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THE CANTONMENTS RENT RESTRICTION ACT, 1963

ACT NO. XI OF 1963

[27th April, 1963]

An Act to make provision for the control of rents of certain class of buildings within the limits of the Cantonment areas and for the eviction of tenants therefrom.*

WHEREAS it is expedient to make provision for the control of rents of certain class of buildings within the limits of the cantonment areas, for the eviction of tenants therefrom and for matters connected therewith;

It is hereby enacted as follows:-

1. (1) This Act may be called the Cantonments Rent Restriction Act, 1963. Short title,
extent and
commencement

(2) It extends to all the cantonments in Bangladesh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,- Definitions

- (a) “building” means any building or part of a building, whether residential or not, together with all fittings and fixtures therein, if any, and includes any gardens, grounds, garages and outhouses attached or appurtenant to such building or part, and vacant land, but does not include any place of religious worship;
- (b) “Cantonment Board” means a Cantonment Board constituted under the Cantonments Act, 1924;
- (c) “commercial building” means a building used solely for the purposes of business or trade;

* Throughout this Act, the words “Bangladesh”, “Government” and “Taka” were substituted for the words “Pakistan”, “Central Government” and “rupees” respectively by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (d) “Controller” means a Controller of Rents appointed by the Government under sub-section (1) of section 6 and includes an Additional Controller of Rents appointed under sub-section (2) of that section;
- (e) “family” of a person means and includes a husband, wife, children, dependent parents, dependent brothers, unmarried or widowed sisters and a deceased son’s widow and children residing with, and wholly dependent upon, that person;
- (f) “a house” is said to be in a state of reasonable repair, when-
 - (i) all floors, walls, pillars, arches and roofs are sound and watertight,
 - (ii) all doors and windows are intact, properly painted or oiled, and provided with proper hooks or bolts or other necessary fastenings,
 - (iii) all rooms, outhouses and appurtenant buildings are properly colour-washed or white-washed, and
 - (iv) all electric, water and sanitary fittings, if any, are properly maintained and are safe, sound and without leakage;
- (g) “landlord” means any person for the time being entitled to receive rent in respect of any building whether on his own account or on behalf or for the benefit of any other person, or as a trustee, guardian or receiver and includes a tenant who, being authorised under the terms of his lease so to do, sublets the building and every other person for the time being deriving title from the landlord;
- (h) “prescribed” means prescribed by rules made under this Act;
- (i) “residential building” means any building used for the purposes of residence and includes a hostel, boarding-house and residential hotel; and
- (j) “tenant” means any person who undertakes or is bound to pay rent as consideration for the possession or occupation of a building by him or by any other person on his behalf, and includes:-

- (i) any person who continues to be in possession or occupation of the building after the termination of his tenancy; and
- (ii) in the event of the death of the tenant, his heirs and successors and after the termination of the tenancy, his heirs and successors who continue to be in possession or occupation of the building.

3. Nothing contained in this Act shall apply to-

Act not to apply to certain buildings

¹[* * *]

- (b) any property owned by the Government ²[* * *], Railway, Port Trust or Cantonment Board and any property owned, managed or controlled by any other local authority under the administrative control of the Government ³[* * *].

4. The Government may, by notification in the *official Gazette*, direct that all or any of the provisions of this Act shall not apply to any cantonment or to any particular building or class of buildings or to buildings in any specific area.

Power of exemption

5. The provisions of this Act and any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in any instrument or document.

Act to override other laws

6. (1) The Government may, for purposes of this Act, by notification in the *official Gazette*, appoint a person to be the Controller of Rents for one or more cantonments.

Appointment of Controller

(2) The Government may also, by notification in the *official Gazette*, appoint a person to be the Additional Controller of Rents for one or more cantonments.

¹ Clause (a) was omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The comma and words “, any Provincial Government” were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words “or of any Provincial Government” were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Determination
of fair rent

7. (1) The Controller shall, on application by the tenant or landlord of a building, fix the fair rent of such building after holding such inquiry as he may think fit.

(2) The fair rent shall be fixed after taking into consideration the following factors, namely:-

- (a) in the case of a building which was in existence before the 1st July, 1961, the rent of that building during the twelve months immediately preceding that date and where that building was not let out during the said period the rent prevailing in the locality during that period for buildings having similar accommodation, amenities, conveniences, facilities and environment; or
- (b) in the case of a building completed on or after the 1st July, 1961, the rent at which such building is first let out within twelve months of its completion, and where that building is not let out during the said period, the rent prevailing in the locality during that period for buildings having similar accommodation, amenities, conveniences, facilities and environment; and
- (c) the annual value of the building as assessed by the Cantonment Board under the provisions of the Cantonments Act, 1924, relating to the period mentioned in clause (a) or clause (b).

(3) In fixing the fair rent of a building, the Controller shall also take into consideration the fixtures of the buildings, such as lifts and electric and other fittings, the rise and fall of the costs of construction and repairs and the imposition, abolition, enhancement or reduction of taxes since the 1st July, 1961.

(4) In working out the depreciation of a building, the Controller shall take into consideration the location, climatic conditions, the nature of materials used in its construction, and the attention paid to its regular maintenance.

(5) On and from such date as the Government may, by notification in the *official Gazette*, appoint in this behalf, the Controller shall not entertain any application under sub-section (1) after the expiry of one hundred and twenty days-

- (a) from the said date, where the building has been occupied by the tenant since before the said date; and

- (b) from the date of the occupation of the building by the tenant, in any other case.

8. (1) Where the fair rent of a building has once been fixed under section 7, it shall not be increased with or without the consent of the tenant unless some addition, improvement or alteration otherwise than by way of ordinary or usual repairs has been made in the building at the landlord's expense and, if the building be in the occupation of a tenant, at the tenant's request in writing, or unless a new tax has been imposed or an existing tax has been increased.

Increase of fair rent in certain cases

(2) Every dispute between a landlord and his tenant relating to the increase of rent under sub-section (1) shall be decided by the Controller:

Provided that the Controller shall in no case allow any increase beyond seven and a half *per centum* of the cost of the addition, improvement or alteration made in the building, or beyond the amount of the additional tax payable by the landlord, as the case may be.

9. Save as provided in section 8, where the fair rent of a building has been fixed under section 7 the landlord shall not claim or receive any premium or other like sum in addition to fair rent, or any rent in excess of such fair rent and any agreement or contract stipulating payment of any such premium, sum or excess rent shall to the extent of such stipulation be void:

Landlord not to claim anything in excess of fair rent

Provided that nothing in this section shall affect any stipulation for or payment of advance rent for not exceeding three months.

10. No landlord shall, in consideration of the grant, renewal or continuance of a tenancy of any building, require the payment of any fine, premium or any other like sum in addition to the rent.

Fine or premium not to be charged for grant, renewal or continuance of tenancy

Monies which should not have been paid may be recovered

11. Where, after the commencement of this Act, any sum not payable by a tenant under this Act has been paid by him, it may at any time within four months of the date of such payment be recovered by the tenant and may, without prejudice to any other mode of recovery be deducted by the tenant from the rent payable by him to the landlord.

Tenant to pay taxes

12. Notwithstanding anything contained in any other law for the time being in force or in any agreement, the tenant shall be bound to pay the taxes due in respect of the building to the Cantonment Board, as required by section 65 of the Cantonments Act, 1924, by making deductions from the rent payable by him.

Landlord not to interfere with amenities enjoyed by the tenant

13. (1) No landlord shall, without just or sufficient cause cut off or withhold any of the amenities enjoyed by the tenant.

(2) A tenant in occupation of a building may, if the landlord has contravened the provisions of this section, make an application to the Controller complaining of such contravention.

(3) If the Controller, on inquiry finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the landlord without just or sufficient cause, he shall make an order directing the landlord to restore such amenities, or authorising the tenant to provide the same and to incur such expense thereon as the Controller may specify, and any sum so spent by the tenant shall be adjustable against the rent payable by the tenant in respect of that building.

Restriction of conversion of residential buildings into commercial buildings and *vice versa*

14. No person shall convert a residential building into a commercial building or *vice versa*, except with the permission in writing of the Controller.

Failure by landlord to make necessary repairs

15. If a landlord fails to keep a building in a state of reasonable repairs, or to make such repairs thereto, not being structural alterations, as may from time to time be necessary, it shall be competent for the Controller to direct, on application by the tenant, and after such inquiry as the Controller may think necessary that such repairs may be made by the tenant, and the cost thereof deducted from the rent payable by him:

Provided that nothing in this section shall enable the tenant to spend on repairs any amount exceeding three months' rent unless the Controller after making necessary inquiry is satisfied that such repairs are essential to render the building fit for occupation:

Provided further that where under the terms of the agreement of tenancy, a tenant is authorised to make repairs at the expense of the landlord no application under this section shall be necessary.

16. (1) Where a local authority, in exercise of its functions under any law directs a landlord to make certain specified repairs to his building and the landlord fails to comply therewith, the tenant may at the direction of the local authority make such repairs.

Reimbursement of expenses incurred on repairs under orders of a local authority

(2) Where a tenant makes any repairs in pursuance of a direction given under sub-section (1), he shall within three months of the completion of repairs submit to the local authority an account of the costs incurred by him, on such repairs and the local authority shall, after due verification, certify such costs, whereupon the tenant shall become entitled to deduct the amount of certified cost from the rent payable by him.

17. (1) After the commencement of this Act, no tenant, whether before or after the termination of his tenancy, shall be evicted from the building in his possession or occupation in execution of a decree passed after such commencement, except in accordance with the provisions of this section.

Eviction of tenant

(2) A landlord who seeks to evict his tenant shall apply to the Controller for an order in that behalf, and the Controller may after giving the tenant a reasonable opportunity of showing cause against the application, make an order directing the tenant to put the landlord in possession, if he is satisfied that-

- (i) the tenant has not paid or tendered the rent to the landlord within fifteen days of the expiry of the time fixed in the agreement of tenancy for payment of rent, or in the absence of such agreement, within sixty days following the period for which the rent is due; or

- (ii) the tenant has, without the written consent of the landlord,-
 - (a) transferred his right under lease or sublet the building or any portion thereof; or
 - (b) used the building for a purpose other than that for which it was leased; or
- (iii) the tenant has committed such acts as are likely to materially impair the value, look or utility of the building; or
- (iv) the acts and conduct of the tenant have been a nuisance to the occupiers of buildings in the neighbourhood; or
- (v) where the building is situated in a place other than a hill station, the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause; or
- (vi) the landlord intends to demolish the building for constructing a new building on the same site and has already obtained the necessary sanction for such construction from the Cantonment Board:

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building and may extend such time so as not to exceed three months in the aggregate.

Explanation.- For the purpose of clause (i) the rent remitted by money order to the landlord or in case the landlord refuses to accept the rent deposited in the office of the Controller having jurisdiction in the area where the building is situated, shall be deemed to have been duly tendered.

(3) If the Controller is not satisfied as aforesaid he may make an order rejecting the application.

(4) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession,-

- (a) in the case of a residential building, if-
 - (i) he requires it in good faith for his own occupation or for the occupation of any member of his family; and

- (ii) he or the member of his family, as the case may be, is not occupying any other residential building suitable for his needs at the time, in the Cantonment area concerned or in any local area in the vicinity thereof; and
 - (iii) he or the said member has not vacated such a building in the said area or vicinity without sufficient cause after the commencement of this Act; and
- (b) in the case of a commercial building, if-
- (i) he requires it in good faith for his own use; and
 - (ii) he is not occupying in the Cantonment area concerned or in any local area in the vicinity thereof in which such building is situated for the purposes of his business any other such building suitable for his needs at the time; and
 - (iii) he has not vacated such a building in the said area or vicinity without sufficient cause after the commencement of this Act:

Provided that where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply under this sub-section before the expiry of such period:

Provided further that when the landlord has obtained possession of a residential or a commercial building under the provisions of sub-clause (a) or sub-clause (b) he shall not be entitled to apply again for the possession of any other building under that sub-clause, unless the building of which he had previously taken possession has become unsuitable for his needs:

Provided also that this sub-section shall not apply to *serais*, hotels, *dak-bungalows*, lodging-houses, boarding-houses, residential clubs, restaurants, eating-houses, cafés, refreshment rooms and places of public recreation or resort or premises dealing in sales or production of materials of books of educational and cultural values except where the landlord requires any such building to carry on any such business of his own, in which case he may make an application under this sub-section after having served two years' notice on the tenant; but

no building which is not, on the commencement of this Act, being used for any of the aforesaid purposes, or has not after such commencement been let out expressly for any such purpose, shall be converted to any such purpose except with the consent in writing of the landlord.

(5) The Controller shall, if he is satisfied that the claim of the landlord under sub-section (4) is *bona fide* make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Controller and if the Controller is not satisfied, he shall make an order rejecting the application:

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building and may extend such time so as not to exceed three months in aggregate.

(6) Where the landlord who has obtained possession of a building in pursuance of an order made under sub-section (5), does not himself, or where possession of the building has been obtained for any member of his family, such member does not occupy the building within one month of the date of obtaining its possession, the tenant who had been evicted may apply to the Controller for an order directing that the possession of such building be restored to him and the Controller may thereon make an order accordingly.

(7) Where a landlord has obtained possession of a building in pursuance of an order under clause (vi) of sub-section (2) and does not have the building demolished within four months of the date of taking its possession, or does not construct the new building within a period of two years following the expiry of the said period of four months, he shall, unless he satisfies the Controller that he was prevented from having the building demolished or constructing the building within the said time by reasons beyond his control, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(8) On the first hearing of proceedings under this section or as soon thereafter as may be but before the issues are framed, the Controller shall direct the tenant to deposit in his office before a specified date all the rent due from him, and also to deposit regularly till the final decision of the case, before the 5th day of each month, the monthly rent which subsequently

becomes due, and if there be any dispute as to the amount of rent due, the Controller shall determine such amount approximately.

(9) If the tenant fails to deposit the amount of rent before the specified date or, as the case may be, before the 5th day of the month, his application, if he is a petitioner, shall be dismissed, or his defence, if he is a respondent, shall be struck off, and the landlord shall be put in possession of the building without any further proceedings.

(10) Where the Controller is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Controller may direct that compensation not exceeding one hundred Taka be paid by such landlord to the tenant.

(11) Notwithstanding anything contained in this Act or elsewhere, the Government ¹[* * *], Railway, a Port Trust, a Cantonment Board or any other local authority may also apply to the Controller to seek eviction of the tenant from its building whether owned, hired or requisitioned, in the event of non-payment of rent within the period hereinbefore prescribed or for infringement of any of the terms of possession or occupation.

18. (1) Within a period of two months from the commencement of this Act or from the opening of any hotel or lodging-house, whichever is later, the owner of every hotel and lodging-house shall apply to the Controller for registration of his hotel or lodging-house and for determination of fair rates in relation thereto:

Registration of
hotels and
lodging-houses

Provided that the Government may, by a special or general order, by notification in the *official Gazette*, exempt any hotel or lodging-house or class of hotels or lodging-houses from the provisions of this section.

(2) Any owner of a hotel or lodging-house who fails to get his hotel or lodging-house registered in compliance with subsection (1) shall be punishable with fine which may extend to five hundred Taka.

¹ The words "or the Provincial Government" were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Fixation of fair rates

19. (1) The Controller may fix fair rates to be charged for board, lodging and other services provided in a hotel or boarding-house, at such amount as, having regard to all the circumstances, he deems just.

(2) A fair rate may be fixed separately for daily and monthly guests.

Explanation.- A guest who agrees to reserve accommodation for a period of one month or more shall be deemed to be a monthly guest and where the reservation is not for any specified period, or is for a period of less than one month, the guest shall be deemed to be a daily guest.

(3) The Controller may from time to time revise the fair rates determined by him under this section:

Provided that in case of reservation under an agreement or otherwise for a specified period no revision of fair rates shall be applicable.

(4) The Controller may also fix the minimum number of guests to be accommodated in each room or other unit of accommodation in a hotel or lodging-house:

Provided that where accommodation in a hotel or lodging-house is in the occupation of the Armed Forces of Bangladesh, the appropriate authority of the Armed Forces shall be given an opportunity to state facts and its views with regard to the determination of fair rates before such rates are fixed:

Provided further that the Controller shall not be empowered to fix fair rates for hotels, boarding-houses, lodging-houses and *dak-bungalows* under the control of the Armed Forces or meant exclusively for the use of the personnel of the Armed Forces.

Fair rates, etc., to be displayed

20. The fair rates fixed by the Controller and the maximum number of guests who may be accommodated in each room or unit of accommodation in a hotel or lodging-house shall be displayed in a conspicuous manner in the office and in the public rooms, if any, of such hotel or lodging-house.

Eviction of guests from hotels, etc.

21. (1) Except as hereinafter provided, no guest shall be evicted from a hotel or lodging-house or refused board or other services so long as he pays or is ready and willing to pay the fair rates.

(2) If the Controller is satisfied that-

- (a) a guest in a hotel or lodging-house has been guilty of conduct which is a nuisance or source of annoyance to other guest or persons living in the neighbourhood; or
- (b) the accommodation he occupies is required by the owner or manager of the hotel or lodging-house;

the Controller may, if he considers that the requirement is genuine and reasonable make an order authorising the owner or manager, as the case may be, to recover possession of the accommodation or part thereof occupied by such guest:

Provided that no such order shall be made unless the guest has been given a reasonable opportunity to show cause why such order should not be made:

Provided further that where there is an agreement for the stay of the guest for a specified period, he shall not be evicted before the expiry of that period.

22. Notwithstanding anything contained in any other provision of this Act no order of eviction shall be made under this Act against any person in the service of the Government, a Provincial Government, a Railway, a Port Trust, a Cantonment Board or any other local authority or of any corporation, company or authority rendering an essential service to the community, if his eviction would be detrimental to the public interest, provided eviction is not sought on the grounds referred to in clauses (i) to (iv) of sub-section (2) of section 17 or clause (a) of sub-section (2) of section 21 of this Act.

Eviction of Government servants, etc.

23. The Controller shall summarily reject any application under sub-section (2) or under sub-section (4) of section 17, which raises substantially the same issues as have been finally decided in a former proceeding under this Act.

Decisions which have become final not to be reopened

24. (1) The Government may, for the purposes of this Act by a general or special order, notified in the *official Gazette*, confer on a District Judge or an Additional District Judge, hereinafter referred to as appellate Court, the powers of an appellate Court under the Code of Civil Procedure, 1908 in respect of cantonment or cantonments as may be specified in the order.

Appeal

(2) Any party aggrieved by an order passed by the Controller may, within fifteen days following the date of such order, prefer an appeal to the appellate Court.

(3) Subject to the provisions of this Act, an appeal under this section shall be heard and determined as an appeal from an original decree under section 96 of the Code of Civil Procedure, 1908, and the provisions of Part VII and Order XLI of the First Schedule to the said Code shall, apply to such appeals:

Provided that the appellate Court may, where it considers necessary make further inquiry either personally or otherwise, before determining the appeal.

(4) The decision of the appellate Court shall be final.

(5) No order of the Controller except by an appeal under this section, and no order of the appellate Court made under this Act shall be called in question in any Court by any suit, appeal or other legal proceeding.

Execution of orders

25. (1) Every order made under section 13 or section 17, and every order passed on appeal under section 24 shall be executed by a civil Court having jurisdiction in the area as if it were a decree of that Court.

(2) The provisions of Order XXI of the First Schedule to the Code of Civil Procedure, 1908, shall so far as may be, apply to the execution of orders made or deemed to have been made under this Act.

Landlord and tenant to furnish particulars

26. Every landlord and every tenant of a building shall be bound to furnish to the Controller, or any person authorised by him in that behalf, such particulars in respect of such building as may be prescribed.

Procedure and powers of Controller

27. (1) No order under section 7, 8, 13, 15, 17 or 19 of this Act shall be made by the Controller except after holding an inquiry.

(2) For the purposes of holding an inquiry under this Act, the Controller and the appellate Court shall have the same

powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:-

- (a) summoning and enforcing attendance of any person and examining him on oath;
- (b) compelling the discovery and production of any document and other material evidence; and
- (c) issuing a commission for the examination of witnesses.

(3) The proceedings of every inquiry shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the ¹[* * *] Penal Code.

(4) The Controller shall be deemed to be a Court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898.

28. Whoever contravenes or fails to comply with any provisions of this Act or the rules made thereunder shall be punishable with fine which may extend to five hundred Taka. Penalties

29. No Court shall take cognizance of an offence under this Act except on a complaint made by the Controller in writing within three months of the date of the commission of the offence. Cognizance of offence

30. A Controller shall be deemed to be a public servant within the meaning of section 21 of the ²[* * *] Penal Code. Controller to be a public servant

31. No suit or other legal proceedings shall lie against the Controller or any person acting under his orders, in respect of anything which is in good faith done or intended to be done under this Act. Indemnity

32. The Government may, by notification in the *official Gazette*, make rules to carry out the purposes of this Act. Power to make rules

¹ The word "Pakistan" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

² The word "Pakistan" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).