



LEGISLATIVE ASSEMBLY OF THE
STATE OF GOA

**The Goa Buildings (Lease, Rent
and Eviction) Control
(Amendment) Bill, 2013**

(Bill No. 10 of 2013)

^{As} _____
(To be introduced in the Legislative Assembly of the State of Goa)

GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM-GOA
APRIL, 2013

**The Goa Buildings (Lease, Rent and
Eviction) Control (Amendment)
Bill, 2013**

(Bill No. 10 of 2013)

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BILL

5 *further to amend the Goa, Daman and Diu Buildings
(Lease, Rent and Eviction) Control Act, 1968 (Act
No.2 of 1969).*

BE it enacted by the Legislative Assembly of
Goa in the Sixty-fourth Year of the Republic of
India, as follows:-

10 1. *Short title and commencement.*— (1) This Act
may be called the Goa Buildings (Lease, Rent
and Eviction) Control (Amendment) Act, 2013.

(2) It shall come into force at once.

15 2. *Amendment of long title and preamble.*— In
the Goa, Daman and Diu Buildings (Lease, Rent
and Eviction) Control Act, 1968 (Act No.2 of 1969)
(hereinafter referred to as the "principal Act"),-

(i) in the long title, the figure and words,
"Daman and Diu" shall be omitted;

20 (ii) in the preamble, for the expression "Union
Territory of Goa, Daman and Diu", the
expression "State of Goa" shall be substituted.

3. *Amendment of section 1.*— In section 1 of the principal Act,

(i) in sub-section (1), the figure and words, "Daman and Diu" shall be omitted;

(ii) in sub-section (2) ,-

(a) for the expression "and to Daman (Nani and Moti) in the Union Territory of Goa, Daman and Diu but the Administrator", the expression "but the Government" shall be substituted;

(b) for the expression "said Union Territory", the expression "State of Goa" shall be substituted.

(iii) in sub-section (3) and in any other sections, for the word "Administrator", wherever it occurs, the word "Government" shall be substituted.

4. *Amendment of section 2.*— In section 2 of the principal Act,-

(i) clauses (a) and (b) shall be omitted;

(ii) clauses (c) to (h) shall be numbered as (a) to (f);

(iii) after clause (f) as so renumbered, the following clause shall be inserted,-

"(g) "Government" means the Government of Goa";

(iv) clauses (i) to (p) shall be numbered as clauses (h) to (o);

5. *Amendment of section 21.*— In section 21 of the principal Act, for the existing proviso, the following proviso shall be substituted, namely:-

"Provided that where the tenant denies the title of the landlord or claims a right of permanent tenancy, the Controller shall decide whether the denial or claim is bonafide and may pass a decree for eviction on any of the grounds mentioned in this Chapter even though it is found that such denial does not involve forfeiture of the lease or that the claim is unfounded".

6. *Amendment of section 23A.*— In section 23A of the principal Act,-

(i) in sub-section (3), in clauses (c) and (d), for the expression "Controller/Tribunal/Court", the expression "Controller/Appellate Board/Court" shall be substituted;

(ii) after sub-section (3B), the following sub-section shall be inserted, namely:-

"(3C) (a) Notwithstanding anything contained in this Act, a landlord, who is a senior citizen, or a widow, or a physically disabled person, on an application made in this behalf to the Controller, shall be entitled to recover possession of any residential premises owned by him/her on the ground that such premises are bonafide required by him/her for occupation by himself/herself.

(b) Where the senior citizen, or a widow, or a physically disabled person recovers possession of the premises under clause (a),

he or she shall not transfer it through sale or any other means or let it out before the expiry of a period of three years from the date of taking possession of the premises, failing which, the evicted tenant may apply to the Controller for an order that he or she be restored the possession of the said premises and the Controller shall make an order accordingly.

(c) The Controller shall pass an order for eviction of tenant on an application by a senior citizen, or widow, or a physically disabled person under clause (a) above supported by documentary proof that such a person is a senior citizen, or a widow, or a physically disabled person.

(d) Every application filed before the Controller under clause (a) above shall be dealt with in accordance with the procedure specified in sub section (3A) and the provisions thereof in so far they are applicable, shall apply to such proceedings.

Explanation:— For the purposes of this sub-section,-

(i) senior citizen means a person who has attained the age of 60 years;

(ii) a widow includes a widower; and

(iii) a physically disabled person means a person who has suffered disability at least to the extent of 40% and is so certified by a medical authority specified under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (Central Act 1 of 1996), as amended from time to time.

7. *Amendment of section 41.*— In section 41 of the principal Act, in sub-section (1), the existing proviso shall be omitted.

8. *Substitution of section 45.*— For section 45 of the principal Act, the following section shall be substituted, namely:-

“45. Appeal.— (1) From every order, other than an interim order, passed by the Rent Tribunal, an appeal shall lie to the Appellate Board.

(2) From every order, other than an interim order, passed by the Authorised Officer under section 31, or by the Controller, an appeal shall lie to the Appellate Board.

(3) An appeal under this section shall be preferred within thirty days from the date of the order appealed against:

Provided that the Appellate Board may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time”.

9. *Substitution of section 46.*— For section 46 of the principal Act, the following section shall be substituted, namely:—

“46. Revision. - (1) The Appellate Board may, in exceptional circumstances, on the application of any party, call for and examine the records relating to any order passed under this Act by the Authorised Officer, the Controller, or the Rent Tribunal, for the purpose of satisfying itself as to the correctness, legality, or propriety of such order and may pass such order thereon as it thinks fit:

Provided that no such record shall be called for after the expiry of ninety days from the date of the order.

(2) the cost of such proceedings shall be in the discretion of the Appellate Board". 5

10. *Insertion of new section 46A.*— After section 46 of the principal Act, the following new section shall be inserted, namely:-

"46A. *Transfer of pending appeals and revisions.*— All appeals and revisions received or registered under this Act and pending before Administrative Tribunal immediately before the commencement of the Goa Buildings (Lease, Rent and Eviction) Control (Amendment) Act, 2013, shall, on such commencement, stand transferred to the Appellate Board and such Appellate Board may proceed to deal with such appeals and revisions from the stage which was reached before such transfer or from any earlier stage or de novo, as such Appellate Board may deem fit." 10 15 20

11. *Amendment of section 56.*— In section 56 of the principal Act, for the expression "the Administrative Tribunal or the Administrator", the expression "or the Government" shall be substituted. 25

12. *Amendment of section 58.*— In section 58 of the principal Act,-

(i) in sub-section (2), in clause (a), for the expression, "Appellate Board, and Administrative Tribunal", the expression "and Appellate Board" shall be substituted; 30

(ii) in sub-section (4), the figure and words, "Daman and Diu" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

1. Section 23 A of the Goa Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968 (Act 2 of 1969) (hereinafter referred to as the "said Act"), deals with the right to recover immediate possession of premises which accrues in favour for certain persons.

The Bill seeks to amend said section 23A of the said Act, by inserting a new sub-section (3C) therein, so as to protect the property rights of person who is a senior citizen or a widow or a physically disabled person and enable them to recover possession of their premises when the same are bonafide required by them for their own occupation.

2. The Section 46A of the bill seeks to transfer all proceedings pending before the Administrative Tribunal immediately before the present Amendment Act, to the Appellate Board.

This Bill seeks to achieve the above objects

FINANCIAL MEMORANDUM

There is no financial implication involved hence the approval of the Finance Department is not required.

**MEMORANDUM REGARDING DELEGATED
LEGISLATION**

No delegated legislation is involved in this Bill.

Porvorim, Goa.
24th April, 2013.

(Adv. Francisco D'Souza)
Minister for Revenue

Assembly Hall,
Porvorim-Goa.
24th April, 2013.

(N. B. Subhedar)
Secretary to the
Legislative Assembly of Goa

ANNEXURE

BILL No. 10 of 2013

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**The Goa Buildings (Lease, Rent and Eviction)
Control (Amendment) Bill, 2013**
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**THE GOA, DAMAN AND DIU BUILDINGS
(LEASE, RENT AND EVICTION) CONTROL
ACT, 1968**

[Act No. 2 of 1969]

To provide for the control of rents and evictions and of rates of hotels and lodging houses, and for the requisition of vacant buildings, in the Union Territory of Goa, Daman and Diu.

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968.

(2) It extends, in the first instance, to the cities of Panaji, Margao, Mapusa and Vasco (including the Harbour area) and to Daman (Nani and Moti) in the Union Territory of Goa, Daman and Diu but the Administrator may, from time to time, by notification in the Official Gazette extend this Act or any provision thereof to any other area in the said Union Territory.

(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and for different areas and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "Administrative Tribunal" means the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965;

(b) "Administrator" means the administrator of the Union Territory of Goa, Daman and Diu appointed by the President under article 239 of the Constitution;

(c) "Appellate Board" means the Appellate Board constituted under sub-section (1) of section 41;

(d) "Authorised Officer" means an officer appointed as such under sub-section (2) of section 41;

(e) "Building" means any building, or part of a building, which is, or is intended to be, let separately for use as a residence or for commercial use or for any other purpose, and includes—

(i) the garden, ground and out-houses, if any, appertaining to such building or part of the building;

(ii) any furniture supplied by the landlord for use in such building or part of the building; but does not include a room in a hotel or lodging house;

(f) "Controller" means a person appointed as a controller under sub-section (2) of section 41 and, except in section 42, includes an Additional Controller;

(g) "fair rate" means the fair rate fixed under section 37 and includes the rate as revised under section 38;

(h) "fair rent" means the fair rent fixed under Chapter III;

(i) "hotel or lodging house" means a building, or part of a building, where lodging with or without board or other services is provided for monetary consideration;

(j) "landlord" means a person who, for the time being, is receiving, or is entitled to receive, the rent of any building, whether on his own account or on account of, or on behalf of, or for the benefit of, any other person or as a trustee, guardian or receiver for any other person or who would so receive the rent or be entitled to receive the rent, if the premises were let to a tenant;

(k) "manager of a hotel" includes any person in charge of the management of the hotel;

(l) "member of the family" means—

"2[(i) in relation to a landlord who is an individual, his spouse, son, daughter and includes father, mother, grandson solely dependent on the landlord for maintenance:

Provided that in the case of married daughter, her husband shall not be entitled to claim any benefit under section 5, if his wife has already got the said benefit thereunder and in case her husband has already got the said benefit, the married daughter shall not be entitled to claim the same".]

(ii) in relation to a landlord who is a joint Hindu family, the members of such a family;

(iii) in relation to joint owners other than a Joint Hindu family, the members of the family as indicated in sub-clause (i) in relation to each of such joint owners;

(m) "owner of a lodging House" means a person who for the time being is receiving, or is entitled to receive, whether on his own account, or on account of, or on behalf of, or for the benefit of, himself or any other person or as an agent or guardian, receiver

or a trustee or any other person, any monetary consideration from any person on account of board, lodging or other services provided in the lodging house;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "Rent Tribunal" means the Rent Tribunal constituted under sub-section (1) of section 41;

(p) "tenant" means any person by whom or on whose account or behalf the rent of any building is, or but for special contract would be, payable and includes [in the event of his death the surviving spouse, or any son, or unmarried daughter or father or mother who had been living with him as a member of his family upto the date of his death and] a sub-tenant and also any person continuing in possession after the termination of his tenancy, but shall not include any person against whom any order, or decree for eviction has been made.

21. *Bar on eviction of tenants.*— Notwithstanding anything to the contrary contained in any other law or contract, a tenant shall not be evicted, whether in execution of a decree or otherwise, except in accordance with the provisions of this Chapter:

Provided that where the tenant denies the title of the landlord or claims a right of permanent tenancy, the Controller shall decide whether the denial or claim is bonafide and if he records a finding to that effect, the landlord shall be entitled to sue for eviction of the tenant in a civil court and the court may pass a decree for eviction on any of the grounds mentioned in this Chapter even though the court finds that such denial does not involve forfeiture of the lease or that the claim is unfounded.

23A. Right to recover immediate possession of premises to accrue to certain persons.— (1) Where a landlord who, being a person in occupation of any residential premises allotted to him by the Government or any local authority is required, by, or in pursuance of any general or special order made by the Government or such authority to vacate such residential accommodation or in default, to incur certain obligations, on the ground that he owns in the place where such residential premises has been allotted to him either by the Government or by such local authority, a residential accommodation either in his own name or in the name of his wife or dependent child there shall accrue on and from the date of such order to such landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether express or implied), custom or usage to the contrary, a right to recover immediately possession of any premises let out by him:

Provided that nothing in this section shall be construed as conferring a right on a landlord owning in the place where the residential accommodation has been allotted to him by the Government or such local authority two or more dwelling houses whether in his own name or in the name of his wife or dependent child, to recover the possession of more than one dwelling house and it shall be lawful for such landlord to indicate the dwelling house, possession of which he intends to recover.

(2) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract, custom or usage to the contrary where the landlord exercises the right of recovery conferred on him by sub-section (1), no compensation shall be payable by him to the tenant or any person claiming through or under him and no claim for such compensation shall be entertained by any court, tribunal or other authority:

Provided that where the landlord had received,—

(a) any rent in advance from the tenant, he shall, within a period of ninety days from the date of recovery of the premises by him, refund to the tenant such amount as represents the rent payable for the unexpired portion of the contract agreement or lease;

(b) any other payment, he shall, within the period aforesaid, refund to the tenant a sum which shall bear the same proportion to the total amount as received, as the unexpired portion of the contract or agreement or lease bears to the total period of contract or agreement or lease:

Provided further that, if any default is made in making any refund as aforesaid the landlord shall be liable to pay simple interest at the rate of six per cent. per annum.

19[(3) Notwithstanding anything contained in this Act,—

(a) a landlord, who is a member of the armed forces of the Union or who is an employee of the Central Government or Railways or any Public Sector Undertaking of the Central Government whose employees are subject to transfers from their original place of posting or who was such member or employee as the case may be, and is duly retired (which term shall include premature retirement), shall be entitled to recover possession of any premises on the grounds that the premises are bonafide required by him for occupation by himself or any member of his family (which term shall include a parent or other relation ordinarily residing with him and dependent on him), and the Controller shall pass an order for eviction on such grounds if the landlord, at the hearing of the suit, produces a certificate signed by the Head of his Services or his commanding Officer or by the Head of his

Department or Head of the Public Sector Undertaking, as the case may be, to the effect that—

(i) he is presently a member of the armed forces of the Union or employee of the Central Government or Railways or the Public Sector Undertaking of the Central Government or he was such member or employee as the case may be, and is now retired ex-serviceman or employee as the case may be; and

(ii) he does not possess any other suitable residence in the local area where he or the members of his family can reside:

Provided that in the case of an ex-serviceman or an ex-employee referred to in sub-clause (i) above, an affidavit sworn before the competent authority to the effect as envisaged in sub-clause (ii) shall be sufficient;

(b) Where a member of the armed forces of the Union or employee of the Central Government or Railways or any Public Sector Undertaking of the Central Government whose employees are subject to transfers from their original posting place, as the case may be, dies while in services or such member is duly retired and dies within five years of his retirement, his widow who is or becomes a landlord of any premises, shall be entitled to recover possession of such premises, on the ground that the premises are bonafide required by her for occupation by herself or any member of her family (which term shall include her husband's parent or other relation ordinarily residing with her) and the Controller shall pass an order for eviction on such ground, if such widow, at the hearing of the suit, produces a certificate signed by the Area or Sub-Area Commander within whose jurisdiction the premises are situated or by the Head of Department or Head of the Public Sector Undertaking whereof, her

deceased husband was employee to the effect that—

(i) she is a widow of a deceased member of the armed forces or the employee of the Central Government or Railways or any Public Sector Undertaking of the Central Government, as the case may be; and

(ii) she does not possess any other suitable residence in the local area where she or the members of her family can reside:

Provided that the landlord or his widow, as the case may be, shall be entitled to recover only one of the premises chosen by him or her, under this section, in case more than one premises have been let out by him or her.Å"

Explanation 1.— For the purposes of this sub-section,

(i) "armed forces" means an armed force of the Union constituted under an Act of Parliament and includes a member of the police force constituted under the Police Act as applicable to the State of Goa;

(ii) any certificate granted by the concerned authority thereunder shall be conclusive evidence of the facts stated therein.

Explanation 2.— For the purpose of clause (a) of this sub-section, the expression the Head of his "Services in the case of officers retired from the Indian Navy, includes the Flag Officer-in-Chief, Western Naval Command and in the case of officers retired from the Indian Air Force, includes the Station Commander."

20[(c) The provisions of this sub-section shall be applicable to all applications including those pending proceedings before any Controller/Tribunal/Court and all such proceedings shall be disposed of in accordance with the provisions of this section.

(d) During the pendency of proceedings for recovery of possession under this sub-section, the tenant shall continue the regular payment of rent due to the landlord or deposit such amounts with the Controller/Tribunal/Court for payment to the landlord:

Provided that nothing in this sub-section shall be so constructed as conferring a right on any person to recover possession of more than one residential building inclusive of any part or parts thereof if it is let out in part of parts:

Provided further that the Controller may give the tenant a reasonable period for putting the landlord or as the case may be, his widow in possession of the residential building and may extend such time so as not to exceed six months in the aggregate].

21[(3A) (a) Every application under sub-section (3) shall be dealt with in accordance with the procedure specified in this sub-section.

(b) After an application under sub-section (3) is received, the Controller shall issue summons for service on the tenant in the form specified in the Schedule.

(c) The summons issued under sub-clause (b) shall be served on the tenant as far as may be, in accordance with the provisions of Order V of the First Schedule to the Code of Civil Procedure, 1908 (Central Act 5 of 1908). The Controller shall in addition direct that a copy of the summons be also simultaneously sent by registered post acknowledgement due addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and that another copy of

the summons be affixed at some conspicuous part of the building in respect whereof the application under sub-section (3)1 been made.

(d) When an acknowledgement purporting to be signed by the tenant or his agent is received by the Controller or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent has refused to take delivery of the registered article and an endorsement is made by a process server to the effect that a copy of the summons has been affixed as directed by the Controller on a conspicuous part of the building and the Controller after such enquiry as he deems fit, is satisfied about the correctness of the endorsement, he may declare that there has been a valid service of the summons on the tenant.

(e) The tenant on whom the service of summons has been declared to have been validly made under clauses (c) or (d) of sub-section (3A), shall have no right to contest the prayer for eviction from the residential building unless he files an affidavit within 15 days from the date stating the grounds of service on which he seeks to contest the application for eviction and obtains leave from the Controller as hereinafter provided and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord or, as the case may be, the widow, of such landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction of the tenant.

(f) The Controller may give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord or, as the case may be, the widow, of such

landlord from obtaining an order for the recovery of possession of the residential building under sub-section (3).

(g) Where leave is granted to the tenant to contest the application, the Controller shall commence the hearing on a date not later than one month from the date on which the leave is granted to the tenant to contest and shall hear the application from day to day till the hearing is concluded and application decided.

(h) No appeal or second appeal shall lie against an order for the recovery of possession of any residential building made by the Controller in accordance with the procedure specified in this sub-section:

Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this sub-section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit].

(4) [save as provided in sub-sections (3) and (3A) any landlord] who desires to exercise the right conferred by this section shall make an application to the Controller and the provisions of section 25 in so far as they are applicable, shall apply to such proceedings].

41. *Authorities.*— (1) The Administrator may by notification in the Official Gazette, constitute for any local area an Appellate Board and a Rent Tribunal consisting of one or more persons as may be prescribed for the purpose of this Act:

Provided that the Administrator may, by notification in the Official Gazette, entrust the powers, functions of duties of an Appellate Board to the Administrative Tribunal.

(2) (a) The Administrator may also, by notification in the Official Gazette, appoint an Authorised Officer, a Controller and as many Additional Controllers as he thinks fit, for any local area.

(b) An Additional Controller shall exercise the same powers and discharge the same duties as a Controller.

(3) The Administrator may, by notification in the Official Gazette, define the areas within which an Authorised Officer, or a Controller shall perform his functions.

45. *Appeal.*— (1) From every order, other than an interim order, passed by the Rent Tribunal, an appeal shall lie to the Appellate Board.

(2) From every order, other than an interim order, passed by the Authorised Officer under Section 31, or by the Controller an appeal shall lie to the Administrative Tribunal.

(3) An appeal under this section shall be preferred within thirty days from the date of the order appealed against:

Provided that the Appellate Board or, as the case may be, the Administrative Tribunal, may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time.

46. *Revision.* — (1) The Administrative Tribunal may, in exceptional circumstances, on the application of any party, call for and examine the records relating to any order passed under this Act by the Authorised Officer, the Controller, the Rent Tribunal, or the Appellate Board for the purpose of satisfying itself as to the correctness, legality, or propriety of such order and may pass such order thereon as it thinks fit:

Provided that no such record shall be called for after the expiry of ninety days from the date of the order.

(2) The cost of such proceedings shall be in the discretion of the Administrative Tribunal.

56. *Jurisdiction of courts barred.* — Save as provided in this Act, no court shall have jurisdiction to settle, determine or deal with any question which is by or under this Act required to be settled, determined or dealt with by the Controller, the Rent Tribunal, the Appellate Board, the Administrative Tribunal, or the Administrator, and no order passed by any such authorities under this Act shall be called in question in any court.

58. *Power to make rules.*— (1) The Administrator may, by notification in the Official Gazette and subject to the conditions of previous publication, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power such rules may provide for:—

(a) the procedure to be followed and the powers that may be exercised by the Controller, Rent Tribunal, Appellate Board, and Administrative Tribunal in the performance of their functions under this Act;

(b) the manner in which notices and orders under this Act shall be given or served;

(c) the setting aside of ex-parte orders passed under this Act;

(d) the application for bringing on record legal representatives of deceased persons who were parties to proceedings under this Act and the time within which such application shall be preferred;

(e) the procedure to be followed in taking possession of building and in disposing of the articles found therein at the time of taking possession;

(f) the fee leviable in respect of applications and appeals under this Act;

(g) any other matters which has to be, or may be, prescribed.

(3) In making a rule under this section the Administrator may provide that a person who contravenes any of the provisions thereof shall be punishable with fine which may extend to one thousand rupees.

(4) Every rule made under this Act shall, as soon as may be after it is made, be laid on the table of the Legislative Assembly of Goa, Daman and Diu and if before the expiry of the session in which it is so laid or the session immediately following, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Assembly Hall,
Porvorim-Goa,
24th April, 2013.

(N.B. Subhedar)
Secretary to the Legislative
Assembly of Goa