

The Bangladesh Power Development Boards Order, 1972 (President's Order)

(ACT NO. 59 Of 1972)

[31st May, 1972]

WHEREAS it is expedient to provide for the constitution of ¹[* * *] a Power Development Board to replace the East Pakistan Water and Power Development Authority and for matters ancillary thereto;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:-

1. (1) This Order may be called the Bangladesh ²[* * *] Power Development Boards Order, 1972.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

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

(a) “Board” means ³[* * *] the Power Board;

(b) “Chairman” means the Chairman of a Board;

(c) “controlled station” means a power generating station declared as a controlled station under clause (d) of Article 15;

(d) “Government” means the Government of the People's Republic of Bangladesh;

(e) "land" includes benefits to arise out of land and things attached to the (earth or permanently fastened to anything attached to the) earth;

(f) "member" means a member of a Board;

(g) "power" includes hydraulic as well as thermal power, electrical energy, steam, gas or any other power notified as such by the Government in the official Gazette;

(h) "Power Board" means the Bangladesh Power Development Board constituted by this Order;

(i) "prescribed" means prescribed by rules made under this Order;

(j) "undertaking" includes any business, project, scheme, asset, right, power, authority and privilege and any property movable and immovable, including land, building, work, machinery, cash or bank balance, reserve fund, investments, and any other right and interest in, or arising out of, such property and any book of accounts, register, record and any other document of whatever nature relating thereto;

⁴[* * *]

3. (1) On the commencement of this Order, there shall be constituted, for carrying out the purposes of this Order, two Boards-one to be called ⁵[* * *] the Bangladesh Power Development Board.

(2) Each Board shall be a body corporate, having perpetual succession and a common seal with power, subject to the provisions of this Order, to acquire, hold and dispose of property, both movable and immovable, and shall by its name sue and be sued.

⁶[3A. The authorised share capital of the Power Development Board shall be Taka five hundred crores to be subscribed by the Government in the manner

determined by it and may, with the previous approval of the Government, be increased from time to time by the Board.]

4. ⁷[⁸* * *]

(1A) The Power Board shall consist of a Chairman and not more than six other members to be appointed by the Government.]

(2) No act or proceeding of a Board shall be invalid merely on the ground of existence of any vacancy in, or any defect in the constitution of the Board.

(3) Each Board shall, in discharging its functions, be guided by such directions as the Government may give from time to time.

5. (1) The Chairman and other members shall hold office for such period and on such terms and conditions as the Government may determine.

(2) The Government may at any time terminate the appointment of the Chairman or any other member without assigning any reason.

6. The Chairman and other members shall exercise such powers, and perform such functions as may be prescribed or as may be assigned to them by the Board or Government.

7. (1) The meetings of a Board shall be held at such times and places and in such manner as may be prescribed:

Provided that a meeting may also be otherwise convened by the Chairman when he so thinks fit.

(2) At a meeting of a Board each member shall have one vote, and, in the event of equality of votes, the Chairman shall have a casting or second vote.

(3) If for any reason the Chairman is unable to be present at a meeting, a member authorised by the Chairman shall preside over the meeting.

8. Each Board may appoint such committee or committees as it thinks fit to assist it in the efficient discharge of its functions.

9. [Repealed by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)।]

10. (1) The Power Board shall prepare, for the approval of the Government, a comprehensive plan for the development and utilisation of power resources of Bangladesh.

(2) The Board shall have power to take up any work as contemplated in clause (3) or any other work that may be transferred to it by the Government and to realise levy thereof subject to the approval of the Government.

(3) The Board may frame a scheme or schemes for the whole of Bangladesh or any part thereof providing for all or any of the following matters, namely:-

(a) generation, transmission and distribution of power;

(b) construction, maintenance and operation of power houses and grids.

(4) The Power Board may place wires, poles, wall brackets, stays, apparatus and appliances for the transmission of electricity for the transmission of telegraphic or telephonic communications necessary for the proper execution of a scheme.

⁹[(5) The Power Board may purchase power from any person or entity authorised to generate electricity by the appropriate authority at such rate as may be determined by the Government.]

11. (1) Every scheme prepared under clause (3) of Article 9 or clause (3) of Article 10 shall be submitted, for approval, to the Government with the following information:-

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

(b) an estimate of costs and benefits, the allocation of costs to the various purposes to be served by the scheme and the amounts to be paid by the beneficiaries;

(c) a statement of proposal by the Board for the resettlement or re-housing, if necessary, of persons likely to be displaced by the execution of the scheme.

(2) The Government may sanction or may refuse to sanction or may return for reconsideration any scheme submitted to it under clause (1), or may call for such further details or information about the scheme or may direct such further examination of the scheme as it may consider necessary.

12. (1) Any scheme framed by an agency in Bangladesh other than a Board in respect of any of the matters enumerated in clause (3) of Article 9 or clause (3) of Article 10 shall, if its estimated cost exceeds the amount to be prescribed by the Government, be submitted to the Government through the Board concerned and the Government may pass any of the orders contemplated by clause (2) of Article 11 ¹⁰[:

Provided that any such scheme framed by a power generating station, run by any person or entity other than Power Board, to fulfil its obligations under any contract entered into between its owner and the Government shall not be required to be submitted through the Board concerned.]

(2) A Board may, with the approval of the Government, undertake the execution of any scheme or exercise technical supervision and administrative and financial control over the execution of any scheme framed or sponsored

by any agency in respect of the matters enumerated in clause (3) of Article 9 or, as the case may be, clause (3) of Article 10.

13. (1) Each Board, if it considers necessary or expedient for carrying out purposes of this Order, may-

(a) train personnel, cause studies, surveys, experiments or technical research to be made; or

(b) contribute towards the costs of any such studies, surveys, experiments or technical research made by any other agency.

14. [Repealed by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)।]

15. Subject to the provisions of any other law for the time being in force, the Power Board-

(a) shall have control over the operation of all power houses and grids as may be considered necessary for their operation;

(b) may, with the approval of the Government, prescribe standards for the maintenance of power houses and grids;

(c) may, with the approval of the Government, prescribe simplification of methods of charges for the supply of electricity and for standardisation of the system of supply;

(d) may, with the approval of the Government and on payment of reasonable compensation, declare any power generating station belonging to a licensee to be a controlled station and thereupon the power to regulate production from such station shall vest in the Board;

(e) may require the owner of any controlled station in a grid area-

- (i) to supply to the grid all or part of the power generated at the station at such rates as may be determined by the Government by general or special order;
- (ii) to take from the grid all or part of the power required for distribution to consumers; or
- (iii) to close down the station on payment of reasonable compensation.

16. The Power Board shall, for the purposes of the Electricity Act, 1910 (Act IX of 1910), be deemed to be a licensee and shall have all the powers and discharge all the obligations of a licensee under that Act:

Provided that nothing in sections 3 to 11, sub-sections (2) and (3) of section 21 and sections 22, 23 and 27 or in clauses I to XII of the Schedule to the said Act relating to the duties and obligations of a licensee shall apply to the Board.

17. (1) Each Board may take such measures and exercise such powers as it considers necessary or expedient for carrying out the purposes of this Order.

(2) Without prejudice to the generality of the power conferred by clause (1), each Board may-

(a) undertake any works, incur any expenditure within the budget or any special allotment, procure plant, machinery and materials required for its use and enter into and perform all such contracts as it may consider necessary or expedient;

(b) acquire by purchase, lease, exchange or otherwise any land or interest in land and dispose of by sale, lease, exchange or otherwise such land or any interest in such land;

(c) seek and obtain advice and assistance in the preparation or execution of a scheme from any local authority or agency of the Government and such local authority or agency shall give the advice and assistance sought by the Board to the best of its ability, knowledge and judgment:

Provided that the Board shall pay the cost of such advice and assistance if the giving of such advice and assistance entails additional expenditure to the local authority or the agency.

(3) The acquisition of any land or any interest in land for a Board under this Article or for any scheme under this Order shall be deemed to be an acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894 (Act I of 1894), or any other law for the time being in force, and the provisions of the said Act or law shall apply to all such proceedings.

18. [Repealed by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)।]

19. (1) The Chairman or any person authorised by him in writing may, after serving due notice to the owner, enter upon and survey any land, erect pillars for the determination of intended lines of works, make boring and excavations, and do all other acts which may be necessary for the preparation of any scheme:

Provided that when the affected land does not vest in the Board, the power conferred by this clause 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 upon any land in pursuance of clause (1), he shall, at the time of entering or as soon thereafter as may be practicable, 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, the

dispute shall be referred to the Deputy Commissioner whose decision shall be final.

20. A scheme framed and sanctioned under this Order may be amended or modified by the Board concerned at any time but, if a material change is made in the scheme, previous sanction of the Government shall be obtained.

Explanation.- An increase in the cost of the scheme by more than fifteen per cent of the sanctioned costs, or a change in the benefit and cost ratio which either makes the cost component in the ratio exceed the benefit or reduces the benefit component by more than fifteen per cent shall be deemed to be a material change for the purpose of this Article.

21. (1) As soon as any scheme has been carried out by a Board or at a latter date, the Board may arrange by a written agreement with a local authority or other agency within whose jurisdiction any particular area covered by the scheme lies to take over and maintain any of the works and services in that area and, if the Board fails to obtain the assent of such local authority or other agency, it may refer the matter to the Government, and the Government may give such directions to the local authority or the other agency as it may deem fit.

(2) The Government shall have the power to direct a Board to hand over any scheme to any agency of the Government or a local authority:

Provided that the Government shall not direct the Power Board to hand over any power scheme carried out by that Board.

(3) Where any scheme has been transferred under clause (2), the Board concerned shall be entitled to receive credit to the extent of the audited expenditure incurred by it on that scheme.

22. (1) The Government may appoint such officers, advisers, consultants and other employees to serve under each Board as may be necessary for the efficient performance of the functions of such Board on such terms and conditions as it may determine.

(2) The Government may, by general or special order in writing, delegate to a Board or to the Chairman or any member or officer of a Board, subject to such conditions and limitations, if any, as may be specified therein, such of its powers under clause (1) and such of its administrative, disciplinary and financial powers in respect of any officers, advisers, consultants and other employees of the Board as it may deem necessary.

23. Each Board may, by general or special order in writing, direct that such of its powers shall, in such circumstances and under such conditions, if any, as may be specified in the Order, be exercisable also by the Chairman or such member or officer as may be specified therein.

24. (1) Each Board shall have its own Fund which shall be utilised by it to meet charges in connection with its functions under this Order.

(2) The Fund of each Board 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 bond issued under the authority of the Government;

(e) loans and foreign aids obtained by the Board with the special or general sanction of the Government;

(g) in the case of the Power Board Fund, ¹²[subscribed share capital and] sale proceeds of electricity;

(h) all other sums received by the Board.

25. Each Board may, with the prior approval of the Government, borrow money for the purpose of carrying out its functions under this Order.

26. The rates at which ¹³[* * *] the Power Board shall sell power shall be so fixed as to provide for meeting the operating cost, interest charges and depreciation of assets, the redemption at due time of loans other than those covered by depreciation, the payment of any tax and a reasonable return or investment.

27. Each Board shall, by such date in each 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 the sums which are likely to be required from the Government during that financial year.

28. (1) Each Board shall maintain proper, complete and accurate accounts 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 each Board shall, if no auditor is appointed by the Government under clause (3), be audited every year by the Comptroller and Auditor-General of Bangladesh (hereinafter referred to as the Auditor-General) in such manner as may be prescribed.

(3) The Government may, for any year, appoint one or more auditors to audit the accounts of each Board:

Provided that the Auditor-General may, notwithstanding the provision of this clause, either of his own motion or upon a request received in this behalf from the Government, undertake such audit of the accounts of the Board at such time as may be considered necessary and the Board shall, at the time of such audit, produce the account books and connected documents at such place as the Auditor-General may fix, and furnish such explanations and information as the Auditor-General or an officer authorised by him in this behalf may ask for.

(4) Where the Government has appointed an auditor under clause (3), the Government may, at any time issue directions, to the auditor requiring him to report to it upon the adequacy of measures taken by the Board for the protection of the interest of the Government and of the creditors of the Board or upon the sufficiency of the procedure in auditing the affairs of the Board, 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 auditor or any other person if, in its opinion, the interest of the Government so requires.

(5) Each Board shall produce all such accounts, books and connected documents and furnish such explanations and information as the Auditor-General or any officer authorised by him in this behalf or an auditor appointed under clause (3) may require at the time of audit.

(6) The Auditor-General or an auditor appointed under clause (3) shall submit an audit report to the Government in which he shall state whether, in his opinion, accounts of the Board are properly drawn up and, if he has called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(7) Each Board shall comply with any directive issued by the Government for the rectification of matters objected to in audit.

29. (1) Each Board shall furnish to the Government such returns, reports and statements as the Government may from time to time require.
- (2) Each Board shall, as soon as possible after the end of every financial year, furnish to the Government a statement of accounts audited by the Auditor-General or auditor under Article 28 together with an annual report giving therein a true and faithful account of its activity during that year and its proposal for the next ensuing financial year.
- (3) The copies of the audited accounts and annual report received by the Government under clause (2) shall be published in the official Gazette and shall be laid before the Legislature.
30. Each Board shall have power to realise its dues from any person under the Public Demands Recovery Act, 1913 (Ben. Act III of 1913).
31. No provision of law relating to the winding up of companies shall apply to a Board and a Board shall not be wound up save by order of the Government and in such manner as it may direct.
32. (1) Notwithstanding anything contained in any law, rule, regulation, agreement or contract for the time being in force, on the commencement of this Order,-
- (a) the East Pakistan Water and Power Development Authority, hereinafter referred to as the said Authority, established under the East Pakistan Water and Power Development Authority Ordinance, 1958 (E.P. Ord. No. I of 1959), shall stand dissolved;
- (b) the entire undertakings of the said Authority and all debts, liabilities and obligations of whatever kind of the said Authority subsisting immediately

before the commencement of this Order shall stand transferred to, and vest in,-

¹⁴[* * *]

(ii) the Power Board, so far as they relate to the power wing of the said Authority;

(c) all debts, liabilities and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for, the said Authority before the commencement of this Order shall be deemed to have been incurred, entered into, acquired or engaged to be done by, with or for,-

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(ii) the Power Board, so far as they relate to the undertakings transferred to that Board under that sub-clause;

(d) all suits and other legal proceedings instituted by or against the said Authority before the commencement of this Order shall be deemed to be suits and other legal proceedings by or against-

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(ii) the Power Board, so far as they relate to the undertakings transferred to that Board under that sub-clause;

(e) all officers, advisers, consultants and other employees of the said Authority shall stand transferred to, and shall be deemed to have been appointed or engaged by,-

¹⁷[* * *]

(ii) the Power Board, if they were appointed or engaged in the power wing of the said Authority; and

(f) the East Pakistan Water and Power Development Authority Ordinance, 1958 (E.P. Ord. No. I of 1959), shall stand repealed.

(2) The officers and other employees of the said Authority transferred to a Board under sub-clause (1) shall be deemed to be Government servants and shall serve under the Board on such terms and conditions as may be determined by the Government or, until so determined, on the same terms and conditions, subject to the provisions of this Order, as were applicable to them immediately before their transfer:

Provided that an officer or other employee directly appointed by the said Authority may, within such time as may be specified by the Government, exercise his option not to continue to serve under a Board.

(3) If any question arises as to whether any undertaking related to the water wing or the power wing, or whether any person was an officer, adviser, consultant or other employee of the water wing or the power wing, of the said Authority, immediately before the commencement of this Order, the question shall be referred to the Government whose decision shall be final and binding on the parties.

(4) Where any undertaking of the said Authority does not relate exclusively to its water wing or power wing or where such undertaking relates to both the wings of the said Authority, such undertaking shall be transferred to such Board, in such manner and to such extent as the Government may, by order, direct.

(5) Where any officer, adviser, consultant or other employee of the said Authority was not appointed or engaged exclusively in its water wing or power wing or was appointed or engaged for the purposes of both the wings or for the purposes of the said Authority as a whole, immediately before the commencement of this Order, he shall be transferred to such Board as the Government may, by order, direct.

(6) The Government may, for the purpose of removing any difficulty arising out of, or in connection with, the dissolution of the said Authority or in relation to the transfer and other matters specified in this Article, make such order as it considers expedient and any such order shall be deemed to be, and given effect to as, part of the provisions of this Order.

33. The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Order.

34. (1) Each Board may, with the previous approval of the Government, make regulations, not inconsistent with the provisions of this Order or the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Order.

(2) All regulations made under this Article shall be published in the official Gazette and shall come into force on such publications.

35. All rules and regulations made under the East Pakistan Water and Power Development Authority Ordinance, 1958 (E.P. Ord. No. I of 1959), and in force immediately before the repeal thereof shall, mutatis mutandis and so far as they are not inconsistent with the provisions of this Order, continue in force until repealed or altered by rules or regulations made under this Order.

¹ The words “a Water Development Board and” were omitted by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)।

² The words “Water and” were omitted by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)

³ The words “the Water Board or” were omitted by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)

⁴ Clause (k) was omitted by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)

- ⁵ The words “the Bangladesh Water Development Board and the other to be called” were omitted by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)
- ⁶ Article 3A was inserted by section 2 of the Bangladesh Water and Power Development Boards (Amendment) Ordinance, 1978 (Ordinance No. I of 1978)
- ⁷ Clauses (1) and (1A) were substituted by section 2 of the Bangladesh Water and Power Development Boards (Amendment) Act, 1990 (Act No. XXXIII of 1990)
- ⁸ Clause (1) was omitted by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)
- ⁹ Clause (5) was added by section 2 the Bangladesh Water and Power Development Boards (Amendment) Act, 2001 (Act No. XXV of 2001)
- ¹⁰ The colon (:) was substituted for the full-stop (.) and the proviso was inserted by section 3 the Bangladesh Water and Power Development Boards (Amendment) Act, 2001 (Act No. XXV of 2001)
- ¹¹ Sub-clause (f) was omitted by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)
- ¹² The words “subscribed share capital and” were inserted by section 3 of the Bangladesh Water and Power Development Boards (Amendment) Ordinance, 1978 (Ordinance No. I of 1978)
- ¹³ The words “the Water Board shall sell water and” were omitted by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)
- ¹⁴ Sub-clause (i) was omitted by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)
- ¹⁵ Sub-clause (i) was omitted by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)
- ¹⁶ Sub-clause (i) was omitted by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)
- ¹⁷ Sub-clause (i) was omitted by section 27 of the বাংলাদেশ পানি উন্নয়ন বোর্ড আইন, ২০০০ (২০০০ সনের ২৬ নং আইন)

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