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**Recommendations for suitable amendments
in
The Gujarat Rents, Hotel and Lodging House
Rates Control Act, 1947
(Bombay Act No.57 of 1947)**

JANUARY, 2016

JUSTICE M. B. SHAH

**FORMER JUDGE,
SUPREME COURT OF INDIA**

AND

**CHAIRMAN,
GUJARAT STATE LAW COMMISSION**

RECOMMENDATIONS FOR SUITABLE AMENDMENTS IN THE GUJARAT RENTS, HOTEL AND LODGING HOUSE RATES CONTROL ACT, 1947 (BOMBAY ACT NO.57 OF 1947)

1. Rent control was conceived as a short term measure to overcome the problem of temporary shortages during World wars. The Acts were therefore enacted for short and limited durations. This practice has continued and the Rent Control Acts in most States are temporary Acts and are extended every few years. The State Governments have periodically amended the Acts either in response to changing market conditions or to plug some loopholes and improve the functioning of the Acts. The Rent Control Acts are generally applicable to all urban areas in the States and to most of the residential and non-residential premises in these urban areas. The exempted premises include those belonging to the Union Government, State Government and local authorities. Some States also exclude from the purview of the Act properties falling below or above certain rental values, newly constructed properties, as also properties belonging to charitable Trusts, etc. In each city, these exemptions account for a significant proportion of the total rental housing stock.

2. Further, various amendments are made in the Rent Act, depending upon the situations prevailing in the society. Lastly, on 30th October, 2001, Section 4 was amended so as to give exemption to the premises which are constructed on or after the amending Act as well as to the premises which are let out by the owner on or after commencement of the Amending Act. Added Section 4(1A) is as under:—

“(1A) This Act shall not apply to—

(a) any premises constructed on or after the commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Second Amendment) Act, 2001 (hereinafter referred to as “the amending Act”;

(b) any existing premises which is self-occupied by the owner or vacant on or after the commencement of the amending Act, and is let after such commencement;

for a period of ten years from the date of the commencement of the amending Act.

Explanation:—

For the purposes of this Section, “existing premises” means any premises which exists on the date of the commencement of the amending Act.”

- 3.** Considering the present day situation where premises are available for residence and other purposes, further amendment in the Act would be appropriate. Hence, amendment is required to be made in Section 4 of the Gujarat Rents, Hotels and Lodging House Rates Control Act, 1947.

Further, Section 3 of the Maharashtra Rent Control Act, 1999 contains the provisions similar to Section 4 of the Gujarat Rents, Hotels and Lodging House Rates Control Act, 1947 as well as that of the old Act.

The Maharashtra Rent Act was amended and now, it is not applicable to Scheduled Banks in addition to Government or local authority. Over and above Banks, Public Sector Undertakings, Corporations established under the Central or State Act, foreign missions, international agencies, multinational Companies and public or private Companies having a paid-up capital of Rupees one crore or more, are also excluded from the operation of the Rent Act.

- 4.** Considering the present day prevailing situation with regard to the availability of the premises for commercial purposes, etc. and also in view of the Gujarat (Second) Amendment Act, 2001 which

provides that, newly constructed premises or to vacant premises, Rent Act is not applicable, provision is required to be made for excluding the operation of Rent Act to certain other premises.

A. Hence, it would be just and reasonable to exempt the applicability of the Gujarat Rents, Hotels and Lodging House Rates Control Act, 1947, to the premises which are let out to—

- (i)** Scheduled Banks,
- (ii)** Non-Scheduled Banks,
- (iii)** Public Sector Undertaking/s,
- (iv)** Corporations / Institutions established under Central or State Act or by international agencies,
- (v)** Multinational Companies,
- (vi)** Public Limited Companies/Corporations having a paid-up capital of Rupees one crore or more,
- (vii)** Private Companies having a paid-up capital of Rupees one crore or more,
- (viii)** Government or local bodies,
- (ix)** Co-operative Societies, and
- (x)** Premises used for commercial purposes where yearly turn-over is Rupees one crore and above.

B. Permission to increase rent where standard rent is fixed:—

Considering the tremendous increase in market value of the premises available all throughout the State of Gujarat, it would be just and reasonable to permit the landlords to increase the rent in cases where standard rent is fixed. For this purpose, landlords may be permitted to increase the rent upto five times of the standard rent.

C. Further, no purpose is served by applying the Rent Act to the premises situated within the area of local limits of Village Panchayat or within the area of Taluka Panchayat. Hence, these areas be excluded from operation of the Rent Act. For this purpose, Section 4 of the Act which provides for “exemption” be suitably amended.

Date : 28th January, 2016

Place : Ahmedabad

JUSTICE M. B. SHAH
Former Judge, Supreme Court of India
AND
Chairman, Gujarat State Law Commission

No.GSLC / 2016 / ACS(L)–LPAD /

Date: January, 2016

Dear Shri

Government of Gujarat, Legislative and Parliamentary Affairs Department, vide its Resolution No.LAC/2006/44/110/Law Cell, dated 31st December, 2013; had appointed the undersigned as the Chairman of the State Law Commission.

Till date, the Commission has submitted following reports for consideration and further needful actions to be taken by the State Government:—

Report Number	Date	Particulars
First	27 th January, 2014	Suitable amendment in Section 89A of the Gujarat Tenancy and Agricultural Land Laws (Amendment) Act, 1997 (amended by Guj. Act No.7 of 1997).
Second	29 th May, 2014	Salt production at the cost of health of agariyas and their family members – A need for Special Legislation– in the State of Gujarat
Third	27 th August, 2014	Recommendations for taking immediate actions to amend the Notification for levying composite fees under The Central Motor Vehicles Act, 1988 and the Rules framed thereunder and for controlling vehicular road accidents in the State of Gujarat.
Fourth	23 rd March, 2015	Recommendations for suitable amendments and addition of few new Sections/Rules in The Gujarat Co–operative Societies Act, 1961 and the Rules framed thereunder
Fifth	21 st April, 2015	Recommendation for suitable amendment in The Gujarat Prevention of Gambling Act, 1887

Today, the Commission submits its **Sixth Report**, namely, “Recommendations for suitable amendments in The Gujarat Rents, Hotel and Lodging House Rates Control Act, 1947 (Bombay Act No.57 of 1947)”. Two sets of hard copies and C.Ds. thereof are enclosed herewith for consideration by the State Government for further action.

With warm regards,

Yours sincerely,

Justice M. B. Shah (Retd.)
Chairman

Encl.: Two sets of hard copies and C.Ds.
of the Sixth Report.

Shri Arvind Agarwal
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Legislative and Parliamentary Affairs Department,
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Nava Sachivalaya, Gandhinagar.