

The Non-Agricultural Tenancy Act, 1949 (East Bengal Act)

(ACT NO. XXIII OF 1949)

An Act to make better provision relating to the law of landlord and tenant in respect of certain non-agricultural tenancies in Bangladesh.^{1♣}

WHEREAS it is expedient to make better provision relating to the law of landlord and tenant in respect of certain non-agricultural tenancies in Bangladesh;

It is hereby enacted as follows:-

CHAPTER I PRELIMINARY

Short title, extent and commencement 1. (1) This Act may be called the ²[* * *] Non-Agricultural Tenancy Act, 1949.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

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

(1) "Bengali year" means a year ending on the last day of the Bengali month of Chaitra;

(2) "Deputy Commissioner" includes any officer appointed by the Government to perform all or any of the functions of a Deputy Commissioner under this Act;

(3) "Landlord" means a person immediately under whom a non-agricultural tenant holds;

(4) "Non-agricultural land" means land which is used for purposes not connected with agriculture or horticulture and includes any land which is

held on lease for purposes not connected with agriculture or horticulture irrespective of whether it is used for any such purposes or not, but does not include-

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(b) land which was originally leased for agricultural or horticultural purposes but is being used for purposes not connected with agriculture or horticulture without the consent either express or implied of the landlord, if the period for which such land has been so used is less than twelve years, and

(c) land which is held for purposes connected with the cultivation or manufacture of tea:

Provided that where an order has been made under section 72 converting a parcel of land which is not non-agricultural land into a tenancy to which the provisions of this Act apply such land shall be deemed to be non-agricultural land;

(5) "Non-agricultural tenant" means a person who holds non-agricultural land under another person with the consent of that person and is, or but for a special contract would be liable to pay rent to such person for that land and also includes the successors-in-interest of the former but does not include any person who holds any such land on which any premises occupied by such person are situated if such premises have been erected, or are owned, by the person to whom such occupier is, or but for a special contract would be, liable to pay rent for such occupation;

Explanation.- In this clause "premises" mean any building such as a house, manufactory, warehouse, stable, shop or hut whether constructed of masonry, bricks, concrete, wood, mud, metal or any other material whatsoever and includes any land appertaining to such building;

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

(7) "pucca structure" means any structure constructed mainly of brick, stone or concrete or any combination of these materials;

(8) all words and expressions used but not defined in this Act and used in 4[* * *] the Transfer of Property Act, 1882, have the same meanings as in those Acts.

CHAPTER II

CLASSES OF NON-AGRICULTURAL TENANTS

Classes of non-agricultural tenants

3. (1) There shall be, for the purposes of this Act, the following classes of non-agricultural tenants, namely:-

- (a) tenants, and
- (b) under-tenants.

(2) "Tenant" means a person who has acquired from a proprietor or a tenure-holder a right to hold non-agricultural land for any of the purposes provided in this Act, and includes also the successors-in-interest of persons who have acquired such a right.

(3) "Under-tenant" means a person who has acquired a right to hold non-agricultural land for any of the purposes provided in this Act either immediately or mediately under a tenant and includes also the successors-in-interest of persons who have acquired such a right.

Purposes for which non-agricultural tenant may hold non-agricultural land

4. A non-agricultural tenant may hold non-agricultural land for-

- (a) homestead or residential purposes;
- (b) manufacturing or business purposes; or
- (c) religious or other purposes.

Tenancies held by a non-agricultural tenant

5. A non-agricultural tenant shall be deemed to hold any non-agricultural land-

- (a) for homestead or residential purposes if such tenant is entitled, under the terms of any agreement between himself and the landlord to use or is actually using such land for homestead or residential purposes;
- (b) for manufacturing or business purposes if such tenant is entitled, under the terms of any agreement between himself and landlord, to use or is

actually using such land for carrying on therein any commercial or industrial enterprise or any trade or business; and

(c) for religious or other purposes if such tenant is entitled, under the terms of any agreement between himself and landlord, to use or is actually using such land for a religious purpose or for any purpose not connected with agriculture or horticulture other than-

(i) the purposes specified in clauses (a) and (b), and

(ii) the exercise of any forest-rights or rights over fisheries or rights to minerals in such land.

CHAPTER III

TENANTS

Manner of use of non-agricultural lands

6. (1) A tenant holding non-agricultural land may use such land in any manner which is not inconsistent with any of the purposes for which non-agricultural land may be held under this Act and which does not materially impair the value of such land.

(2) A tenant holding non-agricultural land comprised in any tenancy to which the provisions of section 7 or section 8 apply shall be entitled-

(a) to erect any structure including any pucca structure;

(b) to erect a mosque, a temple or any other place of worship;

(c) to dig any tank; and

(d) to plant, enjoy the flowers, fruits and other products of, and fell and utilise or dispose of the timber of, any tree on such land.

(3) A tenant holding non-agricultural land comprised in any tenancy to which the provisions of section 9 apply shall be entitled-

(a) to erect any structure other than a pucca structure;

(b) to plant, and enjoy the flowers, fruits and other products of, any tree, and

(c) to fell, and utilise or dispose of the timber of, any tree planted by him on such land.

**Incidents of
certain
tenancies**

7. Notwithstanding anything contained in any other law for the time being in force or in any contract-

(1) if any non-agricultural land has been held with or without any lease having been entered into by the landlord and the tenant from before the commencement of the Transfer of Property Act, 1882, or if the origin of any tenancy is unknown, or

(2) if the non-agricultural land comprised in any tenancy which has been or is created after the commencement of the Transfer of Property Act, 1882, has been held for a period of not less than twelve years without any lease in writing, or

(3) if any non-agricultural land has been held under a lease in writing for a period of not less than twelve years but no term is specified in such lease, or

(4) if any non-agricultural land held under a lease in writing for a period specified therein continues to be held after the expiration of the time limited by such lease and the total period for which such land is so held is not less than twelve years, or

(5) if the landlord has allowed pucca structures to be erected on any non-agricultural land held under a lease in writing for a period specified therein, whether such structures have been erected-

(a) before the expiration of the said period, or

(b) where such non-agricultural land continues to be held with the express or implied consent of the landlord after the expiration of the said period, during the period such non-agricultural land so continues to be held, then-

(i) the tenant holding the non-agricultural land comprised in such tenancy shall not be ejected by his landlord from such land except on the ground that he has used such land in a manner which renders it unfit for use for any of the purposes specified in section 4;