

THE INLAND WATER TRANSPORT AUTHORITY ORDINANCE, 1958

(EAST PAKISTAN ORDINANCE NO. LXXV OF 1958).

[31st October, 1958]

1 An Ordinance to set up an Authority for development, maintenance and control of inland water transport and of certain inland navigable waterways 2[* * *].

WHEREAS it is necessary to make provisions for setting up of an Authority for the development, maintenance and control of inland water transport and of certain inland navigable waterways in 3[Bangladesh];

AND WHEREAS the Provincial Assembly of East Pakistan has been dissolved with the abrogation of the Constitution by the Proclamation of the President on 7th October, 1958;

AND WHEREAS the Governor of a Province has been vested with the powers of promulgating Ordinance as if clauses (1) and (3) of Article 102 of the late Constitution are still in force;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 5 of the Laws (Continuance in Force) Order, 1958, promulgated by the President of Pakistan on the 10th October, 1958 and of all other powers enabling him in that behalf the Governor of East Pakistan is pleased to make and promulgate the following Ordinance:-

Short title, extent and commencement

1. (1) This Ordinance may be called the 4[* * *] Inland Water Transport Authority Ordinance, 1958.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

Definitions

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

(i) "Authority" means the Bangladesh Inland Water Transport Authority established under section 3 of this Ordinance;

(ii) "Chairman" means the Chairman appointed under section 4 of this Ordinance; and

(iii) "Prescribed" means prescribed by rule made under this Ordinance.

Establishment and Incorporation of Authority

3. (1) The Government may, by notification in the official Gazette, establish an Authority to be known as the Bangladesh Inland Water Transport Authority for carrying out the purposes of this Ordinance.

5[(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of this Ordinance, and any other law for the time being in force, to

acquire, hold and dispose of, by lien, mortgage, sale, alienation or otherwise, property, both movable and immovable, and shall by the said name sue and be sued.]

Appointment and term of office of Chairman and Members

4. 6[(1) The Authority shall consist of a Chairman and such number of members as the Government may, from time to time, determine.

7[(1A) The Chairman and Members of the Authority shall be the whole time Officers of the Authority and shall be appointed by the Government on such terms and conditions as it may determine.]]

(2) The term of office of the Chairman shall be five years and that of a member three years.

(3) [Omitted by section 3 of the Inland Water Transport Authority (Amendment) Act, 1997 (Act No. IX of 1997).]

(4) Any person ceasing to be the Chairman or member by reason of the expiry of the term of his office shall be eligible for re-appointment for another term or for such shorter term as the Government may decide.

(5) The Chairman or any member may at any time resign:

Provided that his resignation shall not take effect until accepted by the Government.

(6) In the case of temporary absence of the Chairman or any member, the Government may appoint a Chairman or a member, as the case may be, for the period of absence.

Remuneration and conditions of service

5. The Chairman and each member shall receive such salary and allowances and be subject to such conditions of service as may be prescribed by the Government, and shall perform such duties as are assigned to them under this Ordinance or by any rules framed under it.

Removal of Chairman or Members

6. The Government may, by notification in the official Gazette, remove the Chairman or any member-

(a) if he refuses or fails to discharge or becomes, in the opinion of the Government, incapable of discharging his responsibilities under this Ordinance; or

(b) if he has been declared insolvent; or

(c) if he has been declared to be disqualified for employment in, or has been dismissed from the service of 8[the Republic], or has been convicted of an offence involving moral turpitude; or

(d) if he has knowingly acquired or continued to hold without the permission in writing of the Government, directly or indirectly or through a partner, any share or interest in any contract or employment with or by or on behalf of the Authority, or in any land or property which, in his knowledge, is likely to benefit him or has benefited him as a result of the operation of the Authority.

Meetings of Authority

7. (1) The Authority shall meet at such time and place and in such manner, as may be prescribed:

Provided that until rules are made in this behalf, such meetings shall be convened by the Chairman.

(2) The Chairman, or in his absence a member authorised by him, and one other member shall be present to constitute a quorum at a meeting of the Authority.

(3) The Chairman shall have power to vote in a meeting of the Authority and in the case of equality of votes he shall have a casting vote also.

Advisory Committee

8. 9[(1) The Government may constitute, as and when it considers necessary so to do, an Advisory Committee consisting of the Chairman who shall also be the Chairman of the Committee and such number of other members as the Government may deem fit.]

(2) Secretary of the Authority shall act as the Secretary of the Advisory Committee.

(3) The Advisory Committee shall meet at least once in every three months and the meetings of the Advisory Committee shall be called by the Chairman.

(4) The members of the Advisory Committee shall be entitled to such fees and allowances as may be prescribed.

(5) The Advisory Committee may advise the Authority in respect of all matters relating to the development, maintenance and operation of inland water transport and of inland waterways in Bangladesh.

(6) [Omitted by section 7 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (Ordinance No. LV of 1977).]

Powers of the Government to supersede the Authority

9. If, in the opinion of the Government, the Authority have shown their incompetency, to perform or have persistently made default in the performance of the duties imposed on them by or under this Ordinance or have exceeded or abused their powers, the Government may, by an order published in the official Gazette, supersede them for a period specified in the order:

Provided that the Government before six months of such order or supersession shall give notice to the Authority to show cause why such action shall not be taken and also to provide them an opportunity to take remedial measures:

Provided further that except in case of misappropriation of Authority funds or persistent default in the performance of duties by the Authority the Government shall not ordinarily exercise powers under this section.

Temporary association of members with the Authority for particular purposes

10. (1) The Authority may associate with themselves any person whose assistance or advice they may desire in carrying out any of the provisions of this Ordinance.

(2) A person associated with themselves by the Authority under sub-section (1) for any purpose shall have a right to take part in the discussions of the Authority.

Sub-Committees

11. The Authority may constitute sub-committees from amongst the members of the Advisory Committee constituted under section 8 and associated members under section 10 of this Ordinance to study and advise on the specific local requirements.

Determination of number, designation, etc, of officers and servants of the Authority

12. The Authority may, subject to such conditions as may be prescribed, determine the number, designation and grade of officers and servants whom the Authority consider necessary to employ for the purpose of this Ordinance and the amount and nature of salary and allowances to be paid to each such officer and servant.

Power of appointment, suspension, etc, of officers and servants of the Authority

13. The power of appointing, promoting and granting leave to officers and servants of the Authority and reducing in rank, suspending and dismissing them for misconduct, shall, subject to such conditions as may be prescribed, be vested in the Authority.

Transfer of Officers on deputation

10[13A. Notwithstanding anything contained in this Ordinance or in any other law, rule or regulation for the time being in force, the Government may, if it considers necessary in the public interest, transfer on deputation any Officer of the Authority to Chittagong Port Authority established under the Chittagong Port Authority Ordinance, 1976 (LII of 1976) and Mongla Port Authority established under the Mongla Port Authority Ordinance, 1976 (LIII of 1976) and vice versa.]

Delegation of powers to Chairman, etc

11[14. The Authority may by general or special order, delegate to Chairman or a Member or an Officer of the Authority any of its powers, duties or functions under this Ordinance subject to such conditions as it may think fit to impose.]

Functions of the Authority

15. (1) The Authority may perform any or all of the following functions, namely:-

(i) carry out river conservancy works including river training works for navigational purposes and for provision of aids to navigation, including marks, buoys, lights and semaphore signals;

(ii) disseminate navigational and meteorological information including publishing river charts;

(iii) maintain pilotage and hydrographic survey services;

(iv) draw up programmes of dredging requirements and priorities for efficient maintenance of existing navigable waterways, and for resuscitation of dead or dying rivers, channels, or canals, including development of new channels and canals for navigation;

(v) develop, maintain and operate inland river ports, landing ghats and terminal facilities in such ports or ghats;

(vi) carry out removal of wrecks and obstructions in inland navigable waterways;

(vii) conduct traffic surveys to establish passenger and cargo requirements on the main rivers, feeders and creek routes;

(viii) develop the most economical facilities for passenger traffic to ensure comfort, safety and speed on mechanised craft;

(ix) fix maximum and minimum fares and freight rates for Inland Water Transport on behalf of the Government as provided in 12[section 59 of the Inland Shipping Ordinance, 1976];

(x) approve time-tables for passenger services;

(xi) develop rural water transport by progressing of schemes for modernising and mechanising country craft;

(xii) ensure co-ordination of Inland Water Transport with other forms of transport, with major sea ports, and with trade and agricultural interests for the optimum utilisation of the available transport capacity;

(xiii) conduct research in matters relating to Inland Water Transport including development of-

(a) craft design,

(b) technique of towage,

(c) landing and terminal facilities,

(d) port installations;

(xiv) arrange programmes of technical training for Inland Water Transport personnel within and outside 13[Bangladesh];

(xv) maintain liaison with the shipyard and ship repair industry to meet the requirements of the Inland Water Transport fleet repairs and new constructions;

(xvi) 14[* * *] facilitate import of repair materials for the Inland Water Transport Industry;

(xvii) prepare plans or 15[development schemes] for carrying out any of the above mentioned functions;

(xviii) any other function or functions which the Government may, from time to time, prescribe.

16[(2) The procedure prescribed by the Government from time to time for preparation and approval of development scheme shall apply in the matter of preparation and approval of development scheme of the Authority;]

(3) [Omitted by section 6 of the Inland Water Transport Authority (Amendment) Act, 1997 (Act No. IX of 1997).]

Powers regarding enforcement of certain rules, regulations and laws made by the Government (4) The Authority shall, subject to permission and approval of the Government, have powers to enforce rules and regulations or any laws, either wholly or in part, pertaining to inland waterways and the control of traffic thereon.

[] 16. [Amendment and sanction of schemes.- Omitted by section 7 of the Inland Water Transport Authority (Amendment) Act, 1997 (Act No. IX of 1997).]

Immunity of the Authority and its employees

17. (1) The Chairman, Members, officers and servants of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servants within the meaning of section 21 of the 17[* * *] Penal Code.

(2) No suit, prosecution or other legal proceedings shall lie against the Authority, the Chairman, Members or officers and servants of the Authority in respect of anything done or intended to be done, in good faith under this Ordinance.

Submission of yearly reports and returns, etc

18. (1) The Authority shall submit to the Government, as soon as possible after the end of every financial year but before the last day of March next following, a report on the conduct of their affairs for that year.

(2) The Government may require the Authority to furnish:-

(i) any return, statement, estimate, statistics or other information regarding any matter under the control of the Authority, or

(ii) a report on any such matter, or

(iii) a copy of any document in the charge of the Authority, and the Authority shall comply with every such requisition.

Authority Fund

19. (1) There shall be a fund to be known as the "Authority Fund" vested in the Authority which shall be utilised by the Authority to meet charges in connection with their functions under this Ordinance including the payment of salaries and other remunerations to the Chairman and Members of the Authority and to their officers and servants.

(2) The Authority Fund shall consist of-

(a) grants made by the Government;

(b) loans obtained from the Government;

(c) tolls, taxes or fees in respect of the following items:-

- (i) inland waterways and the traffic thereon,
- (ii) shipping and navigation on tidal waters,
- (iii) goods and passengers carried on inland waterways,
- (iv) boats, launches and steamers on inland waters,
- (v) tolls for maintenance of navigable waterways,
- (vi) terminal taxes and other dues at inland ports,

And

(vii) fees for river conservancy works and pilotage services:

Provided that the following shall not form part of the Authority Fund:-

- (i) fees levied under Chapter II and III of the 18[Inland Shipping Ordinance, 1976].
- (ii) taxes reserved for specified purposes.

19[(cc) The Government may empower the Authority to realise any or all of the tolls, taxes or fees specified in clause (c) of this sub-section.]

- (d) sale-proceeds of bonds issued under the authority of the Government;
- (e) loans or grants obtained by the Authority with the special or general sanction of the Government;
- (f) foreign aid and loans obtained from the Development Loan Fund or the International Bank of Reconstruction and Development or otherwise, with the sanction of, and on such terms and conditions as may be approved by the Government; and
- (g) all other sums received by the Authority.

(3) The Government may levy tolls, taxes, fees or charges, in respect of all or any of the items, as specified in clause (c) of sub-section (2), at such rate and in such manner as are and/or as may be prescribed.

[] 20[19A. [Power of the Government to levy tolls, taxes, fees or charges.- Omitted by section 4 of the East Pakistan Inland Water Transport Authority (Amendment) Ordinance, 1970 (East Pakistan Ordinance No. IX of 1970).]

Recovery of tolls, taxes, fees, etc

19B. Tolls, taxes, fees or charges levied under sub-section (3) of section 19 shall be recoverable as arrear of Land Revenue under the 21[* * *] Public Demands Recovery Act, 1913.]

Authority to be deemed to be a local authority

20. The Authority shall be deemed to be a local authority under the Local Authorities Loans Act, 1914 for the purpose of borrowing money under the said Act, and the making and execution of any scheme under this Ordinance shall be deemed to be a work which such authority is legally authorised to carry out.

Limited liability

21. The liability of the Government to the creditors of the Authority shall be limited to the extent of grants made by the Government and the loans raised by the Authority with the sanction of the Government.

Maintenance of accounts

22. The Authority shall maintain complete and accurate books of accounts in such form as may be prescribed by the Government.

Budget

22[23. The Authority shall, by such date in each year as may be prescribed, submit to the Government for approval a budget in the prescribed form for next financial year showing the estimated receipts and expenditure and the sums which are likely to be required from the Government during that financial year.]

Audit

23[24. (1) Without prejudice to the provisions of the Comptroller and Auditor General (Additional Functions) Act, 1974 (XXIV of 1974), the accounts of the Authority shall be audited by not less than two Auditors, being Chartered Accountants within the meaning of the Bangladesh Chartered Accountants Order, 1973 (P.O. No. 2 of 1973), who shall be appointed by the Authority, with the approval of the Government, on such remuneration to be paid by the Authority as the Government may fix.

(2) The Authority shall carry out any directive issued by the Government for rectification of an audit objection.]

Power to make rules

25. The Government may make rules for carrying out the purposes of the Ordinance not otherwise specifically provided for.

1 Throughout this Ordinance, the words "Bangladesh" and "Government" were substituted for the word "East Pakistan" and "Provincial Government" respectively by section 2 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (Ordinance No. LV of 1977)

2 The words "in East Pakistan" were omitted by section 3 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (Ordinance No. LV of 1977)

3 The word "Bangladesh" was substituted for the words "East Pakistan" by Article 5 of the Bangladesh (Adaptation of Existing Bangladesh Laws) Order, 1972 (President's Order No. 48 of 1972)

- 4 The words “East Pakistan” were omitted by section 4 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (Ordinance No. LV of 1977)
- 5 Sub-section (2) was substituted by section 2 of the Inland Water Transport Authority (Amendment) Act, 1997 (Act No. IX of 1997)
- 6 Sub-sections (1) and (1A) were substituted for sub-section (1) by section 5 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (LV of 1977)
- 7 Sub-section (1A) was substituted by section 3 of the Inland Water Transport Authority (Amendment) Act, 1997 (Act No. IX of 1997)
- 8 The words “the Republic” were substituted for the word “Pakistan” by section 6 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (Ordinance No. LV of 1977)
- 9 Sub-section (1) was substituted by section 7 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (Ordinance No. LV of 1977)
- 10 Section 13A was inserted by section 4 of the Inland Water Transport Authority (Amendment) Act, 1997 (Act No. IX of 1997)
- 11 Section 14 was substituted by section 5 of the Inland Water Transport Authority (Amendment) Act, 1997 (Act No. IX of 1997)
- 12 The words, figures and comma “section 59 of the Inland Shipping Ordinance, 1976” were substituted for the words, figures and comma “section 54A of the Inland Mechanically Propelled Vessels Act, 1917” by section 8 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (Ordinance No. LV of 1977)
- 13 The word “Bangladesh” was substituted for the word “Pakistan” by section 8 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (Ordinance No. LV of 1977)
- 14 The words “maintain liaison with the Central Government and” were omitted by section 8 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (Ordinance No. LV of 1977)
- 15 The words “development schemes” were substituted for the word “schemes” by section 6 of the Inland Water Transport Authority (Amendment) Act, 1997 (Act No. IX of 1997)
- 16 Sub-section (2) was substituted by section 6 of the Inland Water Transport Authority (Amendment) Act, 1997 (Act No. IX of 1997)
- 17 The word “Pakistan” was omitted by section 9 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (Ordinance No. LV of 1977)
- 18 The words, figures and comma “Inland Shipping Ordinance, 1976” were substituted for the words, figures and comma “Inland Mechanically Propelled Vessels Act, 1917” by section 10 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (Ordinance No. LV of 1977)
- 19 Clause (cc) was inserted by section 3 of the East Pakistan Inland Water Transport Authority (Second Amendment) Ordinance, 1959 (East Pakistan Ordinance No. XV of 1959)
- 20 Sections 19A and 19B were inserted by section 4 of the East Pakistan Inland Water Transport Authority (Amendment) Act, 1967 (East Pakistan Act No. X of 1967)
- 21 The word “Bengal” was omitted by section 11 of the Inland Water Transport Authority (Amendment) Ordinance, 1977 (Ordinance No. LV of 1977)
- 22 Section 23 was substituted by section 8 of the Inland Water Transport Authority (Amendment) Act, 1997 (Act No. IX of 1997)

23 Section 24 was substituted by section 9 of the Inland Water Transport Authority (Amendment) Act, 1997 (Act No. IX of 1997)