

THE BANGLADESH FISHERIES DEVELOPMENT CORPORATION ACT, 1973

(ACT NO. XXII OF 1973).

[21st September, 1973]

An Act to provide for the establishment of the Bangladesh Fisheries Development Corporation.

WHEREAS it is expedient to provide for the establishment of the Bangladesh Fisheries Development Corporation for the purpose of development of fishing industry in Bangladesh and for certain other matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Bangladesh Fisheries Development Corporation Act, 1973.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once and shall be deemed to have taken effect on the 28th day of August, 1973.

Definitions

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

(a) "Board" means the Board of Directors of the Corporation;

(b) "Corporation" means the Bangladesh Fisheries Development Corporation established under section 3;

(c) "Chairman" means the Chairman of the Board;

(d) "fish" means any species of fish or aquatic plants and animals including whales, seals, porpoises, dolphins, turtles, shellfish, oysters, crustaceans, frogs, ascidians and spawns and eggs of such animals or plants grown either in salt water or fresh water;

(e) "fishing boat" means a vessel of whatever size, and in whatever way propelled, which is for the time being employed in fishing;

(f) "fishing industry" means capturing, preservation, distribution and marketing of fish, and includes processing, manufacturing and disposal of fish and fish by-products; construction of fishing crafts, fishing nets and factories for fishing nets and gears and establishment and operation of refrigeration units, fish markets, fish ports and fish landing terminals and any matter incidental or ancillary thereto; and

(g) "prescribed" means prescribed by rules or regulations made under this Act.

Establishment of the Corporation

3. (1) On the commencement of this Act, there shall be established a Corporation to be called the Bangladesh Fisheries Development Corporation for carrying out the purposes of this Act.

(2) The Corporation shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of properties, both movable and immovable, and shall by the said name sue and be sued.

Head Office, etc

4. (1) The Head Office of the Corporation shall be at Dacca.

(2) The Corporation may establish offices, branches or agencies at such other places as the Board may think fit.

Capital

5. (1) The authorised capital of the Corporation shall be taka one crore to be subscribed by the Government from time to time in such manner and form as may be determined by the Government.

(2) The Government may increase the authorised capital from time to time.

(3) Notwithstanding anything contained in sub-section (1), the Corporation may, for carrying on all or any of its functions, have separate capital raised by loan or grant from, or in such manner as may be approved by the Government.

Functions of the Corporation

6. (1) The Corporation shall take such measures as it thinks fit for development of fisheries and fishing industries in Bangladesh.

(2) In particular and without prejudice to the generality of the foregoing provision, the Corporation shall, in order to carry out the purposes of this Act, have power to-

(a) take measures for the development of fisheries and fishing industry;

(b) establish fishing industry;

(c) establish units for capture of fish and promote a better organisation for exploitation of fish wealth;

(d) acquire, hold or dispose of fishing boats, fish carriers, road and river transports and all equipment and accessories necessary in connection with the development of fishing industry;

(e) establish units for preservation, processing, distribution and marketing of fish and fish-products;

(f) advance loans to fishing industries and to the fishermen's co-operative societies;

(g) encourage establishment of fishermen's co-operative societies;

(h) undertake survey and investigations of the fish resources;

(i) establish institutes or make arrangements for the training and research in the methods of catching, processing, transport, preservation and marketing of fish;

(j) set up organisations for export of fish and fish-products; and

(k) acquire, hold and dispose of such other properties as are required for carrying out all or any of the above-mentioned purposes.

(3) The Corporation may formulate scheme or schemes for carrying out all or any of the functions specified in this section.

Management

1[7. (1) The general direction and administration of the Corporation and its affairs shall vest in a Board which shall have full authority to exercise all powers and do all acts and things which may be exercised or done by the Corporation.

(2) The Board, in discharging its functions, shall act on commercial considerations and shall be subject to the superintendence and control of the Government and shall also be guided by such general or special instructions as may, from time to time, be given to it by the Government.]

Board of Directors

8. (1) The Board shall consist of not more than five Directors to be appointed by the Government.

(2) Of the Directors appointed under sub-section (1), at least two shall be whole time Directors.

(3) A Director shall-

(a) hold office during the pleasure of the Government but not for a period exceeding five years and may be reappointed for such further period or periods as the Government may, from time to time, specify;

(b) receive such salary and allowances as the Government may determine; and

(c) perform such duties as are assigned to him by this Act or as may be prescribed.

(4) A casual vacancy in the office of a Director shall be filled in by the appointment of another Director who, subject to the provisions of sub-section (3), shall hold office for the unexpired period of the term of his predecessor.

(5) Every person appointed as Director shall divest himself of any directorship or other interest held by him in any firm, company or concern which has dealings with the Corporation.

Appointment of Chairman

9. The Government shall appoint one of the whole time Directors to be the Chairman, who shall be the chief executive officer of the Corporation.

Duties of the Chairman and Director

10. (1) The Chairman and other Directors shall exercise such powers, perform such functions and discharge such duties as may be prescribed.

(2) Every Director shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wrongful act or default.

Disqualifications of Directors

11. No person shall be or shall continue to be a Director who-

(a) is or has at any time been convicted of an offence involving moral turpitude;

(b) is or has at any time been adjudged insolvent;

(c) is found to be a lunatic or becomes of unsound mind;

(d) is subject to a disqualification imposed by or under any law for the time being in force to hold any public office;

(e) absents himself from three consecutive meetings of the Board without leave of absence of the Government in the case of Chairman or of the Chairman in the case of a Director; or

(f) is a minor.

Meetings of the Board

12. (1) The meetings of the Board shall be held at such times, and at such places as may be prescribed:

Provided that at least one meeting shall be held in three months:

Provided further that a meeting may also be otherwise convened by the Chairman when he thinks fit or when the Government requires for any specific purpose.

(2) To constitute a quorum at a meeting of the Board not less than three members including the Chairman shall be present.

(3) If, for any reason, the Chairman is unable to preside over a meeting of the Board, it shall be presided over by a Director authorised, in writing, by the Chairman, and in default of such authorisation, by such Director as the Directors present may choose.

(4) At a meeting of the Board, each Director including the Chairman, shall have one vote, but in the event of equality of votes, the Chairman shall have a second or casting vote.

(5) No Director shall vote in any matter relating to a concern in which he is directly or indirectly interested.

(6) The minutes of the meetings of the Board shall be sent to the Government within fifteen days from the date of the meeting 2[* * *].

Vacancies, etc, not to invalidate acts and proceedings of the Board

13. No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy in, or any defect in the constitution of, the Board, or any defect in the appointment of a Director.

Appointment of officers, employees, consultants and committees

14. (1) The Corporation may, subject to such general or specific orders as may be given by the Government from time to time, appoint such officers, advisers, consultants and other employees as it considers necessary for the efficient performance of its functions on such terms and conditions as it may deem fit.

(2) The Board may appoint such Committee or Committees as it thinks fit to assist in the efficient discharge of its functions.

Public servants etc

15. The Directors, officers, advisers and employees of the Corporation shall, while acting or purporting to act in pursuance of any provisions of this Act, or the rules and regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Penal Code (Act XLV of 1860).

Delegation of powers

16. (1) The Board may delegate to the Chairman, or any Director or officer, any of its powers under this Act or the rules or regulations made thereunder.

(2) The Chairman may likewise delegate to any Director or officer any of his powers under this Act or the rules or regulations made thereunder not being a power delegated to him by the Board under sub-section (1).

Borrowing power

17. The Corporation may, with the prior approval of the Government, borrow money in Bangladesh or in foreign currency.

Opening of Account

18. The Corporation may open account with any bank or banks as may be decided by the Board.

Investment of Fund

19. The Corporation may invest its funds in such securities as may be authorised by the Government.

Profits

20. After making provisions for bad and doubtful debts, depreciation of assets and any other matter as may be prescribed, the Corporation may, out of its net annual profits, establish a reserve fund and any surplus remaining thereafter shall be paid to the Government.

Annual Budget statement

21. The Corporation shall, by such date in each financial year as may be prescribed, submit to the Government for approval, a statement to be called the annual budget statement, in the prescribed form for each financial year showing the estimated receipts and expenditure and sums which are likely to be required from the Government during that financial year.

Accounts and audit

22. (1) The Corporation shall maintain proper accounts and shall prepare annual statement of accounts, including the profit and loss account and balance-sheet, in accordance with such general directions as may be issued, and in such form as may be prescribed, by the Government.

(2) The accounts of the Corporation 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 Government.

(3) Every auditor appointed under sub-section (2) shall be given a copy of the annual balance-sheet and other accounts of the Corporation and shall examine it together with the account books and vouchers relating thereto; and shall have a list delivered to him of all books kept by the Corporation, and shall at all reasonable times have access to the books, accounts and other documents of the Corporation, and may in relation to such accounts examine any Director or officer of the Corporation.

(4) The auditors shall report to the Government upon the annual balance-sheet and accounts, and in their report they shall state whether, in their opinion, the balance-sheet contains all necessary particulars and is properly drawn up so as to exhibit a true and correct view of the state of the Corporation's affairs, and if they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(5) The Government may, at any time, issue directions to the Auditors requiring them to report to it upon the adequacy of measure taken by the Corporation for the protection of the interest of the Government and of the creditors of the Corporation or upon the sufficiency of their procedure in auditing the affairs of the Corporation and may, at any time, enlarge or extend the scope of the audit or direct that different procedure in audit shall be adopted or that any other examination shall be made by the auditors or any other person or persons if, in its opinion, the interest of the Government so requires.

Reports and returns

23. (1) The Corporation shall furnish to the Government such returns, reports and statements as the Government may from time to time require.

(2) The Corporation shall, as soon as possible after the end of every financial year, furnish to the Government a statement of accounts audited by the auditors under section 22 together with an annual report on the conduct of its affairs for that year and on its proposal for the next ensuing financial year.

(3) The copies of the audited accounts and annual report received by the Government under sub-section (2) shall be published in the official Gazette and shall be laid before Parliament.

Power to make rules

24. (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for-

- (a) the carrying out of continuous evaluation by the Government of the work of the Corporation;
- (b) the maintenance of liaison between the Corporation and other bodies and authorities concerned with administration and development;
- (c) the powers of the Directors;
- (d) the powers relating to creation of posts in the Corporation; and
- (e) any other matters required by the provisions of this Act to be prescribed.

Power to make regulations

25. The Corporation may, with the previous approval of the Government, make regulations, not inconsistent with the provisions of this Act or the rules, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

Dissolution of the Corporation

26. (1) The Government may, by notification in the official Gazette, direct that the Corporation shall be dissolved from such date as may be specified in the notification, and thereupon the Corporation shall stand dissolved on that date.

(2) On and from the aforesaid date,-

- (a) all assets acquired, and all liabilities and obligations incurred, by the Corporation for purposes of the Corporation or for any of the purposes referred to in this Act shall devolve on the Government; and
- (b) the Chairman and Directors shall vacate their offices.

Repeals and savings

27. (1) The Fisheries Development Corporation Ordinance, 1964 (E.P. Ordinance IV of 1964), and the Bangladesh Fisheries Development Corporation Ordinance, 1973 (Ordinance XVII of 1973), are hereby repealed.

(2) Upon the repeal of the Fisheries Development Corporation Ordinance, 1964 (Ordinance IV of 1964),-

- (a) notwithstanding anything contained in this Act, the Board of Directors of the Bangladesh Fisheries Development Corporation established by that Ordinance, hereinafter referred to as the Fisheries Development Corporation, functioning immediately before such repeal shall, until such time as a Board is appointed under section 8, be deemed to be the Board appointed under that section;

(b) all assets, rights, powers, authorities and privileges, and all property, movable and immovable, cash and bank balances, funds and all other interests and rights in, or arising out of, such property, of the Fisheries Development Corporation shall stand transferred to, and vested in, the Corporation;

(c) all liabilities and obligations of whatever kind of the Fisheries Development Corporation subsisting immediately before such repeal shall, unless the Government otherwise directs, be the liabilities and obligations of the Corporation;

(d) all officers, advisers and other employees of the Fisheries Development Corporation shall be deemed to be officers, advisers and employees of the Corporation and shall hold office on the same terms and conditions as were enjoyed by them immediately before such repeal and shall continue to do so unless and until their remuneration or terms and conditions are duly altered by the Corporation:

Provided that the Government may alter their remuneration or terms and conditions of service whenever it deems fit so to do;

(e) all suits and other legal proceedings instituted by or against the Fisheries Development Corporation before such repeal shall be deemed to have been instituted by or against the Corporation.

(3) Notwithstanding the repeal of the Bangladesh Fisheries Development Corporation Ordinance, 1973 (Ordinance XVII of 1973), anything done or any action taken, including any order made, notification issued or direction given under that Ordinance shall be deemed to have been done, taken, made, issued or given, as the case may be, under the corresponding provision of this Act.

1 Section 7 was substituted by section 2 of the Bangladesh Fisheries Development Corporation (Amendment) Ordinance, 1984 (Ordinance No. LXXIV of 1984)

2 The words “for approval” were omitted by section 3 of the Bangladesh Fisheries Development Corporation (Amendment) Ordinance, 1984 (Ordinance No. LXXIV of 1984)