



Tenancy legislations world over have attempted to develop robust legislative models and laws in matters relating to tenancy, primarily for the purpose of maintaining harmony between tenants and landlords. It's never an easy task to legislatively define institutional and human behavior in matters of complex social, economic and legal engagements. The incumbent government has proposed to redefine some aspects of owner tenancy relationships by enacting the Model Tenancy Act, 2000 (Act).

The objective of the Act, keeping in line with the vision of the Prime Minister, is to promote housing for all. Supported with some data, the law makers believe that this legislation will help regulate renting of premises and to protect the interests of landlords and tenants. It is interesting to note that while the primary objective of the legislation was to legislate the housing or residential sector, it has also broadened the scope to include premises which are used for commercial and educational use. Covering commercial leasing within the ambit of the Act will cause some disruption in the market and may not be seen as being progressive. Similar to the provisions of the rent control legislations of some

states, it is assumed that the coverage of the Act to commercial premises will be limited to small spaces only.

The efficiency of any legislation is gauged by its simplicity in language, ability to engage stakeholder compliance and an efficient and workable enforcement mechanism. On review, it appears that the construct of the Act, has borrowed some elements of the not so fashionable old school thought of providing remedial measures through a quasi-judicial or administrative structure. Such justice dispensation structures, especially in matters relating to rent and tenancy have not proved very efficient in the past.

The Act proposes to implement, through state infrastructure, the digitalization of all tenancy related agreements. The expectation of the Act is that all tenancy agreements should be reduced in writing and would have to be submitted to a 'Rent Authority' within 2 months of its execution. An officer who is not below the rank of a Deputy Collector of a District is appointed as the rent authority. The Rent Authority provides a unique identification number to the contracting parties and then the details of the tenancy agreement are uploaded on the platform. The operation and access to these platforms hold critical importance

---

Model Tenancy Act envisages the setting up of a threetier mechanism for dispute resolution, consisting of, the Rent Authority, the Rent Court and the Rent Tribunal.

---

as the disclosure of commercial terms of the leasing on an easy to access basis, may result in significantly weakening the commercial positions of the contracting parties for future transactions, because such information may be applied without the right context.

The Act requires the rent agreement to specify amongst other items; (i) quantum of rent payable; (ii) the tenure of the lease; (iii) terms of renewal and revision of rentals; (iv) security deposit payable. The security deposit payable by the tenant is limited to 2 months of rent for residential leases and 6 months of the rent payable for lease of commercial properties. Also, in the event of a disagreement of the revised rentals, between the landlord and tenant, the Rent Authority is empowered to determine the revised rent and other charges payable by the tenant. We assume that such powers are available with the Rent Authority, only when the rental escalation is not provided for in the tenancy agreement and the landlord unilaterally increases the rentals payable by the tenant.

One of the biggest worries of landlords is that of encountering a truant, non-compliant, litigious and squatting tenant. An effective and quick justice dispensation system is critical for the success of this Act. Else, we would be slipping back to the rent control era where tenants conveniently squatted on properties by depositing rents into courts long after the termination or expiry of their lease tenure and letting law take its own course – very often stretching to several years. Property rental is a decent source of income for senior citizens and is often seen as a voluntarily created social security net. However, the fear of being stuck in a long-drawn litigation would be a huge deterrent. Quick and immediate resolution of disputes coupled with enforcement is the only way to enhance stakeholder confidence.

The Act envisages the setting up of a three-tier mechanism for dispute resolution, consisting of, the Rent Authority, the Rent Court and the Rent Tribunal. The Rent Authority and the Rent Court are appointed by the District Collector or Magistrate with the State Government's approval. The Rent Authority is an officer, not below the rank of the Deputy Collector and the Rent Court shall be a person of the rank equivalent to an Additional Collector or Additional District Magistrate. A District Judge or an Additional District Judge is appointed as the Rent Tribunal in each district in consultation with the High Court. The Rent Authority has specific duties and powers, some of which are administrative and a few being adjudicatory. The Rent Authority can adjudicate over claims arising out of repairs and responsibilities and quantum of rent, the Rent



Court is the court of appeal for all such cases. However, the power to evict a tenant will only vest with a Rent Court.

A person aggrieved with the order of the Rent Authority may appeal to the Rent Court. The Act prescribes some strict times for adjudicating disputes, however strict implementation of these timelines will always be an issue. Further, the multi-tier appeal through the quasi-judicial process, will suffer from inherent delays as the prompt and continuous availability of quasi-judicial officers could be a challenge. A robust administrative machinery would have to be set up with a practice manual for adjudicating officers as a quick reference guide. Consistency in orders passed by the adjudicating authorities for similarly placed fact circumstances will help in setting clear expectations amongst those approaching these forums.

Further, the Act provides that non-compliance with the provisions of the Act, will not entitle the landlord and tenant to any relief under the provisions of the Act. Although civil courts are precluded from adjudicating any matter which is covered under the Act, the question which obviously arises in this context is whether the contracting parties have the liberty of excluding the provisions of this Act and have the flexibility of choosing to approach a civil court or an arbitrator in the event of a dispute.

In a progressive economy like ours, the need is to have institutional structures which generate a sense of confidence and reliance, coupled with transparency and pace. If the present Act is able to achieve these, then the Act will meet its objectives successfully, else, this will be another legislation which will only overburden our existing judicial system and also increase the distress of people who are constrained to approach these forums.



**Gerald Manoharan**  
Partner  
J Sagar Associates

