

Bangladesh Biodiversity Act, 2017

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Bangladesh Biodiversity Act, 2017
(Act No. II of 2017)

[19 February, 2017]

An Act to make provisions for the conservation of biological diversity and the sustainable use of its components, fair and equitable sharing of the benefits arising out of the utilization of biological resources and knowledge relating thereto, and for matters ancillary thereto

WHEREAS the matter of conservation of biodiversity is included in article 18A, in the part of fundamental principles of state policy, of Part II of the Constitution of the People's Republic of Bangladesh;

WHEREAS Bangladesh, as a party to the Convention on Biological Diversity adopted by the United Nations, is internationally committed to make provisions for the conservation of biological diversity and sustainable use of its components, fair and equitable sharing of the benefits arising out of the utilization of biological resources and knowledge relating thereto, and for matters ancillary thereto;

WHEREAS Bangladesh is enriched with conventional knowledge of conserving biological resources and biodiversity; and

WHEREAS it is expedient and necessary to make provisions for the conservation of biological diversity;

NOW, THEREFORE, it is enacted as follows:—

CHAPTER I
Preliminary

1. **Short title and commencement.**— (1) This Act may be called the Bangladesh Biodiversity Act, 2017.

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

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

- (1) **“non-resident”** means a non-resident as defined in section 2(42) of Income Tax Ordinance, 1984 (Ordinance No. XXXVI of 1984);
- (2) **“Union Committee”** means the Union Biodiversity Management and Supervision Committee constituted under section 25;

- (3) **“Upazila Committee”** means the Upazila Biodiversity Management and Supervision Committee constituted under section 19;
- (4) **“Committee”** means the National Committee, Technical Committee, City Corporation Committee, District Committee, Upazila Committee, Municipal Committee, Union Committee, Team, Association or Sub-committee, as the case may be;
- (5) **“cultivar”** means a variety of plant that has originated and persisted under cultivation or was specifically bred for the purpose of cultivation;
- (6) **“Technical Committee”** means the Biodiversity Technical Committee constituted under section 11;
- (7) **“research”** means the survey or systematic investigation into biological resources or research on organism or its by-products or ecosystem;
- (8) **“National Committee”** means the National Biodiversity Committee constituted under section 8;
- (9) **“national biodiversity strategy and action-plan”** means the national biodiversity strategy and action plan developed under section 31;
- (10) **“District Committee”** means the District Biodiversity Management and Supervision Committee constituted under section 16;
- (11) **“biodiversity”** means the variability among living organisms, which is, as a whole, the part of environment, and shall also include species diversity, genetic diversity and ecosystem diversity existing in the terrestrial, aquatic or marine environment;
- (12) **“heritage site rich in biodiversity”** means an area declared as a heritage site rich in biodiversity under section 32;
- (13) **“biological resources”** means genetic resources of plants, animals and micro-organisms or parts thereof, genetic material and by-products (excluding the value added products and materials), or any other biotic component of ecosystems with actual or potential use or technical value for humanity, but does not include human genetic material;
- (14) **“bio-survey”** or **“bio-utilisation”** means collection, assessment or scientific survey of any component, extract, genetic character or cell-tissue character of biological resources, regardless of species or sub-species, for any purpose;
- (15) **“sustainable use”** means the use of components of biological diversity in such manner and at such rate that does not lead to the long-term decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations;

- (16) “**fund**” means the Biodiversity Conservation Fund constituted under section 36;
- (17) “**equitable sharing**” means equitable sharing of benefits arising out of biodiversity resources, in accordance with the provisions of section 30;
- (18) “**Municipal Committee**” means the Municipal Biodiversity Management and Supervision Committee constituted under section 22;
- (19) “**commercial utilisation**” means making or producing various products by using biological resources for commercial purposes such as drugs, industrial enzymes, food flavours, fragrance and cosmetics to be used in human body, colours, emulsifiers, oleoresins, etc. including extracts and genes used for improving micro-organisms, crops, fishes and livestock through genetic intervention;
- (20) “**rules**” means rules made under this Act;
- (21) “**threatened species**” means those biological resources or their species or sub-species which are not critically endangered but existence thereof is threatened and to be threatened with extinction in the near future;
- (22) “**person**” includes any kind of company, organization, association, partnership or institution, including their representatives;
- (23) “**landrace**” means primitive cultivar, which has developed over time from the wild condition to field level by the peasant and their descendants;
- (24) “**City Corporation Committee**” means the City Corporation Biodiversity Management and Supervision Committee constituted under section 13; and
- (25) “**organization**” includes any type of company, institution, partnership business or any club, society, union, association or body consisting of more than one person or group of persons.

3. **Act to override any other law.**— Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall have effect.

CHAPTER II

Restrictions on undertaking biodiversity related activities and transferring research results derived from biodiversity, approval and refusal of applications

4. **Restrictions on undertaking biodiversity related activities and transferring research results derived from biodiversity.**— Without the prior approval of the National Committee, no –

- (a) non-resident citizen of Bangladesh;
- (b) person not citizen of Bangladesh;

- (c) organization not registered in Bangladesh under any existing law, shall—
 - (i) collect or take possession of any traditional knowledge of any biodiversity or biological resources or any matter relating thereto; or
 - (ii) undertake any activity relating to commercial utilization of biodiversity or biological resources, bio-survey or bio-utilisation or bio-examination or conduct research relating thereto;
 - (iii) engage in any activity relating to extraction of biodiversity or biological resources; or
 - (iv) be transferred or given by any person or organization the results of research derived from biodiversity or biological resources.

5. Publication of research papers.— If any research paper is published in accordance with the government rules and regulations, it may be presented or disseminated in seminars or workshops; and the results or opinion obtained therein may be taken into consideration by the National Committee.

6. Restrictions on applications for intellectual property rights in biodiversity.— (1) No person shall, without the prior approval of the National Committee, apply for intellectual property rights invented by use of biological resources in, or outside of, Bangladesh.

(2) In case of approval of application for intellectual property rights, the National Committee may, in the manner prescribed by rules, impose necessary conditions, including the assurance of equitable distribution of benefit sharing fee or royalty or both, or financial dividends derived from the commercial utilisation of such rights.

7. Approval, refusal, etc. of applications, etc.— (1) For the purpose of obtaining approval of the National Committee in respect of matters under sections 4 and 6 of this Act, applications shall have to be made in such manner and with payment of such fees as may be prescribed by rules.

(2) The National Committee may, upon the receipt of an application under sub-section (1), approve or reject it after scrutiny, in the manner prescribed by rules; but the National Committee may accept the advice of the Technical Committee or any other government office or organization in taking decision about the application received.

(3) Every application received under this section shall be disposed of within 90 (ninety) days from the date of its receipt; and the matter of approval or rejection, as the case may be, shall have to be communicated in writing to the concerned applicant accordingly.

(4) If an application is rejected under this section, the person aggrieved may apply for review under section 48.

(5) The National Committee shall have to consult with the concerned committee or committees in taking decision on any application for the right to use the biodiversity or biological resources and related knowledge thereof, etc. under the jurisdiction of any committee.

(6) In case of approval of any application under this section, the National Committee may impose specific conditions and fees or royalties, where applicable, in such manner as may be prescribe by rules.

(7) The National Committee shall, if it approves an application under this Act, take necessary steps in order to inform the public about the matter.

CHAPTER III

Constitution of Biodiversity Committees and their functions

8. Constitution of National Biodiversity Committee.— (1) For carrying out the purposes of this Act, there shall be constituted a committee to be called the National Biodiversity Committee consisting of the following members, namely:—

- (a) Minister, State Minister or Deputy Minister, in charge of the Ministry of Environment and Forests, who shall also be its Chairman; but, if there remains all of the Minister, State Minister or Deputy Minister, the Minister shall be the President, and, where applicable, two other or one shall also be its Vice-President;
- (b) Senior Secretary or Secretary of the of Ministry of Environment and Forests;
- (c) an officer, not below the rank of Joint Secretary, to be nominated by the Ministry of Home Affairs;
- (d) an officer, not below the rank of Joint Secretary, to be nominated by the Ministry of Disaster Management and Relief;
- (e) an officer, not below the rank of Joint Secretary, to be nominated by the Ministry of Agriculture;
- (f) an officer, not below the rank of Joint Secretary, to be nominated by the Ministry of Fisheries and Livestock;
- (g) an officer, not below the rank of Joint Secretary, to be nominated by the Ministry of Land;
- (h) an officer, not below the rank of Joint Secretary, to be nominated by the Ministry of Commerce;
- (i) an officer, not below the rank of Joint Secretary, to be nominated by the Ministry of Culture;
- (j) an officer, not below the rank of Joint Secretary, to be nominated by the Ministry of Chittagong Hill Tracts Affairs;
- (k) an officer, not below the rank of Joint-Secretary, to be nominated by the Ministry of Science and Technology;

- (l) an officer, not below the rank of Joint Secretary, nominated by the Ministry of Industries;
- (m) heads of the following Departments or Institutions—
 - (i) Forest Department;
 - (ii) National Institute of Biotechnology;
 - (iii) Bangladesh National Herbarium;
 - (iv) Bangladesh Agricultural Research Council;
 - (v) Science and Industry Research Council;
 - (vi) Bangladesh Fisheries Research Institute;
 - (vii) Livestock Research Institute;
 - (viii) Forest Research Institute;
- (n) Director General of the Department of Environment, who shall also be its member-secretary;
- (o) Ministry of Environment and Forests shall perform the secretarial duties of the Committee.

(2) The National Committee may, if it deems necessary and appropriate, co-opt any person or a representative of any organization experienced in the field of biodiversity as its member.

9. Meetings of National Biodiversity Committee, etc. — (1) Subject to the provisions of this section, the National Committee may determine the procedure of its meetings.

(2) At least two meetings of the National Committee shall be held in each year, at such place and time as may be determined by the President of the said Committee.

(3) The President of the National Committee shall preside over all its meetings, but, in his absence, the Vice-President and the member who holds the top of the position may preside over the meetings.

(4) To constitute a quorum of the meeting, the general majority of members present shall be required.

(5) The decision of the meeting shall be taken by a majority vote of the members present and, in the event of equality of votes, the person presiding over shall have a second or casting vote.

(6) No act or proceeding of the National Committee shall be invalid merely on ground of any vacancy in, or any defect in the Constitution of a committee, or no question shall be raised in any court or elsewhere in this behalf.

(7) The member-secretary of the National Committee shall, with the prior approval of the president of the said Committee, convene the meetings and shall prepare and maintain the minutes of the meetings.

(8) The National Committee may, if necessary, to assist it in a particular matter, appoint an expert committee consisting of one or more experts in the field of biodiversity or invite them to attend its meetings or to accept their opinions.

10. Functions of the National Biodiversity Committee.— For carrying out the purposes of this Act, the functions of the National Biodiversity Committee shall be as follows, namely:—

- (a) to give decision on any application received under this Act;
- (b) to make and maintain the National Biodiversity Register, through Department of Environment, in coordination with the register made and maintained by the District Committees;
- (c) to distribute equitable share of the benefits arising out of genetic resources or biological resources;
- (d) to identify the important area of biodiversity and to advise the Government to declare the area as a heritage site rich in biodiversity;
- (e) to advise the Government on the management of the area declared as a heritage site rich in biodiversity;
- (f) to advise the Government to make rules, for the purpose of ensuring the equitable sharing of benefits arising out of genetic resources or biological resources;
- (g) to advise the Government to issue directives for the management and conservation of heritage site rich in biodiversity;
- (h) to advise the Government to show due respect to, give recognition of, the knowledge of the local community about biodiversity and preserve such knowledge;
- (i) to advise the Government in nominating, or assigning responsibilities to appropriate government or non-government institutions for the conservation of various types of biodiversity;
- (j) to advise the Government to exempt any biological-resources, which is generally marketed as a daily commodities, from the application of this Act;
- (k) to monitor and supervise the functions of the Committees and issue directions to them, if necessary; and
- (l) to perform such other functions as may be necessary for the proper implementation of this Act.

11. Constitution of Technical Biodiversity Committee, etc..— (1) For carrying out the purposes of this Act, if any matter related to biodiversity is included in the rules of business of any Ministry or Department, it shall form a Committee to be called the "Biodiversity Technical Committee".

(2) The Technical Committee shall consist of the following members, namely:—

- (a) an officer, not below the rank of Joint-Secretary of the concerned Ministry or Department, who shall also be its president;
- (b) an expert representative, on various issues related to biodiversity, connected with the affairs of the Ministry or Department concerned;
- (c) a suitable representative to be nominated by the Department of Environment;
- (d) an officer not below the rank of Senior Assistant Secretary of the concerned Ministry or Division, who shall also be its member-secretary.

(3) The Technical Committee itself shall determine the procedure of its meetings and other ancillary matters.

12. Functions of the Technical Biodiversity Committee.— The functions of the Biodiversity Technical Committee shall be as follows, namely:—

- (a) to give advice and technical assistance to the concerned Ministry or Department on conservation of biodiversity included in its rules of business and in formulation of related strategies and action plans thereof;
- (b) to give necessary advice and provide technical assistance to the National Committee for the implementation of its functions;
- (c) to evaluate applications sent by the National Committee and send a recommendation thereon to the said Committee; and
- (d) to perform such other duties as may be directed by the Government or the National Committee.

13. Constitution of City Corporation Biodiversity Management and Supervision Committee.— (1) For carrying out the purposes of this Act, in each City Corporation, there shall be constituted a committee to be called the "City Corporation Biodiversity Management and Supervision Committee" consisting of the following members, namely:—

- (a) Mayor of the city corporation, who shall also be its president;
- (b) Chief Executive Officer of the city corporation;
- (c) representative of the Divisional Commissioner;
- (d) representative of the Metropolitan Police Commissioner;

- (e) Chief Waste Management Officer of the city corporation;
- (f) Chief Urban Development Officer of the city corporation;
- (g) Chief Health Officer of the city corporation;
- (h) Divisional Forest Officer;
- (i) District Fisheries Officer;
- (j) Deputy Director, Department of Agricultural Extension;
- (k) District Livestock Officer;
- (l) Deputy Director, Office of Social Services;
- (m) District Cooperative Officer;
- (n) a representative of a non-governmental organization (NGO) having activities in environmental development to be nominated by the mayor; and
- (o) the concerned Director or the senior most officer of the Department of Environment, who shall also be its member-secretary .

(2) The City Corporation Committee may, if it deems necessary and appropriate, co-opt any person or a representative of any organization interested in biodiversity conservation activities as its member.

14. Meetings of City Corporation Biodiversity Management and Supervision Committee, etc..— (1) The City Corporation Committee may, subject to the provisions of this section, determine the procedure of its meetings.

(2) At least two meetings of the City Corporation Committee shall be held in each year at such place and time as may be determined by the president of the said Committee.

(3) The president of the City Corporation Committee shall preside over all its meetings, but, in his absence, any other member of the said committee nominated by him may preside over the meetings.

(4) The member-secretary of the City Corporation Committee shall, with the prior approval of the president of the said Committee, convene its meetings and prepare and maintain the minutes of the meetings.

(5) The City Corporation Committee may, if necessary, invite a representative of any person or organization to attend its meetings to assist it in any particular matter or accept the opinion of any person or organization.

(6) To constitute a quorum of the meeting, the general majority of members present shall be required

(7) The decision of a meeting shall be taken by a majority votes of the members present and, in the event of equality of votes, the person presiding over shall have a second or casting vote.

15. Duties and responsibilities of the City Corporation Biodiversity Management and Supervision Committee.— The duties and functions of the City Corporation Committee shall be as follows, namely:—

- (a) to prepare and maintain the biodiversity registers regarding city corporation areas;
- (b) to assist the Government in implementing the national biodiversity strategy and action plan;
- (c) to create awareness among the local people about the need for conservation of biodiversity of the City Corporation;
- (d) to send recommendations to the National Committee, if it appears appropriate to take actions on any matter related to the national biodiversity strategy and action plan for conservation of biodiversity in the City Corporation area;
- (e) to make on spot inspection in the biodiversity sites of the city corporation area, from time to time, and monitor the implementation progress of the national strategy and action plan;
- (f) to supervise the activities of the Biodiversity Management Teams or Associations under the City Corporation, including the Ward Biodiversity Management Committee, if any, and, if necessary, provide them with directions;
- (g) to be vigilant on any activity that may harm the biodiversity of the city corporation; and to take appropriate administrative and legal action to stop it immediately if anyone does or attempts to do so; and
- (h) to perform such other functions as may be directed by the Government and the National Committee.

16. Constitution of District Biodiversity Management and Supervision Committee.— (1) For carrying out the purposes of this Act, in each district, there shall be constituted a committee to be called the "District Biodiversity Management and Supervision Committee" consisting of the following members, namely:—

- (a) Deputy Commissioner, who shall also be its president;
- (b) Superintendent of Police;
- (c) a senior officer of the Forest Department of the district;
- (d) District Fisheries Officer;
- (e) District Livestock Officer;
- (f) District Relief and Rehabilitation Officer;
- (g) Deputy Director, District Social Services Office;

- (h) District Cooperative Officer;
- (i) Deputy Director, District Agricultural Extension Department;
- (j) one educationist or social worker to be nominated by the Deputy Commissioner;
- (k) one representative from each of the farmers community and fishermen community to be nominated by the Deputy Commissioner;
- (l) one representative of a non-government organization (NGO) having activities in environmental development, to be nominated by the Deputy Commissioner; and
- (m) a senior officer of the Department of Environment working in the District, who shall also be its member-secretary.

(2) The District Committee may, if it deems necessary and appropriate, co-opt any person or a representative of any organization interested in biodiversity conservation activities as its member.

(3) The Members of Parliament of the district shall be the advisors of the District Committee.

17. Meetings of District Biodiversity Management and Supervision Committee, etc..— (1) The District Committee may, subject to the provisions of this section, determine the procedure of its meetings.

(2) At least three meetings of the District Committee shall be held in each year, at such place and time as may be determined by the president of that Committee.

(3) The president of the District Committee shall preside over all its meetings, but, in his absence, any other member of the said committee nominated by him may preside over the meetings.

(4) The member-secretary of the District Committee shall, with the prior approval of the president of the said Committee, convene its meetings and shall prepare and maintain the minutes of the meetings.

(5) The District Committee may, if necessary, invite a representative of any person or organization to attend its meetings, or accept the opinion of any person or organization to assist it in any particular matter.

(6) To constitute a quorum of the meeting, the general majority of members present shall be required.

(7) The decision of a meeting shall be taken by a majority of votes of the members present and, in the event of equality of votes, the person presiding over shall have a second or casting vote.

18. Duties and responsibilities of District Biodiversity Management and Supervision Committee.— The duties and functions of the District Biodiversity Management and Supervision Committee shall be as follows, namely:—

- (a) to prepare and maintain the District Biodiversity Register, in coordination with the Upazila Biodiversity Register prepared and maintained by the Upazila Committee;
- (b) to assist the Government in implementing the national biodiversity strategy and action plan;
- (c) to create awareness among the local people about the need of conservation of biodiversity of the district;
- (d) to send recommendations to the National Committee, if it appears appropriate to take actions on any matter related to the national biodiversity strategy and action plan for conservation of the biodiversity of the District;
- (e) to make on spot inspection in the biodiversity sites of the district, from time to time, and monitor the implementation progress of national strategy and action plan;
- (f) to supervise the functions of the District Biodiversity Management Team or Association, if any, including the Upazila, Municipal and Union Biodiversity Management Committees and provide them with directions, if necessary;
- (g) to be vigilant on any activity that may harm the biodiversity of the district and take appropriate administrative and legal action to stop it immediately if anyone does or takes the initiative to do so; and
- (h) to perform such other functions as may be directed by the Government and the National Committee.

19. Constitution of Upazila Biodiversity Management and Supervision Committee.— (1) For carrying out the purposes of this Act, in each upazila there shall be constituted a committee to be called the “Upazila Biodiversity Management and Supervision Committee” consisting of the following members, namely:—

- (a) Upazila Nirbahi Officer, who shall also be its president;
- (b) Assistant Commissioner (Land);
- (c) Upazila Agriculture Officer;
- (d) Upazila Fisheries Officer;
- (e) Upazila Livestock Officer;
- (f) Upazila Social Services Officer;
- (g) Range Officer (Forest), if any;
- (h) officers in charge of police stations under the upazila;
- (i) Upazila Ansar and VDP Officer;

- (j) Upazila Secondary Education Officer;
- (k) Upazila Primary Education Officer;
- (l) Upazila Cooperative Officer;
- (m) Upazila Rural Development Officer;
- (n) Upazila Project Implementation Officer;
- (o) a councilor nominated by the mayor of the Upazila Municipal;
- (p) the Chairman of the unions under the Upazila;
- (q) a representative to be nominated by the Upazila Chairman;
- (r) a representative of the local farmers community and fishermen community to be nominated by the Upazila Nirbahi Officer;
- (s) a representative of a non-governmental organization (NGO) having activities in the development of environment, to be nominated by the Upazila Nirbahi Officer;
- (t) an officer of the Department of Environment working in the upazila or, in his absence, any officer nominated by the Upazila Nirbahi Officer, who shall also be its member-secretary.

(2) The Upazila Committee may, if it deems necessary and appropriate, co-opt any person or a representative of any organization interested in the biodiversity conservation activities as its member.

(3) The local Member of Parliament shall be the advisor of the Upazila Committee.

20. Meetings of Upazila Biodiversity Management and Supervision Committee, etc.— (1) The Upazila Committee may, subject to the provisions of this section, determine the procedure of its meetings.

(2) At least three meetings of the Upazila Committee shall be held in each year, at such place and time as may be determined by the president of the said Committee.

(3) The president of the Upazila Committee shall preside over all its meetings, but, in his absence, any other member of the said committee nominated by him may preside over the meeting.

(4) The member-secretary of the Upazila Committee shall, with the prior approval of the president of the said Committee, convene its meeting and prepare and maintain the minutes of the meetings.

(5) The Upazila Committee may, if necessary, invite any person or a representative of any organization to participate in its meeting to assist it in any particular matter, or it may accept opinion of any person or organization.

(6) To constitute a quorum of the meeting, the general majority of members present shall be required.

(7) The decision of the meetings shall be taken by a majority of votes of the members present and, in the event of equality of votes, the person presiding over shall have a second or casting vote.

21. Duties and responsibilities of Upazila Biodiversity Management and Supervision Committee.— The duties and functions of the Upazila Biodiversity Management and Supervision Committee shall be as follows, namely:—

- (a) to prepare and maintain the Biodiversity Register of the upazila, in coordination with the Biodiversity Register of the unions and Municipality prepared and maintained by the Union Committees and the Municipal Committee;
- (b) to assist the Government in implementing the national biodiversity strategy and action plan;
- (c) to create awareness among the local people about the need of conservation of biodiversity of the upazila;
- (d) to make on spot inspection in the biodiversity sites of the upazila, from time to time, and monitor the implementation progress of the national strategy and action plan;
- (e) to recommend the District Committee in this behalf, if it appears expedient, to take any other actions related to the national biodiversity strategy and action plan, for the conservation of the biodiversity of the upazila;
- (f) to inform the local people of the concerned area about the benefits of the national biodiversity strategy and action plan, and motivate them to assist in implementing the said plan;
- (g) to supervise and monitor the activities of the Municipal and Union Biodiversity Management Committees including other teams or associations relating to Biodiversity Management Committees under the Upazila, if any, and provide them with guidelines, if necessary;
- (h) to be vigilant so that no one can do any activity which may harm the biodiversity of the Upazila and take appropriate administrative and legal actions to stop it immediately if anyone does or attempts to do so; and
- (i) to perform such other functions as may be directed by the Government, National Committee and District Committee, from time to time.

22. Constitution of Municipal Biodiversity Management and Supervision Committee, etc.— (1) For carrying out the purposes of this Act, in each municipality, there shall be constituted a committee to be called the “Municipal Biodiversity Management and Supervision Committee” consisting of the following members, namely: -

- (a) Mayor of the municipality, who shall also be its president;
- (b) Upazila Fisheries Officer;
- (c) Upazila Livestock Officer;
- (d) a representative of the Range Officer (Forest), if any;
- (e) a representative of the officer-in-charge of the police stations under the municipality;
- (f) Upazila Ansar and VDP Officer;
- (g) Upazila Secondary Education Officer;
- (h) Upazila Primary Education Officer;
- (i) Upazila Cooperative Officer;
- (j) councilors of the municipality;
- (k) an imam and a priest or any other religious leader to be nominated by the mayor of the municipality;
- (l) a local social worker to be nominated by the Upazila Chairman;
- (m) a representative of a non-governmental organization (NGO) having activities in environmental development to be nominated by the Mayor of the municipality;
- (n) the chief executive officer or secretary of the municipality, who shall also be its member-secretary.

(2) The Municipal Committee may, if it deems necessary and appropriate, co-opt any person or any representative of any organization interested in biodiversity conservation activities as its member.

(3) The local Member of Parliament shall be the advisor of the Municipal Committee.

23. Meetings of Municipal Biodiversity Management and Supervision Committee, etc.— (1) The Municipal Committee may, subject to the provisions of this section, determine the procedure of its meetings.

(2) At least three meetings of the Municipal Committee shall be held in each year, at such place and time as may be determined by the president of the said Committee.

(3) The president of the Municipal Committee shall preside over all its meetings, but, in his absence, any other member of the said committee nominated by him may preside over the meetings.

(4) The member-secretary of the Municipal Committee shall, with the prior approval of the president of the Committee, convene its meetings and shall prepare and maintain the minutes of the meetings.

(5) The Municipal Committee may, if necessary, invite any person to take part in its meetings to assist it in a particular matter, or take opinion of any person or organization.

(6) To constitute a quorum of the meeting, the general majority of members present shall be required.

(7) The decision of the meeting shall be taken by a majority of votes of the members present and, in the event of equality of votes, the person presiding over shall have a second or casting vote.

24. Duties and functions of Municipal Biodiversity Management and Supervision Committee, etc..— The duties and functions of the Municipal Biodiversity Management and Supervision Committee shall be as follows, namely:—

- (a) to prepare and maintain the Biodiversity Register of the municipal area;
- (b) to encourage the local people on the following matters, namely:—
 - (i) conservation and sustainable use of biodiversity;
 - (ii) conservation of ecosystems, cultivars and landraces; and
 - (iii) conservation of domesticated stock and breed of animals, indigenous fish species and microorganisms; and
 - (iv) documentation of biodiversity knowledge;
- (c) to create awareness among the local people about the consequences of biodiversity and environmental degradation in the municipal area;
- (d) to implement the national biodiversity strategy and action plan;
- (e) to inform the local people about the benefits of the national biodiversity strategy and action plan for overcoming the biodiversity crisis and motivate them to assist in the implementation of the said plan;
- (f) to recommend the Upazila Committee if it appears expedient to take any other activities for the conservation of biodiversity in the area concerned besides the national biodiversity strategy and action plan;
- (g) to create public awareness on what should generally be done or not done in the municipal area for conservation of biodiversity;

- (h) to make on spot inspection in the biodiversity areas under the municipality, from time to time, and monitor the implementation progress of the national biodiversity strategy and action plan;
- (i) to find out alternative means of employment for the people of the area, the source of income of whom has been closed in consequence of prohibition of any activity issued for conservation of biodiversity in the municipal areas;
- (j) to supervise the functions of the teams or associations constituted under section 28, if any, and give directions, if necessary;
- (k) to be vigilant so that no one can do any activity that may harm the environment in the municipal area and take appropriate administrative and legal actions to stop it immediately if anyone does or attempts to do so; and
- (l) to perform such other functions as may be directed by the Government, National Committee, District Committee and Upazila Committee.

25. Constitution of Union Biodiversity Management Committees, etc.— (1) For carrying out the purposes of this Act, in each union there shall be constituted a Committee to be called "Union Biodiversity Management Committee" consisting of the following members, namely:—

- (a) Chairman of the Union Council, who shall also be its president;
- (b) Deputy Assistant Agricultural Officer;
- (c) Union Land Assistant Officer;
- (d) Union Ansar and VDP Team Leader to be nominated by the Upazila Ansar and VDP Officer;
- (e) a representative of the Range Officer (Forest), if any;
- (f) members of the Union Council;
- (g) a Veterinary Field Assistant to be nominated by the Upazila Livestock Officer, if any;
- (h) a teacher of a school, madrasa or college, who are interested in environmental development activities, to be nominated by the Chairman of the Union Council;
- (i) an imam and a priest or any other religious leader to nominated by the Chairman of the Union Council;
- (j) a representative from each of the local farmers community and fishermen community, to be nominated by the Chairman of the Union Council;

- (k) a representative of a non-governmental organization (NGO) having activities in environmental development, to be nominated by the Chairman of the Union Council;

- (l) Secretary of the Union Council, who shall also be its member-secretary.

(2) The Union Committee may, if it deems necessary and appropriate, co-opt any person or a representative of any organization interested in biodiversity conservation activities as its member.

26. Meetings of Union Biodiversity Management Committee, etc.— (1) The Union Committee may, subject to the provisions of this section, determine the procedure of its meetings.

(2) At least three meetings of the Union Committee shall be held in each year, at such place and time as may be determined by the president of the said committee.

(3) The president of the Union Committee shall preside over all its meetings, but, in his absence, any other member of the said committee nominated by him may preside over the meetings.

(4) The member-secretary of the Union Committee shall, with the prior approval of the president of the said committee, convene its meetings and prepare and maintain the minutes of the meetings.

(5) The Union Committee may, if necessary, invite a person to take part in its meeting to assist it in a particular matter or take the opinion of any person or organization.

(6) To constitute a quorum of the meeting, the general majority of members present shall be required.

(7) The decision of the meeting shall be taken by a majority of votes of the members present and, in event of equality of votes, the person presiding over shall have a second or casting vote.

27. Functions of Union Biodiversity Management Committees.— The responsibilities and functions of the Union Biodiversity Management Committees shall be as follows, namely:—

- (a) to prepare and maintain the Union Biodiversity Register;
- (b) to encourage the local people for the following matters, namely:—
 - (i) conservation of biodiversity and sustainable use thereof;
 - (ii) conservation of ecosystems, cultivators and landraces;
 - (iii) conservation of domesticated stock and breed of animals, indigenous fish species and microorganisms; and
 - (iv) documentation of biodiversity knowledge;

- (c) to create awareness among the local people about the consequences of biodiversity and environmental degradation in the Union;
- (d) to implement the national biodiversity strategy and action plan and monitor their progress;
- (e) to inform the local people about the benefits of national biodiversity strategy and action plan for overcoming the biodiversity crisis and motivate them to assist in implementing the plan;
- (f) to recommend the Upazila Committee if it appears expedient to take any other activities for the conservation of biodiversity in the concerned areas besides the national biodiversity strategy and action plan;
- (g) to create public awareness on what should generally be done or not done in the union area for conservation of biodiversity;
- (h) to inspect the areas rich in biodiversity in the Union, from time to time, on the spot;
- (i) to find out alternative means of employment for the people of the area, the source of income of whom has been closed in consequence of prohibition of any activity issued for conservation of biodiversity in the union areas;
- (j) to supervise the functions of the Team or Association constituted under section 28, if any, and provide them with necessary directions;
- (k) to be vigilant so that no one can do any activity that may harm the environment in the Union and take appropriate administrative and legal actions to stop it immediately if anyone does or attempts to do so; and
- (l) to perform such other functions as may be directed by the Government, National Committee, District Committee and Upazila Committee.

CHAPTER 4

Constitution of Biodiversity Management Teams, Associations and Sub-committees, etc.

28. Constitution of Biodiversity Management Teams or Associations, etc. in grassroots level.— (1) The City Corporation Committee, Municipal Committee and Union Committee may, for the purpose of conserving biodiversity at the grassroots level, observing the needs and reality, constitute village, zone, occupation or community based biodiversity management Teams or Associations consisting of such persons who are capable of and interested in the development of the ecosystem.

(2) The activities of a Team or Association constituted under sub-section (1) may be conducted as a co-operative society; and for that purpose, it shall be registered as a co-operative society in accordance with the provisions of the Co-operative Societies Act, 2001 (Act No. 47 of 2001).

(3) In order to improve the quality of life and livelihood of the members of the Team or Association constituted under sub-section (1), a small capital grant may be allocated to them from the Fund; and the National Committee shall, from time to time, issue necessary instructions as to how the grant money shall be used and maintained.

(4) An Association constituted under sub-section (1) may undertake projects or programmes for the economic, education, health, social and cultural development of its members, and re-invest all or any portion of profits earned from such projects or programmes, or distribute among themselves at the end of the year.

(5) The procedure of composition of the Team or Association constituted under sub-section (1) and related matters shall be prescribed by rules.

(6) The functions of a Team or Association constituted under sub-section (1) shall be as follows, namely:—

- (a) to prepare and maintain Biodiversity Registers of the respective villages or zones;
- (b) to create awareness among the local people about the consequence of biodiversity and environmental degradation in the respective villages or zones;
- (c) to inform the people of the concerned villages or areas about the benefits of the national biodiversity strategy and action plan for overcoming the biodiversity crisis; and motivate to assist the authorities concerned in implementing such plans;
- (d) to recommend the City Corporation Committee or Municipal Committee or Union Committee, as the case may be, if it appears appropriate to take any other action for the conservation of the biodiversity of the areas concerned in addition to the national biodiversity strategy and action plan;
- (e) to create public awareness on what should generally be done or not be done by the people of the villages or areas concerned for the conservation of biodiversity;
- (f) to make on spot inspection in the concerned areas, from time to time, and monitor the implementation progress of the national biodiversity strategy and action plan;
- (g) to find out alternative means of employment for the people of the area, the source of income of whom has been closed in consequence of prohibition of any activity issued for conservation of biodiversity in the villages or areas concerned;
- (h) to be vigilant so that no one can do any activity that may harm the environment in the area and take appropriate administrative and legal action to stop it immediately if anyone does or attempts to do so; and

- (i) to perform such other functions as may be directed by the Government, National Committee, City Corporation Committee, District Committee, Upazila Committee and Municipal Committee or Union Committee.

29. **Constitution of sub-committees, etc.**— The City Corporation Committee, District Committee, Upazila Committee, Union Committee and Municipal Committee may, to assist it in making decision, implementation and ancillary matters, form sub-committees and determine their procedures.

CHAPTER 5

Equitable sharing of Genetic or biological resources

30. Equitable sharing of benefits arising out of genetic or biological resources.—

(1) In the case of approval of any application under this Act, the National Committee shall ensure the equitable sharing of the benefits arising out of genetic resources or biological resources complying with all or any of the following procedures, namely:—

- (a) the applicant's right to acquire or use knowledge of biological resources, genetic resources or their by-products or related inventions and the use of such resources, with pre-notifying the local authorities and legitimate claimants of the property, where applicable, subject to such conditions as may be agreed upon;
- (b) where benefit claimers are identified, granting ownership to such benefit claimers, otherwise granting of joint ownership of intellectual property rights;
- (c) ensuring the transfer of biodiversity development technologies to the benefit claimers of the local community or people;
- (d) ensuring that the subject matter of production, research or project will facilitate better living standards to the benefit claimers;
- (e) involving the scientists of Bangladesh or their organizations and the benefit claimers and the local community in conducting research on biological development, bio-surveys or bio-utilisation or related activities; and
- (f) providing financial compensation or any other benefit to the conservationists, knowledge holders (জানমহারগকারী) and innovators of biodiversity, at the discretion of the National Committee.

(2) In case of equitable sharing of benefits, the National Committee may issue an order for the recovery of money from the person or authority applying.

(3) For the purpose of this section, the Government may, if necessary, in consultation with the National Committee, make rules.

CHAPTER 6

Making national biodiversity strategy and action plan, declaration of heritage sites and prohibition of taking activities creating adverse impact on biodiversity, etc.

31. **Making national biodiversity policy and action plan, etc.**— (1) The Government shall, from time to time, make and update the national biodiversity strategy and action plan to ensure the conservation, development and sustainable use of biodiversity.

(2) The following matters shall, inter alia, be included in the national biodiversity strategy and action plan made under sub-section (1), namely:—

- (a) identification and monitoring of the areas rich in biodiversity resources;
- (b) directions (নির্দেশনা) and regulations (নিয়মাবলি) for in-situ and ex-situ conservation measures; and
- (c) experimental and educational awareness activities on biodiversity.

(3) If the Government has reasonable and specific evidence that the resources of any area rich in biodiversity are at the verge of depletion or extinction as a result of overuse, abuse or neglect of such resources, the Government may issue direction to the person or organization concerned to prevent such depletion or extinction.

(4) The Government shall take steps to coordinate its plans, activities and policies for the purpose of conservation, development and sustainable use of bio-resources.

(5) If there is a possibility to have adverse effect on biodiversity in an area due to any development project, the authority adopting project shall, in order to minimise or avoid such effect, conduct environmental impact assessment or advance investigation by involving the people of that area.

(6) The Government shall take steps to recognize and preserve the traditional biodiversity knowledge of the local community.

Explanation.— In this section—

- (a) **"in-situ conservation"** means the conservation of the ecosystems and natural habitats and maintenance of species in their natural surroundings so that the species may acquire the ability to survive; and in the case of domesticated or cultivated species, maintaining or bringing the plants or animals back into that environment in which they have developed their distinctive properties;
- (b) **"ex-situ conservation"** means the conservation of components of biological diversity outside their natural habitats.

32. **Declaration of heritage sites rich in biodiversity, etc.**— (1) The Government may, by notification in the official Gazette, declare a place or area as a heritage site enriched in biodiversity considering the heritage importance of the biodiversity of the place or area.

(2) Prior to the declaration under sub-section (1), discussion with the local people and authorities and coordination with the concerned Ministry or Department shall be required.

(3) If any person or institution in any place or area suffers any financial loss due to the declaration made under sub-section (1), the Government may undertake special project or scheme for the purpose of providing them with appropriate compensation or rehabilitation.

(4) The Government may issue directives for the purpose of management, conservation and development of heritage sites rich in biodiversity.

33. Prohibition of taking activities creating adverse impact on threatened animals or biodiversity resources, etc.— (1) The Government may, by notification in the official Gazette, declare any of biological resources of the country or any of its species as threatened species, without prejudice to the provisions of any existing law.

(2) The Government may take steps to stop the procurement of threatened species declared under sub-section (1) and conserve them properly.

(3) No person shall take any such action which –

- (a) affects or likely to adversely affect the threatened species;
- (b) affects or likely to adversely affect the ecological characteristics of the critical or threatened ecological community; or
- (c) affects or likely to adversely affect the environment and ecological character of the area declared as wetlands in accordance with the Ramsar Convention.

(4) For the purpose of sub-section (3), the Government shall, in the manner prescribed by rules, make a list of the acts that creates adverse effects.

Explanation.— In this section—

- (a) **"environmental character"** means the ecological character as mentioned in the Ramsar Convention; and
- (b) **"Ramsar Convention"** means the Convention on Wetlands of International Importance especially as Waterfowl Habitat, adopted in Ramsar, Iran in 1971.

34. Assigning responsibilities to the government and non-government institutions to perform duties regarding conservation of biodiversity resources.— (1) For the purpose of conservation of various types of biodiversity resources, the Government may, in consultation with the National Committee, by notification in the Official Gazette, subject to the conditions specified therein, assign responsibilities to the various government and non-Government institutions.

(2) The responsible institutions under sub-section (1) shall collect biodiversity resources and preserve the sample species in safe conservatory.

(3) In case of discovery of a new species of any biological resources, the concerned discoverer shall inform the responsible institutions under sub-section (1) and the committee concerned, and send a sample of the innovated species to the said institution for the purpose of conservation.

35. Exemption of specified biological resources from the scope of this Act.— Notwithstanding anything to the contrary contained in other sections of this Act, the Government may, in consultation with the National Committee, by notification in the Official Gazette, exempt any such biological resources, which is generally marketed as daily commodities, from the scope of this Act.

CHAPTER 7

Constitution of fund, accounts and audit and annual report

36. Constitution of Biodiversity Conservation Fund, etc..— (1) The Government shall constitute a fund to be called the "Biodiversity Conservation Fund" to ensure the conservation of biodiversity and sustainable use thereof.

(2) Moneys received from the following sources shall be deposited in the Biodiversity Conservation Fund, namely:—

- (a) grants made by the Government;
- (b) moneys received from any lawful source with the prior approval of the Government.

(3) The moneys shall be kept in any state-owned bank in the name of the National Committee and be operated in such manner as may be prescribed by rules:

Provided that, until rules are made, the fund may be operated in accordance with orders or directions issued by the Government.

(4) The moneys of the fund may be spent for the following purposes, namely:—

- (a) management and conservation of heritage sites rich in biodiversity resources;
- (b) compensation and rehabilitation of the person or persons who have suffered financial loss due to declaration of a heritage site rich in biodiversity;
- (c) any other expenditure on biodiversity conservation, with the approval of the Government.

(5) The National Committee may, in accordance with the requirements of the Biodiversity Committees, allocate necessary amount of money from the fund to the concerned Committee.

(6) The National Committee may, on the recommendation of the City Corporation Committee or the Municipal Committee or the Union Committee, as the case may be, with

the prior approval of the Government, make small capital grants from the fund to the Teams or Associations constituted under section 28.

37. Accounts and audit.— (1) The National Committee shall maintain the accounts of the fund properly and prepare an annual statement of accounts.

(2) The Auditor General and Comptroller of Bangladesh, hereinafter referred to as the "Auditor-General", shall audit the accounts of the fund every year and furnish a copy of the audit report to the Government and the Committee.

(3) In addition to the audit mentioned in sub-section (2), the accounts of the fund may be audited by the Chartered Accountant as defined in Article 2(1)(b) of the Bangladesh Chartered Accountants Order, 1973 (P.O. No. 2 of 1973) and the committee may appoint one or more chartered accountants for this purpose.

(4) A chartered accountant appointed under sub-section (3) shall be entitled to have such remuneration as may be determined by the Government.

(5) For the purpose of audit in accordance with the provisions of sub-section (2) or (3), the Auditor-General or any person authorized by him in this behalf or, as the case may be, the chartered accountant shall have access to all records, documents, cash or moneys deposited in banks, securities, stores and other assets and may examine any member of the committee or any officer or employee concerned.

38. Annual Report.— The National Committee shall by December in each year, prepare an annual report containing the details of the activities carried out by it in the previous financial year and submit a copy thereof to the Government.

CHAPTER 8

Offences, Investigation, Trial and Punishment

39. Penalty for undertaking activities related to biodiversity and transferring the results derived from research of biodiversity, without approval.— If any person or institution mentioned in section 4, without the prior approval of the National Committee, acquires or takes possession of any biodiversity or biological resources or indigenous knowledge thereof available in Bangladesh; or conducts activities regarding those for the commercial utilisation, bio-survey or bio-testing; or involves in the activities of collection of those; or transfers or hands over the results derived from research on biodiversity or biological resources of Bangladesh, it shall be an offence under this Act and for such offence he shall be punished with imprisonment for a term which may extend to 5 (five) years, or with fine which may extend to 10 (ten) lakh Taka, or with both; but, if the amount of loss on biodiversity exceeds 10 (ten) lakh Taka, the amount of fine shall be increased accordingly.

40. Penalty for making application to obtain intellectual property rights in biodiversity, without approval.— If any person, without the prior approval of the National Committee, makes application to obtain the intellectual property rights for anything discovered by the use of biological resources, in Bangladesh or outside Bangladesh, his such act shall be an offence under this Act; and for such offence he shall be punished with

imprisonment for a term which may extend to 5 (five) years, or with fine which may extend to 10 (ten) lakh Taka, or with both.

41. Penalty for taking activities creating adverse impact on threatened animals or biological resources.— If any person undertakes any of the following activities, which—

- (a) affects or may adversely affect the threatened species;
- (b) affects or may adversely affect the ecological character of the critical or threatened ecological community; or
- (c) affects or may adversely affect on the environment and ecological character of the area declared as wetland in accordance with the Ramsar Convention,

then such act shall be an offence under this Act, and he shall be punished with imprisonment for a term which may extend to 5 (five) years, or with fine which may extend 10 (ten) lakh Taka, or with both.

42. Penalty for contravention or non-compliance of directions or orders issued by the Government or any Committee.— If any person contravenes or violates any direction or order issued by the Government or any Committee, for which no separate provision is provided in this Act, then the contravention or violation of such direction or order shall be an offence, and for such offence he shall be punished with fine which may extend to 1 (one) lakh Taka, and for commission of second or subsequent offence, he shall be punished with fine which may extend to 2 (two) lakh Taka.

43. Cognizability, bailability and compoundability of offences.— The offences committed under section 42 shall be non-cognizable, bailable and compoundable subject to payment of compensation; and the offences committed under other sections, except the said section, shall be cognizable, non-bailable and non-compoundable.

44. Penalty for filing false or vexatious cases.— If the court acquits any accused person upon hearing and trial of any case filed under this Act and the court states clearly in its judgment that the allegation against the accused is false, baseless and vexatious, then the person filing the case shall be deemed to have committed an offence and for such offence he shall be punished with imprisonment for a term which may extend to 1 (one) year, or with fine which may extend to 1 (one) lakh Taka, or with both.

45. Cognizance of offences, etc.— No court shall take cognizance of an offence committed under this Act, unless—

- (a) the Government or any officer authorized by the Government in this behalf files the case; or
- (b) a direct benefit claimer files a case:

Provided that, for the purpose of filing a case regarding the concerned offence, the benefit claimer shall have to notify the Government or the authorized officer within 30 (thirty) days from the date of commission of the offence.

46. Application of the Code of Criminal Procedure (Act No. V of 1898).— Subject to the other provisions of this Act, the Code of Criminal Procedure, 1898 (Act No. V of 1898) shall be applicable to the investigation, trial, appeal and all other ancillary matters of an offence under this Act.

47. Offence committed by organizations.— If any offence is committed under this Act or rules made thereunder, or any provision thereof is violated by an organization, then every director, executive, manager, secretary or any other officer, employee or representative of the organization, whatever name may be called, who has direct involvement in such offence or violation, shall be deemed to have committed the offence or made the violation, unless he can prove that the offence or violation was committed or made beyond his knowledge or he failed to prevent such offence or violation despite his due diligence.

Explanation.— In this section, “director” also includes the members of the Board of Directors including partners.

CHAPTER 9

Miscellaneous

48. Review. — (1) If any person is aggrieved by any decision made by the National Committee under this Act, he may, within 30 (thirty) days from the date of being notified of such decision, apply to the said committee for review the decision in such manner as may be prescribed by rules.

(2) An application made under this section shall be disposed of in such manner as may be prescribed by rules within 30 (thirty) days from the date of making application.

(3) The decision given by the National Committee on the application for review under this section shall be deemed to be final.

49. Power to make rules.— The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

50. Removal of difficulties. — If any ambiguity or difficulty arises in implementation of this Act, the Government may, by notification in the official Gazette, remove such ambiguity or difficulty, subject to being consistent with the provisions of this Act.

51. Publication of authentic English Text.— (1) After the commencement of this Act, the Government may, by notification in the official Gazette, publish an authentic English Text of the original Bengali Text of this Act.

(2) In case of conflict between English and Bengali Texts, the Bengali Text shall prevail.