#### PART-III

### APPENDIX I

(Vide para 1.1 of the Report)

As Introduced in Rajya Sabha

Bill No. XLII of 1997

#### THE DELHI RENT (AMENDMENT) BILL, 1997 brown of as he bresident and of Admissi has members willying

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to amend the Delhi Rent Act, 1995

BE it enacted by Parliament in the Forty-eighth year of the Republic of India as follows:—

Short title. 1. This Act may be called the Delhi Rent (Amendment) Act, 1997.

Amendment of section 3.

- 2. In section 3 of the Delhi Rent 33 of 1995 Act, 1995 (hereinafter referred to as the principal Act), in sub-section (1),-
- (a) in clause (c), for the words "monthly deemed rent on the date of commencement of this Act", the words "monthly rent payable" shall be substituted;
  - (b) Explanation III shall be omitted;
- (c) Explanation IV and Explanation V shall be renumbered as Explanation III and Explanation IV respectively.

Substitution of new section for section 4.

3. For section 4 of the principal Act, the following section shall be substituted, namely:-

4 of 1882.

"4. Notwithstanding anything contained in section 107 of the Transfer of Property Act, 1882, no person shall, after the commencement of this Act, let or take on rent any premises except by an agreement in writing." Agreement to be in writing.

4. In section 5 of the principal Act, after sub-section (3), the following subsection shall be inserted, namely:— Amendment of section 5.

"(4) In relation to a tenant referred to in clause (i) of sub-section (3), the right of tenancy shall devolve for a period of three years from the date of his death to his successors in the following order, namely:—

## (a) spouse;

(b) son or daughter, or, where there are both son and daughter, both of them;

## (c) parents;

(d) daughter-in-law, being the widow of his pre-deceased son:

Provided that the tenancy shall devolve upon a successor only in a case where such successor was dependent on the tenant on the date of his death and such successor is not owning or occupying any other non-residential, premises in the National Capital Territory of Delhi.".

5. In section 6 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 6.

"(1) The rent payable in relation to a premises shall be,-

(a) in the case of a tenancy entered into before the commencement of this

(i) where standard rent under section 7 has not been fixed, the rent agreed to between the landlord and the tenant as enhanced in the manner provided in Schedule I; or

(ii) the standard rent specified under section 7;

(b) in the case of a tenancy entered into after the commencement of this Act, the rent agreed to between the landlord and the tenant as enhanced as per agreement, failing which in the manner provided in Schedule I, as revised under section 9."

Amendment of section 11.

6. In section 11 of the principal Act, in sub-section (1),—

(a) clause (i) shall be omitted;

(b) clauses (ii) to (v) shall be renumbered as clauses (i) to (iv) respectively;

(c) in the proviso, after the word "landlord", the words "or the tenant" shall be inserted.

7. For section 13 of the principal Substitution Act, the following section shall be substituted, namely:-

> "13. A landlord or a tenant may file an application within two years from the date on which the cause of action has arisen, to the Rent Authority,—

of new section for section 13.

Limitation for Application for fixation of standard rent,

(a) in the case of any premises which was let before the commencement of this Act, for any lawful increase or decrease of rent including fixation of standard rent or for payment of other charges;

"(b) in the case of any premises which was let after the commencement of this Act, for determining lawful increase or decrease of rent or other charges payable excluding fixing of standard rent."

Provided that the Rent Authority may entertain the application after the expiry of the said period of two years if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.".

8. In section 22 of the principal Act, in sub-section (2),—

(a) in clause (a), for the words "two or more", the words "three or more" shall be substituted;

(b) in clause (r), for explanation I, the following shall be substituted, namely:—

"Provided also that for the purpose of this clause, section 23, section 24, section 25 or section 26 and notwithstanding anything contained in any other provision of this Act, where the landlord in his application supported by an affidavit submits that the premises are required by him for occupation for himself or for any member of his family dependent on him, the Rent Authority shall give an opportunity to the tenant to file his reply supported by an affidavit within fifteen days of the intimation in this regard to such tenant, shall pass orders on the basis of such affidavits only and shall endeavour to dispose of the matter within one month of intimation to such tenant.

Amendment of section 22.

Explanation I.— For the purposes of this clause, section 23, section 24, section 25 or section 26, premises let for a particular use may be required by the landlord for a different use if such use is permissible under law."

## Amendment of section 45.

- In section 45 of the principal Act, in sub-section (8), for clause (a), the following clause shall be substituted, namely:—
- "(a) Every application by a landlord for the recovery of possession of any premises on the ground specified in clause (e) or clause (f) of sub-section (2) of section 22 or under section 33 shall be dealt with in accordance with the procedure specified in this sub-section."

## Amendment of section 48.

- 10. In section 48 of the principal Act,—
  - (a) in sub-section (1),—
- (i) in clause (b), for the words "Member; or", the word "Member". shall be substituted;
- (ii) clause (c) and clause (d) shall be omitted.
- (b) for sub-section (2), the following sub-section shall be substituted, namely:—
- "(2) A person shall not be qualified for appointment as a Member, unless he—
- (a) is, or has been, qualified to be, a Judge of High Court, or
- (b) has been a Member of the Indian Legal Service and has held a post in Grade-I of that Service for at least three years.

(c) in sub-section (3), for the words, brackets, and figures "Subject to the provisions of sub-sections (4) and (5), the", the word "The" shall be substituted;

(d) sub-section (4) and sub-section (5) shall be omitted.

11. In section 67 of the principal Act, for the opening words "On the commencement of this Act", the words "On the establishment of the Tribunal under section 46" shall be substituted.

12. In section 71 of the principal Act, in sub-section (1), for the opening words "No court", the words and figures "On the establishment of the Tribunal under section 46, no court" shall be substituted.

13. In section 81 of the principal Act, in sub-section (2), clauses (a) and (b) shall be omitted.

14. Section 82 of the principal Act shall be renumbered as section 84 and before section 84 as so renumbered, the following sections shall be inserted, namely:—

"82. Nothing in this Act shall affect the provisions of the Administration of Evacuee Property Act, 1950, or the Slum Areas (Improvement and Clearance) Act, 1956.

83. Notwithstanding anything contained in this Act, for so long as a Rent Authority is not appointed under sub-section (1) of section 43 of the Delhi

Amendment of section 67.

Amendment of section 71.

Amendment of section 81.

Addition of certain new sections.

Saving of operation of certain enactments.

Transitory provisions.

31 of 1950.

96 of 1956.

Rent Tribunal is not established under section 46,—

(a) the Controllers appointed under section 35 of the Delhi Rent Control Act, 1958 (hereinafter in this section referred to as the repealed Act), shall continue to hold office and shall exercise the powers conferred, and duties imposed, on a Rent Authority by or under this Act in the manner provided in Chapter VI of the repealed Act;

59 of 1958.

- (b) the Rent Control Tribunal appointed under sub-section (1) of section 38 of the repealed Act shall continue to hold office and exercise the powers of appeal over the decisions of the Controllers referred to in clause (a) in the manner it had been exercising such powers under section 38 of the repealed Act;
- (c) reference to—
- (i) "Tribunal" in sub-section (6) of section 44,
- (ii) "Chairman" in sub-section (3) of section 45,
- (iii) "Chairman of the Tribunal" in clause (b) of sub-section (7) of section 45,
- (iv) "Chairman of the Tribunal" in clause (d) of sub-section (7) of section 45,

shall be deemed to be reference to Rent Control Tribunal referred to in clause (b).".

Amendment of Schedule I.

15. In Schedule I of the principal Act, for Table I, the following Table shall be substituted, namely:—

## "TABLE-I dection of the Chairman and

of construction	Rate of annual enhancement of rent
1. Up to the 31st December, 1949	Two per cent.
2. On and from the 1st January, 1950 to	Four per cent.
3. On and from the 1st January, 1961 to	
On and from the 1st January, 1971 to the 31st December, 1995	least
	(11) Ien per cent. for non-resident
5. On and from the 1st January, 1996	(i) Eight per cent. for residential premises.
nay be brought into form other other	(ii) Twelve per cent, for non
	V of the principal opeginning with the letters "For cases
words, brackets and covered under clause ending with the wor cases indicate this following shall namely:—  "For Cases covered clause (f) or clause (2) of section 22 or 24, section 25, section indicate fifteen days indicate thirty days.	letters "For cases es (e) and (f)" and ods "and for other litty days.", the be Substituted, under clause (e) or (r) of sub-section section 23, section on 26 or section 33, and for other cases "."

#### STATEMENT OF OBJECTS AND REASONS

The Delhi Rent Bill, 1995 which received assent of the President on the 23rd August, 1995 was published as the Delhi Rent Act, 1995. However, in view of the strong reservations expressed by various individuals and organisations, the Act could not be brought into force so far. Though the Act was conceived as an attempt to promote private investment in rental housing by balancing the interests of the landlords and the tenants, yet it was felt that certain distortions are to be set at rest.

- 2. The issue regarding enforcement of the Act with or without amendments has been under examination of the Central Government at various levels for over a year. A view has emerged after various high level meetings that the Act may be brought into force after effecting certain amendments therein.
- 3. Having regard to the various representations and the developments referred to above, it has been decided to amend the Act, inter alia, seeking to provide for the following, namely:—
  - (a) provision regarding non-applicability of the Act under section 3 (1) (c) will be in relation to monthly rent payable instead of in relation to monthly deemed rent;
  - (b) all tenancies which may be entered into after the commencement of the Delhi Rent Act, 1995 shall be in writing and registration thereof shall be governed by the provisions of the Registration Act, 1908;
  - (c) inheritability of tenancies in relation to non-residential premises where the successor of the deceased tenant was dependent on him and is also not owning or possessing any non-residential premises in the National Capital Territory of Delhi shall be for a period of three years;
  - (d) the tenant will be given an opportunity to file a counteraffidavit in reply to the affidavit filed by the house-owner for getting his premises vacated in relation to certain grounds of eviction;

- (e) qualifications and mode of selection of the Chairman and the Members of the Delhi Rent Tribunal will be at par with those of the Central Administrative Tribunal (CAT);
- (f) the adjudicating machinery set up under the Delhi Rent (Control) Act, 1958 will continue to deal with cases till the new machinery (i.e. Rent Authority and Delhi Rent Tribunal) is set up and becomes operational under the Delhi Rent Act, 1995; and
- (g) the Act shall not affect the provisions of the Administration of Evacuee Property Act, 1950 or the Slum Areas (Improvement and Clearance) Act, 1956.
- 4. The proposed amendments are intended to make the Act more acceptable both to landlords and tenants. At the same time these would also encourage investment in the housing sector, particularly the rental housing.
  - 5. The Bill seeks to achieve the above objects.

New Delhi; U. Ver The 25th July, 1997.

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contained in section IIV of the Transfer of Property Act. 1882, no person small, after the commencement of this Act, 161

ANNEXURE

EXTRACTS FROM THE DELHI RENT ACT, 1995

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provisions not to apply to premises.

Certain 3. (1) Nothing in this Act shall apply— (Improvement and Clearance) Act, 1956.

(c) to any premises, whether residential or not and whether let out before or after the commencement of this Act, whose monthly deemed rent on the date of commencement of this Act exceeds three thousand and five 18 and 2 hundred rupees;

Explanation III.— "Deemed rent on the date of commencement of this Act" shall be the rent calculated in the manner provided in section 7, together with revision, if any, as provided in section 9 and decreased in the case of premises constructed after the commencement of this Act at the same rate as the rate of enhancement stipulated in Schedule I to reflect the position on the date of the commencement of this Act.

of tenancy agreements.

Registration 4. (1) Notwithstanding anything contained in section 107 of the Transfer of Property Act, 1882, no person shall, after the commencement of this Act, let or take on rent any premises except by an agreement in writing.

(2) Every agreement referred to in sub-section (1) or required to be registered under sub-section (3) shall be registered under the Registration Act, 1908, within such period as may be prescribed and for this purpose the agreement shall be deemed to be a document for which registration is compulsory under section 17 of the said Act.

(3) Where, in relation to a tenancy created before the commencement of this Act,—

(a) an agreement in writing was entered into, and was not registered under the Registration Act, 1908, the landlord and the tenant shall jointly present a copy thereof for registration before the registering officer under the said Act;

(b) no agreement in writing was entered into, the landlord and the tenant shall enter into an agreement in writing with regard to that tenancy and present the same for registration before the registering officer under the said Act:

Provided that where the landlord and the tenant fail to present jointly a copy of tenancy agreement under clause. (a) or fail to reach an agreement under clause (b) such landlord and the tenant shall separately file the particulars about such tenancy with the prescribed authority in such form and in such manner and within such period as may be prescribed.

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sub-section (1) or required to be registered under TMBR rulon (3) shall be

Rent payable.

- 6. (1) The rent payable in relation to a premises shall be—
- (a) the rent agreed to between the landlord and the tenant as enhanced in the manner provided in Schedule I; or
- (b) the standard rent specified under section 7, also re assetti (6)

Rent authority to fix standard rent, etc.

as revised under section 9. \* \* \* \* \*

- 11. (1) The Rent Authority shall, on an application made to him in this behalf, in the prescribed manner, fix in respect of any premises-
- (i) the deemed rent for the purpose of clause (c) of sub-section (1) of section 3;
- (ii) the enhancement in rent in the manner provided in Schedule I;
- (iii) the standard rent as per the provisions of section 7;
- (iv) the other charges payable as per the provisions of section 8; and
- (v) the revision in rent as per the provisions of section 9:

Provided that it shall not be permissible for the landlord to apply for the fixation of standard rent as per the provisions of section 7 in the case of a tenancy entered into after the commencement of this Act. or take on rest any people's except by an agreement in writing

13. A tenant may file an application to the Rent Authority for fixing the standard rent of the premises and a landlord or a tenant may file application for determining the lawful increase or decrease of rent or other charges payable, and other charges pay

Limitation for application for standard rent,

(b) in the case of any premises which was let after the commencement of this Act,-

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- (i) for fixing the standard rent thereof, within two years from the date on which the premises was let;
- (ii) in any other case, within two years from the date on which cause of action arose:

Provided that the Rent Authority may entertain the application after the expiry of the said period of two years, if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

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PROTECTION OF TENANTS AGAINST Eviction

22. (1) \* Protection of tenant against eviction.

(2) The Rent Authority may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only, namely:-

(a) that the tenants has neither paid nor tendered the whole of the arrears of the rent and other charges payable for two or more consecutive months legally recoverable from him within two months of the date on which a notice of demand for the arrears of such rent and other charges payable and interests at the rate of fifteen per cent. for the period of default has been served on him by the landlord in the manner provided in section 106 of the Transfer of Property Act, 1882.

4 of 1882.

Provided that a tenant shall not be entitled to the benefit of service of notice by the landlord under this clause where, having obtained such benefit once respect of any premises, he again makes a default in the payment of rent and other charges payable in the respect of those premises;

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(r) that the premises let for residential or non-residential purposes are required, whether in the same from or after re-construction or re-building, by the landlord for occupation for residential or non-residential purpose for himself or for any member of his family if he is the owner thereof, or for any person for whose benefit the premises are held and that the landlord or such person has no other reasonably suitable accommodation:

Provided that where the landlord has acquired the premises by transfer, no application for the recovery of possession of such premises shall lie under this clause unless a period of three years has elapsed from the date of the acquisition:

Provided further that where an order for the recovery of possession of any premises is made on the ground specified in this clause, the landlord shall be entitled to obtain possession thereof on the expiration of a period of six months in the case of residential premises and one year in the case of non-residential premises from the date of passing of eviction order.

Explanation I.— For the purposes of this clause and section 23 to 26,—

(i) where the landlord in his application supported by an affidavit submits that the premises are required by him for occupation for himself or any member of his family dependent on him, the Rent Authority shall presume that the premises are so required;

(ii) premises let for a particular use may be required by the landlord for a different use if such use is permissible under law.

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(8) (a) Every application by a landlord for the recovery of possession of any premises on the ground specified in clause (e) or clause (f) or clause (r) of sub-section (2) of section 22, or under section 23, or under section 24, or under section 25, or under section 26, or under section 33, shall be dealt with in accordance with the procedure specified in this sub-section.

Procedure to be followed by Rent Authority. Qualifications for appointment as Chairman and Members.

- 48. (1) A person shall not be qualified for appointment as the Chairman unless he—
- (a) is, or has been, a Judge of a High Court; or
- (b) has, for at least three years, held the office of a Member; or
- (c) is, or has been, a Member of the Indian Legal Service and has held, for at least three years, a post in Grade I of that Service; or
- (d) has, for at least three years, held the post of a Secretary in the Law Department of a State Government.
- (2) A person shall not be qualified for appointment as a Member unless he—
- (a) has, for at least eight years, held the post of Rent Authority; or
- (b) has, for at least five years, held the post of a District Judge; or
- (c) is, or has been, a Member of the Indian Legal Service in Grade I of that Service; or
- (d) has, for at least two years, held the post of a Secretary in the Law Department of a State Government; or
- (e) has, for at least ten years, been an Advocate.
- (3) Subject to the provisions of subsections (4) and (5), the Chairman and other Member of the Tribunal shall be appointed by the President of India after consultation with the Chief Justice of India.

- (4) The Chairman and other Members shall be appointed by the President of India on the recommendation of a Selection Committee appointed by the Central Government consisting of the following, namely:—
- (a) Chief Justice of the High Court of Delhi or his nominee who shall be a sitting Judge of the High Court;
- (b) Chairman of the Tribunal (except in case of the appointment of the Chairman);
  - (c) Secretary to the Government of India in the Ministry dealing with Legal Affairs;
  - (d) Secretary to the Government of India in the Ministry dealing with Urban Development;
  - (e) Chief Secretary to the Government of the National Capital Territory of Delhi.
  - (5) The Selection Committee shall recommend a person for appointment as Chairman or other Member from amongst the persons on the list of candidates prepared by the Ministry dealing with Urban Development in consultation with the Department dealing with Justice of the Government of India in accordance with the procedure as may be prescribed.

Transfer of Pending cases.

67. On the commencement of this Act, all cases pertaining to the matters in respect of which the Tribunal shall have jurisdiction under this Act including the cases under the Transfer of Property Act, 1882 in respect of premises and tenancies covered under clauses (c) to (i) of sub-section (1) of section 3 and pending in the High Court and all cases pending in the Rent Control Tribunal or additional Rent Control Tribunal constituted under the Delhi Rent Control Act, 1958 shall stand transferred to the Tribunal and the Tribunal may proceed with the matter either denovo or from the stage it was so transferred. partment of a State Government

4 of 1882.

59 of 1958.

Criminal Jurisdiction of the Tribunal. 71. (1) No court other than the Tribunal shall try any offence punishable under this Act.

Power to make rules. (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) the period within which agreements shall be registered under sub-section (2) of section 4;
- (b) the authority before whom, the form and the manner in which and the period within which the landlord and the tenant shall separately file the particulars about the tenancy under the proviso to sub-section (3) of section 4;

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#### SCHEDULE I

(See sections 6 and 7)

	TRAC LY(AS 0. (4) of section 45]	(New Andrews of the A
	TABLE  Date of agreement/commencemer of construction	nt Rate of enhancement
1.0	Upto 31st December, 1949	Contraction of the Contraction o
2.	On and from 1st January, 1950 to	
3.	On and from 1st January, 1961 t 31st December, 1970	wimm (*) days of the service to
4.	On and from 1st January, 1971 to 31st December, 1994	to  (i) Eight per cent. for residential premises;
		(ii) Ten per cent. for non- residential premises.
	onwards and behogger vis	Seventy-five per cent of annual inflation rate based on Whole-sale Price Index in the case of residential premises and hundred per cent. of such rate in the case of non-residential premises.
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#### SCHEDULE IV

[See sub-section (4) of section 45]

Form of Summons

(Name, description and place of residence of the tenant)

Whereas Shri..... has filed an application (a copy of which is annexed) for.....on the grounds specified in

You are hereby summoned to appear before the Rent Authority within (\*) days of the service hereof and file a reply within.....days in default whereof the matter shall be heard and disposed of ex parte.

(\*\*) You are to obtain the leave of the Rent Authority to contest the application for eviction of the ground....., in default whereof, the applicant will be entitled at any time after the expiry of the said period of fifteen days to obtain an order for your eviction from the said premises.

Leave to appear and contest the application may be obtained on an application to the Rent Authority supported by an affidavit as is referred to in clause (b) of sub-section (7) of section 45.

Given under my hand and seal of the Rent Authority/additional Rent Authority: House to despend the state of the state o

(Seal)

Rent Authority/ Additional Rent Authority.

<sup>\*</sup>To be filled in.

<sup>\*\*</sup>Strike off portion not applicable.

Notes:-

<sup>\*</sup>For cases covered under clauses (e) and (f) of sub-section (2) of section 22 and sections 23, 24, 25, 26 and 33 indicate fifteen days and for other cases indicate thirty

days.
\*\*For only cases covered under clause (a) of sub-section (8) of section 45.

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(Dr. U. Venkateswarlu, Minister of State in the Ministry of Urban Affairs and Employment)