

Act No.1 of 1995

An Act made to protect the environment, to improve the quality of the environment and to control and abate the pollution of the environment

Whereas it is expedient to provide for the protection of the environment, the improvement of the environmental standard and the control and abatement of the pollution of the environment;

Now, therefore, it is enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Bangladesh Environment Protection Act, 1995.

(2) This Act shall come into force on such date as the Government may, by notification in the official Gazette, appoint and it may come into force in different areas on different dates.

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

- a) "Department" means the Department of Environment constituted under section 3.
- b) "pollution" means such contamination, or alteration of the physical, chemical or biological properties of any air, water or soil, including change in temperature, taste, odour, consistency or any other characteristics of air, water or soil or such discharge of any liquid, gaseous, solid, radioactive or other substance into air, water, soil or any other constituents of the environment as will render such air, water or soil harmful, injurious or detrimental to public health or to domestic, commercial, industrial, agricultural, recreational or other uses, or to air, water, soil, wildstock, wild animals, bird, fish, plants or other forms of life;
- c) "occupier", in relation to any factory or compound, means a person who has control over the affairs of the factory or the premises and includes, in relation to any substance, the person in possession of the substance;
- d) "environment" means air, water, soil and physical properties and the inter-relationship which exists among and between them and human beings, other living beings, plants and micro organisms;
- e) "environmental pollutant" means any solid, liquid or gaseous substance likely to be, or tending to be, injurious to environment and shall also include heat, noise and radiation;
- f) "protection of environment" means the qualitative and quantitative improvement of the different components of the environment and prevention of the deterioration of qualitative and quantitative standards;
- g) "eco-system" means the interdependency and balanced complex conjugation of all components of the environment which furthers and influences the preservation and unfolding of plants and animals;
- h) "person" means any person or group of persons, and includes also any company, association or corporation, be it statutory or not;
- i) "handling", in relation to any substance, means the manufacture, processing, treatment, package, storage, transportation, collection, destruction, conversion, offering for sale, transfer or the like of such substance;
- j) "hazardous substance" means any substance the manufacture, storage, release and uncontrolled transportation of which is, by reason of its chemical and bio-chemical properties, liable to cause harm to the environment;
- k) "rule" means any rule made under this Act;
- l) "waste" means any liquid, gaseous, solid, radioactive substance which, if set free, dumped

or piled up, produces alterations liable to cause harm to the environment;

m) "Director General" means the Director General of the Department.

3. Department of Environment.- (1) The Government shall, for carrying out the purposes of this Act, establish a Department to be called the Department of Environment, the head of which shall be the Director General.

(2) The Director General shall be appointed by the Government and the terms and conditions of his service shall be determined by the Government.

(3) There shall be appointed such number of officers and employees as may be required for the functions of the Head Office to be properly performed in such manner and under such conditions as may be prescribed by rules.

4. Powers and duties of the Director General.- (1) Subject to the provisions of this Act, the Director General shall have the power to take all such measures as he deems necessary or expedient for the purpose of protecting the environment, improving the environmental standard and controlling and abating environmental pollution and may, for the purpose of discharging his duties under this Act, issue necessary directions in writing to any person.

(2) In particular, and without prejudice to the generality of the foregoing power, such measures may include measures with respect to all or any of the following matters, namely:-

a) co-ordination with the activities of any authority or institution in relation with the purposes of this Act;

b) prevention of accidents which may cause environmental deterioration or pollution, taking security measures and laying down, and giving directions relating to, remedial measures for such accidents;

c) giving advice or, as the case may be, directions to the persons concerned regarding the eco-friendly use, preservation, transport, import or export of hazardous substances or constituents thereof;

d) investigating and examining information etc. relating to the protection, improvement and pollution of the environment and rendering assistance in such work to any other authority or institution;

e) inspection of any places, premises, plants, machinery, manufacturing or other processes, materials or substances for the purpose of improving the environment and controlling and abating environmental pollution and giving of orders or directions to authorities or persons competent for the prevention, control and abatement of environmental pollution;

f) collection, publication and dissemination of information relating to environmental pollution;

g) giving advice to the Government for the avoidance of such manufacturing processes, matters and articles as may pollute the environment;

h) carrying out programmes for the surveillance of the quality of drinking water and making reports and giving advice or, as the case may be, directions to all persons concerned to maintain the standard of drinking water.

(3) Directions issued under this section may also include any matter relating to the closure, prohibition or regulation of any industry, operation or process and the person receiving such direction shall be bound to comply with such direction:

Provided that the General Manager shall, before the closure or prohibition of any industry, operation or process, give, by notice in writing, reasonable opportunity to the owner of such industry, operation or process to make its functioning environmentally compatible:

Provided further that where any apprehension arises that public life is being disturbed by reason of environmental pollution, the General Manager may, if he thinks necessary so to do,

immediately give such directions as may be required.

(4) The General Manager may determine the period within which the works specified in the directions issued under this section shall be carried out.

5. Declaration of ecologically critical areas.- (1) The Government may, if it is satisfied that the eco-system of any area has reached, or is likely to reach, a critical state, declare, by notification in the official Gazette, such area to be an ecologically critical area.

(2) The Government shall, in the notification issued under sub-section (1) or by separate notification, determine the operations or processes which shall not be continued or commenced in the ecologically critical area.

6. Restriction on the driving of vehicles producing smoke harmful to the environment.-

(1) There shall not be driven any vehicle producing smoke which is injurious to health or harmful to the environment.

(2) If the General Manager or any officer authorised by him in this behalf is satisfied that any moving vehicle emits smoke which is injurious to health or harmful to the environment, he may immediately stop and examine the vehicle and may give such directions in respect of anything relating to the examination of the vehicle as he thinks necessary.

7. Direct or indirect damage to the eco-system.- If it appears to the Director General that any particular activity is causing damage to the eco-system, whether directly or indirectly, he may, on appraisal of the damage, direct the person responsible for such activity to take remedial measures and such person shall be bound to comply with such direction;

8. Information of the Director General regarding environmental pollution or deterioration.-

(1) Any person damaged or apprehending to be damaged on account of environmental pollution or deterioration of the environment may, in such manner as may be prescribed by rules, apply to the Director General for remedying against the damage or apprehended damage.

(2) The Director General may adopt any measure including public hearing for settling an application made under this section.

9. Discharge of excess environmental pollutants etc. .- (1) Where the discharge of an environmental pollutant in excess of the limit prescribed by rule occurs or is likely to occur as a result of any accident or any other unforeseen act or event, the person responsible for such discharge or in charge of the place where such discharge occurs shall be bound to prevent or abate the environmental pollution occurred.

(2) The person mentioned in sub-section (1) shall without any delay inform the Director General about the occurrence of an event under the said sub-section or the apprehension of the occurrence of such event.

(3) On receipt of information about any event or accident under this section, the Director General shall, as fast as possible, take such remedial measures as are necessary for the control and abatement of the environmental pollution and the said person shall be bound to render to the Director General such assistance and co-operation as the Director General demands.

(4) The expenses incurred in respect of remedial measures for the control and abatement of environmental pollution under this Act shall be recoverable by the Director General from the said person as public demand.

10. Power of entry etc. .- (1) Subject to the provisions of this section, any person generally or specifically authorized in this behalf by the Director General shall be entitled to enter, at

all reasonable times, with such assistance as he considers necessary, any building or place for the following purposes, namely:-

- a) to perform duties conferred on him under this Act or rules;
- b) to inspect any activity in such building or place in accordance with this Act, the rules or any notice, order or direction issued thereunder;
- c) to examine or test any equipment, industrial plant, record, register or any other important matter relating thereto;
- d) to conduct a search of any building or place which the said person has reason to believe to have been the place of occurrence of any offence in contravention of any notice, order or direction issued under this Act or the rules;
- e) to seize any equipment, industrial plant, record, register, document or other matter which may serve as evidence of the commission of any offence punishable under this Act or the rules.

(2) Every person running any industry, operation or process or using any hazardous substance shall be bound to render all assistance and co-operation to the person empowered to discharge functions under this Act.

(3) The provisions of the Code of Criminal Procedure, 1988 (Act V of 1988) shall be applicable in respect of any search or seizure under this Act.

11. Power to collect samples etc..- (1) Every person authorized in this behalf by the Director General may, in such manner as may be prescribed by rules, collect from any factory, premises or place samples of air, water, soil or of any other substance for the purpose of analysis.

(2) The results of the analysis of samples collected under sub-section (1) shall not be admissible in evidence in any legal proceeding unless the provisions of the sub-sections (3) and (4) have been complied with.

(3) Subject to the provisions of sub-section (4), the officer collecting a sample under sub-section (1) shall-

- a) serve notice on the occupier or agent of the said place, in such manner as may be prescribed by rules, of his intention to collect such sample;
- b) collect the sample in the presence of the said occupier or agent;
- c) put the sample into a container and affix on it a seal bearing the signatures of himself and of the occupier or agent;
- d) prepare a report of the sample collected and sign it himself and take the signature of the occupier or agent;
- e) send without any delay, the said container to the laboratory specified by the Director General.

(4) Where a sample is collected under sub-section (1) and a notice is served by the collecting officer under clause a) of sub-section (3), the collecting officer shall, if the occupier or agent wilfully absents himself at the time of the collection of the sample or, though being present, refuses to sign the sample or report, in the presence of two witnesses, give his signature and attest and seal it and shall send it without any delay to the laboratory specified by the Director General, mentioning that the occupier or agent had not been present or, as the case may be, refused to give his signature.

12. Environmental clearance.- No industrial enterprise shall be established nor any industrial project undertaken anywhere without obtaining, in such manner as may be

prescribed by rules, a clearance from the Director General:

Provided that nothing contained in this section shall be applicable in the case of an industrial enterprise or project of a class the Government may, from time to time, specify in this behalf.

13. Framing of environmental guide-lines.- The Government may, from time to time, by notification in the official Gazette, frame and issue environmental guide-lines for the control and abatement of environmental pollution and the protection and improvement of the environment.

14. Appeal.- (1) Any person aggrieved by any notice, order or direction passed in accordance with this Act or the rules may, within thirty days after such notice, order or direction has been passed, prefer an appeal against such notice, order or direction to the appellate authority constituted by the Government and the decision taken by the said authority on the appeal shall be final and no suit shall be filed at any court against such decision:

Provided that the appellate authority may, if satisfied that, for unavoidable reasons, the aggrieved person could not file the appeal within the said period, extend the period for filing an appeal for a further period of no more than thirty days.

(2) The appellate authority constituted under sub-section (1) shall consist of one or more members:

Provided that, if an appellate authority consists of more than one member, the Government shall appoint one of its members as Chairman.

(3) Appeals filed under this Act shall be decided within three months from the date on which they had been filed.

15. Punishments.- (1) Whoever contravenes (any of the) provisions of this Act or the rules or fails to perform his duties in accordance with the notices issued under this Act or the rules or fails to comply with any order or direction issued under this Act or the rules shall, in respect of such contravention or failure, be punishable with imprisonment for a term which may extend to five years or with a fine which may extend to one lakh Takas, or with both.

(2) Every person carrying on any industry, activity or process or using any hazardous substance who, without reasonable cause or excuse, fails to render assistance to, or wilfully delays or prevents the discharge of the duties of, any person authorized by the Director General to perform functions under this Act shall be punishable with the punishments mentioned in sub-section (1).

16. Offences by companies.- (1) Where the person contravening any provision under this Act or failing to perform his duties in accordance with the notices issued under this Act or the rules, or failing to comply with the orders or directions issued under this Act or the rules, is a company, the owner, director, manager, secretary or any other officer or agent of such company shall be deemed to have contravened the provision or to have failed to perform his duties in accordance with the notices or to have failed to comply with the orders or directions, unless he can prove that such contravention or, as the case may be, failure occurred without his knowledge or that he exercised all due diligence to prevent such contravention or failure.

Explanation: In this section-

a) "company" shall (also) include any statutory government authority, commercial establishment and association or organisation;

b) "Director", in relation to commercial establishments, shall also include a partner or a member of the Board of Directors.

17. Cognizance of offence.- No court shall take cognizance of any offence under this Act except on a complaint in writing made by any person authorised in this behalf by the Director General.

18. Actions taken in good faith.- No civil or criminal suit or other legal proceeding shall lie against the Government, the Director General, any officer or employee of the Department or any other person for anything which injures or is likely to injure any person as a result of any action done in good faith under this Act or the rules.

19. Delegation of power.- (1) The Government may delegate any of its powers under this Act or the rules to the Director General or any other officer.

(2) The Director General may delegate any of his powers under this Act or the rules to any officer of the Department.

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

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

a) determination of the standards of quality of air, water, noise and other constituents of the environment including soil for various areas and purposes:

Provided that the Government may, by notification in the official Gazette, suspend, individually or collectively, the said standards for a fixed period in respect of industries or projects existing at the time of the commencement of this Act.

b) regulation of the establishment of industrial plants and of other development activities in the interest of protecting the environment;

c) ascertainment of safe procedures for the use, storage and transport of hazardous substances;

d) laying down safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

e) determination of the standards for the discharge and emission of waste;

f) the manner in which to ascertain, examine and approve the environmental impact of various projects and activities;

g) the manner in which to protect the environment and the eco-system;

h) settlement of fees for clearance and other services.

21. Repeal and savings.- (1) The Environment Pollution Control Ordinance, 1977 (Act XIII of 1977) stands hereby repealed.

(2) Notwithstanding such repeal, any action done or measure taken under the repealed Ordinance shall, notwithstanding anything contained in this Act, be deemed to have been done or taken in accordance with the provisions of this Act.

(3) The Department of Environment existing immediately before the commencement of this Act shall be deemed to have been constituted under section 3 and the Director General and other officers and employees engaged in the said Department shall be deemed to be Director General, officers and employees appointed under this Act.