

The Model Tenancy Act, 2021

Introduction

The Union Cabinet approved the Model Tenancy Act, 2021 (“MTA/Act”) on June 2, 2021, for adoption by State and Union Territory governments. The preamble of the MTA provides for establishment of a Rent Authority to: (i) regulate renting of premises; (ii) protect interests of landlords and tenants; and (iii) establish a speedy adjudication mechanism for dispute resolution.

Unlike the prevailing rent control legislation of various States, the MTA will be applicable to properties used for residential, educational and commercial purposes, without any cap on the rent. The industrial premises are kept out of the purview of the Act. It is also not applicable to hotel, lodging house, dharamshala or inn.

Key Provisions of the MTA

The MTA has introduced several measures to improve the relations between the two primary stakeholders – landlords and the tenants. The key provisions under the MTA are:

- (i) Written agreement (signed in duplicate) between the tenant and landlord is mandatory which specifies the rent, period of tenancy and other related terms. This agreement must also be communicated to the Rent Authority.
- (ii) Transfer, sub-letting of premises or assignment of rights is subject to execution of a supplementary agreement to the existing tenancy agreement and the same being informed to concerned Rent Authority.
- (iii) Security deposit is capped at two months’ rent for residential premises, and six months’ rent for non-residential premises. The tenant and the landlord can negotiate the rent for the premises.
- (iv) Details of any person/entity acting as property manager (for managing premises of landlord) and purposes for which property manager is authorized, will be intimated by the landlord to the tenant.
- (v) In the event of demise of the landlords or the tenants, the terms of the agreement will be binding upon their successors.
- (vi) The conditions for eviction of the tenant include: (a) refusal to pay agreed upon rent; (b) failure to pay rent and other charges (as agreed in the tenancy agreement) for a consecutive period of two months; (c) occupation of part or whole of premises without written consent; and (d) misuse of premises despite a written notice.

- (vii) The Act establishes a three-tier quasi-judicial dispute adjudication mechanism consisting of: (a) Rent Authority; (b) Rent Court; and (c) Rent Tribunal to regulate the management of the property and inter-se dealings of the landlord and tenant. The decision of the Rent Authority can be challenged before the Rent Court within thirty days from the order of Rent Authority, whose decisions are themselves subject to appeal by the Rent Tribunals. Creation of quasi-judicial platforms to resolve rent disputes will reduce the burden on civil courts and ensure speedier and consistent outcomes.
- (viii) The Rent Authority has the power to adjudicate proceedings under various provisions, provided under the MTA e.g., revision of rent, acceptance of rent in certain situations etc. The Rent Court (or Rent Tribunal) are required to dispose cases within sixty days.
- (ix) The landlord will be responsible for fixing the structural damages to the property. The landlord cannot withhold supply of essential services and the tenant cannot prolong his stay beyond the time mentioned in the agreement.
- (x) In case of force majeure conditions such as earthquake, cyclone, war, flood etc., certain advantages and concession is provided to the tenant and if the tenant is in the termination notice period, then leniency of an extra one month is given for him to have enough time to vacate the premises. In case the premises have been affected so badly due to force majeure condition that it is impossible to occupy it, then the rent will not be charged till the time the premises has been restored and made habitable. In case the premises continue to be inhabitable, and the landlord refuses to carry out the repair, the tenant may abandon the premises after serving a fifteen days' notice in writing, to the landlord. The security deposit and advance rent will be required to be refunded by the landlord to tenant within fifteen days of expiry of the said notice period.
- (xi) The tenant can recover expenses incurred by the tenant which were the responsibility of the landlord. However, such deduction from rent in any one month cannot exceed fifty per cent of the agreed rent for a month.
- (xii) The landlord is entitled to double the monthly rent for two months and four times thereafter, on failure by the tenant, to vacate premises on expiration or termination of tenancy.
- (xiii) Landlord or his representative may enter the premises only after giving prior notice of twenty-four hours to the tenant.

Conclusion

While the MTA seeks to systematically overhaul the rental housing, however, its implementation is a significant concern. A model law is advisory in nature. The parliament cannot pass a binding law because real estate is a State-subject under the seventh schedule (List – II) of the Constitution. The States can implement the MTA through a fresh legislation or amending pre-existing State rental laws. This may result in the dilution or non-effectiveness of the Act in certain States. Conclusively, while the Act is most definitely a step in the right direction, its failure or success will be contingent upon its implementation.

For more details, please contact km@jsalaw.com



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