principal Act by section 2, sub-section (2) of section 3, sub-section (1) of section 6, section 10 and section 11 of this Act shall be deemed to have been made with effect from the 1st day of March, 2003 and accordingly any action or thing taken or done under the principal Act on or after the said date and before the commencement of this Act, shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the said amendments had been in force at all material times.

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**STATEMENT OF OBJECTS AND REASONS.**

It is considered necessary and expedient to make, among others, the following changes in the West Bengal *Thika* Tenancy (Acquisition and Regulation) Act, 2001 (West Ben. Act XXXII of 2001) (hereinafter referred to as the said Act), in order to ensure effective implementation of the said Act by way of—

(1) amending section 2 of the said Act—

- (a) so that the *Bharatia* shall mean any person by whom or on whose account, rent is payable for any structure including *pucca* structure, if any, or part thereof, owned by a *thika* tenant, but shall exclude any person paying rent to a *Bharatia* and any resident of a structure including *pucca* structure, if any, forfeited by the State Government.
- (b) so that *thika* tenant shall mean any person who occupies, whether under a written lease or otherwise, land under another person, and is, or but for a special contract, would be, liable to pay rent at a monthly or any other periodical rate for that land to that another person, and has erected or acquired by purchase or gift any structure including *pucca* structure, if any, on such land for residential, manufacturing or business purpose and includes the successors-in-interest of such persons but exclude any resident of a structure including *pucca* structure, if any, forfeited to the State Government;
- (c) so as to provide the definition of ‘*thika* land’ to mean any land comprised in and appurtenant to, tenancy of *thika* tenant irrespective of the fact whether there is any claiming of such tenancy or not and includes open areas and roads on such land.

(2) amending section 5 of the said Act—

- (a) so that if any question arises as to whether a person is a *thika* tenant or not or whether the land in question is a *thika* land or not, the Controller either on his own motion or upon receiving any information, may, after giving the persons interested an opportunity of being heard and after examining all such documents and particulars as may be considered necessary, enquire upon and decide such question;
- (b) so that the *thika* tenant holding directly under the State under sub-section (1) of section 5 shall be entitled to construct *pucca* structure or to change the nature, character, dimension of an existing structure on the land in accordance with buildings plan sanctioned under the respective Municipal Corporation Act.

(3) amending section 6 of the said Act—

- (a) so that any transfer or agreement for transfer, whether oral or in writing or any activity in contravention of the provisions of sub-section (4), or sub-section (5), or proviso to sub-section (5), of section 5, shall be declared invalid under an order of Controller and the structure or part of structure, as the case may be, shall stand forfeited to the State Government;
- (b) so that a Controller may, after satisfying himself that a *Bharatia* stays at the structure forfeited under sub-section (2) of this section, grant licence to such *Bharatia* in respect of so much area of such structure as is occupied by such *Bharatia* and such licence may be granted on such terms and conditions, and in such manner, as may be prescribed;

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(4) amending section 8 of the said Act—

- (a) so that if any question arises as to whether a person is a *Bharatia* under a particular *thika* tenant, the Controller, either on his own motion or upon receiving any information, may, after giving the persons interested an opportunity of being heard and after examining all such documents and particulars as may be considered necessary, enquire upon and decide such question;
- (b) so that an order passed by the Controller under the provisions of the said Act shall be executable by the Controller as a decree of a Civil Court and for this purpose, the Controller shall have all the powers of a Civil Court;
- (c) so that where there is no *thika* tenant or the *thika* tenant is not traceable for any reason whatsoever, a *Bharatia* shall be liable to deposit rent with the Controller in respect of the area of the structure as is occupied by him at such rate, and in such manner, as may be prescribed;
- (d) so that the State Government shall, notwithstanding anything contained in the said Act, not be deemed to be a land lord as defined in clause (c) of section 2 of the West Bengal Premises Tenancy Act, 1997 (West Ben. Act XXXVII of 1997), but be a licensor and the *Bharatia* shall be a licensee under the State, where there is no *thika* tenant.

(5) amending section 9 of the said Act so that a Controller may be an officer belonging to the Indian Administrative Service or the West Bengal Civil Service (Executive), and an Additional Controller and Deputy Controller may be an officer belonging to the West Bengal Civil Service (Executive) or a Special Revenue Officer, Grade-I.

(6) amending section 11 of the said Act so as to provide certain more powers to the Controller under the said Act.

2. The Bill has been framed with the above objects in view.

3. There is no financial implication involved in the Bill.

KOLKATA,  
The 8th July, 2010 .

ABDUR RAZZAK MOLLA,  
Member-in-charge.

By order of the Governor,

MITA BASU ROY,  
Pr. Secy. to the Govt. of West Bengal,  
Law Department.