

THE AGRICULTURAL DEVELOPMENT CORPORATION ORDINANCE, 1961

(EAST PAKISTAN ORDINANCE NO. XXXVII OF 1961).

[16th October, 1961]

1 2 An Ordinance to establish an Agricultural 3[Development] Corporation for the purpose of increasing agricultural production in Bangladesh.

WHEREAS it is expedient to establish an Agricultural 4[Development] Corporation for the purpose of increasing agricultural production in Bangladesh;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received a direction in that behalf under clause (2) of Article 5 of the Laws (Continuance in Force) Order, 1958, from the President, the Governor is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance, namely:-

CHAPTER I

PRELIMINARY

Short title, extent and commencement

1. (1) This Ordinance may be called the Bangladesh Agricultural Development Corporation Ordinance, 1961.

(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,-

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

(b) "Co operative Society" has the same meaning as in the 5[* * *] Co operative Societies Act, 1940;

(c) "Corporation" means the Bangladesh Agricultural Development Corporation established under section 3;

(d) "Chairman" means the Chairman of the Corporation;

(e) "Director" means a Director of the Corporation;

(f) "officer" means an officer of the Corporation other than the Chairman or a Director;

(g) "prescribed" means prescribed by rules;

(h) "project" means a project prepared under Chapter V or Chapter VI;

- (i) "Project Area" means an area which is declared to be a Project Area under section 23;
- (j) "Project Director" means the officer in executive charge of a project;
- (k) "regulations" means regulations made under this Ordinance; and
- (l) "rules" means rules made under this Ordinance.

CHAPTER II

ESTABLISHMENT, MANAGEMENT AND ORGANISATION OF THE CORPORATION

Establishment and incorporation

3. (1) As soon as may be after the commencement of this Ordinance, the Government shall establish a Corporation to be called the Bangladesh Agricultural Development Corporation.

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

Management and administration

4. (1) The general direction and administration of the Corporation and its affairs shall vest in a Board of Directors which may exercise all powers and do all acts and things which may be exercised and done by the Corporation.

(2) The Board in discharging its functions shall be guided on questions of policy by such directions as the Government may from time to time, give, and the Government shall be the sole judge as to whether a direction given to the Corporation is or is not on a question of policy.

(3) If the Board fails to comply with any direction given under sub section (2), the Government may remove the Directors, including the Chairman, and, notwithstanding anything contained in section 5, appoint persons in their place temporarily until fresh appointments are made under that section:

Provided that the provisions of clause (a) of sub-section (3) of section 5, and sub section (4) thereof, shall not apply to persons appointed temporarily under this sub section.

Constitution of the Board

5. (1) The Board shall consist of -

7[(a) not more than six whole-time Directors appointed by the Government;

(b) the Registrar of Co operative Societies, who shall be an ex officio Director; and

(c) the Director-General of the Integrated Rural Development Programmes, who shall be an ex-officio Director.]

(2) The Government shall appoint one of the whole time Directors to be the Financial Director who shall advise the Corporation on all financial matters.

(3) A Director shall-

(a) unless sooner removed or transferred by the Government, hold office for a term of five years, and may be re appointed 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 Ordinance or by the rules or regulations.

(4) Every person appointed as Director shall divest himself of any directorship or other interest held by him in any corporation, company or concern which has dealings with the Bangladesh Agricultural Development Corporation, other than corporations, whether statutory or not, and companies or concerns, sponsored by or on behalf of the 8[Government], and co operative societies:

Provided that the Government may permit a Director to retain the shares purchased by him before his assuming office as Director, and any shares purchased after the assumption of office shall be declared by him, as soon as the corporation, company or concern to which the shares relate starts dealings with the Corporation.

Appointment of Chairman

6. The Government shall appoint one of the Directors to be the Chairman, who shall be the chief executive of the Corporation.

Disqualifications, removal and transfer of Chairman and Directors

7. (1) 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; or

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

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

(d) is or has at any time been disqualified for employment in, or dismissed from the service of the 9[Republic]; or

(e) is a minor.

(2) The Government may, by order in writing, remove the Chairman or a Director if he-

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

(b) has, in the opinion of the Government, abused his position as Chairman or Director; or

(c) 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 Corporation or in any land or property which, in his knowledge, is likely to benefit or has benefited as a result of the operations of the Corporation; or

(d) has absented himself from three consecutive meetings of the Board without the leave of the Government in the case of Chairman or of the Chairman in the case of a Director.

(3) A Government servant appointed as the Chairman or a Director shall automatically cease to be the Chairman or a Director, as the case may be, on his transfer, in the interest of public service, from the Corporation.

Appointment of officers, etc

8. (1) The Corporation may appoint such officers, advisers and servants as it considers necessary for the efficient performance of its functions on such terms and conditions as it may deem fit.

(2) The Chairman may, in cases of urgency, appoint such officers, advisers or servants and on such terms and conditions as he thinks fit:

Provided that every such appointment shall be reported to the Board without unreasonable delay and shall not continue beyond six months unless approved by the Board.

Recruitment, conditions of service and disciplinary powers

9. (1) Procedure for the appointment of the officers and servants of the Corporation and the terms and conditions of their service shall be such as may be prescribed by regulations.

(2) Subject to rules and regulations, the Corporation shall be competent to take disciplinary action against its officers and servants.

Meetings of the Board

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

Provided that the Board shall meet at least once in two months.

(2) To constitute a quorum at a meeting of the Board not less than two Directors shall be present.

(3) The meetings of the Board shall be presided over by the Chairman, and in the absence of the Chairman, by the Director authorised by him in writing in that behalf, or, in default of such authorisation, by the person elected for the purpose by the Directors present from amongst themselves.

(4) 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) The minutes of every meeting of the Board, stating among other things the names of the Directors present, shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the person presiding at the meeting, and such book shall be open to inspection by the Directors.

Forwarding of agenda, etc, to Government

11. (1) The Chairman shall forward to the Government a copy each of the agenda, working papers and the minutes of every meeting of the Board within fifteen days of the date on which the meeting is held.

(2) The Government may require the Board to furnish-

(a) any returns, statements, estimates, statistics or other information regarding any matter under the control of the Corporation; or

(b) a report on any such matter;

and the Board shall comply with any such requisition without undue delay.

Delegation of powers

12. (1) The Board may delegate to the Chairman, or any Director or officer, any of its powers under this Ordinance or the rules or regulations.

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

CHAPTER III

FUNCTIONS OF THE CORPORATION

Functions 13. (1) The Corporation shall-

(a) make suitable arrangements throughout Bangladesh, on a commercial basis, for the procurement, transport, storage and distribution to agriculturists of essential supplies, such as seed, fertilisers, plant protection equipment, pesticides and agricultural machinery and implements:

Provided that some or any of such supplies may be free or subsidised with the previous approval in writing of the Government:

Provided further that, as far as practicable, these supplies shall be distributed through co operative societies;

(b) promote the setting up of co operative societies with a view to handing over to them its supply functions in accordance with a phased programme;

(c) encourage the development of co operative societies in other spheres in which the Corporation is interested;

(d) if so directed by the Government, take over and manage, on such terms and conditions as may be specified by the Government, such seed multiplication and livestock breeding farms and fruit nurseries as are owned or managed by the Government; and

10[(dd) if so directed by the Government take over and manage, on such terms and conditions as may be specified by the Government, any scheme or project prepared for the purpose of increasing agricultural production and run or managed by the Government or any agency under the administrative control of the Government; and]

(e) assist, encourage and promote the manufacture of improved agricultural machinery and implements, but shall not itself undertake any such manufacture:

Provided that it shall, if so directed by the Government, take over, on such terms and conditions as may be specified by the Government, any concern owned or managed by the Government and engaged in such manufacture.

(2) In addition to the functions enumerated in sub-section (1), the Corporation may-

(a) give loans in kind, and if so directed by the Government, shall do so, for such purposes as may be prescribed by the regulations;

(b) assist, encourage, and promote the establishment of industries for the processing of agricultural produce, the formulating or manufacturing of insecticides, pesticides, fungicides or biologicals, or the manufacturing of cattle and poultry feed;

(c) (i) organise the supply, maintenance and operation of lift pumps and tube-wells and set up light workshops for running repairs;

(ii) supply, operate and maintain lift pumps and tube-wells for the supply of water for irrigation or other purposes;

(iii) operate and maintain tractors and other implements for the supply of mechanised cultivation services;

(iv) received, by transfer, schemes for mechanised cultivation and power pump irrigation from the Government or any other agency, if any, under the administrative control of the Government, and, on transfer, any amount due to the Government or such other agency, on amount of hire charges of tractors, power pumps and other implements, shall be deemed to be the dues payable to the Corporation under this Ordinance;

(d) in consultation with the Government, encourage the expansion and improvement of industries for the manufacture of diesel engines used in agriculture, the setting up of cold storage plants, the renewal and establishment of ginneries, oil expellers, jute presses and rice huskers;

(e) if adequate facilities for servicing machinery are not available in Bangladesh, make suitable arrangements with any outside agency for providing such facilities;

(f) where adequate transport facilities are not available, provide or maintain suitable transport of its own, and if existing public or private transport agencies are unable to provide such facilities to the Corporation, assist financially or otherwise, public or private interests in setting up suitable transport services for the use of the Corporation;

(g) carry out or cause to be carried out surveys of the problems and potentials of any area proposed to be declared a Project Area under section 23, and incur expenditure on such surveys, on the training of personnel, and on studies, experiments and technical research; and

(h) contribute towards the cost of any studies, surveys, experiments or technical research connected with the functions of the Corporation and undertaken or done by any other person, body or agency.

Additional functions in Project Areas

14. Without prejudice to the generality of section 13, in a Project Area, the Corporation-

(a) shall organise the dissemination of technical knowledge among agriculturists with a view to ensuring intensive and co-ordinated use of improved seeds, fertilisers, plant protection materials, better cultivation techniques, and credit, including supervised credit;

- (b) shall deal with all matters pertaining to land reclamation, range management, dairy industry, organisation of agriculture in new areas, harnessing of hill streams, conservation of catchments, exploitation of potential areas, planned agriculture through suitable crop rotation and mixed farming, marketing and processing of agricultural produce and organisation of co operative and block farming;
- (c) shall organise supervised credit and linking of credit with marketing through co operative societies;
- (d) shall supervise cash credit in such manner as may be prescribed by the regulations;
- (e) shall perform all functions, which were, immediately before the issue of notification under section 23 were being performed in such area by the Departments dealing with agriculture, animal husbandry, livestock, co operative societies, fisheries, forests and consolidation of holdings;
- (f) may undertake distribution of water for irrigation;
- (g) may undertake anti salinity measures;
- (h) may assist, encourage and promote the use of agricultural machinery; and
- (i) may organise, or enter into contracts for, such research as may be necessary for carrying out its functions, including research in land and water utilisation.

CHAPTER IV

POWERS OF THE CORPORATION

General powers 15.

- (1) The Corporation may take such measures and exercise such powers as it considers necessary or expedient for carrying out the purposes of this Ordinance.
- (2) Without prejudice to the generality of the powers conferred by any other provisions of this Ordinance, the Corporation may undertake any works, supply anything and services, incur any expenditure, procure any plants, machinery or materials required for its use and may enter into any contracts and do all acts and things necessary for the performance of such contracts.
- (3) The Corporation may fix up-rates with the previous approval of the Government for the supply of mechanised cultivation services and irrigation waters and such rates shall be recoverable by the Corporation under this Ordinance.

Power regarding use of land

16. (1) The Corporation may-

- (a) grant land vested in the Corporation to any person on any condition it thinks fit, and for this purpose issue a statement or statements of conditions on which the Corporation is willing to grant such land:

Provided that no land shall be granted to any person without the statement of conditions having been approved by the Government:

Provided further that no land shall ordinarily be leased for a period exceeding ten years, and where any lease for a longer period is given the provisions of the 11[* * *] State Acquisition and Tenancy Act, 1950, shall apply, and any other grant shall also be subject to the provisions of the said Act;

(b) resume the land so granted or in the alternative impose a penalty not exceeding five hundred taka, where the grantee is proved to the satisfaction of the Corporation to have committed a breach of any of the conditions of the tenancy:

Provided that before an order is made under this clause, the grantee shall be given an opportunity to appear and state his objections:

Provided further that in a case of resumption, the grantee shall be liable to restore possession forthwith, but shall be entitled to compensation for the standing crops and for improvements made by him during the tenancy;

(c) notwithstanding anything contained in any other law for the time being in force,-

(i) prepare or confirm schemes for consolidation of holding in any Project Area by re distribution of title or any of the lands therein so as to reduce the number of plots in the holdings, and order payment of compensation to any person who has received an allotment under any such scheme of consolidation of less market value than his original holding to be paid by all or any of the other persons affected by any such scheme and in such proportion as the Corporation may decide; and

(ii) appoint officer to perform the duties of Consolidation Officers under the law relating to consolidation of holding;

(d) take over and manage Khas lands of the Government on such terms and conditions as may be agreed upon between the Corporation and the Government;

(e) regulate by general or special order the use of land and restrict or prohibit the carrying of any offensive or unwholesome trade or the construction of any building or structure;

(f) direct, in respect of any area--

(i) the levelling, terracing and embankment of fields;

(ii) the afforestation of such area or part thereof;

(iii) the construction of earthworks in fields or ravines;

(iv) the provision of drains for storm water, construction of surface field drains and sub-surface drains;

(v) the training of streams; and

(vi) the execution of such other works as are necessary in the opinion of the Corporation to protect the land from the erosive action of wind or water, or for the development of such area or for the exploitation of its water resources;

(g) direct that any work, which has been required to be done by any person under the preceding clause, and which remains undone, shall, after due notice to such person and consideration of any objection raised by him, be executed by the Corporation, and specify the portion in which the risk and expenses of such work shall be borne by such person, or by any other person who is held by the Corporation, upon due enquiry after reasonable notice to him, to be responsible for the execution of such work in whole or in part;

- (h) regulate, restrict or prohibit by general or special order in respect of any area-
 - (i) the clearing or breaking up of land for cultivation;
 - (ii) the quarrying of non mineral stone and the burning of lime or charcoal;
 - (iii) the admission, herding, parking and retention of cattle;
 - (iv) the felling, girdling, lopping, tapping or burning of any tree or timber; and
 - (v) the kindling, keeping or carrying of any fire;
 - (vi) direct the growing of a particular kind or type of crops or trees in a particular area and specify the rotation of crops to be followed;
 - (i) undertake the breaking of land, planting of trees, construction of water courses and do all necessary acts to bring land vested in the Corporation under cultivation; and
 - (j) make grant of money to any person for the purpose of furthering any of the objects of this Ordinance on such terms and conditions as may be prescribed.
- (2) Any general order made under sub section (1) shall be published in such manner as may be prescribed.

Power to control letting of land and rights of tenants

17. (1) The Corporation may by regulations provide for the terms and conditions on which persons who, at the commencement of this Ordinance, were in cultivating possession of agricultural land may continue in such possession.

(2) An order made under sub section (1) shall have effect, notwithstanding anything contained in any other law for the time being in force.

(3) On the application of the Corporation, any Magistrate or Police Officer may summarily reject any person who is in cultivating possession of agricultural land contrary to the provisions of an order made under sub section (1), and on similar application summarily restore possession to any person who may be entitled to it and may use such force as may be necessary for the purpose.

Powers regarding improvement of communications

18. In order to improve communications in and around a Project Area, the Corporation may-

- (a) subject to any conditions it may deem fit to impose,-
 - (i) guarantee the payment from the funds at its disposal, of such sums as it may deem fit, by way of interest on capital expended on the construction, maintenance or working any means of communication; and
 - (ii) make such payments as it may deem fit from the said funds, by way of subsidy to persons undertaking to provide, maintain and work any means of communications:

Provided that no guarantee or subsidy shall be made without the previous sanction of the Government;
or

(b) either singly, or in combination with any other person, construct, maintain and work any means of communication subject to the provisions of any law applicable thereto; or

(c) construct or widen, strengthen or otherwise improve roads and bridges, subject to the provisions of any law applicable thereto.

Power to make surveys or contribute towards their cost

19. The Corporation may—

(a) cause a survey of any land to be made when it considers that a survey is necessary or expedient for carrying out any of the purposes of this Ordinance; or

(b) contribute towards the cost of any such survey made by any other authority.

Power of entry

20. (1) The Chairman, or any other person authorised by him in writing, may enter upon and survey any land, undertake investigations, erect pillars for the determination of areas and intended lines of works, make borings and excavations for the discovery of water, construct channels and aqueducts for securing the flow of water, and do all other acts which may be necessary in order to carry out all or any of the objects of this Ordinance:

Provided that when the affected land does not vest in the Corporation, the powers conferred by this sub section shall be exercised in such manner as to cause the least interference with and the least damage to, the rights of the owner thereof.

(2) When any person enters into or upon any land in pursuance of sub section (1), he shall, at the time of entering, pay or tender payment for all necessary damage to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Corporation whose decision shall be final.

(3) It shall be lawful for any person authorised under sub section (1) to make an entry for the purpose of inspection or search, to open or cause to be opened a door, gate or other barrier, at any time between the hours of sunrise and sunset,—

(a) if he considers the opening thereof necessary for the purpose of such entry, inspection, or search; and

(b) if the occupier or owner, as the case may be, is absent, or being present refuses to open such door, gate or barrier:

Provided that the compensation shall be paid for the damage caused in such manner as the Corporation may prescribe, and in case of dispute as to the sufficiency of the amount the matter shall be referred to the Corporation, whose decision shall be final.

CHAPTER V

PLANS, PROJECTS AND SCHEMES

Outline plans

21. Subject to the provisions of this Ordinance and the rules and regulations, the Corporation shall, with the previous approval in writing of the Government, prepare an outline plan or plans for the execution of its objectives.

Development Schemes and Projects

22. (1) The Corporation shall prepare schemes and projects for Development in specific areas and submit them for the approval of the Government.

(2) Every such scheme or project shall, subject to the provisions of this Ordinance, contain the following particulars, namely:-

(a) a description of the scheme or project and the manner and programme of its execution;

(b) an estimate of costs involved and benefits expected to accrue therefrom, and the allocation of costs to the various purposes to be served by the scheme or project and the amounts to be repaid by persons benefited thereby; and

(c) the target to be achieved.

Declaration of Project Area

23. On the receipt of a scheme or project under section 22, the Government may, by notification in the official Gazette declare any area to be a "Project Area".

Powers and functions of the Corporation in a Project Area

24. Within a Project Area, the Corporation shall, in addition to the powers and functions specified in this Ordinance, exercise such powers and perform such functions as may be detailed in the aforesaid notification.

Delegation or entrustment by the Government of powers and functions to the Corporation

25. The Government may, by notification in the official Gazette, delegate or entrust any such powers and functions to the Corporation or any officer as may be exercised or performed by the Government, or any authority subordinate to it, under any other law for the time being in force.

Subsidiary organisations

26. The Corporation may set up such subsidiary organisations as may be necessary for the execution of any of its schemes or projects and delegate or entrust to any such organisation such of powers and functions as it thinks fit.

Commercial transactions

27. The Corporation may enter into commercial transactions with any person or organisation.

Withdrawal of the Corporation from a Project Area

28. After the achievement of the targets of a scheme or project, the Government may permit or require the Corporation to withdraw from a Project Area, and on such withdrawal the area shall cease to be a Project Area:

Provided that the Government may make arrangements for the continuation of any activities or undertakings of the Corporation in such area after it has ceased to be a Project Area.

CHAPTER VI

SPECIAL PROVISIONS RELATING TO LAND DEVELOPMENT SCHEMES AND PROJECTS

Schemes and projects for development

29. In schemes or projects involving acquisition and development of land or terracing or levelling of land or soil conservation or soil reclamation, the Corporation may provide for all or any of the following matters, that is to say,-

- (a) the acquisition under the Land Acquisition Act, 1894, as modified by Chapter VII of this Ordinance, of any land or any interest in land necessary for, or affected by the execution of the scheme or project;
- (b) the acquisition by purchase, lease, exchange or otherwise of such land or interest in land;
- (c) the retention, letting on hire, lease, sale, exchange or disposal otherwise of any land vested in or acquired by the Corporation;
- (d) the relaying of any land comprised in the scheme or project, reservation of any land, not exceeding such portion of the total area as may be specified by regulations, for the common purposes of the village or villages comprised therein, the redistribution of the rest of the land among the owners of the property, and the management of the land reserved for such common purposes;
- (e) the layout and construction of market places, villages and settlements including the demolition of existing buildings and the erection or re erection of buildings by the Corporation or the owners, or by the Corporation in default of the owners;
- (f) the provision of facilities for communication, including the layout and alteration of roads, streets, foot paths, bridle paths, aerodromes and waterways;
- (g) the provision of open spaces, national parks, nature reserves, forests and forest parks;
- (h) the breaking up, cultivation, afforestation or plantation of lands, and the raising, lowering or reclamation of any land for the production of food-grains, fruits, vegetables, fuel, fodder and similar other things, and the provision of means of irrigation and irrigation channels by the Corporation, or the owners, or by the Corporation in default of the owners;
- (i) the draining, water supply and lighting of streets and sanitation of villages and settlement, and market places;
- (j) the provision of a system of drains or sewers for the improvement of Oil drained and insanitary localities;

(k) the provision of fisheries, poultry farms, livestock farms, dairy farms, sheep farms, bee farms and similar other farms;

(l) the installation, management, maintenance and encouragement of public utility undertakings, rural trades and crafts, industries, and works connected with agriculture;

(m) the doing of all acts intended to promote the well being and prosperity of the Project Area; and

(n) the advancing as loan to the owners, occupiers or tenants of land comprised in the scheme or project upon such terms and conditions as to interest and sinking fund and other matters as may be specified in the scheme or project, of the whole or part of the capital requisite for breaking up and cultivation of land, construction of water courses, sinking of wells, purchase of cattle and of agricultural implements and machinery, for seeds and for any purpose subsidiary to agriculture and for erection of houses, godowns and cattle sheds.

Notice of scheme or project and supply of documents

30. (1) When any such scheme or project as is contemplated in section 29 has been prepared, the Corporation shall prepare a notice stating-

(a) the fact that the scheme or project has been prepared;

(b) the boundaries of the area comprised in the scheme or project; and

(c) the place at which details of the scheme or project, including a statement of the land proposed to be acquired or on which it is proposed to charge a development fee, and a general map of the area may be inspected during reasonable hours.

(2) The Corporation shall-

(a) cause the said notice to be published weekly for three consecutive weeks in the official Gazette and in a local newspaper or local newspapers with a statement of the period which shall not be less than thirty days, within which objections shall be received; and

(b) send a copy of the notice to the 12[13[Deputy Commissioner of the district, and to the Zilla Board and] the Union Parishad constituted under the Bangladesh Local Government (Union Parishad and Paurashava) Order, 1973,] having jurisdiction in the area with the request to send to the Corporation, within six weeks of receiving the copy of the notice, any representation, comments or suggestions they may wish to make.

(3) The Chairman shall cause copies of the documents referred to in clause (c) of sub section (1) to be delivered to any applicant on payment of such fees as may be prescribed.

Notice of proposed acquisition of land or levy of development fee

31. (1) During the thirty days next following the first day on which any notice is published under section 30 in respect of any scheme or project under this Chapter, the Corporation shall serve a notice on-

(a) every person whom the Corporation has reason to believe, after due enquiry, to be the owner of any immovable property which it proposes to acquire in executing the scheme or project, or in respect of which it is proposed to charge a development fee; and

(b) the occupier or tenant (who need not be named) of such premises or land as the Corporation proposes to acquire in executing the scheme or project.

(2) Such notice shall--

(a) state that the Corporation proposes to acquire such property or to recover a development fee in respect of such property, for the purposes of carrying out a scheme or project under this Chapter; and

(b) require such person, if he objects to such acquisition or recovery of Development fee, to state his reasons in writing (in duplicate), within a period of thirty days from the service of the notice.

(3) Every such notice shall be signed by, or by the order of, the Chairman.

Abandonment of project or application to the Government to sanction it

32. (1) After the expiry of the period respectively mentioned in clauses (a) and (b) of sub section (2) of section 30 and clause (b) of sub section (2) of section 31, the Corporation shall consider any objection or representation received thereunder and after hearing all persons making any such objection or representation who may desire to be heard or their representative, the Corporation may either abandon the scheme or project or apply to the Government for sanction of the scheme or project with such modifications, if any, as the Corporation may deem necessary.

(2) Every application submitted to the Government under sub section (1) shall be accompanied by-

(a) complete plans and details of the scheme or project and an estimate of the cost of executing it;

(b) a statement of the reasons for modifications, if any, made in the scheme or project as originally prepared;

(c) a statement of objections and representations, if any, received under section 30;

(d) a list of the names of all persons, if any, who have objected under clause (b) of sub section (2) of section 31 to the proposed acquisition of their property, or the proposed recovery of development fee, and a statement of the reasons given for such objections; and

(e) a statement of the arrangements made or proposed to be made by the Corporation for the resettlement or re housing of persons who are likely to be displaced by the execution of the scheme or project.

Power to sanction, reject or return a scheme or project

33. (1) The Government may sanction, with or without modifications, or may refuse to sanction, or may return for reconsideration, any scheme or project submitted to it under section 32.

(2) If a scheme or project returned for reconsideration under sub section (1) is modified by the Corporation, it shall be republished in accordance with the provisions of section 30, in every case in which the modification affects the boundaries of the area comprised in the scheme or project or involves the acquisition of any land not previously proposed to be acquired, or the levy of development fee on land which was not previously proposed to be liable to such development fee.

Notification of sanction of any scheme or project

34. (1) Whenever the Government sanctions any scheme or project under this Chapter, it shall announce the fact, by notification in the official Gazette, and the Corporation shall forthwith proceed to execute the scheme or project.

(2) A notification under sub section (1) in respect of any scheme or project shall be conclusive evidence that the scheme or project has been duly prepared and sanctioned and shall not be called in question in any Court.

Alteration of scheme or project after sanction

35. A scheme or project under this Chapter may be altered by the Corporation at any time between its sanction by the Government and its execution:

Provided that,-

(a) if any alteration is estimated to increase the net estimated cost of executing a scheme or project by more than five lakhs of taka or by ten per cent of the said estimated net cost, whichever is less, such alteration shall not be made without the previous sanction of the Government; or

(b) if any alteration involves the acquisition, otherwise than by agreement, of any land the acquisition of which has not been sanctioned by the Government, or the levy of development fee on land not previously liable to such fee, the procedure laid down in the foregoing sections of this Chapter shall, so far as applicable, be followed, as if the alteration were a separate scheme or project.

Inclusion of different areas in combined scheme or project

36. Any number of areas in respect of which the Corporation has prepared or has proposed to prepare schemes or projects under this Ordinance may, at any time, be included in one combined scheme or project.

Passing over of works and services to local Authorities

37. As soon as any scheme or project has been carried out by the Corporation, or at a later date, the Corporation may, by written requisition, call upon a local authority within whose jurisdiction any particular area covered by the scheme or project lies to take over and maintain any of the works and services in that area and the local authority shall comply with such requisition.

CHAPTER VII

ACQUISITION, ABANDONMENT OF ACQUISITION AND LEVY OF DEVELOPMENT FEE

Modification of Act I of 1894

38. (1) For the purpose of compulsory acquisition of land by the Corporation, the Land Acquisition Act, 1894, hereinafter referred to as the said Act, shall apply subject to the modifications indicated in the Schedule.

(2) In addition to the modifications indicated in Schedule,--

(a) the first publication of a notice of a scheme or project under section 30 shall be substituted for and have the same effect as publication in the official Gazette and in the locality of a notification under sub section (1) of section 4 of the said Act, except where a notification under section 4 or a declaration under section 6 of the said Act has previously been made and is still in force;

(b) proceedings under section 31 and sub section (1) of section 32 shall be substituted for and have the same effect as proceedings under section 5A of the said Act; and

(c) subject to the provisions of paragraphs 9 and 10 of the Schedule, the publication of a notification under section 34 shall be substituted for and have the same effect as a declaration by the Government under section 6 of the said Act, unless a declaration under the last mentioned section has previously been made and is still in force.

Acquisition in urgent cases

39. (1) The Government may, by notification in the official Gazette, declare any area to be an area required immediately for development or for any other purpose similar to the purposes of a scheme or project, and direct the Corporation to undertake in respect of such area all or any of the measures which may be undertaken under any scheme or project.

(2) After a notification has been issued under sub section (1) in respect of any area, the Corporation may apply to the Collector, who after giving such reasonable notice as may be prescribed to the owners and occupiers, shall deliver possession of any land in such locality to the Corporation and the land shall thereupon, notwithstanding anything contained in the Land Acquisition Act, 1894, vest absolutely in the Corporation free from all encumbrances subject only to payment of compensation under the Land Acquisition Act, 1894, as modified by this Ordinance.

Tribunals

40. (1) For the purpose of performing the functions of the Court in reference to the acquisition of land for the Corporation under the Land Acquisition Act, 1894, as modified by this Ordinance, the Government may, by notification in the official Gazette, constitute one or more Tribunals, and may define the local limits of their jurisdiction.

(2) The Tribunal shall consist of a President and two Members chosen by the Government.

(3) The President of the Tribunal shall be a person qualified to be a Judge of the 14[Supreme Court]:

Provided that no person shall be appointed as President or Member of the Tribunal if he suffers from any of the disqualifications mentioned in sub section (1) of section 7.

(4) The term of office of the President and Members of the Tribunal shall be two years, and they shall be eligible for re appointment.

(5) The Tribunal shall be deemed to be the Court, and the President thereof shall be deemed to be the Judge for the purpose of compulsory acquisition under the Land Acquisition Act, 1894.

(6) The President of the Tribunal shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 to summon and enforce the attendance of witnesses and to compel the production of documents.

(7) The Government may, in its discretion, remove a Member of the Tribunal on grounds of inefficiency, misconduct, or for any other good and sufficient reasons.

(8) The Government may by rules provide for

(a) the method of filling a casual vacancy on a Member becoming incapacitated to work on account of illness or for any other reasons;

(b) the employment by the President of the Tribunal of such ministerial staff as is necessary to carry on the work of the Tribunal and their scales of pay;

- (c) the emoluments or allowances to be paid to the President and the Members of the Tribunal;
 - (d) the grant of leave, promotion, or taking of disciplinary action by the President of the Tribunal in respect of the ministerial staff employed under him; and
 - (e) generally, for the conduct of business before the Tribunal.
- (9) For the purpose of the award to be made by the Tribunal under the Land Acquisition Act, 1894, the following rules shall apply, that is to say-
- (a) if there is disagreement between the Members of the Tribunal regarding measurement of land, or the amount of compensation or costs, the opinion of the majority shall prevail;
 - (b) the decision on questions of law and procedure shall rest solely with the President of the Tribunal;
 - (c) the President of the Tribunal shall not be bound to consult the Members in regard to the determination of persons to whom compensation is to be paid, or the apportionment thereof, and may in his discretion dispose of such question singly and in that case his decision shall be deemed to be the decision of the Tribunal.
- (10) Every award of the Tribunal shall be deemed to be the award of the Court under the Land Acquisition Act, 1894, and shall be enforced by the Subordinate Judge within whose jurisdiction the land under acquisition is situated as if it were the decree of that Court.

Appeals

41. (1) Subject to the provision of sub section (2), an appeal shall lie to the 15[High Court Division] in any of the following cases, namely:-
- (a) where the decision is that of the President of the Tribunal sitting alone in pursuance of clause (c) of sub section (9) of section 40; and
 - (b) where the decision is that of the Tribunal, and:-
 - (i) the President of the Tribunal grants a certificate that the case is a fit one for appeal; or
 - (ii) the 16[High Court Division] grants special leave to appeal:
- Provided that the 17[High Court Division] shall not grant such special leave unless the President of the Tribunal has refused to grant a certificate under sub clause (i) and the amount in dispute is not less than five thousand taka.
- (2) An appeal under clause (b) of sub section (1) shall lie only on one or more of the following grounds, namely:-
- (a) the decision being contrary to law or to some usage having the force of law;
 - (b) the decision having failed to determine some material issue of law or usage having the force of law; and
 - (c) a substantial error or defect in procedure which may possibly have produced error or defect in the decision of the case upon merits.
- (3) Subject to the foregoing provisions, the provisions of the Code of Civil Procedure, 1908, with respect to appeals from original decrees shall, so far as may be, apply to appeals under this section.

(4) Every order passed by the 18[High Court Division] on appeal under this section shall be enforced by the Court of the Subordinate Judge within whose jurisdiction the land relating to the award or order appealed against is situated, as if it were a decree of that Court.

(5) An appeal under this section shall be deemed to be an appeal under the Code of Civil Procedure, 1908, within the meaning of Article 156 of the First Schedule to the Limitation Act, 1908.

Abandonment of acquisition

42. (1) An owner of land comprised in any scheme or project sanctioned by the Government, or any other person having land interest therein, may apply to the Corporation that the acquisition of the land which is not required for the execution of the scheme or project be abandoned.

(2) The Corporation may admit for consideration such application if it is made at any time before the Collector has made an award under section 11 of the Land Acquisition Act, 1894, and if the application is admitted, the Corporation shall intimate this fact to the Collector who shall thereupon stay further proceedings connected with the acquisition of land in respect of which the application is admitted and the same shall not be re opened until so desired by the Corporation.

(3) The Corporation may, in its discretion, allow such application on payment of such fee and fulfilment of such terms and conditions as it may impose in this behalf.

(4) If any application under sub section (1) is rejected by the Corporation or the fee imposed under sub section (3) is not paid by the person concerned within the period specified in that behalf by the Corporation, the Corporation shall intimate the fact to the Collector who shall take up the proceedings for the acquisition of the land from the stage at which they had been stayed.

Explanation. In this section, "Collector" has the same meaning as in the Land Acquisition Act, 1894.

Fresh acquisition

43. If any land in respect of which any payment has been accepted under the provisions of section 42 or section 45 be subsequently required for any of the purposes of this Ordinance, the payment or any other act done in connection therewith under the rules framed under sub-section (4) of section 45, shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration under section 6 of the Land Acquisition Act, 1894.

CHAPTER VIII

FINANCE

Corporation Fund

44. (1) There shall be a fund to be known as the "Corporation Fund" vested in the Corporation which shall be utilised by the Corporation to meet charges in connection with its functions under this Ordinance, including the payment of salaries and other remunerations to the Chairman, Directors, officers, advisers and servants of the Corporation.

(2) The Corporation Fund shall consist of,--

(a) grants made by the Government;

- (b) loans obtained from the Government;
- (c) grants made by local authorities;
- (d) sale proceeds of bonds issued under the authority of the Government;
- (e) loans obtained by the Corporation with the special or general sanction of the Government;
- (f) foreign aid and loans obtained with the previous sanction of the 19[Government];
- (g) all fees, including development fees, received by the Corporation; and
- (h) all other sums received by the Corporation.

Development Fee

45. (1) When, by the execution of any scheme or project under this Ordinance, any land in the area comprised therein which is not required for the execution thereof will, in the opinion of the Corporation, be increased in value or will obtain benefit from the execution of the scheme or project, the Corporation, may, while preparing the scheme or project, or at any time thereafter with the previous sanction of the Government, provide that a development fee shall be paid by the owners thereof or any person having interest therein.

(2) The Corporation may at any time after the sanction of the scheme or project under section 33, by resolution declare that for the purpose of levy of development fee the scheme or project shall be deemed to have been executed and shall thereupon proceed to assess the demand in accordance with the rules made under sub section (4).

(3) In fixing the amount of development fee to be charged in respect of any land or class of land, the Corporation shall also take into consideration the actual expenditure incurred or to be incurred in the execution of the scheme or project and the degree to which the land or any part of the land has or will be benefited thereby.

(4) The Government may make rules providing for-

- (a) the manner in which the demand for development fee shall be assessed and distributed on the land comprised in the scheme or project and the person or persons by whom the fee shall be payable;
- (b) the acceptance by the Corporation of a satisfactory and sufficient security in lieu of immediate payment of development fee by an owner of land or any person interested therein;
- (c) the mode by which development fee shall be realised, the number of instalments to be allowed and the interest chargeable on the balance outstanding from time to time; and
- (d) the mode of preferring appeal from assessment by the Corporation and the authority to which that appeal shall lie.

Other fees and charges

46. The Corporation, may, with the previous sanction of the Government, impose in a Project Area or part thereof any fee or other charge, to meet the expenses incurred in the performance of functions assigned to the Corporation by or under this Ordinance.

Grants-in-aids

47. Any local authority may, and when so required by the Government shall, grant such amount of money to the Corporation as may be determined by the Government.

Power of the Corporation to borrow money

48. The Corporation shall be deemed to be a local authority under the Local Authorities Loans Act, 1914, for the purposes of borrowing money under that Act, and the making and execution of any scheme or project under this Ordinance shall be deemed to be a work which such authority is legally authorised to carry out:

20[* * *]

Custody and investments of funds

49. (1) The Corporation may keep money in any treasury, sub treasury or a bank approved by the Government.

(2) Nothing in sub section (1) shall be deemed to preclude the Corporation from investing any such moneys which are not required for immediate expenditure in any of the securities described in section 20 of the Trusts Act, 1882 or placing them in fixed deposit with a bank approved by the Government.

The Budget

50. The Corporation shall prepare its annual budget estimates and submit the same to the Government by the prescribed date and the Government may modify the said estimates to such extent as it may consider necessary.

CHAPTER IX

RULES, REGULATIONS AND NOTICES

Power to make rules

51. (1) The Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Ordinance.

(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 reappropriation of funds within the sanctioned budget;
- (c) the maintenance of liaison between the Corporation and other bodies and authorities concerned with administration and development, including the local councils constituted under the 21[Bangladesh Local Government (Union Parishad and Paurashava) Order, 1973, or under any other law for the time being in force];
- (d) the powers of the Project Directors; and
- (e) any other matters required by the provisions of this Ordinance to be prescribed.

Power to make regulations

52. (1) Subject to the provisions of this Ordinance and the rules, the Corporation may, by notification in the official Gazette, and with the previous approval of the Government, make regulations for carrying out the purposes of this Ordinance.

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

- (a) the appointment of Committees to consider particular matter or matters;
- (b) the investment of moneys by the Corporation;
- (c) the meetings of the Board;
- (d) methods of ensuring continuous evaluation by the Corporation of its schemes and projects;
- (e) the determination of the terms and conditions of service of the officers and servants of the Corporation;
- (f) the mode of operation and expenditure of the funds of the Corporation; and
- (g) Any other matters required by the provisions of this Ordinance to be provided by regulations.

Stamping signature on notices or bills

53. Every notice or bill issued by the Corporation under this Ordinance shall be signed by the Chairman or by any Director, officer or servant of the Corporation specially or generally authorised by the Chairman and every such notice or bill shall be deemed to be properly signed, if it bears the facsimile of the signature of the Chairman or such Director, officer or servant stamped or printed thereon.

Method of giving public notice

54. Subject to the provisions of this Ordinance, every public notice required under this Ordinance shall be deemed to have been duly given if it is published in some local newspaper and posted on a notice board to be exhibited for public information at the building in which the meetings of the Corporation are ordinarily held.

Service notice

55. (1) Every notice, other than a public notice, and every bill, issued under this Ordinance shall, unless it is under this Ordinance otherwise expressly provided, be served or presented-

- (a) by giving or tendering the notice or bill, or sending it by registered post, to the person to whom it is addressed; or
- (b) if such person cannot be found, then by leaving the notice or bill at his last known place of abode, or by giving or tendering it to some adult male member or servant of his family, ordinarily residing with him, or by causing it to be affixed on some conspicuous part of the building or land to which it relates.

(2) When a notice is required or permitted under this Ordinance to be served upon an owner, occupier or tenant, as the case may be, of a building or land, it shall not be necessary to name the owner,

occupier or tenant therein, and the service thereof, in cases not otherwise specially provided for in this Ordinance, shall be effected either-

- (a) by giving or tendering the notice, or sending it by post to the owner, occupier or tenant, or, if there be more owners, occupiers or tenants than one, to any of them; or
 - (b) if such owner, occupier or tenant cannot be found, then by giving or tendering the notice to an adult male member or servant of his family ordinarily residing with him, or by causing the notice to be affixed on some conspicuous part of the building or land to which it relates.
- (3) Whenever the person on whom a notice or bill is to be served is a minor, service upon his guardian or upon an adult male member or servant or his family ordinarily residing with him shall be deemed to be service upon the minor.

Disobedience to Ordinance or notice

56. Where, under this Ordinance or a notice issued thereunder, the public or any person is required to do or to refrain from doing anything, a person who fails to comply with such requisition shall, if such failure is not an offence punishable under any other section of this Ordinance, be liable, on conviction by a Magistrate, to a fine not exceeding five hundred taka for every such failure, and in the case of a continuing breach, to a further fine which may extend to five taka for every day after the date of the last conviction during which the offender is proved to have persisted in the breach:

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Ordinance, it shall rest with the Magistrate to determine whether the time so fixed was reasonable time within the meaning of this Ordinance.

Powers of the Corporation to execute works on failure to comply with notice

57. If a notice has been given by the Corporation under this Ordinance to a person requiring him to execute a work in respect of any property, movable or immovable, public or private, or to provide or do or refrain from doing anything within a time specified in the notice, and if such person fails to comply with such notice, then the Corporation may cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account from the said person.

Liability of occupier to pay in default of owner

58. (1) If the person to whom the notice mentioned in section 57 has been given, is the owner of the property in respect of which it is given the Corporation may (whether any action or other proceeding has been brought or taken against such owner or not) require the person, if any, who is the occupier or tenant of such property or a part thereof under such owner, to pay to the Corporation instead of paying to the owner the rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under section 57 and any such payment made by the occupier or tenant to the Corporation shall be deemed to have been made to the owner of the property.

(2) For the purpose of deciding whether action should be taken under sub section (1), the Corporation may require an occupier or tenant of property to furnish information as to the sum payable by him as rent on account of such property and as to the name and address of the person to whom it is payable, and if the occupier or tenant refuses to furnish such information he shall be liable for the whole of the expenses as if he were the owner.

Right of occupier to execute work in default of owner

59. Whenever default is made by the owner of a building or land in the execution of a work required under this Ordinance to be executed by him, the occupier or tenant of such building or land may, with the written permission of the Corporation, cause such work to be executed and the expense thereof shall be paid by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Procedure upon opposition to execution by occupier

60. (1) If, after receiving information of the intention of the owner of any building or land to take any action in respect thereof in compliance with a notice issued under this Ordinance, the occupier or tenant refuses to allow such owner to take such action, the owner may apply to a Magistrate.

(2) The Magistrate, upon proof of such refusal, may, by order in writing, require the occupier or tenant to give the owner reasonable facility for executing such works, with respect to such building or land, as may be necessary for compliance with the notice, and may also, if he deems fit, order the occupier or tenant to pay to the owner the costs relating to such application or order.

(3) If, after the expiration of eight days from the date of the Magistrate's order, the occupier or tenant continues to refuse to allow the owner to execute such work the occupier or tenant shall be liable upon conviction, to a fine which may extend to twenty five taka for every day during which he has so continued to refuse.

(4) Every owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in the execution of such works.

Recovery of cost of works by the occupier

61. When the occupier or tenant of a building or land has, in compliance with a notice issued under this Ordinance, executed a work for which the owner of such building or land is responsible, either in pursuance of contract of tenancy or by law, he shall be entitled to recover from the owner, by deduction from the rent payable by him or otherwise, the reasonable cost of such work.

Relief to agents and trustees

62. (1) When a person, by reason of his receiving or being entitled to receive, the rent of immovable property as trustee or agent of a person or society would, under this Ordinance, be bound to discharge an obligation imposed by this Ordinance on the owner of the property for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, in his hands funds belonging to the owner sufficient for the purpose.

(2) When an agent or trustee has claimed and established his right to relief under this section, the Corporation may give him notice to apply to the discharge of such obligation as aforesaid the moneys which come to his hands on behalf or for the use of the owner, and should he fail to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.

Penalty for removing fence, etc

63. If any person, without lawful authority--

(a) removes any fence or any timber used for propping or supporting any building, wall or other thing or extinguishes any light set up at any place where the surface of a street or other ground has been opened or broken up by the Corporation for the purpose of carrying out any work; or

(b) infringes any order given, removes any bar, chain or post fixed, by the Corporation for the purpose of closing any street to traffic, he shall be punishable with fine which may extend to fifty taka.

Penalty for obstructing contractor or removing mark

64. If any person-

(a) obstructs or molests any person with whom the Corporation has entered into contract under this Ordinance in the performance or execution, of the contract by such person, or

(b) removes any marks set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Ordinance, he shall be punishable with fine which may extend to two hundred taka or with imprisonment for a term which may extend to two months.

Power of Corporation in cases of squatters and trespassers

65. When the Chairman is satisfied that any person has taken or is in possession of land comprised in any scheme or project or any other land owned by or vested in the Corporation to which he has no right or title, the Chairman or any person authorised by him in addition to any other powers he may possess, may forthwith, with the use of such force as may be necessary, re-enter upon the land, and resume possession of it and take possession of all crops, trees and buildings thereon on behalf of the Corporation without payment of any compensation whatsoever.

Penalty for unauthorised cultivation, etc

66. If any person, without the written permission of the Corporation-

(a) clears or breaks up for cultivation or cultivates any land which is owned by or in the possession of the Corporation and is not included in any tenancy or allocated residential enclosures, or which has been set apart for the common purposes of a town or a village community or section of the same or for a road, canal or watercourse, or

(b) erects any building on any such land, or

(c) fells or otherwise destroys standing trees on such land, or

(d) otherwise encroaches on any such land, or

(e) makes an excavation or constructs a water channel on any such land, he shall be punished on conviction by a Magistrate with a fine not exceeding two hundred taka.

Explanation. The felling of trees planted by an owner or tenant on any village road or watercourse traversing his holding is not an offence under this section.

Additional powers of the Chairman of the Corporation in regard to offences

67. When the Corporation is satisfied that an act punishable under section 66 has been committed, it may, in lieu of proceeding against the offender under that section, or after conviction of the offender under that section,-

(i) in the case of an offence under clause (a) of section 66, confiscate the crops growing on any land cultivated in contravention of this Ordinance, or if the crops have been cut, recover such sum as it may assess as the value thereof from the offender;

(ii) in the case of an offence under clause (c) of section 66, recover such sum as it may assess as the value of the trees destroyed;

(iii) in the case of an offence under clause (b), (d) or (e) of section 66, cause the building or other encroachment to be demolished or removed or the excavation or channels to be filled up, and levy the cost of so doing from the person responsible for such act.

CHAPTER X

SUPPLEMENTAL PROVISIONS

Chairman etc, deemed public servants 8. The Chairman, every Director, and every Officer, Advisor and servant of the Corporation, and the President and every member, officer and servant of the Tribunal, set up under section 40, shall be deemed to be a public servant within the meaning of section 21 of the 22[* * *] Penal Code.

Contribution by the Corporation towards leave, allowances and pension of Government servant 69. The Corporation shall be liable to pay such contributions for the leave, allowances and pension of any person in the service of the 23[Republic] and employed as Chairman, Director, Advisor, Officer or servant of the Corporation, or as President, member or officer or servant of the Tribunal constituted under section 40 as may be required by the conditions of his service under 24[the Government] to be paid to him or on his behalf.

Authority for prosecution

70. No Court shall take cognizance of any offence punishable under this Ordinance, except on the complaint of the Chairman or some person authorised by the Corporation or by the Chairman by general or special order in this behalf.

Recovery of dues

71. The Chairman or any person generally or specially authorised by him may apply to the Deputy Commissioner for the recovery of any sum due under this Ordinance or by agreement made under this Ordinance and the Deputy Commissioner shall thereupon proceed to recover the sum as a public demand under the 25[* * *] Public Demands Recovery Act, 1913.

Powers of Chairman as to institution, etc, of legal proceedings and obtaining legal advice

72. The Chairman may, subject to the control of the Corporation,-

(i) institute, defend or withdraw from legal proceedings under this Ordinance;

(ii) compound any offence against this Ordinance;

(iii) admit, compromise or withdraw any claim made under this Ordinance; and

(iv) obtain such legal advice and assistance as he may, from time to time, deem it necessary or expedient to obtain, or as he may be desired by the Corporation to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Corporation or any officer or servant of the Corporation.

Indemnity to the Corporation

73. No suit shall lie against the Corporation, the Chairman, any Director or any Officer, Advisor or servant of the Corporation, or any person acting under the direction of the Corporation, or of the Chairman or of any officer or servant of the Corporation in respect of anything done lawfully and in good faith and with due care and attention under this Ordinance.

Notice of suit against the Corporation, etc

74. (1) No suit shall be instituted against the Corporation, the Chairman, any Director, any person associated with the Corporation or any Officer, Advisor or servant of the Corporation, or any person acting under the direction of the Corporation or of the Chairman or of any officer or servant of the Corporation in respect of an act purporting to be done under this Ordinance, until after the expiration of two months next from notice in writing has been, in the case of the Corporation left at its office, and in any other case delivered to or left at the office or place of abode of the person to be used, explicitly stating the cause of action, the nature of the relief sought, the amount of compensation claimed, and the name and place of abode of the intending plaintiff; and in case the suit is filed, the plaint shall contain a statement that such notice has been so delivered or left.

(2) if the Corporation or other person referred to in sub section (1) shall, before the action is commenced, have tendered, in the opinion of the Court, sufficient amends to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered and shall also pay all costs incurred by the defendant after such tender.

(3) Action such as is described in sub section (1) shall, unless it is an action for the recovery of immovable property or for a declaration of the title thereto, be commenced within six months next after the accrual of the cause of action:

Provided that nothing in this section shall be construed to apply to a suit wherein the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the commencement of the suit or proceedings.

Mode of proof of the Corporation records

75. A copy of any receipt, application, plan, notice, order, entry in a register or other document in the possession of the Corporation shall, if duly certified by the legal keeper thereof, or other person authorised by the Corporation in this behalf, be received as prima facie evidence of the existence of the entry or document and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent, as the original entry or document would, if produced, have been admissible to prove such matters.

Restriction on the summoning of the Corporation servants to produce documents

76. Neither the Chairman nor any Director, Advisor, Officer or servant of the Corporation shall in any legal proceedings to which the Corporation is not a party be required to produce any register or document the contents of which can be proved under the preceding section by a certified copy, or to appear as a witness to prove the matters and transactions recorded therein unless by order of the Court made for a special cause.

Validation of acts and proceedings

77. (1) No act done or proceedings taken under this Ordinance shall be questioned on the ground merely of-

- (a) the existence of any vacancy in, or any defect in the constitution of, the Board; or
- (b) any person having ceased to be a Director has continued to act as such; or
- (c) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure; or
- (d) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Board, the minutes of the proceedings of which have been duly signed as prescribed in clause (5) of section 10 shall be taken to have been duly convened and to be free from all defects and irregularities.

General power of the Corporation to pay compensation

78. In any case not otherwise expressly provided for in this Ordinance, the Corporation may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested under this Ordinance in the Corporation or the Chairman or any officer or servant of the Corporation.

Compensation for damage to Corporation's property

79. (1) If on account of any act or omission, any person has been convicted of any offence under this Ordinance, and by reason of such act or omission damage has occurred to any property of the Corporation, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Court before whom he was convicted of the said offence.

(3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said Magistrate, as if it were a fine imposed by him on the person liable therefore.

CHAPTER XI

AUDIT AND ACCOUNTS

Accounts and audit

80. (1) The Corporation shall maintain proper accounts and other relevant records and 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 in consultation with the Comptroller and Auditor General of 26[Bangladesh], hereafter in this section referred to as the Auditor General.

(2) The accounts of the Corporation shall be audited by not less than two auditors who shall be Chartered Accountants within the meaning of the 27[Bangladesh Chartered Accountants Order, 1973,] and appointed for the purpose by the Corporation with the previous approval in writing of the Government.

(3) Notwithstanding the audit provided for in sub-section (2), the Auditor-General shall audit or cause to be audited the accounts of the Corporation.

(4) The Corporation shall produce all accounts, books and connected documents and furnish such explanations and information as the Auditor General or any officer authorised by him in this behalf may require at the time of audit.

(5) A statement of its accounts audited by the Chartered Accountants referred to in sub section (1) shall be furnished to the Government by the Corporation, as soon as possible after the end of every financial year.

Annual Report

81. The Corporation shall, as soon as possible after the end of every financial year, submit an annual report to the Government on the conduct of its affairs, including the affairs of the subsidiary organisations, for that year.

CHAPTER XII

DISSOLUTION

Dissolution of the Corporation

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

(2) On and from the date of the notification under sub section (1),-

(a) all properties, funds and dues which immediately before the said date were vested in or were realisable by the Corporation shall vest in and be realisable by the Government;

(b) all liabilities which, immediately before the said date were enforceable against the Corporation shall be assumed by, and be enforceable against the Government; and

(c) for the purpose of completing the execution of any scheme or project sanctioned under this Ordinance which has not been fully executed by the Corporation and of realising properties, funds and dues referred to in clause (a), the functions of the Corporation shall be discharged by the Government.

1 Throughout this Ordinance, the words “Bangladesh”, “Government” and “Taka” were substituted for the words “East Pakistan”, “Provincial Government” and “rupees” respectively by section 2 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

2 Throughout this Ordinance, the words “Bangladesh Agricultural Development Corporation” were substituted for the words and brackets “Bangladesh Agricultural Inputs (Supply and Services) Corporation” by section 2 of the Bangladesh Agricultural Inputs (Supply and Services) Corporation (Amendment) Ordinance, 1976 (Ordinance No. XI of 1976)

3 The word “Development” was substituted for the words and brackets “Inputs (Supply and Services)” by section 3 of the Bangladesh Agricultural Inputs (Supply and Services) Corporation (Amendment) Ordinance, 1976 (Ordinance No. XI of 1976)

4 The word “Development” was substituted for the words and brackets “Inputs (Supply and Services)” by section 3 of the Bangladesh Agricultural Inputs (Supply and Services) Corporation (Amendment) Ordinance, 1976 (Ordinance No. XI of 1976)

5 The word “Bengal” was omitted by section 4 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

6 The commas and words “, either of its own motion or at the instance of the Central Government,” were omitted by section 5 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

7 Clauses (a), (b) and (c) were substituted for the former clauses (a) and (b) by section 6 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

8 The word “Government” was substituted for the words “Central or a Provincial Government” by section 6 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

9 The word “Republic” was substituted for the word “State” by section 7 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

10 Clause (dd) was inserted by section 2 of the Agricultural Development Corporation (Amendment) Ordinance, 1969 (East Pakistan Ordinance No. XIV of 1969)

11 The words “East Bengal” were omitted by section 8 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

12 The words, commas and figure “Governor of the district, the Thana Council and to the Union Parishad constituted under the Bangladesh Local Government (Union Parishad and Paurashava) Order, 1973,” were substituted for the words, commas and figure “Deputy Commissioners of the district, and to the District Council, the Thana Council and the Union Council constituted under the Basic Democracies Order, 1959,” by section 9 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

13 The words and comma “Deputy Commissioner of the district, and to the Zilla Board and” were substituted for the words and comma “Governor of the district, the Thana Council and to” by section 4 of the Bangladesh Agricultural Inputs (Supply and Services) Corporation (Amendment) Ordinance, 1976 (Ordinance No. XI of 1976)

14 The words “Supreme Court” were substituted for the words “High Court” by section 10 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

15 The words “High Court Division” were substituted for the words “High Court” by section 11 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

16 The words “High Court Division” were substituted for the words “High Court” by section 11 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

17 The words “High Court Division” were substituted for the words “High Court” by section 11 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

18 The words “High Court Division” were substituted for the words “High Court” by section 11 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

19 The word “Government” was substituted for the words “Central Government” by section 12 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

20 The proviso was omitted by section 13 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

21 The words, commas and figures “Bangladesh Local Government (Union Parishad and Paurashava) Order, 1973, or under any other law for the time being in force” were substituted for the words, comma and figure “Basic Democracies Order, 1959” by section 14 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

22 The word “Pakistan” was omitted by section 15 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

23 The word “Republic” was substituted for the words “Central or Provincial Government” by section 16 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

24 The words “the Government” were substituted for the words “such Government” by section 16 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

25 The word “Bengal” was omitted by section 17 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

26 The word “Bangladesh” was substituted for the word “Pakistan” by section 18 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)

27 The words, commas and figure “Bangladesh Chartered Accountants Order, 1973,” were substituted for the words, commas and figure “Chartered Accountants Ordinance, 1961,” by section 18 of the Agricultural Development Corporation (Amendment) Ordinance, 1975 (Ordinance No. XL of 1975)