APPENDIX-V

THE FOREIGN EXCHANGE REGULATION ACT.1947 (ACT NO. VII OF 1947)

List of Amending Laws

1. Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G.G.O. 18 of 1948).
2. Foreign Exchange Regulation (Amendment) Ordinance, 1948 (14 of 1948).
3. Adaptation Order, 1949.
4. Foreign Exchange Regulation (Amendment) Act, 1950 (62 of 1950).
5. Foreign Exchange Regulation (Second Amendment) Act, 1952 (50 of 1952).
6. Foreign Exchange Regulation (Amendment) Act, 1957 (40 of 1957)
7. Central Laws (Statute Reforms) Ordinance, 1960 (21 of 1960)
8. Bangladesh Laws (Revision and Declaration) Act, 1974 (Act LIII of 1974).
9. Foreign Exchange Regulation (Amendment) Ordinance, 1976 (Ord No. LXXVI of 1976.)

CONTENTS

Section	Marginal note
1.	Short title, extent and commencement.
2.	Interpretation.
3.	Authorised dealers in foreign exchange.
4.	Restrictions on dealing in foreign exchange.
5.	Restrictions on payments.
6.	Blocked accounts.
7.	Special accounts.
8.	Restrictions on import and export of certain currency and bullion.
9.	Acquisition by Government of foreign exchange.
10.	Duty of persons entitled to receive foreign exchange etc.
11.	Power to regulate the uses etc. of imported gold and silver.
12.	Payment for exported goods.
13.	Regulation of export and transfer of securities.
14.	Custody of securities.
15.	Restrictions on issue of bearer securities.
16.	Acquisition by Government of foreign securities.
17.	Restriction on settlement.
18.	Certain provisions as to companies.
18A.	Restriction on agent.
18B.	Restriction on foreign companies.
19.	Power to call for information.
19A.	Power of inspection.
20.	Supplemental provisions.
21.	Contracts in evasion of this Act.

22. False statements.

22A. Grant of immunity in certain cases.

23. Penalty and procedure.

23A. Tribunal, its powers, etc.

24. Burden of proof in certain cases.

25. Power to Government to give direction.

26. Bar of legal proceedings.

27. Power to make rules.

THE FOREIGN EXCHANGE REGULATION ACT, 1947
ACT NO. VII OF 1947

[Amendment Foot Notes at ANNEX-3]

An Act to regulate certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion.

WHEREAS it is expedient in the economic and financial interests of Bangladesh to provide for the regulation of certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion;

It is hereby enacted as follows:-

1. Short title, extent and commencement.-(1) This Act may be called the Foreign Exchange Regulation Act, 1947.

(2) It extends to the whole of [1][Bangladesh] and applies to all citizens of Bangladesh and persons in the service of [2][the Republic] wherever they may be.

(3) It shall come into force on such date as the [3][Government] may, by notification in the official Gazette, appoint in this behalf.

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

(a) "authorised dealer" means a person for the time being authorised under section 3 to deal in foreign exchange;

(b) "currency" includes all coins, currency notes, bank notes, money orders, cheques, drafts, traveller's cheques, letters of credit, bills of exchange and promissory notes;

(c) "foreign currency"means any currency other than Bangladesh currency;

(d) "foreign exchange" means foreign currency and includes any instrument drawn, accepted, made or issued under [4][clause (13) of Article 16 of the Bangladesh Bank Order, 1972,] all deposits, credits

and balances payable in any foreign currency and any draft, traveller's cheque, letter of credit and bill of exchange expressed or drawn in Bangladesh currency but payable in any foreign currency;

(e) "foreign security" means any security issued elsewhere than in Bangladesh and any security the principal of or interest on which is payable in any foreign currency or elsewhere than in Bangladesh;

(f) "gold" includes gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not;

(g) "Bangladesh currency" means currency which is expressed or drawn in Bangladesh [5][Taka].

(h) "owner"in relation to any security, includes any person who has power to sell or transfer the security or who has the custody thereof or who receives, whether on his own behalf or on behalf of any other person, dividends or interest thereon and who has any interest therein and in a case where any security is held on any trust or dividends or interest thereon are paid into a trust fund, also includes any trustee or any person entitled to enforce the performance of the trust or to revoke or vary, with or without the consent of any other person, the trust or any terms thereof, or to control the investment of the trust money;

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

[6][(j) "Bangladesh Bank"means the Bangladesh Bank established under clause (1) of Article 3 of Bangladesh Bank Order,1972;]

(k) "security" means shares, stocks, bonds, debentures, debenture stock and Government securities, as defined in the Securities Act, 1920, deposit receipt in respect of deposits of securities, and units or sub-units of unit trusts, but does not include bills of exchange or promissory notes other than Government promissory notes;

(l) "silver"means silver bullion or ingot, silver sheets and plates which have undergone no process of manufacture subsequent to rolling and uncurrent silver coin which is not legal tender in Bangladesh or elsewhere;

(m) "transfer" includes, in relation to any security, transfer by way of loan or security.

3. Authorised dealers in foreign exchange.-(1) The [7][Bangladesh Bank] may, on applicaion made to it in this behalf, authorise any person to deal in foreign exchange.

(2) An authorisation under this section--

(i) may authorise dealings in all foreign currencies or may be restricted to authorising dealings in specified foreign currencies only;

(ii) may authorise transaction of all descriptions in foreign currencies or may be restricted to authorising specified transactions only;

(iii) may be granted to be effective for a specified period, or within specified amounts, and may in all cases be revoked for reasons appearing to it sufficient by the Bangladesh Bank.

(3) An authorised dealer shall in all his dealings in foreign exchange comply with such general or special directions or instructions as the Bangladesh Bank may from time to time think fit to give, and, except with the previous permission of the Bangladesh Bank, an authorised dealer shall not engage in any transaction involving any foreign exchange which is not in conformity with the terms of his authorisation under this section.

(4) An authorised dealer shall, before undertaking any transaction in foreign exchange on hehalf of any person, require that person to make such declarations and to give such information as will reasonably satisfy him that the transaction will not involve, and is not designed for the purpose of, any contravention or evasion of the provisions of this Act or of any rules, directions or orders made thereunder, and where the said person refuses to comply with any such requirement or makes only unsatisfactory compliance therewith, the authorised dealer

shall refuse to undertake the transaction and shall, if he has reason to believe that any such contravention or evasion as aforesaid is contemplated by the person, report the matter to the Bangladesh Bank.

4. Restrictions on dealing in foreign exchange.-(1) Except with the previous general or special permission of the Bangladesh Bank, no person, other than an authorised dealer, shall in Bangladesh and no person resident in Bangladesh other than an authorised dealer shall outside Bangladesh, buy or borrow from , or sell or lend to, or exchange with, any person not being an authorised dealer, any foreign exchange.

(2) Except with the provious general or special permission of the Bangladesh Bank, no person, whether an authorised dealer or otherwise, shall enter into any transaction which provides for the conversion of Bangladesh currency into foreign currency or foreign currency into Bangladesh currency at rates of exchange other than the rates for the time being authorised by the Bangladesh Bank.

(3) Where any foreign exchange is acquired by any person other than an authorised dealer for any particular purpose, or where any person has been permitted conditionally to acquire foreign exchange, the said person shall not use the foreign exchange so acquired otherwise than for that purpose or, as the case may be, fail to comply with any condition to which the permission granted to him is subject, and where any foreign exchange so acquired cannot be so used or, as the case may be, the conditions cannot be complied with, the said person shall without delay sell the foreign exchange to an authorised dealer.

(4) Nothing in this section shall be deemed to prevent a person from buying any post office, in accordance with any law or rules made thereunder for the time being in force, any foreign exchange in the form of postal orders or money orders.

5. Restrictions on payments.-(1) Save as may be provided in and in accordance with any general or special exemption from the provisions of his sub-section which may be granted conditionallly or unconditionally by the Bangladesh Bank, no person in or resident in Bangladesh shall-

(a) make any payment to or for the credit of any person resident outside Bangladesh;

(b) draw, issue or negotiate any bill of exchange or promissory note or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment is created or transferred in favour of any person resident outside Bangladesh;

(c) make any payment to or for the credit of any person by order or on behalf of any person resident outside Bangladesh;

(d) place any sum to the credit of any person resident outside Bangladesh;

(e) make any payment to or for the credit of any person as consideration for or in association with--

(i) the receipt by any person of a payment or the acquisition by any person of property outside Bangladesh;

(ii) the creation or transfer in favour of any person of a right whether actual or contingent to receive a payment or acquire property outside Bangladesh;

(f) draw, issue or negotiate any bill of exchange or promissory note, transfer any security or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment is created or transferred in favour of any person as consideration for or in association with any matter referred to in clause (e).

(2) Nothing in sub-section (1) shall render unlawful--

(a) the making of any payment already authorised either with foreign exchange obtained from an authorised dealer under section 4 or with foreign exchange retained by a person in pursuance of an authorisation granted by the Bangladesh Bank;

(b) the making of any payment with foreign exchange received by way of salary or payment for services not arising from business in, or anything done while in, Bangladesh.

(3) Nothing in this section shall restrict the doing by any person of anything within the scope of any authorisation or exemption granted under this Act.

(4) For the purpose of this section, "security"also includes coupons or warrants representing dividends or interest and life or endowment insurance policies.

6. Blocked Accounts.-(1) Where an exemption from the provisions of section 5 is granted by the Bangladesh Bank in respect of payment of any sum to any person resident outside Bangladesh and the exemption is made subject to the condition that the payment is made to a blocked account--

(a) the payment shall be made to a blocked account in the name of that person in such manner as the Bangladesh Bank may by general or special order direct, and

(b) the crediting of that sum to that account shall, to the extent of the sum credited, be a good discharge to the person making the payment.

(2) No sum standing at the credit of a blocked account shall be drawn on except in accordance with any general or special permission which may be granted conditionally or otherwise by the Bangladesh Bank.

(3) In this section, "blocked account" means an account opened as a blocked account at any office or branch in Bangladesh of a bank authorised in this behalf by the Bangladesh Bank, or an account blocked, whether before or after the commencement of this Act, by order of the Bangladesh Bank.

7. Special Account.-(1) Where in the opinion of the Government it is necessary or expedient to regulate payments due to persons resident in any territory, the Government may, by notification in the official Gazette, direct that such payments or any class of such payments shall be made only into an account (hereinafter referred to as a special account) to be maintained for the purpose by the Bangladesh Bank or an authorised dealer specially authorised by the Bangladesh Bank in this behalf.

(2) The credit of a sum to a special account shall, to the extent of the sum credited, be a good discharge to the person making the payment:

Provided that where the liability of the person making the payment is to make the payment in foreign currency, the extent of the discharge shall be ascertained by converting the amount paid into that currency at such rate of exchange as is for the time being fixed or authorised by the Bangladesh Bank.

(3) The sum standing to the credit of any special account shall from time to time be applied--

(a) where any agreement is entered into between the Government and the Government of the territory to which the aforesaid notification relates for the regulation of payments between persons resident in Bangladesh and in that territory, in such manner as the Bangladesh Bank having regard to the provisions of such agreement, may direct, or

(b) where no such agreement is entered into, for the purpose of paying wholly or partly, and in such order of preference and at such times as the Government may direct, debts due from the person resident in the said territory to persons resident in Bangladesh or in such other territories as the Government may, by order, specify in this behalf.

8. Restrictions on import and export of certain currency and bullion.-(1) The Government may, by notification in the official Gazette, order that subject to such exemptions, if any, as may be contained in the notification, no person shall, except with the general or special permission of the Bangladesh Bank and on payment of the fee, if any, prescribed bring or send into Bangladesh any gold or silver or any currency notes or bank notes or coins whether Bangladesh or foreign.

Explanation.-The bringing or sending into any part or place in the territories of Bangaldesh of any such article as aforesaid, intended to be taken out of the territories of Bangladesh without being removed from the ship or conveyance in which it is being carried, shall nonetheless be deemed to be bringing or, as the case may be, sending, into the territories of Bangladesh of that article for the puroposes of this section.

(2) No person shall, except with the general or special permission of the Bangladesh Bank or the written permission of a person authorised in this behalf by the Bangladesh Bank, take

or send out of Bangladesh any gold, jewellery or precious stones, or Bangladesh currency notes, bank notes or coins or foreign exchange.

(3) The restrictions imposed by sub-section (1) and (2) shall be deemed to have been imposed under [8][section16 of the Customs Act, 1969,] without prejudice to the provisions of section 23 of this Act, and all the provisions of that Act shall have effect accordingly.

9. Acquisition by Government of foreign Exchange:-The Government may, by notification in the official Gazette, order every person in, or resident in Bangladesh--

(a) who owns such foreign exchange as may be specified in the notification, to offer it, or cause it to be offered for sale to the Bangladesh Bank on behalf of the Government or to such person, as the Bangladesh Bank may authorise for the purpose, at such price as the Government may fix, being a price which is in the opinion of the Government not less than the market rate of the foreign exchange when it is offered for sale;

(b) who is entitled to assign any right to receive such foreign exchange as may be specified in the notification, to transfer that right to the Bangladesh Bank on behalf of the Government on payment of such consideration therefor as the Government may fix:

Provided that the Government may by the said notification or another order exempt any person or class of persons from the operation of such order:

Provided further that nothing in this section shall apply to any foreign exchange acquired by a person from an authorised dealer and retained by him with the permission of the Bangladesh Bank for any purpose.

10. Duty of persons entitled to receive foreign exchange etc.-(1) No person who has a right to receive any foreign exchange or to receive from a person resident outside Banglaesh a payment in Taka shall, except with the general or special permission of the Bangladesh Bank, do or refrain from doing any act with intent to secure—

(a) that the receipt by him of the whole or part of that foreign exchange or payment is delayed, or

(b) that the foreign exchange or payment ceases in whole or in part to be receivable by him.

(2) Where a person has failed to comply with the requirements of sub-section (1) in relation to any foreign exchange or payment in Taka, the Bangladesh Bank may give to him such directions as appear to be expedient for the purpose of securing the receipt of the foreign exchange or payment, as the case may be.

11. Power to regulate uses etc. of imported gold and silver.- The Government may, by notification in the official Gazette, impose such conditions as it thinks necessary or expedient on the use or disposal of or dealings in gold and silver prior to, or at the time of, import into Bangladesh.

12. Payment for exported goods.-(1) The Government may, by notificaion in the official Gazette, prohibit the export of any goods or class of goods specified in the notification from Bangladesh directly or indirectly to any place so specified unless a declaration supported by such evidence as may be prescribed or so specified, is furnished by the exporter to the prescribed authority that the amount representing the full export value of the goods has been or will within the prescribed period be, paid in the prescribed manner.

(2) Where any export of goods has been made to which a notificaion under sub-section (1) applies, no person entitled to sell, or procure the sale of, the said goods shall, except with the permission of the Bangladesh Bank, do or refrain from doing any act with intent to secure that--

(a) the sale of the goods is delayed to an extent which is unreasonable having regard to the ordinary course of trade, or

(b) payment for the goods is made otherwise than in the prescribed manner or does not represent the full amount payable by the foreign buyer in respect of the goods, subject to such deductions, if any, as may be allowed by the Bangladesh Bank, or is delayed to such extent as aforesaid:

Provided that no proceedings in respect of any contravention of this sub-section shall be instituted unless the prescribed period has expired and payment for the goods representing the full amount as aforesaid has not been made in the prescribed manner.

(3) Where in relation to any such goods the said period has expired and the goods have not been sold and payment therefor has not been made as aforesaid, the Bangladesh Bank may give to any person entitled to sell the goods or to procure the sale thereof, such directions as appear to it to be expedient for the purpose of securing the sale of the goods and payment therefor as aforesaid, and without prejudice to the generality of the foregoing provision, may direct that the goods shall be assigned to the Government or to a person specified in the directions.

(4) Where any goods are assigned in accordance with sub-section (3), the Government shall pay to the person assigning them such sum in consideration of the net sum recovered by or on behalf of the Government in respect of the goods as may be determined by the Government.

(5) Where in relation to any such goods the value as stated in the invoice is less than the amount which in the opinion of the Bangladesh Bank represents the full export value of those goods, the Bangladesh Bank may issue an order requiring the person holding the shipping documents to retain possession thereof until such time as the exporter of the goods has made arrangements for the Bangladesh Bank or a person authorised by the Bangladesh Bank to receive on behalf of the exporter payment in the prescribed manner of an amount which represents in the opinion of the Bangladesh Bank the full export value of the goods.

(6) For the purpose of ensuring compliance with the provisions of this section and any orders or directions made thereunder, the Bangladesh Bank may require any person making any export of goods to which a notification under sub-section (1) applies to exhibit contracts with his foreign buyer or other evidence to show that the full amount payable by the said buyer in respect of the goods has been, or will within the prescribed period be, paid in the prescribed manner.

13. Registration of Export and transfer of securities. (1) No person shall, except with the general or special permission of the Bangladesh Bnk.--

(a) take or send any security to any place outside Bangladesh:

(b) transfer any security or create or transfer any interest in security to or in favour of a person resident outside Bangladesh;

(c) transfer any security from a register in Bangladesh to a register outside Bangladesh or do any act which is calculated to secure, or forms part of a series of acts which together are calculated to secure, the substitution for any security which is either in, or registered in, Bangladesh of any security which is either outside or registered outside Bangladesh;

(d) issue, whether in Bangladesh or elsewhere, any security which is registered or to be registered in Bangladesh to a person resident outside Bangladesh.

(2) Where the holder of a security is a nominee, neither he nor any person through whose agency the exercise of all or any of the holder's rights in respect of the security is controlled shall, except with the general or special permission of the Bangladesh Bank, do any act whereby he recognises or gives effect to the substitution of another person as the person from whom he directly receives instructions, unless both the person previously instructing him and the person substituted for that person were, immediately before the substitution, resident in Bangladesh.

(3) The Bangladesh Bank may, for the purpose of securing that the provisions of this section are not evaded, require that the person transferring any security and the person to whom such security is transferred shall subscribe to a declaration that the transferee is not resident outside Bangladesh.

(4) Nowithstanding anything contained in any other law, no person shall, except with the permission of the Bangladesh Bank—

(a) enter any transfer of securities in any register or book in which securities are registered or inscribed if he has any ground for suspecting that the transfer

involves any contravention of the provisions of this section, or

(b) enter in any such register or book, in respect of any security or otherwise, an address outside Bangladesh except by way of substitution for any such address in the same country or for the purpose of any transaction for which permission has been granted under this section with knowledge that it involves entry of the said address.

(5) For the purposes of this section--

(a) "holder" in relation to a bearer security means the person having physical custody of the security; provided that, where a bearer security is deposited with any person in a locked or sealed receptacle from which the person with whom it is deposited is not entitled to remove it without the authority of some other person, that other person shall be deemed to be the holder of the security;

(b) "nominee" means a holder of any security (including bearer security) or any coupon representing dividend or interest who, as respects the exercise of any right in respect of the security or coupon, is not entitled to exercise those rights except in accordance with the instructions given by some other persons and a person holdinga security or coupon as a nominee shall be deemed to act as nominee for the person who is entitled to give instructions either directly or through the agency of one or more persons, as to the exercise by the holder of the security or coupon of any right in respect thereof and is not, in so doing, himself under a duty to comply with instructions given by some other persons;

(c) "security" also includes coupon or warrant representing dividend or interest, and life or endowment insurance policies;

(d) "a person resident outside Bangladesh" includes a foreign national for the time being resident in Bangladesh.

14. Custody of securities.-(1) The Government may, by notification in the official Gazette, order every person by whom or on whose behalf a security or decument of title to security specified in the order is held in Bangladesh to cause the said security or document of title to be kept in the custody of an authorised depository named in the order:

Provided that Bangladesh Bank may by order in writing permit any such security to be withdrawn from the custody of the authorised depository subject to such conditions as may be specified in the order.

(2) No authorised depository may part with any security covered by an order under sub-section (1) without the general or special permission of the Bangladesh Bank except to or to the order of, another authorised depository.

(3) Except with the general or special permission of the Bangladesh Bank, no authorised depository shall-

(a) accept or part with any security covered by an order under sub-section (1) whereby the security is transferred into the name of a person resident outside Bangladesh, or

(b) do any act whereby he recognised or gives effect to the substitution of another as the person from whom he directly receives instructions relating to such security unless the person previously so instructing him and the person substituted for that person were immediately before the substitution resident in Bangladesh.

(4) Except with the general or special permission of the Bangladesh Bank, no person shall buy, sell or transfer any security, or document of title to a security, covered by an order under sub-section(1) unless such security or document of title, has been deposited in accordance with the order.

(5) Except with the general or special permission of the Bangladesh Bank, no capital moneys, interest or dividend in respect of any security covered by an order under sub-section (1) shall be paid in Bangladesh except to or to the order of the authorised depository having the custbry of the security.

(6) For the purposes of this section:--

(a) "authorised depository" means a person notified by the government to be entitled to accept the custody of securities and document of title to securities, and

(b) "security" shall include coupon.

15. Restrictions on issue of bearer securities.-The Government may, by notification in the official Gazette, order that except with the general or special permission of the Bangladesh Bank no person shall in Bangladesh issue any bearer security or coupon or so alter any document that it becomes a bearer security or coupon.

16. Acquistion by Government of foreign securities.-(1) Subject to any exemptions that may be contained in the notification, the Government may, if it is of opinion that it is expedient so to do for the purpose of strengthening its foreign exchange position, by notification in the official Gazettes,--

(a) order the transfer to itself of any foreign securities specified in the notificaiton at a price so specified, being a price which is, in the opinion of the Government not less than the market value of the securities on the date of the notification, or

(b) direct the owner of any foreign securities specified in the notification to sell or procure the sale of the securities and thereafter to offer or cause to be offered the net foreign exchange proceeds of the sale to the Bangladesh Bank on behalf of the Government or to such person as the Bangladesh Bank may authorise for the purpose, at such price as the Government may fix, being a price which is in the opinion of the Government not less than the market rate of the foreign exchange when it is offered for sale.

(2) On the issue of a notification under clause (a) of sub-section (1),--

(a) the securities to which the notification relates shall forthwith vest in the Government free from any mortgage, pledge or charge, and the Government may deal with them in such manner as it thinks fit;

(b) the owner of any of the securities to which the notification relates and any person who is responsible for keeping any registers or books in which any of those securities are registered or inscribed or who is otherwise concerned with the registration or inscription of any of those securities, shall do all such things as are necessary or as the Government or the Bangladesh Bank may order to be done, for the purpose of securing that--

(i) the securities and any documents of title relating thereto are delivered to the Government and, in the case of registered or inscribed securities, that the securities are registered or inscribed in the name of the Government or of such nominee of the Government as it may specify, and

(ii) any dividends or interest on those securities becoming payable on or after the date of the issue of the notification are paid to the Government or its nominee as aforesaid and where in the case of any security payable to bearer which is delivered in pursuance of the said notification, any coupon representing any such dividends or interest are not delivered with the security, such reduction in the price payable therefor shall be made as the Government thinks fit;

Provided that where the price specified in the notification in relation to any security is ex-dividend or ex-interest, this sub-clause shall not apply to that dividend or interest or to any coupon representing it.

(3) A certificate signed by any person authorised in this behalf by the Government that any specified securities are securities transferred to the Government under this section shall be treated by all persons concerned as conclusive evidence that the securities have been so transferred.

17. Restriction on settlement.-(1) No person resident in Bangladesh shall, except with the general or special permission of the Bangladesh Bank, settle any property, otherwise than by

will upon any trust under which a person who at the time of the settlement is resident outside Bangladesh elsewhere than in territories notified in this behalf by the Bangladesh Bank, will have an interest in the property or exercise, other than by will, any power for payment in favour of a person who at the time of the exercise of the power is resident outside Bangladesh elsewhere than in such notified territories.

(2) A settlement or power as aforesaid shall not be invalid except in so far as it confers any right or benefit on any person who at the time of the settlement or the exericise of the power is resident outside Bangladesh, elsewhere than in territories notified by the Bangladesh Bank.

18. Certain provisions as to companies.-(1) Except with the general or special permission of the Bangladesh Bank, no person resident in Bangladesh shall do any act whereby a company, which is controlled by person resident in Bangladesh ceases to be so controlled.

(2) Except with the general or special permission of the Bangladesh Bank, no person resident in Bangladesh shall lend any money or security to any company, not being a banking company, which is by any means controlled, whether directly or indirectly, by persons resident outside Bangaldesh elsewhere than in the territories notified in this behalf by the Bangladesh Bank.

In this sub-section, "company" includes a firm, branch or office of a company or firm.

[9][18A. Resriction on Agents.-(1) Notwithstanding anything contained in any other law for the time being in force, no person shall, except with the general or special permission of the Bangladesh Bank, act or accept an appoinment to act as an agent in the trading or commercial transactions, or as a technical or management adviser or any oher employee, in Bangladesh (whether or not a citizen of Bangladesh) of a person resident in Bangladesh (but not a citizen of Bangladesh) or of a company (other than a banking company) not incorporated under any law in force in Bangladesh.

(2) A person acting or holding an appointment to act as an agent or as an adviser or any other employee in Bangladesh of a person or company referred to in sub-section (1) immediately

before the commencement of the Foreign Exchange Regulation (Amendment) Ordinance, 1976 (Ord. LXXVI of 1976) may continue to so act for a period not excceding six months from such commencement unless the Bangladesh Bank has, upon an application made in this behalf in such form and containing such particulars as the Bangladesh Bank may direct, granted him permission to so act thereafter.

Explanation:-For the purpose of this section, the term "person" shall include a firm, or a business organisation or concern wheher incorporated or not.

18B. Restriction on foreign companies.-(1) Notwithstanding anything contained in any other law for the time being in force, no person resident outside Bangladesh (whether or not a citizen of Bangladesh) nor a person who is not a citizen of, but resident in, Bangladesh nor a company (other than a banking company) not incorporated under any law in force in Bangladesh shall, except with general or special persmission of the Bangladesh Bank, continue or esablish in Bangladesh a branch, office or any other place of business for carrying on any activity of a trading, commercial or industrial nature.

(2) Any such person or company carrying on any activity of the nature referred to in sub-section (1) immediately before the commencement of the Foreign Exchange Regulation (Amendment) Ordinance, 1976 (Ord. No. LXXVI of 1976), may, except in the case of a person or company carrying on any activity of the nature referred to in sub-section (1) or having a branch, office or other place of business for carrying on such activity in pursuance of any permission or licence granted by the Government, continue to so carry on such activity for a period not exceeding six months from such commencement unless the Bangladesh Bank has, upon an application made in this behalf, granted him permission to continue to so carry on such activity thereafter.

(3) Where no application under sub-section (2) has been made by any such person or company, the Bangladesh Bank may, by order, direct such person or company to discontinue such activity or to close down such branch, office or place of business, as the case may be, on the expiry of such period as may be specified in the direction.]

19. Power to call for information.-(1) The Government or the Bangladesh Bank may, at any time by notificaion in the official Gazette, direct owners subject to such exceptions, if any, as may be specified in the notification of such foreign exchange or foreign securities as may be so specified, to make a return thereof to the Bangladesh Bank within such period and giving such particulars, as may be so specified.

(2) The Government may by order in writing require any person to furnish it or any person specified in the order with any information, book or other document in his possession, being information, book or document which the Government considers it necessary or expedient to obtain and examine for the purposes of this Act and may, at any time, by notification in the official Gazette, direct that the power to make such order shall for such period as may be apecified in the direction, be exercised by the Bangladesh Bank.

[10][(3) On a representation in writing made by a person authorised in this behalf by the Government or the Bangladesh Bank and supported by a statement on oath of such person that the has reason to believe that a contravention of any of the provisions of this Act has been or is being or is about to be committed in any place or that evidence of the contravention is to be found in such place, a district magistrate, a Upa-Zilla magistrate or a magistrate of the first class, may by warrant, authorise any police officer not below the rank of sub-inspector--

(a) to enter and search any place in the manner specified in the warrant, and

(b) seize any books or other documents found in or on such place.

Explanation:-In this sub-section, "place" includes a house, building, tent, vehicle, vessel or aircraft.

Notes

Now there is no Upazilla in our local body system. As such, there in no Upazilla magistrate in any administratiue unit. The words "Upa-Zilla magistrate may be treated as have been with drown.

(3A) A police officer authorised under sub-section (3) may search any person who is found in or whom he has reasonable

ground to believe to have recently left or to be about to enter such place and to seize any article found in the possession of or upon such person and believed by the police officer so authorised to be evidence of the commission of any offence under this Act.

(3B) A police officer authorised under sub-section (3) shall conduct any search under that sub-section or under sub-section (3A) in accordance with the provisions relating to search in the Code of Criminal Procedure, 1898 (V of 1898).]

(4)The provisions of [sub-section (1),(2) and (3) of section 54 of the Income-tax Act, 1922(XI of 1922)] shall apply in relation to information obtained under sub-section (2) of this section as they apply to the particulars referred to in that section, and for the purposes of such application--

(a) the said sub-section (3) shall be construed as if in clause (a) thereof there was included reference to a prosecution for an offence under section 23 of this Act, and

(b) persons to whom any information is required to be furnished under an order made under sub-section (2) of this section shall be deemed to be public servants within the meaning of that section.

Notes

Income-tax Act, 1922 (XI of 1922) has been repealed by the Income-tax Ordinance, 1984 (XXXVI of 1984). The provision of sub-section (1), (2), and (3) of section 163 of the aforesaid Income-tax Ordinance are the corresponding provisions of sub-section (1), (2) and (3) of section 54 of the repealed Act. The amendments are conseqential in nature, and may be made any time by adaptation or amending law. However, in the meantine, for "sub-section (1), (2) and (3) of section 54 of the Income-tax Act, 1922 (XI of 1922)" please read sub-section (1), (2) and (3) of section 163 of the Income-tax Ordinance, 1984 (XXXVI of 1984)".

[11][19A. Power of Inspection.-(1). The government or the Bangladesh Bank may, at any time, cause an inspection to be made, by one or more of its officers, of the books of accounts and other documents of any person, firm or business organisation or concern required to submit to the Bangladesh Bank any return, statement or information under this Act and, where necessary,

direct all such books of accounts and other documents to be seized.

(2) Every such person, firm, business organisation and concern shall produce books of accounts and other documents and furnish such statement and information to such officer or officers in connection with the inspection under sub-section(1).

(3) Failure to produce any books of accounts or other documents or to furnish any statement or information required under sub-section (2) shall be deemed to be contravention of the provisions of this Act.]

20. Supplimentary provisions.-(1) For the purpose of this Act and of any rules, directions or orders made thereunder-

(a) until the Bangladesh Bank by general or special order otherwise directs, any person who has at any time after the commencement of this Act been resident in Bangladesh shall be treated as still being resident in Bangladesh and if such direction is given in relation to any such person the Bangladesh Bank may by the same or a subsequent direction, declare the territory in which he shall be treated as being resident;

(b) in the case of any person to whom clause (a) does not apply, the Bangladesh Bank may by general or special order declare the territory in which he shall be treated as being resident;

(c) in the case of any person resident in Bangladesh who leaves Bangladesh, the Bangladesh Bank may give a direction to any bank that until the direction is revoked, any sum from time to time standing to the credit of that person and any security held on his behalf at any office or branch of that bank in Bangladesh specified in the direction, shall not be dealt with except with the permission of the Bangladesh Bank;

(d) any transaction with a branch of any business whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated;

(e) the making of any book entry or other statement recording a debt against a branch of any business in favour of the Head Office or any other branch of that business shall be treated as the acknowlegement of a debt whereby a right is created in favour of a person resident where the head office or other branch is situated.

(2) Nothing in this Act relating to the payment of any price or sum by the Government shall be construed as requiring the Government to pay that price or sum otherwise than in Bangladesh currency or otherwise than in Bangladesh.

(3) The Bangladesh Bank may give directions in regard to the making of payments and the doing of other acts by bankers, authorised dealers, travel agents, carriers, whether common or private stock brokers and other persons who are authorised by the Bangladesh Bank to do anything in pursuance of this Act in the course of their business, as appear to it to be necessary or expedient for the purpose of securing compliance with the provisions of this Act and any rules, orders or directions made thereunder.

21. Contracts in evasion of this Act.-(1) No person shall enter into any contract or agreement which would directly or indirectly evade or avoid in any way the operation of any provision of this Act or of any rule, direction or order made thereunder.

(2) Any provision of, or having effect under this Act, that a thing shall not be done without the permission of the Government or the Bangladesh Bank, shall not render invalid any agreement by any person to do that thing, if it is a term of the agreement that thing shall not be done unless permission is granted by the Government or the Bangladesh Bank as the case may be; and it shall be an implied term of every contract governed by the law of any part of Bangladesh that anything agreed to be done by any term of that contract which is prohibited to be done by or under any of the provisions of this Act except with the permission of the Government or the Bangladesh Bank, shall not be done unless such permission is granted.

(3) Neither the provisions of this Act nor any term (whether expressed or implied) contained in any contract that anything for

which the permission of the Government or the Bangladesh Bank is required by the said provisions shall not be done without that permission, shall prevent legal proceedings being brought in Bangladesh to recover any sum which, apart from the said provisions and any such term, would be due, whether as a debt, damages or otherwise, but-

(a) the said provisions shall apply to sums required to be paid by any judgement or order of any Court as they apply in relation to other sums; and

(b) no steps shall be taken for the purpose of enforcing any judgement or order for the payment of any sum to which the said provisions apply except as respects so much thereof as the Government or the Bangladesh Bank, as the case may be, may permit to be paid, and

(c) for the purpose of considering whether or not to grant such permission, the Government or the Bangladesh Bank, as the case may be, may require the person entitled to the benefit of the judgement or order and the debtor under the judgement or order to produce such documents and to give such information as may be specified in the requirement.

(4) Notwithstanding anything in the Negotiable Instruments Act, 1881 (XXVI of 1881), neither the provisions of this Act or of any rule, direction or order made thereunder, nor any condition, whether express or to be implied having regard to those provisions, that any payment shall not be made without permission under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note.

22. False statement.-No person shall, when complying with any order or direction under section 19, or when making any application or declaration to any authority or person for any purpose under this Act, give any information or make any statement which he knows or has reasonable cause to believe to be false, or not true, in any material particular.

[12][22A. Grant of immunity in certain cases.-(1) The Government may, if it is of the opinion (the reason for such opinion being recorded in writing) that with a view to obtaining the evidence of any person supposed to have been directly or

indirectly concerned in, or privy to, the contravention of any of the provisions of this Act or of any rule, direction or order made or given thereunder it is necessary or expedient so to do, grant such person immunity from prosecution under this Act or any other law for the time being in force, and may also grant such person immunity from imposition of any penalty under this Act, subject to the condition of his making full and true disclosure of the whole circumstance relating to such contravention.

(2) An immunity granted to, and accepted by the person concerned under sub-section (1) shall, to the extent to which the immunity extends, render him immune from prosecution for any offence or, as the case may be, from imposition of any penalty under this Act to which the immunity relates.

(3) If the Government is satisfied that any person to whom immunity under sub-section (1) was granted has not complied with any of the conditions subject to which the immunity was granted or is wilfully concealing to that effect and thereupon the immunity so granted shall be deemed to have been withdrawn and such person may be tried for the offence to which the immunity relates and shall be also liable to such penalty as he would have been liable to but for the grant of immunity under this section].

23. Penalty and procedure.-(1) Whoever contravenes, attempts to contravene or abets the contravention of any of the provisions of this Act or of any rules, direction or order made thereunder shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), be tried by a Tribunal constituted by section 23A and shall be punishable with imprisonment for a term which may extend to two years or with fine or with both and any such Tribunal trying any such contravention may, if it thinks fit and in addition to any sentence which it may impose for such contravention, direct that any currency, security, gold or silver or goods or other property in respect of which the contravention has taken place shall be confiscated.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any offence punishable under this section shall be cognizable for such period as the Government may, from time to time, by notification in the official Gazette, declare.

(3) A Tribunal shall not take cognizance of any offence punishable under this section and not declared by the Government under the preceding sub-section to be cognizable for the time being or of an offence punishable under section 54 of the Income tax Act, 1922 (XI of 1922)], as applied by section 19, except upon complaint in writing made by a person authorised by the Government or the Bangladesh Bank in this behalf:

Provided that where any such offence is the contravention of any of the provisions of this Act or of any rule, direction or order made thereunder which prohibits the doing of an act without permission and is not declared by the Government under the preceding sub-section to be cognizable for the time being, no such complaint shall be made unless the person accused of the offence has been given an opportunity of showing that he had such permission.

Notes

The Income-tax Act, 1922 (XI of 1922) has been repeated by the Income-tax Ordinance, 1984 (XXXVI of 1984). The corresponding section of section 54 of the Act of 1922 is section 163 of the Ordinance of 1984.

(4) Where the person guilty of an offence under this Act is a company or other body corporate, every Director, Manager, Secretary and other officer thereof who is knowingly a party to the offence shall also be guilty of the same offence and liable to the same punishment.

23A. Tribunal, its powers etc.-(1) Every Sessions Judge shall, for the areas within the territorial limits of his jurisdiction, be a Tribunal for trial of an offence punishable under section 23.

(2) A Tribunal may transfer any case for trial to an Additional Sessions Judge within its jurisdiction who shall, for trying a case so transferred, be deemed to be a Tribunal constituted for the purpose.

(3) A Tribunal shall have all the powers of a Magistrate of the First Class in relation to criminal trials, and shall follow as nearly as may be the procedure provided in the Code of Criminal Procedure, 1898 (Act V of 1898), for trials before such Magistrate, and shall also have powers as provided in the said Code in respect of the following matters, namely:—

(a) directing the arrest of the accused;

(b) issuing search warrants;

(c) ordering the police to investigate any offence and report;

(d) authorising detention of a person during police investigation;

(e) ordering the release of the accused on bail.

(4) All proceedings before a Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Penal Code (Act XLV of 1860), and for the purpose of section 196 thereof, and the provisions relating to the execution of orders and sentences in the Code of Criminal Procedure, 1898 (Act V of 1898) shall, so far as may be, apply to orders and sentences passed by a Tribunal.

(5) As regards sentences of fine, the powers of a Tribunal shall be as extensive as those of a Court of Session.

(6) The Bangladesh Bank or any other person aggrieved by a judgement of a Tribunal may, within three months from the date of the judgement, appeal to the High Counrt Division.

(7) Save as provided in the preceding sub-section, all judgements and orders passed by a Tribunal shall be final.

24. Burden of proof in certain cases.-(1) Where any person is tried for contravening any provision of this Act or of any rule, direction or order made thereunder which prohibits him from doing any Act without permission, the burden of proving that he had the requisite permission shall be on him.

(2) If in a case in which the proof of complicity of a person resident in Bangladesh with a person outside Bangladesh is essential to prove an offence under this Act, then after proof of the circumstances otherwise sufficient to establish the commission of the offence, it shall be presumed that there was such complicity, and the burden of proving that there was no such complicity shall be on the person accused of the offence.

25. Power of Government to give direction.-For the purpose of this Act, the Government may, from time to time, give to the Bangladesh Bank such general or special directions as it thinks

fit, and the Bangladesh Bank shall, in the exercise of its functions under this Act, comply with any such directions.

26. Bar of legal proceedings.-No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act or any rule, direction or order made thereunder.

27. Powers to make rules.-The Government may, by notification in the official Gazette, make rules for carrying into effect the provisions of this Act.

ANNEX-3

1. The word "Bangladesh " substituted for "Pakistan" throughout the Act by the Bangladesh Laws (Revision and Declaration) Act, 1974 (Act No. LIII of 1974).

2. Substituted ibid, for "Government".

3. Substituted ibid, for"Central Government" throughout the Act.

4. Substituted ibid, for "clause (8) of section 17 of the State Bank of Pakistan Act, 1956".

5. Substituted ibid, for "rupees" throughout the Act.

6. Substituted ibid, for "(j) "State Bank" means the State Bank of Pakistan".

7. Substituted ibid, for "State Bank" throughout the Act.

8. Substituted ibid, for "section 19 of the sea customs Act, 1878."

9. Inserted by the Foreign Exchange Regulation (Amendment) Ordinance, 1976 (Ord. No. LXXVI of 1976).

10. Substituted by Act 62 of 1950, S. 5, for Original section 3.

11. Inserted ibid.

12. Inserted ibid.

APPENDIX-VI

THE NEGOTIABLE INSTRUMENTS ACT, 1881

(XXVI OF 1881)

List of Amending laws

---

1. The Negotiable Instruments (Amandment) Act, 1885 (II of 1885)
2. The Negotiable Instruments (Amendment) Act, 1897 (VI of 1897).
3. The Negotiable Instruments (Amendment) Act, 1914 (V of 1914).
4. The Negotiable Instruments (Amendment) Act, 1919 (VIII of 1919).
5. The Negotiable Instruments (Amendment) Act, 1920 (XXV of 1920).
6. The Negotiable Instruments (Amendment) Act, 1921 (XII of 1921).
7. The Negotiable Instruments (Amendment) Act, 1922 (XVIII of 1922).
8. The Negotiable Instruments (Amendment) Act, 1926 (XXX of 1926).
9. The Negotiable Instruments (Amendment) Act, 1930 (XXV of 1930).
10. The Negotiable Instruments (Amendment) Act, 1934 (XVII of 1934).
11. The Negotiable Instruments (Amendment) Act, 1947 (XXXIII of 1947).
12. The Negotiable Instruments (Temporary Amendment) Ordinance, 1948 (VI of 1948)
13. Adaptation Order, 1948.
14. The Negotiable Instruments (Amendment) Act, 1957 (V of 1957).
15. The Laws (Statute Reform) Ordinance, 1960 (XXI of 1960).
16. The Negotiable Instruments (Amendment) Ordinance, 1962 (XLIX of 1962).
17. The Bangladesh laws (Revision and Declaration) Act, 1973 (Act VIII of 1973).

CONTENTS

CHAPTER-1

PRELIMINARY

Sections	Marginal note
1.	Short title.
	Local extent.
	Savings of usages relating to hundis, etc.
	Commencement.
1A.	Application of the Act.
2.	[Repealed.]
3.	Interpretation-clause.

CHAPTER-II

OF NOTES, BILLS AND CHEQUES

4.	Promissory note.
5.	Bill of exchange.
6.	Cheque.
7.	Drawer.
	Drawee.
	Drawee in case of need.
	Acceptor.
	Acceptor for honour.
	Payee.
8.	Holder.
9.	Holder in due course.
10.	Payment in due course.
11.	Inland instrument.
12.	Foreign instrument.
13.	Negotiable instrument.
14.	Negotiation.
15.	Indorsement.
16.	Indorsement "in blank" and "in full." "Indorsee."
17.	Ambiguous instruments.
18.	Where amount is stated differently in figures and words.
19.	Instruments payable on demand.

20. Inchoate stamped instruments.
21. "At sight."
"On presentment."
"After sight."
21A. When note or bill payable on demand is overdue.
21B. A note or bill payable at a determinable future time.
21C. Anti-dating and post-dating.
22. "Maturity."
Days of grace.
23. Calculating maturity of bill or note payable so many months after date or sight.
24. Calculating maturity of bill or note payable so many days after date or sight.
25. When day of maturity is a holiday.

CHAPTER-111
PARTIES TO NOTES, BILLS AND CHEQUES

26. Capacity to make, etc, promissory notes; etc.
Minor.
27. Agency.
27A. Authority of partner.
28. Liability of agent signing.
28A. Transferor by delivery and transferee.
29. Liability of legal representative signing.
29A. Signature essential to liability.
29B. Forged or un-authorised signature.
29C. stranger signing instrument presumed to be indorser.
30. Liability of drawer.
31. Liability of drawee of cheque.
32. Liability of maker of note and acceptor of bill.
33. Only drawee can be acceptor except in need or for honour.
34. Acceptance by several drawees not partners.
35. Liability of indorser.
36. Liability of prior parties to holder in due course.
37. Maker, drawer and acceptor principals.

38. Prior party principal in respect of each subsequent party.
38A. Liability of accommodation party and position of accmmodation party.
39. suretyship.
40. Discharge of indodser's liability.
41. Acceptor bound although indorsement forged.
42. Acceptance of bill drawn in fictitious name.
43. Negotiable instrument made, etc, without consideration.
44. Partial absence or failure of money-consideration.
45. Partial failure of consideration not consisting of money.
45A. Holder's right to duplicate of lost bill.

CHAPTER -IV
OF NEGOTIATION

46. Delivery.
47. Negotiation by delivery.
48. Negotiation by indorsement.
49. Conversion of indorsement in blank into indorsement in full.
50. Effect of indorsement.
51. Who may negotiate.
52. Indorser who excludes his own liability or makes it conditional.
53. Holder claiming through holder in course.
53A. Rights of holder in due course.
54. Instrument indorsed in blank.
55. Conversion of indorsement in blank into indorsement in full.
56. Requisites of indorsement.
57. Legal representative cannot by delivery only negotiate instrument indorsed by deceased.
57A. Negotiation of instrument of party already liable thereon.
57B. Rights of holder.
58. Defective title.
59. Instrument acquired after dishonour or when overdue.
60. Instrument negotiable till payment or satisfaction.

CHAPTER-V

OF PRESENTMENT

61. Presentment for acceptance.

62. Presentment of promissory note for sight.

63. Drawee's time for deliberation.

64. Presentment for payament.

65. Hours for presentment.

66. Presentment for payment of instrument payable after date or sight.

67. Presentment for payment of promissory note payable by instruments.

68. Presentment for payment of instrument payable at specified place and not elsewhere.

69. Instrument payable at specified place.

70. Presentment where no exclusive place specified.

71. Presentment when maker, etc, has no known place of business or residence.

71A. What constitutes valid presentment and mode of presentment.

72. Presentment of cheque to charge drawer.

73. Presentment of cheque to charge any other person.

74. Presentment of instrument payable on demand.

75. Presentment by or to agent, representative of deceased, or assignee of insolvent.

75A. Excuse for delay in presentment for acceptance or payament.

76. When presentment unnecessary.

77. Liability of banker for negligently dealing with bill presented for payament.

CHAPTER -VI
OF PAYAMENT AND INTEREST

78. To whom payment should be made.

79. Interest when rate specified or not specified.

80. Interest when no rate specified.

81. Delivery of instrument on payment, or indemnity in case of loss.

CHAPTER -VII
OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUE

82. Discharge from liability.

(a) By cancellation;

(b) By release;

(c) By payment.

83. Discharge by allowing drawee more than forty-eight hours to accept.

84. When cheque not duly presented and drawer damaged thereby.

85. Cheque payable to order.

85A. Drafts drawn by one branch of a bank on another payable to order.

86. Parties not consenting discharged by qualified or limited acceptance.

87. Effect of material alteration. Alteration by indorsee.

88. Acceptor or indorser bound notwithstanding previous alteration.

89. Payment of instrument on which alteration is not apparent.

90. Extinguishment of rights of action on bill in acceptor's hands.

454CHAPTER-VIII
OF NOTICE OF DISHONOUR

91. Dishonour by non-acceptance.
92. Dishonour by non-payment.
93. By and to whom notice should be given.
94. Mode in which notice may be given.
95. Party receiving must transmit notice of dishonour.
96. Agent for presentment.
97. When party to whom notice given is dead.
98. When notice of dishonour is unnecessary.

CHAPTER-IX
OF NOTING AND PROTEST

99. Noting.
100. Protest. Protest for better security.
101. Contents of protest.
102. Notice of protest.
103. Protest for non-payment after dishonour by non-acceptance.
104. Protest of foreign bills.
104A. When noting equivalent to protest.

CHAPTER-X
OF REASONABIL TIME

105. Deasonable time.
106. Reasonable time of giving notice of dishonour.
107. Reasonable time for transmititing such notice.

CHAPTER-XI
OF ACCEPTANCE AND PAYMENT FOR HONOUR AND REFERENCE IN CASE OF NEED

108. Acceptance for honour.
109. How acceptance for honour must be made.
110. Acceptance not specifying for whose honour it is made.
111. Liability of acceptor for honour.
112. When acceptor for honour may be charged.
113. Payment for honour.
114. Right of payer for honour.
115. Drawee in case of need.
116. Acceptance and payment without protest.

CHAPTER-XII
OF COMPENSATION

117. Rules as to compensation.

CHAPTER-XIII
SPECIAL RULES OF EVIDENCE

118. Presumptions as to negotiable instrument-
  (a) of consideration;
  (b) as to date;
  (c) as to time of acceptance;
  (d) as to time of transfer;
  (e) as to order of indorsements;
  (f) as to stamp;
  (g) that holder is a holder in due course.
119. Presumption on proof of protest.
120. Estoppel against denying original validity of instrument.
121. Estoppel against denying capacity of payee to indorse.
122. Estoppel against denying signature or capacity of prior party.

CHAPTER -XIV
SPECIAL PROVISIONS RELATING TO CHEQUES

122A. Revocation of Banker's authority.
123. Cheque crossed generally.
123A. Cheque crossed "account-payee".
124. Cheque crossed specially.
125. Crossing after issue.
125A. Crossing a material part of a cheque.
126. Payment of cheque crossed generally.
Payment of cheque crossed specially.
127. Payment of cheque crossed specially more than once.
128. Payment in due coure of crossed cheque.
129. Payment of crossed cheque out of due course.
130. Cheque bearing "not negotiable."
131. Non-liability of banker receiving payment of cheque.
131A. Application of Chapter to drafts.
131B. Protection to banker crediting cheque crossed "account-payee."
131C. Cheque not operating as assignment of funds.

CHAPTER -XV
SPECIAL PROVISIONS RELATING TO BILLS OF EXCHANGE

131D Several drawees.
131E In whose favour a bill may be drawn.
131F. When presentment for acceptance is necessary.
131G When presentment excused.
131H Holder's right of recourse against drawee and indorsers.
131.1 Holder's may refuse qualified acceptance.
132. Set of bills.
133. Holder of first acquired part entitled to all.

CHAPTER -XVI
OF INTERNATIONAL LAW

134. Law governing liability of parties to a foreign instrument.

135. [Omitted.]

136. Instrument made, etc, outside Bangaldessh but in accordance with their law.

137. Presumption as to foreign law.

CHAPTER -XVII

ON PENALTIES IN CASE OF DISOHONOUR OF CERTAIN CHEQUES FOR INSUFFICIENCY OF FUNDS IN THE ACCOUNT.

138. Dishonour of cheque for insufficiency etc. of funds of the account.

139. Presumption in favour of holder.

140. Offences of companies.

141. Coguizanec of offenes.

SCHEDULE

Repealed.

THE NEGOTIABLE INSTRAMENTS ACT, 1881
Act No. XXVI of 1881

[Amendment foot Notes at ANNEX-4]

An Act to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

WHEREAS it is expedient to define and amend the law relating to promissory notes, bills of exchange and cheques;

It is hereby enacted as follows:-

CHAPTER I
PRELIMINARY

Short title.-1. This Act may be called the Negotiable Instruments Act, 1881.

Local extent. Saving of usages relating to hundis, etc. commencement.-[2][It extends to the whole of [1][Bangladesh]; but nothing herein contained affects the provisions of [2][Articles 23 and 24 of the Bangladesh Bank Order, 1972]; and it shall come into force on the first day of March, 1882.

[3][IA. Application of the Act.- Every negotiable instrument shall be governed by the provisions of this Act, and no usage or custom at variance with any such provision shall apply to any such instrument.]

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

(a) "accommodation party" means a person who has signed a negotiable instrument as a maker, drawer, acceptor or indorser without receiving the value thereof and for the purpose of lending his name to some other person;

(b) "banker" means a person transacting the business of accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise and withdrawable by cheque,

draft, order or otherwise, and includes any Post Office Savings Bank;

(c) "bearer" means a person who by negotiation comes into possession of a negotiable instrument, which is payable to bearer;

(d) "delivery" means transfer of possession, actual or constructive, from one person to another;

(e) "issue" means the first delivery of a promissory note, bill of exchange or cheque complete in form to a person who takes it as a holder;

(f) "material alteration" in relation to a promissory note, bill of exchange or cheque includes any alteration of the date, the sum payable, the time of payment, the place of payment, and where any such instrument has been accepted generally, the addition of a place of payment without the acceptor's assent; and

(g) "notary public" includes any person appointed by the [4][Government] to perform the functions of notary public under this Act [5][and a notary appointed under the Notaries Ordinance, 1961.]

CHAPTER II
OF NOTES, BILLS AND CHEQUES

4. A "promissory note" is an instrument in writing (not being a bank-note or a currency -note) containing an unconditional undertaking, signed by the maker, to pay [5][on demand or at a fixed or determinable future time] a certain sum of money only-to, or to the order of, a certain person, or to the bearer of the instrument.

Illustrations

A signs instruments in the following terms;

(a) "I promise to pay B or order [6][Taka] 500"

(b) "I acknowledge myself to be indebted to B in Taka 1,000 to be paid on demand, for value received."

(c) "Mr. B, I O U Taka 1,000."

(d) " I promise to pay B Taka 500 and all other sums which shall be due to him.

(e) "I promise to pay B Taka 500, first deducting thereout any money which may owe me."

(f) "I promise to pay B Taka 500 seven days after my marriage with C."

(g) "I promise to pay-B Taka 500 on D's death, provided D leaves me enough to pay that sum.

(h) "I promise to pay B Taka 500 and to deliver to him my black horse on Ist January next.

The instruments respectively marked (a) and (b) are promissory notes. The instruments respectively marked (c), (d), (e), (f), (g) and(h) are not promissory notes.

5. Bill of exchange.-A "bill of exchange"is an instrument in writing containing an unconditional order, signed by the marker, directing a certain person to pay [7][on demand or at a fixed or determinable future time] a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

Promise or order to pay is not "conditional" within the meaning of this section and section 4, by reason of the time for payment of the amount or any instalment thereof being expressed to be on the lapse of a certain period after the occurrence of a specified event which, according to the ordinary expectation of mankind, is certain to happen, although the time of its happening may be uncertain.

The sum payable may be "certain" within the meaning of this section and section 4, although it includes future interest or is payable at an indicated rate of exchange, or is [8][payable at the current rate of exchange, and although it is to be paid in stated instalments and contains a provisions that on default of payment of one or more instalments or interest,the whole or the unpaid balance shall become due].

[9][Where the person intended can reasonably be ascertained from the promissory note or the bill of exchange, he is a "certain person" within the meaning of this section and section 4, although he is misnamed or designated by description only.

An order to pay out of a particular fund is not unconditional within the meaning of this section; but an unqualified order to pay, coupled with--

(a) an indication of a particular fund out of which the drawee is to reimburse himself or a particular account to be debited to the amount, or

(b) a statement of the transaction which gives rise to the note or bill, is unconditional.

Where the payee is a fictitious or non-existing person the bill of exchange may be treated as payable to bearer.]

6. Cheque.-A "cheque" is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand.

7. Drawer, Drawee.- The maker of a bill of exchange or cheque is called the "drawer", the person thereby directed to pay is called the "drawee".

Drawer in case of need.-When in the bill or in any indorsement thereon the name of any person is given in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need."

Acceptor.-After the drawee of a bill has signed his assent upon the bill, or, if there are more parts thereof than one, upon one of such parts, and delivered the same, or given notice of such signing to the holder or to some person on his behalf, he is called the "acceptor".

Acceptor for honour.-[10][When a bill of exchange has been noted or protested for non-acceptance or for better security,] and any person accepts it supra protest for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour."

Payee.-The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the "payee".

[11][8. Holder.-The "holder" of a promissory, bill of exchange or cheque means the payee or indorsee who is in possession of it or the bearer thereof but does not include a beneficial owner claiming through a banamidar.

Explanation.- Where the note, bill or cheque is lost and not found again, or is destroyed, the person in possession of it or the bearer thereof at the time of such loss or destruction shall be deemed to continue to be its holder.]

[12][9. Holder in due course.-"Holder in due course" means any person who for consideration becomes the possessor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or indorsee thereof, if payable to order, before it became overdue,

Without notice that the title of the person from whom he derived his own title was defective.

Explanation.-For the purposes of this section, the title of a person to a promissory note, bill of exchange or cheque is defective when he is not entitled to receive the amount due thereon by reason of the provisions of section 58.]

10.Payment in due course.-"Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that he is not entitled to receive payment of the amount therein mentioned.

11. Inland instrument.-A promissory note, bill of exchange or cheque drawn or made in Bangladesh, and made payable in, or drawn upon any person resident in, Bangladesh shall be deemed to be an inland instrument.

12. Foreign instrument.-Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.

13. Negotiable instrument.-[13][(1) A "negotiable instrument" means a promissory note, bill of exchange or cheque payable either to order or to bearer.

Explanation (i)-A promissory note, bill of exchange or cheque is payable to order which is expressed to be so payable or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it shall not be transferable.

Explanation (ii)-A promissory note, bill of exchange or cheque, is payable to bearer which is expressed to be so payable or

on which the only or last indorsement is an indorsement in blank.

Explanation (iii)-Where promissory note, bill of exchange or cheque either originally or by indorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option.]

[14][(2) A negotiable instrument may be made payable to two or more payees jointly or it may be made payable in the alternative to one of two, or one or some of several payees.]

14. Negotiation.-When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

15. Indorsement.-When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser."

16. Indorsement in "blank" and in full.- (1) If the indorser signs his name only, the indorsement is said to be "in blank," and if he adds a direction to pay the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full," and the person so specified is called the "indorsee" of the instrument.

[15][(2) The provisions of this Act relating to a payee shall apply with the necessary modifications to an indorsee.]

17. Ambiguons instrument.-Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either and the instrument shall be thenceforward treated accordingly.

18. Where amount is stated differently in figures and words.-If the amount undertaken or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount undertaken or ordered to be paid:

[16][Provided that if the words are ambiguous or uncertain, the amount may be ascertained by referring to the figures.]

[17][19. Instruments payable on demand.-A promissory note or bill of exchange is payable on demand,-

(a) where it is expressed to be so, or to be payable at sight or on presentment; or

(b) where no time for payment is specified in it; or

(c) where the note or bill accepted or indorsed after it is overdue, as regards the person accepting or indorsing it.]

[18][20. Inchoate stamped instrument.-(1)Where one person signs and delivers to another a paper stamped in accordance with the law relating to stamp duty chargeable on negotiable instruments, either wholly blank or having written thereon an incomplete negotiable instrument, in order that it may be made, or completed into a negotiable instrument he thereby gives prima facie authority to the person who receives that paper to make or complete it, as the case may be, into a negotiable instrument for the amount, if any, specified therein, or, where no amount is specified, for any amount, not exceeding, in either case, the amount covered by the stamp.

(2) The person so signing shall, subject to the provisions of sub-section (3), be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course, for the amount specified in the instrument or filled up therein:

Provided that no person other than a holder in due course shall receive from the person so signing the paper anything in excess of the amount intended by him to be paid thereunder.

(3) In order that any such instrument may on completion be enforceable against any person who became a party thereto before such completion, it must be filled up within a reasonable time and strictly in accordance with the authority given:

Provided that if any such instrument after completion is negotiated to a holder in due course, it shall be valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up within a reasonable time and strictly in accordance with the authority given.]

21. "At sight" "On presentment After sight".-[19][XXXX] The expression "after sight" means in a promissory note, after presentment for sight, and, in a bill of exchange, after acceptance, or noting for non-acceptance, or protest for non-acceptance.

[20][21A. When note or bill payable on demand is overdue.- A promissory note or bill of exchange payable on demand shall be deemed to be overdue when it appears on the face of it to have been in circulation for an unreasonable length of time.

21B. A note or bill payable at a determinable future time.-A promissory note or bill of exchange is payable at a determinable future time within the meaning of this Act if it is expressed to be payable-

(a) at a fixed time after date or sight; or

(b) on or at a fixed time after the occurrence of a specified event which is certain to happen, though the time of its happening may be uncertain.

21C. Anti dating and post dating.-A promissory note, bill of exchange or cheque is not invalid by reason only that it is anti-dated or post-dated:

Provided that the anti-dating or post-dating does not involve an illegal or fraudulent purpose or transaction.]

22. Muturity.-The maturity of a promissory note or bill of exchange is the date at which it falls due.

Every promissory note or bill of exchange which is not expressed to be payable on demand, at sight or on presentment is at maturity on the third day after the day on which it is expressed to be payable.

23. Calculating maturity of bill or note payable so many mouths after date or sight.-In calculating the date at which a promissory note or bill of exchange made payable a stated number of months afterdate or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument is dated, or presented for acceptance or sight, or noted for non-acceptance, or protested for non-acceptance, or the event happens, or where the instrument is a bill of exchange made payable a stated number of months after sight and has been accepted for honour, with the day on which it was so accepted. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

Illustrations

(a) A negotiable instrument, dated 29th January, 1878, is made payable at one months after date. The instrument is at maturity on the 3rd day after the 28th February, 1878.

(b) A negotiable instrument, dated 30th August, 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878.

(c) A Promissory note or bill of exchange, dated 31st August, 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878.

24. Calculating maturity of bill or note payable so many days after date or sight.-In calculating the date at which a promissory note or bill of exchange made payable a certain number of days after, date or aftersight or after a certain event is at maturity, the day of the date, or of presentment for acceptance or sight, or of protest for non-acceptance, or on which the event happens, shall be excluded.

25. When day of maturity is a holiday.-When the day on which a promissory note or bill of exchange is at maturity is a public holiday, the instrument shall be deemed to be due on the next preceding business day.

[21][Explanation.-The expression "public holiday" includes Sundays and the days declared by the [22][Government], by notification in the official Gazette, to be public holidays.]

CHAPTER-III
PARTIES TO NOTES, BILLS AND CHEQUES

26. Capacity to make, etc, promissory notes, etc.-Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a promissory note, bill of exchange or chaeque.

[Where such an istrument is made, drawn or negotiated by a minor, the making, drawing or negotiation entitles the holder to receive, payament of such instrument and to enforce it against and party thereto other than the minor.][23]

Nothing herein contained shall be deemed to empower a corporation to make, indorse or accept such instruments except in cases in which, under the law for the time being in force, they are so empowered.

27. Ageney.-Every person capable of binding himself or of being bound [24][by the making, drawing, acceptance or negotiation of a negotiable instrument], may so bind himself or be bound by a duly authorized agent acting in his name.

A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or endorsing bills of exchange so as to bind his principal.

An authority to draw bills of exchange does not of itself import an authority to indorse.

[27A. Authority of partners.- A partner acting in the firm name may bind the firm by the making, drawing, acceptance or negotiaiton of a negotiable instrument to the extent authorized by law relating to partnership for the time being in force.][25]

[28. Liabilty of agent signing.-(1)Where a person signs a promissory note, bill of exchange or cheque without adding to his signature words indicating that he signs it as an agent for and on behalf of a principal or in a representative character, he is personally liable thereon but the mere addition to his signature of words describing him as an agent or as filling a representative character does not exempt him from personal liability.

(2) Notwithstanding anything contained in sub-section (1), any person signing a promissory note, bill of exchange or cheque for and on behalf of the principal is not liable to a person who induces him to sign upon the belief that the principal alone would be held liable.][26]

[28A. Transferor pay delivery and transferee.-(1) Where the holder of a negotable instrument payable to bearer negotiates it by delivery without indorsing it, he is called a "transferor by delivery".

(2) A transferor by delivery is not liable on the instrument.

(3) A transferor by delivery who negotiates a negotiable instrument thereby warrants to his immediate transferee, being a holder for consideration, that the instrument is what it purports to be, that he has a right to transfer it, and that at the time of transfer he is not aware of any defect which renders it valueless.][27]

28. Liability of legal representative signing.-A legal representative of a deceased person who signs his name to a promissory note, bill of exchange, or cheque is liable personally thereon unless he expressly limits his liability to the extent of the assets received by him as such.

[29A. Signature essential to liability.-No person is liable as maker, drawer, indorser or acceptor of a promissory note, bill of exchange or cheque who has not signed it as such:

Provided that where a person signs any such instrument in a trade or assumed name, he is liable thereon as if he hed signed it in his own name.

29B. Forged or un-authorised signature.- Subject to the provisions of this Act, where a signature on a promissory note, bill of exchange or cheque is forged or placed thereon without the authority of the person whose signature it purports to be, the forged or unauthorized signature is wholly inoperative, and no right to retain the instrument or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the instrument is precluded from setting up the forgery or want of authority:

Provided that nothing in this section shall effect the ratification of an unauthorized signature not amounting to a forgery.

29C. Stranger signing instrument presumed to be indorser.-A person placing his signature upon a negotiable instrument otherwise than as maker, drawer or acceptor is presumed to be an indorser unless he clearly indicates by appropriate words his intention to be bound in some other capacity.][28]

[30. Liability of drawer.-(1) (a) The drawer of a bill of exchange by drawing it, engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured, he will compensate the holder or any indorser who is compelled to pay it; and

(b) the drawer of a cheque by drawing it, engages that in the case of dishonour by the drawee he will compensate the holder:

Provided that due notice of dishonour of the bill or cheque has been given to or received by the drawer as hereinafter provided.

(2) The drawee of a bill of exchange is not liable thereon until acceptance in the manner provided by this Act.] [29]

31. Liability of drawee of cheque.-The drawee of a cheque having sufficient funds of the drawer in his hands properly applicable to the payment of such cheque must pay the cheque when duly required so to do, and, in default of such payment, must compensate the drawer for any loss or damage caused by such default.

[32. Liability of maker of note and acceptor of bill.-(1) In the absence of a contract to the contrary, the maker of a promissory note, by making it, and the acceptor before maturity of a bill of exchange by accepting it, engages that he will pay it according to the tenor of the note or his acceptance respectively, and in default of such payment, such maker or acceptor is bound to compensate any party to the note or bill or any loss or damage sustained by him and caused by such default.

(2) The acceptor of a bill of exchange at or after maturity, by accepting it, engages to pay the amount thereof to the holder on demand.][30]

33. Only drawee can be acceptor except in need or for honour.- No person except the drawee of a bill of exchange, or all or some of several drawees, or a person named therein as a drawee, in case of need, or an acceptor for honour, can bind himself by an acceptance.

34. Acceplaince by several drawees not pratners.-Where there are several drawees of a bill of exchange who are not partners, each of them can accept it himself but none of them can accept it for another without his authority.

35. Liability of indorsor.-[31][In the absence of a contract to the contrary,the indorser of a negotiable instrument, by indoring it, engages that on due presentement it shall be accepted and paid according to its tenor and that if it be dishonoured he will compensate the holder or subsequent indorser who is compelled to pay it for any loss or damage caused to him by such dishonour.]

Every indorser after dishonour is liable as upon an instrument payable on demand.

36. Liability of prior parties to holder in due course.-Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied.

37. Maker, drawer and acceptor principals.-The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, in the absence of a contract to the contrary, respectively liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for the maker, drawer or acceptor, as the case may be.

38. Prior party principal in respect of each subequent party.- As between the parties so liable as sureties, each prior party is, in the absence of a contract to the contrary, also liable thereon as a principal debtor in respect of each subsequent party.

Illustration

A draws a bill payable to his own order on B who accepts. A afterwards inderses the bill to C, C to D and D to E. As between E and B, B is the principal debtor, and A, C and D are his surcties. As between E and A, A is the principal debtor, and C and D are his sureties. As between E and C, C is the principal debtor and D is his surety.

[38A. Liability of accommodation.-(1) An accommodation party is liable on a negotiable instrument to a holder in due course, notwithstanding that when such holder took the instrument he knew such party to be an accommodation party.

(2) An accommodation party to a negotiable instrument, if he has paid the amount thereto, is entitled to recover such amount from the party accommodated.][32]

39. Suretyship.-When the holder of an accepted bill of exchange enters into any contract with the acceptor which, under section 134 or135 of the Contract Act, 1872 (IX of 1872), would discharge the other parties, the holder may expressly reserve his right to charge the other parties, and in such case they are not discharged.

40. Discharge of indorser liability.-When the holder of a negotiable instrument, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.

Illustration

A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsements in blank:-

First indorsement, "B"

Second indorsement "Peter Williams."

Third indorsement, "Wright & Co."

Fourth indorsement, "John Rozario."

This bill A puts in suit against John Rozario and strike out without John Rozario's consent, the indorsements by Peter Williams, and Wright & Co. A is not entitled to recover anything from John Rozario.

41. Acceptor bound although indorsement forged.-An acceptor of a bill of exchange already indorsed is not relieved from liability by reason that such indorsement is forged, if he knew or had reason to believe the indorsement to be forged when he accepted the bill.

42. Acceptance of bill drawn in fictitious name.-An acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not, by reason that such name is fictitious,

relieved from liability to any holder in due course claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

43. Negotiable instrument made, etc, without consideration.- A negotiable instrument made, drawn, accepted, indorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instruement with or without indorsement to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

Exception I. No party for whose accommodation a negotiable instrument has been made, drawn, accepted or indorsed can, if he has paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

Exception II.- No party to the instrument who has induced any other party to make, draw, accept, indorse or transfer the same to him for a consideration which he has failed to pay or perform in full shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed.

44. Partial absence of failure of money consideration.-When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part of or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Explanation.- The drawer of a bill of exchange stands in immediate relation with the acceptor.The maker of a promissory note, bill of exchange or cheque stands in immediate relation with the payee, and the indorser with his indorsee. Other signers may by agreement stand in immediate relation with a holder.

Illustration

A draws a bill on B for Taka 500 payable to the order of A. B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as

toTaka 400, and as an accommodation to the plaintiff as to the residue. A can only recover Taka 400.

45. Partial failure of consideration not consisting of money.- Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is ascertainable in money without collateral enquiry, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

[45A. Holder's right to duplicate of lost bill.-Where a bill of exchange has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so.][33]

CHAPTER-IV
OF NEGOTIATION

46. Delivery.-The making, acceptance or indorsement of a promissory note, bill of exchange or cheque is completed by delivery, actual or constructive.

As between parties standing in immediate relation, delivery to be effectual must be made by the party making, accepting or indorsing the instrument or by a person authorized by him in that behalf.

As between such parties and any holder of the instrument other than a holder in due course, it may be shown that the instrument was delivered conditionally or for a special purpose only, and not for the purpose of transferring absolutely the property therein.

A promissory note, bill of exchange, or cheque payable to bearer is negotiable by the delivery thereof.

A promissory note, bill of exchange or cheque payable to order is negotiable by the holder by indorsement and delivery thereof.

47. Negotiation by delivery.-Subject to the provisions of section 58, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof.

Exception.-A promissory note, bill of exchange or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice of the condition) unless such event happens.

Illustraions

(a) A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated.

(b) A, the holder of a negotiable instrument payable to bearer, which is in the hands of A's banker, who is at the time the banker, of B, directs the banker to transfer the instrument to B's credit in the banker's account with B. The banker does so, and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

48. Negotiation by indorsement.-Subject to the provisions of section 58, a promissory note, bill of exchange or cheque [34][payable to order] is negotiable by the holder by indorsement and delivery thereof.

[49. Conversion of indorsement in blank into in-dorsement in full.-When a negotiable instrument has been indorsed in blank, any holder may, without signing his own name, convert the blank indorsement into an indorsement in full by writing above the indorser's signature a direction to pay the amount to or to the order of himself or some other person; and the holder does not thereby incur the responsibility of an indorser.][35]

[50. Effect of in dorsement.-(1) Subject to the provisions of this Act relating to restrictive, conditional and qualified indorsement, the indorsement of a nogotiable instrument followed by delivery transfers to the indorsee the property therein with the right of further negotiation.

(2) An indorsement is restrictive which either

(a) restricts or excludes the right to further negotiable the instrument; or

(b) constitutes the indorsee an agent of the indorser to indorse the instrument or to receive its contents for the indorser or for some other specified person:

Provided that the mere absence of words implying right to negotiate does not make the indorsement restrictive.][36]

ILLUSTRATIONS

B signs the following indorsements on different negotiable instruments payable to bearer:-

(a) "Pay the contents to C only"

(b) "Pay C for my use."

(c) "Pay C or order for the account of B"

(d) "The within must be credited to C."

These indorsements exclude the right of further negotiation by C.

(e) "Pay C"

(f) "Pay C value in account with the Oriental Bank."

(g) "Pay the contents to C, being part of the consideration in a certain deed of assignment executed by C to the indorser and others."

These indorsements do not execlude the right of further negotiation by C,

51. Who may negotiate.- Every sole maker, drawer, payee or indorsee, or all of several joint makers, drawers payees or indorsees, of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded as mentioned in section 50, indorse and negotiate the same.

Explanation.- Nothing in this section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof.

Illustration

A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order" or any equivalent words. B may negotiate the instrument.

52. Indorser who excludes his own liability or makes it conditional.-The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the indorsee to receive the amount due thereon depend upon the happening of a specified event, although such event may never happen.

Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

[37][Where the right of an indorsee to receive the amount due on the negotiable instrument is made dependent in the aforesaid manner the condition is valid only as between the indorser and the indorsee.

Where the indorsement of a negotiable instrument purports to be conditional, the payer may disregard the condition, and payment to the indorsee is valid whether the condition has been fulfiled or not.]

Illustrations

(a) The indorser of a negotiable instrument signs his name adding the words-"without recourse". Upon this indorsement he incurs no liability

(b) A is the payee and holder of a negotiable instrument. Excluding personal liability by an indorsement "without recourse," he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

53. Holder claiming through holder in due course.-(1) A holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the negotiable instrument, has all the rights therein of that holder in due course as regards the acceptor and all parties to the instrument prior to that holder.

(2) Where the title of the holder is defective, -

(a) if he negotiates the instrument to a holder in due course, that holder obtains a good and complete title to the instrument ; and

(b) if he obtains payment of the instrument, the person who pays him in due course gets valid discharge for the instrument.][38]

[53A. Rights of holder in due course.-A holder in due course holds the negotiable instrument free from any defect of title of prior parties, and free from defences available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.][39]

54. Instrument indorsed in blank.-Subject to the provisions hereinafter contained as to crossed cheques, a negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

55. Conversion of indorsement in blank into indorsement in full.-If a negotiable instrument, after having been indorsed to blank, is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

[56. Requisites of indorsement.-(1) Negotiation by indorsement must be of the entire instrument.

(2) An indorsement which purports to transfer to the indorsee only a part of the amount payable, or which purports to transfer the instrument to two or more indorsees severally, is not valid as a negotiation of the instrument; but where such amount has been paid in part, a note to that effect may be indorsed on the instrument, which may then be indorsed for the balance.][40]

57. Legal representative cannot by delivery only negotiate instrument indorsed by deceased.-The legal representative of a deceased person cannot negotiate by delivery only a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

[57A. Negotiation of instrument to party already liable thereon.-Where a negotiable instrument is negotiated back before maturity to the maker or drawer or a prior indorser or to the acceptor, such party may, subject to the provisions of this Act, re-issue and further negotiate the instrument, but he is not entitled to enforce payment of the instrument against any intervening party to whom he was previously liable.

57B. Rights of holder.-A holder may receive payment in due course under a negotiable instrument and further negotiate it in

the manner provided by this Act; he may also sue on such instrument in his own name.][41]

[58. Defective title.-When a promissory note, bill of exchange or cheque has been lost or has been obtained from any maker, drawer, acceptor or holder thereof by means of an offence or fraud, or for an unlawful consideration, neither the person who finds or so obtains the instrument nor any possessor or indorsee who claims through such person is entitled to receive the amount due thereon from such maker, drawer, acceptor or holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.][42]

59. Instrument acquired after dishonour or when overdue.- The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only, as against the other parties, the rights thereon of his transferor [43][and is subject to the equities to which the transferor was subject at the time of acquisition by such holder:]

Provided that any person who, in good faith and for consideration becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted without consideration, for the purpose of enabing some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

Illustration

The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds, but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

60. Instrument negotiable till payment or satisfaction.-A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee or accept at or after maturity, but not after such payment or satisfaction.

CHAPTER V
OF PRESENTMENT

61. Presentment for acceptance.-A bill of exchange payable after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured.

If the bill is directed to the drawee at a particular place, it must be presented at that place; and if at the due date for presentment he cannot, after reasonable search, be found there, the bill is dishonoured.

[Where authorized by agreement or usage, a presentment through the post office by means of a registered is sufficient.][44]

62. Presentment of promissory note for sight.-A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight (if he can, after reasonable search, be found) by a person entitled to demand payment within a reasonable time after it is made and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

63. Drawee's time for deliberation. The holder must, if so requied by the drawee of a bill of exchange presented to him for acceptance, allow the drawee [45][forty-eight] hours (exclusive of public holidays) to consider whether he will accept it.

64. Presentment for payment.-[46][Subject to the provisions of section 76, promissory notes], bills of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

[47][* * * * * * *]

Exception.-Where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof [48][nor is presentment necessary to charge the acceptor of a bill of exchange].

[49][The provisions of this section are without prejudice to the provisions relating to presentment for acceptance in the case of a bill of exchange.

Explanation.- Where there are several persons, not being partners liable on the negotiable instrument, as makers, acceptors or drawees, as the case may be, and no place of payment is specified, presentment must be made to them all.]

65. Hours for presentment.-Presentment for payment must be made during the usual hours of business, and if at a banker's, within banking hours.

66. Presentment for payment of instrument payable after date or sight.-A promissory note or bill of exchange, made payable at a specified period after date or sight thereof, must be presented for payment at maturity.

67. Presentment for payment of promissory note payable by instalments.-A promissory note payable by instalments must be presented for payment on the third day after the date fixed for payment of each instalment; and non-payment on such presentment has the same effect as non-payment of a note at maturity.

68. Presentment for payment of instrument payable at specified place and not elsewhere.-A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must, in order to charge any party thereto, be presented for payment at that place.

69. Instrument payable at specified place.-A promissory note or bill of exchange made, drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place.

70.Presentment where no exclusive place specified.-A promissory note or bill of exchange, not made payable as mentioned in sections 68 and 69, must be presented for payment [50][(at the address of the maker, acceptor or drawee given in the

instrument, and if no such address is given] at the place of business [51][if known), or at the ordinary residence (if known)], of the maker, drawee or acceptor thereof, as the case may be.

71. Presentment when maker etc. has no known place of business or residence.-If the maker, drawee or acceptor of a negotiable instrument has no known place of business or residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person wherever he can be found.

[52][Explanation.- In this section and sections 68 and 69, "specified place" means a place sufficiently described so as to enable the person presenting the instrument to locate it.]

[71A. What constitutes valid presentment and mode of presentment.-(1)To contitute a valid presentment it shall be sufficient if instead of the original negotiable instrument a copy thereof certified to be true by the holder is delivered to the person liable thereon, either personally or by registered post or by other effective means.

(2) If, after such delivery, the person liable to pay so demands, the holder shall allow him to inspect the original negotiable instrument during the hours of business of the holder, and if the holder fails to do so within a reasonable time, the presentment shall be deemed to be invalid.][53]

72. Presentment of cheque to charge drawer.-[54][Subject to the provisions of section 84,] a cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

73. Presentment of cheque to charge any other person.-A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after delivery thereof by such person.

74. Presentment of instrument payable on demand.-Subject to the provisions of section 31, a negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

75. Presentment by or to agent, representative of deceased or assignee of insolvent.-Presentment for acceptance or payment

may be made to the duly authorized agent of the drawee, maker or acceptor, as the case may be, or, where the drawee, maker or acceptor has died,to his legal representative, or, where he has been declared an insolvent, to his assignee.

[75A. Excuse for delay in presentment for acceptance or payment.-Delay in presentment [56][for acceptance or payment] is excused if the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made within a reasonable time.][55]

[57][* * * * * *]

76. When presentment unnecessary.-No presentment for payment is necessary, andthe instrument [58][shall be deemed to be dishonoured] at the due date for presentment, in any of the following cases:-

(a) if the maker, drawee or acceptor intentionally prevents the presentment of the instrument, or,

if the instrument being payable at his place of business, he closes such place on a business day during the usual business hours, or,

if the instrument not being payable at some other specified place, neither he nor any person authorized to pay it attends at such place during the usual business hours, or,

if the instrument not being payable at any specified place, he cannot after due search be found.;

(b) as against any party sought to be charged therewith, if he has engaged to pay notwithstanding non presentment;

(c) as against any party if, after maturity, with knowledge that the instrument has not been presented-- he makes a part payment on account of the amount due on the instrument, or promised to pay the amount due thereon in whole or in part, or otherwise waives his right to take advantage of any default in presentment for payment;

(d) as against the drawer, if the drawer could not suffer damage from the want of such presentment.

[59][(e)where the drawee is a fictitious person;

(f) as regards an indorser, where the negotiable instrument was made, drawn or accepted for the accommodation of that indorser and he had reason to expect that the instrument would not be paid if presented; and

(g) where, after exercise of reasonable diligence, presentment as required by this Act cannot be effected.

Exaplanation.-The fact that the holder has reason to believe that the Negotiable Instrument will, on presentment, be dishonoured does not dispense with the necessity for presentment.]

77. Liability of banker for negligently dealing with bill presented or payment.- When a bill of exchange accepted payable at specified bank has been duly presented there for payment and dishonoured, if the banker so negligently or improperly keeps, deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss.

CHAPTER VI
OF PAYMENT AND INTEREST

78. To whom payment should be made.-Subject to the provisions of section 82, clause (c), payment of the amount due on a promissory note, bill of exchange or cheque must, in order to discharge the maker or acceptor, be made to the holder of the instrument.

[79. Interest when rate specified or not specified.-Subject to the provisions of any law for the time being in force relating to the relief of debtors, and without prejudice to the provisions of section 34 of the Code of Civil Procedure, 1908, (Act V of 1908),

(a) when interest at a specified rate is expressly made payable on a promissory note or bill of exchange and no date is fixed from which interest is to be paid, interest shall be calculated at the rate specified, on the amount of the principal money due thereon, from the date of the note, or, in the case of a bill.

from the date on which the amount becomes payable, until tender or realisation of such amount, or until the date of the institution of a suit to recover such amount;

(b) when a promissory note or bill of exchange is silent as regards interest or does not specify the rate of interest, interest on the amount of the principal money due thereon shall, notwithstanding any collateral agreement relating to interest between any parties to the instrument, be allowed and calculated at the rate of six per centum per annum from the date of the note, or, in the case of a bill, from the date on which the amount becomes payable, until tender or realization of the amount due thereon, or until the date of the institution of a suit to recover such amount.][60]

80. Interest when no rate specified.-When no rate of interest is specified in the instrument, interest on the amount due thereon shall, [61][notwithstanding any agreement relating to interest between any parties to the instrument,] be calculated at the rate of six per centum per annum from the date at which the same ought to have been paid by the party charged until tender or realization of the amount due thereon, or until such date after the institution of a suit to recover such amount as the Court directs.

Explanation.-When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour.

81. Delivery of instrument on payment or indemnity in case of loss.-Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or, if the instrument is lost or cannot be produced, to be indemnified against any further claim thereon against him.

CHAPTER VII

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES

82. Discharge from liability by cancellation.-The maker, acceptor or indorser, respectively of a negotiable instrument is discharged from liability thereon-

(a) to a holder thereof who cancels such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder;

(b) to a holder thereof who otherwise discharges such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge;

(c) to all parties thereto, if the instrument is payable to bearer, or has been indorsed in blank, and such maker, acceptor or indorser makes payment in due course of the amount due thereon.

83. Discharge by allowing drawee more than forty eight hours to accept.-If the holder of a bill of exchange allows the drawee more than [62][forty-eight,] hours, exclusive of public holidays, to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

[84. When cheque not duly presented and drawer damaged thereby.-(1) Where a cheque is not presented for payment within a reasonable time of its issue,and the drawer or person on whose account it is drawn had the right, at the time when presentment ought to have been made, as between himself and the banker, to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.

(3) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor, in lieu of such drawer or

person, of such banker to the extent of such discharge and entitled ro recover the amount from him.][63]

Illustrations

(a) A draws a cheque for Taka 1,000, and when the cheque ought to be presented, has funds at the bank to meet it. The bank fails before the cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(b) A draws a cheque at [64][Dinajpur] on a bank in [65][Chittagong]. The bank fails before the cheque could be presented in ordinary course. A is on discharged, for he has not suffered actual damage through any delay in presenting the cheque.

85.Cheque payable to order.-(1) Where a cheque payable to order purports to be endorsed by or on hehalf of the payee, the drawee is discharged by payment in due course.

[(2) Where a cheque is originally expressed to be payable to bearer, the drawee is discharged by payment in due course to the bearer thereof, notwithstanding any endorsement whether in full or in blank appearing thereon, and notwithstanding that any such endorsement purports to restrict or exclude further negotiation.][66]

[85A. Drafts drawn by one branch of a bank on another payable to order.- Where any draft, that is, an order to pay money, drawn by one office of a bank upon another office of the same bank for a sum of money payable to order on demand, purports to be endorsed by or on behalf of the payee, the bank is discharged by payment in due course.][67]

86. Parties not consenting discharged by qualified or limited acceptance.-If the holder of a bill of exchange acquiesces in a qualified acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for payment, or which, where the drawees are not partners, is not signed by all the drawees, all provious parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him, unless on notice given by the holder they assent to such acceptance.

Explanation.- An acceptance is qualified--

(a) where it is conditional, declaring the payment to be dependent on the happening of an event therein stated;

(b) where it undertakes the payment of part only of the sum ordered to be paid;

(c) where, no place of payment being specified on the order it undertakes the payment at a specified place, and not otherwise or elsewhere; or where, a place of payment being specified in the order, it undertakes the payment at some other place and not otherwise or elsewhere;

(d) where it undertakes the payment at a time other than that at which under the order it would be legally due.

87. Effect of material alteration.-Any material alteration of a negotiable instrument renders the same void as against any one who is a party thereto at the time of making such alteration and does not consent thereto, unless it was made in order to carry out the common intention of the original parties;

and any such alteration, if made by an indorsee, discharges his indorser from all liability to him in respect of the consideration thereof.

The provisions of this section are subject to those of sections 20, 49, 86 and125.

88. Acceptor indorser bound notwithstanding previous alteration.-An acceptor or indorser of a negotiable insturment is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

89.Payment of instrument on which alteration is not apparent.-Where a promissory note, bill of exchange or cheque has been materially altered but does not appear to have been so altered, or where a cheque is presented for payment which does not at the time of presentation appear to be crossed or to have had a crossing which has been obliterated.

Payment thereof by a person or banker liable to pay, and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge

such. Person or banker from all liability thereon; and such payment shall not be questioned by reasoned of the instrument having been altered or the cheque crossed.

[90. Extinguishment of rights of action on bill in acceptor's hands.-The maker, drawer, acceptor or indorser of a negotiable instrument is discharged from liability thereon when the person liable thereon as principal debtor becomes the holder thereof at or after its maturity.

(2) When the holder of an accepted bill of exchange enters into any contract with the acceptor of the nature referred to in section 39, the other parties are discharged, unless the holder has expressly reserved his right to charge them.][68]

CHAPTER VIII
OF NOTICE OF DISHONOUR

91. Dishonour by non-acceptance.-A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawers not being partners, makes default in acceptance upon being duly required to accept the bill, or where presentment is excused and the bill is not accepted.

Where the drawee is incompetent to contract, or the acceptance is qualified, the bill may be treated as dishonoured.

92. Dishonour by non-payment.-A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill or drawee of the cheque makes default in payment upon being duly required to pay the same.

93. By and to whom notice should be given.-When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or someparty thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon.

[69][When a bill of exchange is dishonoured by non-acceptance the drawer or any indorser to whom such notice is not given is discharged; but the rights of a holder in due course subsequent to the omission to give notice shall not be prejudiced by that omission.

When a bill of exchange is dishonoured by non-acceptance and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment, unless the bill shall, in the meantime, have been accepted.]

Nothing in this section renders it necessary to give notice to the maker of the dishonoured promissory note or the drawee or acceptor of the dishonoured bill of exchange or cheque.

94. Mode in which notice may be given.-Notice of dishonour may be given to a duly authorized agent of the person to whom it is required to be given, or, where he has died, to his legal

representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured, and in what way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business or (in case such party has no place of business) at the residence of the party for whom it is intended.

If the notice is duly directed and sent by post and miscarries, such miscarriage does not render the notice invalid.

95. Party receiving must transmit notice of dishonour.-Any party receiving notice of dishonour must in order to render any prior party liable to himself, give notice or dishonour to such party within a reasonable time, unless such party otherwise receives due notice as provided by section 93.

96. Agent for presentment.-When the instrument is deposited with an agent for presentment the agent is entitled to the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

97.When party to whom notice given is dead.-When the party to whom notice of dishonour is despatched is dead, but the party dispatching the notice is ignorant of his death, the notice is sufficient.

98.When notice of dishonour is unnecessary.-No notice of dishonour is necessary

(a) when it is dispensed with by the party entitled thereto;

(b) in order to charge the drawer, when he has countermanded payment;

(c) when the party charged could not suffer damage for want of notice;

(d) when the party entitled to notice cannot after due search be found; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it;

(e) to charge the drawers when the acceptor is also a drawer;

(f) in the case of a promissory note, which is not negotiable;

(g) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

CHAPTER IX
OF NOTING AND PROTEST

99. Noting.-When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument, or upon a paper attached thereto, or partly upon each.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reason, if any, assigned for such dishonour, or, if the instrument has not been expressly dishonoured, the reason why the holder treats it as dishonoured, and the notary's charges.

100. Protest.-When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such dishonour to be noted and certified by notary public. Such certificate is called a protest.

When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor, and on its being refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

101. Contents of protest.-A Protest under section 100 must contain-

(a) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon;

(b) the name of the person for whom and against whom the instrument has been protested;

(c) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary public; the terms of his answer, if any, or a statement that he gave no answer or that he could not be found;

(d) when the note or bill has been dishonoured, the place and time of dishonour, and, when better security has been refused, the place and time of refusal;

(e) the subscription of the notary public making the protest;

(f) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which, such acceptance or payment was offered and effected.

[70][A notary public may make the demand mentioned in clause (c) of this section either in person or by his clerk or, where authorized by agreement or usage, by registered letter.]

102. Notice of protest.-When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions; but the notice may be given by the notary public who make the protest.

103. Protest for nonpayment after dishonour by non-acceptance.-All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment in the place specified for payment, unless paid before or at matuity.

104. Protest of foreign bills.-Foreign bill of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

[104 A. When noting equivalent to protest.-For the purposes of this Act, where a bill or note is required to be protested within a

specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter as of the date of the noting.][71]

CHAPTER-X
OF REASONABLE TIME

105. Reasonble time.-In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments; and, in calculating such time, public holidays shall be excluded.

106. Reasonable time of giving notice of dishonour.-If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is despatched by the next post or on the day next after the day of dishonour

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

107. Reasonanle time for transmiting such notice.-A party receiving notice of dishonour, who seeks to enforce his right against a prior party, transmits the notice within a reasonble time if he transmits it within the same time after its receipt as he would have had to give notice if he had been the holder.

CHAPTER-X1
OF ACCEPTANCE AND PAYMENT FOR HONOUR AND REFERENCE IN CASE OF NEED

108. Acceptance for honour.-When a bill of exchange has been noted or protested for non acceptance or for better security, any person not being holder, already liable thereon may, with the consent of the holder, by writing on tbe bill, accept the same for the honour of any party thereto.

[72][* * * * * * * *]

109. How acceptance for honour must be made.-A person desiring to accept for honour must, [73][by writing on the bill under his hand,] declare that he accepts under protest the protested bill for the honour of the drawer or of a particular indorser whom he names, or generally for honour;

[74][* * * * * * * *]

110. Acceptance not specifying for whose honour it is made.-Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer.

111. Liability of acceptor for honour.-An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee do not: and such party and all prior parties are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance.

But an acceptor for honour is not liable to the holder of the bill unless it is presened, or (in case the address given by such acceptor on the bill is a place other than the place where the bill is made payable) forwarded for presentment, not later than the day next after the day of its maturity.

112. When acceptor for honour may be charged.-An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment, and has been dishonoured by him, and noted or protested for such dishonour.

113. Payment for honour.-When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same, provided that the person so paying [75][or his agent in that behalf] has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.

114. Right of payer for honour.-Any person so paying is entitled to all the rights, in respect of the bill, of the holder at the time of such payment, and may recover from the party for whose honour he pays all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.

115. Drawee in case of need.-Where a drawee in case of need is named in a bill of exchange, or in any indorsement thereon, the bill is not dishonoured until it has been dishonoured by such drawee.

116. Acceptance and payment without protest.-A drawee in case of need may accept and pay the bill of exchange without previous protest.

CHAPTER-X11
OF COMPENSATION

117. Rules as to compensation.-The compensation payable in case of dishonour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee, shall be determined by the following rules:-

(a) the holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it;

(b) when the person charged resides at a palce different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places;

(c) an indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realization thereof, together with all expenses caused by the dishonour, and payment;

(d) when the person charged and such indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places;

(e) the party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him, together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

CHAPTER-XIII
SPECIAL RULES OF EVIDENCE

118. Presumptions as to negotiable instruments of conideration.-Until the contrary is proved, the following presumptions shall be made:

(a) that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration;

(b) that every negotiable instrument bearing a date was made or drawn on such date;

(c) that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity;

(d) that every transfer of a negotiable instrument was made before its maturity;

(e) that the indorsements appearing upon a negotiable instrument were made in the order in which they appear thereon;

(f) that a lost promissory note, bill of exchange or cheque was duly stamped;

(g) that the holder of a negotiable instrument is a holder in due course:

Provided that, where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by mears of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burden of proving that the holder is a holder in the due course lies upon him.

119. Presumption on proof of protest.-In a suit upon an instrument which has been dishonoured, the Court shall, on proof of the protest, presume the fact of dishonour, unless and until such fact is disproved.

120. Estoppel against denying original validity of instrument.-No maker of a promissory note, and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer, shall, in a suit thereon by a holder in due course, be permitted to deny the validity of the instrument as originally made or drawn.

121. Estoppel against denying capacity of payee to indorse.-No maker of a promissory note and no acceptor of a bill of exchange [76][payable to order] shall, in a suit thereon by a holder in due course, be permitted to deny the payee's capacity, at the date of the note or bill, to indorse the same.

122. Estoppel against denying signature or capacity of prior party.-No indorser of a negotiable instrument shall , in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

CHAPTER-XIV

[77][SPECIAL PROVISIONS RELATING TO CHEQUES]

[122A. Revocation of banker's authority.-The duty and authority of a banker to pay a cheque drawn on him by his customer are determined by-

(1) countermand of payment;

(2) notice of the customer's death;

(3) notice of adjudication of the customer as an insolvent.][78]

123. Cheque crossed generally.-Where a cheque bears across its face an addition of the words "and company" or any abbrevation thereof, between the two parallel transverse lines, or of two paralled transverse lines simply, either with or without the words "not negotiable" that addition shall be deemed a crossing and the cheque shall be deemed to be crosed generally.

[123A. Cheque crossed "account payee".-(1) Where a cheque crossed generally bear acros its face an addition of the words "account payee" between the two paralled transverse lines constituting the general crossing, the cheque, besides being crossed generally, is said to be crossed "account payee".

(2) When a cheque is crossed "account payee"-

(a) it shall cease to be negotiable; and

(b) it shall be the duty of the banker collecting payment of the cheque to credit the proceeds thereof only to the account of the payee named in the cheque.][79]

124. Cheque crossed specially.-Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable", that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

125. Crossing after issue.-Where a cheque is uncrossred, the holder may cross it generally or specially.

Where a cheque is crossed generally, the holder may cross it specially.

Where a cheque is crossed generally or specially, the holder may add the words "not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent, for collection.

[80][When an uncrossed cheque, or a cheque crossed generally, is sent to a banker for collection, he may cross it specially to himself.]

[81][125A. Crossing a materal part of a cheque.-A crossing authorized by this Act is a material part of the cheque; it shall not be lawful for any person to obliterate, or, except as authorized by this Act, to add to or alter, the crossing.]

126. Payment of cheque crossed generally.-Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to the banker.

Where a cheque is crossed specially, the banker on whom it is drawn shalnot pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

127. Payment of cheque crossed specially more than once.-Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

128. Payment in due course of crossed cheque.-Where the banker on whom a crossed cheque is drawn [82][in good faith and without negligence pays it, if crossed generally, to a banker, and

if crossed specially, to the banker to whom it is crossed or his agent for collection, being a banker], the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all resprcts, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

129. Payment of crossed cheque out of due course.-Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially, otherwise than to the banker to whom the same is crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

[83][Prøvided that where a cheque is presented for payment which does not at the time of presentment appear to be crosssed, or to have had a crossing whcih has been obliterated, added to or altered otherwise than as authorized by this Act, the banker paying the cheque in good faith and without negligence shall not be responsible or incur any liability nor shall the payment be questioned, by reason of the cheque having been crossed, or of the crossing having been obliterated or having been added to or altered otherwise than as authorized by this Act, and of payment having been made otherwise than to a banker or to the banker to whom the cheque is or was crossed, or to his agent for collection, being a banker, as the case may be.]

130. Cheque bearing "not negotiable".-A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable," shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

131. Non-liability of banker receiving payment of cheque.-
[84][Subject to the provisions of this Act relating to cheques crossed "account payee", where a banker in good faith and without negligence receives payment for a customer of a cheque crossed generally or specially to himself, and the customer has no title or a defective title thereto, the banker shall not incur any liability to the true owner of the cheque by reason only of having received such payment.]

[85][Explanation-A banker receives payment of a crossed cheque for a customer within the meaning of this section notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof.]

[86][131A. Application of Chapter to drafts.-The provisions of this Chapter shall apply to any draft, as defined in section 85A, as if the draft were a cheque.]

[87][131B. Protection to banker crediting cheque crossed "account payee".-Where a cheque is delivered for collection to a banker which does not at the time of such delivery appear to be crossed "account payee" or to have had a crossing "account payee" which has been obliterated or altered, the banker, in good faith and without negligence collecting payment of the cheque and crediting the proceeds thereof to a customer, shall not incur any liability by reason of the cheque having been crossed "account payee", or of such crossing having been obliterated or altered, and the proceeds of the cheque having been credited to a person who is not the payee thereof.

131C. Cheque not operating as assignment of funds.-A cheque, of itself, does not operate as an assignment of any part of the funds to the credit of the drawer with the banker.]

CHAPTER-XV

[88][SPECIAL PROVISIONS RELATING TO BILLS OF EXCHANGE]

[89][131D. Several drawees.-A bill of exchange may be addressed to two or more drawees, whether they are partners or not; but an order addressed to two drawees in the alternative, or to two or more drawees in succession, is not a bill of exchange.

131E. In whose favour a bill may be drawn.-A bill of exchange may be drawn payable to, or to the order of, the drawer; or it may be drawn payable to or to the order of, the drawee.

131F. When presentment for acceptance is necessary.-A bill of exchange, in order to fix the acceptor with liability, must be presented for acceptance before it is presented for payment.

131G. When presentment excused.-Presentment for acceptance is excused, and a bill of exchange may be treated as dishonoured by non-acceptance-

(a) Where the drawee is dead or is insolvent or is a fictitious person or a person not having capacity to contract by bill of exchange;

(b) where, at the due date for presenment, the drawee cannot, after reasonable search, be found at the place at which the bills is to be presented;

(c) where, after the exercise of reasonable diligence such, presentment cannot be effected;

(d) where, although the presentment has been irreguar, acceptance has been refused on some other ground.

131H. Holer's right of recourse against drawer and indorsers.-Subject to the provisions of this Act, when a bill of exchange is dishonoured by non-acceptance, an immediate right of recours against the drawer and indorsers accrues, to the holder, and no presentment for payament is necessary.

131-1.Holder may refuse qualified acceptance.-The holder of a bill of exchange may refuse to take a qualified acceptance, and if he does not ob.ain an unqualified acceptance, may treat the bill as dishonoured by non-acceptance.]

132. Set of bills.-Bills of exchange may be drawn in parts, each part being numbered and containing a provision that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set contitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.

Exception-When a preson accepts or indorses different parts of the bill in favour of different person, he and the subsequent indorsers of each part are liable on such part as if it were a separate bill.

133. Holder of first acquired part entitled to all.-As between holders in due course of different parts of the same set he who first acquired title to his part is entitled to the other parts and the money represented by the bill.

CHAPTER-XVI
OF INTERNATIONAL IAW

[90][134. Law governing liability of parties to a foreign instrument.-In the absence of a contract to the contrary and subject to the provisions of section 136, in the case of a foreign promissory note, bill of exchange or cheque,-

(a) the law of the place where the instrument was made or drawn, or accepted or negotiated shall determine-

(i) the capacity of the parties; and

(ii) the validity of the instrument or, as the case may be, of its acceptance or negotiation;

Provided that such insstrument shall not be invalid or inadmissible in evidence by reason only that it was not stamped or not sufficiently stamped according to the law of the place where it was made or drawn;

(b) the law of the palce where such instrument is payable shall determine,-

(i) the liability of all parties thereto;

(ii) the duties of the holder with respect to presentment for acceptance or payament;

(iii) the date of maturity of the instrument;

(iv) what constitutes dishonour;

(v) the necessity for and sufficiency of a protest, or notice of dishonour;

(vi) all questions relating to payament and satisfaction including the currency in which and the rate of exchange at which the instrument is to be paid.]

Illustration

A bill of exchange was drawn by A in California, where the rate of interest is 25 precent, and accepted by B, payable in Washington, where the rate of interest is 6 percent. The bill is indorsed in [91][Bangladesh], and is dishonoured. An action on the bill is brought against B in [91][Bangladesh]. He is liable to pay

interest at the rate of 6 percent. Only, but, if A is charged as drawer. A is liable to pay interest at the rate of 25 percent.

135. [Law of place of payment governs dishonour.] Omitted by the Negotiable Instruments (Amdt.) Ordimance, 1962 (XLIX of 1962) s.53.

136. Instrument made etc. outside Bangladesh but in accordance with their law.-If a negotiable instrument is made, drawn, accepted or indorsed [92][outside [93][Bangladesh]], but in accordance with the law of [93][Bangaldesh], the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into does not invalidate any subsequent acceptance or indorsement made thereon [94][within Bangladesh].

137. Presumption as to foreign law.-The law of any [94][* * *] foreign country regarding promissory notes, bills of exchange and cheques shall be presumred to be the same as that of Bangladesh, unless and until the contrary is proved.

CHAPTER XVII

ON PENALTIES IN CASE OF DISHONOUR OF CERTAIN CHEQUES FOR INSUFFICIENCY OF FUNDS IN THE ACCOUNT

138. **Dishonour of cheque for insufficiency, etc. of funds in the account.**– Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to twice the amount of the cheque, or with both :

Provided that nothing contained in this section shall apply unless—

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice, in writing, to the drawer of the cheque, within fifteen days of the receipt of information by him from the bank regarding the return of the cheque as unpaid, and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation— For the purpose of this section, "debt or other liability" means a legally enforceable debt or other liability.

139. **Presumption in favour of holder.**— It shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque of the nature referred to in section 138 for the discharge, in whole or in part, of any debt or other liability.

140. **Offences of companies**— (1) If the person committing an offence under section 138 is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other

officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

141. **Cognizance of offences.**— Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898),—

(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque;

(b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138;

(c) no court inferior to the of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under section 138."

ANNEX-4

1. The word "Bangladesh", wherever occuring, substituted for the word "Pakistan" by Act VIII of 1973 (W.e.f. 26th March, 1971).

2. The words within square brackets substituted for the words "section 24 and 35 of the state Bank of Pakistan Act, 1956" by Act VIII of 1973 (w.e.f.26the March, 1971).

3. Section IA inserted by the Negotiable Instruments (Amendment) Ordinance, 1962 (Ord. No. XLIX of 1962)

4. The word "Government" substituted for the words "Central Government" by the Bangladesh Laws (Revision and Declaration) Act,1973 (Act VIII of 1973).

5. The words within square brackets inserted by Ord. XLIX of 1962.

6. The word "Taka", wherever occurring, was substituted for the word "Rs" by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973).

7. Inserted by the Negotiable Instruments (Amendment) Ordinance, 1962 (XLIX of 1962).

8. Subs.by Ord. XLIX of 1962, S. 6 for "according to the course of exchange, and although the instrument provides that, on default of payment of an instalment, the balance unpaid shall become due".

9. Substituted ibid.

10. Subs. by the Negotiable Instrument Act, 1885 (II of 1885), S. 3, for "When acceptance is refused and the bill is protested for non-acceptance".

11. Subs. by the Negotiable Instruments (Amdt) Ordinance, 1962 (XLIX of 1962), S.7.

12. Subs. ibid., s.8, for the original, as amended by the Negotiable Instruments (Amdt.) Act, 1919 (VIII of 1919), S.2.

13. Substituted by the Negotiable Instruments (Amendment) Act, 1919 (VIIIof 1919)

14. Ins. by the Negotiable Instruments (Amendment) Act, 1914 (Act V of 1914)

15. Ins. by theNegotiable Instruments (Amdt.) Act, 1914 (V of 1914), s.3.

16. Added by the Negotiable Instruments (Amdt) Ordinance, 1962 (XLIX of 1962)

17. Subs. ibid.,s.10. for the orginal section.

18. Subs. ibid,. s 11, for the original section as amended by A.O., 1919, Arts. 3 (2) and 4 and the Negotiable Instruments (Amdt.) Act. 1957 (V of 1958), s.4 (with effect from the 14th October. 1955).

19. The words "In a promissory note or bill of exchange the expression'at sight and on presentment' mean on demand," omitted by the Negotiable Instruments (Amdt.) Ordinance, 1962(XLIX of 1962), s. 12.

20. Inserted ibid.

21. Substituted by the Negotiable Instruments (Amendment) Ordinance, 1959 (Ord. XXLX of 1959), s.2, for the existingExplanation which was amended by the Negotiable Instruments (Amendment) Act, 1950 (LII of 1950), s.2 and the Negotiable Instruments (Amendment) Act, 1957 (V of 1958), S.5.

22. The word "Government" was substituted for the words "Central Government" by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973), Second Schedule (w.e.f. 26th March, 1971).

23. Substituted by the Negotiable Instruments (Amendment) Ordinance, 1962 (XLIX of 1962), s.14, for the original paragraph.

24. Substituted by the Negotiable Instruments (Amendment) Ordinance, 1962 (XLIX of 1962), s.15, for "as mentioned section 26".

25. Section 27A ins. ibid., s. 16.

26. Subs. ibid., s.27, for the original section.

27. Inserted ibid.

28. Ss. 29A, 29B and29C, ins. by the Negotiable Instruments (Amdt.) Ordinance, 1962 (XLIX) of 1962)s.19.

29. Substituted by the Negotiable Instruments (Audut) Ordinance (XLIX of 1962)

30. Inserted ibid.

31. Substituted ibid.

32. Inserted by Negotible Instruments (Amendment) Ordinance 1962 (XLIX of 1962)

33. Section 45A was inserted by the Negotiable Instruments Act, 188[illegible] (II of 1885), s.3.

34. Subs. by the Negotiable Instruments (Amdt.)Act, 1919 (VIII of 1919), s.4, for "payable to the order of a specified person or to a specified person or order".

35. Subs. by the Negotiable Instrument (Amdt.) Ordinance, 1962 (XLIX of 1962), s.24, for the original section 49.

36. Substituted by Negotiable Instruments (Amendment) Ordinance, 1962 (XLIX of 1962)

37. Added by the Negotiable instruments (Amdt.) Ordinance, 1962 (XLIX of 1962) , s. 26.

38. Substituted by Negotiable Instruments (Amendment) Ordinance, 1962 (XLIX of 1962)

39. Inserted by the Negotiable Instruments (Amdt.) Ordinance, 1962 (XLIX of 1962), s. 28.

40. Subs. ibid., s. 29, for the original section 56.

41. Section 57A and 57B inserted. ibid., s. 30.

42. Subs. by the Negotiable Instrument (Amdt.) Ordinance, (XLIX of 1962), s. 31, for the original section 58.

43. Ins. ibid., s. 32.

44. Ins. by the Negotiable Instruments Act, 1885 (II of 1885), s.4.

45. Subs. by the Negotiable Instruments (Amdt.) Act, 1921 (XII of 1921) s.2, for "Twenty-four".

46. Subs. by the Negotiable Instruments (Amdt.) Ordinance, 1962 (XLIX of 1962), s. 33, for "Promissory notes".

47. The second paragraph which was ins. by the Negotiable Instruments Act, 1885 (II of 1885), s.4, where omitted by Ord. XLIX of 1962, s. 33.

48. Added, ibid.

49. Added by Negotiable Instruments Act, 1885 (2 of 1885).

50. Ins. by the Negotiable Instruments (Amdt.) Ordinance, 1962 (XLIX of 1962), s. 34.

51. Subs. ibid., s. 34, for "(if any), or at the usual residence".

52. Explanation added, ibid.

53. Section 71A ins. Ibid., S. 36.

54. Ins. by the Negotiable Instruments (Amdt.) Act, 1897 (VI of 1897), s.2.

55. Section 75A ins. by the Negotiable Instruments (Amdt.) Act, 1920 (XXV of 1920), s.2.

56. Subs. by the Negotiable Instruments (Amdt.) Act, 1921 (XII of 1921), s.3, for "for payment".

57. A new section 75B was temporarily inserted by the Negotiable Instruments Act (Temporary Amdt.) Ordinance, 1948 (VI of 1948).

58. Subs. by the Negotiable Instruments (Amdt.) Ordinance, 1962(XLIX of 1962), s. 37, for "is dishonoured."

59. clauses (e), (f) and (g) and Explanation added by Negotiable Instruments (Amendment.) Ordinance, 1962 (XLIX of 1962).

60. Subs. ibid., s. 38, for the original section 79.

61. Subs. by the Negotiable Instruments (Interest) Act, 1926 (XXX of 1926) s.2. for "except cases provided for by the Code of Civil Procedure, section 532".

62. Substituted by the Negotiable Instrument (Amendment) Act, 1921 (Act XII of 1921), s.2. for "twenty four".

63. Substituted by the Negotiable Instrument (Amendment) Act, 1897 (VI of 1897), s. 3. for the original section.

64. The word "Dinajpur" was substituted for the word "Sialkot", by Act VIII of 1973.

65. Subs by the Central Laws (Statute Reform) Ordinance, 1960 (Ord. XXI of 1960) s.3. and 2nd Sch. for "Calcutta" (W.e.f. 14-10-1955).

66. Sub-section (2) was added, by Act XVII of 1934.

67. Section 85A was inserted by the Negotiable Instrument (Amendment) Act, 1930 (Act XXV of 1930), s.2.

68. Subs. by the Negotiable Instrument (Amdt.) Ordinance, 1962 (XLIX of 1962), s. 39, for the original section 90.

69. Inserted by Ordinance XLIX of 1962, S. 40

70. Ins. by the Negotiable Instrument Act, 1885 (11 of 1885), s.5.

71. Section 104A inserted, ibid, s.6.

72. The second paragraph of the section was repealed, by the Negotiabile instruments Act, 1885 (11 of 1885), s.7.

73. Subs, ibid, s.8, for "in the presence of a notary public subscribe the bill with his own hand and".

74. The words "and such declaration must be recorded by the notary in his register" repeabl, ibid.

75. Ins, ibid, s.9.

76. Subs by the Negotiable Instrument (Amdt.) Act, 1919 (VIII of 1919), s.5. for "payable to, or to the order of, a specified person".

77. Subs, by the Negotiable Instruments (Amdt.) Ordinance, 1962 (XLIX of 1962), s.41, for the original heading "Or Crossed CHeQUE".

78. Section 122A ins, ibid, s.42.

79. Section 123A ins, ibid, s.43.

80. New paragraph ins, by the Negotiable Instrument (Amdt.) Ordinance, 1962 (XLIX of 1962), s.44.

81. Section 125A ins, ibid, s.45.

82. Subs, ibid, s.46. for :has paid the same in due course".

83. Proviso added, ibid.

84. Subs. by the Negotiable Instruments (Amdt.) Ordinance, 1962 (XLIX of 1962), s.48, for the original paragraph.

85. Explanation ins, by the Negotiable Instruments (Amdt.) Act, 1922 (XVII of 1922), s.2.

86. Section 131A was added by the Negotiable Instruments (Amdt.) Act, 1947 (XXXIII of 1947), s.2.

87. Sections 131B and 131C inserted by Ord. XLIX of 1926, s.49

88. Subs. by the Negotiable Instruments (Amdt.) Ordinance, 1962 (XLIX of 1962), s.50, for the original heading "OF BILLS IN SETS."

89. Sections 131D, 131E, 131F, 131G, 131H and 131-1, ins, ibid, s.51.

90. Substituted by the Negotiable Instruments (Amendment) Ordinance, 1962 (XLIX of 1962), s.2, for the original section 134.

91. The word "Bangladesh" was substituted for the word "Pakistan" by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973), Section Schedule (w.e.f. 26th March, 1971).

92. Substituted by A.O. 1949, Sch, read with Art. 4, for "out of British India".

93. The word "Bangaldesh" was substituted for the word "Pakistan" by Act VIII of 1973, Second Schedule (w.e.f. 26th March, 1971).

94. The words "Acceeding State or" which were inserted by the Federal Laws (Revision and Declaration) Act, 1951 (Act XXVI of 1951), s.4 and III Schedule, omitted by Act No.V of 1958, s. 6 (with effect from the 14th October, 1955).

95. Chapter XVII substituted by the Negotiable Invesments (Amendment) Act, 1994 (Act 19 of 1994).

APPENDIX-VII

The Bankers' Books Evidence Act, 1891

Act No. XVIII of 1891

List of Amending laws

1. The Bankers' Books Evidence Act, 1893 (I of 1893)
2. The Repealing and Amending Act, 1914 (X of 1914)
3. The Central Laws (Statute Reforms) Ordinance, 1960 (XXI of 1960)
4. Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973)

CONTENTS

Sections Marginal note

1. Title and extent.
2. Definitions.
3. Omitted
4. Mode of proof of entries in bankers books.
5. Case in which officer of bank not compellable to produce books.
6. Inspection books by order of Court or Judge.
7. Costs.

The Bankers' Books Evidence Act, 1891
Act No. XVIII of 1891

[Amendment Foot Notes of ANNEX-5]

An Act to amend the Law of Evidence with respect to Bankers' Books

Whereas it is exhedient to amend the haw of Evidence with respect to Bankers' Books;

It is herely enacted as follows:-

1. Title and extent.-(1) This Act may be called the Bankers' Books Evidence Act, 1891.

(2) It extends to the whole of [Bangladesh]

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

[(1) "company" means a company registered under any of the enactments relating to companies for the time being in force in Bangladesh or incorporated by any Bangladesh Law;][2]

(2) "bank" and "banker" mean-

(a) any company carrying on the business of bankers,

[* * * * * * *][3]

5. [(c) any post office saving bank or money order office:][4]

(3) "bankers's books" include ledgers, day-books, cash-books, account-books and all other books used in the ordinary business of a bank:

(4) "legal proceecding" means any proceeding or inquiry in which evidence is or may be given, and includes an arbitration;

(5) "the Court" means the person or persons before whom a legal proceeding is held or taken.

(6) "Judge" means a Judge of [5][the High Court Division]".

(7) "trial" means any hearing before the Court at which evidence is taken: and

(8) "certified copy" means a copy of any entry in the books of a bank together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business, and that such book is still in the custody of the bank, such certificate being dated and subscribed by the principal accountant or manager of the bank with name and official title.

4. Mode of proof of entries in banker's book. Subject to the provisions of this Act, a certified copy of any entry in a bankers's book shall in all legal proceedings be received as prima facie evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same exent as, the original entry itself is now by law admissibe, but not further or otherwise.

5. Case in which officers of bank not compellable to produce books.-No officer of a bank shall in any legal proceeding to which the bank is not a partly be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

Note

The provision of this section applies only when the bank is not a party to the proceeding. Further, the section does not apply to an investigation by a police officer. Under section 94 of the Criminal Procedure Code, an officer in charge of a Police Station can compel a bank officer to produce the books without the order of a court. [A.F.G Price V. Emperor. AIR 1937 Lahore, 160]

6. Inspection books by order of Court or Judge.-(1) On the application of any party to a legal proceeding, the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceeding or may order the bank to prepare and produce, within a time to be specified in the order, certified copies of all such entries accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the

matters in issue in such proceeding, and such further certificae shall be dated and subscribed in manner hereinbefore directed in reference to certified copies.

(2) An order under this or the preceding section may be made either with or without summoning the bank, and shall be served on the bank three clear days (exclusive of bank holidays) before the same is to be obeyed, unless the court or Judge shall otherwise direct.

(3) The bank may at any time before the time limited for obedience to any such order as aforesaid either offer to produce their books at the trial or give notice of their intention to show cause against such order, and thereupon the same not be enforced without futher order.

Notes

It is in the discretion of the Court to order that a party to a legal proceeding can inspect and take copies of bankers' books. An order under this section is made only when the entries are relevant for the purpose of any issue in the proceeding. When the inspection of the books of a third party was sought, the court held that the same ought not be allowd as it involves a serious inroad upon his normal right as a citizen (Satyanaryan Vs. Punjab National Bank, AIR 1977 Cal.= 280).

7. Costs.-(1) The Costs of any application to the Court or a Judge under or for the purposes of this Act and the costs of anything done or to be done under an order of the court or a Judge made under or for the purposes of this Act shall be in the discretion of the Court or Judge, who may further order such costs or any part thereof to be paid to any party by the bank if they have been incurred in conseuence of any fault or improper delay on the part of the bank.

(2) Any order made under this section for the payment of costs to or by a bank may be enforced as if the bank were a party to the proceeding.

(3) Any order under this section awarding costs may, on application to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a dcree for money passed by itself:

Provided that nothing in this subsection shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs.

ANNEX-5

1. The word "Bangladesh" was substituted for the word "Pakistan" by Act VIII of 1973, s, 3 and 2nd Sch. (w.e.f 23rd March, 1971)

2. Clause (1) of section 2 was substituted by Act VIII of 1973, s 3 and 2nd Sch. (with effect from 26th March, 1971)

3. Sub-clause (b) omitted, by Act VIII of 1973.

4. Added by s, 2 of the Banker's Books Evidence Act, 1893 (1 of 1893)

5. Subs by Act VIII of 1973, for " a High Court".

APPENDIX-VIII

THE MONEY LOAN COURT ACT, 1990

(Act 4 of 1990)

[English version of Bengali text.]

List of Amending Acts

1. The Money Loan Court (Amendment) Act, 1990 (Act 51 of 1990)
2. The Money Loan Court (Amendment) Act, 1992 (Act 25 of 1992)
3. The Money Loan Court (Amendment) Act, 1994 (Act... of 1994).

CONTENTS

Section	Marginal note
1.	Short title.
2.	Definitions.
3.	Application of other laws barred.
4.	Establishment of Money Loan Court.
5.	Power and Jurisdiction of Money Loan Court.
5a.	Special provision for service of notice
6.	Decision of Money Loan Court.
7.	Appeal.
8.	Instalment of loan.
9.	Pending suits.
10.	Power to make rules.

THE MONEY LOAN COURT ACT, 1990
(Act 4 of 1990)

[Amendment Foot Notes of ANNEX-4]

AN

ACT

to provide special provision for recovery of loan given by financial institutions

WHEREAS it is expedient to provide for special provision for recvery of loan given by financial institutions;

It is hereby enacte1 as follows :-

1. Short title.-This Act may be called the Money Loan Court Act, 1990.

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

(a) "financial institution" means-

(1) a bank constituted under the Bangladesh Banks (Nationalisation) Order, 1972 (P.O. NO. 26 of 1972);

(2) a banking company as defined in clause (o) of section 5 of the Banking Companies Act, 1991 (Act 14 of 1991);

(3) the House Building Finance Corporation established under the Bangladesh House Building Finance Corporation Order, 1973 (P.O. No. 7 of 1973);

(4 the Bangladesh Investment Corporation established under the Investment Corporation of Bangladesh Ordinance, 1976 (XL of 1976);

(5) the Bangladesh Shilpa Rin Sangstha and the Bangladesh Shilpa Bank;

[1][(5A) The Bangladesh Krishi Bank and the Rajshahi Krishi Unnayan Bank;]

(6) a financial institution as defined in clause (I) of section 2 of the Financial Institutions Act, 1993 (Act XXVII of 1993);

(7) a bank managed in accrdance with Islamic Shariah;

[(8) a leasing company established for the purpose of leasing of machinery given for the development of any industrial enterprise;

(9) International Finance Corporation;

(10) Commonwealth Development Corporation;

(11) Asian Development Bank;

(12) any other international financial loan giving institution;]2

(b) "loan" means-

(1) advance, loan, eash eredih, overdraft, banking credit, discount bill or any other financial assistance or facilities, by whatver named called;

(2) guarantee, indemnity, letter of credit or any other financial facility which a financial institution gives or issues or accept as liability on behalf of borrower.

3. Application of other laws.-The provisions of this Act shall be, unless otherwise provided therein, deemed to be in addition to, and not in derogation of, any other law for the time being in force.

4. Establishment of Money Loan Court.-(1) For the purposes of this Act, the Government shall, by notification in the official Gazette, establish one or more than one Money Loan Court in each district.

(2) The Government shall, in consultation with the Supreme Court, appoint the judge of the Money Loan Court from amongst the Sub-Judges.

(3) A Sub-Judge may, if necessary, be appointed as judge of one or more than one Money Loan Court or he may be appointed as judge of the Money Loan Court in addition to his own responsibilities as Sub-Judge.

(4) A Money Loan Court shall be situated in the district headquarters.

5. Power and jurisdiction of Money Loan Court.-(1) Notwithstanding anything contained in any other law, all suits relating to recovery of loan of a financial institution shall have to be instituted in the Money Loan Court and they shall be disposed of in that Court :

Provided that, where a financial institution has been established by any law and there is special provision or procedure in that law for the recovery of the loan given by it, the said provision or procedure shall not be affected by the provision of this section :

[3][Provided further that, nothing in this section shall be applicable in the case of recovery of any loan given to the Government by any financial institution specified in sub-clause (9), (10), (11) and (12) of clause (a) of section 2.

(2) Where there is more than one Money Loan Court in a district, their jurisdiction for the purpose of filing of suit shall be determined by the District Judge.

(3) The District Judge may, if he thinks it necessary, transfer, on his own motion or upon an application made by any party to a suit, any pending suit in a Money Loan Court to any other Money Loan Court under his jurisdiction and such a transferred suit may be re-transferred by the District Judge.

(4) A Money Loan Court shall be deemed to be civil court and the powers and jurisdiction a civil court as are in the Code of Civil Procedure, 1908 (Act V of 1908) shall, subject to the provisions of this Act, be the powers and jurisdiction of a Money Loan Court.

(5) Except otherwise provided in this Act, a Money Loan Court shall, in the matter of conduct of its proceedings, follow the same prvisions as have been specified in the Code of Civil Procedure, 1908 (Act V of 1908) for the proceeding of a case in a Civil Court.

[(5A) The hearing of any suit in a Money Loan Court shall not be adjourned for more than three times and such a suit shall have to be disposed of within a period of six months from the date of its institution.][4]

(6) The proceeding of a Money Loan Court shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Penal Code (Act XLV of 1860).

[5][(5A). Special provision for service of notice.- Notwithstanding anything contained in any other law, the plaintiff of a suit instituted in a Money Loan Court may, with the permission of the Court, publish the name and address of the defendant, the amount of claimed money and the cause of the suit in a local Bengali and English daily or weekly newspaper or, where there in no such newspaper, in a national Bengali and English daily newspaper, and where there is a doubt as to whether the notice of the case has been served on the defendant, the notice published in the said newspapers shall be used as proof of the service of the said notice.]

6. Judgement of Money Loan Court final.-(1) Subject to the provisions of section7, no question shall be raised before any Court or any other authority as respect the prceeding, order, judgement and decree of Money Loan Court.

[(2) Notwithstanding anything contained in subsection(1), where any defendant intends to file an application for cancellation of an ex-parte decree against him by any Money Loan Court in accordanec with rule 13 of Order IX of the Code of Civil Procedure, 1908 (Act V of 1908), he shall, alongwith the application, deposit in the Court atleast half of the money decreed against him or a bank security of equivalent amount, and his application shall not be entertained if such deposit is not made.][6]

Comments

There should be a time limit for disposal of application filed for cancellation of ex-parte decree. Alternatively, the Court should be authorised to straightway allow an application filed after fulfilling the requirements as to the deposits of money. This will save the time required for hearing on the applications for cancellation of ex-parte decree and their disposal. Again there is no time limit for disposal of suits revived on the basis of application filed in accordance with rule 13 of Order IX of the Code of Civil Procedur, 1908 (Act V of 1908). This is not consistent with the policy of the Act. Therefore, either time limit for disposal of such suits be prescribed or provision be made for application of the time limit specified under sub-section (5A) of section 5 for disposal of any original suit to suits revived.

7. Appeal.-(1) If any person is aggrieved by the Judgement or decree of a Money Loan Court, he may, within thirty days form the date of the decision or the decree, appeal before the High Court Division :

Provided that, no appeal shall be preferred against an interlocutory order of the Money Loan Court.

Comments

The High Court Division is already overburdened with cases. So, for obvious reasons, speedy disposal of appeals against the judgement or decree of a Money Loan Court can not be expected in the High Court Division. Whereas if such appeals are not quickly, disposed of, the objective of this special legislation shall be frustrated. It is, therefore, advisable to make provision for special Court of Appeal for hearing and disposal of appeals against judgment or decree of Money Loan Court, which will also be consistent with the overall spirit of the Act.

Appeal from interlocutory order of a Money Loan Court has been prohibited by the proviso to this sub-section. The whole concept of such prohibition is speedy disposal of the original cases. But it has been observed that an interlocutory order can be challenged otherwise than by appeal from such order and delay may otherwise be caused in disposal of the Loan cases. For example, an interlocutory order may be challenged by a prayer for revision. It is, therefore, neccessary and advisable to reformulate the provison in order to check any attempt to

frustrate the objective of the proviso. The re-formulation may be as under:-

"Provided that, no interlocutory order passed by any Money Loan Court shall be challenged or disputed in any higher court.".

[(2) Where a Money Loan Court has given final order on an application made under section 6(2) and the defendant intends to prefer appeal against such order or, where he, without making appeal against such order, intends to appeal against the judgement or decree on the original suit, he may, within thirty days from the date of the order of the Court, prefer appeal before the High Court Division after depositing atleast half of the decreed moaney minus the amount deposted under the said section in the court which awarded the decree.][7]

[(3) Where any defendant intends to appeal against any judgement or decree of a Money Loan Court, he may prefer appeal before the High Court Division within the time specified under sub-bection (1) after depositing in the Money Loan Court which awarded the decree-

(a) if he did not make any application under section 6 (2), half of the decreed money,

(b) if he had made application under sectin 6 (2) and preferred appeal against order on that application, half of the decreed money minus the amount deposited therefor.

(4) No appeal of any defendant shall be entertained if he does not deposit the amount fixed under sub-section (2) and (3) in the Money Loan Court which awarded decree.][8]

8. Instalment of loan.- If the Money Loan Court considers it proper that the decreed money should be repaid by instalment, it shall not, without the consent of the decree-holder, allow more than one year time for the repayment of the loan:

[9][Provided that the Court shall, at the time of allowing instalment, order the judgement debtor to pay interest at the rate specified in the agreement executed by him with the financial institution for the period of instalment]

Comments

It is admitted fact that the existing provisions of excution of decrees are complicated and time consuming. Under such provisions, the execution of decrees of Money Loan Courts also remain as complicated, lengthy and time-consuming as in the case of other decrees. In order to achieve the real purpose and objective of this special Act, it is perhaps necessary to make separate provision for execution of decrees of Money Loan Courts, preferably by making amendment in this Act. This is necessary to ensure the speedy and effective execution of the decrees of Money Loan Court.

[9. Pending suits.-Notwithstanding anything contained in any other law for the time being in force, where any suit relating to recovery of loan of any financial institution has been pending in any court immediately before the commencement of the Money Loan Court (Amendment) Act, 1990 (Act L of 1990), it shall be transferred to the Money Loan Court of the district where the suit is pending on the date of commencement of that Act and this Act shall apply in the case of that suit:

Provided that, if there is more than one Money Loan Court in any district, the suit shall be transferred to such court as may be determined by the District Judge.][10]

10. Power to make rules.-The Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Act.

ANNEX-6

1. Inserted by Act of 1994.

2. Added by Act 25 of 1992.

3. Added by Act 25 of 1992.

4. Inserted by Act LI of 1990.

5. Inserted by Act LI of 1990.

6. Added by Act LI or 1990.

7. Substituted by Act LI of 1990. The sub-section, before substitution, was as under:-

"(2) Where any defendant intends to appeal against any decree, he may prefer appeal after depositing atleast half of the money decreed against him in the court awarded the decree, failing which, his appeal shall not be entertained".

8. Added by Act LI of 1990.

9. Added by Act 25 of 1992.

10. Substituted by Act 51 of 1990. This section, before substitution, was as under:-

"9. Pending suits.-Notwithstanding anything contained in any other law, where any suit relating to recovery of loan of any financial institution has been pending in any court immediately before the commencement of this Act, it shall be disposed of in that court and this Act shall not apply in relation to that suit".

APPENDIX-VIII-A
THE MONEY LOAN COURT RULES, 1990

1. Short title.- These rules may be called the Money Loan Court Rules, 1990.

2. Definition.- In these rules, unless there is anything repugnant to the subject or context, "Money Loan Court" means a Money Loan Court established under the Money Loan Court Act, 1990 (Act 4 of 1990).

3. Seal of Money Loan Court.-There shall be two seals of Money Loan Court, one of them shall be round and of two inches diameter, whereunder there shall be the name of the Court and emblem of flower Shapla, and the other shall be of one and half inches diameter and the name of the Court shall be written therein .

4. Administrative control.-A Money Loan Court shall be under the administrative control of the Supreme Court of Bangladesh.

[The Rules were made and issued under S.R.O. No-15-Law, dated the 7th May, 1990]

APPENDIX-IX

THE BANGLADESH BANKS (NATIONALISATION) ORDER, 1972

(President's Order No. 26 of 1972)

List of Amending Laws

1. The Bangladesh Banks (Nationalisation) (Amendment) Order, 1972 (P. O. No. 38 of 1972).
2. The Bangladesh Banks (Nationalisation) (Second Amendment) Order, 1972 (P. O. No. 132 of 1972).
3. The Bangladesh Banks (Nationalisation) (Amendment) Act, 1974 (Act No. XX of 1974).
4. The Bangladesh Banks (Nationalisation) (Amendment) Ordinance, 1977 (Ord. No. XII of 1977).
5. The Bangladesh Banks (Nationalisation) (Amendment) Ordinance, 1977 (Ord. No. XXVIII of 1977).
6. The Bangladesh Banks (Nationalisation) (Amendment) Ordinance, 1978 (Ord. No. XXXIX of 1978).
7. The Bangladesh Banks (Nationalisation) (Amendment) Act, 1980 (Act No. VI of 1980).
8. The Bangladesh Banks (Nationalisation) (Amendment) Ordinance, 1983 (Ord. No. XLVII of 1983).
9. The Bangladesh Banks (Nationalisation) (Amendment) Ordinance, 1984 (Ord. LIX of 1984).

CONTENTS

Articles Marginal note

1. Short title, extent and commncement.
2. Definitions.
3. Order to override other laws.
4. New banks and their status.
5. Authorised capital of new banks.
6. Undertaking of existing banks to vest in corresponding new banks.
7. General effect of vesting.
7.A. Undertaking not to embrace liability of existing banks outside Bangladesh.
7B. Nothing of Article 6 or Article 7 to divest existing bank of certain liabilities or obligations.
8. Payment of compensection.
9. Management of new banks.
10. Board of Directors of new banks.
11. Managing Director.
11A. Appointment of Deputy Managing Director.
12. Omitted.
13. Disqualification of a Director.
14. Vacation of office of Director.
15. Fees for attending Meeting of Board, etc.
15A. Chairman of the Board.
16. Committees.
17. Meetings of the Board
18. Obligations as to fidelity and secrecy.
19. Certain defects not to invalidate acts or proceedings.
20. Indemnity.
21. Functions of new banks.
21 A. Taking over of certain banks
22. Prohibited business

23. Provision relating to officers and other employees.
24. Audit of accounts of new banks.
25. Reserve fund.
26. Reference of existing law to be construed as reference of new banks.
27. Winding up provision not to apply.
27A. Transfer of new bank.
28. Power to make rules.
29. Power to make regulations.
30. Removal of difficulty.
31. Laws relating to banker and banking companies to be applicable subject to modification.
32. Dissolution of existing banks.

THE BANGLADESH BANK (NATIONALISATION) ORDER, 1972

President's Order No. 26 of 1972

[Amendment Foot Notes at ANNEX-7]

WHEREAS it is expedient to provide for the taking over of the undertaking of certain banks in Bangladesh and for matters connected therwith or incidential 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 Presidnt is pleased to make the following Order:-

1.(1) This Order may be called the Bangladsh Bank (Nationalisation) 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) "Bangladesh Bank" means the Bangladesh Bank established by the Bangladesh Bank (Temporary) Order, 1971 (A.P.O. No. 2 of 1791);

(b) "Board" means the Board of Directors of a new bank;

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

(d) "Director" means a Director of a new bank;

(e) "existing bank" means a bank specifid in column 1 of the Schedule;

(f) "Government" means the Government of the People's Republic of Bangladesh;

(g) "Managing Director" means the Managing Director of a new bank;

(h) "new bank" means a bank specified in column 2 of the Schedule;

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

(j) "Schedule" means the Schedule to this Order.

3. The Provisions of this Order and any rule or regulation made thereunder shall have effect notwithstanding anything inconsistent therewith containd in any other law for the time being in force.

4.(1) On the commencement of this Order, there shall be constituted such new banks as are specified in column 2 of the Schedule.

(2) Every new bank 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, and to contract, and may sue and be sued in its name.

(3) Notwithstanding anything contained in this Order, every new bank may, until the 30th day of April, 1972, or until such time as the Government may, by notification in the officiaal Gazette, fix, use the name and scale of the existing bank concerned.

(4) The head office of every new bank shall be at Dhaka.

5.(1) The authorised capital of every new bank shall be such as is specified against each such bank in column 3 of the Schedule and the subscribed capital of the bank shall be such as is specified in column 4 thereof which shall be subscribed for by the Government in such form and manner as may be prescribed:

Provided that the Government may, by notification in the official Gazette, increase, from time to time, the amount of authorised capital or subscribed capital or both of any new bank if such increase is considered necessary in the interest of the businss of the bank.

(2) The entire capital of each new bank shall stand vested in. and allotted to, the Government [1][:]

[2][Provided that the Government may, by notification in the official Gazette, increase, from time to time, the amount of authoorised capital or subscribed capital or both of any new bank if such increase is considered ncessary in the interest of the business of the bank.]

6. On the commencement of this Order, the undertaking of every existing bank shall be transferred to and shall uest in, the

new bank specified against such bank in column 2 of the Schedule.

7.(1) The undertaking of each exisiting bank shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the commencement of this Order in the ownership, possession, power or control of the exising bank in relation to the undertaking within the territory of Bangladesh or in relation to the business of such undertaking outside Bangladesh and all books of accounts, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the existing bank in relation to the undertaking within the territory of Bangladesh.

(2) If, according to the laws of any country outside Bangladesh, the provisions of this Order by themselves are not effective to transfer or vest any asset situated in that country which forms part of the undertaking of an exsisting bank to, or in, the corresponding new bank, the affairs of the existing bank in relation to such asset shall, on and from the commencement of this Order, stand entrusted to the chief executive officer for the time being, of the new bank concerned, and the chief executive officer may exercise all powers and do all such acts and things as may be exercised or done by the existing bank for the purpose of effectively transferring such assets.

(3) The chief executive officer of the corresponding new bank shall, in exercise of the powers conferred on him by clause (2), take all such steps as may be required by the laws of any such country outside Bangladesh for the purpose of effecting such transfer or vesting, and may either himself or through any person authorised by him in this behalf realise any asset of the existing bank.

(4) Unless therwise expressly provided by this Order, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the commencement of this order and to which the existing bank is a party or which are in favour of the exisiting bank shall be of as

full force and effect against or in favour of the corresponding new bank, and may be enforced or acted upon as fully and effectually as if in the place of the existing bank the corresponding new bank had been a party thereto or as if they have been issued in favour of the corresponding new bank.

(5) If any suit, appeal or other proceeding of whatever nature in relation to any business of the undertaking which has been transferred under Article 6 is pending by or against the existing bank, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the existing bank or of anything contained in this Order but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the corresponding new bank.

[3][7A. Notwithstanding anything contained in Article 6 or 7, the undertaking shall not embrace and shall be deemed never to have embraced liabilities and obligations of whatever kind of existing bank whereunder such existing banks undertook liability (whether absolutely or otherwise to do or carry out or procure the carrying out of acts or things outside Bangladesh or the transfer or remission from outisde Bangladesh to the territory of Bangladesh or to persons normally resident or carrying on business within that territory of any assets or property (including documents, cash, fund; or choses in action).

7B. Nothing in Article 6 or 7 shall divest or be deemed to have divested existing banks or any liabilities or obligations referred to in Article 7A.]

8.(1) The Government shall give compensation to each existing bank for acquisition of such of its undertaking as has not already vested in Government under any law, and such compensation shall be distributed among the share holders of the existing bank in the manner prescribed by rules made under this Order:

Provided that the total compensation payable to an existing bank under this clause shall not exceed the total paid up value of the shares held by the shareholders, among whom such compensation is to be distributed.

(2) The compensation payable under clause (1) shall be determined and paid in such form and manner as may be prescribed by rules made under this Order.

9.(1) The general superintendence, direction and management of the affairs and business of a new bank shall vest in a Board of Directors which shall, subject to such general or special order as the Government may give from time to time, be entitled to exercise all such powers and do all such acts and things as the new bank is authorised to exercise and do.

[4][(2) Until the first Board of Directors is appointed by the Government under Article 10. the Managing Director appointed under Article 11 shall, subject to such general and special orders as the Government may give from time to time, exereise all powers and do all acts and thing as may be exercised or done by the new Board.]

10. The Board shall consist of the Managing Director and six Director, to be appointed by the Government, at least three of whom shall be from amongst person who, in the opinion of the Government, have experience and shown capacity in the field of finance, banking, trade, commerce, industry or agriculture.

11.(1) The Managing Director shall be appointed by the Government for such period and on such terms and conditions as the Government may determine.

(2) The Managing Director shall-

(a) be a whole time officer and the chief executive of the bank;

(b) exercise such powers, perform such functions and discharge such duties as may be entrusted by the Government or as may be prescribed or as may be assigned by the Board from time to time.

[5][11 A.(1) The Government may appoint a Deputy Managing Director for each new bank on such terms and conditions as it may determine and may transfer a Deputy Managing Director of a new bank as the Deputy Managing Director of any other new bank.

(2) The Deputy Managing Director shall-

(a) be a whole time officer of the new bank;

(b) exercise such powers, perform such functions and discharge such duties as may be entrusted by the Government or as may by prescribed or as may be assigned by the Board from time to time.]

[6][12.(1) Subject to the other provisions of this Order, a Director, other than the Managing Director, shall hold office for a term of three years and shall be eligible for reappointment.

(2) The authority which appointed a Director may at any time remove him from office without assigning any reason and appoint in his stead another person to fill the vacancy.]

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

(a) is or at any time has been convicted of an offence which, in the opinion of the Government, is an offence involving moral turpitude; or

(b) is a minor;

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

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

(e) absents himself from three consecutive meetings of the Board without leave of absence granted by the Chairman or, in the case of the Chairman, by the Government.

14.(1) If a Director becomes subject to any of the disqualificatons specified in Article 13, he shall be deemed to have vacated his office as such and thereupon his office shall become vacant.

(2) A Director may resign his office by giving notice in writing to the Government and on such resignation being accepted by the Government shall be deemed to have vacated his office.

(3) Where any vacancy occurs in the office of a Director, it shall be filled in accordance with Article 10.

15. A Director, other than the Managing Director, shall be paid such fee for attending the meetings of the Board or of any committee of the Board as may be prescribed by regulation.-

[7][15A.(1) The Government shall appoint one of the Directors other than the Managing Director, to be the Chairman of the Board.

(2) Subject to his continuing to hold office as a Director, the Chairman shall hold office as Chairman for the terms of his office as Director and shall be eligible for re-appointment.

(3) In the event of a casual vacancy in the office of the Chairman, a successor shall be appointed by the Government from amongst the Directors for the unexpired terms or for the period of absence,as the case may be, but the person so appointed shall not hold office beyond the date of expiry of the term of office of his predecessor.]

16. The Board may constitute from amongst its Directors such committees it may deem necessary to assist it in the discharge of its functions.

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

Provided that a meeting may also be otherwise convened by the Chairman when he so thinks fit and shall be convened if two or more Directors so request in writing addressed to the Chairman:

Provided further that a Meeting of the Board shall be held at least once in three months.

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

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

(4) No Director shall vote on any matter in which he is directly or indirectly interested.

(5) If for any reason the Chairman is unable to be present at a meeting of the Board, a Director authorised in writing by the Chairman shall preside at the meeting.

18. Every Director shall, before entering upon his office, make a declaration of fidelity and secrecy in such form as may be prescribed.

19.(1) All acts done by the Managing Director of any new bank, acting in good faith, shall, notwithstanding any defect in his appointment or in the procedure, be valid.

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

(3) All acts done by a person acting in good faith as a Director of any new bank shall be valid, notwithstanding that it may afterwards be discovered that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision contained in any law for the time being in force.

Provided that nothing in this Article shall be deemed to give validity to any act by a Director after his appointment has been shown to be invalid or to have terminated.

20.(1) The Managing Director and every officer or other employee of any new bank shall be indemnified by such bank against all losses and expenses incurred by him in or in relation to the discharge of his duties except such as have been caused by his own wilful act or default.

(2) A Director of any new bank shall not be responsible for any loss or expense caused to such bank by the insufficiency or deficiency of the value of , or title to, any property or security acquired or taken on behalf of such bank, or by the insolvency or wrongful act of any customer or debtor, or by anything done in or in relation to the execution of the duties of his office, unless such loss, expense, insufficiency or deficiency was due to any wilful act or default on the part of such Director.

21.(1) Every new bank shall carry on and transact all kinds of banking business.

(2) Without prejudice to the generality of the foregoing provision, every new bank may, in particular, carry on and transact the following kinds of business, namely:-

(a) advancing and lending of money, and opening of cash credit upon the security of-

(i) stocks, funds and securities in which a trustee is authorised to invest trust money by any law for the time being in force;

(ii) debentures or other securities for money issued under the authority of any law for the time being in force or under the authority of the Government;

(iii) goods which, or the documents of title to which, are deposited with, or assigned to, the

bank as security for such advances, loans or credits;

(iv) debentures of companies with limited liability subject to such directions as may be issued by the Board;

(v) shares of companies with limited liability, in accordance with such directions in this regard as may be issued from time to time by the Bangladesh Bank;

(vi) goods, including tea crops and raw of finished jute products, which are hypothecated to the Bank as security for such advances, loans or credits;

(vii) accepted bills of exchange and promissory notes endorsed by the payees;

(viii) immovable property or documents of title relating thereto, subject to such directions as may be issued from time to time by the Bangladesh Bank.

Provided that, any advances or loans which are guaranteed by the Government may be made without any specified security;

(b) selling and realisation of proceeds of sale of any such promissory notes, debentures, stock receipts, bonds, annuities, stocks, shares, securities or goods which, or the documents of title to which, have been deposited with, or pledged, hypothecated, assigned or transferred to, the bank as security for such advances, loans or credits or any lien or charge in respect of any such advance of loan or credit or any debt or claim of the bank, and which have not been redeemed in accordance with the terms and conditions, if any, of such deposits, pledge, hypothecation, assignment or transfer;

(c) advancing and lending of money to Courts of Wards upon the security of estates in their charge or under their superintendence and the realisation of such advances or loans and any interest due thereon;

(d) issuing of letters of credit;

(e) buying and selling of gold and silver, whether coined or uncoined;

(f) receiving of deposits and keeping cash accounts and accepting of jewelleries, title deeds, and other valuable goods on such terms as may be agreed on;

(g) managing, selling and realising of all properties, whether movable or immovable, which may in any way come into the possession of the bank in satisfaction or part satisfaction of any of its claims, and the acquisition and holding of, and generally the dealing with, any right, title or interest in any property, movable or immovable , which may be the bank's security for any advance or loan or may be connected with any such security;

(h) transacting of pecuniary agency business on commission and entering into contracts of indemnity, suretyship or guarantee with specific security or otherwise and the underwriting, participation in, and carrying out of the issue of any stocks,shares, debentures and other securities;

(i) administration of estates for any purpose whether as an executor, trustee or otherwise and the acting as agent on commission in the transaction of the following kinds of business, namely:-

buying, selling, transferring and taking charge of any security or any share in any public company and also receiving the proceeds thereof, whether principal, interest or devident;

(ii) remittence of such proceeds by public or private bills of exchage, payable either in Bangladesh or elsewhere:

(j) drawing of bills of exchange and the granting of letters of credit payable out of Bangladesh;

(k) buying of bills of exchange payable out of Bangladesh;

(l) borrowing of money for the purpose of the bank's business, and the giving of security for money so borrowed by pledging assets or otherwise;

(m) paying, receiving, collecting and remitting money, bullion and securities under any agreement with the Bangladesh Bank as its agent on behalf of the Government, or undertaking and transacting any business which the Bangladesh Bank may form time to time entrust to it;

(n) establishing and discontinuing of branches and agencies;

(o) acquiring, maintaining and transferring of the bank's residential and business premises;

(p) taking over of the business, including the capital, assets and liabilities of any other bank, with the sanction of the Government;

(q) granting of advances of loans to any other bank for any purpose authorised by the Board;

(r) with the previous permission of the Bangladesh Bank-

(i) investing of the funds of the Bank in any bank incorporated outside Bangladesh;

(ii) participation in the management and administration of any such bank in which the funds of the bank have been invested; and

(s) generally doing of all such matters and things as may be incidental or subsidiary or conducive to the promotion or advancement of the business of the bank, including foreign exchange business.

(3) Notwithstanding anything contained in clause (1) and (2), the bank may carry on and transact such other business as the Government or the Bangladesh Bank may direct, from time to time.

[8][21A.(1) A new Bank may, if the Government so directs, take over the business of any bank which has vested in the Government under section 3 of the Enemy Property (Continuance of Emergency Provisions) (Repeal) Act, 1974 (XLV of 1974) or under any other law, hereinafter referred to as the vested bank.

(2) Notwithstanding anything contained in any other law for the time being in force, the business of a vested bank taken over

by a new bank on the direction of the Government at any time before the commencement of the Bangladesh Banks (Nationalisation) (Amendment) Ordinance, 1978 (XXXIX of 1978), shall be deemed to have been taken over under this Article.

(3) The undertaking of a vested bank the business of which has been, or is deemed to have been, taken over by a new bank under this Article shall stand transferred to, and vested in, the new bank.

Explanation.-The undertaking of a vested bank shall be deened to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the taking over of the vested bank on the ownership, possession, power or control of the vested bank within the territory of Bangladesh and all books of accounts registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the vested bank in relation to its undertaking within the territory of Bangladesh.]

22.(1) A new bank shall not transact the following kinds of business namely:-

(a) it shall not make any advance or loan or grant any facility in contravention of any law in force or any instruction of the Bangladesh Bank;

(b) it shall not make any unsecured advance or loan to any Director or to any concern in which a Director is interested:

Provided that no facility to any member of the staff be denied merely because he is also a Director.

(2) Notwithstanding anything containd in clause (1), the bank is authorised to grant advance of loans or to make ex-gratia payment, with the prior approval of the Government, to its officers and staff for the purpose of providing amenities and facilities for their betterment.

23.(1) Every new bank may [9][subjct to other provisions of this Article and] any regulation made in this behalf appoint or employ such persons as it

considers necessary for the efficient performance of its functions on such terms and conditions as it may determine.

(2) Every officer or other employee of an existing bank shall become, on the commencement of this Order, an officer or other employee, as the case may be, of the new bank concerned and shall [10][unless altered by the Government in the interest of equity and uniformity,] hold his office or service in that bank on the same terms and conditions and with the same rights and privileges as to provident fund, gratuity, pension and other matters as were enjoyed by them immediately before such commencement and shall continue to do so unless and until his employment in the new bank in terminated or until his remuneration or terms and conditions are duly altered by the new bank:

Provided that an officer or other employee may, within such time as may be specified by the new bank, exercise his option not to continue in the service of the new bank.

(3) Notwithstanding anything contained in any term and conditions of service or in any award, settlement or agreement for the time being in force, every new bank may, with the prior approval of the Government, alter the remuneration (whether by way of reduction or otherwise) and other terms and conditions of service of any officer or other employee of the bank, and if such alteration is not acceptable to an officer or other employee, the bank may terminate his employment by giving him compensation equivalent to three months' remuneration in case of a permanent officer or employee and one months remuneration in case of temporary officer or employee.

Explanation:- The compensation to an officer or other employee under clause (3) shall be in addition to any pension, gratuity or other benefit to which the officer or employee may be entitled under the terms and conditions of his servicee.

(4) If any question arises as to whether any person was an officer or other employee of an existing bank or not immediately before commencement of this Order, the question shall be

referred to the Government whose decision shall be final and binding on the parties.

(5) The transfer of service of any officer or other employee from an existing bank to a new bank shall not entitle any such officer or other employee to any compensation, other than the compensation mentioned in clause (3), and no such claim shall be entertained by any Court, tribunal or other authority.

[11][(6) Notwithstanding anything contained in this Article, the Government may appoint the General Manager of a new bank on such terms and conditions as it may determine and may transfer a General Manager of a new bank as the General Manager of any other new bank.]

24.(1) The accounts of every new bank shall be audited by not less than two auditors, being chartered accountants within the mening of the12 [Bangladesh Chartered Accountants Order, 1973 (P.O.No. 2 of 1973)] who shall be appointed by the Government for a term not exceeding three years on such remunerations as it may fix.

(2) Notwithstanding anything contained in clause (1), the Bangladesh Bank may appoint such auditor as it thinks fit to examine and report upon the accounts of any new bank.

(3) Every auditor shall be supplied with a copy of the annual balance sheet and statement of profit and loss and he shall examine it with the accounts and vouchers relating thereto, and shall have a list delivered to him of all books kept by the bank, and shall at all reasonable time have access to the books, accounts or other persons to assist him in the investigation of such accounts, and may, in relation to such accounts, examine any Director or officer of the bank.

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

(5) The bank shall, as soon as possible after the end of every financial year, furnish to the Government and the Bangladesh

Bank a copy of the audited balance sheet together with a copy of profit and loss account for the year and a report on the working of the bank during the years, [********][13]

[14][(6) The audited balance sheets and the profit and loss accounts received by the Government under clause (5) shall be published in official Gazette and shall be laid before the Parliament.]

25. After making provision for bad and doubtful debts, depreciation of assets and such other matter as may be prescribed, every new bank may, out of its net profits, establish a reserve fund and any surplus remaining thereafter shall be paid to the Government.

26. Any reference to any existing bank in any law, other than this Order or in any contract or other instrument shall, in so far as it relates to the undertaking which has been transferred by Article 6, be construed as a reference to the corresponding new bank.

27. No provision of law relating to the winding up of companies including banking companies shall apply to any new bank, and the new bank shall not be wound up save by order of the Government and in such manner as it may direct.

[15][27A. (1) Notwithstanding anything contained in this Order, the Government may, if in the national interest it deems it expedient so to do, transfer, by agreement, the entire undertaking of any new bank to any company registered under the Companies Act, 1913 (VII of 1913), on such terms and conditions as may be settled with such company.

(2) Where the entire undertaking of any new bank has been transferred under clause (1), such new bank shall, on such date as the Government may by order notified in the official Gazette specify, stand dissolved.

Explanation:-The undertaking of a new bank includes its businesss, projects, schemes, assets, rights, powers, authorities and privileges, its properties, movable and immovable, reserve funds, investments and deposits and its borrowings, liabilities and obligations of whatever nature.

(3) The Government may, for the purpose of removing any difficulty in relation to the transfer of the undertaking of a new bank under clause (1) or the dissolution of such bank under clause

(2), 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.]

28. The Government may, by notification in the official Gazette, make rules for the puspose of giving effect to the provisions of this Order.

29.(1) The Board of any new bank may, with the previous approval the Governmemt, make regulations, not inconsistent with the provisions of this Order and the rules, to provide for all matters for which provisions is necessary or expedient for the purpose of giving effect to the provisions of this Order.

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

(a) the calling of the meetings of the Board or of any committee, fees for attending the meeting thereof and the conduct of business thereat;

(b) the delegation of powers and functions of the Board to the [16][Chairman, Managing Director,] Director, officer or other employee of the bank.

(c) the conditions subject to which the bank may grant loans;

(d) the manner of determining the sufficiency of the security for the purpose of business;

(e) the manner and conditions subject to which the bank may borrow in foreign currency;

(f) the form of returns and statements required to be prepared under this order;

(g) the duties and conduct of advisers, officers, other employees and agents of the bank;

(h) the recruitment, remuneration, promotion and other terms and condotions of service of the officers and other employees of the bank;

(i) the establishment and maintenance of pension, provident or other fund for the benefit of officers and other employees of the bank including the dependents of such officers and employees;

(k) the disclosure of interest, direct or indirect, of any Director or any member of a committee in any business concern;

(l) taking over the management and control of any industrial or business concern committing a breach of its agreement with the bank;

(m) publication of audited balance sheet and profit and loss account.

(n) generally for the efficient conduct of the affairs of the bank.

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

30. If any difficulty arises in giving effect to the provisions of this Order, the Government may make such order, not inconsisten with the provisions of this Order, as may appear to it to be necessary for the purpose of removing the difficulty.

31. All laws relating to banker and banking companies shall, subject to such adaptations and modifications as may be made from time to time, be applicable to the new banks.

32.(1) The exisiting banks shall stand dissolved in Bangladesh on such date as the Government may, notification in the official Gazette, appoint;

[17][Provided that any dissolution of an existing bank shall preclude such bank thereafter from being treated as if it were incorporated pursuant to or by virtue of Bangladesh law, but shall not otherwise destroy or be deemed to have destroyed the corporate existence of such existing bank where the existing bank is a foreign corporation.]

(2) Notwithstanding anything contained in clause (1), the Board of Directors of existing banks, if any, shall, on the commencement of this Order, stand dissolved and the Chairman, and other directors of such Board shall cease to functions

THE SCHEDULE

(See Article 4 and 5)

Existing bank.	New bank	Authorised capital	Paid up capital
Column 1	Column 2	Column 3	Column 4
The National Bank of Pakistan.		(in lakhs of takas).	
The Bank of Bahawalpur Ltd The Premier Bank Ltd.	Sonali Bank	500	200
The Habib bank Ltd. The Commerce Bank Ltd.	Agrani Bank	500	100
The United Bank Ltd. The Union Bank Ltd.	Janata Bank	500	150
The Muslim Commercial Bank Ltd The Standard Bank Ltd. The Australasia Bank Ltd.	Rupali Bank	500	100
The Eastern Mercantitle Bank Ltd	Pubali Bank	500	100
The Eastern Banking Corporation Ltd.	Uttara Bank	500	100

ANNEX-7

1. Substituted for the full stop by Act VII of 1980

2. Added ibid.

3. Inserted by P.O.No. 132 of 1972.

4. The original clause (2) was amended by P.O. No. 132 of 1972 and later substituted by Act XX of 1974.

5. Inserted by Ord. No. LIX of 1984.

6. Substituted by Ord. XII. of 1977.

7. Inserted by Act IX of 1980.

8. Inserted by Ordinance XXXIX of 1978.

9. Inserted by Ordinance XXVIII of 1977.

10. Inserted by P.O.No. 132 of 1972.

11. Added by Ordinance XXVIII of 1977.

12. Substited by Act IX of 1980, for "Chartered Accountants Ordinance, 1961 (Ordinance X of 1961)".

13. The words "and shall publish the same in such manner as may be prescribed" occured at the end of the clause omitted by P.O.No. 132 of 1972.

14. Added ibid.

15. Inserted by Ordinance No. XLVII of 1983.

16. Substituted by Act IX of 1980, for "Managing Director".

17. Added by P.O.No. 132 of 1972

APPENDIX-X

THE BANGLADESH KRISHI BANK ORDER, 1973

(President's Order No. 27 of 1973)

List of Amending Laws

1. The Bangladesh Krishi Bank (Amendment) Ordinance, 197 (IV of 1975)
2. The Financial Institutions Laws Amendment Ordinance, 1977 (Ord. LXI of 1977)
3. The Banks and Financial Institutions Laws Amendment Act, 1980 (Act IX of 1980)
4. The Bangladesh Krishi Bank (Amendment) Ordinance, 1983 (Ord. VIII of 1983)
5. The Bangladesh Krishi Bank (Second Amendment) Ordinance, 1983 (Ord. XLIII of 1983)
6. The Bangladesh Krishi Bank (Amendment) Ordinance, 1984 (Ord. LVIII of 1984)
7. The Rayshahi Krishi Unnayan Bank Ordinance, 1986 (Ord. LVIII of 1986).

CONTENTS

Articles Marginal note

1. Short title, extent and commencement.
2. Definitions.
3. Establishment,Incorporation of the Bank, etc.
4. Authorised capital and increase in capital.
5. Head office, Regional offices and Branches.
6. Direction and superintendence.
7. The Board of Directors.
8. Managing Director and Directors and their term of office.
9. Powers of Managing Director and Directors.
10. Executive Committee.
11. Disqualifications for becoming a Director.
12. Meetings of the Board of Directors and the Executive Committee.
13. Fees, etc, of the Directors for attending meetings.
14. Appointment of Technical Advisory Committee.
15. Business and functions of the Bank.
16. Research andTraining.
17. Preference to small agriculturists.
18. Prohibited business.
19. Use of loans made by the Bank.
20. Repayment of loans in full under circumstances.
21. Recovery of Bank dues under PDR Act, 1913.
22. Creation Reserve funds.
23. Disposal of Profit.
24. Maintenance of proper Accounts and Audit.
25. Submission of returns, reports, etc to the Government.
26. Appointment of Advisers.
27. Indemnity of Directors.
28. Declaration of fidelity and secrecy.

29. False information.
30. Disclosure of information, etc.
31. Unauthorised use of Bank's name.
32. Congnizance of offence.
33. Liquidation.
34. Rules.
35. Regulations.
36. Publication of Rules and Regulations in official Gazette.
37. Vesting of interests of ADBP with BKB.
38. Employment, terms & conditions of service, compensation, declaration of public servants, etc.
39. Repeal, etc.

THE BANGLADESH KRISHI BANK ORDER, 1973
President's Order No. 27 of 1973

[Amendment Foot Notes at ANNEX-8]

Whereas it is expedient to establish a Krishi Bank to provide credit facilities to agriculturists and persons engaged in cottage industries and to provide for the vesting in that bank of the undertakings of the Agricultural Development Bank of Bangladesh and for matters connected therewith or incidental thereto;

Now, therefore, in pursuance of paragraph 3 of the Fourth Schedule to the Constitution of the People's Republic of Bangladesh, 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 Krishi Bank Order, 1973.

(2) It extends to the whole of Bangladesh[14][except the Rajshahi Division].

(3) It shall come into force at once and shall be deemed to have taken effect on the 16th December, 1971.

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

(a) "agriculture" includes the raising of crop of any kind, horticulture, forestry, fishery, animal husbandry, poultry farming, dairying, beekeeping and sericulture and other agro-industries;

(b) "agriculturist" means any individual engaged in agriculture or in the development of agriculture or agricultural products or in storage, warehousing, marketing or processing of agricultural produce, and any public or private limited company or co-operative society incorporated or registered by or under any law for the time being in force and so engaged, and any person, company or co-operative society incorporated or registered as aforesaid, who satisfies the Bank that the loan to be taken shall be spent on agriculture or the development of

agriculture or agricultural products or on the storage, warehousing, or marketing of agricultural products;

(c) "Agricultural Development Bank of Pakistan" means the Agricultural Development Bank of Pakistan established by the Agricultural Development Bank of Pakistan Ordinance. 1961;

(d) "Agricultural Development Bank of Bangladesh" means the Agricultural Development Bank of Bangladesh which took up the functions of the Agricultural Development Bank of Pakistan within the territory of Bangladesh immediately on the liberation of Bangladesh on the 16th December, 1971;

(e) "Auditor - General" means the Comptroller and Auditor- General of Bangladesh;

(f) "Bank" means the Bangladesh Krishi Bank established under this Order;

(g) "Board" means the Board of Directors of the Bank;

(h) "Bangladesh Bank" means the Bangladesh Bank established under the Bangladesh Bank Order, 1972 (P. O. No. 127 of 1972);

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

(j) "co-operative society" means a society registered in Bangladesh under any law for the time being in force relating to registration of co-operative societies;

(k) "cottage industry" means any industry which is carried on wholly or mainly by the members of a family either as a whole- time or as a part-time occupation or by a group of such persons who have formed themselves into a co-operative society;

(l) "Government" means the Government of the People"s Republic Bangladesh;

(m) "Managing Director" means the Managing Director of the Bank;

(n) "prescribed" means prescribed by rules or regulations made under this Order;

(o) "small agriculturist" means an agriculturist in occupation of a holding which is normally tilled by himself and the members of his family.

3.(1) On the commencement of this Order, there shall be established a Bank to be called the Bangladesh Krishi Bank to carry out the purposes of this Order.

(2) The Bank shall be a body corporate by the name of Bangladesh Krishi Bank, having perpetual succession and a common seal with power to hold and dispose of property and shall by the said name sue and be sued.

(3) The Bank be deemed to be a banking company for the purpose of the [1][Banking Companies Ordinance, 1962 (Ord. No. LVII of 1962)], and the Bangladesh Bank Order, 1972 (P.O. No. 127 of 1972) and any other law for the time being in force relating to banking companies.

Notes.

The Banking Companies Ordinance, 1962 (Ord. LVII of 1962) has been repealed by the Banking Companies Act, 1991 (Act XIV of 1991). But consequential amendment or adaptation has not yet been made here. In this circumstences, the reference of the Ordinance of 1962 may be construed as reference to the Act of 1991 referred to above.

(4) Notwithstanding anything contained in any of the laws mentioned in clause (3), the Bank may refer to the Bangladesh Bank for reconsideration of any directives issued under any of the said laws by the Bangladesh Bank and in the event of a difference of opinion between the Bank and the Bangladesh Bank, the matter shall be referred to the Government whose decision thereon shall be final.

4. The authorised capital of the Bank shall be twenty crore take to be subscribed by the Government from time to time according to the requirements of the Bank and in such form and manner as may be prescribed:

Provided that the Government may increase the authorised capital of the Bank from time to time.

5. (1) The Head Office of the Bank shall be at Dhaka and may be shifted to such other place as the Government may direct.

(2) The Bank may open such other offices and branches at such places as it may consider necessary.

6. (1) Subject to the rules made under this Order, the general direction and administration of the affairs and business of the Bank shall be entrusted to a Board of Directors, to be constituted in accordance with the provisions of Article 7 and such Board may exercise all such powers and do all such acts and things as may be exercised or done by the Bank.

(2) The Board, in discharging its functions, shall act on commercial considerations but with due regard to the interest of agriculture and development of agriculture and cottage and other allied industries in the rural as well as urban areas and to the public interest generally and shall be guided on questions of policy by the instructions, if any, given to it by the Government which shall be the sole judge as to whether a question is a question of policy or not.

(3) Until the first Board is constituted underArticle 7, the Managing Director appointed under the said Article shall exercise all powers and do all acts and things as may be exercised or done by the Board.

[7. (1) The Board shall consist of the following Directors to be oppointed by the Government , namely:-

(a) the Chairman;

(b) the Managing Director.

(c) seven officials; and

(d) two non-officials.

(2) The Chairman shall be appointed from amongst person who are not in the service of the Republic.][2]

8(1) The [3][Chairman, Managing Director] and other Directors 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 Managing Director or any other Director without assigning any reason.

(3) The Managing Director or any other director may, at any time, resign his office by notice in writing addressed to the Government:

Provided that no resignation shall take effect until it has been accepted by the Government.

9. (1) The Managing Director shall be the chief executive officer of the Bank.

(2)The [Chairman,][4] Managing Director and other Directors shall exercise such powers, perform auch functions and discharge such duties as may be prescribed or assigned to them by the Board.

10. [(1) There shall be an Executive Committee consisting of the Chairman, Managing Director and another Director :

[6][Proviso Omitted]

(2) The member of the Executive Committee, other than the Chairman and the Managing Director, shall be elected by the Board.][5]

(3) Subject to the rules made in this behalf, the Executive Committee shall deal with any matter within the competence of the Board.

(4) The minutes of any meeting of the Executive Committee shall be laid before the Board at its meeting next following the meeting of the Committee.

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

(a) is a salaried official of the Bank, other than the Managing director; or

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

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

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

(e) is a minor; or

(f) absents himself from three consecutive meetings of the Board or, if he is a member of the Executive Committee, from three consecutive meeting of the Committee, without leave of absence from the Chairman or, in the case of the Chairman, from the Government.

[7][IIA. Omitted]

12. (1) No business of the Board or of the Executive Committee shall be transacted except at a meeting at which a quorum of four

Directors in the case of the Board and two members in the case of the Executive Committee is present.

(2) The meetings of the Board and of the Executive Committee shall be held at such time and at such places as may be prescribed by regulations.

(3) If a Director appointed under clause (ii) or clause (iii) of Article 7 is unable to attend for unavoidable reasons a meeting of the Board or of the Executive Committee of which any such Director is a member, the Government may by order, in writing, appoint another person in his place for the purpose of such meeting.

Note

This clause speaks of the situation prevailed before the substitution of Article 7 by the Bangladesh krishi Bank (Second Amendment) Ordinance, 1983 (XLIII of 1983). This is now a redundant clause.

(4) All meetings of the Board or of the Executive Committee shall be presided over by the Chairman and in his absence by a Director or member chosen for that purpose by the Directors or members present from amongst their number.

(5) At a meeting of the Board or of the Executive Committee, each Director or member of the Committee, as the case may be, shall have one vote and in the event of equality of votes, the Chariman shall have a second or casting vote.

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

13.[(1) The Directors other than the Managing Director, shall be paid such fees for attending the meetings of the Board and the Executive Committee as may be prescribed by rules.][8]

(2) The Directors shall be reimbursed such travel costs and other expenditure for attending the meetings of the Board and the Executive Committee as may be prescribed by rules.

(3) All fees, travel costs and other expenses under this Article shall be payable by the Bank.

14.The Bank may appoint a Committee of experts to be called the Technical Advisory Committee to give it technical advice on schemes submitted to the Bank for financial assistance or on any point that may be referred to the Committee by the Board.

15. (1) The Bank shall provide credit in cash or in kind and credit facilities including the hiring and renting of anything which it may advance by way of loan and the provision for ware housing facilities, for such term and subject to such conditions as may by prescribed by rules, to agriculturists for the purpose of agriculture and to persons engaged in cottage and other allied industries in rural as well as urban areas for the purpose of such industries as may carry on and transact the serveral kinds of business hereinafter specified, that is to say, --

(a) the accepting of money on deposit;

(b) the borrowing of money for the purpose of the Bank's business against the security of its assets or otherwise;

(c) the issuing and selling of bonds and debentures;

(d) for the purpose of securing loans and advances made by the Bank, accepting pledge, mortgage, by pothecation or assignment to the Bank of any kind of movable and immovable property or unconditional bank guarantee of a scheduled bank or drawing, accepting, discounting, buying and selling or rediscounting bills of exchange and promissory notes bearing two or more good signatures, one of which shall be that of a scheduled bank or other negotiable instruments:

Provided that where a loan not exceeding two thousand taka in the aggregate is made to an individual agriculturist, it may be secured by a bond with one or more sureties as the Bank may deem necessary if such agriculturist makes an agreement with the Bank creating a charge on any of his specified property to secure the performance of the stipulations of the bond;

(e) the buying, stocking and supplying on credit, of seeds, agricultural machinery, implements and equipments, fertilizers and chemicals and any other materials used in agriculture and acting as agent for any organisation for such goods;

(f) the subscribing to the debentures, being debentures repayable within a period not exceeding ten years of any body corporate concerned with agriculture or the financing of agriculture, the financing of cottage and other allied industries in rural as well as urban areas;

(g) the custody of gold ornaments, jewels, securities, saving certificates; title deeds and other valuable articles and the collection of the proceeds, whether principal, interest or dividents of any such securities or saving certificates;

(h) the administration of estates for any purpose whether as executor, transferee or otherwise;

(i) the paying, receiving, collecting and remitting of money and securities ;

(j) the acquiring, maintaining and transferring of all movable and immovable property, including residential premises, for carrying on its business;

(k) the taking over of business, including the capital, assets and liabilities of any other bank or financial corporation, with the previous approval of the Government;

(l) the guaranting against the security of agricultural property of loans granted by scheduled banks.

(m) the opening of accounts or the making of any agency arrangement with, and the acting as agent or correspondent of, any bank or financial corporation;

(n) the investing of its funds in Government securities as a purely temporary measure:

Provided that the investment of fund exceeding fifty lacks of taka shall not be made except with the prior approval of the Government;

(o) the selling and realising of all properties, whether movable or immovable, which may in any way come into the possession of the Bank in satisfaction or part satisfaction of any of its claim and the acquisition and the holding of, and generally the

dealing with, any right, title or interest in any property, movable or immovable, which may be the Bank's security;

(p) generally the doing of all such acts and things as may be necessary, incidental or conducive to the attainment of the object of the Bank.

(2) Notwithstanding anything in clause (1), any loan guaranteed by the Government may be made without any specific security.

(3) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for any agriculturist or persons engaged in cottage industry or in any other allied industries in the rural as well as urban areas to pledge, mortagage, hypothecate or assign any kind or quantity of movable or immovable property to the Bank or otherwise to create a charge on any such property in order to secure the repayment of the loan and the Bank shall, in accordance with the provisions of this Order, be competent to deal with and recover its dues from any property so pledged, mortagaged, hypothecated or assigned:

Provided that no property so pledged, mortgaged, hypothecated, assigned or otherwise charged shall be sold or otherwise disposed of except by public auction and then only so much of it as is sufficient to recover the dues of the Bank and the Bank shall not bid at such auction except in cases where the bid is not sufficient to pay up the Bank's dues or there are no bidders.

(4) Notwithstanding anything contained in any law for the time being in force, any charge created on any property to secure the rpayment of the loan of the Bank or to secure performance of the stipulations of any bond executed in favour of the Bank shall be enforced against such property in the hands of any person to whom it may have been transferred including the person who has acquired the property for consideration and without notice of the charge.

(5) The Bank may make use of any agency prescribed by rules for watching the expenditure from its loans and making recoveries.

(6) Subject to such directions, if any, as may be given by the Government, the Bank may carry on and transact outside Bangladesh all or any of the business specified in clause (1).

(7) Notwithstanding anything in clause (1) or elsewhere in this Order, loans for purpose other than agricultural may be advanced to any deposit holder with the Bank against his own deposit as and when required.

16. The Bank may undertake, if necessary, in collaboration and consultation with official or non-official agencies,--

(a) any research on agricultural credit, marketing or agricultural products, agricultral credit to co-operative societies, cottage industries and other allied industries in rural as well as urban areas, and other allied subject, and the establishemnt or research institutions in that connection; and

(b) the provision of training facilities, including the establishment of training institutions, for the benefit of its personnel and that of co-operative societies and other bodies corporate which may have financial relations with the Bank.

17. In transacting the business of the Bank, the Board shall, as far as possible, give preference to credit needs of small agriculturists, including any such agriculturist who engages a crop sharer (bargader).

18.(1) The Bank shall not undertake any kind of business other than that authorised by or under this Order and, in particular, it shall not-

(a) discount or buy or advance or lend or open any credit on the security of any negotiable instrument payable in the town or at the place where it is presented for discount, which does not carry on it the several responsibilities of at least two persons unconected with each other;

(b) purchase or subscribe to shares of any company or other body corporate or otherwise acquired any such share except in the course of the satisfaction of any of its claims;

(c) engage in trade or otherwise have a direct interest in any commercial, industrial or other undertaking, except such interest as it may in any way acquire in the course of the satisfaction of its claims.

(2) Any share or interest acquired under sub-clause (b) or sub-clause (c) of clause (1) shall be disposed of by the Bank as early as possible.

19. The Bank shall require, and , as far as possible, ensure that a loan is spent on the purpose for which it is made, and if this requirement is not complied with by the borrower, the bank may require the repayment of the loan forthwith.

20. Notwithstanding any agreement to the contrary, the Bank may, by notice, require any borrower forthwith to pay his debt to the Bank in full, if-

(a) he has failed to comply with any terms of the agreement under which the relevant loan, advance or credit has been granted;

(b) the bank reasonably apprehend that he is unable to pay his debt;

(c) in the opinion of the Bank, false or misleading information on any material particular has been given in the application for the relevant loan, advance or credit or in any other statement or communication made in connection with any loan, advance or credit granted to him;

(d) the property mortgaged, hypothecated or assigned to the Bank as security for the advance, loan or credit is not kept in proper conditions to the satisfactions of the Bank, or the value as estimated by the Bank has depreciated by more than 20 per cent, and further security to the satisfaction of the Bank is not given within the time specified by the Bank;

(e) without the permission of the Bank, any property pledged, mortgaged, hypothecated or assigned to the Bank is leased or rented to third parties or is, in any way charged, disposed of or removed from the place where it was at the time the loan, advance or credit was granted;

(f) for any other reason it is necessary in the opinion of the Bank to protect its interest.

21.(1) Where any agriculturist who is liable to the Bank under any agreement makes default in repayment or otherwise fails to comply with the terms of his agreement with the Bank, such default or failure not being due to natural calamity, the Bank may, subject to any rules made in this behalf, take over the management of the concern of the agriculturist and sell or realise any property pledged, mortgaged, hypothecated or assigned by the agriculturists to secure his liability to the Bank.

(2) All sums due to the Bank shall be recoverable as arrears of land revenue.

(3) In the application of the Public Demands Recovery Act, 1913 (Bengal Act III of 1913), for the purpose of the recovery of the dues of the Bank, the provisions of section 7, 9,10 and 13 of that Act shall not apply and certificates issued under section [9][(6)] of the said Act shall be conclusive proof that the amount specified therein is due to the Bank.

(4) Sums due from a co-operative society and recoverable under clause (1) may be recovered in accordance with the provisions of law for the time being in force relating to the recovery of such sums due from a co-operative society to the Government.

[10][(5) Omitted]

(6) An officer (of the rank of Manager or above) of the Bank may exercise all the powers exercisable by a certificate officer under the Public Demands Recovery Act, 1913 (Bengal Act III of 1913), within his jurisdiction for the purpose of recovery of the dues of the Bank only.

22. The Bank shall establish a fund to be called the General Reserve Fund and create from time to time such other reserves as the Government may direct.

23. After making adequate provision for bad and doubtful debts, depreciation of assets or any other matters which are usually provided for by bankers, the net annual profit of the Bank shall be disposed of as follows, that is to say,-

(a) a percentage of the net profit to be determined every year by the Board shall be transferred to the General

Reserve Fund until the Fund is equal to the subscribed share capital of the Bank;

(b) the remaining net profit shall be paid to the Government.

24.(1) The Bank shall maintain proper account and prepare annual statement of accounts, including the profit and loss account and balance sheet, and shall comply in respect of such accounts with such general directions as may be issued by the Government from time to time.

(2) The accounts of the Bank shall be audited by not less than two auditors being chartered accountants within the meaning of the [11][Bangladesh Chartered Accountants Order, 1973 (P. No. 2 of 1973)] who shall be appointed by the Government.

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

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

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

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

(2) The Bank shall, as soon as possible, after the end of every financial year but not later than four months, furnish to the Government a statement of accounts audited by the auditors under Article 24 together with an annual report on the working of the Bank during the year.

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

[12][26. (I) Subject to the provisions of clause (2), the Bank may appoint or employ such persons including advisers as considers necessary for the efficient performance of its operation on such terms and conditions as may be prescribed by regulations.

(2) Notwithstanding anything contained in clause (1) of Article 38, the Government may appoint a Deputy Managing Director and a General Manager of the Bank on such terms and conditions as it may determine.]

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

(2) A Director shall not be personally responsible for the acts of any other Director or of any emloyee of the Bank for any loss or expense resulting to the Bank by reason of the inefficiency or deficiency in value of or title to any property or security acquired or taken on hehalf of the Bank or by the wrongful act of any person under a liability acquired or taken on behalf of the Bank or by anything done by him in good faith in the execution of the duties of his office.

28.(1) Every Director, member of the Technicaal Advisory committee, auditor or employee of the Bank shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule to this Order.

(2) Whoever contravenes his declaration of fidelity and secrecy shall be punishable with imprisonment for a term which

may extend to six months, or with fine which may extend to one thousand taka. or with both.

29. Whoever in any application for obtaining a loan, advance or credit or in any balance sheet, statement of profit and loss,declaration or any other document submitted to the Bank in respect of any financial aid sought or granted under this Order, wilfully makes a false statement or knowingly permits any false statement to be made or to remain or uses or permits to be used any loan, advance, or credit for any purpose other than that for which it is granted by the Bank shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand taka, or with both.

30.(1) No information given by a person applying to the Bank for financial assistance, or based on data furnished by such person,shall be disclosed or used for a purpose not connected with the discharge of his duties by any Director, or member of the Technical Advisory Committee or of any Committee or by any employee of the Bank.

(2) Whoever contravenes any of the provisions of clause (1) shall be punishable with imprisonment for term which may extend to six months, or with fine which may extend to one thousand taka, or with both.

31. Whoever without the consent in writing of the Bank uses its name in any prospectus or advertisement shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand taka, or with both.

32. No court shall take congnizance of any offence punishable under this Order otherwise than on a complaint in writing signed by an officer of the Bank authorised in this behalf.

33. No provision of law relating to the winding up of banking companies shall apply to the Bank and the Bank shall not be wound up save by order in writing of the Government and in such manner as the Government may direct.

34.(1) The Government may make rules for carrying out the purposes of this Order and where the regulations framed under the succeeding Article are inconsistend with the rules made under this Article, the rules shall prevail.

(2)Without prejudice to the provision of clause (1), such rules may provide for -

(a) the duties and powers of the Managing Director;

(b) the manner, conditions and terms of issue and redemption of bonds and debentures;

(c) the conditions subject to which advances, loans and credit may be granted to-

(i) the Director;

(ii) the member of the Technical Advisory Committee;

(iii) the employee of the Bank;

(iv) the relatives of the persons memtioned in this clause;

(v) the individuals, co-operative societies and other bodies corporate with whom these persons or their relatives are connected as partners, directors, managers, servants, or otherwise.

35.(1) The Board may, with the previous approval of the Government, make regulations not inconsistent with this Order or the rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Order and the efficient conduct of the affairs of the Bank.

(2) Without prejudice to the generality of the provision of clause (1), the regulations may provide for-

(a) the conduct of the business and the meetings of the Board and of the Executive Committee or any other Committee or Sub-Committee;

(b) the procedure for recovery of loans and other dues of the Bank;

(c) the disclosure of interest, direct or indirect, of a Director in any application for loan;

(d) the recruitment of the employees of the Bank, the terms and conditions of their services, the constitution and management of Provident Fund for

the employees of the Bank and all other matters connected with any of these things;

(e) the duties and conduct of employees and agents;

(f) the forms of returns and statements;

(g) preparation of annual estimates of income and expenditure of the Bank and their submission to the Board and the Government.

36. All rules and regulations made under the Order shall be published in the official Gazette.

37.(1) On the commencement of this Order, the intire undertakings of the Agricultural Development Bank of Pakistan shall stand transferred to, and vested in, the Bank.

(2) The undertaking of the Agricultural Development Bank of Pakistan shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the commencement of the Order in the ownership, possession, power or control of the Agricultural Development Bank of Pakistan in relation to the undertaking within the territory of Bangladesh and all books of accounts, registers, records and all other documents of whatever nature relating thereto and shall, unless the Government otherwise directs, also be deemed to include all boorowings, liabilities and obligations of whatever kind then subsisting of the Agricultural Development Bank of Pakistan in relation to such undertaking in the territory of Bangladesh.

(3) Unless otherwise expressly provided by this Order and unless the Government othewise directs, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the commencement of this Order and to which the Agricultural Development Bank of Pakistan is a party or which are in favour of the Agricultural Development Bank of Pakistan in so far as they relate to the undertaking of the Agricultural Development Bank of Pakistan which has vested in the Bank under clause (2), be of as full force and effect against or in favour of the Bank, and may be enforced or acted upon as fully and effectually as if in the

place of the Agricultural Development Bank of Pakistan the Bank had been a party thereto or as if they had been issued in favour of the Bank.

(4) Subject to the other provisions of this Order and unless the Government otherwise directs, any suit, appeal or other proceeding of whatever nature pending on the date of commencement of this Order by or against the Agricultural Developemnt Bank of Pakistan in relation to the undertaking which has been vested in the Bank under clause (2) shall be deemed to be suit, appeal or other proceeding by or against tbe Bank, and may be continued or prosecuted and enforced by or against the Bank.

38.(1) The Bank, [13][subject to the provision of this Order,], may appoint or employ such persons as it condisers necessary for the efficient performance of its functions on such terms and conditions as it may determine.

(2) Every officer or other imployee of the Agricultural Development Bank of Pakistan who is a citizen of Bangladesh and who owes allegiance to Bangladesh shall become, on the commencement of this Order, an officer or other employee, as the case may be, of the Bank and shall hold office in the Bank on the same terms and conditions and with the same rights and privileges as to the provident fund, gratuity, pension and other matters as were enjoyed by him immediately before such commencement and shall continue to do so unless and until his employement in the Bank is terminated or until his remuneration or terms and conditions are duly altered by the Bank:

Provided that an officer or other employee may, within such time as may be specified by the Bank, excercise his option not to continue in the service of the Bank.

(3) Notwithstanding anything contained in any terms and conditions of service or in any award, settlement or agreement for the time being in force, the Bank may, with the prior approval of the Government, alter the remuneration [whether by way of reduction or otherwise) and other terms and conditions of service of any officer or other employee of the Bank, and if such alternation is not acceptable to an officer or other employee, the Bank may terminate his employement by giving him

compensation equivalent to three months' remuneration in the case of a permanent officer or other employee and one month's remuneration in the case of a temporary officer or other employee.

Explanation-The compensation to an officer or other employee under clause (3) shall be in addition to any pension, gratuity or other benefit to which the officer or other employee may be entitled under the terms and conditions of his service.

(4) No officer or other employee of the Agricultural Development Bank of Pakistan whose service is, by this Order, trnasferred to the Bank shall, notwithstanding anything contained in any law for the time being in force, be entitled to any compensation because of such transfer.

(5) Every officer or other employee of the Bank, while performing duties under this Order, shall be deemed to the public servant within the meaning of section 21 of the Penal Code (Act No XLV of 1860)

39.(1) On the commencement of this Order, the Agricultural Development Bank of Pakistan Ordinance, 1961 (Ord. IV of 1961), hereinafter referred to as the said Ordinance, shall stand repealed.

(2) Subject to the provisions of this Order, any appointment, order, rule or regulation made or issued under any provision of the said Ordinance and in force immediately before the repeal of the said Ordinance shall, so far as it is not inconsistent with the provisions of this Order, be deemed to have been made or issued under the Order as if this Order was in force at the time at which such appointment, order, rule or appointment were made or issued.

(3) Any reference to the Agricultral Development Bank of Pakistan or, as the case may be, in any law other than the said Ordinance and this Order, or in any order, rule or notification or in any contract or other instrument shall, except as otherwise in any order, general or special, made by the Government, be construed as a reference to the Bank.

The Schedule
(See Article 28)
Declaration of Fidelity and Secrecy

I, ... , hereby declare that I will faithfully, truly and to the best of my judgement, skill and ability, execute and perform the duties required of me as a Director, member of the Technical Advisory Committee, Auditor or employee (as the case may be) of the Bangladesh Krishi Bank and which relate to any office or position in and said Bank held by me.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs and business of the Bank nor will I allow any such person to inspect or have access to any books or documents belonging to, or in the possession of, the Bank and relating to the business of the Bank.

Signature.....

Signed before me

Signature .....

Designation with address .....

Date .....

ANNEX-8

1. Substituted by Act IX of 1980 for "Banking Companies(Inspection) Ordinance, 1946 (Ord. No.IV of 1946). the BankingCompanies (Control) Act. 1948 (Act XXII of 1948)".

2. Substituted by Ord XLIII of 1983. The Article, prior to substitution, was as under:-

"7. The Board shall consist of the following Directors to be appointed by the Government, namely:-

(i) the Managing Director, who shall be the Chairman of the Board;

(ii) three officers, of whom one shall be a representativee of the Ministry of finance, one of the Ministry of Agricultire and the other of the Forest, Fisheries and Livestock Ministry or Division; and

(iii) three non-officials to be nominated by the Ministry of finance".

3. Substituted for Managing Director" by Ordinance XLIII of 1983.

4. Inserted by Ord. IX of 1980.

5. Substituted by XLIII of 1983. The original clauses (1) and (2) were as follows:-

"(1) There shall be an Executive Committee consisting of the Managing Director and two Directors of whom at least one shall be a non-official.

(2) The members of the Executive Committee, other than the Managing Director, shall be elected by the Board."

6. Omitted by Ord. XLIII of 1983, which was as under:

"Provided that if the Chairman is an officer oppointed under Article 7(ii), then the Director other than the Managing Director shall be a non official and vice versa."

7. A new Article 11 A was inserted by Ord. IX of 1980 and later omitted by Ord. XLIII of 1983. The provision of the said Article was as under:-

"11A.- (1) The Government shall appoint one of the Directors other than the Managing Director to be the Chairman of the Board.

(2) Subject to his continuing to hold office as a Director, the chairman shall hold office as Chairman for the term of his office as Director and shall be eligible for re-appointment.

(3) In the event of a casual vacancy in the office of the chairman, a successor shall be appointed by the Government from amongst the Directors for the unexpired term or for the period of absence, as the case may be, but the person so appointed shall not hold office beyond the date of expiry of the term of office of his predecessor."

8. Substituted by Ord. VIII of 1983. The clause, prior to substitution, was as under:-

"(1) The Directors, other than the Managing Director, not serving under the Governement shall be paid such fee for attending the meeting of the Board of the Executive Committee as may be prescribed by rules.

9. Substituted by Ord. IV of 1975 for "4".

10. Omitted by Ord. IV of 1975.

11. Substituted by Act IXof 1980.

12. Re-numbered and substituted by Ord. LXI of 1977. Before re-numbering and substitution, the Article was as under:-

"26. The Bank may appoint or employ such persons including advisers as considers necessary for the efficient performance of its operation on such terms and conditions as may be prescribed by regulations.'

13. Inserted LXI of 1977.

14. Inserted by section 35 of the Rajshahi Krishi Unnayan Bank Ordinance, 1986.

APPENDIX-XI

THE BANGLADESH KRISHI BANK RULES, 1983

CHAPTER -1

PRELIMINARY

[AMENDMENT FOOT NOTES AT ANNEX-8A]

1. Short title.- These rules may be called the Bangladesh Krishi Bank Rules, 1983.

2. Definitions.-In these rules, unless there is anything repugnant in the subject or context:-

(a) "agro-industry" means an industry engaged in the manufacture and trade of agricultural machinery implements and inputs or processing, preservation and marketing of agricultural provisions for use of agriculturists;

(b) "borrower" includes a person who has applied or proposes to apply for loan;

(c) "loan" includes advance and credit and may be in cash or in kind or in both;

(d) "non-official director" means a director appointed under Article 7 (1) (d) of the Order;

(e) "Order" means the Bangladesh Krishi Bank Order, 1973 (P.O No. 27 of 1973) ; and

(f) "Schedule" means a Schedule annexed to these rules.

CHAPTER II

POWER OF THE EXECUTIVE COMMITTEE, MANAGING DIRECTOR AND GENERAL MANAGER

3. Powers of the Executive committee.- (1) Subject to the directives issued by the Government, from time to time, the Executive Committee shall have power-

(a) to write-off losses up to taka [ten lacs] in any one case :

(b) to dispose of other property up to the value of taka 4.00 lacs.

(2) The Executive Committee shall have such other business power as specified in Schedule A.

4. Power of Managing Director.-(1) Subject to such general or special orders as the Government may, from time to time, issue, the Managing Director shall have the power of general suprintendence and direction of the whole affairs and business of the Bank and shall exercise all powers and do all acts and things which may be exercised by the Board, except, in the matters specifically required by the Order or by these Rules or the Regulations to be exercised or done by the Board.

(2) Subject to such directions as may from time to time be given by the Board, the Managing Director shall have power to sanction loans to individuals and corporate bodies to the extent to which the Executive Committee or the Board may, for the time being, sanction such loans, if prior reference to the Executive Committee or the Board is likely to cause delay or to be prejudicial to the development of agriculture for reasons to be recorded in writing:

Provided that in such cases, the Managing Director shall report the loan sanctioned by him to the Board or, as the case may be, the Executive Committee at its next meeting for approval.

(3) Subject to the directives issued by the Government, from time to time, the Managing Director shall have such other business, financial and administrative powers as specified in Schedule B.

[2][(4) The Managing Director may, with the approval of the Board, delegate any of the powers under these rules to such officers of the Bank as he may deem fit.]

CHAPTER-III
VACATION OF OFFICE BY DIRECTOR

5. Vacation of office by Director on disqualification.- If at any time it comes to the notice of the Board that any of the Directors has become disqualified on any of the ground specified at Article 11 of the Order, the Board shall forthwith inform the Government of the nature of the disqualification and the Government shall. if it is established that the Director concerned is or has actually become so disqualified, declare him to be disqualified and thereupon the office of the Director shall become vacant.

CHAPTER-IV
FEES AND ALLOWANCES

6. Fees of non-official Directors for attending meeting.- Every Director shall be paid a fee of Take 200 for attending each meeting of the Board or of the Executive Committee, in addition to travelling expenses, if any.

7. Scale of travelling allowance and daily alloowance admissible to non-official Directors.- Every Director shall be paid travelling allowances and diem allowances for attending meetings of the Board and the Executive Committee on the scale specified below. He shall also be entitled to the travelling allowances and diem allowances at the same rates if deputed by the Board to visit any place for the Bank,s business or to serve on any Committee.

SCALE OF TRAVELLING AND DIEM ALLOWANCES

(i) The highest class of rail or steamer fare or economy air passage for each journey:

(ii) Road mileage at the rate of Taka 1.00 per mile or any part thereof if the journey is performed by road:

Provided that travelling allowances for journeys undertaken by road between places connected also by rail or steamer will be admissibe on the basis which is more economical to the Bank.

(iii) Diem allowance at the ratee of Taka 100 per day for the actual days of journey and days of meeting attended and maximum of two days half, if actually made out of the station of residence.

CHAPTER -V
SANCTION, SECURITY AND RECOVERY OF LOANS

8. Conditions for [sacfioning][3] loans.- (1) No loan shall be sanctionld by the Bank unless it has investigated the extent of the actual legitimate credit needs of the borrower.

(2) Loan sanctioned may be disbursed in case or in kind or in both.

9. Term of loan.-(1) A loan may be short, medium or long terms loan, according to the period in which it is required to be fully repaid.

(2) A short term is a loan which is required to be fully repaid within a maximum period of eighteen months from the date of disbursement.

(3) A medium term loan is a loan which is required to be fully repaid within a maximum period of five years from the date of disbursement.

(4) A long term loan is a loan which is required to be fully repaid in any period exceeding five years from the date of disbursement.

10. Security for short, medium and long term loans.- The Bank may advance and lend money and open cash credit upon the security of-

(i) stocks, fund and securities in which a trustee is authorised to invest trust money by any law for the time being in force;

(ii) debentures or other securities for money issued under the authority of any law for the time being in force or under the authority of the Government;

(iii) goods, or the documents of title thereto, which are deposited with, or assigned to, the Bank as security for such advances, loans or credits;

(iv) debentures of companies with limited liability, subject to such directions as may be issued by the Bangladesh Bank;

(v) shares of companies with limited liability in accordance with such directions in this regard as

may be issued from time to time by the Bangladesh Bank;

(vi) goods, including tea crops and raw jute or finished jute products, which are hypothecated to the Bank as security for such advances, loans or credits; and

(vii) accepted bills of exchange and promissory notes endorsed by the payees:

Provided that any advance or loan which is guaranteed by the Government may be made without any specified security:

Provided further that a loan for the purchase of cattle for ploughing land or for raising of any specialised crop or to establish any cottage industry when given as a medium term loan for a period not exceeding three years may be secured by a bond with one or more sureties;

Provided further that where loan is applied for establishment of agro industries, wharehouses, construction of mechanised vessel for fishing or for fishing or for any agro-firm, the Bank may grant loan on the security of the project and make payment gradually on the proportionate value accrued in course of implementation.

11. Extent of loan against defferent types of securities.- The total amount of loan that may be granted against different types of securities shall be limited to-

(i) eighty percent of the market value or face value of the Government securities, whichever is less;

(ii) ninety percent of the appraised value of the crops financed,

(iii) seventy- five percent of value of the gold determined at market price for the gold content of maximum fineness, subject to directives of the Bangladesh Bank; and

(iv) eighty percent of the appraised value of the security in all other cases.

12. Insurance of security.-All property pledged, hypothecated or mortgaged with the Bank shall, as far as may be, be insured in the joint names of the Bank and the borrower at the expense of

the borrower with the Sadharan Bima Corporation for the period for which the property is pledged, hypothecated or mortgaged.

Provided that the Government may, in a particular case or particular class of case, direct that the property be insured with any other insurance organisations.

13. (a) Interest, fees, commissions and incidentals.-(1) Loans shall be granted by the Bank at such rate or rates of interest as the Board may, from time to time, specify.

(2) In specifying the rate or rates of interest under sub-rule (1), the Board may also specify a higher rate of interest which the Bank shall charge in the event of default of repayment of loan or any instalment thereof.

(3) In addition to interest, the Bank may also charge such commission and incidental charges as the Board may, from time to time, specify.

(4) Interest, fees, commissions and incidentals should be fixed keeping consistency with the policy and directives issued by the Bangladesh Bank from time to time.

14. Conditions for grant of loan to Directors, Members, employees and their relatives.-(1) No Director, Member of the Technical Advisory Committee or an adviser appointed as such and no employee of the Bank shall deal with, judge or vote on any matter conected with any business of the Bank in which he or any of his relatives is personally concerned, or on any application for grant of loan to himself, his partner, co-trustee or relative or to a co-operative society, body corporate or individual, with which or with whom such Director, Member, Adviser or employee is connected as a partner, Director, manager or servant.

(2) When any employee of the Bank receives an application for loan in which he or any of his relatives is personally concerned, he shall immediately bring the fact to the notice of his immediate higher officer, who shall transfer the application to another employee.

(3) No officer shall investigate the facts of any application for loan in which he or any of his relatives is personally concerned or verify the right, title or interest of the borrower in the property offered as security for such loan.

(4) An application for loan in which the Managing Director or any of his relatives is personally concerned shall be referred to the Board, irrespective of the fact that the amount of the loan applied for is within the sanctioning power of the Managing Director.

(5) In the case of an application which is submitted to the Executive Committee or the Board, any Director, if he or any of his relatives is personally concerned in the loan, shall, immediately on receipt of the notice of consideration of the application in a meeting of the Executive Committee or the Board, notify the Executive Committee or the Board, as the case may be, of the fact of his or his relatives's being so concerned and shall abstain from taking part in the meeting of the Executive Committee or the Board as provided in sub-rule (1).

Explanation.- In this rule, the word "relative" with reference to any person, means his son, daughter, husband, wife, father, mother, sister, son-in- law, daughter-in-law, sister-in-law, brother-in-law, father-in-law or mother-in-law.

15. Taking over the management of the defaulting concern.- Where the Managing Director is satisfied that a borrower who is under a liability to the Bank under an agreemen has made any default in repayment or has otherwise failed to comply with the terms of the agreement, the Managing Director may, himself or with the approval of the Board, give, through any person authorised by him in this behalf , notice to such borrower to repay the balance of the loan in full or, as the case may be, comply with the berms of the agreement within seven days next after the receipt of the notice, and if the borrower fails to comply with the said notice, the Managing Director or any person authorised by him in this behalf may, by further notice, require the borrower to hand over the management of the concern for which the loan relates, to an officer authorised by the Bank.

16. Legal proceeding against defaulting concern.- If any borrower refuses or fails to hand over the management of the concern on receipt of notice under rule [4][15], an officer of the Bank, duty authorised by the Managing director in this behalf, may apply to the competent court for necessary order as regards handing over of the management of the concern to the Bank.

17. Management of concern taken over.-(1) Where the management of a concern is taken over by the Bank, the Bank shall specify the manner in which the affairs of that concern shall be managed taking into consideration the particular circumstances of the concern in each case.

(2) For the purpose of administering the affairs of a concern the management of which is taken over by Bank, the Bank may appoint an executive Director, Managing Agent, Director-in charge or a committee composed of more than one person and may lay down such conditions as it thinks fit taking into consideration the public interest and the interest of the Bank.

(3) The management appointed under sub-rule (2) shall, if the Bank thinks fit in the public interest to do so and if the concern liability to the Bank remains intact and is fully secured, strive, as far as possible, to ensure the continued existence of the concern, and for this purpose, as also for effecting the recovery of its dues against the borrower including to introduce such changes in regard to matters connected with the working of the concern including establishment, administration, production and sale as it may think proper.

(4) The Bank may relingquish the management of the concern if it is satisfied that the cause for taking over the management no longer exists and the borrower shall not be entitled to claim any compensation or damage for taking over management of the concern by the Bank.

CHAPTER-VI
RETURNS

18. Returns.-The audited statement of accounts required to be furnished to the government within four months of close of cash financial year under Article 25 (2) of the Order shall be in the Form set out in schedule C

SCHEDULE 'A'
Business Powers of Executive Committee.

(See Rule 3(2)

(Amount in lacs)

Sl. No.	Particulars of advances and other commitments	Private limited company/Firms/ Individuals	Public Limited Company	Government/ Nationalised Corporation.
1	2	3	4	5
1.	Loans/ advances against pledge of goods produces.	200.00	300.00	350.00
2.	Loans/advances against hypothecationand mortgage.	250.00	350.00	400.00
3.	Loans/advances against pledge of fixed deposit receipt at margin specified by the Bangladesh Bank Term deposit including fixed deposit receipts of third pary.	without limit (W.L)	W.L.	W.L
528	Bangladesh Laws on Banks and BankingL Government papers, Jatiya Sanchay Patra, Jatiya Protiraksha Sanchay Patra, Savings Certificate and Trustee Securities etc. (when permissible subject of margin restriction).			

5.	Inland guarantee for one year:			
	(a) 100% margin	W.L.	W.L	W.L
	(b) 50% margin with collateral	100.00	125.00	150.00
	(c) 25% margin with collateral	75.00	100.00	125.00
	(d) Below 25% margin with collateral security.	50.00	75.00	100.00
6.	Unsecured advances (When permissible)	.50	.50	.50
7.	Purchase of inland documentary bills accompanied with documents evidencing consignment of goods within the county (IBP) at 25% margin.	10.00	20.00	40.00
8.	Advances against Government supply bills accompanied with inspection notes at 25% margin.	10.00	20.00	40.00
9.	Ovedrdraft against purchase (of Government cheques/drafts at 25% margin.	5.00	10.00	10.00
10.	Loans/advances against surrender value of life insurance policies (When permissible).	W.L	..	..
11.	Loans/advances against (a) companies share and debentures approved by Bangladesh Bank at 50% margin.	5.00	10.00	20.00
	(b) Government/authorised debenture at 50% margin.	10.00	20.00	30.00

12.	Draft Animal/Rural Transportation facility against collateral security.	3.00	..	..
13.	Sericulture/Horticulture/Orchard/ PanBoroj/Mixed Farming etc. against collateral Security.	50.00	75.00	..
14.	IrrigationEquipments and other farm machineries.	30.00	50.00	75.00
15.	Diary/Poultry/Goatary/Beef fattering/ Duckery/Fishery etc.	50.00	75.00	100.00
16.	Small and Cottage Industry and other Socio-Economic Activities.	50.00	100.00	150.00
17.	Agro-based Industries/other projects	100.00	150.00	200.00
18.	Tea (Hypothecation)	100.00	150.00	200.00
19.	Tea (Development)	100.00	150.00	200.00
20.	Opening of import documentary lotters of credit			
	(a) 100% margin	W. L.	W. L.	W. L.
	(b) 50% margin	W. L.	W. L.	W. L.
	(c) 25% margin	400.00	600.00	W. L.
	(d) 20% mergin	300.00	400.00	W. L.
	(e) Below 20% margin to 10% margin	200.00	250.00	W. L.
	(f) Below 10% to nil margin	100.00	150.00	W. L.

21.	Opening of letter of Credit under WES/XPL:-			
	(a) At 50% margin	600.00	700.00	W.L.
	(b) At 25% margin	400.00	500.00	W.L.
	(c) At 10% margin	200.00	300.00	W. L.
	(d) At nil margin	..	..	W. L.
22.	Opening of Back to Back L. C. against lien of Foreign L.C for export:-			
	(a) At 25% margin	W.L	W.L.	W. L.
	(b) At 10% margin	350.00	400.00	600.00
	(c) At nil margin	250.00	300.00	400.00
23.	Issuance of Foreign Guarantee (Not exceeding 3 years subject to Bangladesh Bank permission):			
	(a) At 100% margin + 10% for exchange fluctuation.	W. L.	W. L.	W. L.
	(b) At 50% with collaterals security covering 110%.	60.00	100.00	W.L
	(c) At 25% with collaterals security covering 110%	40.00	60.00	W.L
	(d) Below 25% margin with collatural security Covering 110%	20.00	30.00	W.L.
24.	Insurance of Beck to Back guarantee at the interest of Foreign Corrospondentce as per Foreign Guarantee.	W.L	W. L	W. L

25.	Foreign Bill, Negotiation/Purchase:-			
	(a) Under irrecoverable L/C.	W. L.	W. L.	W. L.
	(b) Under Firm Contracts of Foreign Beyers approved by Bangladesh Bank and ourse Ives (Cash Against documents basis (CAD).	W. L.	W. L.	W. L.
	(c) Under consignment basis	20.00	30.00	100.00
26.	Loan Against Imported Merchandise (LIM):-			
	(a) At 50% margin	80.00	80.00	125.00
	(b) At 25% margin	60.00	60.00	80.00
	(c) Below 25% margin	30.00	40.00	60.00
27.	Guarantee in favour of shipping company in the absence of original bill of lading subject to compliance of formalitities to be specified by the Bank.	W. L.	W. L.	W. L.
28.	Opening of Inland Latter of Credit:-			
	(a) 25% margin and above	40.00	50.00	100.00
	(b) Below25% margin to nil margin	20.00	30.00	60.00
29.	Guarantee on behalf of foreign banks and general counter guarantee at nil margin to beneficiary in Bangladesh.	60.00	100.00	160.00
30.	Opening Letter of Credit (Clean and on deferred payment basis):			
	(a) Below 25% margin to 15%	40.00	60.00	100.00
	(b) Below 15% margin to nil margin	10.00	20.00	40.00

31.	Packing Credit: A for Jute:			
	(a) Against R/Rs or S/Rs T/Rs duly supported by confirmed irrevocable letter of Credit backed by adequate collateral security.	100.00	160.00	200.00
	(b) For Other Items of Export:			
	(a) Against immovable properties with confirmed irrovocable letters of credit for financing export trade.	40.00	50.00	100.00
	(b) Against lien on irrevocable foreign letter of credits.	20.00	30.00	40.00
32.	Rural credit against hypothecation of crops or agricultural implements and other agro-based products in rural ereas with or without collateral security on the bosis of production plan.	10.00	..	..
33.	Loans/advances for self-employed scheme by the Bangladesh Bank and the Government	10.00	..	..

SCHEDULE 'B'
Powers of Manging Director.
See Rule 4(3)
Part 1- Business powers.

(Amount in lacs)

Sl. No.	Particulars of advances and other commitments	Private limited company /Firms/ Individuals	Public Limited Company.	Government/ Nationalised Corporation.
1	2	3	4	5
1.	Loans/advances against pledge of goods/produces.	150.00	250.00	300.00
2.	Loans/advances againat hypothecation and mortgage.	200.00	300.00	350.00
3.	Loans/advances against pledge of fixed deposit receipt at margin specified by the Bangladesh Bank. Term deposit including fixed deposit receipts of third party.	Without limit (W. L)	W.L.	W. L.
4.	Loans/advances against pledge of Government papers, Jatiya Sanchya Patra, Jatiya Protiraksha Sanchya Patra, Savings Certificate and Trustee securities etc. (when permissible subject to margin restriction).	W.L.	W. L.	W. L.

5.	Inland guarantee for one year:			
	(a) 100% margin	W. L.	W. L.	W. L.
	(b) 50% margin with collateral	60.00	75.00	100.00
	(c) 25% margin with collateral	50.00	80.00	90.00
	(d) Below 25% margin upto nil with collateral security.	40.00	60.00	80.00
6.	Unsecured advances (when Permi-) ssible)	.25	.25	.25
7.	Purchase of inland documantary bills accompanisd with documents ovidenching consignment of goods within, the country (LBP) at 25% margin.	5.00	10.00	20.00
8.	Advances against Government supply bills accompanies with inspection notes at 25% margin.	5.00	10.00	20.00
9.	Overdraft against purchase of Government cheques/drafts at 25% margin	2.50	5.00	5.00
10.	Loans/advance against surrender value of life insurance policies (when permissible).	25.00	..	..
11.	Loans/advances against (a) companies shares and debentures approved by Bangladesh Bank at 50% margin.	2.50	5.00	10.00
	(b) Government authorised debenture at 50% margin	5.00	10.00	15.00
12.	Draft Animal/Rural Transportation facility against collateral security.	2.00	..	..

13.	Sericulture/Horticulture/Orchard/ panBoroj/Mixed Farming etc. against collateral Security.	40.00	60.00	..
14.	IrrigationEquipments and other farm machineries.	20.00	40.00	50.00
15.	Diary/Poultry/Goatary/Beef fattering/ Duckery/Fishery etc.	40.00	50.00	90.00
16.	Small and Cottage Industry and other Socio-Economic Activitivs.	25.00	50.00	75..00
17.	Agro-based Industries/other projects	60.00	75.00	100.00
18.	Tea (Hypothecation)	90.00	125.00	175.00
19.	Tea (Development)	90.00	125.00	175.00
20.	Opening of import documentary lotters of credit			
	(a) 100% margin	W. L.	W. L.	W. L.
	(b) 50% margin	W. L.	W. L.	W. L.
	(c) 25% margin	300.00	500.00	W. L.
	(d) 29% mergin	200.00	300.00	W. L.
	(e) Below 20% margin to 10% margin	150.00	200.00	W. L.
	(f) Below 10-% to nil margin	50.00	75.00	W. L.
21.	Opening of letter of Credit under WES/XPL:-			
	(a) At 50% margin	500.00	600.00	W.L.
	(b) At 25% margin	250.00	350.00	W.L.
	(c) At 10% margin	100.00	150.00	W. L.
	(d) At nil margin	..	..	W. L.

22.	Opening of Back to Back L. C. against lien of Foreign L.C for export:-			
	(a) At 25% margin	350.00	400.00	600.00
	(b) At 10% margin	250.00	300.00	500.00
	(c) At nil margin	150.00	200.00	300.00
23.	Issuance of Foreign Guarantee (Not exceeding 3 years subject to Bangladesh Bank permission):			
	(a) At 100% margin + 10% for exchange fluctuation.	200.00	300.00	W. L.
	(b) At 25% with collaterals security covering 110%.	40.00	75.00	W.L
	(c) At 20% with collaterals security covering 110%	25.00	30.00	W.L
	(d) Below 25% margin with collatural security Covering 110%	10.00	15.00	W.L.
24.	Insnance of Back to Back guarantee at the request of Foreign Corrospondence as per Foreign Guarantee.	W.L	W. L	W. L
25.	Foreign Bill, Negotiation/Purchast:-			
	(a) Under irrecoverable L/C.	W. L.	W. L.	W. L.
	(b) Under Firm Contracts of Foreign Beyers approved by Bangladesh Bank and ourse 1ves (Cash Against documents basis (CAD).	W. L.	W. L.	W. L.
	(c) Under consignment basis	10.00	15.00	50.00

26.	Loan Against Imported Merchandise (LIM):-			
	(a) At 50% margin	75.00	75.00	100.00
	(b) At 25% margin	50.00	50.00	75.00
	(c) Below 25% margin	20.00	30.00	50.00
27.	Guarantee in favour of shipping company in the absence of original bill of lading subject to compliance of formalites to be specified by the Bank.	W. L.	W. L.	W. L.
28.	Opening of Inland Latter of Credit:-			
	(a) 25% margin and above	20.00	30.00	30.00
	(b) Below 25% margin to nil margin	10.00	15.00	30.00
29.	Guarantee on behalf of foreign banks and general counter guarantee at nil margin to beneficiary in Bangladesh.	30.00	50.00	80.00
30.	Opening Letter of Credit (Clean and on deferred payment basis):			
	(a) Be low 25% margin to 15%	20.00	30.00	50.00
	(b) Be low 15% margin to nil margin	5.00	10.00	20.00
31.	Packing Credit: A for Jute:			
	(a) Against R/Rs or S/Bs T/Rs duly supported by confirmed irrevocable letter of Credit backed by adequate collateral security.	80.00	90.00	100.00
	(B) Loans/Advances for Other Items of Export:			

	(a) Against immovable properties with confirmed irrovocable letters of credit for financing export trade.	20.00	25.00	50.00
	(b) Against lien on irrevocable foreign letter of credits.	10.00	15.00	20.00
32.	Rural credit against hypothecation of crops or agricultural implements and other agro-based products in rural araes with or without collateral security on the basis of production plan.	5.00	..	..
33.	Loans/advances for self-employed scheme by the Bangladesh Bank and the Government.	5.00	..	..

PART- II FINANCIAL POWERS

The Managing Director shall have power--

(a) to sanction expenditure of the Bank within the Budget limit;

(b) to write off losses upto Taka 5 lacs in any one case: and

(c) to dispose of office property upto the value of Tk. 2,00,000.00

PART- III ADMINISTRATIVE POWERS

The Managing Director shall have power--

(a) to release, on the request of a borrower, any portion of the security on the basis of which the loan was sanctioned including those sanctioned by the Executive committee or the Board, provided the value of the reduced security is considered by him sufficient to cover the loan;

(b) to increase, in suitable cases, the amount of loan including sanctioned by the Executive Committee or the Board by an amount not exceeding 20% of the amount of loan sanctioned, provided that the security offered by the borrower is sufficient to cover such additional amount;

(c) to alter, in suitable cases, on the request of the borrower, the purpose for which any part of the loan was sanctioned, including those sanctioned by the Executive Committee or the Board:

Provided that any change in the loan cases sanctioned by the Board or the Executive Committee may be placed before Board or the Executie Committee in its next meeting for post-facto information and record; and

(d) to appoint advisers.

ANNEX-8A

1. Substituted by S.R.O 87-Law/89, dated 2nd March, 1989.

2. Added by S.R.O. 87-Law/87, dated 2nd March, 1989.

3. Substituted by S.R.O. 87-Law/87, dated 2nd March, 1989 for "granting of"

4. Subtituted by S.R.O. 87-Law/87, dated 2nd March, 1989 for "17".

APPENDIX-XII

THE BANGLADESH KRISHI BANK (SALE OF MORTGAGED PROPERTY) RULES, 1982.

1. Short title and commencement.-(1) These rules may be called the Bangladesh Krishi Bank (Sale of Mortgaged Property) Rules, 1982.

(2) They shall come into force at once.

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

(a) "Article" means an Article of the Bangladesh Krishi Bank Order, 1973 (P.O. No. 27 of 1973);

(b) "Form" means a Form annexed to these rules,

(c) "mortgaged property" means the property pledged, hypothecated or assigned to the Bank in order to secure the repayment of a loan; and

(d) "nominated officer" means an officer nominated by the Managing Director under rule 7.

3. Maintenance of register in branch offices.-A separate register with appropriate columns shall be prepared and maintained by every branch of the Bank in respect of those borrowers and their sureties who have made default in repayment of loan and against whom action may be taken, under Article 21.

4. Report of default to the Chief Manager.- Every branch of the Bank shall report to the Chief Manager within whose jurisdiction in situates every case of default in making repayment of loan, if-

(a) the recovery of such loan could not be made by pursuasion, and

(b) the value of the mortgaged property assessed by the Bank at the time of sanction of loan was Taka fifty thousand or more;

and such report shall contain detailed particulars of the case.

5. Notice on the defaulting borrower.-On receipt of a report under rule 4, the Chief Manager shall cause to be prepared and

maintained a register in Form A in his office and shall send. by registered post with acknowledgement due, a notice upon the borrower and his surety, if any, to show cause within 15 days of the receipt of the / notice as to why the mortgaged property shall not be sold by the Bank by public auction for realisation of the outstanding dues of the Bank.

6. Submission of the case to the Manging Director and actions to be taken by him.- (1) After the expiry of the period of notice specified in rule 5, the Chief Manager shall submit the case to the Managing Director through the General Manager with the cause, if any, shown by the borrower and his surety, if any, for orders.

(2) Where a borrower of his surety has not shown any cause in pursuance of the notice given under rule 5, the Managing Director may, for the purpose of recovering the dues of the Bank, make order for the sale by public auction of -

(a) the entire mortgaged property if so required for the recovery of the dues; or

(b) so much of the mortgaged property as is sufficient for the recovery of the dues;

and thereupon the proceedings for sale commence.

(3) Where a borrower or his surety has shown cause in pursuance of the notice given under rule 5, the Managing Director may make such order as he deems fit.

(4) Where the borrower or his surety is aggrieved by any order made by the Managing Director under sub-rule (3), he may, within 15 days of the making of the order, make an application to the Board for revision of the order and the decision of the Board in the matter shall be final.

(5) If an order made under sub-rule (3) or sub-rule (4) is for the sale of the mortgaged property or any part thereof, the proceedings for sales shall commence.

7. Nomination of officer to conduct sale and service of sale notice.-(1)The Managing Director shall nominate an officer of the Bank for conducting sale of the mortgaged property or any part thereof and the nominated officer shall publish in two daily newspapers, one in Bangali and another in Engligh, a notice for

sale with particulars of the mortgaged property and the claim and dues of the Bank and invite bidders in the auction sale to be held on such dates and at such time and place as may be specified in the notice.

(2) A notice for sale published under sub-rule (1) shall contain the conditions specified in rule 9.

(3) A notice for sale published under sub-rule (1) shall, at least 15 days before the date fixed for holding public auction, be hung up in the Notice Board of -

(a) the office of the Bank from where the loan was made:

(b) the courts of the Munsif and the District Judge within whose jurisdiction the mortgaged property situates; and

(c) the police-station concerned.

8. Sale by Auction.-(1)If no bidder is forthcoming to purchase the mortgaged property or, as the case may be, the part thereof, the nominated officer may adjourn the sale and put the mortgaged property or any part thereof again on public auction in accordance with provisions of rule 7.

(2) The Bank may accept or reject all or any bids without assigning any reason therefor.

9. Deposit of bid money.-(1)The bidder whose bid is accepted shall deposit 1/8 th of the bid money on the spot in cash or by cheque and the balance of the bid money shall be paid within three days from the date of the public auction.

(2) If the bidder fails to pay the balance of the bid money within the period specified in sub-rule (1), the 1/8th of the bid money deposited on the spot shall stand forfeited to the Bank and the mortgaged property or, as the case may be, the part thereof shall be resold.

10. Sale certificate.-The Manging Director or any officer authorised by the Bank in this behalf shall, within 15 days after the payment in full of the sale price of the mortgaged property under rule 9, issue to the purchaser of the mortgaged property a sale certificate in Form B.

11. Delivery of possession.-After the issuance of the said certificate under rule 10, an officer of the Bank shall deliver formal possession of the mortgaged property to the purchaser.

12. Surplus money.-If, after the full satisfaction of the dues of the Bank including interest on the loan and the costs, if any, incurred in connection with the recovery of the loan, there remains any surplus of the sale-proceed, the Bank shall return the surplus money to the owner of the mortgaged property and until so returned, it shall be kept in the suspense account of the Bank.

FORM A
BANGLADESH KRISHI BANK
Head Office
84, Motijheel commercial Area, Dhaka-2.
REGISTER OF SALE OF MORTGAGED PROPERTY
[vide rule (3)]

Sl No.	Loan case Number,	Name and address of the borrower	Amount of loan sanctioned and paid.	Number of instalments defaulted
1	2	3	4	5

Amount of default including interest as on..... Principal-Interest		Entire balance of loan including Total interest as on		Full particular of the mortgaged property to be sold.	Date of sale and date of deposit of sale price
6	7	8	9	10	11

Amount of sale price.	Particulars of deposits of sale proceeds	Name and address of the purchase	Remarks	Signature of the officer conducting the sale.
12	13	14		15

FORM B
BANGLADESH KRISHI BANK

Head Office
84, Motijheel Commercial Area, Dhaka-2
CERTIFICATE OF SALE OF MORTGAGED PROPERTY
[vide rule (10)]

This is to certify that Mr. ..... son of ..... of ..... is the purchaser of the mortgaged property described in the Sechedule below at a sale by public auction held on..... day of ..... 19 ..... at ..... for ..... realising the dues of the Bank. He has paid the full bid money amounting to Tk. ..... (Taka..... (in words) ..... only under Receipt No. ..... date ..... at ..... Bank/ office ..... on ..... All rights, titles and interests in the property do hereby vest in the purchaser absolutely in accordance with the provisions of clause (1) of Article 21 of the Bangladesh Krishi Bank Order, 1973 (P.O. NO 27 of 1973).

The Schedule

Managing Director or any other
Officer authorised in this behalf
by the Bank.

APPENDIX-XIII

THE RAJSHAHI KRISHI UNNAYAN BANK ORDINANCE, 1986

(ORDINANCE NO. LVIII OF 1986)

CONTENTS

Sections	Marginal note
1.	Short title, commencement and extent.
2.	Definitions.
3.	Establishment of the Bank.
4.	Authorised capital.
5.	Head office, etc.
6.	General direction.
7.	Board.
8.	Power and functions of Directors.
9.	Executive Committee.
10.	Meetings.
11.	Fees, etc. of Directors.
12.	Technical Advisory Committee.
13.	Functions of the Bank.
14.	Research and training, etc.
15.	Attention to credit needs of small agriculturist.
16.	Unsecured loan to Directors prohibited.
17.	Loan to be spent for the purpose for which it is made.
18.	Bank may require payment of debt in full under certain circumstances.
19.	Recovery of dues.
20.	General Reserve Fund.
21.	Disposal of profit.
22.	Account and audit.
23.	Statement and reports.
24.	Appointment of officers and employees.
25.	Indemnity.

26. Declaration of fidelity and secrecy.
27. Penalty for false statement, etc.
28. Penalty for diclosure of informantion.
29. Penalty for unauthorised use of Bank name.
30. Cognizance of offience.
31. Winding up.
32. Public servant.
33. Power to make rules.
34. Power to make regulations.
35. Amendment of P.O. No. 27 of 1973.
36. Transfer of assete, etc.
37. Transfer of officers and employees.
38. Rules and regulations under P.O. No. 27 of 1973 to be deemed rules and regulations under this Ordinance.
39. Removal of Difficulties.

THE RAJSHAHI KRISHI UNNAYAN BANK ORDINANCE, 1986

ORDINANCE NO. LVIII OF 1986

AN

ORDINANCE

to provide for the establishment of a Krishi Unnayan Bank for Rajshahi Division.

WHEREAS it is expedient to establish a Krishi Unnayan Bank for the Rajshahi Division and to provide for matters connected therewith or incidental thereto;

NOW, THEREFORE, in pursuance of the Proclamaion of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the president is pleased to make and promulgate the following Ordinance:-

1. Short title, commencement and extent.-(1) This Ordinance may be called the Rajshahi Krishi Unnayan Bank Ordinance. 1986.

(2) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

Notes

The Ordinance was brought into force by Natification No. S. R. O. M.- F/Investment 4/BKB-84/85-104, dated 24-2-1987.

(3) It extends to the whole area within the Administrative Division of Rajshahi.

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

(a) "agriculture" includes the raising of crop of any kind, horticulture, forestry, fishery, animal husbandry, poultry, farming, dairying, bee-keeping and sericulture and other agro-industries;

(b) "agriculturist" means any individual engaged in agriculture or in the development of agriculture or agricultural products or in storage, warehousing, marketing or processing of agricultural produce, and any public or private limited company or co-operative society incorporated or registered by or

under any law for the time being in force and so engaged, and any person, company or co-operative society incorporated or registered as aforesaid, who satisfies the Bank that the loan to be taken shall be spent on agriculture or the development of agriculture or agricultural products or on the storage, warehousing or marketing or processing of agricultural products;

(c) "Bank" means the Rajshahi Krishi Unnayan Bank established under this Ordinance;

(d) "Board" means the Board of Directors of the Bank;

(e) "Bangladesh Bank" means the Bangladesh Bank established under the Bangladesh Bank Order, 1972 (P.O. No. 127 of 1972);

(f) "Chairman" means the Chairman of the Board of Directors;

(g) "Co-cperative seciety" means a society registered under the Co-operative Ssocieties Ordinance, 1985 (1 of 1985);

(h) "cottage industries" means any industry which is carried on wholly or mainly by the member of a family either as a wholetime or as a part-time occupation or by a group of such persons who have formed themselves into a co-operative society;

(i) "Managing Director" means the Managing Director of the Bank;

(j) "presecribed" means prescribed by rules or regulations made under this Ordinance;

(k) "small agriculturist" mean an agriculturist in occupation of a holding which is normally tilled by himself and the members of his family.

3. Establishment of the Bank.-(1) On the commencement of this Ordinance, there shall be established a Bank to be called the Rajshahi Krishi Unnayan Bank to carry out the purposes of this Ordinance.

(2) The Bank shall be a body corporate, having perpetual succession and a common seal with power to acquire, hold and

dispose of property, both movable and immovable, and shall, by the said name, sue and be sued.-

(3) The Bank shall be deemed to be a banking company for the purposes of the Banking Companies Ordinance, 1962 (LVII of 1962), and the Bangladesh Bank Order, 1972 (P. O. No. 127 of 1972), and any other law for the time being a force relating to banking companies.

Notes

The reference of the Banking Companies Ordinance, 1962 (LVII of 1962) may be read as reference to Banking Companies Act, 1993 (Act 14 of 1993), because the Banking Companies Act of 1962 has been repealed by the Act 14 of 1993.

(4) Notwithstanding anything contained in any of the laws mentioned in sub-section (3), the Bank may refer to the Bangladesh Bank for reconsideration of any directives issued under any of the said laws by the Bangladesh Bank and, in the event of a difference of opinion between the Bank and the Bangladesh Bank, the matter shall be referred to Government whose decision thereon shall be final.

4. Authorised capital.- The authorised capital of the Bank shall be one hundred and fifty crore taka to be subscribed by the Government from time to time according to the requirements of the Bank and in such form and manner as may prescribed:

Provided that the Government may increase the authorised capital of the Bank from time to time.

5. Head office, etc.-(1) the Head office of the Bank shall be at Rajshahi and may be shifted to such other place within the Rajshahi Division as the Government may direct.

(2) The Bank may open such other offices and branches at such places as it may consider necessary.

6. General direction .-(1) Subject to the rules made under this Ordinance, the general direction and administration of the affairs and business of the Bank shall be entrusted to a Board of Directors to be constituted in accordance with the provisions of section 7 and such Board may exercise all such powers and do all such actss and things as may be exercised or done by the Bank.

(2) The Board, in discharging its functions, shall act on commercial considerations but due regard to the interest of agriculture and development of agriculture and cottage and other allied industries in the rural as well as urban areas and to the public interest generally and shall be guided on questions of policy by the instructions, if any, given to it by the Government which shall be the sole judge as to whether a question is a question of policy or not.

(3) Until the first Board is consituted under section 7, the Managing Director appointed under the said section shall exercise all powers and do all acts and things as may be exercised or done by the Board.

7. Board.-(1) The Board shall consist of the following Directors to be appointed by the Government, namely:-

(a) the Chairman;

(b) the Managing Director;

(c) three officials; and

(d) two non-officials.

(2) The Chairman shall be appointed from amongst person who are not in the service of the Republic.

(3) The Chairman, Managing Director and other Directors shall hold office for such period and on such terms and conditions as the Government may determine.

(4) The Government may, at any time, terminate the appointment of the Chairman, Managing Director or any other Director without assigning any reason.

(5) The Chairman, Managing Director or any other Director may, at any time, resign his office by notice in writing addressed to the Government:

Provided that no resignation shall take effect until it has been accepted by the Government.

8. Power and functions of Directors.-(1) The Managing Director shall be the chief executive officer of the Bank.

(2) The Chairman, Managing Director and other Directors shall exercise such powers, perform such funtions and discharge such dutiess as may be prescribed or assigned to them by the Board.

9. Executive committee.-(1) There shall be an executive committee consisting of -

(a) the Chairman;

(b) the Managing Director;

(c) another Director to be elected by the Board.

(2) subject to the rules made in this behalf, the Executive Committee shall deal with any matter within the competence of the Board.

(3) The minutes of any meeting of the Executive Committee shall be laid before the Board at its meeting next following the meeting of the Committee.

10. Meetings.-(1)No business of the Board or of the Executive Committee shall be transacted except at a meeting at which a quorum of three Directorss in the case of the Board and two members in the case of Executive Committee is present.

(2) The meeting of the Board and of the Executive Committee shall be held at such time and at such places as may be prescribed by regulations.

(3) All meetings of the Board or of the Executive Committee shall be presided over by the Chairman and in his absence by a Director or member chosen for that purpose by the Directors or members present from amongst their number.

(4) At a meeting of the Board or of the Executive Committee, each Director or member of the Committee, as the case may be, shall have one vote and in the event of equality of votes, the Chairman shall have a second or casting vote.

(5) No act or proceeding of the Board or of the Executive Committee shall be invalid merely on the ground of the existence of any vacancy in, or any defect on the constittution of, the Board or the Executive Committee.

11. Fees, etc, of Directors.-(1)The Directors, other than the Managing Directors, shall be paid such fees for attending the meetings of the Board, the executive Committee or the Technical Advisory Committee as may be fixed by the Government from time to time.

(2) The Directors shall be reimbursed such travel costs and other expenditure for attending the meetings of the Board, the

Executive Committee or the Technical Advisory Committee as may be prescribed by rules.

(3) All fees, travel costs and other expense under this section shall be payable by the Bank.

12. Technical Advisory Committee.-The Bank may appoint a committee of experts to be called the Technical Advisory Committee to give its technical advice on schemes submitted to the Bank for financial assistance or on any point that may be referred to the Committee by the Board.

13. Functions of the Bank.-(1)The Bank shall provide credit in cash or in kind and credit facilities including the hiring and renting of anything which it may advance by way of loan and the provision for warehousing facilities, for such terms and subject to such conditions as may be prescribed by rules, to agriculturists for the purpose of agriculture and to persons engaged in cottage, agro-based or other allied industries in rural as well as urban areas for the purpose of such industries as may carry on and transact the several kinds of business hereinafter specified, that is to say,-

(a) the accepting of money on deposit;

(b) the borrowing of money for the purpose of the Bank's business against the security of its assetss or otherwise;

(c) the issuing and selling of bonds and debentures;

(d) for the purpose of securing loans and advances, made by the Bank, accepting pledge, mortgage, hypothecation or assignmant to the Bank of any kind of movable and immovable property or unconditional Bank guarantee of a scheduled bank or drawing, accepting, discounting, buying and selling or rediscounting bills of exchange and promissory notes bearing two or more good signatures, one of which shall be that of a scheduled bank, or other negotiable instruments:

Provided that where a loan not exceeding five thousand taka in the aggregate is made to an individual agriculturist, it may be secured by a bond with one or more sureties as the Bank may deem necessary if such agriculturist makes an agreement with

the Bank creating a charge on any of his specified property to secure the performane of the stipulations of the bond;

(e) the buying, stocking and supplying on credit, of seeds, agricultural machinery, implements and equipments, fertilisers and chemicals and any other material used in agriculture and acting as agent for any organisation for such goods;

(f) the subscribing to the debentures, being debentures repayable within a period not exceeding ten year of any body corporate concerned with agriculture or the financing of agriculture, the financing of cottage, agro-based or other allied industries in rural as well as urban areas;

(g) the custody of gold, ornaments, jewels, securities, saving certificates, title deeds and other valuable articles and the collection of the proceeds, whether principal, interest or dividends of any such securities or saving certificates;

(h) the adminstration of estates for any purpose whether as executor, trustee or otherwise;

(i) the paying, receiving, collecting and remitting of money and securities;

(j) the acquiring, maintaining and transferring of all movable and immovable properties including residential premises for carrying on its business;

(k) the taking over of business, including the capital, assets and liabilities of any other Bank or financial institution, with the previous approval of the Government;

(l) the guaranting against the security of agricultural property of loans granted by scheduled banks;

(m) the opening of accounts or the making of any agency arrangement with, and the acting as agent or correspondent of, any bank or financial institution;

(n) the investing of its funds in Government securities as a purely temporary measure;

(o) the selling and realising of all properties, whether movable or immovable, which may in any way come into the possession of the Bank in satisfaction or part satisfaction of any of its claim and the acquisition and the holding of, and generally the dealing with, any right, title or interest in any property, movable or immovable, which may be the Bank's security;

(p) generally the doing of all such acts and things as may be necessary, incidental or conducive to the attainment of the object of the Bank.

(2) Notwithstanding anything in sub-section (1), any loan guaranteed by the Government may be made without any specilie security.

(3) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for any agriculturist or persons engaged in cottage industry, agro-based or in any other allied industries in the rural as well as urban areas to pledge, mortgage, hypothecate or assign any kind or quantity of movable or immovable property to the Bank, or otherwise to create a charge on any such property in order to secure the repayment of the loan and the Bank shall, in accordance with the provisions of this Ordinance, be competent to deal with and recover its dues from any property so pledged, mortgaged, hypothecated or assigned:

Provided that no property so pledged, mortgaged, hypothecated, assigned or otherwise charged shall be sold or otherwise disposed of except by public auction and then only so much of it as is sufficient to recover the dues of the Bank and the Bank shall not bid at such auction except in cases where the bid is not sufficient to pay up the Bank's dues or there are no bidders.

(4) Notwighstanding anything contained in any law for the time being in force, any charge created on any property to secure the repayment of the loan of the Bank or to secure performance of the stipulations of any bond executed in favour of the Bank shall be enforced against such property in the hands of any person to whom it may have been transferred including the person who has acquired the property for consideration and without notice of the charge.

(5) The Bank may make use of any agency prescribed by rules for watching the expenditure from its loans and making recoveries.

(6) Subject to such directions, if any, as may be given by the Government, the Bank may carry on and transact outside Bangladesh all or any of the business specified in sub-section(1).

(7) Notwithstanding anything in sub-section (1) or elewhere in this Ordinance, loans for purposes other than agricultural may be advanced to any deposit holder with the Bank against his own deposit as and when required.

14. Research and training, etc.- The Bank may undertake, if necesary, in collaboration and consultaion with official or non-official agencies,-

(a) any research on agricultural credit, marketing of agricultural products, agricultural credit to co-operative societies, cottage industries and other allied industries in rural as well as urban areas, and other allied subject, and the establishment of research institutions in that connection; and

(b) the provision of training facilities, including the establishment of training institutions, for the benefit of its personnel and that of co-operative societies and other bodies corporate which may have financial relations with the Bank.

15. Attention to credit needs of small agriculturist.-In transacting the business of the Bank, the Board shall, as far as possible, give due attention to credit needs of small agriculturists, including marginal and landless farmers.

16. Unsecured loan to Directors prohibited.- The Bank shall not make any unsecured advance or loan to any Director or to any concern in which a Director is interested.

17. Loan to be spent for the parpose for which it is made.- The Bank shall require and, as far as possible, ensure that a loan is spent on the purpose for which is is made, and if this requirement is not complied with by the borrower, the Bank may require the repayment of the loan forthwith.

18. Bank may require payment of debt in full under certain circumstances.- Notwithstanding any agreement to the contrary,

the Bank may, by notice, require any borrower forthwith to pay his debt to the Bank in full, if--

(a) he has failed to comply with any terms of the agreement under which the relevant loan, advance or credit has been granted;

(b) the Bank reasonably apprehend that he is unable to pay his debt;

(c) in the opinion of the Bank, false or misleading information on any material particular has been given in the application for the relevant loan, advance or credit or in any other statement or communication made in connection with any loan, advance or credit granted to him;

(d) the property mortgaged, hypothecated or assigned to the Bank as security for the advance, loan or credit is not kept in proper conditions to the satisfaction of the Bank, or the value estimated by the Bank has depreciated by more than 20 percent and further security to the satisfaction of the Bank is not given within the time specified by the Bank;

(e) without the permission of the Bank, any property pledged, mortgaged, hypothecated or assigned to the Bank, is leased or rented to third parties or is in any way charged, disposed of or removed from the place where it was at the tme the loan, advance or credit was granted;

(f) for any other reason it is necessary, in the opinion of the Bank, to protect its interest.

19. Recovery of dues.-(1)Where any agriculturist who is liable to the Bank under any agreement makes default in repayment or otherwise fails to comply with the terms of his agreement with the Bank, such default or failuure, not being due to natural calamity, the Bank may, subject to any rules made in this behalf, take over the management of the concern of the agriculturist and sell or realise any property pledged, mortgaged, hypothecated or asigned by the agriculturist to secure his liability to the Bank.

(2) All sums due to the Bank shall be recoverable as arrears of land revenue.

(3) In the application of the Public Demands Recovery Act, 1913 (Ben. Act III of 1913), for the purpose of the recovery of the dues of the Bank, the provisions of sections 7.9, 10 and 13 of that Act shall not apply and the certificates issued under section 6 of the said Act shall be conclusive proof that the amount specified therein is due to the Bank.

(4) Sums due from a co-operative society and recoverable under sub-section (1) may be recovered in accordance with the provisions of law for the time being in force relating to the recovery of such sums due from a co-operative society to the Government.

(5) An Officer of the rank of Manager or above of the Bank may exercise all the powers exercisable by a certificate officer under the Public Demands Recovery Act, 1913 (Ben. Act III of 1913), within his jurisdication for the purpose of recovery of the dues of the Bank only.

20. General Reserve Fund.- The Bank shall establish a fund to be called the General Reserve Fund and create from time to time such other reserves as the Government may direct.

21. Disposal of profit.- After making adequate provision for had and doubtful debts, depreciation of assets or any other matters which are usually provided for the bankers, the net annual profit of the Bank shall be disposed of in accordance with the decision of the Government in this respect.

22. Accounts and audit.-(1) The Bank shall maintain proper account and prepare annual statement of accounts, including the profit and loss account and balance sheet, and shall comply in respect of such accounts with such general directions as may be issued by the Government from time to time.

(2) The accounts of the Bank shall be audited by not less than two auditors, being chartered accountants within the meaning of the Bangladesh Cartered Accountants Order, 1973.(P. O. No. 2 of 1973), who shall be appointed by the Government.

(3) Every auditor appointed under sub-section (2) shall be given a copy of the annual balance sheet and other accounts of the Bank and shall examine it, together with the accounts and vouchers relating thereto, and shall have a list delivered to him of all books kept by the Bank, and shall at all reassonable times have access to the Books, accounts and other documents of the

Bank, and may, in relation to such accounts, examine any Director or officer of the Bank.

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

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

23. Statement and reports.-(1)The Bank shall furnish to the Government such returns, reports and statement as the Government may, from time to time, require.

(2) The Bank shall, as soon as possible, after the end of every financial year but not later than four months, furnish to the Government a statement of accounts audited by the auditor under section 22 together with an annual report on the working of the Bank during the year.

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

24. Appointment of officers and employees.-(1)The Government shall appoint one or more General Manager of the Bank on such terms and conditions as it may determine.

(2) The Bank may, subject to the directives of the Government issued from time to time in this regard, appoint or employ such other persons including advisers as it considers necessary for the efficient performance of its operation on such terms and conditions as may be prescribed by regulations.

25. Indemnity.-(1) Every Director shall be indemnified by the Bank against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wilful act or default.

(2) A Director shall not be personally responsible for the acts of any other Director or of any employee of the Bank for any loss or expense resulting to the Bank by reason of the inefficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Bank or by the wrongful act of any person under a liability acquired or taken on hehalf of the Bank or by anything done by him in good faith in the execution of the duties of his office.

26. Declaration of fidelity and secrecy.-(1) Every Director, member of the Technical Advisory Committee, auditor or employee of the Bank shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule to this Ordinance.

(2) Whoever contravenes his declaration of fidelity and secrecy shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand taka, or with both.

27. Penalty for false statement, etc.-Whoever, in any application for obtaining a loan, advance or credit or in any balance sheet, statement of profit and loss, declaration or any other document submitted to the Bank in respect of any financial aid sought or granted under this Ordinance, wilfully makes a false statement or knowingly permits any false statement to be made or to remain or uses or permits to be used any loan, advance, or credit for any purpose other than that for which it is granted by the Bank shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand taka, or with both.

28. Penalty for disclosure of information.-(1)No information given by a person applying to the Bank for financial asistance, or based on data furnished by such person, shall be disclosed or used for a purpose not connected with the discharge of his duties by any Director, or member of the Technical Advisory Committee or of any committee or by any employee of the Bank.

(2) Whoever contravenes any of the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand taka. or with both.

29. Penalty for unauthorised use of Bank name.- Whoever, without the consent in writing of the Bank, uses its name in any prospectus or advertisement shall be pubishable with the insprisonment for a term which may extend to six months, or with fine which may extend to one thousand taka, or with both.

30. Cognizance of offence.- No court shall take congnizance of any offence punishable under this Ordinance otherwise than on a complaint in writing signed by an officer of the Bank authorised in this behalf.

31. Winding up.-No provision of law relating to the winding up of banking companies shall apply to the Bank and the Bank shall not be wound up save by order in writing of the Government and in such manner as the government may direct.

32. Public servant.-Every officer or other employees of the Bank, while performing duties under this Ordinance, shall be deemed to be a public servant within the meaning of section 21 of the Penal Code (Act XLV of 1860).

33.Power to make rules.- (1)The Government may, by notification in the official Gazette, make rules for carrying out the purpose of the Ordinance.

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

(a) the duties and powers of the Managing Director;

(b) the manner, conditions and terms of issue and redemption of bonds and debentures;

(c) the conditions subject to which advances, loans and credit may be granted to-

(i) a Director:

(ii) a member of the Technical Advisory Committee;

(iii) an employee of the Bank;

(iv) a relative of any person mentioned in the above sub-clauses;

(v) an individual or a co-operative society or any other body corporate with whom or which any of the persons mentioned in this clause is connected as partner, director, manager, employee or otherwise.

34. Power to make regulations.-(1)The Board may, with the previous approval of the Government, make regulations, not inconsistent with the provisions of this Ordinance and the rules, to provide for all matters for which provisions is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance and the efficient conduct of the affairs of the Bank.

(2) Without prejudice to the generality of the provision of sub-section (1), the regulations may provide for-

(a) the conduct of the business and the meetings of the Board and of the Executive Committee or any other Committee or Sub-Committee;

(b) the procedure for recovery of loans and other dues of the Bank;

(c) the disclosure of interest, direct or indirect, of a Director in any application for loan;

(d) the recruitment of the employees of the Bank, the terms and conditions of their services, the constitution and management of Provident Fund for the employes of the Bank and all other matters connected with any of these things;

(e) the duties and conduct of employees and agents;

(f) the forms of returns and statements;

(g) preparaion of annual estimates of income and expenditure of the Bank and their submission to the Board and the Government.

(3) All regulations made under this secion shall be published in the official Gazette and shall come into force upon such publication.

35. Amendment of P.O. No. 27 of 1973.- In the Bangladesh Krishi Bank Order, 1973 (P.O. No. 27 of 1973), in Article 1, in clause (2), for the word "Bangladesh" the words "Bangladesh except the Rajshahi Division" shall be substituted.

36. Transfer of assets, etc.-(1)On the commencement of this Ordinance, the entire undertaking of the Bangladesh Krishi Bank, established under the Bangladesh Krishi Bank Order, 1973 (P.O. No. 27 of 1973), hereinafter referred to as the said Bank, in relation to the area within the administrative Division of Rajshahi shall, unless otherwise directed by the Government, stand transferred to, and vest in, the Bank.

(2) The undertaking of the Bangladesh Krishi Bank in relation to the area within the Administrative Division of Rajshahi shall, unless otherwise directed by the Government, be deemed to include all asetss, rights, powers aithorities and privileges and all property, movable and immovable, cash balances, resserve funds, investment and all other rights and interests in, or arissing out of, such property as were immediately before the commencement of this Ordinance in the ownership, possession, power or control of the said Bank in relation to the undertaking within the area of the Administrative Division of Rajshahi and all books of accounts, registers, records and all other documents of whatever nature relating thereto and shall, unless the government otherwise directs, also be deemed, to include all borrowings, liabilities and obligations of whatever kind then subsisting of the said Bank in relation to such undertaking in the area within the Administrative Division of Rajshahi.

(3) Unless otherwise expressly provided by this Ordinance and unless the Government otherwise directs, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representative and other instruments of whatever nature subsisting or having effect immediately before the commencement of this Ordinance and to which the said Bank is a party or which are in favour of the said Bank, so far as they relate to the undertaking of the said Bank which has vested in the Bank under sub-section (1) shall be of as full force and effect against or in favour of the Bank, and may be enforced or acted upon as fully and effectively as if in the place of the said Bank, the Bank had been a party thereto or as if they had been issued in favour of the Bank.

(4) Subject of other provisions of this Ordinance and unless the Government otherwise directs, any suit, appeal or other proceedings of whatever nature pending on the date of

commencement of this Ordinance by or against the said Bank in relation to the undertaking which has been vested in the Bank under sub-section (1) shall be deemed to be suit, appeal or other proceedings by or against the Bank and may be continued or proceeded with and enforced by or against the Bank.

37. Transsfer of officers and employees.-(1)Every officer or other employee of the said Bank who is serving under the said Bank anywhere within the area of administrative Division of Rajshahi shall become, on the commencement of this Ordinance, an officer or other employees, as the case may be, of the Bank and shall hold office in the Bank on the same terms and concitions and with the same rights and privileges as to the provident fund, gratuity, pension and other matters as were enjoyed by him immediately before such commencement and shall continue to do so unless and until his employment in the Bank is terminated or until his remuneration or terms and conditions of service are duly altered by the Bank;

Provided that an officer or other employee may, within such time as may be specified by the Government, exercise his option not to continue in the servce of the Bank and may opt to serve in the said Bank:

Provided further that any other officer or employee of the said Bank may, within such time as may be specified by the Government, exercise his option to serve as an officer or employee of the Bank.

(2) Option exercised by an officer or other employee under sub-section (1) shall be given effect to both by the said Bank and the Bank subject to availability of posts.

(3) No officer or other employee of the said Bank whose service is, by this Ordinance, transferred to the Bank shall, notwithstanding anything contained in any law for the time being in force, be entitled to any compensation because of such transfer.

38. **Rules and regulations under P.O.No. 27 of 1973 to be deemed rules and regulations under this Ordinance.-** All rules and regulations made under the Bangladesh Krishi Bank Order, 1973 (P.O.No.27 of 1973), and in force immediately before the

commencement of this Ordinance, shall, in so far as they are not inconsistent with the provisions of this Ordinance, continue in force and be deemed to have been made under the provisions of this Ordinance until they are repealed or amended under the said provisions.

39. Removal of difficulties.-If any difficulty arises in giving effect to the provisions of this Ordinance, the Government may, by order, do anything which appears to it to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of two years from the coming into force of this Ordinance.

THE SCHEDULE

[See Section 26]

Declaration of Fidelity and Secrecy

I.....hereby declare that I will faithfully, truly and to the best of my judgment, skill and ability, execute and perform the duties required of me as a Director, member of the. Technical Advisory Committee. Auditor or employee, as the case may be, of the Rajshahi Krishi Unnayan Bank and which relate to any office or position in the said Bank held by me.

I further declare that I will not communicate or allow to be communicated to any person not bjally entitled thereto any information relating to the affairs and business of the Bank nor will I allow any such person to inspect, have access to, any books or documents belonging to, or in the possession of, the Bank and relating to the business of the Bank.

Signed before me:
Signature.....

Signature.....

Designation with address.....

Date.....

.....

APPENDIX-XIV
THE GRAMEEN BANK ORDINANCE, 1983
ORDINANCE NO. XLVI OF1983

List of Amending Laws

1. The Grameen Bank (Amendment) Ordinance, 1986
(Ordinance No. LI of 1986)

2. The Grameen Bank (Amendment) Act, 1990
(Act L of 1990)

CONTENTS

Section	Marginal note
1.	Short title and extent.
2.	Definitions.
3.	Ordinance to override all other laws.
4.	Establishment of the Bank.
5.	Head Office, etc.
6.	Authorised capital.
7.	Paid-up share capital.
8.	Direction and superintendence.
9.	Board.
10.	Chairman.
11.	Term of office of Directors.
12.	Filling of causal vacancy.
13.	Vacancy.
14.	Managing Director.
15.	Functions of Director.
16.	Resignation.
17.	Meeting.
18.	Committee.
19.	Functions.

20. Prohibited business.
21. Bonds and debentures.
22. Accounts.
23. Audit.
24. Returns.
25. Reserve fund.
26. Disposal of profit.
27. Appointment of officers and other employees.
28. Recovery of Bank dues.
29. Delegation of powers.
30. Indemnity.
31. Penalty,etc.
32. Cognizance of offence.
33. Exemption from taxes.
34. Liquidation.
35. Power to make rules.
36. Power to make regulations.
37. Grameen Bank Project to cease to exist.

THE GRAMEEN BANK ORDINANCE, 1983
ORDINANCE NO XLVI of 1983

[Amendment Foot
Notes at ANNEX-9]

1. Short title and extent.-(1) This Ordinance may be called the Grameen Bank Ordinance, 1983.

(2) It extends to such rural areas as the Government may, by notification in the official Gazette, specify.

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

(a) "Bank" means the Grameen Bank established under this Ordinance;

(b) "Board" means the Board of Directors of the Bank;

(c) "Bangladesh Bank" means the BangladeshBank established under the Bangladesh Bank Order, 1972 (P.O. No. 127 of 1972);

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

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

(f) "family", in relation to a person, includes such person and his wife, son, unmarried daughter, son's wife, son's son and son's unmarried daughter;

(g) "initial period" means such period from the date of the commencement of the Ordinance as the Government may, by notification in the official Gazette, determine;

(h) "landless persons" means any person who or whose family owns less than fifty decimals of cultivable land or who or whose family owns property, both moveable and immovable, the value of which does not exceed the value of one acre of cultivable land according to the prevalling market price in the union in which the person normally resides;

(i) "loan" includes guarantee or indemnity which the Bank may give on behalf of a landless person or any

liability which the Bank may incur on behalf of a landless person;

(j) "Managing Director" means the Managing Director appointed under section 14;

(k) "new bank" means a new bank specified in the Schedule to the Bangladesh Banks (Nationalisation) Order, 1972 (P.O. No. 26 of 1972);

(l) "prescribed" means prrrescribed by rules or regulations made under this Ordinance; and

(m) "rural area" means an area which is not included within a municipality or cantonment.

3. Ordinance to override all other laws.-The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

4. Establishment of the Bank.-(1) On the commencement of this Ordinance, there shall be established a Bank to be called the Grameen Bank for the purposes of this Ordinance.

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

(3) Subject to sub-section (4), the Banking Companies Ordinance, 1962 (LVII of 1962), and any other law for the time being in force relating to banking companies shall not apply to the Bank.

(4) The Government may, by notification in the official Gazette, direct that specific provisions of the Banking Companies Ordinance, 1962 (LVII of 1962), or any other law for the time being in force relating to banking companies shall be applicable to the Bank.

Notes

The Banking Companies Ordinance, 1962 (LVII of 1962) has since been repealed, the refernce of that Ordinance may be construed as reference to the Banking Companies Act, 1991 (Act14 of 1991).

5. Head Office, etc. -(1) The Head Office of the Bank shall be at Dhaka.

(2) The Bank may, with the approval of the Bangladesh Bank, open such regional and other offices as the Board may think fit.

6. Authorised capital.-(1) The authorised capital of the Bank shall be taka ten crore.

(2) The authorised capital shall be divided into ten lakh ordinary shares of taka one hundred each.

(3) The Bank may increase its authorised capital with the prior approval of the Government.

7.Paid-up share capital.-(1) The initial paid-up share capital of the Bank shall be taka [1][seven crore and twenty lac] which shall be subscribed as follows:-

(a) [2][25%] by the Government or by any organisation or body set up, managed or controlled by the Government as may be determined by it; and

[(b) 75% by borrowers of the Bank][3]

(2) The Government may increase the paid-up share capital of the Bank from time to time.

(3) Shares held by a borrower may be transferred to another borrower of his class.

8. Direction and auperintendence.-(1) The general directioin and superintendence of the affairs and business of the Bank shall be entrusted to a Board of Directors to be constituted in accordance with the provisions of this Ordinance and such Board may exercise all such powers and do all such acts and things as may be exercised or done by the Bank.

[4][(2) The Bank, in discharging its functions, shall act prudently with due regard to the public interest.]

(3) Until the first Board is constituted, the Managing Director shall exercise all powers and do all acts and things as may be exercised or done by the Board.

[5][9. Board.-(1) The Board of Directors of the Bank shall consist of the following Directors, namely:-

(a) three persons to be appointed by the Government,

(b) nine persons to be elected by the borrower-shareholders in the manner prescribed by rules.

(2) Notwithstanding anything contained in sub-section (1), the Managing Director shall be an ex-office Director of the Board, but he shall have no right to vote.]

10. Chairman.-[6][(1) There shall be a Chairman of the Board who shall be appointed by the Government from amongst the appointed Directors.]

(2) It a vacancy occurs in the office of the Chairman or if the Chairman is unable to discharge the functions of his office on account of absence, illness or any another cause, the Government may authorise any other Director, other than the Managing Director, to discharge the functons of the Chairman during the period for which he is so unable.

11. Term of office of Directors.-(1) Appointed Directors shall hold office during the pleasure of the Government.

(2) An elected Director shall hold office for a term of three years and shall continue in office untill his successor enters upon his office.

12. Filling of causal vacancy.-A casual vacancy in the office of an elected Director shall be filled by election and the person elected to fill such vacancy shall hold office for the unexpired period of his predecessor.

Provided that it shall not be necessary to fill a vacancy for a period not exceeding three months.

13. Vanancy, etc., not to invalidate proceeding.-No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Board.

[7][14. Managing Director.-(1) There shall be a Managing Director of the Bank who shall be appointed by the Board with the prior approval of the Bangladesh Bank.

(2) The Board shall constitute a Selection Committee consisting of not less than three and not more than five members for the purpose of selecting a candidate for appointment as Managing Director.

(3) In selecting a candidate for appointment as Managing Director, preference shall be given to persons having knowledge and experience in rural economy or in the field of Grameen Banking business.

(4) The Managing Director shall be the whole-time officer and the chief executive of the Bank and shall serve under the Bank on such terms and conditions as may be prescribed by regulations.

(5) If a vacancy occurs in the office of the Managing Director or if the Managing Director is unable to discharge the functions of his office on account of absence, illness or any other cause, such officer of the Bank as may be prescribed by regulations shall discharge the functions of the Managing Director until a new Managing Director appointed to fill such vacancy enters upon his office or untill the Managing Director resumes the functions of his office, as the case may be.]

15. Functions of Directors.-The Chairman, Managing Director and other Directors shall exercise such powers, perform such functions and discharge such duties as may be [8][prescribed by regulations] or assigned to them by the Board.

[9][16. Resignation.-The Chairman, or an appointed Director may resign his office by writing under his hand addressed to the Government, and the Managing Director or any other Director may resign his office by writing under his hand addressed to the Chairman:

Provided that no resignation shall taka effect untill it has been accepted by the Government or, as the case may be, the Chairman.]

17. Meeting.-(1) The meetings of the Board shall be held at such times and at such places as may be determined by the Board:

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

(2) During the initial period, the quorum for a meeting of the Board shall be three Directors present in person and thereafter the quorum of such meeting shall be four Directors present in person.

(3) At a meeting of the Board, each Director shall have one vote and in the event of equality of votes, the person presiding shall have a casting or second vote.

(4) No Director shall vote on any matter in which he is directly or indirectly personally interested.

(5) If for any reason the Chairman is unable to be present at a meeting of the Board, the Directors present may elect a Chairman from amongst themselves to preside over the meeting.

18. Committee.-The Board may appoint such committee or committees as the Board thinks fit to assist it in the efficient discharge of its functions.

19. Functions.-The Bank shall provide credit with or without collateral security, in cash or in kind, for such term and subject to such conditions as may be prescribed, to landless persons for all types of economic activities including housing, but excluding business in foreign exchange transaction, and may carry on and transact the several kinds of business hereinafter specified, that is to say,-

(a) the accepting of money on deposit;

(b) the borrowing of money for the purpose of the Bank's business against the security of its assets or otherwise;

(c) the issuing and selling of bonds and debentures;

(d) for the purpose of securing loans and advances made by the Bank, accepting pledge, mortgage, hypothecation or assignment to the Bank of any kind of movable or immovable property;

[10][(e) undertaking the management, control and supervision of any rural organisation, enterprise or scheme for the benefit and advancement of landless persons;]

(f) the buying, stocking and supplying on credit to landless persons of industrial and agricultural inputs, livestock, machinery, implements and equipments and industrial raw materials and actings as agent for any organisation for the sale of such goods or livestock;

(g) the subscribing to the debentures, being debentures repayable within a period not exceeding ten years, of any body corporate concerned with economic activities in rural areas;

(h) the purchasing of shares of any body corporate, the object of which is to provide services to landless persons;

(i) the custody of savings certificate, title deeds and other valuable articles and the collection of the proceeds, whether principlal, interest or dividents of any such securities or saving certificates;

(j) the paying, receiving, collecting and remitting of money and securities within the country;

(k) the acquiring, maintaining and transferrring of all movable and immovable property, including residential premises, for carrying on its business;

(l) carrying out survey and research, issuing publication and maintaining statistics relating to the improvement of economic condition of the landless persons;

(m) providing professional counsel to landless persons regarding investments in small business and such cottage industries as may be prescribed;

(n) encouraging investments in such cottage industries as may be prescribed and service projects by landless persons;

[1][1](nn) undertaking income generating projects for landless persons;]

(o) provding services to the borrowers regarding all kinds of insurances;

(p) constituting, promoting, issuing, organising, managing and administering Mutual Funds or Unit Trusts of any type or character, and acquiring, holding, dealing, selling, paying or disposing of or dealing in shares, cretificates or securities of such Funds or Trusts;

(q) rendering managerial, marketing, technical and administrative advice to borrowers and assisting them in obtaaining services in those fields;

(r) the opening of accounts or the making of any agency arrangement with, and the acting as agent or

correspondent of, any bank or financial organisation;

(s) the investing of its funds in Government securities;

(t) the selling and realising of all properties, whether movable or immovable, which may in any way come into the possession of the Bank in satisfaction or part satisfaction of any of its claim and the acquisition and the holding of, and generally the dealing with, any right, title or interest in any property, movable or immovable, which may be the Bank's security; and

(u) generally the doing of all such acts and things as may be necessary, incidental or conducive to the attainment of the object of the Bank.

20. Prohibited business.-The Bank shall not undertake or transact any kind of business other than those authorised by or under this Ordiance.

21. Bonds and debentures.-(1) The Bank may, with the prior approval of the Government, issue and sell bonds and bebentures carrying interest at such rates as may be approved by the Government.

(2) The bonds and debentures of the Bank shall be guaranteed by the Government as to their payment of principal and payment of interest at such rate as may be fixed by the Government at the time the bonds and debentures are issued.

22. Accounts.-The Bank shall maintain proper accounts and prepare annual statement of accounts, including the profit and loss account and balance sheet, and shall comply in respect of such accounts with such general directions as may be issued by the Bangladesh Bank from time to time.

23. Audit.-(1) The accounts of the Bank shall be audited by not less than two auditors being chartered accountants within the meaning of the Bangladesh Chartered Accountants Order, 1973 (P.O. No. 2 of 1973).

(2) Every auditor appointed under sub-section.(1) shall be given a copy of the annual balance sheet and other accounts of the Bank and shall examine it, together with the accounts and vouchers relating thereto, and shall have a list delivered to him

of all books kept by the Bank, and shall at all reasonable times have access to the books of accounts and documents of the Bank, and may, in relation to such accounts, examine any Director or officer of the Bank.

(3) The auditors shall report to the [12][Board] upon the annual balance sheet and accounts, and in their report they shall state whether, in their opinion, the balance sheet contaains all necessary particulars and is properly drawn up so as to exhibit a true and correct view of the state of affairs of the Bank and, in case they have called for any explanation or information from the [13][Bank,] whether it has been given and wheether it is satisfactory.

(4) The [14][Board,] may, at any time, issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by the Bank for the protection of the interest of the [15][shareholders] and of the creditors of the Bank or upon the sufficiency of the procedure in auditing the affairs of the Bank, and may, at any time, enlarge or extend the scope of the audit or direct that different procedure in audit shall be made by the auditors or any other person or persons, if in its opinion, the interest of the [16][Bank] so requires.

24. Returns.-(1) The Bank shall furnish to the Government such returns, reports and statements as the Government may from time to time require.

(2) The Bank shall, within three months after the end of every financial year, furnish to the Government a statement of accounts audited by the auditors under section 23 together with an annual report on the working of the Bank during the year.

[17][(3) Omitted]

25. Reserve fund.-The Bank shall establish a reserve fund to which shall be credited such amount out of its net annual profit as the Board may determine.

26. Disposal of profit.- After deducting the amount credited to reserve fund under section 25 and making provisions for bad and doubtful debts, depreciation of assets and any other matters which are usually provided for by bankers, the net annual profit of the Bank remaining thereafter shall be utilised in such manner as the Board may determine.

27. Appointment of officers and other employees.-The Bank may appoint such persons as it considers necessary for the efficient performance of its functions on such terms and conditions as may be [18][prescribed by regulations:]

Provided that in making such appointment, the persons who served under the Grameen Bank Project mentioned in section 37 shall be given preference if they are otherwise eligible of such appointment.

28. Recovery of Bank dues.-(1) All sums due to the Bank shall be recoverable as arrears of land revenue:

Provided that no sum shall be so recovered unless fifteen days' notice has first been given by the Bank to the debtor or any other person liable to pay the sum:

Provided further that in so giving notice, the Bank shall inform the debtor or any other person liable to pay the sum that he may pay the dues in such instalments as may be fixed in the notice and that it will proceed as to the entire sum outstanding in case of any default in any instalment.

(2) In the application of the Public Demands Recovery Act, 1913 (Ben. Act III of 1913), for the purpose of recovery of the dues of the Bank, the provisions of sections 7, 9, 10 and 13 of that Act shall not apply, and the certificates issued under section 6 of the said Act shall be conclusive proof that the amount specified therein is due to the Bank.

(3) An officer of the Bank may exercise all powers exercisable by a Certificate Officer under the Public Demands Recovery Act, 1913 (Ben. Act III of 1913), within his jurisdiction for the purpose of recovery of the dues of the Bank only.

29. Delegation of powers.-The Board may, for the purpose of ensuring efficient functioning of the Bank and facilitating transaction of its daily business, delegate to the Chairman, Managing Diretor or any other Director or any officer of the Bank any of its functions subject to such conditions as it may think to impose.

30. Indemnity.-Every Director shall be indemnified against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own willful act or default.

31. Penalty, etc.-(1) Whoever wilfully makes a false statement or knowingly permits any false statement to be made or to remain in any document of title or any other document giveen to the Bank by way of security or othewise in respect of any loan or facility sought or granted under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand taka, or with both.

(2) Whoever without the consent in writing of the Bank uses its name in any prospectus or advertisement shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand taka, or with both.

(3) Whoever wilfully withholds or fails to deliver to the Bank, which he is required to deliver under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

32. Cognizance of offence.-No court shall take cognizance of any offence punishable under this Ordinence except upon a complaint in writing by an officer of the Bank authorised in this behalf by the Board.

33. Exemption from taxes.-Notwithstanding anything contained in the Income-tax Act, 1922 (XI of 1922), or any law for the time being in force relating to income tax, super-tax or bussiness profits tax, the Bank shall not, for such period as the Government may, by notification in the official Gazette, specify, be liable to pay any such tax on its income, profits or gains.

Notes

The Income-tax Act, 1922 (XI of 1922) has been repealed by the Income-tax Ordinance, 1984 (Ord. XXXVI of 1984). The referince of the Act of 1922 may be construed as reference to the Income-tax Ordinance of 1984.

34. Liquidation.-No provision of law relating to the winding up of companies, including banking companies, shall apply to the Bank and the Bank shall not be wound up save by order of the Government and in such manner as it may direct.

[19][35. Power to make rules.-The Government may, by notification in official Gazette, make rules for holding elections of the Directors under clause (b) of sub-section (1) of section 9.]

36. Power to make regulations.-(1) The Board may make regulations, not inconsistent with the provisions of this Ordinance and the rules, to provide for all matters for which provisions is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance and efficient conduct of the affairs of the Bank.

(2) All regulation made under this section shall be published in the official Gazette and shall come into force upon such publication.

37. Grameen Bank Project to cease to exist.-(1) Notwithstanding anything contained in any other law for the time being in force or in any agreement or contract or other instrument, upon the establishment of the Bank,-

(a) the Grameen Bank Project, hereinafter referred to as the said project, shall cease to exist;

(b) all assets, rights, powers, authorities and privileges and all properties, movable and immovable, cash and bank balances, reserve funds, investments and all other rights and interests in, or arising out of, such property and all books of accounts, registers, records and all other documents of whatever nature relating threrto, of the said project shall stand transferred to, and vest in, the Bank;

(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 project before establishment of the Bank shall be deemed to have been incurred, intered into or engaged to be done by, with or for, the Bank,

(d) the loans advanced by the said project before the establishment of the Bank shall be deemed to have been advanced by the Bank and shall be recoverable in accordance with the provisions of this Ordinance.

(2) The Government may, for the purpose of removing any difficulty in relation to the transfer and other matter specified in sub-section (1), make such orders as it may consider expedient and any such orders shall be deemed to be, and given effect to as, part of the provisions of this Ordinance.

Explanation.-In this section "Grameen Bank Project" means the Grameen Bank Project sponsored by the Rural Economics Programme of the Department of Economics, University of Chittagong, in 1976 in village Jobra, Police stationHathazari, in the district of Chittagong and subsequently adopted by the Bangladesh Bank and participated by new banks and the Bangladesh Krishi Bnak.

ANNEX-9

1. Substituted for "three crore" by Ordinance LI of 1986.

2. Substituted for 60% by Ord. LI of 1986.

3. Substituted by Ord. LI of 1986. Before substitution, the clause was as under:-

"(b) 40% by borrowers of the Bank of which 20% preferably by women borrowers".

4. Substituted by Act L of 1990. This sub-section, before substitution, was as under:-

"(2) The Bank, in discharging its functions, shall act prudently with due regard to the public interest and shall be guided on questions of policy by the instructions given by the Government, which shall be the sole judge as to whether a question is a question of policy or not."

5. Substituted by Act L of 1990. This section, prior to substitution, was as under:-

"9. Board.- The Board of Directors of the Bank shall consist of the following Directorss, namely:-

(a) the Managing Director;

(b) three persons to be appointed by the Government;

(c) nine person to be elected by the borrower shareholders in the prescribed manner."

It may be mentioned that, the original provision of section 9, which was substituted by Ordinance LI of 1986 was as under:-

"9. Board- The Board of Directors of the Bank shall consist of the following Directors:

(a) the Chairman;

(b) the Managing Director;

(c) three persons, at least two whom shall be in the service of the Republic, to be appointed by the Government;

(d) one woman having experience in working with landless persons to be appointed by the Government;

(e) two persons from among the Managing Directors of the new banks and the Bangladesh Krishi Bank to be appointed by the Government;

(f) four persons preferably incheding two women, to be elected by the borrower-shareholders in the prescribed manner:

Provided that, for the intial period of two years, these four directors shall be appointed by the Government from amongst the borrower shareholders.".

6. Substituted by Act L of 1990. This sub-section, prior to substitution, was as under:-

"(1) The Government shall appoint one of the appointed Directors, other than the Managing Director, to be the Chairman of the Board.".

7. Substituted by Act L of 1990. Before substitution, the section was as under:-

"14. Managing Director.- (1) There shall be a Managing Director of the Bank who shall be appointed by the Government.

(2) The Managing Director shall be the Chief Executive of the Bank.".

8. Substituted by Act L of 1990 for "prescribed"

9. Substituted by Act L of 1990. The section, prior to the substitution, was as under:-

"16. Resignation.- The Chairman, Managing Director or any other Director may, at any time, resign his office by notice in witing addressed to the Government:

Provided that no resignation shall take effect until it has been accepted by the government."

10. Substituted by Act L of 1990. Before substitution, the clause was as under:-

"(e) participation in the management, control and supervision of any rural organisation, enterprise, or scheme for the benefit and advancement of landless persons without financial assistance.".

11. Inserted by Act L of 1990.

12. Substituted for "Government" by Act L of 1990.

13. Substituted for "Board" by Act L of 1990.

14. Substituted for "Government" by Act L of 1990.

15. Substituted for "Government" by Act L of 1990.

16. Substituted for "Government" by Act L of 1990.

17. Omitted by Act L of 1990. Before omission, the subsection was as under:-

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

18. Substituted for "prescribed", by Act L of 1990.

19. Substituted by Act L of 1990. The section, prior to substitution, stood as under:-

> "35. Power to make rules.- The Government may, by notification in official Gazette, makes rules for the purpose of giving effect to the provisions of this Ordinance".