

English Translation of the Act (original in Bengali)

**The Bangladesh Water Development Board Act, 2000
Act No. XXVI of 2000**

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[An Act with a view to ensure development and management of water resources by rescinding provisions of the Bangladesh Water and Power Development Boards Order of 1972 under the Bangladesh Water and Power Development Board Order, 1972 (P.O. No. 59 of 1972)].

Whereas it is expedient to enact an amended law to enable development and efficient management of the water resources by rescinding provisions relating to the Bangladesh Water Development Board under the Bangladesh Water and Power Development Boards Order, 1972

(P.O. No. 59 of 1972);

It is hereby enacted as follows

1. Short Title

- (1) This Act will be called the Bangladesh Water Development Board Act, 2000.

2. Definition

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

- (a) "Additional Director General" means the Board's Additional Director General
- (b) "FCD Project" means Flood Control and Drainage project
- (c) "FCDI Project" means Flood Control, Drainage and Irrigation project
- (d) "Chairman" means the Chairman of the Board
- (e) "Parishad" means the Board of Directors
- (f) "Rule" means a rule framed under this Act
- (g) "Regulation" means a regulation framed under this Act
- (h) "Board" means the Bangladesh Water Development Board established under this Act
- (i) "Director General" means the Director Generals of the Board
- (j) "Member" means a Member of the Board
- (k) "Local Authority" means any City Corporation, District Council, Municipality, Upazila Council, or Union Council constituted for the time being.

3. Establishment of the Board

- (1). On the commencement of this Act, an organization called the Bangladesh Water Development Board will be established.
- (2). The Board shall be a body corporate ate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire hold and dispose of property, both movable and immovable, and shall by its name sue and be sued.

4. Head Office of the Board

The Head Office of the Board shall be in Dhaka and for smooth operation of its program it may open, shift, and close down offices anywhere in Bangladesh.

5. Powers and Responsibilities of the Board

- (1). Subject to the provisions of different Sections under this Act, the Board may undertake activities for the whole of Bangladesh or any part thereof for development and efficient management of water resources as well as for performing the activities stated in Section 6.
- (2). Without impairing the generality of the power and authority given under sub-section (1), the Board shall exercise the following powers and responsibilities, namely:
 - a) Subject to private rights, exercise the right of the Government with its concurrence to control the flow of water in all rivers and channels and underground aquifers.
 - b) Develop standards and guidelines for the operation and maintenance of all water management structures pursuant to Section 6.
 - c) Sign contracts for procurement of plant, machinery, equipment and other ancillary material for project implementation.
 - d) Sign contracts with local public agencies of with local and international consulting firms or experts for advice and assistance in the preparation, execution and other related matters of projects on the basis of approved project documents.
 - e) Levy and collect service charges, with prior approval of the Government, for operation and maintenance and cost recovery of FCDI projects.
 - f) Undertake the execution of any water related project on behalf of any public agency, as "deposit work" with full technical, administrative and financial control of the project.

12. Functions of the Board

- (1) Subject to fulfillment of conditions under this Act anti guidelines provided by the National Water Policy and the National Water Management Plan,

the Board shall perform the following activities and towards that end shall carry out all activities relating to preparation of needed projects, their implementation, operation, maintenance and evaluation.

Structural Functions

- a) Construction of dams, barrages, reservoirs, embankments, regulators or other structures for development of rivers, flood control, drainage, surface irrigation, and drought prevention.
- b) Re-excavation/ de-siltation of water channels and removal of obstacles from the mouths of rivers for improvement of water flows or diversion of water for assisting fisheries, navigation, forestry, wildlife development and up gradation of the environment.
- c) Works for soil conservation, land accretion, land reclamation and estuary control.
- d) River training and river bank protection for the protection of towns, bazaars, haats and places of historical and public importance from the hazards of land erosion.
- e) Construction and maintenance of coastal embankment.
- f) Prevention of salinity intrusion and desertification.
- g) Harvesting of rainwater for irrigation, environmental preservation and supply of drinking water.

Non-structural Functions

- a) Flood and drought forecasting and warning.
 - b) Hydrological survey and investigation.
 - c) Development of forestry and fishery on land available round Board's infrastructure and construction of roads on embankments in conjunction with relevant government agencies, for the preservation and improvement of the environment as well as for poverty alleviation.
 - d) Basic and applied research on all aspects of the Board's activities.
 - f) Establishment of water user's association and other water users/stakeholders' organizations, their training and participation, in project planning, implementation, operation and maintenance and cost recovery for long-term sustainability of benefits to the beneficiaries of completed projects.
- (2) The Board shall perform the functions mentioned under sub-section (1) by fulfilling the following conditions:
- a) Submission of project proposals after strictly following the government prescribed guidelines for project preparation.
 - b) Collection of primary data for generating information on the

hydrological regime and undertaking necessary technical analyses including physical and mathematical modeling, where required, for feasibility studies of projects.

- c) Enlisting the participation of different agencies, both public and private, whose cooperation may be necessary for the success of the project and assigning each of these a definite role right from the start of the project cycle.
- d) Outlining the institutional mechanism in project documents for securing people's participation in project areas during identification, preparation, implementation, and operation and maintenance in the light of Government guidelines on the subject.
- e) Submitting self-contained proposal for compensation and resettlement in case of land acquisition.
- f) Reporting on the positive as well as adverse impact (if any) including possible mitigation measures due to a project implemented by the Board on agriculture, environment, navigation, water conveyance, fisheries, people's livelihood within the project and neighboring areas.

7. Board's General Administration

The general administration of the Board shall vest in the Board of Directors and the Board of Directors shall be entitled to perform such functions and exercise such powers as mandated to the Board itself.

8. Composition of the Parishad (i.e. Board of Directors)

- (1) The Board of Directors shall be composed of the following members, namely:
 - a) Minister in charge of the Ministry of Water Resources, who shall also be the exofficio Chairman;
 - b) Secretary, Ministry of Water Resources;
 - c) Secretary, Finance Division;
 - d) Secretary, Local Government Division;
 - e) Secretary, Ministry of Environment and Forestry;
 - f) One water resource engineer to be nominated by the Government; g) One water resource expert to be nominated by the Government;
 - h) One NGO representative to be nominated by the Government;
 - i) One representative of the Institute of Chartered Accountant of Bangladesh, to be nominated by the Government;
 - j) Two representatives of beneficiary organizations in Board's executed project: to be nominated by the Government;
 - k) Director General, Water Resources Planning organization;
 - l) Director General of the Board.

- (2) Members mentioned in sub-sections (1) -(f), (g), (h), (1) and (j) will continue in their position for a period of two years from the date of their assumption of duty and would be eligible for appointment for another term of two years.

Provided that the Government at any time may remove any of these members without assigning any reason.

Provided further that any such member may resign from his position by signing and sending a letter of resignation to the Government.

- (3) No act by the Board shall be invalid on the ground merely of the existence of my vacancy, or any defect in the constitution or the composition of the Board.

9. Power and Responsibility of the Parishad (Board of Directors)

- (1) Without impairing the generality of power and responsibility given under section 7 and subject to the provisions of this Act, the Board of Directors shall have the following power and responsibility, namely;
- a) Formulating strategic long-term work plan for the organization consistent with the National Water Policy and other directives of the Government and decide of the procedures for implementation;
 - b) Defining the long, medium and short-term goals and objectives of the organization and formulation of the following policies to achieve these goals, viz:
 - i). Institutional Policy covering rules of business, service rules for the employees, and decentralization of administrative and financial powers;
 - ii). Human Resources Development Policy on staff development, career planning and training;
 - iii). Personnel Management Policy on creating a conducive environment for development of professionalism and motivated work force in the organization;
 - c) Approving the Board's annual and supplementary budget;
 - d) Approving all purchase and procurement within the financial limits set for the Board of Directors by the Government
 - e) Approving non-tendered and additional works above the authorized limits of the Director General;
 - f) Approving or recommending, as appropriate, the sale, liquidation, leasing out, management contract, etc. of the Board's property and projects;
 - g) Ensuring accountability of the Board through:
 - i). Recommendation and appropriate disposition towards formulating

Rules and Regulations for efficient administration and its financial management;

- ii). Delegating authority and responsibility linked with appropriate management standard;
- iii). Reviewing periodic progress reports on physical and financial aspects, submitted by DG and assigning responsibility for underperformance on any account and taking remedial measures;
- iv). Approving the Board's Annual Reports and Audit Reports ;
- v). Reviewing the monitoring and evaluation reports provided by different agencies of the Government and directing the Dg for appropriate action;
- h) Recommending to the Government modifications of approved organizational structure of the Board including privatization of any units and outsourcing of certain activities ;

(2) **The Parishad (Board of Directors)**

- a) Shall ensure that the Board is following the principles and guidelines provided in the National Water Policy;
- b) Shall set up a management system that is transparent, efficient and financially strong.

10. Meeting of the Parishad (Board of Directors)

- 1) Subject to provisions of this Act, the Board of Directors shall prescribe the procedure of the Board meetings;
- (2) Board meetings shall be held at a time and place Fixed by the Chairman;
Provided that there shall be at least one such meeting in every two month.
- 3) The Chairman shall preside over all Board meetings and, in the event of his absence, members present will select one of then to preside over the meeting;
- 4) The presence of minimum six members shall constitute a quorum for a meeting

11 Constitution of Committees

The Board of Directors may form one or more committees consisting of not more than five members, which may include individuals having experience on relevant subject for smooth conduct of its business. Such a committee, when formed, shall carry out its responsibilities as per its terms of reference.

12. Director General and Additional Director Generals

- 1) There shall be a Director General and five Additional Director Generals for the Board;
- 2) The Director general and the Additional Director Generals shall be appointed by the Government on such terms and conditions as the Government may determine;
- 3) The Director General shall be the Chief Executive of the Board and shall discharge his duties following directives from the Board of Directors.

13. Powers and Functions of the Director General

Subject to the provisions of this Act, the Director General shall exercise the following powers and functions, namely;

- a) Implement and execute all policies and programs, along with their financial and operational targets, as approved by the Board.
- b) Develop short, medium and long-term work plans in conformity with the National Water Policy and other guiding documents of the Government and implement these upon approval by the Board.
- c) Conduct all activities of the Board by following appropriate financial and administrative procedures and regulations, rules, and provisions of this Act.
- d) Within three months of completion of each financial year submit to the Board an Annual report on the completed year, on activities of the Board and its performance along with the annual audit and other relevant documents.
- e) Present to the Board for its consideration and approval, the Annual Budget and where needed the Supplementary Budget.
- f) Report to the Board on any transaction with the Government or any office, department or agency of the Government or any other national or foreign individual, authority or agency.
- g) Appoint all officers and employees of the Board according to the provisions of the Board's Service Rules and take disciplinary actions against them.
- h) Posting and transfer of all officers and employees of the Board.
- i) Exercise the Board's authority to institute, defend, withdraw or compromise cases filed for or against the Board.

- j) Develop institutional, human resources, personnel management and internal operating procedures along with appropriate performance incentives for employees, and implement these upon approval of the Board.
- k) Approve all purchase and procurement contracts of the Board within the financial limits set by the Government, and sign all such contracts.
- l) Consider and approve all claims for additional works within the financial limits set by the Government.
- m) Submit recommendations for changes in the approved organogram for consideration of the Board and the Government.
- n) Submit, for consideration of the Board, cases relating to sale, leasing, management contract, and liquidation of the Board's property/project assets,
- o) Delegate any power and responsibility to an Additional Director General or any department of the Board; and
- p) Carry out any other functions as may be assigned by the Government from time to time

14. Appointment of Officers and Staff

- 1) The Board may appoint necessary officers and staff for efficient discharge of its functions on the basis of its organizational set up approved by the Government. The conditions of service of these personnel shall be prescribed by Rules.
- 2) The Board shall not employ staff against work-charged, muster roll and contingency under any circumstances.

15. Implementation and Management of Future Projects

- 1) As per provisions of the National Water Policy and within the framework of sub regional and local water management plans, the Board shall only implement projects having a command area of more than 1000 hectares.
- 2) Local Authority shall be entitled to execute FCDI projects having command of less than 1000 hectares if these are compatible with the sub-regional and local water management plans. In the event of a dispute between the Board and a local authority, such dispute shall be resolved by means determined by the Government.
- 3) Management of projects with a command of less than 5000 hectares shall vest with beneficiary organizations, by whatever name it may be called, formed for this purpose following government guidelines.
- 4) Management of projects with a command of more than 5000 hectares shall vest in Joint management Committees comprising of beneficiary organizations formed for his purpose following government guidelines, the Board and other water-related agencies of the Government.

Provided that the Government may contract out management of a project to a private agency working in the area if it deems it necessary.

- 5) The command of any of the projects mentioned' in this section may be increased or decreased by the Government through notification in the Official Gazette.

16. Transfer of the Ownership and Management of Existing Projects

- 1) The Board shall transfer ownership of FCD and FCDI projects up to 1000 hectares to local authority. Only those projects that are being run by the beneficiary organizations shall be transferred first.
- 2) The Board may transfer the ownership of any of its existing projects, or a part there of, to another public agency or local authority in view of the expediency of other developmental works or for purposes of maintenance under such terms and conditions as may be determined by the Government.
- 3) The Board shall gradually transfer the management of all existing water projects with a command area of more than 10000 hectares but less than 5000 hectares to beneficiary organizations in a manner determined by the Government. The management of projects with a command of more than 5000 hectares shall vest in a joint committee constituted according to the provisions of Section 15 4).
- 4) The command of any of the projects mentioned in the section may be increased or decreased by notification in the Official Gazette.

17. Land Acquisition for the Board

- 1) If land is needed for the implementation of a project, such acquisition shall be deemed to be an acquisition in public interest and for that purpose land will be acquired under the provision of Acquisition and Requisition of Immovable property Ordinance, 1982 (II of 1982).
- (2) The Board may acquire right to land through direct purchase or lease other than through acquisition in case of its need and may in similar manner relinquish its right by sale or cancellation of lease.
- (3) The Board may take lease or rental of land and other immovable property temporarily for implementation of a project.
- (4) The Board may award short-term lease of its land for maintenance of a project, following Government rules and procedures.

18. Sale of Redundant or Abandoned Infrastructures

When a project or establishment owned by the Board becomes redundant, either in part or in whole, due to closure, downsizing, relocation or other reasons, the Board may dispose off such property in consideration of cash to any government, semi-government or autonomous body, or to an institution of the local government or to a private institution or private person under prevalent rules with the approval of the Government.

Provided that in the matter of purchase by the above-mentioned institutions, they shall be accorded priority in the order in which they appear in the Section.

19. Annual Report

- 1) The Board will prepare and submit to the Government by September 30 following every financial year an Annual Report. The Report will detail, among other things, its strategy, planned and executed actions, projected' and realized revenue and expenditure, achievements or key indicators of performance and organizational efficiency. It shall also report on targets achieved during the year, summary status of projects under execution, and operational status of completed projects.
- 2) The Government, whenever it deems necessary, may ask the Board to furnish reports on any aspect of the Board's activities and the Board shall be bound to furnish them within the stated time.

20. Fund

- 1) The Board shall have its own fund to incur expenditures in connection with its functions and the fund shall consist of deposits from the following sources, namely;
 - a) Grants made by the government
 - b) Grants made by the local authorities
 - c) Loans obtained from the Government
 - d) Foreign loans and grants obtained by the Board with prior approval of the Government
 - e) Service charges and other moneys collected from the beneficiaries of completed projects.
 - f) Funds received from deposit works.
 - g) Funds received from other sources.
- 2) The funds shall be deposited in a scheduled bank in the name of the Board and may be withdrawn following procedures prescribed by Rules.
- 3) All necessary expenditures of the' Board shall be met' from its funds in deposit.
- (4) The Board may invest its accumulated funds in any approved program of the Government
- (5) For the purpose of project implementation, the Board, can borrow from any bank, financial institution, or any other source with the approval of the Government

Provided that the method of repayment shall be clearly stated in the loan proposal submitted to the Government.

21. Budget

The Board shall submit every year to the Government, within a prescribed

time period, its revenue and development budget estimates for the next financial year indicating the projected receipts of funds from different sources and the expected expenditures during the financial year.

22. Maintenance of Accounts and Audit

- (1) The Board shall maintain proper accounts of all revenue and expenditure along with the relevant records. It will prepare annual statement of accounts for the next financial year in respect of income and expenditure, cash flow and balance.
- (2) The accounts of the Board, for each financial year, shall be examined and audited by the Comptroller and Auditor General. The Board shall ensure audit of accounts within four months of the close of the financial year. The auditor will submit copies of audit report to the Government and the Board.
- (3) In order to carry out the responsibility assigned under Clause (2) of this Section, the Comptroller and Auditor General or any person authorized by him may examine all records, documents, cash in hand or in the bank, money deposits, stores and other properties of the Board and may seek explanation from any member, officer or employee of the Board.
- (4) The Board shall submit to the Government, within, three months of the receipt of such report, a follow-up of actions taken and views on irregularities and lapses mentioned in the audit report.

23. Protection Against Acts done in good faith

No civil or criminal case or any legal proceedings can be instituted or taken against the Board or the Chairman or any Member of the Board of Directors, Director General and other officers and employees of the Board for any action taken in good faith under this Act or any rules or regulations framed thereunder that may or could have adversely affected any person.

24. Public Servant:

The Chairman and other members and the Board's officers and employees shall be deemed to be public servants within the meaning of Article 2 of the Penal Code (Act XLV of 1860).

25. Power to make Rules

The Government may, by notification in the official Gazette, frame rules for carrying out the purpose of this Act.

26. Power to make Regulations

The Board, with the prior approval of the Government and by notification in the official Gazette, may make regulations not inconsistent with this Act or the rules made thereunder.

27. Repeal and Savings

- 1) So much of the law as it relates to the Water Development Board under the Bangladesh Water and Power Development Board Order, 1972 (P.O. No. 59 of 1972) is hereby repealed.
- 2) Despite the above repeal,
 - a) Bangladesh Water Development Board established under the above, henceforth will stand dissolved;
 - b) All rights and interests on movable and immovable properties including the funds, cash and deposits in the Banks and securities owned by the "dissolved Board" will vest on the Board;
 - c) All debts, liabilities & responsibilities and contracts/agreements with the "dissolved Board" , or signed on its behalf will vest on the Board;
 - (d) Any legal suit or any other legal action taken by or taken against the "dissolved Board" will vest on the Board;
 - (c) All officers and employees of the "dissolved: Board " will be treated as officers and employees of the Board, and will continue in their respective job under same terms and conditions of their employment, until new Rules or Regulation made under this Act .
- 3) Despite the above repeal,
 - (a) All Rules and Regulations made under the Bangladesh Water and Power Development Board Order, 1972 (P.O. No. 59 of 1972) relating to the Water Development Board and in force immediately, before the repeal thereof shall, mutatis and mutandis and so far as they are not inconsistent with the provisions of this Act, continue in force until repealed or altered by Rules or Regulations made under this Act;
 - (b) Any committee, its composition or its terms of reference made under the previous Act and so far as they are not inconsistent with the provisions of this Act, continue as if it has been made under this Act;