

THE PUBLIC DEBT ACT, 1944

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THE PUBLIC DEBT ACT, 1944

ACT NO. XVIII OF 1944

[22nd November, 1944]

An Act to consolidate and amend the law relating to Government securities and to the management of the public debt.*

WHEREAS it is expedient to consolidate and amend the law relating to Government securities and to the management of the public debt;

It is hereby enacted as follows:-

1. (1) This Act may be called the Public Debt Act, 1944.

Short title,
extent and
commencement

(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 in this behalf.

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

Definitions

(1) "the Bank" means ¹[Bangladesh Bank].

²[* * *]

(2) "Government security" means-

* Throughout this Act, the words "Bangladesh", "Government" and "Taka" were substituted for the words "Pakistan", "Central Government" or "Provincial 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).

¹ The words "Bangladesh Bank" were substituted for the words "the State Bank of Pakistan" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² Clause (1A) was omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (a) a security, created and issued, whether before or after the commencement of this Act, by Government for the purpose of raising a public loan, and having one of the following forms, namely:-
 - (i) stock transferable by registration in the books of the Bank; or
 - (ii) a promissory note payable to order; or
 - (iii) a bearer bond payable to bearer; or
 - (iv) a form prescribed in this behalf, or notified by Government from time to time;
- (b) any other security created and issued by Government in such form and for such of the purposes of this Act as may be prescribed;
- (3) "prescribed" means prescribed by rules made under this Act;
- (4) "promissory note" includes a treasury bill.

Transfer of
Government
securities

3. (1) Subject to the provisions of section 5, a transfer of a Government security shall be made only in the manner prescribed for the making of transfers of securities of the class to which it belongs, and no transfer of a Government security¹ [* * *] shall be valid if-

- (a) it does not purport to convey the full title to the security, or
- (b) it is of such a nature as to affect the manner in which the security was expressed by the Government to be held.

(2) Nothing in this section shall affect any order made by the Bank under this Act, or any order made by a Court upon the Bank.

¹ The words, commas and figure "which, in the case of a security issued by the Central Government is made after the thirtieth day of April, 1946, and in the case of a security issued by a Provincial Government, is made after the commencement of the Public Debt (Central Government) (Amendment) Ordinance, 1961" were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

4. Notwithstanding anything contained in the Negotiable Instruments Act, 1881, a person shall not, by reason only of his having transferred a Government security, be liable to pay any money due either as principal or as interest thereunder.

Transferor of Government securities not liable for amount thereof

5. (1) In the case of any public office to which Government may, by notification in the *official Gazette*, declare this sub-section to apply, a Government security in the form of stock or of a promissory note may be held in the name of the office.

Holding of Government securities by holders of public offices

(2) When a Government security is so held, it shall be deemed to be transferred without any or further endorsement or transfer deed from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.

(3) When the holder of the office transfers to a party not being his successor in office a Government security so held, the transfer shall be made by the signature of the holder of the office and the name of the office in the manner and subject to the conditions laid down in section 3.

(4) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

6. (1) No notice of any trust in respect of any Government security shall be receivable by Government, nor shall Government be bound by any such notice even though expressly given, nor shall Government be regarded as a trustee in respect of any Government security.

Notice of trust not receivable

(2) Without prejudice to the provisions of sub-section (1), the Bank may, as an act of grace and without any liability to the Bank or to Government, record in its books such directions by the holder of stock for the payment of interest on, or of the maturity value of, or the transfer of, or such other matters relating to, the stock as the Bank thinks fit.

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Persons whose title to a Government security of a deceased sole holder may be recognised by the Bank

7. Subject to the provisions of section 9 the executors or administrators of a deceased sole holder of a Government security and the holder of a succession certificate issued under Part X of the Succession Act, 1925, shall be the only persons who may be recognised by the Bank as having any title to the Government security:

Provided that nothing in this section shall bar the recognition by the Bank of the manager or the sole surviving male member of a Hindu undivided family governed by the Mitakshara Law as having a title to a Government security, when the security appears to the Bank to stand in the name of a deceased member of the family and an application is made by such manager or sole surviving member for recognition of his title and is supported by a certificate signed by such authority and after such inquiry as may be prescribed to the effect that the deceased belonged to a Hindu undivided family governed by the Mitakshara Law, that the Government security formed part of the joint property of the family, and that the applicant is the managing or sole surviving male member of the family.

Right of survivors of joint holders or several payees

8. Notwithstanding anything contained in section 45 of the Contract Act, 1872,-

- (a) when a Government security is held by two or more persons jointly and either or any of them dies, the title to the security shall vest in the survivor or survivors of those persons, and
- (b) when a Government security is payable to two or more persons severally and either or any of them dies, the security shall be payable to the survivor or survivors of those persons or to the representative of the deceased or to any of them:

Provided that nothing contained in this section shall affect any claim which any representative of a deceased person may have against the survivor or survivors under or in respect of any security to which this section applies.

Explanation.- For the purposes of this section a body incorporated under the Companies Act, 1913, or the

¹[Co-operative Societies Act, 1940], or any other enactment for the time being in force whether within or without Bangladesh, relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved.

9. Notwithstanding anything contained in section 7, if within six months of the death of a person who was the holder of a Government security or securities the face value of which does not in the aggregate exceed five thousand Taka or, in the case of Post Office Savings Certificates, twenty-five thousand Taka, probate of his will or letters of administration of his estate or a succession certificate issued under Part X of the Succession Act, 1925, is not produced to the Bank, or proof to the satisfaction of the Bank that proceedings have been instituted to obtain one of these is not furnished, the Bank may determine who is the person entitled to the security or securities, or to administer the estate of the deceased and may make an order vesting the security or securities in the person so determined.

Summary procedure on death of holder of Government securities

10. When a Government security or securities belong to a minor or a person who is insane and incapable of managing his affairs and the face value of the security or securities does not in the aggregate exceed five thousand Taka, the Bank may make such order as it thinks fit for the vesting of such security or securities in such person as it considers represents the minor or insane person.

Government securities not exceeding five thousand Taka face value belonging to minor or insane person

11. (1) If the person entitled to a Government security not being security in a form notified in pursuance of paragraph (iv) of sub-clause (a) of clause (2) of section 2, alleges that the security has been lost, stolen or destroyed, or has been defaced or mutilated, the Bank may, on proof to its satisfaction of the loss, theft, destruction, defacement or mutilation of the security, subject to such conditions and on payment of such fees as may be prescribed, order the issue of a duplicate security payable to the applicant.

Issue of duplicate securities and of new securities on conversion, consolidation, sub-division or renewal

¹ The words, comma and figure "Co-operative Societies Act, 1940" were substituted for the words, comma and figure "Co-operative Societies Act, 1912" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹[(1A) If a Government security in any of the forms notified in pursuance of paragraph (iv) of sub-clause (a) of clause (2) of section 2 has been defaced or mutilated, the holder thereof may, in such manner, and subject to such conditions and on payment of such fees, if any, as may be notified by Government, apply for the issue of a duplicate security, or for the refund of its value.]

(2) If the person entitled to a Government security applies to the Bank to have the security converted into a security of another form, or into a security issued in connection with another loan or to have it consolidated with other like securities, or to have it subdivided, or to have it renewed, the Bank may, subject to such conditions and on payment of such fees as may be prescribed, cancel the security and order the issue of a new security or securities.

(3) The person to whom a duplicate security or a new security is issued under this section shall be deemed for the purposes of section 19 to have been recognised by the Bank as the holder of the security; and a duplicate security or new security so issued to any person shall be deemed to constitute a new contract between Government and such person and all persons deriving title thereafter through him.

Summary
determination
by the Bank of
title to
Government
security in case
of dispute

12. (1) If the Bank is of opinion that a doubt exists as to the title to a Government security, it may proceed to determine the person who shall for the purposes of the Bank be deemed to be the person entitled thereto.

(2) The Bank shall give notice in writing to each claimant of whom it has knowledge, stating the names of all other claimants and the time when and the officer of the Bank by whom the determination of the Bank will be made.

(3) The Bank shall give notice in writing to each claimant of the result of the determination so made.

¹ Sub-section 1A was added by the Public Debt (Amendment) Act, 1963 (Act No 13 of 1963).

(4) On the expiry of six months from the issue of the notices referred to in sub-section (3), the Bank may make an order vesting in the person, found by the Bank to be entitled to the security, and any unpaid interest thereon.

13. Notwithstanding that as a matter of convenience Government may have arranged for payments on a Government security to be made elsewhere than in Bangladesh, the rights of all person in relation to Government securities shall be determined in connection with all such questions as are dealt with by this Act by the law and in the Courts of Bangladesh.

Law applicable in regard to Government securities

14. (1) For the purpose of making any order which it is empowered to make under this Act, the Bank may request a District Magistrate ¹[* * *] to record or to have recorded the whole or any part of such evidence as any person whose evidence the Bank requires may produce. A District Magistrate so requested may himself record, or may direct any Magistrate of the first class subordinate to him or any Magistrate of the second class subordinate to him and empowered in this behalf by general or special order of the Government to record the evidence, and shall forward a copy thereof to the Bank.

Recording of evidence

(2) For the purpose of making a vesting order under this Act the Bank may direct one of its officers to record the evidence of any person whose evidence the Bank requires or may receive evidence upon affidavit.

(3) A Magistrate or an officer of the Bank acting in pursuance of this section may administer an oath to any witness examined by him.

15. Where the Bank contemplates making an order under this Act to vest a Government security in any person, the Bank may suspend payment of interest on or the maturity value of the security or postpone the making of any order under section 11 or the registration of any transfer of the security until the vesting order has been made.

Postponement of payments and registration of transfers pending the making of a vesting order

¹ The words "or in an Acceding State or a non-Acceding State the Political Agent" were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Power of Bank to require bonds

16. (1) Before making any order which it is empowered to make under this Act, the Bank may require the person in whose favour the order is to be made to execute a bond with one or more sureties in such form as may be prescribed or to furnish security not exceeding twice the value of the subject-matter of the order, to be held at the disposal of the Bank, to pay to the Bank or any person to whom the Bank may assign the bond or security in furtherance of sub-section (2) the amount thereof.

(2) A Court before which a claim in respect of the subject-matter of any such order is established may order the bond or security to be assigned to the successful claimant who shall thereupon be entitled to enforce the bond or realise the security to the extent of such claim.

Publication of notices in *official Gazette*

17. Any notice required to be given by the Bank under this Act may be served by post, but every such notice shall also be published by the Bank in ¹[the *official Gazette*], and on such publication shall be deemed to have been delivered to all persons for whom it is intended.

Scope of vesting order

18. An order made by the Bank under this Act may confer the full title to a Government security or may confer a title only to the accrued and accruing interest on the security pending a further order vesting the full title.

Legal effect of orders made by the Bank

19. No recognition by the Bank of a person as the holder of a Government security, and no order made by the Bank under this Act shall be called in question by any Court so far as such recognition or order affects the relations of Government or the Bank with the person recognised by the Bank as the holder of a Government security or with any person claiming an interest in such security; and any such recognition by the Bank of any person or any order by the Bank vesting a Government security in any person shall operate to confer on that person a title to the security subject only to a personal liability to the rightful owner of the security for money had and received on his account.

¹ The words “the *official Gazette*” were substituted for the words “the Gazette of Pakistan or the official gazette of a Province according as the notice relates to a security issued by the Central Government or a Provincial Government” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

20. Where the Bank contemplates making with reference to any Government security any order which it is empowered to make under this Act, and before the order is made the Bank receives from a Court in Bangladesh an order to stay the making of such order, the Bank shall either-

Stay of proceedings on order of Court

- (a) hold the security together with any interest unpaid or accruing thereon until the further orders of the Court are received; or
- (b) apply to the Court to have the security transferred to the Official Trustees ¹[* * *] pending the disposal of the proceedings before the Court.

21. Where the Bank contemplates making an order under this Act vesting a Government security in any person the Bank may, at any time before the order is made, cancel any proceedings already taken for that purpose and may, on such cancellation, proceed a new to the making of such order.

Cancellation by the Bank of vesting proceedings

22. Save as otherwise expressly provided in the terms of a Government security, no person shall be entitled to claim interest on such security in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the amount due on such security.

Discharge in respect of interest on Government securities

23. Government shall be discharged from all liability on a bearer bond or on any interest coupon of such a bond on payment to the holder of such bond or coupon on presentation on or after the date when it becomes due of the amount expressed therein, unless before such payment an order of a Court in Bangladesh has been served on Government restraining it from making payment.

Discharge in respect of bearer bonds

24. Where no shorter period of limitation is fixed by any law for the time being in force, the liability of Government in respect of any interest payment due on a Government security shall terminate on the expiry of six years from the date on which the amount due by way of interest became payable.

Period of limitation of Government's liability in respect of interest

¹ The words "appointed for the Province in which such Court is situated," were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Inspection of documents

25. No person shall be entitled to inspect, or to receive information derived from any Government security in the possession or custody of Government or from any book, register, or other document kept or maintained by or on behalf of Government in relation to Government securities or any Government security, save in such circumstances and manner and subject to such conditions as may be prescribed.

The Bank and its officers to be deemed public officers

26. For the purposes of section 124 of the Evidence Act, 1872, the provisions of Part IV of the Code of Civil Procedure, 1908, relating to suits by or against public officers in their official capacity, and the provisions of rule 27 of Order V, and rule 52 of Order XXI of the said Code, the Bank and any officer of the Bank acting in his capacity as such shall be deemed to be a public officer.

Penalty

27. (1) If any person, for the purpose of obtaining for himself or for any other person any title to a Government security, makes to any authority under this Act in any application made under this Act or in the course of any inquiry undertaken in pursuance of this Act, any statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

(2) No Court shall take cognizance of any offence under sub-section (1) except on the complaint of the Bank.

Power to make rules

28. (1) The Government may, subject to the condition of previous publication, by notification in the *official Gazette*, make rules to carry out the purposes of this Act.

(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, namely:-

- (a) the forms in which Government securities may be issued;
- (b) the form of the obligations referred to in clause (iv) of sub-clause (a) of clause (2) of section 2;

¹[* * *];

- (d) the manner in which different forms of Government securities may be transferred;
- (e) the holding of Government securities in the form of stock by the holders of offices other than public offices, and the manner in which and the conditions subject to which Government securities so held may be transferred;
- (f) the manner in which payment of interest in respect of Government securities is to be made and acknowledged;
- (g) the conditions governing the grant of duplicate, renewed, converted, consolidated and sub-divided Government securities;
- (h) the fees to be paid in respect of the issue of duplicate Government securities and of the renewal, conversion, consolidation and sub-division of Government securities;
- (i) the form in which receipt of a Government security delivered for discharge, renewal, conversion, consolidation or sub-division is to be acknowledged;
- (j) the manner of attestation of documents relating to Government securities in the form of stock;
- (k) the manner in which any document relating to a Government security or any endorsement on a promissory note issued by Government may, on the demand of a person who from any cause is unable to write, be executed on his behalf;
- (l) the form of the bonds referred to in sub-section (1) of section 16;
- (m) the circumstance and the manner in which and the conditions subject to which inspection of Government securities, books, registers and other documents may be allowed or information therefrom may be given under section 25;

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

- (n) the procedure to be followed in making vesting orders;
- (o) the authority by whom the certificate referred to in the proviso to section 7 is to be granted and the manner of making the inquiry therein mentioned.

(3) A copy of all rules under this section shall be laid on the table of ¹[Parliament] as soon as may be after they are made.

Act X of 1920
not to apply to
Government
securities

29. The Securities Act, 1920, shall cease to apply to Government securities to which this Act applies, and to all matters for which provision is made by this Act.

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¹ The word "Parliament" was substituted for the words and commas "the Central Legislature or, as the case may be, of the Provincial Legislature" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).