

GOVERNMENT OF THE PEOPLES REPUBLIC OF BANGLADESH
MINISTRY OF LAW AND JUSTICE

THE BUILDING CONSTRUCTION ACT,
1952
(East Bengal Act II of 1953)

(As modified up to the 30th April, 1985)

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THE BUILDING CONSTRUCTION ACT, 1952

CONTENTS

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Restriction on construction of building and excavation of tank.
- 3A. Restriction on improper use of lands and buildings.
4. Power of removal of temporary building.
5. Power of removal of building under construction.
6. Eviction of occupier.
7. Removal of building by the *Provincial Government.
8. Application for sanction.
9. Cancellation or sanction on breach of terms and conditions thereof.
10. Entry into premises.
11. Exemption.
12. Penalty.
- 12A. Notice to offenders before obtaining sanction for prosecution.
13. Cognizance of offence.
14. Bar to jurisdiction of Civil Court.
15. Appeal.
16. Public servant.
17. Indemnity.
18. Power to make rules.
19. Compensation when not payable.
20. [Repealed]

**EAST BENGAL ACT II OF 1953
THE BUILDING CONSTRUCTION ACT,
1952.**

[21ST March, 1953]

An Act to provide for the prevention of haphazard construction of buildings and excavation of tanks which are likely to interfere with the planning of certain areas in ²[Bangladesh].

WHEREAS it is expedient to provide for the prevention of haphazard construction of building and excavation of tanks land cutting of hills which are likely to interfere with the planning of certain areas in ²[Bangladesh]

It is hereby enacted as follows :-

- 1.-(1) This Act may be called the 4* * Building
- (2) It extends to the whole of ²[Bangladesh].
- (3) It shall come into force,-

Short title,
extent and
commencement.

(a) in the areas to which notification No. 2396 L.S.-G., dated the 26th July, 1951, relates, on and from the date on which the East Bengal Building Construction Ordinance, 1951, as enacted and continued in operation by the East Bengal expiring Laws Act, 1951, ceases to operate; and

(b). in other areas, on and from such dates as the Provincial Government may, by notification in the Official Gazette, direct.

(4) The provincial Government may, by notification in the official Gazette, withdraw the operation of this Act from any area.

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

Definitions

- (a) “ Authorised officer” means an officer appointed by the Provincial Government, by notification in

1. For Statement of Objects and Reasons, see the Dacca Gazette, Extraordinary, dated the 3rd October, 1952 , Pt. IVA, P. 1740; for proceedings of Assembly, see the proceedings of the meetings of the East Bengal Legislative Assembly held on the 6th, 30th and 31st October, and 1st November, 1952.

2. The word “Bangladesh” was replaced for the words “East Pakistan” by P.O. No. 48 of 1972.

3. Inserted by E.P Ordinance IV of 1960.

4. the words “East Bengal” were omitted by P.O. No. 48 of 1972.

* For "Provincial Government" read "Government".

the Official Gazette, to exercise in any area the functions of an Authorised officer under this Act;

(b) "building" includes a house, out-house, hut, wall and any other structure whether of masonry, brick, corrugated iron sheets, metal, tiles, wood, bamboo's, mud, leaves, grass, thatch or any other material what server;

(c) "Committee" means a building Construction Committee constituted for any area in the prescribed manner ;

¹[(cc) "hill" includes hillocks;]

(d) (i) "owner" in relation to a building or tank means the person at whose expenses such building or tank is constructed or excavated and who has the right to transfer the same, and includes his heirs, assigns and legal representatives ;

²[ii] " owner" in relation to a hill means a person who possesses the hill and has the right to transfer the same, and includes his heirs, assigns and legal representatives ;]

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

(f) "tank" includes ditch, drain, well and channel; and

(g) "temporary building" means such building which is declared by the Authorised Officer to be of a temporary nature.

Restriction-
on
constructi-
on of
building
and
excavation
of tank

3.-³(1) Notwithstanding anything contained in any other law for the time being in force, or in any agreement, no person shall , without the previous sanction of an Authorised Officer, construct or re-construct or make addition or alternation to any building or excavate or re-excavate any tank or cut or raze any hill within the area to which this Act applies; and such sanction shall be subject to such terms and conditions as the Authorised officer may think fit to impose:

Provided that such sanction shall remain valid for three years from the date of sanction and on the expiry of the period, the applicant shall have to apply and obtain a fresh sanction.

¹ Clause (cc) was inserted by D.P. Ordinance IV of 1960.

² Clause (ii) was added, ibid.

³ Substituted ibid., for sub-section(1)

(1a) Notwithstanding anything contained in sub-section (1.) all sanctions obtained during the 12 months preceding the 30th September, 1958, shall be deemed to have expired and no construction or excavation shall be made without obtaining fresh sanction.

Explanation: - For the purpose of obtaining fresh sanction under sub-section (1) or sub-section (1a) , no fresh sanction shall have to be obtained for the construction of buildings where the construction has been made up to 4 feet above plinth level.

(2) The *provincial Government may, by notification in the official Gazette, direct that the power of an Authorised Officer under sub-section (1) shall be exercised by a Committee in such area as may be specified in the notification.

(3) When a notification under sub-section 92) has been issued, the Authorised officer shall not exercise the power conferred on him by sub-section 91) in the area to which the said notification relates.

(4) The provisions of sub-section 91) shall not apply to normal repairs to existing buildings.

¹[3A-(1) No owner or occupier of a building shall, without obtaining previous permission from the Authorised officer or the committee, as the case may be, use the building for any purpose other than that mentioned in the sanction.

Restriction on improper use of buildings

(2) When the * Provincial Government is satisfied that the existing use of any land or building does not conform to the scheme of land utilisation indicated in the Master Plan, the * Provincial Government may, by an order in writing, direct the owner, occupier or the person in charge of the land or building to discontinue such use and, in the case of a building also to remove or dismantle such building :

provided, however, that the owner, occupier or the person in charge of the land or building shall be given six months time before effect is given to the order of discontinuance of such use and twelve months' time before effect is given to the order of removal or dismantlement of the building :

Provided further that no existing or future use of any land or building for combined residential and commercial purpose shall be discontinued or prohibited unless, in any particular case, such use is inconsistent against the dominant character of the scheme of land utilization as indicated in the Master Plan and constitutes a nuisance generally to the zone and particularly to the neighborhood in which the land or building is situated.

¹Section 3A was inserted by E. P. Ordinance IV of 1950

- For "Provincial Government" read "Government"

	Explanation :- 'Master Plan' means the Master Plan prepared and approved under the Town Improvement Act, 1953, or the Chittagong Development Authority Ordinance, 1959]	B.B. Act XIII of 1953, E.P.O L I ef 1959.
Power of removal of temporary building.	4. The Authorised Officer may, by a notice served in the Prescribed manner, direct the owner of a temporary building, erected prior to the date of the coming into force of this, Act, to remove the same within the period mentioned in the notice or within such further period as may be extended by the Authorised Officer; and the owner thereof shall, on payment to him such compensation as the Authorised Officer thinks fair and reasonable, remove it within the period aforesaid.	
Power of removal of building under construction	5.- (1) The Authorised Officer may, by a notice served in the prescribed manner, '[direct the owner of a building or tank or hill the construction or excavation or cutting whereof is in progress,] on the date of the commencement of this Act, not to proceed with the work any more and to remove such building within the period mentioned in the notice or within such further period as may be extended by the Authorised Officer; and the owner thereof shall, on payment to his of such compensation, not exceeding the sum of two hundred and fifty rupees, as the Authorised officer thinks fair and reasonable, remove the same within the period aforesaid. (2) The provision of sub-section (1) shall not apply to normal repairs to existing buildings.	
Eviction of occupier.	6.-(1) The Authorised officer shall, simultaneously with the issue of a notice on the owner of a building under section 4 or sub-section (1) of section 5 issue a notice upon the occupier thereof, if the occupier himself not the owner, to vacate such building within the period mentioned therein or within such further period as may be extended by the Authorised Officer. If the occupier does not in pursuance of a notice issued under sub-section (1) vacate the building within the aforesaid period, he shall, notwithstanding anything contained in any other law for the time being in force be liable to be summarily evicted therefrom by the Authorised Officer ; and the Authorised officer may, in effecting such eviction, use or cause to be used such force as may be deemed necessary.	
Removal of building by the *Provincial Government.	7. If any person intentionally fails to comply with any direction for removal of any building given to him under section 4 or sub-section (1) of section 5, within the period fixed thereunder, the *Provincial Government may cause the temporary building or the building under construction, as the case may be, to be removed at its own expenses in which case such person shall not be any more entitled to any compensation.	

¹Substituted by E.P. Ordinance IV of 1960 for certain words.

†For "rupees" read "taka"

* For provincial Government" read "Government"

8. An application for sanction under section 3 shall be made to the Authorised officer or the Committee, as the case may be, in such manner and form and on payment of such fee as may be prescribed.	Application for sanction
9. The sanction granted under section 3 shall be liable to cancellation by the Authorised officer or the Committee, as the case may be, for breach of any of the terms or conditions ¹ [or making statements not correct] under which such sanction was granted.	Cancellation of sanction on breach of terms and conditions thereof.
10.- (1) For carrying out the purposes of this Act, an Authorised Officer or any person empowered by him in this behalf may, after giving reasonable notice to the occupier of any premises, enter upon such premises after sunrise and before sunset.	Entry into premises.
(2) The owner of any building or tank ² [or hill] shall, on being required by an Authorised Officer or any person empowered by him in this behalf, produce before him the sanction obtained therefor under section 3.	
(11) (1) Nothing in this Act shall apply to any building or tank ² [or hill] owned by Government.	Exemption.
(2) The *Provincial Government may, on application made to it, exempt any building or tank ² [or hill] from the operation of sub-section (1) of section 5, subject to such conditions as it may think fit to impose.	
12.- (1) Whoever commits any offence by-	Penalty.
(a) contravening the provisions of section 3 , or (b) failing to comply with any direction given to him by an Authorised officer under section 4 or sub-section 5,	
Shall, on conviction before a Court of competent jurisdiction, be punishable with a fine which may extend to ³ [ten thousand **rupees] , or in default, with simple imprisonment which may extend up to six months: and the Court conviction the accused shall, if an application in writing is made by the prosecution in this behalf, fix a date within which the building or tank, which is the subject of the conviction, shall be removed or filled up by the person convicted and may, for sufficient reason, extend such date.	

¹ The words “ or making statements not correct “ were inserted by E.P. Ordinance IV or 1960.

² The words “or hill” were inserted, *ibid*.

³ Substituted, *ibid* for “five hundred rupees”.

- For “Provincial Government” read “Government”.
- ** For “rupees” read “taka”

	(2) If the person convicted under sub-section (1) fails to comply with the direction of the Court under that sub-section within the date fixed or within the date as so extended, the Court may cause the building to be removed or the tank filled up, and the cost thus incurred may be realised from the convicted person in the manner laid down for recovery of fine under section 386 of the code of Criminal Procedure, 1898.
Notice to offenders before obtaining sanction for prosecution Cognizance of offence	¹ [12A. Before obtaining the sanction of the *Provincial Government for instituting a suit, the Authorised Officer or any person or persons empowered by him in this behalf may when he deems fit, serve notice to the offenders to refrain from committing any act or thing contrary to the provisions of this Act.] ² [13. No Court other than that of a Magistrate of the first class shall take cognizance of any offence punishable under this Act except with the previous sanction of the *Provincial Government and upon a complaint by the Authorised Officer or by a servant of the * Provincial Government authorised by the Authorised Officer or by *Provincial Government in this behalf.]
Bar to jurisdiction	14. Every order under section 3 ³ [or section 3A or section 4 or section 5 or section 6 or section 9 shall, subject to the prevision of section 15, be final and shall not be called question in any Civil Court.
Appeal.	15. An appeal, if presented within thirty days from the data of the order appealed against, shall be to the *provincial government against every order under section 3 ³ⁱ or section 3A] or section 4 or section 5 or section 6 or section 9, and the decision of the *Provincial Government on such appeal shall be final and shall not be called in question in any Civil Court.
Public servant.	16. An Authorised officer or any person empowered to perform any function under this Act, shall be deemed to be a public servant within the meaning of section 21 of the penal Code.
Indemnity	17- (1) No suit or legal proceeding shall lie against the *Provincial Government in respect of anything which is, in good faith, done or intended to be done, under this Act. (2) No suit, prosecution or legal proceeding shall against any person in respect of anything which is good faith, done or intended to be done, under this Act.
Power to make rules.	18.- (1) The * Provincial Government may make rules for carrying out the purposed of this Act.

¹ Section 12A was inserted by E.P. Ordinance IV of 1960.
² Substituted *ibid*, for section 13.
³ The words and figure "IV section 3A " were inserted, *ibid*.
^{2.} The word 'Pakistan " was unfitted by P.O. No. 48 of 1972.
^{3.} For " Provincial Government" read "Government".

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters :-

- (a) The constitution of a Building Construction Committee;
- (b) the tenure of office of members of the Committee;
- (c) the resignation and removal of members of the Committee;
- (d) the filling of casual vacancy and the tenure of office of the person filling such vacancy;
- (e) the regulation of functions of the committee including the procedure and conduct of business at its meetings ;
- (f) the manner of service of notice under section 4 and 5 ;
- (g) the form of application for sanction under section 3; and
- (h) the amount of fee payable under section 8.

19. No owner of any building shall be entitled to any compensation under this Act, if he had contravened any provision of the East Bengal Building Construction Ordinance, 1951.

20. [Savings. - Repealed by E.P. Ordinance XIII of 1966.]

Compen-
sation
when not
.