

FINAL DRAFT BILL

Bangladesh Water Supply and Sanitation Regulatory Commission Bill, 2014

Table of Content

CHAPTER 1. Preliminary Provisions4

1. Short title, extent and commencement -..... 4

2. Definitions - 4

3. Overriding effect of the Act - 6

CHAPTER 2. Establishment and composition of Commission6

4. Establishment of the Commission -..... 6

5. Head Office, etc - 6

6. Broad objectives of the Commission -..... 6

7. Constitution of the Commission -..... 6

8. Qualifications and disqualifications of the Chairperson and Members -..... 7

10. Tenure of office, resignation, etc. of the Chairperson and Members -..... 8

11. Actions and proceedings not to be void due to the vacancy in the position of Member -8

12. Status, pay and allowances, etc. of the Members -..... 8

13. Conflict of interest..... 8

14. Removal of Members -..... 9

15. Commission’s meetings - 9

16. Appointment of Secretary, employees, and consultants of the Commission - 10

17. Formation of committee - 10

CHAPTER 3. Duties and Functions of the Commission 10

19. Duties and functions of the Commission- 10

20. General powers -..... 11

21. Power to obtain information by entry, search and seizure - 11

22. Powers to initiate investigation and proceeding -..... 11

23. Power to hold inquiries and assessment - 12

24. Delegation of power -..... 13

25. Consultation with users, industry, other relevant stakeholders, and Government -... 13

26. Public register to be kept by Commission - 13

27. Confidentiality of information -.....	13
CHAPTER 4. Power of the Government to issue policy directives.....	14
28. Powers of the Government -.....	14
29. Emergency power to control water use -.....	14
CHAPTER 5. Grievance Redress Mechanism, Review, and Appeal.....	14
30. Grievance redress mechanism -.....	14
31. A decision by a branch office to be placed on the public register -.....	14
32. Review, and Appeal against the decisions of the Commission -.....	14
CHAPTER 6. Tariffs.....	15
33. Power to regulate charges -.....	15
CHAPTER 7. Services and Licences.....	16
34. Requirements for licence to provide water supply and sanitation services -.....	16
35. Grant, renewal, revision, suspension, and cancellation of licence -.....	16
36. Exemption from the requirement of licence -.....	16
37. Supply of bulk water -.....	16
38. Licence fees -.....	17
39. Duty to provide adequate service -.....	17
40. Order of the Commission to comply with duty -.....	17
41. Standards of performance of regulated service providers -.....	17
42. Restrictions to the licensee -.....	17
43. Annual accounts of licensee -.....	18
CHAPTER 8. Complaints and User Dispute Resolution.....	18
44. Receipt of complaints -.....	18
45. Procedure and powers of the Commission -.....	18
CHAPTER 9. Power to Issue Orders and Enforce their Compliance.....	19
46. Interim or final order -.....	19
47. Emergency powers -.....	19
48. Implementation of interim or final order -.....	19
49. Regulations for issue and enforcement of Orders -.....	19
CHAPTER 10. Offence and Penalty.....	20
50. Offences -.....	20
51. Offence by a company -.....	20

52.	Not to hinder with proceedings under the Act -.....	20
53.	Filing of complaint and procedure of investigation -.....	20
54.	Application of Code of Criminal Procedure -.....	21
55.	Assistance to the Public Prosecutor by the Officer of the Commission -	21
CHAPTER 11. Financial Provisions.....		21
56.	Establishment of the fund of the Commission -.....	21
57.	Surplus funds -.....	21
58.	Accounts and audits -.....	22
59.	Annual report -.....	22
60.	Budget -	22
CHAPTER 12. Miscellaneous Provisions.....		22
61.	Government's power to make rules -.....	22
62.	Commission's power to make regulations -.....	22
63.	Transitional Provisions -.....	23

Bangladesh Water Supply and Sanitation Regulatory Commission Bill, 2014

A

Bill

to make provisions for the establishment of an independent and impartial regulatory commission for the water supply and sanitation sector, for effective governance of the sector, to ensure meaningful participation of all stakeholders, thus enabling justice and equity for all, and to ensure economic viability, financial health, and technical efficacy and efficiency of the sector in Bangladesh:

Whereas it is expedient to make provisions for the establishment of an independent and impartial regulatory commission for the water supply and sanitation sector, for effective governance of the sector, to ensure meaningful participation of all stakeholders, thus enabling justice and equity for all, and to ensure economic viability, financial health, and technical efficacy and efficiency of the sector in Bangladesh;

It is hereby enacted as follows —

CHAPTER 1. Preliminary Provisions

1. Short title, extent and commencement -

- (1) This Act may be called the Bangladesh Water Supply and Sanitation Regulatory Commission Act, 2014.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force on such day as the Government may, by notification in the official Gazette, appoint.
- (4) The Government may appoint different days as under sub-section (3), for the commencement of different provisions of this Act.

2. Definitions -

In this Act, unless the context requires otherwise:

- (1) "administrator" means the administrator appointed by the Commission pursuant to regulations made under section 20(2)(b);
- (2) "annual report" means the annual report of the Commission;
- (3) "applicable law" means Act, Ordinance, rules, regulations, Notification or any other legal instrument having the force of law in Bangladesh;
- (4) "branch office" means in relation to the Commission, any office of the Commission, other than its head office;
- (5) "charges" means the sums prescribed by the Commission and collected either by itself or by the service provider or by both for granting licence, regulatory fee, reconnection, granting connection, annulment, late fees, penalty, or other charges prescribed by the Commission to be collected by the Commission or by the service provider or both;
- (6) "Chairperson" means the Chairperson of the Commission appointed under section 7(3) and includes any other person performing the functions of the Chairperson under section 7(6);
- (7) "Commission" means the Bangladesh Water Supply and Sanitation Regulatory Commission established under section 4 ;
- (8) "Company" means any incorporated business, trade organization, association or organization
- (9) "confidential information" includes any information which the Commission is satisfied that it is of confidential nature and its disclosure-
 - (a) may adversely affect the competitive position of any person;
 - (b) is commercially sensitive for some other reason; and
 - (c) may affect the security of Bangladesh as a nation

- (10) "employee" means Members, staff, and officers of the Commission;
- (11) "entity" means any public, private, or mixed public-private entity, sole proprietorship or partnership firm, company, corporation or branch including a Bangladesh or a Foreign joint-venture entity established or organized under any applicable law of the Bangladesh, or an informal group, association, or organisation interested in the matters related to the Commission.
- (12) "Fund" means the Bangladesh Water Supply and Sanitation Regulatory Commission Fund established under section 56.
- (13) "Government" means the Government of the People's Republic of Bangladesh;
- (14) "Head of the Nomination Committee" means the Secretary in charge of the Government Ministry or Division dealing with water supply and sanitation sector;
- (15) "inquiry" means an inquiry instituted by the Commission;
- (16) "licence" means any licence issued under this Act;
- (17) "local authority" means the local government authority constituted under a statute for the fulfillment of the purpose of article 59 of the Constitution of Bangladesh;
- (18) "Member" means a Member of the Commission, and unless the context otherwise requires, includes the Chairperson;
- (19) "Minister" means the Minister in charge of the Ministry or Division dealing with the water supply and sanitation sector;
- (20) "Ministry" means the Ministry or Division of the Government dealing with the water supply and sanitation sector;
- (21) "official Gazette" means the official Gazette of the Government of Bangladesh;
- (22) "Nomination Committee" means Nomination Committee established under section 6;
- (23) "person" includes an individual natural personality and entity;
- (24) "prescribed" means prescribed by rules or regulations, as the case may be;
- (25) "Public Register" means the Public Register kept and maintained by the Commission;
- (26) "regulated services" means any services provided by any person regulated by the Commission;
- (27) "regulated sector" means the water supply and sanitation sector;
- (28) "regulated service provider" means any person, entity (whether registered or not) engaging in activities in or in connection with a regulated sector and includes an institution declared by the Commission as service provider;
- (29) "regulations" means regulations framed under this Act;
- (30) "rules" means rules framed under this Act;
- (31) "sector law" means any applicable law on or in related to the water and sanitation sector;
- (32) "sanitation" means collection, transportation, storage, treatment, and disposal by regulated service provider through centralised or decentralised systems of liquid human waste and sludge, excluding solid waste, storm water, and industrial effluents, and shall include other means of sanitation as determined by the Commission in consultation with the service providers from time to time;
- (33) "sector" means water supply or sanitation sector in Bangladesh;
- (34) "service" means water supply and/or sanitation service;
- (35) "service provider" means any person or entity (whether registered or not) providing water and/or sanitation services;
- (36) "sewerage" means human excreta and sullage, municipal/ domestic /sanitary wastewater, sullage, and fecal sludge, collected from residences and other establishments through pipes and other networked structures, and shall include such definition of sewerage as determined by the Commission in consultation with the service providers from time to time;
- (37) "standards" includes the standards relating to the quantity and quality of water and sanitation service provision;
- (38) "tariff" means a sum prescribed by the Commission as tariff to be appropriately collected from the users against the water supply and sanitation service(s) provided to them;
- (39) "user" means the users of the water supply and sanitation services;
- (40) "water supply" means piped supply of water through household connections, stand-posts, water kiosks, or yard connections, and shall include other means of water supply as determined by the Commission in consultation with the service providers from time to time;

3. **Overriding effect of the Act -**
Notwithstanding anything contained in any other laws for the time being in force, the provisions of this Act shall prevail.

CHAPTER 2.

Establishment and composition of Commission

4. **Establishment of the Commission -**
- (1) To carry out the purposes of this Act, there shall be established a Commission to be called as the Bangladesh Water Supply and Sanitation Regulatory Commission
 - (2) The Commission shall be a statutory body having perpetual successions and a common seal with power, subject to the provisions of this Act, to acquire, hold, transfer, and dispose of property, both moveable and immovable, and shall by the said name sue and be sued.
 - (3) Every deed, instrument, contract or any other documents of the Commission shall be deemed to be duly executed and authenticated by or on behalf of the Commission if it is sealed with the seal of the Commission and signed by the Chairperson or the Secretary, as the case may be, duly authorised by the Commission.
5. **Head Office, etc -**
- (1) The Head Office of the Commission shall be located in Dhaka.
 - (2) The Commission may, in case of necessity, set up its branch offices at such other places as the Commission may think fit.
6. **Broad objectives of the Commission -**
The broad objectives of the Commission shall be-
- (1) to build and promote equitable, sustainable, and efficient water supply and sanitation system;
 - (2) to develop transitory approach towards building the regulatory system, such that the progress is in step with the institutional preparedness;
 - (3) to ensure transparency, accountability, and public participation;
 - (4) to promote effective competition and efficiency;
 - (5) to protect interests of users through ensuring access of regulated services to all users, especially low income, vulnerable, marginalised, and disadvantaged sections of the society;
 - (6) to protect financial viability of efficient service providers;
 - (7) to enhance public knowledge, awareness, and understanding of the regulated sector including-
 - (a) the rights and obligations of users and service providers;
 - (b) the ways in which complaints and grievances may be raised and resolved; and
 - (c) the duties, functions, and activities of the Commission.
 - (8) to protect and conserve the environment;
 - (9) to promote efficient long-term investment in water supply and sanitation section, so as to achieve the lowest sustainable cost of the provision of water supply and sanitation services; and
 - (10) to protect public health.
7. **Constitution of the Commission -**
- (1) The Commission shall consist of five Members and one of them shall be the Chairperson.
 - (2) The Members of the Commission shall be appointed from amongst the following disciplines-
 - (a) One Member shall have at least a bachelor degree from a recognised university in the field of engineering;
 - (b) One Member shall have at least a post-graduate degree from a recognised university in the field of economics, finance, commerce, accounting science, business administration, or management;
 - (c) One Member shall have at least a post-graduate degree from a recognised university in the field of law; and
 - (d) Two Members shall have at least a post-graduate degree from a recognised university in two different fields of following fields-
 - (i) environmental science or ecology,

- (ii) sociology,
 - (iii) statistics,
 - (iv) public policy,
 - (v) public health,
 - (vi) public administration, or
 - (vi) political science.
- (3) The Chairperson and the Members shall be appointed by the President of the Peoples' Republic of Bangladesh on the basis of the recommendation made by the Nomination Committee constituted under section 9 (2).
 - (4) The Chairperson and the Members shall be the full-time officers of the Commission.
 - (5) After the commencement of the Act -
 - (a) the Chairperson and two Members shall be appointed as soon as possible; and
 - (b) other two Members shall be appointed within a period not exceeding two years from the day of such commencement.
 - (6) The Chairperson shall be the chief executive of the Commission.
 - (7) If the post of the Chairperson falls vacant or the Chairperson fails to discharge the duties due to absence, illness, or for any other reason, a Member appointed by the President of the Peoples' Republic of Bangladesh shall act as the Chairperson, until the Chairperson resumes duty, or a newly appointed Chairperson joins in the vacant post.
8. Qualifications and disqualifications of the Chairperson and Members -
- (1) A person shall, subject to the provisions of sub-sections(2) and (3), be qualified to be selected-
 - (a) for the post of Chairperson if he or she has at least 25 years practical work experience in the fields mentioned in the section 7(2);
 - (b) for the post of Member if he or she has at least 20 years practical work experience in the fields as mentioned in the section 7(2).
 - (2) A person shall be disqualified for selection for appointment as, or for being, a Member or Chairperson who:
 - (a) is not a citizen of Bangladesh;
 - (b) attains the age of sixty five years;
 - (c) was declared a loan defaulter by a bank or any financial institution;
 - (d) was declared insolvent by a competent Court;
 - (e) is charge sheeted or convicted for committing offence of corruption;
 - (f) has been convicted for a criminal offence involving moral turpitude, sentenced to imprisonment for a term not less than two years; and
 - (g) has a business interest in any matter within the scope of the Commission
 - (h) is engaged in any business in water supply and sanitation sector either in her or his own name or in the name of any other person;
 - (3) A person, who was or is in the service of the Republic, shall, after the expiry of a period of {two} years from the day of his or her retirement or resignation from the service, be qualified to apply for the post of Chairperson or a Member, as the case may be.
9. Establishment and functions of the Nomination Committee -
- (1) There shall be constituted a Nomination Committee for selection of persons to be appointed as Chairperson and Members, and for other purposes as stipulated under this Act,
 - (2) The Nomination Committee shall consist of:
 - (a) the Secretary in charge of the Government Ministry or Division dealing with water supply and sanitation sector, who shall be the ex-officio Head of the Nomination Committee;
 - (b) a representative from the Ministry of Finance not below the rank of Additional Secretary;
 - (c) a retired Judge of the Supreme Court, or a member of a central-level independent regulatory agency in any of the infrastructure sectors to be nominated by the Government;
 - (d) a Professor, Dean, Director, or an equivalent faculty member of a reputed Bangladeshi university to be nominated by the Head of the Nomination Committee; and

- (e) one person to be nominated by the Government from amongst representatives of well-reputed Non Government Organisations;
 - (3) The functions of the Nomination Committee shall be to select and recommend the name of persons for appointment as Chairperson and Members of the Commission.
 - (4) If the President is not satisfied as to the suitability of a person recommended for appointment, the rejection of the recommendation shall be communicated to the Commission with a request for further recommendation.
 - (5) The Meetings of the Nomination Committee shall, as required for the purposes of this Act, be held on such date and place as may be determined by the Head of Nomination Committee.
 - (6) The Nomination Committee may take such actions as are reasonably necessary to identify and attract the best candidates including by advertising in the news media and website(s) widely read or viewed, as the case may be, within and outside Bangladesh.
10. Tenure of office, resignation, etc. of the Chairperson and Members -
- (1) The Chairperson and Members shall, unless removed sooner or ceases to be a Member, shall hold office for a period of three years from the date of assumption of office and shall be eligible for re-appointment for another term only.
 - (2) The Chairperson or a Member may, even before the completion of the tenure as mentioned in sub-section(1), resign from her or his post by giving three months prior notice in writing addressed to the President, with a copy to the Minister, and, in case of a Member, with an additional copy to the Chairperson.
11. Actions and proceedings not to be void due to the vacancy in the position of Member -
Any vacancy in the post of Members shall not render any action, decision, or proceeding of the Commission illegal, if it is taken or made, as the case may be, by the Commission where the number of Members meets the quorum for the Commission's meetings as per section 15(4).
12. Status, pay and allowances, etc. of the Members -
- (1) The status, pay and allowances, privileges and other conditions of service of Chairperson and Members shall be determined by the prescribed rules.
 - (2) Until such rules are made, status, pay and allowances, privileges and other conditions of service of Chairperson and Members shall be determined by the Government.
 - (3) After appointment of a person as Chairperson or Member the status, pay and allowances, privileges and other conditions of the service for the Chairperson or any Member shall not be so changed that the change is unfavorable to that person.
13. Conflict of interest
- (1) A Member or employee of the Commission shall be considered to have a conflict of interest for the purposes of this Act, if the Member or employee acquires any pecuniary advantage or other interest that could conflict with the proper performance of her/ his duties, or assists in the acquisition of any pecuniary advantage by another person, as a Member or employee of the Commission.
 - (2) In case of a conflict of interest, the Member or employee shall immediately disclose in an affidavit filed to the Commission, the conflict of interest.
 - (3) The subject Member or employee shall refrain from taking part, or taking any further part, in the activities of the Commission, while an inquiry is conducted in the matter pursuant to section 13 of this Act.
 - (4) When the Commission determines that the conflict is likely to interfere with the Member's or employee's proper and effective performance, the matter shall be investigated pursuant to the provisions of this Act.
 - (5) The Annual Report of the Commission shall disclose details of all conflicts of interest and the determination arising there from.
 - (6) A Member or employee of the Commission who is subject to this Act shall be considered to have breached section 13 of the Act if Member or employee -
 - (a) fails without reasonable cause to make declaration of his or her interests as required; or

(b) knowingly makes a declaration that is false or misleading in a manner affecting the decision of the Commission.

14. Removal of Members -

- (1) A Member and the Chairperson may be removed from his or her office if:
 - (a) any situation specified in section 8(2), and section 13 occurs, or
 - (b) he or she is found guilty by the Enquiry Committee constituted under sub-section 14(2) of corruption, misuse of power, gross misconduct, or gross negligence in duty, or
 - (c) the Member fails to attend at least two thirds of all meetings of the Commission in a period of twelve consecutive months.
- (2) If the Government is of opinion that a Member or the Chairperson is unfit to hold that office on any ground specified in sub-section (1), the Government shall constitute an Enquiry Committee consisting of one or more sitting or retired judges of the Supreme Court, and shall also specify in the order by which the Enquiry Committee is constituted, the time limit for submission of its enquiry report.
- (3) The Committee constituted under sub-section (2) shall, on the basis of specific information and reasons, submit a report as to whether or not the allegations brought against the Member or Chairperson have been proved and whether or not he or she should be removed from his or her office, and the Government shall, take action in accordance with the recommendation contained in the report submitted by the Enquiry Committee.
- (4) The Government shall not remove any Member or Chairperson under this section without giving him or her opportunity of showing cause, within the period prescribed by rules for replying to show-cause notice, against the proposed removal.
- (5) Where the Enquiry Committee is constituted under sub-section (2), the Government may, in consideration of the relevant circumstances, direct the Member or Chairperson to refrain from performing the functions of his or her office, and the Member or Chairperson shall be bound to comply with such direction.
- (6) The Enquiry Committee shall be deemed to be a Commission appointed under the Commission of Enquiry Act, 1956 (VI of 1956) and the provisions of that Act shall, subject to this Act, apply to the Enquiry Committee.
- (7) A Member, including the Chairperson, shall not, during a period of eighteen months after the expiration or termination of the term of office or service within the Commission -
 - (a) enter into any contract of employment with or contract for the supply of services to, any person or organisation under the jurisdiction of the Commission during the Member's term of office or employee's service with the Commission;
 - (b) acquire or hold any financial interest, whether as an employee, partner, shareholder, officer or joint venture, in any business or organisation supplying services to any person or organisation under the jurisdiction of the Commission during the Member's term of office or employee's service with the Commission.
- (8) Notwithstanding the other provisions of this section, copy of notices, decisions, and any reply by the Member and any report shall as soon as practicable after they are brought into existence whether or not they result in the removal of a Member, be made available for public.

15. Commission's meetings -

- (1) Subject to other provisions of this section, the Commission may determine the procedures of its meetings by the regulations.
- (2) The meetings of the Commission shall be held on such time and at such place as determined by the Chairperson.
- (3) The Chairperson shall preside at all meetings of the Commission.
- (4) The presence of three Members including the Chairperson shall form the quorum of the meeting of the Commission.
- (5) The decision of the meeting of the Commission shall be taken by a majority of votes of the Members present and in case of a tie or equal votes, the Chairperson shall have the second or casting vote.

- (6) Two (2) Members may request the Chairperson in writing to arrange a meeting to discuss or for making a decision on any specific issue and upon receipt of such a request, the Chairperson shall convene a meeting within seven days
 - (7) The Commission shall cause accurate minutes to be kept of the proceedings at its meetings.
16. Appointment of Secretary, employees, and consultants of the Commission -
- (1) There shall be a Secretary to the Commission who shall be appointed by the Commission.
 - (2) The Commission may, for the purpose of carrying out its functions effectively, appoint such other required number of officers and employees, as it deems necessary.
 - (3) The procedure of appointment, duties, and other terms and conditions of service of officers and employees including its Secretary shall be determined by regulations.
 - (4) The Commission may, for the purpose of carrying out its functions effectively, appoint consultants and experts in various disciplines on such terms and conditions as may, from time to time, be determined by the Commission.
 - (5) The Government may, until the regulations are made, appoint an officer not below the rank of or to a Deputy Secretary as Secretary to the Commission on deputation.
17. Formation of committee -
- The Commission may, to perform its duties effectively, constitute required number of committees comprising one or more than one of its Members and employees or any other person or organisation and the terms of reference and proceedings of such committee shall be determined by the Commission.
18. Work outside commission -
- A Member of the Commission, without the written prior permission of the Government and any officer or employee, without the written prior permission of the Commission shall not engage or continue in any work outside the Commission.

CHAPTER 3.

Duties and Functions of the Commission

19. Duties and functions of the Commission-
- (1) The duties and functions of the Commission shall be:
 - (a) to perform the functions conferred on the Commission by this Act or by sector legislation;
 - (b) subject to sector legislation:
 - (i) to issue, renew, amend, and cancellences;
 - (ii) to establish standards for water supply and sanitation services in terms of quantity, quality, and adequacy;
 - (iii) to establish standards for the terms and conditions of water supply and sanitation services;
 - (iv) to determine methodology for and approve proposals for, water supply and sanitation tariff, penalty charges, and other charges including but not limited to licencing fees and connection charges;
 - (v) to make regulations to give effect to the provisions of this Act;
 - (c) to monitor the performance of the water supply and sanitation sector in relation to:
 - (i) levels of investment;
 - (ii) coverage, availability, adequacy, and standard of water supply and sanitation services;
 - (iii) the cost of water supply and sanitation services;
 - (iv) the efficiency of production and distribution of water supply and sanitation services; and
 - (v) other matters relevant to the Commission;
 - (d) to advise the Government generally or on the utilization and development of water supply and sanitation sector;
 - (e) to resolve complaints and disputes, and to redress grievances;
 - (f) to disseminate information about matters relevant to its functions;

- (g) to consult *suo moto* with other regulatory Commissions, experts, and governing agencies as well as any other stakeholders as necessary and appropriate;
 - (h) to issue reasoned orders or decisions on the petitions, applications or proposals from governing agencies, utilities, other stakeholders, or citizens, in adherence to the relevant provisions of this Act, within the framework of the relevant policy framework, and as per the procedures and processes stipulated in this Act.
 - (i) to perform such other functions as are conferred on the Commission under this Act;
 - (j) to administer this Act.
- (2) In performing the duties and functions and exercising powers by the Commission or under its authority, the Commission must seek to achieve the objective specified in section 6 of this Act.
- (3) The Commission shall host or cause to be hosted a website of the Commission, to which all documents necessary and relevant to the responsibilities and functions of the Commission shall be uploaded and made available for public.
20. General powers -
- (1) Subject to the provisions of this Act, the Commission shall have power to do all things which are necessary for or in connection with the performance of its functions or to enable it to discharge its duties.
 - (2) Without limiting the powers conferred under subsection (1), the Commission shall also have the following powers:
 - (a) such powers as may be conferred on it by the sector legislation; and
 - (b) the power to appoint an administrator according to regulations made pursuant to this Act, to manage the business of a service provider whose licence to operate has been cancelled or suspended.
21. Power to obtain information by entry, search and seizure -
- (1) Subject to other provisions of this Act, when the Commission has reason to believe that a person is capable of supplying information, producing a document or giving evidence that may assist in the performance of any of its duties and functions, the Commission may, by summons signed by the Chairperson or Secretary of the Commission served on that person, require that person or entity as the case may be, -
 - (a) to furnish the information in writing signed by him or her, in the case of a body corporate signed by a competent officer of the body corporate;
 - (b) to produce the document to the Commission.
 - (2) A summons under this section shall specify the required time and manner of compliance.
 - (3) The Commission has right to enter any premises and search and seize information in any form as considered appropriate and required pursuant to fulfilling the functions, and duties conferred upon the Commission hereby.
 - (4) The procedure of entry, search and seizure under sub-section (3) shall be prescribed by regulations.
22. Powers to initiate investigation and proceeding -
- (1) The Commission shall have all those powers for the purposes of an investigation or proceedings, which are exercised by a Civil Court in a proceeding under the Code of Civil Procedure, 1908 (Act V of 1908) such as: -
 - (a) to summon a witness and ensure his presence and examination of the witness on oath and deposition;
 - (b) to detect and present any important document which may be submitted as a document or evidence;
 - (c) to collect evidence through an affidavit;
 - (d) to call for public record from any office;
 - (e) to adjourn hearing;
 - (f) to ensure presence of the parties;
 - (g) to restrain any parties to continue any acts; and

- (h) to review the Commission's decisions, directives or orders.
- (2) The Commission may pass any interim order relating to any proceeding or hearing conducted before it.
- (3) If the Commission is satisfied that for achieving objectives of this Act or for discharging duties under this Act, an examination of any book, accounts or deed is necessary relating to the provision of services in the sector, or matters otherwise connected therewith, but the same is lying under the custody or control of any person, in that case, the Commission may direct the said person to present the book, account or deed to any officer of the Commission for that purpose and may order examination and direct the said person to supply the information within his control to discharge duties under this Act.
- (4) If the Commission during an investigation, or any proceeding under this Act, has reasons to believe to the effect that any book or account involving interest of the unit or person under investigation, presentation of which shall be necessary for investigation, but the same is being destroyed, partially destroyed, altered, tampered, or concealed or likely to be done so, in that case, the Commission, by an order in writing, empower its officer to enter, investigate and confiscate, as if he is exercising powers of an Inspector appointed under the Companies Act, 1994 (Act No.18 of 1994).
- (5) Notwithstanding anything contained in any other law for the time being in force, the Commission, by a general or special order, may ask for information on the following matters from any person or licensee for the sake of discharging its duties under this Act, such as: -
 - (a) matter related to provision of water supply and sanitation services;
 - (b) any other matter prescribed by regulations.
- (6) The Commission may, if necessary discuss related issues with such person or persons who may be affected by the decision of the Commission.

23. Power to hold inquiries and assessment -

- (1) The Commission may conduct an inquiry where it considers necessary or desirable for the purpose of carrying out its functions.
- (2) The Commission shall conduct an inquiry before exercising a power to:
 - (a) grant, renew or cancel a licence;
 - (b) regulate any rate or charge; and
 - (c) take actions in such other matters as the Commission may deem necessary for fulfillment of its duties and functions prescribed by this Act.
- (3) The Commission shall give notice of an inquiry by:
 - (a) publishing a notice in the official Gazette and in at least three daily newspapers circulating widely in Bangladesh specifying the purpose of the inquiry, the time within which submissions may be made to the Commission, the form in which submissions should be made, the matters the Commission would like submissions to deal with.
 - (b) sending written notice of the inquiry, including the information in subsection ((a)) to:
 - (i) service providers known to the Commission whose interests the Commission considers are likely to be affected by the outcome of the inquiry;
 - (ii) industry and user organisations which the Commission considers may have an interest in the matter;
 - (iii) the Minister and Ministries having responsibilities for water supply and sanitation service providers.
- (4) The Commission shall, in discharging its functions, if it considers necessary, solicit expert opinion from any specialized organisation, and shall engage any person or institution to conduct research in any particular or specialized matter, and shall assess and consider the result of that research in taking its decision.
- (5) The Commission shall prescribe through regulations the procedure to be adopted for carrying out such inquiry, research and format to solicit opinion both the regulations and the results of such inquiry or research being made available to public.

24. Delegation of power -
The Commission may, by a reasoned order in writing, and subject to the conditions mentioned in the order, delegate any or all of its powers to any Member, officer or employee of the Commission, or to any other person or institution.
25. Consultation with users, industry, other relevant stakeholders, and Government -
- (1) The Commission shall make regulations for consultation and hearing with such relevant users, persons, organisations, and/or other stakeholders as the Commission may consider necessary and desirable to consult for the purpose of effectively carrying out its functions under this Act.
 - (2) The Commission shall meet with and consult representatives of citizens and community groups to listen to and understand their needs and concerns related to the operations of the Commission, including through public hearing.
 - (3) Subject to provisions of subsections (1) and (2), the Commission shall, supply a copy of its consultation programme to the secretary, host its soft copy on the website of the Commission, and place a copy of the annual programme on the Public Register.
 - (4) The Commission shall include in its annual report, a report on the implementation of its consultation programme during the year covered by the report.
 - (5) For the purposes of this section, it shall be the duty of the Commission to establish and identify the persons, organisations and institutions to be consulted and such identity of the consulted stakeholders may not necessarily be made public.
 - (6) In taking the Commission's decisions in the regulated sector, the Commission shall consider the comments and suggestions received from the stakeholders, and all orders of the Commission shall be reasoned with due explanation on how the comments from stakeholders were considered for making such decisions.
 - (7) At the end of every year, the Commission shall *suo moto* publish a report on actions taken with respect to the comments and suggestions received from stakeholders.
26. Public register to be kept by Commission -
- (1) There shall be a Public Register kept by the Commission in hard copy at its Head Office and other offices of the Commission, if any, which shall be available for public inspection and photocopying at all times during business hours.
 - (2) The Commission shall or shall cause to be published in the official Gazette as soon as may be practicable; in addition to hosting on its website (the hosting intimated to the public through notifications in widely circulated national as well as local dailies in both English and vernacular language):
 - (a) any code of conduct to be adopted;
 - (b) any rules or regulations;
 - (c) an application for granting license;
 - (d) any decision of the Commission favoring of issuance of license;
 - (e) a summary of any decision by the Commission setting tariff for the regulated services; and
 - (f) any other decision or information the Commission may decide to publish in the official Gazette.
 - (3) The Commission shall exclude from the Public Register any document or part of a document which is confidential within the provisions of section 27.
 - (4) The Commission shall, in the official Gazette, its website, and prominent English and vernacular dailies, publish Public Register including all the decisions and applications or other submissions to the Commission, including but not limited to those mentioned in subsection (2).
 - (5) The Commission shall ensure that, where possible the Public Register shall be accessible to the public by internet.
27. Confidentiality of information -

- (1) For the purposes of this Act, any person who gives or discloses any information to the Commission, whether under compulsion of law or otherwise, that person may claim the information to be Confidential information as defined herein, in respect of the whole or any part of the information.
- (2) The Commission shall set out procedures and publish them in the Gazette on how it will disclose its confidential information.
- (3) Any person who discloses confidential information other than as authorized by the Commission, shall be deemed to have committed an offence.
- (4) Notwithstanding anything contained in this section of the Act, this section shall be construed in accordance to the applicable sections of the Right To Information Act of Bangladesh.

CHAPTER 4.

Power of the Government to issue policy directives

28. Powers of the Government -

- (1) The Government shall have the power of issuing policy directives for the decision-making in the sector, provided
 - (a) shall be accompanied by written rationale provided simultaneously with the directives;
 - (b) shall not affect the techno-economic efficiency, social equity and justice, and environmental sustainability of the sector; and
 - (c) if it involves the financial and economic implications, that shall be borne by the government, and compensated to the relevant agencies.
- (2) The Government may, if required in consultation with the Commission, issue policy directives.

29. Emergency power to control water use -

The Government may, in consultation with the Commission, control or prohibit the use of water and may make rules relating to distribution of water, to meet the unexpected shortfall, or an emergency condition in respect of availability or use of water;

CHAPTER 5.

Grievance Redress Mechanism, Review, and Appeal

30. Grievance redress mechanism -

- (1) The Commission shall have a decentralised grievance redress mechanism, and shall publish it in the form of regulations, to address grievances of users, service providers, and other stakeholders of the sector.
- (2) The Commission may *suo-moto* deploy the grievance redress mechanism to issue reasoned orders to any stakeholders as the Commission deems necessary and required for carrying out the duties and functions allocated to the Commission under this Act.

31. A decision by a branch office to be placed on the public register -

- (1) A decision by a branch office of the Commission, a Member or Members or employees of the Commission shall, if not applied for review in pursuant to section 32, be placed on the Public Register.
- (2) Where there is an application for review of a decision of the branch office of the Commission, a Member or Members or employees of the Commission, that decision shall not be placed on the Public Register until the application for review or the appeal to the court or entity to be specified by regulations, is resolved.

32. Review, and Appeal against the decisions of the Commission -

- (1) Any person, organisation, entity, or informal group aggrieved by the decision of the Commission or any other decision made in connection to the purposes of this Act, may,
 - (a) file a review petition to the Commission within a period prescribed by the regulations; or

- (b) where a review petition is rejected, or not admissible, prefer an appeal to the Court as may be prescribed by the rules.
- (2) Subject to the provisions of subsection (1), the grounds of appeal or review shall be on the following, that:
 - (a) the decision made was not based on evidence produced;
 - (b) there was an error in law;
 - (c) the procedures and other statutory requirements applicable to the Commission were not complied with and non-compliance materially affected the determination;
 - (d) the Commission was not in possession of evidence required for the determination of the matter;
 - (e) the Commission did not have power to make determination; or
 - (f) other grounds as specified by the Commission in its regulations, or by the Government in the rules, were not adhered to; or
 - (g) any other matter related to the functioning, scope, or purview of the Commission.
- (3) The Commission shall prescribe detailed procedure in respect of filing application, and review petition.

CHAPTER 6.

Tariffs

33. Power to regulate charges -

- (1) Subject to the provisions of sector legislation and licences granted under that legislation, the Commission shall carry out determination and regular reviews of tariff, penalty, and other charges including licencing fees and connection charges for water supply and sanitation services.
- (2) The Commission shall conduct public hearings and consultations on the methodology for tariff determination, tariff proposals, and tariff orders, in accordance with the regulations prepared by the Commission in this regard.
- (3) In making any determination, setting charges or establishing the method for regulating such tariffs, and charges, the Commission shall take into account:
 - (a) predictability and logical basis of arriving at tariffs;
 - (b) the costs of making, producing, and supplying the services;
 - (c) the return on assets in the regulated sector as per the policy directives or other sectoral decisions made;
 - (d) any applicable relevant benchmarks including international benchmarks for prices, costs and return on assets in comparable industries;
 - (e) the financial implications of the determination;
 - (f) environmental and social implication of determination;
 - (g) improvement of environment and public health;
 - (h) the policies, directives, and other documents (reports) promulgated by the Government or the relevant Ministries, with respect to regulation of the sector;
 - (i) the Water and Sewerage Authority Act, 1996 (Act 6 of 1996), the Bangladesh Water Act, 2013, the Water Resources Planning Act, 1992 (Act 12 of 1992), Local Government (Paurashava) (Amended) Act, 2010, Local Government (City Corporation) (Amended) Act, 2011, Bangladesh Water Supply and Sanitation Act 1998, and any other relevant law;
 - (j) the desirability of carrying out regular reviews of charges;
 - (k) any other factors specified in the relevant sector legislation;
 - (l) the interests of the users, investors, and the general public;
 - (m) the desire to promote competitive charges and attract market;
 - (n) any other factors the Commission considers relevant; and
 - (o) the implication of tariff, penalty, and other charges on:
 - (i) access to adequate quality and quantity water for all,
 - (ii) access to adequate quality of sanitation for all;
 - (iii) protection and conservation of water resources and the environment, and
 - (iv) other aspects of regulation of the sector as appropriate.

CHAPTER 7.
Services and Licences

34. Requirements for licence to provide water supply and sanitation services -
- (1) No person shall provide water supply or sanitation services except under the authority of a license issued by the Commission.
 - (2) All persons, entities, or other service providers {mandated/ empowered} under WASA Act, Pourashava Act, or rules or regulations made thereunder for the water supply and sanitation services shall be treated as licencees under this Act, and provisions of this Act shall be applicable to them.
 - (3) All persons or entities (whether registered or not) providing water supply or sanitation services under any arrangements other than under Acts or other legal instrument, shall apply for a licence to the Commission within {one} year of the commencement of this Act.
 - (4) The service providers with whom agreements have been executed between the service providers and the Government or any of its agencies, immediately before this Act comes into force shall be treated as licencees for the production, supply, distribution and storage of water along with the bulk water supply or provision of sanitation services under this Act, and notwithstanding anything contrary is contained in this section, the concerned conditions of the agreement shall be applicable to those cases.
 - (5) If a question or difference of opinion exists whether a person is engaged in water supply, and storage, distribution or provision of sanitation service under sub-section (1), such difference of opinion shall be addressed in accordance of the review and appeals procedures specified in CHAPTER 5.
 - (6) The Commission may order any person who is not a licencee or not empowered by any other way, to disconnect or stop the provisioning of services relating to water treatment, production, supply, storage and distribution, and sewerage services, subject to provisions 34(3) and 36 of this Act.
35. Grant, renewal, revision, suspension, and cancellation of licence -
- (1) A Licence may be issued, renewed, suspended, cancelled and revised by a process prescribed by regulations, which shall also specify the area of service to be covered by the licencee; provided that the area so prescribed may, but need not, coincide with the boundaries of the area or areas of jurisdiction of one or more local governments.
 - (2) The regulations for grant, renewal, revision, suspension and cancellation of licences shall consider including but not limited to the following principles:
 - (a) continuity of adequate level of services to the users;
 - (b) financial, economic, and environmental sustainability of service provision; and
 - (c) satisfaction of users with respect to the services being provided.
36. Exemption from the requirement of licence -
- (1) The Commission may make regulations for giving exemption from the requirement of licence subject to the fulfillment of the conditions specified herein.
 - (2) Any person, or entity (whether registered or not) who is exempted by the Commission shall have to observe those conditions which a licencee shall have to observe under the licence, or this Act, or the regulations, unless contrary is mentioned in the order of exemption.
 - (3) Exemption under this section may be given for a specified period;
 - (4) The Commission may revoke the exemption at any time recording reasons in writing.
37. Supply of bulk water -
- (1) No person shall supply water in bulk to a water services provider without a licence issued by the Commission, subject to sub-section 34(1), and subject to provisions 34(3) and 36 of this Act.
 - (2) Any service provider may enter into an agreement with any other licencee or service provider for the supply of water in bulk for any period and on terms and conditions to be approved by

the Commission, and where the supply is to be given by a person which is itself a water service provider, either within or outside the area of service of that water services provider.

(3) Where it appears to the Commission that:

(a) it is expedient that:

(i) a licensee or water service provider should give a supply of water in bulk to another licensee or water service provider; and

(ii) the other licensee or water service provider should take such a supply; and

(b) the giving and taking of such a supply cannot be secured by agreement, the Commission may, by order served on them, require the licensees or water service providers concerned to give and take such supply for such period such terms as it may specify.

38. Licence fees -

(1) A licensee shall pay to the Commission, on issue of the licence and at prescribed intervals thereafter, such licence fees as the Commission may determine and published in the Gazette from time to time by the Commission.

(2) The fee shall be determined by reference to a schedule of fees following public consultation.

39. Duty to provide adequate service -

(1) A service provider licenced or authorised under any Act to provide water supply and sanitation services shall-

(a) maintain its equipment and property used in the provision of the service in such condition as to enable it to effectively provide the service;

(b) make such reasonable effort as may be necessary to provide to the public service that is safe, adequate, efficient, reasonable, equitable, and non-discriminatory; and

(c) make such repairs, changes, extensions and improvements in or to the service as may be necessary or proper for the efficient delivery of the service to the user;

(d) provide a water supply and/or sewerage connection to any applicant within a reasonable period of time as stipulated in relevant regulations or indicate to the applicant why the application is being denied. Any disputes in this regard shall be settled in accordance with CHAPTER 8 of the Act.

40. Order of the Commission to comply with duty -

(1) Where the Commission discovers on its own or upon a complaint that the service provided by a service provider is not in accordance with section 39, the Commission shall in writing direct the provision of the adequate or reasonable service that should be provided and may include such other directions as to secure compliance with section 39.

(2) A direction under subsection (1) may include payment of compensation by the service provider to any user for damage or loss suffered on account of the failure of the service provider to comply with section 39.

41. Standards of performance of regulated service providers -

(1) The Commission shall monitor standards of performance established by the licencing authorities of service providers.

(2) Where a service provider fails to meet any required standard of performance, it shall pay such compensation as the Commission may determine to any person adversely affected as a result of the failure.

(3) The requirement for payment of compensation under this section:

(a) does not limit the right to any other remedy at law which may be available to the complainant;

(b) does not preclude the Commission from taking any other measure or imposing any other sanction that the Commission has a right to impose in respect of the act or omission that constitutes the failure.

42. Restrictions to the licensee -

(1) No licensee shall, without having prior permission in writing from the Commission, acquire any undertaking by purchase or any other means:

Provided that before making an application for such consent licensee shall serve 30(thirty) day's notice to the Commission and if the licence is for distribution and supply, in that case, to each of the concerned local authorities.

- (2) No licensee shall, without the prior permission from the Commission, sell, mortgage, lease, exchange or transfer by any other means his undertaking or any part of it.
- (3) Unless clearly prohibited by the condition of licence or by the general or special order of the Commission, any licensee can enter into contract for purchasing water.

43. Annual accounts of licensee -

Every licensee shall prepare annual audit report of the undertaking and each of the business units, in the form prescribed by the Commission, before the date specified by the Commission for this purpose and the same or an extract of a specific portion of it shall have to be published in a manner prescribed by the Commission.

CHAPTER 8.

Complaints and User Dispute Resolution

44. Receipt of complaints -

- (1) This section shall apply to any complaint against a supplier of regulated services in relation to any matter connected with the supply, possible supply or purported supply of the services.
- (2) Where a complaint is referred to, or otherwise comes to the attention of the Commission and it appears to the Commission that:
 - (a) the complainant has an interest in the matter to which the complaint relates; and
 - (b) the complaint is not frivolous or vexatious,the Commission shall investigate the matter.
- (3) Where it appears to the Commission at any time during or after its investigation that the supplier has not considered the complaint, or has not considered it adequately, the Commission may direct the complaint to the supplier with a request that the supplier should consider or reconsider the complaint.
- (4) Every licensee shall make arrangements for necessary numbers of complaint centers to receive complaints or inconvenience of the users regarding water supply and sanitation services or matters connected therewith and shall publish notices from time to time with information regarding the location of centers of communication.
- (5) Any user may submit their inconvenience or complaint to the said center over telephone or in writing.
- (6) All complaints received from the users and the information regarding their settlement shall have to be recorded in writing in a Public Register at that center.
- (7) After receipt of any information or complaint regarding the inconvenience from the user, licensee shall settle it within {7 (seven)} days and shall follow the regulations prepared by the Commission in this regard.
- (8) If the licensee, in spite of being informed by the user regarding his inconvenience or complain, fails to settle in due time and in due process, the said user may submit the matter in writing to the Commission for taking action.
- (9) The Commission shall pass a necessary reasoned order not exceeding {7 (seven)} days from the date of receipt of such application.

45. Procedure and powers of the Commission -

- (1) The Commission may order:
 - (a) requiring a party to supply services for specified periods;
 - (b) requiring a party to supply services on specified terms and conditions;
 - (c) requiring a party to pay the costs of another party or of a person appearing at the hearing or producing documents;
 - (d) dismissing a complaint; and
 - (e) as per the regulations prepared by the Commission in this regard.
- (2) Subject to the provision of subsection (1), the orders of the Commission shall be enforceable as orders of a competent court to be specified by regulations.

CHAPTER 9.
Power to Issue Orders and Enforce their Compliance

46. Interim or final order -

- (1) Where the Commission is satisfied that a person has committed or is likely to commit an offence against this Act or a sector Act, it may *suo moto* make a compliance order under this section.
- (2) Any person against whom an interim or final order is made shall comply with the order.
- (3) An interim or final order may require a person to refrain from conduct which is in contravention of the provisions of this Act or a sector Act or to take actions required to be taken in order to comply with this Act or a sector Act.
- (4) An interim or final order shall be made in writing specifying the grounds for its making and shall be enforceable as an injunction by a competent court to be specified by regulations.
- (5) A copy of an interim or final order shall be placed on the Public Register and a copy shall be served on the person against whom it is made.

47. Emergency powers -

In consideration of objectives of this Act and the necessity of providing uninterrupted supply of water to the users, subject to the approval of the Government, the Commission, shall be authorized to order any licensee for vesting any undertaking of the licensee, its properties, along with its interests, rights, duties of management and control, to any other person or Local Authority till the completion of investigation and issuance of interim or final order for the preservation of the object as required under this Act and in the interest of safe and uninterrupted supply of water to the users, no question can be raised against such order, but before giving such order, Commission shall provide opportunity to the licensee for hearing in accordance with the provisions of this Act.

48. Implementation of interim or final order -

- (1) Without affecting any provision of this Act, all orders and instructions, be it interim or final, shall be implemented in such a way, as if the same is a decree of a Civil Court
- (2) Commission, at the time of passing interim or final order, may order the violator to pay compensation to a person(s) who suffered loss for their work.

49. Regulations for issue and enforcement of Orders -

- (1) The Commission within the framework specified in directives, policy documents, and other relevant documents prepared, promulgated, or endorsed by the Government, may make regulations with respect to:
 - (a) codes of conduct;
 - (b) records to be kept, including the form and content of accounting and business records, and information and documents to be supplied to the Commission by regulated suppliers;
 - (c) standards of regulated services;
 - (d) terms and conditions of the supply of regulated services;
 - (e) conduct in connection with the production, distribution and supply of regulated services;
 - (f) complaint handling procedures;
 - (g) tariffs and charges for regulated services;
 - (h) levies and fees payable to the Commission;
 - (i) the circumstances in which, and the terms and conditions on which, a supplier or intending supplier of regulated services shall be able to gain access to facilities owned or controlled by another person;
 - (j) such other matters as the Commission considers necessary or desirable to give effect to this Act.
- (2) The Commission shall, for the regulations to be made under this section, make pre-publication of all the regulations soliciting objection or advice through it, and shall make regulations after consideration of the objection or advice received.

- (3) The regulations made by the Commission under subsection (1) shall not be inconsistent with this Act, a sector law, or rules or regulations made under this Act or sector law.
- (4) Any person who contravenes or fails to comply with regulations made under this section is guilty of an offence and is liable on conviction to a fine specified by the Commission.

CHAPTER 10.
Offence and Penalty

50. Offences -

- (1) Any person who contravenes or fails to comply with a provision of this Act, commits an offence against this Act and is liable on conviction to a fine specified by the regulations made by the Commission.
- (2) A person commits an offence against this Act if he or she:
 - (a) aids, abets, counsels or procures;
 - (b) conspires with others to commit; or
 - (c) is directly or indirectly knowingly concerned in, an offence under subsection (1).

51. Offence by a company -

If an offence is committed by a Company under the Act, the Proprietor, Director, Manager, Secretary or any other officer of the Company who was responsible for the operation of the business at the time of commission of such offence, shall be deemed to be an offender unless he can prove that, the said offence was committed beyond his knowledge or he tried his level best to prevent the commission of the offence.

Explanation - In this section -

(a) In the case of business organization "Director" means any partner or member of the Board of Directors.

- (1) For the purposes of this section, any partner of a firm shall be jointly and severally liable for the acts or omissions of any other partner of the same firm done or omitted to be done in the course of the firm's business.
- (2) For the purposes of the provisions of this section, a penalty for non compliance of an order of the Commission shall be a fine which shall be equal to a civil debt.

52. Not to hinder with proceedings under the Act -

The proceedings or measures taken under this Act, rules or regulations shall be in addition to the measures provided by or under any other Act and shall not restrict any measures including penal measures provided in that other Act.

53. Filing of complaint and procedure of investigation -

- (1) The Commission may authorize an Inspector or any other officer for investigation of an offence under this Act.
- (2) Inspector or the said officer, herein after called investigating officer, may start proceeding under this Act, on the basis of written complaint of any person or on any other information.
- (3) An Investigating Officer of an offence, shall submit a primary report to an officer appointed for this purpose by the Commission and the said officer, after considering the relevant incident and the circumstances, shall give a decision within seven days from the date of receipt of the report whether formal investigation or other recourse in accordance with the provisions of the Act or regulations shall be taken or any action at all be taken, and accordingly next step will be taken.
- (4) An Investigating Officer in connection with an investigation of an offence may exercise the powers like an officer in charge of a police station under the Code of Criminal Procedure.
- (5) After completion of the investigation, the Investigating Officer shall submit original copy of the investigation report and documents in support of it or attested copies of those to the Magistrate of the first class or Metropolitan Magistrate having jurisdiction and a copy of the same shall be kept in his or her office.
- (6) Notwithstanding the provisions of sub-section (3), due to the necessity of the concerned offence and circumstances, the Investigating Officer may, if he or she is satisfied that because

of delay the said deed, things or equipment may be removed or destroyed and may arrest the person involved in the offence, if he thinks that the accused may abscond, seize documents, things and equipment relating to the offence, even before receiving formal decision of investigation.

54. Application of Code of Criminal Procedure -

- (1) Subject to this Act, rules, and regulations made under it, Code of Criminal Procedure, 1998 (Act V of 1998) shall be applicable for the investigation, trial, appeal and all other incidental matters.
- (2) A case started in the Court under this Act on the basis of the report of the Investigating Officer shall be treated as a case started on the basis the police report under the Code of Criminal Procedure.

55. Assistance to the Public Prosecutor by the Officer of the Commission -

In conducting a case under this Act, before the Court of Sessions, Public Prosecutor or concerned Additional or Assistant Public Prosecutor may be assisted by an officer so appointed by the Commission and the said officer being present in the Court may make submission before the Court.

CHAPTER 11.

Financial Provisions

56. Establishment of the fund of the Commission -

- (1) The Commission shall have a fund to be known as the Water Supply and Sanitation Regulatory Commission Fund and the Fund shall consist of:
 - (a) grants and loans made to the Commission by the Government under sub-section (3);
 - (b) all fees received by the Commission under sub-section (4);
 - (c) all sums received by the Commission from such other sources as may be decided upon by the Government through rules made pursuant to this Act.
- (2) The Fund shall be utilized to meet:
 - (a) the expenses relating to the salary, allowances and other remuneration of Chairperson, Members, Secretary, officers and other employees of the Commission;
 - (b) the expenses of the Commission in discharge of its functions under this Act;
 - (c) the expenses on objects and for purposes authorised by this Act;
 - (d) the expenses incurred for operations of the grievance redressal, appellate, and other mechanisms, and the consultants to Commission.
- (3) The Commission shall every year prepare its budgeted fund requirement, providing for discharge of its duties and functions as prescribed in this Act, for operations, for preparation of accounts and audit reports, and for hiring of Consultants.
- (4) A regulatory fee may be recovered from all service providers across the purview of the Commission.
 - (a) The regulatory fee may be allocated to water user categories based on objective and independent criteria, to be specified by the Commission as part of the regulations.
 - (b) Regulatory fee shall be treated as an integral part of the costs of operations of the water sector.
- (5) The Commission shall by regulations published in the official Gazette and Public Register prescribe filing fees, fixing fees, licence fees and other fees to be paid in connection with the procedures of the Commission.

57. Surplus funds -

- (1) As soon as may be reasonably practical after the end of each financial year but not later than 60 days after the end of the financial year, the Commission shall deposit to a Special Account all surplus funds of the Commission at the end of that financial year.
- (2) The Commission shall use funds from the Special Account only for one or more of the following purposes:
 - (a) user education or information projects;
 - (b) special non-recurring projects;

- (c) budgeted capital expenditure; and/or
- (d) major rate regulating inquiries.

58. Accounts and audits -

- (1) The Commission shall maintain proper accounts, keep books of accounts and maintain proper records of its operations and shall prepare annual statement of accounts in accordance with commercial accounting standards.
- (2) The accounts of the Commission
 - (a) may, at any time, and
 - (b) shall, at the end of the financial year,be audited by an independent auditor registered as an auditor, being chartered accountants within the meaning of the Bangladesh Chartered Accountants Order, 1973 (P.O.No 2 of 1973), who shall be appointed by the Commission, in consultation with the Auditor-General, on such terms and conditions as the Commission may determine.
- (3) Notwithstanding anything contained in sub-section (2), the Auditor-General
 - (a) shall at least once every two years; and
 - (b) may, at any time, either of her or his own motion or upon a request in this behalf from the Government or the Commission-such an audit of the performance by the Commission of its functions including its performance in relation to key performance indicators.
- (4) The Auditor-General may conduct additional audits of the performance of the Commission.
- (5) The Commission shall annually publish and host on its website audited accounts reports as part of its Annual Report.
- (6) The Commission shall make available copies of its audit reports and the reports of the CAG to the Head of the Nomination Committee and the Minister.

59. Annual report -

- (1) Before 30th December of each year, the Commission shall prepare an annual report in respect of that year up to the immediately preceding 30th June and submit it to the Government and the Minister shall cause it to be laid before Parliament.
- (2) The annual report shall provide detailed information regarding the exercise of the functions and powers of the Commission during the year to which it relates and shall include:
 - (a) a copy of the audited accounts of the Commission as per section 58 of this Act;
 - (b) a copy of the report of the Controller and Auditor-General on the performance audit carried out under section 58 of the Act;
 - (c) such information and other material as the Commission may be required by this Act or the regulations to include in the annual report.
- (3) The Commission shall make available the copies of its Annual Report to the Government within fifteen days of preparation of such report.

60. Budget -

Every year, the Commission shall for the next financial year, submit to the Government annual budget statement within the time specified by the Government and in such statement the estimated amount to be required from the Government for that financial year shall be mentioned, and before commencement of that financial year, the Government shall on the basis of that statement allocate the necessary budget.

CHAPTER 12.

Miscellaneous Provisions

61. Government's power to make rules -

The Government may, in consultation with the Commission and by notification in the official Gazette, make rules to carry out the purposes of this Act.

62. Commission's power to make regulations -

- (1) The Commission in accordance with the provisions of this Act, shall make regulations to determine a phased approach for the regulations and other provisions of this Act to be applicable to various service providers.
- (2) The Commission may, by notification in the official Gazette, make regulations to carry out the purposes of this Act.
- (3) The Commission shall pre-publish all the proposed regulations in draft on its website and announce through at least three dailies widely read in Bangladesh, soliciting objection or advice through such pre-publication, and shall make such regulations after giving due consideration to the objections or advice received.

63. Transitional Provisions -

- (1) All Licences and permits granted, prior to the commencement of this Act, in relation to the production, distribution or supply of regulated services shall remain in force as if these are granted under this Act.
- (2) This Act shall not operate so as to affect in a prejudicial way the rights of any person under a licence or permit granted prior to the commencement of this Act or any contract entered into prior to the commencement of this Act.

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