



Government of West Bengal
Judicial and Legislative (Legislative) Department

West Bengal Act II of 1949

**The Calcutta *Thika* Tenancy
Act, 1949**

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THE CALCUTTA *THIKA* TENANCY ACT, 1949.

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West Bengal Act II of 1949

THE CALCUTTA THIKA TENANCY ACT, 1949.

[Passed by the West Bengal Legislature.]

[Assent of the Governor-General was first published in the *Calcutta Gazette, Extraordinary*, of the 28th February, 1949.]

An Act to make better provision relating to the law of landlord and tenant in respect of thika tenancies in Calcutta.

WHEREAS it is expedient to make better provision relating to the law of landlord and tenant in respect of *thika* tenancies in Calcutta;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the *Calcutta Thika Tenancy Act, 1949.* Short title, extent and commencement.

Ben. Act
III of
1923.
Ben. Act
II of
1866.

(2) It extends to Calcutta as defined in clause (11) of section 3 of the *Calcutta Municipal Act, 1923* and such suburbs of Calcutta as may have been or may hereafter be notified under section 1 of the *Calcutta Suburban Police Act, 1866* and are not included within Calcutta as so defined and also to the municipality of Howrah.

West Ben.
Ord. XI
of 1948.

(3) It shall come into force on the day on which the *Calcutta Thika Tenancy Ordinance, 1948*, ceases to operate.

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

(1) "*Bharatia*" means any person by whom, or on whose account, rent is payable for any structure or part of a structure erected by a *thika* tenant in his holding;

(2) "*Controller*" means an officer appointed as such by the Provincial Government for an area to which this Act extends and includes any officer appointed by the Provincial Government to perform all or any of the duties imposed, or to exercise all or any of the powers conferred by this Act, on the Controller;

(3) "*holding*" means a parcel or parcels of land held by any person as a *thika* tenant under one lease or one set of conditions whether such tenant has held the land before or after the commencement of this Act;

(4) "*prescribed*" means prescribed by rules made under this Act;

(Chapter I—Preliminary.—Chapter II—Incidents of thika tenancies.—Section 3.)

- (5) "*thika* tenant" means any person who under the system commonly known as "*thika*", "*thika masik utbandi*", "*thika masik*", "*thika bastu*" or under any other like system holds, whether under a written lease or otherwise, or has been recorded in any record-of-rights as holding, under the title "*dakhal basatkar*" or other like appellation, land under another person and is, or but for a special contract would be, liable to pay rent, at a monthly or at any other periodical rate, for that land to such other person and has erected any structure on such land for a residential, manufacturing or business purpose and includes the successors in interest of such person; and
- (6) all words and expressions used but not defined in this Act and used in the Transfer of Property Act, 1882, or the Bengal Tenancy Act, 1885, have the same meanings as in those Acts.

IV of
1882.
VIII of
1885.

CHAPTER II.

INCIDENTS OF *Thika* TENANCIES.

Grounds
on which
a *thika*
tenant
may be
ejected.

3. Notwithstanding anything contained in any other law for the time being in force or in any contract, a *thika* tenant shall, subject to the provisions of this Act, be liable to ejectment from his holding on one or more of the following grounds and not otherwise, namely:—

- (i) on the ground that he has failed to pay an arrear of rent due to the landlord in respect of the holding;
- (ii) on the ground that he has used the land comprised in his holding in a manner which renders it unfit for any of the purposes mentioned in clause (5) of section 2 or that he has broken a condition consistent with this Act on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected;
- (iii) on the ground that he has refused to agree to pay rent at such enhanced rate as may be determined under section 25;
- (iv) except during any period limited by a registered lease under which a *thika* tenant may hold the land comprised in the holding, on the ground that the land is required by the landlord for his own occupation or for the purpose of building on the land or otherwise developing the land by discontinuing the system of letting to *thika* tenants;

11 of 1949.]

(Chapter II—Incidents of thika tenancies.—Sections 4, 5.)

(v) on the ground that he has failed himself to use or occupy a major part of the holding for his own residential, manufacturing or business purpose for more than six consecutive months;

(vi) when he holds the land comprised in the holding under a registered lease, on the ground that the term of the lease has expired.

4. It shall not be competent for a landlord to eject any *thika* tenant from his holding unless the landlord has given the *thika* tenant notice in the manner provided in section 106 of the Transfer of Property Act, 1882—

Notice
before
ejection.

IV of
1882.

(a) in the case where he wishes to eject the *thika* tenant on any of the grounds specified in clauses (i), (ii), (iii) and (v) of section 3 at least one month's notice in writing expiring with the end of a month of the tenancy; and

(b) in the case where he wishes to eject the *thika* tenant on the ground specified in clause (iv) of section 3 at least three months' notice in writing expiring with the end of a month of the tenancy:

Provided that—

(i) no *thika* tenant shall be ejected from his holding on the ground specified in clause (i) of section 3 during the period mentioned in sub-section (1) of section 9, and

(ii) save as otherwise provided in any contract in writing, no *thika* tenant shall be ejected from his holding on any of the grounds specified in clauses (iv) and (v) of section 3, except on payment to the *thika* tenant or on depositing with the Controller for payment to the *thika* tenant such compensation as may be agreed upon between the landlord and the *thika* tenant or, in the case where they do not agree, as may be determined in the prescribed manner by the Controller on application by the landlord or the *thika* tenant.

5. (1) Notwithstanding anything contained in any other law for the time being in force but subject to the provisions of section 28, a landlord wishing to eject a *thika* tenant on one or more of the grounds specified in section 3 shall apply in the prescribed manner to the Controller for an order in that behalf and, on receipt of such application, the Controller shall, after giving the *thika* tenant a notice to show cause within thirty days from the date of service of the notice why the application shall not be allowed and after making an inquiry in the prescribed manner either allow the application or reject it after recording the reasons for making such order, and, if he allows the application, shall make an order directing the *thika* tenant to vacate the holding and, subject to the provisions of section 10, to put the landlord in possession thereof.

Proceed-
ings for
ejection.

(Chapter II—Incidents of thika tenancies.—Sections 6—9.)

(2) No order allowing an application under sub-section (1) shall be made in a case where compensation is payable under clause (ii) of the proviso to section 4 unless and until the amount of compensation so payable has been either paid to the *thika* tenant or deposited with the Controller.

Stay of
ejectment
for arrears
of rent if
the amount
of arrears
and dama-
ges are
deposited
with the
Controller.

6. Every order made under section 5 allowing an application for ejectment of a *thika* tenant on the ground that he has failed to pay an arrear of rent due to the landlord in respect of his holding and directing the *thika* tenant to vacate the holding and put the landlord in possession thereof shall specify the amount of the arrear and of the interest, if any, due thereon, and no such order shall be executed if that amount, the costs of the proceedings arising out of such application and such damages as the Controller may allow, are deposited with the Controller within thirty days from the date of the order.

Restora-
tion of
possession
where
landlord
does not
use the
land
for the
purpose
for which
the *thika*
tenant was
ejected.

7. If an order under section 5 directing a *thika* tenant to vacate any land comprised in a holding on any of the grounds specified in clause (iv) of section 3 is made and the landlord who recovers possession of the land as a result of such order does not within six months from the date on which he recovers such possession occupy the land himself or commence the building on, or the development of, the land or re-lets it within six months of the said date to any *thika* tenant other than the previous *thika* tenant without the permission of the Controller obtained in the prescribed manner, the Controller may on application in writing being made to him in this behalf by the *thika* tenant from whom the landlord has so recovered possession of the land within nine months from the said date, make an order directing the landlord to restore the *thika* tenant to possession of the land from such date and subject to such condition as may be specified in the order, or to pay him such compensation as may be fixed by the Controller:

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

Surrender.

8. (1) A *thika* tenant not bound by any lease or other agreement for a fixed period may, at the end of a month of the tenancy, surrender his holding, provided that he gives to his landlord at least one month before he surrenders, notice of his intention to do so.

(2) When a *thika* tenant has surrendered his holding the landlord may, subject to the provisions of section 10, enter on the holding and either let it to another tenant or occupy it himself or dispose of it in any way he may think fit.

Abandon-
ment.

9. (1) When a *thika* tenant voluntarily abandons his holding without notice to the landlord and without arranging for the payment of his rent as it falls due, the landlord

II of 1949.]

(Chapter II—Incidents of thika tenancies.—Section 10.)

may, at any time after the expiration of a period of two months from the date of such voluntary abandonment, file the notice referred to in sub-section (2) and subject to the provisions of sub-section (3) and of section 10 enter on the holding and let out the same to another tenant or occupy it himself.

(2) A landlord who intends to enter on a holding under this section shall file a notice in the prescribed form with the Controller stating that he has treated the holding as abandoned and intends to enter on it accordingly; and the Controller shall within fifteen days from the date on which the notice is so filed cause such notice to be published in the prescribed manner.

(3) After the publication of the notice under sub-section (2), the *thika* tenant may apply to the Controller at any time not later than the expiration of one month from the date of the publication of such notice for the cancellation of such notice and thereupon the Controller may, on being satisfied after such inquiry as he considers necessary that the *thika* tenant is entitled to continue in possession, cancel the notice and direct that the *thika* tenant shall continue in possession of the holding subject to payment of the arrears of rent due on the date on which the notice is so cancelled. If the *thika* tenant does not make any application under this sub-section or his application under this sub-section is rejected, the landlord may enter on the holding subject to the provisions of section 10.

10. (1) Notwithstanding anything to the contrary contained in any contract, on the determination of the interest of a *thika* tenant in the land comprised in a holding as a result of ejectment from the holding of, or of surrender or abandonment of the holding by, the *thika* tenant, or otherwise, any structure erected by the *thika* tenant on such land and existing on the date of such determination shall vest in the landlord.

Consequences of the determination of interests of *thika* tenants in certain cases.

(2) When any structure erected in any holding by a *thika* tenant vests in the landlord under sub-section (1) otherwise than as a result of ejectment of the *thika* tenant from the holding on any of the grounds specified in clause (iv) of section 3, any *Bharatia* in possession of such structure shall be entitled to continue in such possession and shall be deemed to be a tenant within the meaning of the West Bengal Premises Rent Control (Temporary Provisions) Act, 1948, holding under the landlord on the terms and conditions on which such *Bharatia* had been holding immediately before such structures vested in the landlord:

West Ben.
Act
XXXVIII
of 1948.

Provided that nothing in this sub-section shall prevent either the landlord or such *Bharatia* so deemed to be a tenant holding under the landlord, from proceeding under the West Bengal Premises Rent Control (Temporary Provisions) Act, 1948, for fixing the standard rent payable in respect of such structure.

(Chapter II—Incidents of thika tenancies.—Chapter III—Provisions as to rent of thika tenancies.—Sections 11—15.)

Devolution or transfer of holding of a *thika* tenant.

11. The holding of a *thika* tenant shall descend on his death in the same manner as his other immovable property and the person succeeding shall hold the land comprised in the holding under the terms and conditions on which it was held by the *thika* tenant. He shall also give to the landlord notice within one month of the succession in the prescribed manner:

Provided that in any case in which under the law of inheritance to which the *thika* tenant is subject his other property goes to the Crown, his interest in the holding shall be extinguished.

CHAPTER III.

PROVISIONS AS TO RENT OF *Thika* TENANCIES.

Payment of rent.

12. Any rent or instalment of rent payable by a *thika* tenant shall be paid, where there is a contract in writing in this behalf between the landlord and the *thika* tenant, within the time fixed in the contract or, in the absence of any such contract, by the fifteenth day of the month next following the month or period for which the rent is payable.

Time and place for payment of rent.

13. (1) Every *thika* tenant shall pay or tender rent or each instalment of rent before sunset of the latest day by which it is payable under the provisions of sections 12:

Provided that a *thika* tenant may pay or tender the rent payable for a month or period at any time during such month or period before it falls due.

(2) The payment or tender of rent may be made—

- (i) at the landlord's local office or at such other convenient place as may be appointed in that behalf by the landlord; or
- (ii) by postal money order in the manner prescribed.

A tender may also be made by depositing the rent with the Controller in accordance with the provisions of section 17 or section 18.

(3) Any rent or instalment of rent which is not duly paid within the time referred to in section 12 or is not duly deposited with the Controller within the time referred to in section 17 or section 18 shall be deemed to be an arrear.

Appropriation of payments.

14. (1) When a *thika* tenant makes a payment on account of rent, he may declare the month or period in respect of which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may be credited to the account of such month or period as the landlord thinks fit.

Thika tenant entitled to receipt for rent.

15. (1) Every *thika* tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord or his authorised agent a written receipt for the amount paid by him, signed by the landlord.

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(Chapter III—Provisions as to rent of thika tenancies.—
Sections 16—18.)

(2) A counterfoil of the receipt shall be prepared and retained by the landlord or his authorised agent.

(3) The receipt and counterfoil shall be in such form and shall contain such particulars as may be prescribed.

(4) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

16. If a landlord without reasonable cause refuses or neglects to deliver to a *thika* tenant a receipt containing the particulars required by section 15 for any rent paid by the tenant, the Controller may, on application made in this behalf by the tenant within three months from the date of payment, by order direct the landlord to pay the tenant such penalty not exceeding double the amount of that rent as the Controller thinks fit.

Penalty for
withhold-
ing receipts.

17. (1) Where a landlord refuses to accept any rent the *thika* tenant may, by an application in writing containing such particulars as may be prescribed,—

Deposit of
rent on
refusal of
the land-
lord to
accept.

(a) deposit such rent with the Controller, within the period specified in sub-section (2), and

(b) unless the landlord signifies by notice in writing to the *thika* tenant his willingness to accept any subsequent rent which becomes due from such tenant, also deposit such rent with the Controller within the period within which it is payable under the provisions of section 12 together with the cost of transmission by postal money order of such money to the landlord.

Explanation.—A landlord shall not for the purposes of this sub-section be deemed to have refused to accept any rent unless the rent is remitted by the *thika* tenant by postal money order within the time specified and in the manner referred to in section 13 and the rent so remitted is returned to the *thika* 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) The deposit referred to in clause (a) of sub-section (1) shall be made within a fortnight of the date on which the rent remitted by postal money order is returned to the *thika* tenant by the postal authorities as undelivered.

18. (1) In either of the following cases, namely:—

Deposit of
rent in
certain
other cases.

(a) when any rent is payable jointly to two or more co-sharer landlords and the *thika* tenant is unable to obtain a joint receipt from them for the rent and no person has been empowered to receive the rent on their behalf,

(Chapter III—Provisions as to rent of thika tenancies.—
Sections 19, 20.)

(b) when a dispute has arisen as to the person who is entitled to receive the rent, the *thika* tenant may by an application in writing containing such particulars as may be prescribed deposit such rent with the Controller and may continue to deposit with the Controller any subsequent rent which becomes due from such tenant until the *thika* tenant is able to obtain a joint receipt from the co-sharer landlords or a person has been empowered to receive the rent on their behalf, or until such dispute has been settled by the decision of a competent Court or by settlement between the parties, as the case may be.

(2) The deposit of rent referred to in sub-section (1) shall be made within the period within which it is payable under section 13.

Receipt
granted by
the Con-
troller for
rent depo-
sited to be
a valid
acquit-
tance.

19. If it appears to the Controller to whom application for deposit is made under section 17 or section 18 that the applicant is entitled to deposit the rent under any of those sections, he shall receive the rent deposited and give a receipt for it under the seal of the Court and such receipt shall operate as an acquittance for the amount of the rent payable by the *thika* tenant and deposited as aforesaid, in the same manner and to the same extent as if the amount of the rent had been received—

in cases referred to in clauses (a) and (b) of sub-section (1) of section 17, by the person specified in the application as the person to whose credit the deposit was to be entered;

in cases referred to in clause (a) of sub-section (1) of section 18, by the co-sharers to whom the rent is due; and

in cases referred to in clause (b) of sub-section (1) of section 18, by the person entitled to the rent.

Disposal of
rent depo-
sited under
section 17.

20. (1) On any deposit being made under section 17 the Controller shall forthwith forward the same by postal money order to the address of the landlord.

(2) Where any money has been deposited under clause (a) of sub-section (1) of section 17, 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 the cost of such transmission.

(3) If the money sent by the Controller under sub-section (1) 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 on the landlord 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

11 of 1949.]

(Chapter III—Provisions as to rent of thika tenancies.—
Sections 21, 22.)

such amount is not so withdrawn before the expiration of three years from the date of service of such notice, it may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor on his application and on his returning the receipt given by the Controller with whom the rent was deposited.

21. (1) When the Controller receives a deposit under section 18, he shall forthwith cause to be affixed in a conspicuous place at his office a notification of the receipt thereof containing a statement of all material particulars, and, if the amount of the deposit is not paid away under sub-section (2) within the period of fifteen days next following the date on which the notification is so affixed, the Controller shall forthwith in cases referred to in clause (a) of sub-section (1) of section 18 cause a notice of the receipt of the deposit to be posted free of charge at the landlord's local office, if any, and at some conspicuous place in the locality in which the holding is situated, and, in cases referred to in clause (b) of sub-section (1) of the said section, cause a like notice to be served free of charge on every person who, he has reason to believe, claims or is entitled to the deposit.

Disposal of
rent deposited
under
section 18.

(2) The Controller may pay the amount of any deposit notified under sub-section (1) to any person who proves to his satisfaction to be entitled to the same or is entitled to the amount as a result of a settlement referred to in sub-section (1) of section 18 or he may, if he thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

(3) If no payment is made under sub-section (2) before the expiration of three years from the date of notice issued under sub-section (1) or three months after the decision of the Civil Court, whichever is later, the amount deposited may in the absence of any order of a Civil Court to the contrary be repaid to the depositor upon his application and on his returning the receipt given by the Controller when the rent was deposited.

22. (1) When a landlord accepts rent in respect of any holding sent by postal money order by a *thika* tenant under clause (ii) of sub-section (2) of section 13 or by the Controller under section 21 or withdraws any rent deposited under section 17 or section 18, 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.

Saving.

(2) No suit, prosecution or other legal proceeding shall be instituted against the Crown or against any officer of the Crown in respect of anything done by the Controller receiving a deposit under section 17 or section 18; but nothing in this Act shall prevent any person entitled to receive any amount so deposited from recovering the same from any person to whom it has been paid under section 20 or section 21.

(Chapter III—Provisions as to rent of thika tenancies.—
Chapter IV—Appeals and certain special procedures.—
Sections 23—27.)

Interest on
arrears.

23. Any arrear of rent shall bear simple interest at the rate of six and a quarter *per centum per annum* from the expiry of the time within which the rent or the instalment of rent is payable under the provisions of section 12 or is to be deposited under section 17 or section 18, as the case may be, to the date of payment or of the institution of the suit, whichever date is earlier.

Restric-
tions on
enhance-
ment of
rent.

24. The rent of a *thika* tenant shall not be enhanced except as provided in this Act.

Enhance-
ment of
rent.

25. (1) The rent payable by a *thika* tenant for his holding may be enhanced by the Controller on application made to the Controller by the landlord in the prescribed manner on either or both of the following grounds, namely:—

- (a) that the value of the holding has increased;
- (b) that the landlord has effected some improvement to the land at his own cost which has increased the value of the holding:

Provided that no rent shall be enhanced under this sub-section so as to exceed the rent previously payable by the *thika* tenant by more than twelve and a half *per centum*.

(2) The rent fixed under sub-section (1) shall not be further enhanced during three years next following the date on which it has been last so enhanced.

Reduction
of rent
by the
Controller.

26. Any rent payable by a *thika* tenant which has been settled within a period of three years immediately before the commencement of this Act, may be reduced by the Controller on application made in that behalf by the *thika* tenant if the Controller considers that the rate of rent so settled is unfair and inequitable having regard to the prevailing rate of rent payable by *thika* tenants of lands of a similar description and with similar advantages in the locality.

CHAPTER IV.

APPEALS AND CERTAIN SPECIAL PROCEDURES.

Appeal,
review and
execution.

27. (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 any holding in the Presidency town of Calcutta, to the Chief Judge of the Court of Small Causes of Calcutta; and
- (b) in respect of any holding elsewhere, to the District Judge of the district in which the holding concerning which such order is made is situated.

11 of 1949.]

(Chapter IV—Appeals and certain special procedures.—
Section 28.)

(2) The Provincial Government may, by notification, appoint any person who has exercised the powers of a District Judge 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 the record and, if necessary, taking such evidence himself or personally making such further inquiries as he thinks fit, shall make an order deciding the appeal after giving the parties an opportunity of being heard.

(5) Subject to such rules as may be made under this Act, any order passed under this Act by the Controller, the Chief Judge of the Court of Small Causes of Calcutta, or a District Judge or a person appointed under sub-section (2) may be reviewed by the person who passed the order on the 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) An order under sub-section (4) made by the Chief Judge or the District Judge or a person appointed under sub-section (2), as the case may be, or, subject to such order, an order made by the Controller under this Act, shall, subject to the provisions of sub-section (5), be final and may be executed by the Controller in the manner provided in the Code of Civil Procedure, 1908, for the execution of decrees.

Act V of
1908.

28. Where any decree or order for the recovery of possession of any holding from a *thika* tenant has been made before the date of commencement of this Act but the possession of such holding has not been recovered from the *thika* tenant by the execution of such decree or order, the Court by which the decree or order was made may, if it is of opinion that the decree or order is not in conformity with any provision of this Act other than sub-section (1) of section 5 or section 27, rescind or vary the decree or order in such manner as the

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

(Chapter IV—Appeals and certain special procedures.—
Sections 29—32.)

Court may think fit for the purpose of giving effect to such provision and a decree or order so varied by any Court shall be transferred by such Court to the Controller for execution under this Act as if it were an order made under and in accordance with the provisions of this Act.

Applica-
tion of Act
to pending
suits and
proceed-
ings.

29. The provisions of this Act shall apply to all suits and proceedings, including proceedings in execution, for ejectment of a *thika* tenant which are pending at the date of commencement of this Act, and if any such suit or proceeding relates to any matter in respect of which the Controller is competent after the date of such commencement to pass orders under this Act, such suit or proceeding shall be transferred to the Controller who shall on such transfer deal with it in accordance with the provisions of this Act as if this Act had been in operation on the date of institution of the suit or proceeding:

Provided that in applying the provisions of this Act to any suit or proceeding instituted for the ejectment of a *thika* tenant so transferred, the provisions regarding notice in section 4 of this Act shall not apply.

Bar to
applica-
tion of Act
to certain
lands.

30. Nothing in this Act shall apply to—

(a) Crown lands,

(b) any land vested in or in the possession of—

(i) the Provincial Government,

(ii) a port authority of a major port, or

(iii) a railway administration, or

(iv) a local authority, or

(c) any land which is required for carrying out any of the provisions of the Calcutta Improvement Act, 1911.

Ben. Act
V of 1911.

Restric-
tion or ex-
clusion of
Act by
agreement.

31. Nothing in any contract between a landlord and a *thika* tenant made after the commencement of this Act shall take away or limit the rights of such tenant as provided for by this Act, and any contract which is made in contravention of or which is inconsistent with any of the provisions of this Act shall be void and without effect to the extent of such contravention or inconsistency.

Power to
enter and
inspect
premises,
to require
informa-
tion and to
summon
witnesses.

32. (1) For the purposes of any inquiry under this Act, the Controller and any person deciding an appeal under section 27, may,—

(a) enter and inspect any premises at any time between sunrise and sunset;

(b) authorise any person subordinate to him to enter and inspect any premises between sunrise and sunset; or

11 of 1949.]

(Chapter IV—Appeals and certain special procedures.—
Sections 33, 34.)

- (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 and any person deciding an appeal under section 27 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, including the parties interested, 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.

Act V of
1908.

West Ben.
Ord. XI
of 1948.

Ben. Act
I of 1899.

33. On the expiry of the Calcutta Thika Tenancy Ordinance, 1948, the provisions of section 8 of the Bengal General Clauses Act, 1899, shall apply as if it were an enactment then repealed by a West Bengal Act.

Repeal and
saving.

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

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 manner of determination of compensation referred to in the proviso to section 4;
- (b) the manner in which a landlord may apply to the Controller and the manner in which the Controller may make inquiries under section 5;
- (c) the manner of obtaining permission of the Controller referred to in section 7;
- (d) the form of notice and the manner of publication of such notice under sub-section (2) of section 9;
- (e) the manner of payment or tender of rent by postal money order referred to in clause (ii) of sub-section (2) of section 13;
- (f) the form of receipt and of the counterfoil referred to in sub-section (3) of section 15, and the particulars to be specified in such receipt and counterfoil;
- (g) the particulars to be contained in applications for depositing rent under sub-section (1) of section 17 and sub-section (1) of section 18;

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Section 34.)*

- (h) the method of withdrawal of the deposit of rent by the landlord under sub-section (3) of section 20;
- (i) the manner of making application for enhancement of rent under sub-section (1) of section 25;
- (j) 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 27;
- (k) the procedure for review of orders referred to in sub-section (5) of section 27;
- (l) the procedure for summoning and enforcing the attendance of witnesses and compelling the production of documents referred to in sub-section (2) of section 32;
- (m) the manner of service of notices issued under this Act where the mode of such service is not provided in this Act; and
- (n) the charging or remitting of costs and fees and the fixing of a scale of costs and fees.