

ACT No. XIX of 1996

An Act to provide for the establishment of the Law Commission

Whereas in the perspective of the changes in the socio-economic condition of the country, introduction of free market economy and a huge number of back- log of cases in different courts and with a view to making provisions in conformity with the fundamental human rights norms, for upgrading the standard of legal education and for other matters of public importance, it is expedient to establish a permanent Law Commission for submitting its recommendations to the government for repeal of obsolete laws, amendment of the existing laws and enactment of new laws in appropriate cases;

It is hereby enacted as follows:-

1. Short title.- This Act may be called the Law Commission Act, 1996,

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

- (a) commission means the Law Commission established under section 3 of this Act;
- (b) chairman means the chairman of the Law Commission.
- (c) member means a member of the Law Commission.

3. Establishment of the Commission.- There shall be established a Commission to be known as the Law Commission for carrying out the purposes of this Act.

4. Office of the Commission. - The office of the Commission shall be at Dhaka.

5. Composition of the Commission.- (1) The Commission shall consist of a chairman and two members and the government may increase the number of its members, if it deems necessary.

(2) The chairman and the members of the Commission shall be appointed by the government and their appointment and conditions of service shall be determined by the government.

(3) Subject to the provision of sub section (4), the chairman and the members of the Commission shall hold their respective offices for a term of three years from the date of their respective appointment:

Provided that the government may, if it deems fit, reappoint the chairman or a member for the prescribed term after the expiry of the above term.

(4) The chairman or a member may resign from his office by writing under his hand addressed to the government; and, if the government is satisfied that the chairman or a member has ceased to be capable of holding his office by reason of gross misconduct or physical or mental incapacity, the government may remove him at any time from his office:

Provided that the chairman or a member shall not be removed from his office without affording such chairman or member a reasonable opportunity of being heard.

(5) If the office of the chairman becomes vacant or if he becomes unable to perform the function of his office on account of absence, illness or any other cause, those functions shall, until the newly appointed chairman has entered upon that office, or until the chairman has resumed his duties, as the case may be, be performed by a member nominated by the government.

(6) No action or proceedings of the Commission shall be invalid or shall be called in question on account of absence or illness of the chairman or any member of the Commission or defect in the constitution of the Commission.

5A. Honorary Member.- The Government may appoint one or more members for the Commission for a period not exceeding three years and determine the privileges of those members for carrying out the affairs of the Commission.

6. Functions of the Commission.- The functions of the commission have been describe in Section 6 of the Act. Under the Section the functions of the Commission will be as follows:

- (a) to identify the causes of delay of civil and criminal cases in various courts and with a view to accelerate their disposal and ensure justice as quickly as possible:
- (1) to recommend amendment of laws concerned or enactment of new laws in appropriate cases after examination;
 - (2) to recommend necessary reforms in order to modernize the judicial system;
 - (3) to recommend training and other measures for the improvement of the efficiency of the persons involved with the judicial system such as judicial officers, staff, law officers and lawyers;
 - (4) to recommend necessary measures for improvement of the entire judicial system and specially to prevent the abuse of the application of the laws concerned;
 - (5) to recommend modernization of different aspects of court management, such as, distribution of works among judges, supply of copies, transmission and preservation of records, service of notices and other relevant matters;
 - (6) to recommend, an acceptable measure regarding the feasibility of introducing a more efficient and accountable system in place of the present system for conducting the various government cases properly and establishing a separate investigating agency for the investigation of the criminal cases;
- (b) keeping in mind the attraction of domestic and foreign investment and necessity of free market economy-
- (1) to recommend amendment of relevant laws including company law or legislation of new law in appropriate cases in order to create competitive atmosphere in the field of trade and industry and to avoid monopoly;
 - (2) to recommend, after examination, measures with regard to relevant laws especially copyright, trademarks, patents, arbitration, contract, registration and similar other matters;

- (3) to recommend necessary measures for the establishment of separate courts for disposal of cases arising out of commercial and bank loan matters;
- (c) to recommend necessary and timely amendments and reforms of the existing electoral laws administered by the Bangladesh Election Commission;
 - (d) to recommend, after examination, necessary reforms of the existing laws and enactment of new laws in appropriate cases, in order to safeguard the rights of women and children and prevent repression of women;
 - (e) to recommend reforms of existing laws, enactment of new laws in appropriate cases and taking of other acceptable measures for the proper implementation of legal-aid programs;
 - (f) to identify the various laws which conflict with each other on the same subject and in probable cases, to recommend codification and unification of various laws on the same subject;
 - (g) to recommend repeal of existing laws which are inconsistent with the fundamental rights and in appropriate cases making amendments with regard thereto;
 - (h) to recommend, after identification repeal of obsolete and unnecessary laws and in case of necessity, legislation of laws on any subject;
 - (i) to recommend acceptable measure for the upgrading of legal education, and
 - (j) to recommend with regard to other legal matters referred by the government from time to time.

6A. -Work Plan. - (1) The Commission shall submit, a work plan for each two year on the conduct of its affairs, to the Government on or before September 30, of the preceding year.

(2) The Government shall send its opinion or recommendations, if any, on the work plan received under sub section (1), to the Commission on or before November 30 of that year.

(3) The Commission shall, after considering the opinion or recommendation made by the government under sub section (2), finalize the work plan and inform the government on or before December 31.

(4) No provision of this section shall be deemed to be a bar in carrying out the affairs of the Commission under section 6.

7. Research etc.- (1) The Commission may, in order to carry out its functions properly, conduct any research or inquiries, as it considers necessary, and collect opinions on questionnaires prepared by it.

(2) Every person shall co-operate with the Commission so far as possible and give opinion on the questionnaires prepared by it when research or inquiries are conducted under sub section (1).

(3) For the purpose of collection of opinion on questionnaires prepared or inquires conducted, the Commission shall have all the powers of a Civil Court, under the Code of Civil Procedure 1908, in respect of the following matters, namely-

- (a) summoning and enforcing the attendance of a person before the Commission, and asking questions on any information or any opinion given by him.
- (b) making such order, as may be necessary, for collection, production and discovery of documents;
- (c) taking evidence on affidavit, if necessary, with regard to information supplied or documents submitted; and
- (d) empowering any person to take evidence of a person or examine documents.

(4) Notwithstanding anything contained in this Act or in any other law for the time being in force, the recommendations prescribed on the basis of inquiries, information and opinions collected under this section, shall be deemed to be a quasi-judicial proceeding.

7A. Research Officer.- (1) There shall be necessary number of research officers in the Commission and their condition of service shall be determined by the rules.

(2) The senior research officers shall be appointed from amongst the teachers of the universities, persons having M.phil or P.hd degrees in laws or equivalent degrees or persons experienced and trained in legislative drafting and senior research officers having experience at least ten years in the research work of the Commission shall be eligible to be appointed as a member of the Commission.

(3) The Commission, for carrying out the purpose of this section, if satisfied that it is expedient and necessary to carry out research or investigation on a subject, then the government may by its prescribed condition appoint a consultant who considered to be competent by the Commission for that purpose.

(4) The Commission, if thinks necessary for its research work, may make request to the government to place under it, a person employed in the service of the republic who is experienced in the concerned research work, for a period not exceeding 30 days and the government considering such request may take necessary action.

7B. Aid etc.-The Commission, may request to the government for aid in order to carry out the affairs of the Commission properly and the government considering the said request may take necessary action.

8. Appointment of officers and employees. - (1) The government may appoint the required number of officers and staff for the proper functioning of the Commission and the terms and conditions of their services shall be determined by regulations framed under this Act.

(2) The government may give other necessary support for the proper functioning of the Commission.

9. Submission of the report.- (1) The Commission shall submit to the government, on or before the first day of March every year, a report on the conduct of its affairs during the preceding calendar year and the government shall take measures for laying the report before the Parliament.

(2) The Commission shall, soon after adoption of recommendation on a subject, submit, to the government, a final report and the government shall take measures for its placement before the Parliament.

9A. -Power to make rules.-The government may, by notification in the official gazette, make rules for carrying out the purposes of this Act.

10. Power to make Regulations.- For carrying out the purposes of this Act, the Commission may, with the prior approval of the government, make regulations by notification in the official gazette.

10A. -Authentic English Text. - The government, may, by notification in the official gazette, publish an authentic English text of this Act which shall be called an authentic text of this Act

Provided that in the event of conflict between this Act and the English text, this Act shall prevail.

11. Repeal and Savings.- The resolution no 120 Law/vetting 33/93 of the Ministry of Law, Justice and Parliamentary Affairs, dated April 7, 1994 (chaitra, 24,1400 B. S) hereinafter called the said resolution is hereby repealed.

(2) On repeal of the above resolution-

- (a) the chairman and the member of the Law Reforms Commission appointed under the said resolution shall be the chairman and the member of the Commission constituted under this Act.
- (b) all officers and other employees of the Law Reforms Commission appointed under the above resolution shall stand transferred to the Commission.
- (c) anything done or any action taken under the above resolution shall be deemed to have been done or taken under this Act.
- (d) all assets, cash and bank accounts of the Law Reforms Commission constituted under the above resolution, shall stand transferred to the Commission.