APPENDIX – 2.1

MODEL RENT CONTROL BILL

The model rent control legislation circulated by the central government to the states in July 1992 contains a number of salutary provisions which will go a long way in ushering in the long overdue reforms in this sector. In the light of the discussion in the foregoing paragraphs, it will be relevant to refer to the following forward-looking provisions in the proposed legislation on fixation and revision of standard rent:

(i) Standard rent to be fixed on the basis of 10 per cent or such percentage return as the state government may decide on total cost consisting of two components, viz., market value of land in the year of commencement of construction enhanced in the manner specified in (ii) below and cost of construction plus, where applicable, the cost of renovations or major repairs. (Even for leased premises, the value of land will be the market value at the time of commencement of construction).

(ii) The standard rent so derived is increased by a certain specified percentage to arrive at standard rent for the given year. This percentage may be higher for non-residential premises. The percentage can vary from state to state. In case of Delhi, the suggested rates of increase are 4 per cent (1950-60); 6 per cent (1960-70); and 8 per cent (1970 onwards), though the inflation rate is higher.

(iii) To this standard rent are added charges relating to maintenance and amenities and payable taxes on pro rata basis to derive the total amount payable by the tenant. (Where Apartment Ownership Act is applicable, the pro rata cost of maintenance of common facilities will be borne by the apartment owners.)

(iv) The new standard rent is to be applicable to all existing tenancies, and rents of these tenancies are to be raised gradually over a specified period according to a specified schedule, and the level of neutralisation can range from 25 to 100 per cent, in direct proportion to the size of premises with 25 per cent for premises with less than 25 square metre area and higher percentage for larger premises. To lighten the burden of incremental rent on the tenants, a longer adjustment period of five to seven years can be considered by individual states. A tenant can vacate the premises any time during the period of adjustment. Any new tenancy created during this period will bear the same rent as is specified in the adjustment schedule.

(v) Revision of standard rent initially fixed is to be made after a period of every three years on the basis of criteria notified by the state government.
The inordinate delays and dilatory court procedures in settlement of disputes pertaining to tenancy and rent matters has been another cause of serious concern. The courts are unable to cope up with the ever increasing workload of such cases. This had led to extra-judicial or parallel systems of settling such disputes through the intermediary of criminals, thugs and mafia, particularly in metropolitan cities like Delhi and Mumbai. It is therefore imperative that a fresh look is taken at the existing institutional machinery, procedures, laws and so on. This too is sought to be addressed in the model rent control legislation. Special attention may be invited in this connection to the provisions in the draft legislation pertaining to streamlining of judicial procedures. These comprise:

(a) Enabling states to establish Rent Tribunals by a Constitutional amendment to include tenancy matters under Article 323(B) of the Constitution.

(b) Permitting pre-trial conciliation/compromise between landlord and tenant at any stage of litigation.

(c) Simplifying procedures of litigation by providing for filing of petition before Rent Controller and appeal before the Appellate Tribunal on prescribed form. This will curtail the volume of pleadings and restrict the proceedings to the real issues. The Rent Controller and Appellate Tribunal will follow the essential procedure of a fair trial and shall lay down their own procedure. The Code of Civil Procedure shall not be applicable. The adjudication procedure will provide for final adjudication of cases within a stipulated period, say six months, without scope for either of the two parties to prolong the proceedings in any manner whatsoever.

(d) It is proposed to have judicial Rent Controllers as the first forum with original jurisdiction to handle tenancy disputes and an Appellate Tribunal to substitute for the high court. Jurisdiction of civil courts will be ousted.

(e) The Appellate Tribunal will be composed of a chairman and such members as the state government may decide. The Appellate Tribunal shall have all the powers of the high court.

(f) It is open to the state governments to extend the jurisdiction of the two-tier system to cover tenancy and other disputes in regard to properties not coming under rent control law if they can undertake to strengthen the set up suitably without affecting the main objective of speedy disposal of cases relating to controlled premises.