

The Public Demands Recovery Act, 1913 (Bengal Act)

(ACT NO. III OF 1913)

1♣ An Act to consolidate and amend the law relating to the recovery of public demands in Bangladesh.

WHEREAS it is expedient to consolidate and amend the law relating to the recovery of public demands in Bangladesh;

[* * *]

It is hereby enacted as follows:-

PART I

PRELIMINARY

- Short title, commencement and extent**
1. (1) This Act may be called the ²[* * *] Public Demands Recovery Act, 1913.
- (2) It shall come into force on such date as the Government may appoint by notification in the official Gazette.
- (3) It extends to the whole of Bangladesh.
- [Repealed]**
2. [Repealed by the Bengal Repealing and Amending Act, 1938 (Act No. I of 1939).]
- Definitions**
3. In this Act, unless there is anything repugnant in the subject or context,-
- (1) "Certificate-debtor" means the person named as debtor in a certificate filed under this Act, and includes any person whose name is substituted or added as debtor by the Certificate-officer;
- (2) "Certificate-holder" means the Government or person in whose favour a certificate has been filed under this Act, and includes any person whose name is substituted or added as creditor by the Certificate-officer;

(3) "Certificate-officer" means a Collector, a ³[Upazila Nirbahi Officer, a Upazila Magistrate,] and any officer, appointed by a Collector ⁴[, with the sanction of the Commissioner] to perform the functions of a Certificate-officer under this Act;

(4) "movable property" includes growing crops;

(5) "prescribed" means prescribed by rules;

(6) "public demand" means any arrear or money mentioned or referred to in Schedule I, and includes any interest which may, by law, be chargeable thereon up to the date on which a certificate is signed under part II; and

(7) "rules" means rules and forms contained in Schedule II or made under section 39.

PART II

FILING, SERVICE AND EFFECT OF CERTIFICATES, AND HEARING OF OBJECTIONS THERETO

Filing of certificate for public demand payable to Collector

4. When the Certificate-officer is satisfied that any public demand payable to the Collector is due, he may sign a certificate, in the prescribed form, stating that the demand is due, and shall cause the certificate to be filed in his office.

Requisition for certificate in other cases

5. (1) When any public demand payable to any person other than the Collector is due, such person may send to the Certificate-officer a written requisition in the prescribed form:

Provided that no action shall be taken under this Act, on a requisition made by a land mortgage bank registered or deemed to be registered under the Co-operative Societies Act, 1940, or an assignee of such bank, unless the requisition be countersigned by the Registrar of Co-operative Societies, Bangladesh.

(2) Every such requisition shall be signed and verified in the prescribed manner, and, except in such cases as may be prescribed, shall be chargeable with the fee of the amount which would be payable under the Court-fees Act, 1870, in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.

Filing of certificate on requisition

6. On receipt of any such requisition, the Certificate-officer, if he is satisfied that the demand is recoverable and that recovery by suit is not barred by law, may sign a certificate, in the prescribed form, stating that the demand is due; and shall include in the certificate the fee (if any) paid under section 5, sub-section (2); and shall cause the certificate to be filed in his office.

Service of notice and copy of certificate on certificate-debtor

7. When a certificate has been filed in the office of a Certificate-officer, under section 4 or section 6, he shall cause to be serve upon the certificate-debtor, in the prescribed manner, a notice in the prescribed form and a copy of the certificate.

Effect of service of notice of certificate

8. From and after the service of notice of any certificate under section 7 upon a certificate-debtor,-

(a) any private transfer or delivery of any of his immovable property situated in the district in which the certificate is filed, or of any interest in any such property, shall be void against any claim enforceable in execution of the certificate; and

(b) the amount due from time to time in respect of the certificate shall be a charge upon the immovable property of the certificate-debtor, wherever situated, to which every other charge created subsequently to the service of the said notice shall be postponed.

Filing of petition denying liability

9. (1) The certificate-debtor may, within thirty days from the service of the notice required by section 7, or, where the notice has not been duly served, then within 30 days from the execution of any process for enforcing the certificate, present to the Certificate-officer in whose office the certificate is filed, or to the Certificate-officer who is executing the certificate, a petition, in the prescribed form, signed and verified in the prescribed manner, denying his liability, in whole or in part.

(2) If any such petition is presented to a Certificate-officer other than the Certificate-officer in whose office the original certificate is filed, it shall be sent to the latter officer for disposal.

Hearing and determining of such petition

10. The Certificate-officer in whose office the original certificate is filed shall hear the petition, take evidence (if necessary), and determine whether the certificate-debtor is liable for the whole or any part of the amount for which the certificate was signed; and may set aside, modify or vary the certificate accordingly:

Provided that, if the Certificate-officer is not the Collector, and considers that the petition involves a bona fide claim of right to property, he shall refer the petition to the Collector for orders; and the Collector, if he is satisfied that a bona fide claim of right of property is involved, shall make an order canceling the certificate.

Special provisions relating to certificate for the recovery of certain dues.

⁵[10A. (1) Notwithstanding anything contained in section 7, when a certificate has been filed in the Office of the Certificate-officer under section 4 or section 6 for the recovery of any dues under the ⁶[Bangladesh House Building Finance Corporation Order, 1973 or the Bangladesh Krishi Bank Order, 1973,] or the Co-operative Societies Act, 1940 or the ⁷[Customs Act, 1969] or for the recovery of any loan advanced by the ⁸[Government], ⁹[or for the recovery of any money referred to in Article 15 of Schedule I] the Certificate-officer shall, instead of causing a notice prescribed under section 7 to be served upon the certificate-debtor, cause a demand-notice to be served upon the certificate-debtor by registered post with acknowledgement due requiring the certificate-debtor to deposit with the Certificate-officer the amount of his debt within thirty days of the service of such notice.

(2) From and after the service of the demand-notice under sub-section (1) upon a certificate-debtor, the provisions of clauses (a) and (b) of section 8 shall apply.

(3) The provisions of section 9 or section 10 shall not apply in the case of a certificate for the recovery of any dues or loan specified in sub-section (1); and on the default of the certificate-debtor to deposit the amount of his debt as require by sub-section (1), the Certificate-officer shall proceed to execute the certificate in accordance with the provisions of the Act.]

PART III**EXECUTION OF CERTIFICATE****Who may execute certificate**

11. A certificate filed under section 4 or section 6 may be executed by-

(a) the Certificate-officer in whose office the original certificate is filed, or

(b) the Certificate-officer to whom a copy of the certificate is sent for execution under section 12, sub-section (1).

Transmission of certificate to another Certificate-officer for execution

12. (1) A Certificate-officer in whose office a certificate is filed may send a copy thereof, for execution, to any other Certificate-officer.

(2) When a copy of a certificate is sent to any such officer, he shall cause it to be filed in his office, and thereupon the provisions of section 8 with respect to certificates filed in the office of a Certificate-officer shall apply as if such copy were an original certificate:

Provided that it shall not be necessary to serve a second notice and copy under section 7.

When certificate may be executed

13. No step in execution of a certificate shall be taken until the period of thirty days has elapsed since the date of the service of the notice required by section 7, or, when a petition has been duly filed under section 9, until such petition has been heard and determined:

Provided that, if the Certificate-officer in whose office a certificate is filed is satisfied that the certificate-debtor is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment in execution of a decree of a Civil Court, and that the realization of the amount of the certificate would in consequence be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing, an attachment of the whole or any part of such movable property:

Provided further that if the certificate-debtor whose movable property has been so attached furnishes security to the satisfaction of the Certificate-officer, such attachment shall be cancelled from the date on which such security is accepted by the Certificate-officer.