

রেজিস্টার্ড নং ডি এ-১

“জাতির পিতা বঙ্গবন্ধু শেখ মুজিবুর
রহমানের জন্মশতবার্ষিকী উদ্‌যাপন সফল



অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

সোমবার, সেপ্টেম্বর ১৪, ২০২০

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

NOTIFICATION

Dated : 09 September 2020

S.R.O. No. 248-Law/2020.—In exercise of the powers conferred by section 12 of the Bangladesh Flag Vessels (Protection of Interest) Act, 2019, the Government is pleased to publish the following Authentic English Text of the Act :

The Bangladesh Flag Vessels (Protection of Interest) Act, 2019.

Act No. XVIII of 2019

An Act to repeal and re-enact the Bangladesh Flag Vessels (Protection) Ordinance, 1982 in a time befitting manner

WHEREAS, all the Ordinances promulgated by Martial Law Proclamation between the period from 24th March, 1982 to 11th November, 1986 have ceased to have effect due to omission of paragraph 19 of the Fourth Schedule to the Constitution of the People's Republic of Bangladesh regarding ratification and confirmation of the said Ordinances by the Constitution (Fifteenth Amendment) Act, 2011 (Act No. XIV of 2011) and the Constitution (Seventh Amendment) Act, 1986 (Act No.1 of 1986) validating the Martial Law being declared void in the judgment pronounced by the Appellate Division of the Supreme Court of Bangladesh declaring the Martial Law unconstitutional in civil petition for Leave to appeal No. 48/2011; and

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WHEREAS, some of those Ordinances are kept in force by the Act No. VII of 2013; and

WHEREAS, the Government has decided to make new laws in Bangla by way of necessary amendment and modification of such Ordinances as may be considered necessary after reviewing the necessity and relevancy of such Ordinances and soliciting opinions thereon from all stakeholders and relevant Ministries or Divisions; and

WHEREAS, in the light of the above-mentioned decision of the Government, it is necessary and expedient to repeal and re-enact the Bangladesh Flag Vessels (Protection) Ordinance, 1982 in a time befitting manner;

THEREFORE, it is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Bangladesh Flag Vessels (Protection of Interest) Act, 2019.

(2) It shall come into force at once.

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

(1) “Bangladesh Flag Vessel” means a vessel registered in Bangladesh;

(2) “Prescribed Authority” means the Director General, Department of Shipping or any other officer, body or authority appointed by the Government in this behalf.

3. **Limitation on carriage of cargoes by sea.**—(1) Notwithstanding anything contained in any other law for the time being in force, at least fifty percent of the sea-borne cargoes relating to foreign trade of Bangladesh shall, subject to the other provisions of this Act, be carried by Bangladesh flag vessels :

Provided that this provision shall not apply to the following cases, namely :—

(a) any cargo, subject to the no-objection from the Prescribed Authority, which is required to be carried by any other vessel in accordance with any reciprocal arrangement made between the two trading partners;

(b) any cargo in respect of which a certificate of waiver is issued by the Prescribed Authority;

(c) any cargo in respect of which a general waiver is announced by the Prescribed Authority;

(d) carriage of cargoes to such places where no Bangladesh flag vessel is operated for transporting cargoes directly between Bangladesh and its trading partners.

(2) Notwithstanding anything contained in sub-section (1), the sea-borne cargoes to be carried at the expense of the public fund shall be carried through any state-owned shipping corporation.

(3) For obtaining the certificate of waiver under clause (b) of sub-section(1), the owner of the vessel or his agent shall have to make an application to the Prescribed Authority at least 15 (Fifteen) working days before loading of cargoes.

Explanation : In this section “public fund” means the public fund as defined in the Public Procurement Act, 2006 (Act No. XXIV of 2006).

4. Carriage of cargoes by third country flag vessels.—The Prescribed Authority may permit the carriage or cargoes from of to Bangladesh by a third country flag vessel, if—

- (a) no Bangladesh flag vessel or flag vessel of the trading partner country concerned is available;
- (b) the cargoes cannot be carried, for any reason, by any Bangladesh flag vessel or flag vessel of that country.

5. Prohibition on carriage of coastal trade cargoes by the flag vessel of a foreign country.—No vessel of a foreign country which is not a Bangladesh flag vessel shall carry coastal trade cargoes of Bangladesh :

Provided that this restriction shall not apply to a vessel in respect of which a certificate of waiver is issued by the Prescribed Authority.

6. Furnishing false information.—The owners of Bangladesh flag vessels shall not make any opportunity or restriction to issue a certificate of waiver for, or against, a foreign vessel by furnishing false information relating to the specifications of their vessels to the Prescribed Authority.

7. Imposition of administrative fine.—(1) If any vessel carries cargoes in contravention of the provisions of section 3, the Prescribed Authority may impose administrative fine not exceeding the value of the freight of such cargoes on the owner or hiring authority of the vessel.

(2) The Prescribed Authority may, in case of contravention of other provisions of this Act, impose administrative fine not less than five lac taka.

8. Appeal.—(1) Any person aggrieved by an order of imposition of fine under section 7 may, within 30 (thirty) working days after receipt of such order, prefer an appeal to the Government.

(2) The Government shall dispose of the application of appeal within 10 (ten) working days after receiving it and in such case the order of the Government shall be final.

9. Contravention of provisions by a company.—(1) If any provision of this Act is contravened by a company, every such owner, director, manager, secretary or other employee or representative of the company, who has direct involvement in such contravention, shall be deemed to have made such contravention, unless he proves that the contravention was made without his knowledge or he exercised all due diligence to prevent such contravention.

Explanation : In this section—

- (a) “company” means any body corporate, commercial institution, partnership business, and includes association or organization of one or more persons;
- (b) “director” means a partner of it or any member of the board of directors thereof, by whatever name it may be called.

(2) If the company mentioned in sub-section (1) is a legal entity, the company, along with the person holding any post mentioned in the said sub-section, shall be liable to administrative fine separately in the same proceeding.

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

11. Repeal and Savings.—(1) On the commencement of this Act, the Bangladesh Flag Vessels (Protection) Ordinance, 1982 (Ordinance No. XIV of 1982), hereinafter referred to as the said Ordinance, is hereby repealed.

(2) Notwithstanding such repeal, any rules made or any order, notification, notice issued under the said Ordinance, subject to being consistent with this Act, shall remain in force.

(3) The proceedings pending under the said Ordinance, if any, shall be disposed of in such manner as if the said Ordinance had not been repealed.

12. Publication of authentic English text.—(1) After the commencement of this Act, the Government may, by notification in the official Gazette, publish an English text of this Act which may be called the Authentic English Text of this Act.

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

By order of the President

মুহঃ জাকির হোসেন
যুগ্মসচিব (লে. অ.)।