

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

বৃহস্পতিবার, মে ২১, ২০১৫

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

গোজিস্টেটিভ ও সংসদ বিষয়ক বিভাগ
আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়
মুদ্রণ ও প্রকাশনা শাখা

প্রজ্ঞাপন

তারিখ, ০৮ জ্যৈষ্ঠ, ১৪২২ বঙ্গাব্দ/১৮ মে, ২০১৫ খ্রিস্টাব্দ

নং ১৩-৩৬.০১.০০০০.০৭৫.০২২.০৯.১৪-অনুবাদ-২০১৫—সরকারি কার্যবিধিমালা, ১৯৯৬
এর প্রথম তফসিল (বিভিন্ন মন্ত্রণালয় এবং বিভাগের মধ্যে কার্যবণ্টন) এর আইটেম ২৯(খ) এর
ক্রমিক ৫ ও ৮ এবং মন্ত্রিপরিষদ বিভাগের বিগত ০৩-০৭-২০০০ ইং তারিখের সভায় গৃহীত সিদ্ধান্ত
বাস্তবায়নের নিমিত্তে “বাংলাদেশ এ্যাক্রেডিটেশন আইন, ২০০৬” এর ইংরেজিতে অনুদিত পাঠ
সর্বসাধারণের জ্ঞাতার্থে প্রকাশ করিল।

মোহাম্মদ দেলোয়ার হোসেন
সহকারী সচিব।

(৩৪২৫)
মূল্য : টাকা ২০.০০

Bangladesh Accreditation Act, 2006**Act No. IXXX of 2006****[16 July, 2006]**

An Act to make provisions for issuance of accreditation certificate to different laboratories, certification bodies, inspection bodies, training institutions or persons

Whereas it is expedient and necessary to make provisions for issuance of accreditation certificate to different laboratories, certification bodies, inspection bodies, training institutions or persons;

Therefore it is hereby enacted as follows :—

Chapter I**Preliminary**

1. Short title and commencement.—(1) This Act may be called the Bangladesh Accreditation Act, 2006.

(2) It shall come into force on such date as the Government may, by notification in the *official Gazette*, appoint.

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

- (a) “**assessor**” means any person or institution appointed by the Board for assessment of conformity;
- (b) “**accreditation**” means the recognition of competence given by the Board in performing the tests or other activities specified in the certificate issued by the name of any laboratory, certification body, inspection body, training institution or person;
- (c) “**accreditation certificate**” means accreditation certificate issued by the Board under section 14;
- (d) “**accreditation mark**” means any registered mark determined by the Board;
- (e) “**Chairman**” means the Chairman of the Board;
- (f) “**test**” means any method or condition or practice for measurement, or measurement of any items, objects or materials tested or inspected under this Act;

- (g) “**laboratory**” means any institution, where testing or calibration of different elements, objects, items etc. are carried out by the experts or professionals;
- (h) “**inspection body**” means any institution, where inspections are carried out by the experts or professionals;
- (i) “**regulations**” means regulations made under this Act;
- (j) “**training institution**” means any institution, where training or teaching is imparted for the development of skill under any curriculum or module prescribed by the Board or any other similar institution;
- (k) “**Criminal Procedure**” means the Code of Criminal Procedure, 1898 (Act No. V of 1898);
- (l) “**person**” means any person and any institution, company, partnership business, firm and also includes any other organization;
- (m) “**Board**” means the Accreditation Board constituted under section 3 of this Act;
- (n) “**rules**” means rules made under this Act;
- (o) “**Vice-Chairman**” means the Vice-Chairman of the Board;
- (p) “**Director-General**” means the Director-General of the Board;
- (q) “**certification body**” means any institution which issues certificates on different products or service by experts or professionals.

Chapter II

Board

3. Establishment of the Board.—(1) As soon as may be after the commencement of this Act, the Government shall, by notification in the *official Gazette*, establish a Board to be called the Bangladesh Accreditation Board.

(2) The Board shall be a body corporate, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold, manage and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

4. Head office of the Board, etc.—(1) The head office of the Board shall be at Dhaka.

(2) The Board, if necessary, may establish its branch office at any other place in Bangladesh.

5. Constitution of the Board.—(1) The Board shall consist of the following members, namely :—

- (a) Secretary, Ministry of Industries, ex-officio;
- (b) Secretary, Ministry of Food, Relief and Disaster Management, ex-officio;
- (c) Secretary, Ministry of Commerce, ex-officio;
- (d) Secretary, Ministry of Science and Information & Communication Technology, ex-officio;
- (e) Secretary, Ministry of Health & Family Welfare, ex-officio;
- (f) Secretary, Ministry/Division in respect of subject matter;
- (g) two members amongst persons having profound knowledge in the field of science, trade, industry and administration, to be nominated by the Ministry of Industries, of which one shall be a prominent scientist and the other having higher academic qualification with experience in the field of trade, industry or administration;
- (h) President, Federation of Bangladesh Chamber of Commerce and Industry;
- (i) one representative to be nominated by the Vice-Chancellor of Bangladesh University of Engineering and Technology (BUET) at the rank of Professor;
- (j) Head of a Certification Body to be nominated by the Association of Certification Bodies;
- (k) Head of a Testing Laboratory to be nominated by the Association of Testing Laboratories; and
- (l) Director-General of the Board, who shall also be its Member-Secretary.

(2) No act or proceeding of the Board shall be invalid or be called in question merely on the ground of any vacancy in the Board.

6. Appointment of Chairman and Vice-Chairman, etc.—(1) The Board shall consist of a Chairman to be appointed by the Government and the terms and conditions of his appointment shall be determined by Government and he shall preside over the meeting of the Board.

(2) The term of office of the Chairman shall be three years from the date of his appointment.

(3) The members shall appoint one Vice-Chairman amongst them for three years in the first meeting of the Board and nominate a Chairman panel consisting of three members.

(4) If any vacancy occurs in the office of the Chairman or if the Chairman is unable to discharge the functions of his office on account of absence, illness or any other reason, the Vice-Chairman shall act as the Chairman until a newly appointed Chairman holds office or until the Chairman resumes the functions of his office.

(5) In the absence of both the Chairman and the Vice-Chairman, any member amongst the panel members approved by the Board in this behalf, shall act as the Acting Chairman of the Board in accordance with the serial of the panel.

7. Term of office of the members and resignation.—(1) The term of office of the members nominated under clause (g) to (k) of section 5(1) shall be three years from the date of their nomination.

(2) Any nominated member specified in sub-section (1), may resign his office by writing under his hand addressed to the Chairman and the office shall be deemed to be vacant on the date on which the resignation is accepted.

(3) If the office of any nominated member specified in sub-section (1), becomes vacant for any reason, the vacancy may be fulfilled by fresh nomination by the concerned institution for the remainder of the term of the office.

8. Meetings of the Board.—(1) Subject to the other provisions of this section, the Board may determine the procedure of its meeting.

(2) The meeting of the Board shall be called by the Chairman and shall be held at such place and time as may be determined by him :

Provided that there shall be at least one meeting of the Board in every three months.

(3) The meeting of the Board shall be presided over by the Chairman or, in his absence, by its Vice-Chairman, and in the absence of both of them, by any member amongst the panel members approved by the Board in this behalf, present in meeting in accordance with the serial of the panel.

(4) To constitute a quorum at a meeting of the Board, the presence of “50 percent” members shall be required.

(5) For taking decision in the meeting of the Board, the consent of the majority of the members present in the meeting shall be required.

(6) Each member shall have one vote in the meeting of the Board and, in case of equality of votes, the person presiding over the meeting shall have a second or casting vote.

(7) The members of the Board present in the meeting shall be entitled to such remuneration as may be prescribed by regulations.

9. Committee.—The Board may constitute one or more than one committees to assist it in the discharging its functions and the number of members, responsibilities and terms of reference of each committee shall be determined by the Board.

10. The functions of the Board.—The functions of the Board shall be as follows, namely :—

- (a) to issue, renew, cancel, suspend and revoke the accreditation certificate of the laboratories, certification bodies, inspection bodies, training institutions or persons under this Act;
- (b) to determine and develop the criterion and requirements for issuance of accreditation certificate to laboratories, certification bodies, inspection bodies, training institutions or persons;
- (c) to conduct accreditation activities in accordance with the directives laid down in the guidelines and standards determined and prescribed by the International Organization for Standardization (ISO) and the International Electro Technical Commission (IEC) and other similar national, regional and international organizations;

- (d) to ensure competence in national, regional and internationally accepted accreditation practices;
- (e) to facilitate national, regional and international cooperation in accreditation;
- (f) to encourage the concerned persons regarding accreditation and promote the activities of accreditation, arrange training, and organize seminars, symposiums, etc. and take necessary steps for dissemination of information on accreditation;
- (g) to arrange for multilateral recognition on mutual recognition among inter-state, regional and international bodies;
- (h) to undertake necessary arrangements to act as an agent of similar accreditation certification organization or of any other local or foreign organization;
- (i) to appoint assessor on contract basis; and
- (j) to do all other activities ancillary or incidental to any of the functions specified above.

Chapter III **Accreditation Certificate, etc.**

11. Establishment and operation of laboratories, etc.—Laboratories, certification bodies, inspection bodies, training institutions, etc. may be established or operated after obtaining accreditation certificate under section 14 of this Act.

12. Conditions for establishment and operation of laboratories, etc.—The conditions for establishment and operation of laboratories, certification bodies, inspection bodies, training institutions, etc. may be prescribed by regulations.

13. Application for accreditation certificate, etc.—(1) Any person desirous to establish and operate any laboratory or certification body or inspection body or training institution, etc. may apply to the Board for accreditation certificate in such forms and procedures as may be prescribed by regulations.

(2) On receipt of application under sub-section (1), the Board shall, within seven days of receipt of the application, send it to the scrutiny committee for verification of the information specified in the application.

(3) On receipt of application under sub-section (2), the scrutiny committee shall, within ninety days of receipt of the application, physically visit the site specified in the application and after examining the information and making enquiry regarding all the matters, submit a complete report to the Board on the matter.

14. Issuance of accreditation certificate.—On receipt of the report under sub-section (3) of section 13, the Board shall—

- (a) if satisfied that the applicant is capable to fulfill the conditions prescribed by regulations to establish and operate any laboratory or certification body or inspection body or training institution, etc. issue an accreditation certificate to the applicant, within thirty days by realising accreditation fees specified under section 18; or
- (b) if of the opinion that it is expedient to give an opportunity to the applicant for fulfilling the conditions prescribed by regulations, give thirty days time to the applicant for fulfilling the conditions; and
 - (i) issue an accreditation certificate within next fifteen days after being satisfied that the applicant has fulfilled all the conditions within the time specified; or
 - (ii) reject the application and inform the applicant about it, if he has failed to fulfill the required conditions within the time specified; or
- (c) if of the opinion that the applicant has not been able to fulfill most of the conditions prescribed by regulations, and if the applicant is given the opportunity specified in clause (b), there is no possibility of being able to fulfill the rest of the conditions within the time specified, reject the application directly and inform the applicant about such rejection within fifteen days.

15. Rules regarding taking certificate of existing laboratory, etc.—If any person has established and started to operate any laboratory, certification body, inspection body, training institution, etc. before the commencement of this Act, he may apply to the Board, within thirty days of the commencement of this Act, in prescribed forms and procedures as may be specified in sub-section (1) of section 13 and on receipt of such application, the Board shall follow the procedures specified in sub-section (2) and (3) of section 13 and section 14.

16. Scrutiny Committee.—The Board shall constitute a scrutiny committee consisting of the Vice-Chairman, one member amongst the nominated members from clause (e) to (g) of section 5(1) and the Director-General to carry out the purposes of this Act.

17. Validity of accreditation certificate and renewal.—(1) Accreditation certificate issued under section 14 shall be valid for a period of three years.

(2) Before 90 (ninety) days of the expiry of the validity of the accreditation certificate specified in sub-section (1), on payment of specified fees, application shall be made in such form as may be prescribed by regulations to the Board and on receipt of such application, the Board shall follow the procedures specified in sub-section (2), (3) of section 13 and section 14.

18. Accreditation fees, etc.—The Board, by regulations, may fix and re-fix the rate of accreditation fees and renewal fees.

19. Preservation and display of accreditation certificate.—Each accreditation certificate issued under section 14 shall be preserved and measures shall be taken by all accredited laboratory, certification body, inspection body, training institution or person to display it at a conspicuous place of the body or institution.

20. Use of accreditation mark and its time limit.—(1) An accreditation mark shall be used by the laboratory, certification body, inspection body, training institution or person obtained accreditation certificate under section 14.

(2) The accreditation mark shall remain valid for such time as the period of accreditation certificate issued to any laboratory, certification body, inspection body, training institution or person for conducting tests or other activities.

21. Restrictions on use of accreditation mark.—(1) No person shall use, on behalf of any laboratory, certification body, inspection body, training institution or person, the accreditation mark or any image similar to the mark, in the title of any patent, trade mark or design or advertisement or in any other process without obtaining an accreditation certificate under section 14.

(2) No laboratory, certification body, inspection body, training institution or person shall use the accreditation mark or any image of the mark similar to it, without complying the conditions of the certificate issued by the Board.

22. Prohibition of use of certain names, etc.—(1) Subject to the conditions specified in sub-section (2), any person may carry out any activity, business, trade or occupation by using a name assigned to the Board by this Act or any acronym thereof.

(2) Without the written approval of the Board—

(a) no trade mark, device, brand, heading, label, ticket, pictorial representation, name, signature, letter, numeral or any signature, letter, numeral containing the words of the name or acronym or the combination thereof accepted by the Board, shall be registered under the Trade Marks Act, 1940 (Act No. V of 1940) if already not registered under the Trade Marks Act, 1940 (Act No. V of 1940); and

(b) no person may, unless obtained accreditation under section 14, provide any service or facility under a mark which contains the words “Bangladesh Accreditation” or under a description, in which that words are used in such a manner as may create the impression that, he has been issued the accreditation under section 14.

(3) If any person, on the date of the commencement of this Act, is registered under any activity, business, trade or occupation or any name specified in sub-section (2) (a), irrespective of the conditions of sub-section (2), he shall be able to continue such activity, business, trade or occupation or be registered under such name.

23. Affixing of the seal of the Board.—In the case of the affixing of the seal of the Board to any instrument, the presence and attestation of an officer authorized by the Board shall be required.

24. Power to collect information, etc.—(1) Every applicant for certificate shall provide with such information and samples of any material or substance used in relation to any process prescribed by regulations to the Board, as the Board may require.

(2) Every applicant shall be bound to give the officers of the Board access to his registered business organization.

25. Revocation of accreditation certificate.—If it appears to the Board that any laboratory, certification body, inspection body, training institution or any person obtained accreditation certificate under section 14, is violating or not complying with the conditions or criterion specified in this Act or rules or regulations made thereunder, the Board may, after making such enquiry as it thinks fit, revoke the accreditation certificate in accordance with the provisions of regulations.

26. Appeals against administrative order, etc.—(1) For the purposes of this Act, any person affected or aggrieved by an order passed or any direction issued by the Director-General or any officer authorized by him, the person affected or aggrieved, within ninety days from the date of such order or direction, on payment of such fees as may be prescribed by regulations, may prefer an appeal for remedy—

- (a) to the Government, if the order is passed by the Director-General; and
- (b) to the Chairman, if the order is passed by any officer.

(2) In the case of an appeal under sub-section (1), it shall be disposed of within ninety days

(3) In the case of an appeal under sub-section (1), the decision of the Government shall be deemed to be final.

27. Confidentiality of information.—Any information obtained by any member or any officer or employee or an assessor of the Board from any statement made or information provided or evidence given or from any inspection report made under the provisions of this Act, shall be treated as confidential:

Provided that nothing in this section shall apply to the disclosure of any information for the purpose of any prosecution under this Act.

Chapter IV

Appointment of officers and employees and assessors

28. Director-General.—(1) There shall be a Director-General of the Board.

(2) The Government shall appoint any person as the Director-General having proper expertise in the field of industry, science and technology and the terms and conditions of his service shall be determined by the Government.

(3) If any vacancy occurs in the office of the Director-General or the Director-General is unable to discharge the functions of his office on account of absence, illness or any other reason, any person nominated by the Government shall act as the Director-General until a newly appointed Director-General holds office or until the Director-General resumes the functions of his office.

(4) The Director-General shall be the full-time Chief Executive Officer of the Board, and he shall—

- (i) be liable for implementing the decisions of the Board;
- (ii) perform the responsibilities and duties provided by the Board;
- (iii) operate the administration of the Board; and
- (iv) be liable to the Board for his overall activities.

29. Appointment of officers and employees.—The Board, according to the organogram approved by the Government, may appoint such number of officers and employees, as it considers necessary for the efficient performance of its functions and the terms and conditions of their services shall be prescribed by regulations.

30. Appointment of assessor.—(1) The Board may, by contract, appoint sufficient numbers of assessors as may be necessary for the efficient performance of its functions and their qualification, remuneration and other conditions shall be determined by the Board.

(2) The functions of the assessors shall be as follows, namely :—

- (a) to inspect the activities of any laboratory, certification body, inspection body, training institution or person for issuance of accreditation certificate and submit a report thereof to the Board;
- (b) to collect samples of any article, or of any material or substance used in any laboratory, certification body, inspection body or the instrument, method or curriculum used and followed by any training institution or person for the purpose of issuance accreditation certificate and submit a report thereof to the Board; and
- (c) to perform such other duties as may be determined by the Board.

Chapter V

Funds and Annual Budget Statement, etc.

31. Funds.—(1) There shall be a fund of the Board to conduct its activities.

(2) The money from the following sources shall be credited to the fund, namely:—

- (a) annual grants made by the Government;
- (b) donations given by any person or organization;
- (c) loans taken by the Board;
- (d) profits accruing from investment of the fund; and
- (e) income accruing against services provided by the Board and from the investment of its assets.

(3) The moneys credited to the fund, with the approval of the Board, shall be kept in any scheduled bank and the procedure of drawing that money from the bank shall be prescribed by regulations.

(4) The Board shall invest the fund or any portion of it in such manner as it deems necessary.

(5) The necessary expenditures of the Board shall be borne from the fund.

32. Annual Budget Statement.—(1) The Board shall, by such date in each year as may be prescribed, submit to the Government a budget statement for the next financial year mentioning the sums which are likely to be required from the Government during that financial year.

(2) The procedure specified by the Government shall be followed for the preparation of such Budget.

33. Accounts and Audit.—(1) The Board shall maintain proper accounts and prepare annual statement thereof.

(2) The Comptroller and Auditor-General, shall audit the accounts of the Board every year and shall send a copy thereof to the Government and the Board.

(3) For the purpose of an audit under sub-section (2), the Comptroller and Auditor-General or any person authorized by him in this behalf, shall have access to all records, documents, cash or money deposited in bank, securities and other property of the Board and may examine any member or officer or employee of the Board.

34. Annual report of the activities of the Board.—(1) The Director-General shall submit to the Board, within one month after the end of every financial year, a report of the conduct of its affairs of that year and the Board shall submit it to the Government and take necessary steps for publication.

(2) The Government may ask at any time a report or statement from the Board on any of its functions and the Board shall be bound to send it to the Government.

35. Power to borrow.—The Board may borrow money, from any commercial bank or any financial institution or any foreign organization approved by the Government to carry out the purposes of this act.

Explanation: Financial institution means any financial institution as defined in section 2(b) of Financial Institution Act, 1993 (Act No. XXVII of 1993).

36. Contract.—The Board may, if necessary, make contracts to conduct its affairs:

Provided that in the case of any contract with any foreign government or international organization, a prior approval of the Government shall be required.

Chapter VI

Offence and Penalty

37. Offences committed by companies, etc.—Where an offence under this Act is committed by any company, every director, manager, secretary, partner, officer and employee of that company having direct involvement with the offence, shall be deemed to have committed the offence, unless he proves that the offence was committed beyond his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Explanation: In this section—

- (a) “**company**” means any commercial organization, partnership business, association, society and also includes any organization;
- (b) “**director**”, in the case of commercial organization, means any partner thereof or also any member of its Board of Directors.

38. Cognizance of offences.—No court shall take cognizance of any offence under this Act, except on a complaint made by the Government or the Board or any officer authorized by it in this behalf.

39. Trial of offences by Magistrate, etc.—The offences under this Act shall be tried by any first class Magistrate or, as the case may be, any Metropolitan Magistrate.

40. Penalty.—If any person violates the provisions of section 19, 20, 21 and 22 of this Act, he shall be punished for the offence with imprisonment, for a term not exceeding three months or with fine not less than Taka twenty thousand and not exceeding Taka five lac or with both.

41. Appeals against penalty.—An appeal may be preferred, against any judgement or order, passed by any first class Magistrate or, as the case may be, any Metropolitan Magistrate, to any court having jurisdiction of a session court under this Act.

42. Application of Criminal Procedure.—Subject to not being inconsistent with the provisions of this Act, Criminal Procedure shall be applicable for investigation of offences, trial, appeal and other matters relating thereto under this Act.

43. Non-cognizability and bailability of offences.—The offences under this Act shall be non-cognizable and bailable.

44. Confiscation.—(1) When any person is convicted and sentenced under this Act, the court may order to confiscate all or any part of the product and equipment in respect of which the offence was committed.

(2) All or any part of the product or equipment so confiscated under sub-section (1), shall be disposed of in such manner as the court may direct.

Chapter VII

Miscellaneous

45. Delegation of powers.—The Board, subject to the terms and conditions determined by it, may delegate any of its power to the Director-General or any other member of the Board.

46. Protection of actions taken in good faith.—No suit or prosecution or any other legal proceeding shall lie against the Government, any Member, Director-General or any other officer or employee of the Board, or any officer of the Government or the Government or for any publication, report under the authority of the Board or for any publication, report, proceeding under the authority of any officer or employee of the Government or the Board, which is in good faith, done under this Act or rules or regulations made thereunder, if it may cause or likely to be caused any damage to any person.

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

48. Power to make regulations.—The Board may, with prior approval of the Government, by notification in the *official Gazette*, make regulations.

49. Publication of Authentic English Text.—(1) After the commencement of this Act, the Government shall, by notification in the *official Gazette*, publish an English text to be called the Authentic English Text of this Act:

Provided that in the event of any conflict between the Bangla and the English text, the Bangla text shall prevail.