

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

রবিবার, ডিসেম্বর ২৯, ২০১৩

Government of the People's Republic of Bangladesh
Ministry of Law, Justice and Parliamentary Affairs
Legislative and Parliamentary Affairs Division

NOTIFICATION

Dated the 06 November, 2013

S.R.O.No.348-Law/2013—In exercise of the powers conferred by section 46 of the Bangladesh Water Act, 2013, the Government is pleased to publish the following English translation of the Act to be called the Authentic English Text of the Act, and it shall be effective from the date on which the Act comes into force under sub-sections (2) and (3) of section 1 of the Act:

BANGLADESH WATER ACT, 2013

(ACT NO.14 OF 2013)

An Act to make provisions for integrated development, management, abstraction, distribution, use, protection and conservation of water resources.

WHEREAS it is expedient and necessary to make provisions for the integrated development, management, abstraction, distribution, use, protection and conservation, of water resources;

THEREFORE it is hereby enacted as follows:-

CHAPTER I

PRELIMINARY

1. Short title, commencement and application.—(1) This Act may be called the Bangladesh Water Act, 2013.

(১৪২৭৭)

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(2) This Act shall come into force on such date as the Government may, by notification in the official Gazette, appoint, and different dates may be appointed for different sections of this Act.

(3) This Act shall be applicable for such areas as the Government may, by notification in the official Gazette, specify and different areas may be specified for different sections of the Act.

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

- (1) “appropriate authority” means any organization or authority, established or formed under any law or any instrument having the force of law, and involved in extracting water, distributing water, rendering service of water, or protecting or conserving any water resources;
- (2) “khal” means any passage of inflow and outflow of water;
- (3) “clearance certificate” means any certificate issued by the Executive Committee under section 16;
- (4) “water course” means flow of water from any water source;
- (5) “water source” means any natural or manmade river, canal, beel, haor, baor, pond, lake, water-fall or any other similar water source;
- (6) “wetland” means any land where water remains at the level of surface or close to it and which inundates with shallow water from time to time, and where grows such plants that may usually grow and survive in marsh land;
- (7) “National Water Policy” means any national water policy adopted as such by the Government from time to time;
- (8) “National Water Resources Plan” means the water resources plan approved by the Council under section 15;
- (9) “Executive Committee” means the committee constituted under section 9;
- (10) “control” shall also include imposing ban, restrictions, and conditions;
- (11) “inspector” means any officer or employee authorized as such under section 14;
- (12) “Council” means the National Water Resources Council constituted under section 4;
- (13) “water” means any water mentioned in sub-section (1) of section 3;

- (14) "water resources" means any surface water, ground water and rain water, i.e. water in the atmosphere; and shall also include water of estuary, aquifer, flood-plain, wetland, water source, foreshore, coast, and any other similar reservoirs or places;
- (15) "Water Resource Development Project" means any activity, program or initiative taken for the development of any water resources, such as: any hydraulic infrastructure for irrigation, flood control management and drainage, protection of river bank, dredging or any other similar activity, program or initiative;
- (16) "Water Resources Planning Organization" means the Water Resources Planning Organization established under Water Resources Planning Act, 1992 (Act No. 12 of 1992);
- (17) "Water Stress Area" means any area declared as such under section 17;
- (18) "aquifer" means a layer lying in-between the saturated soil or rock layer beneath the ground surface which can store and transmit water and from where water can be pumped;
- (19) "compliance order" means any order issued under section 12;
- (20) "foreshore" means any part of land lying in-between the low water mark and high water mark during ordinary spring tide of a year, and in the case of river or sea port area as defined in Ports Act, 1908 (Act No. XV of 1908), any part of land thereof which is 50 meters extended from the highest level of water to river bank, and in the case of areas other than river or sea port, any part of land thereof which is 10 meters extended from the highest level of water;
- (21) "Code of Criminal Procedure" means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (22) "baor" means any kind of ox-bow shaped lake where water course has become stagnant in course of time;
- (23) "embankment" means any dam, wall, dyke, protection dam or any other similar embankment made of earth or similar elements;
- (24) "beel" means any natural low land or round area which gets inundated by rain water or river water, and which remains inundated over the year or partially or entirely remains dry for a certain period of a year;
- (25) "person" means any natural person, and shall also include any institution, company, association, partnership, firm or statutory institution or any other similar organization;
- (26) "ground water" means any water underneath the soil which flows through aquifers and is abstractable onto the surface by natural or artificial process;

- (27) "surface water" means any water on the surface of water source;
- (28) "land" means any land as defined under section 2(16) of the State Acquisition and Tenancy Act, 1950 (EB Act No. XXVIII of 1950);
- (29) "Director General" means the Director General of Water Resources Planning Organization;
- (30) "estuary" means a water course which constantly and periodically flows from land towards sea and mixes with sea water, the extent of which is assessable;
- (31) "Government" means, for the purposes of this Act, the Ministry of Water Resources;
- (32) "conservation" includes the increase in efficacy of, decrease in misuse of, and damage to, preservation and protection of, any water resources;
- (33) "protection" means imposition of ban and restrictions or conditions for the conservation of any water Resources;
- (34) "protection order" means any order issued under section 27; and
- (35) "haor" means any saucer shaped large shallow depression created naturally in-between two separate rivers.

3. Right to water and use thereof.—(1) Notwithstanding anything contained contrary in any other law for the time being in force, all rights over the following water within the state territory shall, on behalf of the people, vest upon the State:—

- (a) surface water;
- (b) ground water;
- (c) sea water;
- (d) rain water; and
- (e) water in the atmosphere.

(2) Subject to the provisions of this Act, right to potable water, and to water for hygiene and sanitation shall be treated as the highest priority right.

(3) Notwithstanding anything contained in sub-section (1), all rights over the surface water on any private land shall remain with the owner of such land. and such rights to use the water shall, subject to the provisions of this Act. be continued to be enjoyed:

Provided that the Executive Committee may, for preventing the wastage and misuse of water, and for protection and conservation thereof, issue a protection order to the owner of such private land without discrimination.

(4) Nothing of sub-section (1) shall prevent any person from using any water allowed earlier under any Act, rule or regulation, or any custom or ritual having the force of law, or any accord, license or permit that were in force prior to the commencement of this Act; and such use thereof shall remain uninterrupted until it is restricted or prohibited or controlled on or cancelled under this Act:

Provided that, right to such use of water shall not be transferable except the permission of the appropriate authority.

(5) For the convenience of the use of water under sub-section (3), every individual shall have easement on any public or private land:

Provided that, no owner of the land near to the bank of any water source shall have any right to its bottom, and foreshore.

CHAPTER II

NATIONAL WATER RESOURCES COUNCIL AND ITS POWERS AND FUNCTIONS

4. National Water Resources Council.—(1) For the purposes of this Act, there shall be a council to be called the 'National Water Resources Council', and the Government may, as soon as possible, after the commencement of this Act, by notification in the official *Gazette*, constitute the Council comprising the following members, namely:-

- (a) the Prime Minister, who shall also be the Chairperson of the Council;
- (b) Minister, Ministry of Finance;
- (c) Minister, Ministry of Agriculture;
- (d) Minister, Ministry of Planning;
- (e) Minister, Ministry of Local Government, Rural Development and Cooperatives;
- (f) Minister, Ministry of Law, Justice and Parliament Affairs;
- (g) Minister, Ministry of Land;
- (h) Minister, Ministry of Water Resources;
- (i) Minister, Ministry of Foreign Affairs;
- (j) Minister, Ministry of Fisheries and Livestock;
- (k) Minister, Ministry of Shipping & Inland Water Transport;
- (l) Minister, Ministry of Environment and Forest;
- (m) State Minister, Ministry of Water Resources (if any);

- (n) Chairman, Standing Committee for the Ministry of Water Resources;
- (o) Cabinet Secretary;
- (p) Principal Secretary, Prime Minister's Office;
- (q) one member of Parliament from each of the administrative Divisions, to be nominated by the Prime Minister;
- (r) Senior Secretary or Secretary, Ministry of Land;
- (s) Senior Secretary or Secretary, Economic Relation Division;
- (t) Senior Secretary or Secretary, Ministry of Fisheries and Livestock;
- (u) Senior Secretary or Secretary, Ministry of Agriculture;
- (v) Senior Secretary or Secretary, Ministry of Environment and Forest;
- (w) Senior Secretary or Secretary, Local Government Division;
- (x) Senior Secretary or Secretary, Ministry of Foreign Affairs;
- (y) Senior Secretary or Secretary, Legislative and Parliament Affairs Division;
- (z) Member, Agriculture, Water Resources and Rural Development Division of Planning Commission;
- (aa) Director General, Bangladesh Water Development Board;
- (bb) Director General, Water Resources Planning Organization;
- (cc) Member, Joint River Commission;
- (dd) President, Institute of Engineers, Bangladesh;
- (ee) President, Institute of Diploma Engineers, Bangladesh;
- (ff) three Water Resource Experts to be nominated by the Prime Minister;
- (gg) one representative from Non-government Organizations (NGO), to be nominated by the Prime Minister; and
- (hh) Senior Secretary or Secretary, Ministry of Water Resources, who shall also be the Member-secretary of the Council.

(2) The tenure of the nominated members of the Council shall be 2 (two) years, but any nominated member may, at any time before the completion of such tenure, resign his post writing under his hand addressing to the Prime Minister, and the post shall fall vacant from the day of acceptance of the resignation letter by the Prime Minister.

(3) The Government may, if necessary, by notification in the official *Gazette*, increase or decrease the number of Members of the Council.

5. Functions of the Council.—For the purposes of this Act and subject to its provisions, the Council shall be the highest decision making body, and in this behalf, the Council shall have the following functions, namely:-

- (a) to make policies, and give instructions for integrated development of, proper use of, safe abstraction of, proper distribution of, proper protection of, and proper conservation of, water resources;
- (b) to give instructions in respect of making National Water Resources Plan, for ensuring integrated development of water Resources;
- (c) to approve the National Water Resources Plan, and ensure implementation thereof; and
- (d) to perform such other functions as may be determined by the Council.

6. Meeting of the Council.—(1) The Council shall, subject to the provision of sub-section (2), determine the working procedure of its own meeting.

(2) The Member-secretary of the Council shall convene every meeting of the Council at such venue and on such time as may be determined by the Chairperson.

(3) The meetings of the Council shall be presided over by the Chairperson or in his absence, the senior most member of the Council.

(4) No act or proceedings of the Council shall be invalid or called in question, merely on the ground of any vacancy in the office of any member or any defect in the constitution of the Council.

7. Exchange of international and regional Cooperation.—(1) Subject to the provisions of this Act and of any other law for the time being in force, the Council may, for giving full effect to the cooperation mentioned under sub-section (2), give advice to the Government to enter into any memorandum of understanding, agreement, convention, treaty or any other similar instrument with any foreign country, government, or international or regional organization.

(2) The Government may, in consultation with the Council, exchange any of the following cooperation with any foreign country, government, international or regional organization, namely:-

- (a) to exchange and assess any information and data in respect of common water resources;
- (b) to undertake joint survey, study, and research on international rivers, and joint measures for preventing chemical and organic pollution thereof;
- (c) to take measures for the development of water resources, and for the abstraction and distribution of water of international river; or
- (d) to organize educational and training program on water resources.

8. Power to adopt National Water Policy.—(1) The Government may, from time to time, subject to the provision of sub-section (2), by notification in the official *Gazette*, adopt a National Water Policy.

(2) The Government may, in order to formulate National Water Policy mentioned in sub-section (1), make arrangement for public hearing in the manner prescribed by rules, to take opinions of the communities and organizations concerned with water resources, and shall, by taking due consideration of the opinions received in public hearing, finalize the National Water Policy.

(3) In the National Water Policy, the Government may include the policies of pricing of water to be determined by the appropriate authorities, and in doing so, the Government shall, along with other relevant issues, consider the following issues, namely:-

- (a) purpose, and sectors of water use;
- (b) affordability of the water users;
- (c) actual cost of water abstraction and distribution;
- (d) financial ability and backwardness of water users or any group thereof;
- (e) demand and supply of water; and
- (f) any other issues considered relevant by the Government.

(4) Until a National Water Policy is adopted under sub-section (1), the National Water Policy, which was adopted by the Government immediately before the commencement of this Act, shall remain in force subject to being consistent with the provisions of this Act.

CHAPTER III

EXECUTIVE COMMITTEE AND ITS DUTIES, RESPONSIBILITIES AND POWERS

9. Executive Committee.—There shall be an Executive Committee of the Council for the efficient performance of its functions, and the Executive Committee shall consist of the following members, namely:-

- (a) Minister, Ministry of Water Resources, who shall also be its Chairperson;
- (b) Minister, Ministry of Local Government, Rural Development and Cooperatives;
- (c) Minister, Ministry of Agriculture;
- (d) Minister, Ministry of Environment and Forest;
- (e) Minister, Ministry of Fisheries and Livestock;

- (f) Minister, Ministry of Land;
- (g) State Minister, Ministry of Water Resources (If any);
- (h) Member, Agriculture, Water Resources and Rural Development Division of Planning Commission;
- (i) Senior Secretary or Secretary, Ministry of Agriculture;
- (j) Senior Secretary or Secretary, Local Government Division;
- (k) Senior Secretary or Secretary, Legislative and Parliament Affairs Division;
- (l) Senior Secretary or Secretary, Ministry of Water Resources;
- (m) Senior Secretary or Secretary, Ministry of Fisheries and Livestock;
- (n) Senior Secretary or Secretary, Ministry of Environment and Forest;
- (o) Senior Secretary or Secretary, Ministry of Land;
- (p) Director General, Directorate of Environment;
- (q) Director General, Bangladesh Water Development Board;
- (r) Chief Engineer, Local Government Engineering Department;
- (s) Chief Engineer, Department of Public Health Engineering;
- (t) Member, Joint River Commission;
- (u) two Water Resource Experts to be nominated by the Government;
- (v) one representative from Non-government Organization (NGO), to be nominated by the Government; and
- (w) Director General, Water Resources Planning Organization, who shall also be its Member-secretary.

10. Duties and responsibilities of the Executive Committee.—The Executive Committee shall have the following duties and responsibilities, namely:-

- (a) to publish, circulate, monitor and evaluate the instructions issued, recommendations made, by the Council on water resources;
- (b) to publicize, monitor and evaluate the National Water Policy and the National Water Resources Plan;
- (c) to take initiatives with regard to any planning, management of and inter-sector coordination on water resources;
- (d) to keep the Council periodically informed with regard to the issues on water resource management, and give advice thereto;
- (e) to coordinate among the appropriate authorities, to formulate policies regarding inter-sector disputes, and to resolve the disputes thereof and to issue instructions, if necessary; and
- (f) to perform such other duty as may be assigned to it by the Council.

11. Meeting of the Executive Committee.—(1) The Executive Committee may, subject to the provisions of this section, determine the working procedure of its own meeting.

(2) The Member-secretary of the Committee shall, with the consent of the Chairperson of the Committee, convene every meeting of the Committee, and the meeting shall be held at such venue and on such time as may be determined by the Chairperson.

(3) The Chairperson of the Executive Committee shall preside over its meetings.

(4) No act or proceeding of the Executive Committee shall be invalid or called in question, merely on the ground of any vacancy in the office of any member, or any defect in the constitution of the Committee.

12. Power to issue compliance order.—(1) On the basis of the result of enquiry, scrutiny or survey, if it appears to the Executive Committee that any person or appropriate authority is not complying with, or is violating or attempts to violate any provision of sections 18, 19, 20, 21, 22, 24 and 26, or of any clearance certificate, or of any prohibition or condition of any protection order, the Executive Committee or any officer authorized by it in this behalf, may, notwithstanding anything contained contrary in any other law for the time being in force, issue a compliance order to such person or appropriate authority, for complying with such provisions, or the prohibitions and conditions of the protection order, or the conditions of the clearance certificate within the time specified in the order.

(2) The Executive Committee or any officer authorized by it in this behalf shall, subject to the provisions of section 42, serve the compliance order issued under sub-section (1) in the manner prescribed by rules.

(3) If any appropriate authority (not being an individual) does not comply, in conformity with the compliance order, with any provision of this Act, or any prohibition and condition of the protection order, or any condition of the clearance certificate, the Executive Committee, instead of lodging any judicial process or imposing any compensation under section 29, may, notwithstanding anything contained contrary in any other provisions of this Act, call for the Head of such authority to explain the reasons of not complying with such provisions and conditions, and if such reason is not satisfactory, it may, identifying the person liable thereof, recommend the Council to take necessary action against such person.

(4) The compliance order shall, among other things, contain the following matters, namely:-

- (a) full identity, with name and address, of the person violating the provisions or conditions;
- (b) reference of the provisions or conditions violated;
- (c) time-limits of compliance; and
- (d) any other necessary matters specified by the Executive Committee.

(5) The compliance order shall also contain that, unless there is any reason, abidance of the compliance order is mandatory and non-compliance thereof is an offence punishable with imprisonment, and with compensation.

(6) Before issuing a compliance order, the Executive Committee or any officer authorized by it in this behalf shall give the concerned person or authority a reasonable opportunity of being heard in the manner prescribed by rules, and shall, at the time of taking decision, consider the views received during such hearing.

(7) The issuance of the compliance order may, by general notification, be published and publicized in the electronic and print media in the manner prescribed by rules.

13. Power to issue removal order.—(1) In violation of any provision of this Act or of any prohibition and condition of any protection order or of any clearance certificate, if any person or appropriate authority makes any construction or carries on land filling activities on water resources which creates impediments in the normal water course or changes the direction of such water course; the Executive Committee or any officer authorized by it in this behalf, notwithstanding anything contained contrary in any other law for the time being in force, may, to keep such water course natural, issue a removal order to such person or authority for removing the infrastructure, or land filling materials or elements thereof, within the time specified in such order.

(2) The Executive Committee or any officer authorized by it in this behalf shall, subject to the provisions of section 42, serve the removal order under subsection (1) in the manner prescribed by rules.

(3) Before issuing a removal order, the Executive Committee or any officer authorized by it in this behalf shall, in such manner as may be prescribed by rules, give the concerned person or authority a reasonable opportunity of being heard, and shall, at the time of taking decision, consider the views received during such hearing.

(4) Within the time specified in the removal order, if the infrastructure is not removed or land filling activities is not stopped without any reasonable ground, the Executive Committee or any officer authorized by it in this behalf, notwithstanding anything contained contrary in any other law for the time being in force, may, to keep the water course natural, remove, by serving a notice in the manner prescribed by rules, such infrastructure or land filling materials from the water source, and may, subject to the provision of section 43, realize all the costs incurred for such removal of infrastructure or land filling materials from the person liable for making such infrastructure or carrying on land filling activities.

(5) The removal order shall, among other things, contain the following matters, namely:-

- (a) full identity, with name and address, of the person making the infrastructure or carrying on land filling activities;
- (b) description of the illegal infrastructure or land filling activities;
- (c) time-limits of removal; and
- (d) any other matters to be specified by the Executive Committee.

(6) Before taking measures for removal, the actual cost for such removal of the illegal construction or land filling materials shall be fixed after considering the views of the person liable for such illegal construction or land filling activities.

(7) The issuance of the removal order may, by general notification, be published and publicized in the electronic and print media in the manner prescribed by rules.

14. Secretarial support from the Director General and delegation of power to inspectors.—(1) For efficient functioning of the Executive Committee, the Director General shall provide all administrative and secretarial support to it.

(2) For the purposes of this Act, the Director General shall have the following duties, namely:-

- (a) to implement and apply the policies and strategies adopted by the Council and the Executive Committee;
- (b) to prepare all kinds of proposals for placing before the meeting of the Council and the Executive Committee as per the directions thereof;
- (c) to pay visit to any site or project area for inspection;
- (d) to take necessary steps to build public awareness with regard to this Act; and
- (e) to perform such other duties as may be assigned to him by the Council and the Executive Committee, from time to time.

(3) For the purposes of this Act, the Director General may delegate any of his duties mentioned in clause (c) of sub-section (2) to any officer or employee of the Water Resources Planning Organization or of any other organization, and the officer or employee so authorized shall be called the inspector for the purpose of this Act.

(4) The inspector shall, with respect to any irregularity, defect or violation of any order found during inspection made under sub-section (3), submit a report thereof to the Director General or any officer authorized by him in this behalf.

CHAPTER IV

CONTROL ON WATER RESOURCES DEVELOPMENT AND MANAGEMENT

15. Approval of National Water Resources Plan.—(1) As soon as possible, after the commencement of this Act, the Water Resources Planning Organization shall, through the Executive Committee, place for approval before the Council a draft of the National Water Resources Plan prepared in accordance with the Water Resources Planning Act, 1992 (Act No. XII of 1992).

(2) In addition to the matters mentioned in the Water Resources Planning Act, 1992 (Act No. XII of 1992), the National Water Resources Plan shall contain the following matters, namely:-

- (a) description of water resources with present geographical location and mouza map;
- (b) analysis of economic, natural, social, political, environmental, and ecological and institutional elements, characteristics, and impacts of water resources;
- (c) scientific analysis of all data and information on water resources;
- (d) development of overall planning, infrastructure for abstraction, distribution, use, protection and conservation of water resources, and formulation of instructions thereof for short, medium and long term;
- (e) coordination with concerned Ministries, Divisions and organizations involved in the management of water resources;
- (f) present and future use of water resources;
- (g) integrated use of surface and ground water emphasizing the highest possible use of rain water;
- (h) assessment of availability of water;
- (i) determination of water quality standard;
- (j) basin-wise development plan; and
- (k) fixation of priority of water use.

(3) Before submitting a National Water Resources Plan to the Council for approval under sub-section (1), the Executive Committee shall, through inter-ministerial discussion and exchange of views, make sure that such plan is appropriate and consistent with this Act, and with the National Water Policy.

(4) The Executive Committee shall, after taking necessary measures under sub-section (3), pre-publish a draft of the plan in the official *Gazette* for eliciting public opinion, and shall also take necessary steps for extensive publicity thereof through digital, electronic and print media.

(5) Any person may, within 90 (Ninety) days from the date of pre-publication of the draft in the official *Gazette* under sub-section (4), submit or send any remark or suggestion on the National Water Resources Plan to the Executive Committee or to any officer or organization authorized in this behalf by it, in writing or through digital or any other means.

(6) The Executive Committee shall, upon analysis and consideration of the remarks and suggestions, if any, received under sub-section (5), recast the National Water Resources Plan, and shall place it before the Council for approval.

(7) The Council may, after having been satisfied with the rationales of the plan upon discussion in its meeting, approve it or make necessary changes in it or direct the Executive Committee to make necessary changes therein.

(8) Upon approval by the Council, the Executive Committee shall publish the National Water Resources Plan in the official *Gazette*, and upload a copy thereof in the website of the Ministry of Water Resources.

(9) Until National Water Resources Plan is adopted under sub-section (7), the National Water Management Plan made by the Water Resources Planning Organization immediately before the commencement of this Act, shall, subject to being consistent with this Act and with the National Water Policy, continue to have effect, mutatis mutandis.

(10) The Executive Committee shall send a copy of the finalized National Water Resources Plan to all the organizations or appropriate authorities or local government institutions that are involved in undertaking, making or implementing Water Resource Development Project, and request them to undertake or implement such project, in furtherance of this Act, and of the National Water Policy, and to remain within the limits of the National Water Resources Plan.

(11) The request-letter made under sub-section (10) shall also contain among other contents that compliance with the provisions of this Act, or with the condition of a clearance certificate, or with the prohibition and condition of a protection order is mandatory, and non-compliance thereof without any reasonable ground is an offence punishable with imprisonment, and with compensation.

(12) On finalization of the National Water Resources Plan under this Act, it shall create a binding obligation upon all the organizations or appropriate authorities or local government institutions to undertake, make or implement Water Resource Development Projects in accordance with the National Water Resources Plan.

Explanation: In this section, “basin” means the region across which water course created out of rain, ice or snow, flows and falls into any water source.

16. Issuance of clearance certificate on Water Resource Development

Projects.—(1) Notwithstanding anything contained contrary in any other law for the time being in force, all organizations or appropriate authorities or local government institutions that are involved in undertaking, making or implementing a Water Resource Development Project shall, for ensuring the consistency of such project with the National Water Resources Plan, require to submit, in such manner and on such condition as may be prescribed by rules, an application to the Executive Committee, prior to initiating such project.

(2) After receiving an application under sub-section (1), the Executive Committee shall, examining the application and relevant project documents, make sure as to the consistency of the project with the National Water Resources Plan, and shall, after granting the application, issue a clearance certificate in such manner and on such condition as may be prescribed by rules, or if the application is rejected, shall inform the reason thereof.

(3) If any organization or appropriate authority or local government institution, that is involved in undertaking, making or implementing any Water Resource Development Project, violates any condition of the clearance certificate or of any provision of this Act; the Executive Committee may, after having been sure about such violation by making necessary enquiry and by giving the concerned person a reasonable opportunity of being heard in the manner prescribed by rules, withdraw the clearance certificate issued in favor of such project, and may publish and publicize the fact of such withdrawal widely in the print and electronic media.

CHAPTER V

CONTROL ON WATER USE AND PROTECTION AND CONSERVATION OF WATER RESOURCES

17. Declaration of Water Stress Area and management thereof.—(1) To protect any water source or any aquifer, the Government may, on the recommendation of the Executive Committee made upon the results of necessary enquiry or scrutiny or survey, declare, by notification in the official Gazette, any area or any part thereof or any land connected thereto with such water resources as Water Stress Area for a period specified therein.

(2) In the notification issued under sub-section (1), the boundary of the Water Stress Area shall be specified by referring the mouza map and plot numbers thereof.

(3) For efficient management of the Water Stress Area, the Executive Committee may, subject to the provisions of this Act, impose restrictions by issuing a protection order.

18. Preferential use of water in the Water Stress Area and exemption thereof.—(1) Notwithstanding anything contained contrary in any other law for the time being in force, abstraction and use of water from any Water Stress Area shall, subject to the availability of water therein, be made in accordance with the following order for the national interest and the interest of the local communities, namely:-

- (a) use of water as potable;
- (b) use of water in household;
- (c) use of water in agriculture;
- (d) use of water in aquaculture;
- (e) use of water for balancing eco-system;
- (f) use of water for wild life;
- (g) use of water for natural river flow;
- (h) use of water in industry;
- (i) use of water for salinity control;
- (j) use of water for power generation;
- (k) use of water for amusement; and
- (l) use of water for other purposes.

(2) Depending on the socio-economic condition, and on the opinion of the general people, the Executive Committee may, by a notification in the official *Gazette*, change the order made in sub-section (1).

(3) For the purposes of this section, availability of water in the Water Stress Area shall, by issuing a public notice in digital, print and electronic media, be widely published and publicized among the general people in the manner prescribed by rules.

19. Fixing the lowest safe yield level of aquifer and restrictions on abstracting ground water.—(1) Notwithstanding anything contained contrary in any other law for the time being in force, the Executive Committee, on the basis of the results of necessary enquiry, scrutiny or survey, may, by notification in the official *Gazette*, fix the lowest safe yield level of any aquifer of any area.

(2) The boundary of the area, to which lowest safe yield level applies, shall be specified in the notification issued under sub-section (1) by referring the mouza map and plot numbers thereof.

(3) Any person or appropriate authority may, subject to the lowest safe yield level, and the provisions of this Act or any other law for the time being in force, sink shallow or deep tube-well, in the manner prescribed by rules, into the ground for abstracting ground water.

(4) To ensure safe abstraction of water from aquifers, the Executive Committee may, subject to the provisions of this Act, impose restrictions by issuing a protection order.

Explanation: In this section “safe yield level” means the amount of abstraction of water that keeps the aquifer safe and protective.

20. Ensuring normal flow of water course.—(1) No person or organization shall, without the permission of appropriate authority, stop natural flow of any water course or create obstacles to such flow or divert or attempt to divert the direction of any water course by constructing any structure, whether it is on the bank or not, of any water source, or by filling any water source or by extracting sand or mud from any water source:

Provided that for the interest of the development of a water source or of the prevention of erosion of bank thereof, any kind of structure on such water source may be constructed, or any water source may be fully or partly filled, on the basis of the result of necessary survey and with the permission of appropriate authority:

Provided further that, without prejudice to the generality of section 21, any flood control embankment may, with the permission of the appropriate authority, be built in a water source to save the people and their properties from natural flood.

(2) For keeping flow of water course normal, the Executive Committee may, subject to the provisions of this Act, impose any restriction by issuing a protection order.

21. Protection of flood control embankment.—(1) To ensure the sustainability of the flood control embankment, no person shall, without the permission of the appropriate authority, be allowed to construct any house, establishment or any other structure on, or on the slope of such embankment.

(2) Notwithstanding anything contained in sub-section (1), to make the flood control embankment strong and to materialize the tree plantation program of the government, suitable trees may, subject to the existing guidelines, be planted alongside the embankment in a well organized and planned manner.

(3) Notwithstanding anything contained in sub-section (1), a flood control embankment may, with the permission of appropriate authority, be used as a street or road for the best use of land thereof.

(4) In violation of the provision of sub-section (1), if any person, without the permission of appropriate authority, constructs any house, establishment or other structure on flood control embankment, the Executive Committee may, Notwithstanding anything contained in any other law for the time being in force, issue a removal order in the manner prescribed by rules.

(5) To ensure the sustainability of the flood control embankment, the Executive Committee may, subject to the provisions of this Act, impose any restrictions by issuing a protection order.

22. Conservation of water source and management thereof.—(1) Notwithstanding anything contained contrary in any other law for the time being in force, if it appears to the Executive Committee from the results of any enquiry, scrutiny or survey:—

- (a) that it is an urgent necessity to conserve the water of a dighi, pond, or any other similar water source as a source of potable water due to severe scarcity of such potable water for any natural or other reason; or
- (b) that it is an urgent necessity to conserve a haor, baor or any other similar water source for seasonal birds to stay or to move safely and to keep their sanctuary safe;

the Executive Committee may, by demarcating the boundary of the water source, issue a protection order to the owner or appropriate authority for the conservation of such water source as a source of potable water.

(2) In the order issued under sub-section (1), the boundary of the water source shall be specified by referring the mouza map and plot numbers thereof.

(3) The Executive Committee may, subject to the provisions of this Act, impose any restriction by issuing a protection order for ensuring the proper management of the water source.

23. Water zone demarcation and management thereof.—(1) Depending upon the results of necessary enquiry, the Executive Committee may, in consultation and coordination with relevant Ministries, Divisions, and organizations, demarcate, by notification in the official Gazette, any area into the following water zones, namely:—

- (a) industrial water zone;
- (b) agricultural water zone;
- (c) brackish water aquaculture zone; and
- (d) hatchery water zone.

(2) The Executive Committee may, subject to the provisions of this Act, impose restrictions by issuing a protection order for ensuring efficient management of the water zones mentioned in sub-section (1).

24. Restrictions on water storing.—(1) No person shall, without the permission of the appropriate authority, and complying with the provisions of this Act, store water of any water source in any natural or artificial reservoir.

(2) The Executive Committee may, subject to the provisions of this Act, impose restrictions by issuing a protection order to control the activities of storing water.

25. Declaration of flood control zone and management thereof.—(1) Depending upon the results of necessary enquiry or survey, the Executive Committee, for the interest of the people, may, by a notification in the official Gazette, declare any wetland as flood control zone to ensure easy passage of the flow of flood water.

(2) In the notification issued under sub-section (1), the boundary of the flood control zone shall be specified by referring the mouza map and plot number thereof.

(3) For the protection of flood control zones declared under sub-section (1), the Executive Committee may, by rules in general cases or by order in special cases, impose prohibition or condition on any activity that obstructs or diverts the flow of flood water through such zones.

26. Restriction on abstraction of total water from any water source.— Notwithstanding anything contained contrary in any other law for the time being in force, no water of any water source shall be allowed to exhaust completely by abstraction:

Provided that the provision of this section shall not apply to abstraction of water from any private owned water source, subject to the provisions of this Act.

27. Power to issue protection order and impose restrictions by it.—(1) Notwithstanding anything contained contrary in any other law for the time being in force, the Executive Committee may, in the manner prescribed by rules, issue and promulgate protection order, subject to the provision of section 42.

(2) Before issuing a protection order, the opinion of the local people of the concerned area requires to be taken into account by giving them an opportunity of being heard in the manner prescribed by rules.

(3) The protection order shall, among other contents, also contain that, without reasonable ground, compliance of the protection order is mandatory, and non-compliance thereof is an offence punishable with imprisonment, and with compensation.

(4) For the purposes of this section, the fact of the issuance of the protection order shall, by a public notice, be published and publicized widely for general people through digital, electronic and print media in the manner prescribed by rules.

28. Water pollution control.—In the case of the prevention of water pollution, the Bangladesh Environment Conservation Act, 1995 (Act No.1 of 1995) shall apply.

Explanation: In this section, “water pollution” means direct or indirect harmful changes of physical, chemical and organic properties of water.

CHAPTER VI

OFFENCE, PUNISHMENT AND TRIAL

29. Punishment, fine and compensation for violating compliance order and protection order.—(1) Whoever willingly violates or ignores any compliance order or protection order issued under this Act, shall, subject to the provision of sub-section (2), be punished with imprisonment of either description for a term which may extend to 5 (five) years or with fine which may extend to Taka 10 (ten) thousand or with both.

(2) If any person willingly violates or ignores a compliance order or protection order for the first time, the Executive Committee or any officer authorized by it in this behalf may, notwithstanding anything contained in sub-section (1), exonerate the offender from the charges of first offence by imposing compensation on such ground or limit, and in such manner as may be prescribed by rules, and the second or subsequent violation thereof shall be deemed to be an offence under sub-section (1).

(3) Prior to impose compensation under sub-section (2), the Executive Committee or any officer authorized by it in this behalf shall give the concern person a reasonable opportunity of being heard by giving notice in the manner prescribed by rules.

Explanation: In this section “compensation” shall not include the fine imposed by any court.

30. Punishment of obstructions.—(1) Whoever willingly obstructs any officer or employee while discharging his duty under this Act, or willingly ignores or denies to give such officer or employee a reasonable opportunity of inspection in any institution, premises or project area, shall be punished with imprisonment of either description for a term which may extend to 5 (five) years or with a fine which may extend to Taka 10 (ten) thousand or with both.

(2) Whoever willingly fails or denies to present any register, file, or document to any officer discharging his duty under sub-section (1), or obstructs any person from appearing before or from giving depositions before such officer on duty, shall be punished with imprisonment of either description for a term which may extend to 3 (three) years or with fine which may extend to Taka 2 (two) thousand or with both.

Explanation: In this section “obstruct” shall also include giving a threat.

31. Punishment for giving false information.—Whoever intentionally and knowingly gives any false or distorted information or conceals any information, shall be punished with imprisonment of either description for a term which may extend to 1 (one) year or with fine which may extend to Taka 3 (three) thousand or with both.

32. Trial of offence, cognizability, etc.—(1) Notwithstanding anything contained contrary in any other law for the time being in force, the offences punishable under this Act shall be triable by the Judicial Magistrate of the first class or Metropolitan Magistrate.

(2) The offences punishable under this Act shall be bailable and non-cognizable.

(3) The offences punishable under this Act shall be triable in accordance with summary trial process.

33. Application of the Code of Criminal Procedure.—Subject to the provisions of this Act, the Code of Criminal Procedure shall be applicable for the investigation, trial, appeal and other relevant matters of any offences punishable under this Act.

34. Commission of offence by company or institution.—If an offence is committed under this Act, or any provision thereof is contravened by any company or institution, every director, executive, manager, secretary or any other officer or employee or representative of such company or institution involved with such offence or contravention shall be deemed to have committed such offence or made such contravention, unless he proves that such offence was committed or contravention was made beyond his knowledge or he tried his level best to prevent the commission of such offence or contravention.

Explanation: In this section—

- (a) “company or institution” shall include, whether incorporated or not, registered or not, any company, corporation, institution, partnership business, association, body of persons or organizations; and
- (b) “director” shall include partner or any member of the board of directors.

35. Abetment of offence.—Whoever abates, or excites or instigates or provides assistance in committing an offence punishable under this Act shall be deemed to be guilty of the same offence like the offender, and shall be liable to the offence like the offender.

36. To take cognizance of offence.—No court shall take cognizance of any offence punishable under this Act without a written complaint made by the Director General or any officer authorized by him in this behalf.

CHAPTER VII MISCELLANEOUS

37. Power to exempt the price of water.—Notwithstanding anything contained contrary in any other law for the time being in force, the Government may, in consultation with the appropriate authority, for the national and local interest, without discrimination, exempt, by notification in the official Gazette, any class of person or community, for a particular time or area, from paying the price of water used in household or normal agriculture.

38. Use of information technology.—Subject to the provisions of Information and Communication Technology Act, 2006 (Act No. 39 of 2006), the information technology as defined therein may, in addition to the procedure laid down in this Act, be used in respect of anything to be done or power to be exercised or duty to be discharged thereunder.

39. Delegation of power.—The Council may, by general or special order, delegate any of its power or function, if necessary and subject to the conditions fixed by it, to the Executive Committee or the Chairperson of the Executive Committee or the Director General or an inspector or to any other officer.

40. Power of entry, calling for records, interrogation, etc.—For the purposes of this Act, the Council, or the Executive Committee or any officer or inspector authorized in this behalf either by general or special order may exercise any one of the following powers, namely:—

- (a) to enter into any public or private land or project area, and to interrogate any person, or call for or scrutinize any record or any information;
- (b) to inspect such land or area or anything on the land or area; and
- (c) to inquire into or take sample of anything, or to conduct any survey on such land or area.

41. Obligation to render cooperation to Water Resources Planning Organization.—Water Resources Planning Organization or any person authorized by it in this behalf may make a request to any public or private organization or statutory body or to any officer or employee thereof for rendering any cooperation in the performance of any function, or exercising any power under this Act, and the officer or employee of such organization or body shall, if so requested, render such cooperation.

42. Service of order.—If any notice or order issued under this Act requires to be served upon any person, it shall be deemed to be properly served on such person, if:—

- (a) it is received by such person personally or by his agent;
- (b) it is sent by registered post to the last known abode or business address in Bangladesh of such person;
- (c) it is sent through or uploaded in electronic media; and
- (d) it is published and publicized in widely circulated national dailies.

43. Mode of realizing money.—(1) If any compensation or any other money becomes due from any person under this Act, the Executive Committee may, subject to the provision of sub-section (2), realize such money in the manner prescribed by rules.

(2) For the purpose of realizing any money due under this Act from any person, the Executive Committee may, notwithstanding anything contained contrary in any other law for the time being in force, make a request to any scheduled bank to freeze the bank account of such person.

44. Right to information.—Subject to the provisions of the Right to Information Act, 2009 (Act No. 20 of 2009), every person shall be entitled to have such information as defined therein, with respect to anything done or any power exercised or any duty discharged or any action taken or any order passed by the Council or Executive Committee or by any officer so authorized under this Act.

45. Power to make rules.—The Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

46. Publication of English Authentic Text.—(1) After the commencement of this Act, the Government may, by notification in the official Gazette, publish an Authentic English Text of this Act.

(2) In the event of any conflict between the Bangla text and the English text, the Bangla text shall prevail.

47. Repeal and savings.—(1) As soon as the National Water Resources Council and the Executive Committee are constituted under sections 4 and 9 respectively, all the notifications issued earlier relating to the formation of the National Water Resources Council and the Executive Committee shall be repealed, and the National Water Resources Council and the Executive Committee constituted by such notifications shall be dissolved.

(2) Notwithstanding such dissolution under sub-section (1), anything done or any action taken by such dissolved National Water Resources Council or, as the case may be, by such Executive Committee shall be deemed to have been done and taken under this Act, and shall, subject to being consistent with this Act, continue to be in force.

By order of the President

Mohammad Shahidul Haque

Secretary.

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