

The Building Regulation in Respect of Lands Covered by the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981

WEST BENGAL

India

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Rule

THE-BUILDING-REGULATION-IN-RESPECT-OF-LANDS-COVERED-BY- of 1981

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026.

Regulations

1. Short title, extent and commencement

These regulations may be called the Building Regulations in respect of lands covered by the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 (West Bengal Act No. 37 of 1981).

2.

They extend to Calcutta as defined in the Calcutta Municipal Corporation Act, 1980 (West Bengal Act LIX of 1980).

3.

They shall come into force on the date of their publication in the Official Gazette.

4. Definition

Building means a house, outhouse, stable, privy, urinal shed, wall (other than a boundary wall not exceeding 1.50 metres in height) and any other structure whether of masonry bricks, wood, mud, metal or any other materials erected beyond 72 hours) shed/structures erected on ceremonial or festive occasion.

5.

thika Controller means an officer appointed under section 10 of the Cillcutta thika Tenancy Act, 1981.

6.

thika Tenant means any person who occupies, whether under a written lease or otherwise, land under another person and is or but for a special contract would be liable to pay rent, at a monthly or at any other periodical rate for that land to that another person and has erected or acquired by purchase or gift any structure or such land for residential, manufacturing of business purpose and includes the successor-in-interest of such person.

7.

pucca structure means any structure of permanent nature constructed mainly of brick, stone, concrete, reinforced concrete or any combination of these materials, or any other material of durable nature.

8.

Holding means a parcel or parcels of land occupied by any person as the, tenant under one lease or one set of conditions where such tenant has been occupying the land from or before the commencement of the Calcutta ka Tenancy Act, 1981.

9.

Premises means a holding.

10.

Hut means any building, no substantial part of which excluding the walls up to a height of fifty centimetres above the floor or floor level is constructed of masonry, reinforced concrete, steel, iron or other metal.

11.

Dwelling Unit means an independent housing unit with separate facilities for living, cooking and sanitary requirements.

12.

Nuisance includes any act of omission, commission, place or thing, which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell, or hearing or which is or may be dangerous to life or injurious to health or property. Application for Permission for Erection of Buildings/pucca Structures in thika Tenanted Lands

13.

No person shall be allowed to submit a plan for erection of a new building/pucca structure or re-erect or make addition to and alteration of any but or building/pucca structure in thika tenanted land without any written permission from the thika Controller, Calcutta.

14.

Every person intending to erect a building/pucca structure, or re-erect or make addition to and alteration of any existing structure in thika tenanted land shall apply to the Municipal Commissioner in prescribed form for permission to execute the work together with a site plan, a plan of the whole building in the holding/premises for each floor, complete elevation and two sections (one along the width and other along the length) service plan, specification of the work and such other particulars as may be prescribed by the Municipal Commissioner in this behalf. Explanation. "Service Plan" means existing arrangement of huts, streets, pathways, drains, and other common facilities.

15.

Every application made under regulation 14 shall be written on a printed form (to be supplied by the Calcutta Municipal Corporation on payment of such fees as may be fixed by the Mayor-in-Council from time to time) along with the necessary documents as regards right of erection/ alteration and permission of the thika Controller along with other documents as regards correctness of boundary, legality of existing structure with nature of use and such other particulars (including details of Bharatias, if any) as may be determined by the Municipal Commissioner.

16.

Six sets of plans duly signed by the applicant and his L.B.S./L.B.A. along with the prescribed application form, duly filled in, are to be submitted to the Municipal Commissioner. At least two sets of plans must be in blue print, in addition two sets of site plans drawn in a scale not less than 1 : 200 showing the existing structures and boundaries are to be submitted for approval of the thika Controller.

17.

Submission fee for each of such applications as may be fixed by the Mayor-in-Council from time to time shall have to be paid.

18.

Size of drawing sheet of plans should not be less than 500 mm. x 300 mm.

19.

The scale shall be for site plan, not less than one centimetre to two metres and, for floor plan, section, elevation 1 : 100.

20.

Existing structure should be shown in yellow colour and proposed structure should be in red colour, boundary shall be shown in black dotted lines. Roads shall be shown in green colour and service lines shall be shown in red dotted lines.

21.

Plans shall contain the following particulars : (a) the boundaries of the site and of any continuous land belonging to the applicant; (b) the position of the site in relation to neighbouring street showing at least one public road/lane scale 1 : 600; (c) the name of the street in which the building is proposed to be erected/re-erected; (d) all existing structures standing on the site; (e) the position of the existing structures and all other buildings/ structures surrounding the site to a distance of 12 metres; (f) in case of partitioned properties, demarcated boundaries of the applicant's portion as well as that of adjacent partition holders; (g) means of access from the street/passage of the building; (h) the position and number of storeys; (i) open space in and around the building; (j) drainage and water supply system; (k) width of the street/passage; (l) the direction of north point related to the plan of the building; (m) such other particulars as may be determined by the Municipal Commissioner from time to time.

22. Employment of licensed building surveyor/architect :

(a)Every person who intends to erect a new building or convert an existing but into pucca structure or intends to make any addition to or alteration of an existing but shall employ a licensed building surveyor/architect for supervision.(b)The name, address and licence No. of the person so employed shall be stated in the application, duly signed.(c)If the person so employed dies or ceases to be so employed before the completion of the said building or pucca structure, the name of the licensed building surveyor/architect employed in place of such person to supervise the construction shall be forthwith reported to the Municipal Commissioner.

23. Formulation of requirement and objections :

(1)Within fifteen working days after the receipt of any application under regulations 14 and 16 for permission to execute any work, the Municipal Commissioner may require the applicant(i)to furnish him with any information on matter referred to in regulations 14 and 16 which has not already been given in the documents received hereunder;(ii)to satisfy him in regard to any objection which may have been taken under these regulations to the grant of permission to execute the work.(2)If any requisition made under clauses (i) and (ii) of sub-regulation (1) is not compiled within two months, the application received shall be refused.

24. Ground on which the permission may be refused :

The permission to erect a building or to make addition to and/or alteration for conversion of existing but into pucca structure may be refused on the following grounds(a)that the work or any other particulars comprised in the site plan, building plans, elevation, sections or specification would contravene some specific provisions of the Calcutta Municipal Corporation Act, 1980 or the rule or the bye-law made thereunder;(b)that the applications for such permission does not contain the particulars, required under these regulations;(c)that the proposal falls within any street or bustee street alignment;(d)that the proposal falls within any improvement scheme of C.M.C., C.I.T., C.M.D.A., and similar other organisations;(e)that the applicant has not satisfied the Municipal Commissioner with regard to any objections which may have been taken under the Calcutta Municipal Corporation Act, 1980.

25. Signature of approved plans :

When the Municipal Commissioner has given permission to execute any work, the approved plans of the work shall be signed by such officer and in such manner as he may direct. While granting permission to execute work, the Municipal Commissioner may impose conditions, as per provision of the Calcutta thika Tenancy (Acquisition and Regulation) Act, 1981 read with provisions of the Calcutta Municipal Corporation Act, 1980.

26. Remedy when Municipal Commissioner delay to grant or refuse permission :

If within two months after receipt of an application, the Municipal Commissioner has neither granted nor refused permission to execute the work, the applicant may refer the matter to the Mayor.

27. Work not to be commenced unless and until permission is given :

No work shall be commenced unless and until the Municipal Commissioner has granted permission for the execution of work on an application sent to him under regulations 14 and 16.

28. Sanction Fee :

The Mayor-in-Council may from time to time determine a scale of fee to be paid in respect of grant of permission for executing any work under these regulations.

29. Validity of sanction :

The permission to execute the work of erection, addition, alteration or work for conversion of but in pucca structure shall be valid for five years from the date from which such permission is granted, provided that the execution of the work starts within two years from the date of sanction.

30. Extension of sanctioned plan :

(a)The validity period of the plan may be extended for a further period of not more than 5 years or as determined under section 399 of the Calcutta Municipal Corporation Act, 1980 on payment of the fees as may be determined by the Mayor-in-Council from time to time and on production of previous sanctioned plan.(b)If the applicant desires to change or appoint a new L.B.S. or L.B.A. under any unavoidable circumstance the same may be granted with prior information to the Calcutta Municipal Corporation.

31. Power of the Municipal Commissioner to cancel permission :

If, at any time after the permission is obtained under these regulations the Municipal Commissioner is satisfied that such permission was granted in consequence of material misrepresentation or fraudulent statement contained in the application made under regulations 14 and 16 or in the plan, elevation or section or specification submitted therewith, he may cancel such permission. Any work done thereunder shall be deemed to have been done without permission :Provided that before making any such order, the Municipal Commissioner shall give a reasonable opportunity to the person affected as to why such order should not be made.

32. Restriction on application of certain provisions :

Notwithstanding the provisions of regulation 27, no permission shall be required for (a) erection or re-erection of boundary wall, not exceeding 1.50 m. in height from the level of the centre of the nearest road / means of access; (b) cornice/sunshade/caves not exceeding 30 centimetres in width; (c) reconstruction of an existing wall, without change of dimension; (d) replacing damaged Asbestos roof or C.I. roof or R.T. roof without change of dimension and character; (e) changing, damaged posts, pillars, doors, windows; (f) conversion of service privy into sanitary privy; (g) carrying out such other work as is necessary in the opinion of the Municipal Commissioner, for reasons to be recorded in writing to maintain the building in a condition of good repair or to secure or to prevent danger to human life : Provided that for the works referred to in items (e) and (d) above, two copies of sketch plan in blue print, drawn to a scale as referred in regulation 19 be sent to the Municipal Commissioner prior to starting repair.

33. Building/permanent structure in thika tenanted land :

(a) In a thika tenanted land no permission for any work shall be granted for other than residential purpose. Mixed occupancy, if there be any, may be allowed when there is no obnoxious or hazardous trade in the premises. (b) The Municipal Commissioner may grant permission for the following purposes, with the approval of the Mayor-in-Council : (i) a public library; (ii) a charitable dispensary; (iii) a doctor's chamber; (iv) a school/college or similar educational institution; (v) a public W.C. urinal, bathing platform; (vi) a public club; (vii) any other public utility services; (c) When addition and alteration is proposed to an existing thika tenanted structure, the existing use of structure may be allowed to continue, notwithstanding the fact that the same is being used for purpose other than residential. No permission shall be granted in thika tenanted land where there is obnoxious/hazardous trade.

34. Condition of site :

(a) No building or pucca structure, shall be allowed if the site is a tank-filled land, unless the Municipal Commissioner has caused the site to be examined and is satisfied that it is fit to be built upon from sanitary and engineering point of view. (b) The site is dry and well-drained, to the satisfaction of the Municipal Commissioner. (c) If the site is within five metres of a tank, no permission to erect a new building be granted, unless the Municipal Commissioner is satisfied that the applicant shall take such action as will prevent any risk of drainage of the building passing into the tank. (d) The frontage of the site shall not be less than five metres provided that the Municipal Commissioner may relax the provision of the sub-regulation, considering the merit of the proposed construction and may fix height of the building/structure to be erected. (e) No overhead encroachment shall be permitted on any public street/ passage.

35. Correctness of the boundary and legacy of the existing structure (in case of dispute/clarification) :

The following documents shall be taken into consideration :A certificate of the thika Controller and any registered Deed of Conveyance or Lease Deed or Certificate of the Municipal Commissioner. Note : As per provision under sub-section (2) of section 11 of the Calcutta thika Tenancy (Acquisition and Regulation) Act, 1980 to provide proportionate space to Bharatias, any dispute arising out of allocation such proportionate space to Bharatias, decision of the MIC with the recommendation of the thika Controller shall be conclusive.

36.

(a) No such building on permanent structure exceeding 6.50 m. in height shall be constructed on such a street or passage which is less than 2.40 metre in width : Provided that in the case of a narrower street, the applicant/owner shall set back and keep so much area of land which falls within 1.20 m. from centre line of such road open to sky without raising any boundary wall for all times to come and to be part and parcel of the passage by surrendering the interest of that portion of land to the thika Controller. The applicant shall have to execute and register a deed of declaration and/or undertaking to that effect to the Calcutta Municipal Corporation, in case of such building not exceeding 6.50 m. in height excluding the stair-cover not exceeding 2.40 m. in height : Provided further that in the case of permanent structures abutting on 2.4 metres width of road/passage, height exceeding 6.5 metres may be allowed having light weight sloped roof at the 3rd storey in which case there shall be a set-back of 1.3 metre at the 3rd storey level in front side of the building. (b) No such building or permanent structure exceeding 6.50 m. but not exceeding 9.5 m. in height with stair-cover not exceeding 2.4 m. in height shall be constructed on such a street or passage which is less than 5 metres in width : Provided that in the case of narrower street width such sanction may be given, provided the applicant/owner agrees to undertake by a registered deed of declaration to set back so much of land which falls within 2.5 m. from centre line of such road/passage open to sky for all times to come without raising any boundary wall to be part and parcel of the passage by surrendering the interest of that portion to the Thika Controller. The applicant shall have to execute and register a deed of declaration and/or undertaking to that effect to the Calcutta Municipal Corporation.

37. Height of the Building (excluding 60 cm. of plinth):

(i) In a thika tenanted land, no building or pucca structure exceeding height of 9.50 m. shall be allowed (excluding stair-cover of the height of 2.4 m.). (ii) In a thika tenanted land, no building or pucca structure exceeding height of 9.50 m. shall be allowed (excluding stair-cover of the height of 2.4 m.) : Provided that the MIC, on having proper recommendations from the thika Controller, may consider erection of building of height not exceeding 13.0 m. in the thika tenanted lands, not declared as "Bustee" as defined in the Calcutta Municipal Corporation Act 1980 : Provided further that the MIC on having proper recommendations from the thika Controller may consider erection of buildings of height not exceeding 13.0 m. proposed for Housing Schemes to be constructed by Government, Statutory body or any other local body. (iii) For any building within thika tenanted land having exceeding 9.50 metres, the Calcutta Municipal Corporation Building Rules, as apply in general building in areas other than thika tenanted lands, shall apply.

38. Front open space :

Every building shall have front open space at ground, forming an integral part of the site of a minimum width of 30 cm. in the narrowest part. In case of addition on existing building having no such front open space, necessary set-back to provided 30 cm. from open shall be made.

39. Rear open space :

Every building or permanent structure in thika tenanted land shall have a rear open space at ground forming an integral part of site, as per the following chart :

	Rearopenspace	Permissibleheight
1	1.20 m. (Minimum)
		6.50 m. height of the building, excluding stair-cover notexceeding 2.4 m. in height.
2	2.200m (Minimum)
		Exceeding 6.5m. But not exceeding 9.50m in height of thebuilding, excluding stair-cover not exceeding 2.40m. In height.

Note : (a) The wider street shall be front of a site and side opposite to it shall be rear. In special circumstances, the Municipal Commissioner may allow the narrower street to be considered as front.(b)In case of a tandem site furthest away from the access shall be deemed to be rear and the side opposite to rear shall be deemed to be front and from space in such case shall be not less than 60 cm.Explanation.-"Tandem site" means, a site access to which is by means of a passage from a street, whether such passage forms part of the site or not.

40. Side Open Space :

There shall be an open space extending along the entire length of such side and forming part of the site of the building, as per the following chart :

Height of the Building	Width of the side open space
Not exceeding 6.50m.
	On one side and 0.70m on the side,
Exceeding 6.50m., but not exceeding 9.50m.
	On one side and 0.70m. On the side.

Provided that if the site abuts on more than one street having the narrower street less than 2.4 m in width, the applicant/owner shall have to keep open such strip of land so as to make the narrower street/passage 1.2 m. from centre line, and in that event the applicant/owner will not have to leave side space on that side of the street and such strip of land shall not be built upon by any boundary wall and the like.

41. Plinth :

The height of the plinth shall not be less than 60 cm. and not more than 90 cm. from the centre of the nearest street/passage.

42. Sizes of rooms :

Every room intended for human habitation including Kitchen, Bath and W/C shall have an area of following size :

Type of room	Minimum Size
A. Multipurpose room including kitchen	12.5m ² . Having a minimum width of 2.40m.
B. Bed room	... 4 m. x 2.4 m.
C. Kitchen	
D. Bath and W.C. (combined)	... 1.8 m. x 1.0 m.
or	
(a) Bath	... 1.00m. x 1.2m.
(b) W.C.	... 0.9m. X 1.0m.

In the case of more than two units in a single plot besides row of housing each dwelling unit shall not be less than 16.00 m and not more than 40.00 m.

43. Height of Rooms :

The height of all rooms for human habitation shall not be less than two metres and seventy centimetres (2.70 m.), measured from the surface of the floor and lowest point of the ceiling : Provided that in the case of sloped roof clear height from the bottom of purline runners/ties measured from the floor of the room shall not be less than 2.4 metres. Note : (i) A ledge not exceeding 60 cm. in width may be permitted provided minimum 2.10 m. clear height from floor is kept. (ii) In the case of sloped roof, the height of the building shall be measured up to the top of the wall where the lower part of the roof rests.

44. Ventilation of inhabited rooms :

(a) For purpose of ventilation, every room in a masonry building or permanent structure shall have window and doors, opening directly into the external air or into an open verandah, having opening not less than 10 per cent of the floor area of rooms. (b) Width of each flight of stair shall not be less than 90 cm.

45.

The roof of the building shall be so constructed either flat or sloped made of approved roofing material, as to permit effectual drainage of rain water therefrom by means of sufficient rainwater pipes or gutters. Note : Precautions shall be taken to ensure that no rain water or drain water flow to adjoining buildings, or on any public street.

46. Foundation :

Design of foundation shall be as the provisions of the National Building Code of India. No encroachment under public road/street shall be allowed.

47. Loading :

Loading shall be assumed as per the provisions of the National Building Code of India.

48. Thickness of wall :

Every load bearing wall of the building or permanent structure in thika tenanted land, shall have a minimum thickness of wall in bricks as per table below :

Height of the building (in metres)	Length of wall (in metres)	Thickness(in cm)		
		Ground floor	First floor	Second floor
Up to 6.50 metres	10 metres	20cm.	20cm.	-
Above 6.50 m. but not exceeding 9.5m.	10 metres	30cm.	20cm.	20cm.

In the case of structure/R.C.C. columns buildings, the minimum thickness of external walls shall be 20 cm. The Municipal Commissioner, where he considers necessary may suitably relax and adjust the specification of this regulation regarding thickness of walls, subject to the satisfaction of the structural engineer, on the basis of the provisions of the National Building Code.

49.

(a) Every wall or building shall have a damp-proof course at the level of the plinth. (b) Such damp-proof course may consist of sheet lead asphalt slate or any other material impervious to moisture.

50. Materials :

All materials shall conform to the provisions of the National Building Code.

51. Sanitation and other services :

(I) There shall be adequate arrangements of bath and W.C. in each dwelling unit. In case there is any arrangement of community bath and W.C. the same shall be properly indicated in the plan proposed for sanction. The Municipal Commissioner, on being satisfied, may relax the provisions for individual bath and W.C. in the case of such arrangement for community bath and W.C. situated nearby. (ii) All septic tanks shall be as per specifications determined by the Municipal Commissioner. At least one W.C. is to be provided for 15 users or part thereof on each floor. (iii) All water supply lines and drainage lines shall be as per specification as determined by the Municipal Commissioner.

52. Unauthorised constructions :

In a thika tenanted land, provisions of sections 400 to 402 of the Calcutta Municipal Corporation Act, 1980 and/ or sub-section (2) of section 7 of the Calcutta thika Tenancy (Acquisition and Regulation) Act, 1981 shall apply. For application of this regulation, a "pucca structure" in thika tenanted land, shall be deemed "building" as defined in the Calcutta Municipal Corporation Act, 1980.

53. Insecure buildings/structures in thika tenanted land :

For all insecure or dilapidated buildings, huts or structures in a thika tenanted land, provisions of the Calcutta Municipal Corporation Act, 1980 shall apply. For application of this regulation, a "building or "pucca structure" in thika tenanted land shall be deemed as "building" as defined in the Calcutta Municipal Corporation Act, 1980.

54. Exemptions :

The following construction in a thika tenanted land shall be exempted from the operation of the provisions of the Calcutta Municipal Corporation Act, 1980, notwithstanding anything contained in regulations 36 and 40 : (a) a boundary wall not exceeding height of 1.50 m. from the level of the centre of the nearest road, street or passage; (b) a pump room not exceeding an area of 1.5 m. by 1.5 m. by 2 m. height; (c) electric motor room (1 m. by .5 m. by 2 m. height); (d) parapet wall on roof, not exceeding 1.2 meter in height; (e) a stair-cover not exceeding 2.4 meter in height.

55.

These regulations shall not apply in the case of works involving necessary repair of a building, provided such repairs do not change the character of the building or the purpose for which it was sanctioned and/or erected and do not contravene the provisions of any of these regulations

:Provided that seven days' notice and two copies of plan in blue print to a convenient scale shall be given to the Municipal Commissioner indicating therein the proposed repairing work along with the employment of L.B.A./ L.B.S. for supervision or the repair work. Note : Necessary repair includes reconstruction of masonry wall, partition wall, floor of room, and closing of any door or window in external wall.

56.

Not less than seven days before any person commences to erect a new building or to re-erect or to make addition to or alteration of a building, he shall send to the Municipal Commissioner a written notice in the following form specifying the date on which it is proposed to commence the work. A copy of the notice shall also be send to the thika Controller by the thika tenant who erected. Notice for commencement : I hereby give notice that the erection/re-erection/addition to/material alteration in/of building Noat Premises Noon plot Noin colony/street/road/lane/sarani in Ward No in Borough Nowill be commenced on as per your permission/sanction. vide No dated under the supervision of L.B.A./L.B.S. Noclass and in accordance with plans sanctioned vide NodatedSignature of Owner/thika TenantSignature of L.B.A./LB.Name Name of the ownerLicence No.... AddressClassDate

57.

Within one month after the completion of the erection/re-erection/ additions and alterations of an existing building the owner of the building shall send a written notice in the following form informing such completion, duly signed by owner and the L.B.A./L.B.S. A copy of the certificate shall also be sent to the thika Controller by the owner/thika tenant who erected : Building Completion Certificate : I hereby certify that the erection/re-erection/addition or alteration in/of pudding No. in Borough Nohas been supervised by me and has been completed on.....according to the plans sanctioned, vide B.S. No.datedThe work has been completed to the best of my satisfaction. The workmanship and the materials (type and grade) have been used strictly in accordance with general and specifications. No provisions of the Calcutta Municipal Corporation Act, 1980 and the rules and regulations made thereunder have been transgressed in the course of the work. The building is fit for use for which it has been created/re-erected or altered, constructed and enlarged. Signature of L.B.A./L.B.S. Signature of Owner/thika TenantName.....Licence No.....Class.....Address.....Date.....Name.....Address.....

58.

The Municipal Commissioner or any officer or other employees, duly authorised, may inspect at any time during and after the erection of any building and within one month after receipt of notice and certificate sent under regulations 55 and 56 without giving previous notice of his intention to do so and take appropriate actions as per the Calcutta Municipal Corporation Act, 1980 and the rules and

regulations made thereunder. Sd/- Provat Kumar Ghosh, Municipal Secretary.* Abbreviations in the above notification as used are indicated by full words. This is annexed herewith. Annexure Abbreviations used in the Notification are indicated by full words

L.B.S. Licensed Building Surveyor
L.B.A. Licensed Building Architect
C.M.C. Calcutta Municipal Corporation
C.I.T. Calcutta Improvement Trust
C.M.D.A. Calcutta Metropolitan Development Authority
C.I. Roof Corrugated Iron Roof
R.T. Roof Ranigunj Tile Roof
W.C. Water Closet
R.C.C. Reinforced Cement Concrete
B.S. Building Sanction.