

# **The Government and Local Authority Lands and Buildings (Recovery of Possession) Ordinance, 1970 (East Pakistan Ordinance)**

(EAST PAKISTAN ORDINANCE NO. XXIV OF 1970)

[ 18th September, 1970 ]

**An Ordinance to repeal and with certain amendments, re-enact the East Bengal Government Lands and Buildings (Recovery of Possession) Act, 1952, and the East Pakistan Government Land (Unauthorised Occupation) Ordinance, 1960, and to consolidate the law relating to recovery of possession and assessment and recovery of compensation and arrear rent from unauthorised occupants of Government and Local Authority lands and buildings.<sup>1♣</sup>**

WHEREAS it is expedient to repeal, and with certain amendments, re-enact the East Bengal Government Lands and Buildings (Recovery of Possession) Act, 1952, and the East Pakistan Government Land (Unauthorised Occupation) Ordinance, 1960, and to consolidate the law relating to recovery of possession and assessment and recovery of compensation and arrear rent from unauthorised occupants of Government and Local Authority lands and buildings;

NOW, THEREFORE, in pursuance of the Proclamation of the 25th day of March, 1969, read with the Provisional Constitution Order, and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance:-

**Short title,  
extent and  
commencement**

1. (1) This Ordinance may be called the <sup>2</sup>[\* \* \*] Government and Local Authority Lands and Buildings (Recovery of Possession) Ordinance, 1970.
- (2) It extends to the whole of Bangladesh.
- (3) This Ordinance, in so far as it relates to Government lands and buildings, shall come into force at once; and the Government may, by notification in the official Gazette, extend it to such Local Authority and from such date as may be specified in the notification.

**Definitions**

2. In this Ordinance, unless there is anything repugnant in the subject or context,-
  - (a) “building” means a building which vests in, or is owned by, or is in possession or under the management and control of, the Government or a Local Authority,

and includes the land appurtenant thereto;

(b) “Deputy Commissioner” means the Deputy Commissioner of a District and includes an Additional Deputy Commissioner or a Joint Deputy Commissioner and such other persons as may be appointed by the Government to perform all or any of the functions of a Deputy Commissioner under this Ordinance;

(c) “land” means any land which vests in, or is owned by, or is in the possession or under the management and control of, the Government or Local Authority and includes any water;

(d) “Local Authority” means a local authority as defined in <sup>3</sup>[clause (28) of section 3 of the General Clauses Act, 1897 (X of 1897)];

(e) “prescribed” means prescribed by rules made by the Government under this Ordinance;

(f) “unauthorised occupant” means a person who is in occupation of any land or building or part thereof without having obtained the express permission or authority of the Government or the Local Authority

concerned, as the case may be, and without executing, where necessary, a legal document, and includes-

(i) a person unlawfully inducted into any land or building or part thereof by the lessee; and

(ii) a lessee who continues in possession of the land or building or part thereof after expiry of term or determination of lease; and

(g) the words “lease” and “lessee” have the same meanings as in the Transfer of Property Act, 1882, and the word “lessee” includes his heirs, assigns, legal representatives, members of his family and all persons inducted by him into the demised land.

**Eviction of  
outgoing  
lessee from  
land or  
building**

3. If on the expiry, whether before or after the commencement of this Ordinance, of the period of a lease in respect of any land or building of which the Government or a Local Authority is the lessor or on the determination of such lease on the ground of breach of any covenant or on the determination of such lease according to the terms and conditions of the lease or otherwise, the lessee

refused or failed, or refuses or fails, to vacate that land or building and put the lessor into possession of the same, then, notwithstanding anything contained in any other law for the time being in force or in any contract, it shall be lawful for the Deputy Commissioner, on his own motion or on the complaint of or upon information received from anybody or a Local Authority, at any time after the expiry or determination of lease, to re-enter upon the demised land or building and recover khas possession thereof by evicting the lessee and by demolishing and removing structures, if any, erected or built thereon by the lessee:

Provided that the Deputy Commissioner shall, before demolishing and removing any structures under this section, issue, in the prescribed manner, a notice on the lessee calling upon him to remove such structures within a period of thirty days from the date of service of the notice.

**Determination  
of lease and  
recovery of  
building in  
certain cases**

4. (1) Notwithstanding anything contained in any other law for the time being in force or any contract, where the lessee of a building or part of a building <sup>4</sup>[is a person in the service of the Republic] or of a Local Authority, the lease in respect of such

building or part shall, in addition to the modes mentioned in section 111 of the Transfer of Property Act, 1882, terminate-

(a) on the suspension, discharge, removal, dismissal, resignation, retirement or death of such servant or on his transfer from the station in which he is employed to any other station; or

(b) on the transfer of the lessee's interest by assignment, mortgage, sub-lease or in any other manner.

(2) On the determination of a lease in respect of a building or part of a building in the manner stated in sub-section (1) or in any of the modes mentioned in section 111 of the Transfer of Property Act, 1882, the lessee or the person claiming through him shall, notwithstanding anything contained elsewhere in the said Act or in any other law for the time being in force or in any contract, forthwith put the lessor into possession of such building or part, failing which it shall be lawful for the Deputy Commissioner to re-enter and recover khas possession of the same by evicting the lessee or the person claiming through him:

Provided that the Deputy Commissioner shall, before re-entering such building or part of a building, issue, in the prescribed manner, a notice on such lessee or person calling upon him to vacate the same within a period of thirty days from the date of service of the notice.

### **Eviction of unauthorised occupant**

5. (1) If the Deputy Commissioner, on his own motion or on the complaint of or upon information received from anybody or a Local Authority, is satisfied after making such inquiry as he thinks fit, that a person is an unauthorised occupant, he may issue, in the prescribed manner, a notice directing such person to vacate the land, building or part thereof in his occupation within a period of thirty days from the date of service of the notice <sup>5</sup>[:

Provided that the Deputy Commissioner may, where he is satisfied that thirty days' notice will not be in public interest, reduce the period of such notice to not less than seven days.]

(2) If the person, against whom an order under sub-section (1) has been made, refuses or fails to vacate the land, building or part thereof in his occupation within the time fixed, then, notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the Deputy Commissioner to enter upon such land, building or part thereof and recover khas possession of the same by evicting such person and by demolishing and removing structures, if any, erected or built by that person.

### **Mode of recovery of possession**

6. For the purpose of recovering khas possession of any land, building or part thereof under the provisions of section 3 or section 4 or section 5, the Deputy Commissioner may use or cause to be used such force as may be necessary.

### **Penalties**

7. (1) Notwithstanding anything contained elsewhere in this Ordinance or in any other law for the time being in force, if a Deputy Commissioner, an Additional Deputy Commissioner, a Joint Deputy Commissioner or a <sup>6</sup>[Upazilla Nirbahi Officer], on his own motion or on the complaint of or upon an information received from anybody, is satisfied after making such inquiry as he may think fit, that a person is an unauthorised occupant of any land or building or part thereof, he may give or cause to be given an information to that effect to the Police Station

having jurisdiction and thereupon it would be an offence which shall be punishable with imprisonment of either description for a term not exceeding two years or with fine which may extend to rupees one thousand or with both.

(2) An offence punishable under sub-section (1) shall be a cognizable and non-bailable offence to be tried in accordance with the warrant procedure as laid down in the Code of Criminal Procedure.

### **Forfeiture**

8. All structures and other properties remaining on the land, building or part thereof, after expiry of the period specified in the notice under section 3 or section 4 or section 5, shall be forfeited to the Government or the Local Authority, as the case may be.

### **Compensation for unauthorised occupation**

9. (1) For unauthorised occupation of any land, building or part thereof or for any damage caused thereto, the unauthorised occupant shall be liable to pay to the Government or to the Local Authority, as the case may be, such compensation as may be assessed by the Deputy Commissioner in accordance with the rules to be made in this behalf by the Government.

(2) As soon as an assessment has been made under sub-section (1), the Deputy Commissioner shall serve on the assessee, in the prescribed manner, a notice of such assessment, directing him to pay the amount so assessed within the period of thirty days from the date of service of the notice.

(3) Any amount due under sub-section (2) or if the rent payable for lease in respect of any land, building or part of any building has been in arrear, such amount or rent shall be recoverable as public demand under the provisions of <sup>7</sup>[\* \*] Public Demands Recovery Act, 1913.

### **Appeal**

10. Any person aggrieved by an order made under section 3 or section 4 or section 5 or section 9 may prefer an appeal to the <sup>8</sup>[Commissioner of the Division] within thirty days of the service of notice and the decision of the <sup>9</sup>[Commissioner] on such an appeal shall be final.

### **Bar to jurisdiction of civil Court**

11. No civil Court shall pass an order in any suit or proceeding granting a temporary or ad interim injunction restraining the Deputy Commissioner from

taking possession of any land, building or part thereof under this Ordinance nor shall call in question any assessment of compensation made under this Ordinance.

**Public  
servant**

12. Any person authorised to exercise any power or discharge any duty under this Ordinance shall be deemed to be a public servant under section 21 of the <sup>10</sup>[\* \* \*] Penal Code.

**Indemnity**

13. (1) No suit or legal proceeding shall lie against the Government or a Local Authority in respect of anything which is, in good faith, done or intended to be done under this Ordinance.

(2) No suit, prosecution or legal proceeding shall lie against any person in respect of anything which is, in good faith, done or intended to be done under this Ordinance.

**Power to  
make rules**

14. The Government may make rules for carrying out the purposes of this Ordinance.

**[Omitted.]**

15. [Repeal and savings.- Omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

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<sup>1</sup> Throughout this Ordinance, the words “Bangladesh” and “Government” were substituted for the words “East Pakistan” and “Provincial Government” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

<sup>2</sup> The words “East Pakistan” were omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President’s Order No. 48 of 1972)

<sup>3</sup> The words, brackets, figures and comma “clause (28) of section 3 of the General Clauses Act, 1897 (X of 1897)” were substituted for the words, brackets, figures and comma “clause (23) of section 3 of the Bengal General Clauses Act, 1899 (Bengal Act I of 1899)” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

<sup>4</sup> The words “is a person in the service of the Republic” were substituted for the words “is a servant of Government in Pakistan” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

<sup>5</sup> The colon (:) was substituted for the full-stop (.) and the proviso was added thereafter by Article 2 of the Bangladesh Government and Local Authority Lands and Buildings (Recovery of Possession) Order, 1972 (President’s Order No. 85 of 1972)

<sup>6</sup> The words “Upazilla Nirbahi Officer” were substituted for the words “Sub-divisional Officer” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

<sup>7</sup> The word “Bengal” was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President’s Order No. 48 of 1972)

<sup>8</sup> The words “Commissioner of the Division” were substituted for the word “Government” by the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

<sup>9</sup> The word “Commissioner” was substituted for the word “Government” by the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976)

<sup>10</sup> The word “Pakistan” was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President’s Order No. 48 of 1972)

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