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PART IIIA—Ordinances and Orders promulgated by the President of the People's Republic of Bangladesh.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 849-Pub.—27th September, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 26th September, 1972, is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 120 of 1972.

THE BANGLADESH MINERAL EXPLORATION AND DEVELOPMENT CORPORATION ORDER, 1972.

WHEREAS it is expedient to provide for the establishment of a Corporation for the purposes of exploration and development of mineral resources and production and sale thereof and for matters connected therewith;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (1) This Order may be called the Bangladesh Mineral Exploration and Development Corporation Order, 1972.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force at once.

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

- (a) "Board" means the Board of Directors of the Corporation;
- (b) "Chairman" means the Chairman of the Corporation;
- (c) "Corporation" means the Bangladesh Mineral Exploration and Development Corporation established by this Order;
- (d) "Director" means the Director of the Corporation;
- (e) "Government" means the Government of the People's Republic of Bangladesh;
- (f) "Mineral" means all minerals and rock resources, metal or non-metal, including coal, limestone, clay, sand, metalliferous ore and non-metallic mineral and any other naturally occurring substance which may be used either in its original form or after processing for economic purposes;
- (g) "prescribed" means prescribed by rules or regulations made under this Order;
- (h) "Schedule" means Schedule to this Order.

3. (1) On the commencement of this Order, there shall be established a Corporation to be called the Bangladesh Mineral Exploration and Development Corporation for carrying out the purposes of this Order.

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

4. (1) The Head office of the Corporation shall be at Dacca.

(2) The Corporation may establish such regional or other offices, branches and agencies as the Board may think fit.

5. (1) Subject to the provisions of this Order, the functions of the Corporation shall generally be to undertake scientific research and to plan, promote, organise and implement programmes for the exploration and development of mineral resources, and the production and sale of mineral resources, and such other functions as the Government may, from time to time, assign to the Corporation.

(2) Without prejudice to the generality of the foregoing provision, the Corporation shall, in particular, have power—

- (a) to carry out geological, geophysical and other surveys for the exploration and development of mineral resources;
- (b) to carry out drilling and other prospecting operations to prove and estimate the reserves of mineral resources and collect all data required for adopting the most suitable mining method;
- (c) to set up mining industries and to continue production and sale of the mined commodities;
- (d) to acquire all existing mining industries in the country for judicious and efficient operations;

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- (e) to take up, execute and operate the projects mentioned in the Schedule;
- (f) to take up, execute and operate any other project on mining and mineral development which the Government may, by notification in the *official Gazette*, include in the Schedule;
- (g) to contribute towards the cost of any studies, experiments or technical research connected with the functions of the Corporation and undertaken or done in the interest of the Corporation by any other person, body or agency;
- (h) to undertake, assist or encourage the collection, maintenance and publication of statistics, bulletins and monograph;
- (i) to perform any other functions which may be supplemental, incidental or consequential to any of the functions aforesaid, or which may be prescribed;
- (j) to exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under this Order.

6. (1) The authorised capital of the Corporation shall be one crore Taka to be subscribed by the Government in the manner determined by the Government from time to time according to the requirements of the Corporation.

(2) Notwithstanding anything contained in clause (1), the Corporation may, for carrying out all or any of its functions, have separate capital raised by loan or grant from, or in such other manner as may be approved by, the Government.

7. (1) Subject to the rules and regulations made under this Order, the general direction and administration of the affairs and business of the Corporation shall vest in a Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Corporation.

(2) The Board in discharging its functions shall act on commercial considerations having due regard to public interest generally and shall be guided on questions of policy involving national interest by such instructions as may be given to it by the Government from time to time.

8. (1) The Board shall consist of a Chairman and not less than three and not more than five other Directors to be appointed by the Government.

(2) No act or proceeding of the Board shall be invalid merely on the ground of existence of any vacancy in, or any defect in the constitution of the Board.

9. (1) The Chairman shall be the Chief executive officer of the Corporation.

(2) The Chairman and other Directors shall be whole time officers of the Corporation and shall hold office for such period and on such terms and conditions as may be determined by the Government.

(3) The Chairman and the other whole time Directors shall divest themselves of any directorship held by them in any other Corporation or in any company otherwise than on behalf of the Corporation.

(4) The Chairman and other Directors shall exercise such powers, perform such functions and discharge such duties as may be prescribed or assigned to them by the Board.

10. (1) No person shall be or shall continue to be a Director who—

- (a) is or any time has been disqualified for employment in or dismissed from the Government service; or
- (b) is, or at any time has been, convicted of an offence involving moral turpitude; or
- (c) is, or at any time has been adjudicated insolvent; or
- (d) is found to be a lunatic or becomes of unsound mind; or
- (e) is a minor; or
- (f) absents himself from three consecutive meetings of the Board without leave of absence granted by the Chairman, or, in the case of the Chairman, by the Government.

(2) The Government may, by order in writing, remove the Chairman or a Director if he—

- (a) refuses or fails to discharge or becomes, in the opinion of the Government, incapable of discharging his responsibilities under this Order; or
- (b) has, in the opinion of the Government, abused his position as Chairman or Director; or
- (c) has knowingly acquired or continued to hold without the permission in writing of the Government directly or indirectly or through a partner any share or interest in any contract or employment with or by or on behalf of the Corporation.

11. (1) The meetings of the Board shall be held at such times and at such places as may be prescribed:

Provided that a meeting may also be otherwise convened by the Chairman when he thinks so fit.

(2) To constitute a quorum at a meeting of the Board, the number of Directors present shall be two, but if the total number of Directors is five, at least three Directors shall be present to constitute such quorum.

(3) At a meeting of the Board each Director shall have one vote, and in the event of equality of votes, the Chairman shall have a second or casting vote.

(4) No Director shall vote on any matters in which he is directly or indirectly interested.

(5) The meetings of the Board shall be presided over by the Chairman, and in the absence of the Chairman, by the Director authorised by the Chairman in writing in that behalf, or in default of such authorization, by the person elected for the purpose by the Directors present from amongst themselves.

12. The Corporation may, with the previous approval in writing of the Government, sponsor the formation of subsidiary companies for commercial exploitation of mineral resources and may hold an interest therein and may also, subject to the general policy of the Government regarding foreign investment, permit any foreigner to hold an interest in such companies.

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13. The Corporation may open and operate any accounts with any bank or banks.

14. The Corporation may invest its funds in such securities as may be authorised by the Government.

15. The Corporation shall, by such date in each year as may be prescribed, submit to the Government for approval a statement to be called the Annual Budget Statement, in the prescribed form for each financial year showing the estimated receipts and expenditure and the sums which are likely to be required from the Government during that financial year.

16. (1) The Corporation shall maintain proper accounts and other relevant records, and prepare annual statement of accounts, including the profit and loss account and balance-sheet, in accordance with such general directions as may be issued, and in such form as may be prescribed by the Government.

(2) The accounts of the Corporation shall be audited by not less than two auditors, being chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (Ord. No. X of 1961), who shall be appointed by the Government.

(3) Every auditor appointed under clause (2) shall be given a copy of the annual balance-sheet and other accounts of the Corporation and shall examine it together with the account books and vouchers relating thereto; and shall have a list delivered to him of all books kept by the Corporation, and shall at all reasonable times have access to the books, accounts and other documents of the Corporation, and may in relation to such accounts examine any Director or officer of the Corporation.

(4) The auditors shall report to the Government upon the annual balance-sheet and accounts, and in their report they shall state whether, in their opinion, the balance-sheet contains all necessary particulars and is properly drawn up so as to exhibit a true and correct view of the state of the Corporation's affairs, and if they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(5) The Government may, at any time, issue directions to the auditors requiring them to report to it upon the adequacy of measure taken by the Corporation for the protection of the interest of the Government and of the creditors of the Corporation or upon the sufficiency of their procedure in auditing the affairs of the Corporation, and may, at any time, enlarge or extend the scope of the audit or direct that different procedure in audit shall be adopted or that any other examination shall be made by the auditors or any other person or persons if, in its opinion, the interest of the Government so requires.

17. (1) The Corporation shall furnish to the Government such returns, reports and statements as the Government may from time to time require.

(2) The Corporation shall, as soon as possible after the end of every financial year, furnish to the Government a statement of accounts audited by the auditors under Article 16 together with an annual report on the conduct of its affairs for that year and on its proposal for the next ensuing financial year.

(3) The copies of the audited accounts and annual report received by the Government under clause (2) shall be published in the *official Gazette* and shall be laid before the legislature.

18. All rights, liabilities and obligations of the Government which, whether arising out of any contract or otherwise, were acquired or incurred by it for any of the purposes referred to in Article 5 before the date of the establishment of the Corporation, shall be deemed to have been acquired or incurred by the Corporation and shall be the rights, liabilities and obligations respectively of the Corporation.

19. The Corporation may appoint or employ, on such terms and conditions as may be approved by the Government, such officers, advisors and employees as it considers necessary for the efficient performance of its functions.

20. The Corporation may acquire, for carrying out the purposes of this Order, land, in accordance with the provisions of the Land Acquisition Act, 1894 (Act I of 1894), or any other law for the time being in force.

21. (1) The Chairman or any other person authorised by him in writing, may enter upon and survey any land, undertake investigations, erect pillars for the determination of areas and intended lines of works, make borings and excavations for the discovery of minerals, and do all other acts which may be necessary in order to carry out all or any of the purposes of this Order:

Provided that when the affected land does not vest in the Corporation, powers conferred by this sub-section shall be exercised in such manner as to cause the least interference with and the least damage to the rights of the owner thereof.

(2) When any person enters into or upon any land in pursuance of clause (1) he shall, at the time of entering, pay or tender payment for all necessary damage to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Corporation whose decision shall be final.

(3) It shall be lawful for any person authorised under clause (1) to make an entry upon any land, to open or cause to be opened a door, gate or other barrier,—

(a) if he considers the opening thereof necessary for the purpose of such entry; and

(b) if the occupier or owner as the case may be, is absent, or being present refuses to open door, gate or barrier:

Provided that the compensation shall be paid for the damage caused in such manner as the Corporation may prescribe, and in case of dispute as to the sufficiency of the amount the matter shall be referred to the Corporation whose decision shall be final.

22. The Corporation may, by general or special order in writing, direct that such of its powers, shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by such of its Directors or officers as may be so specified.

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23. No suit shall be maintainable against the Corporation, the Chairman, any Director or any officer, advisor or employee of the Corporation or any person acting under the directions of the Corporation, or of the Chairman or of any officer or employee of the Corporation in respect of anything done lawfully and in good faith and with due care and attention under this Order.

24. The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Order, and such rules may, *inter alia*, provide for regulating all or any of the following matters, namely:—

- (a) the term of office and conditions of service of Directors and the manner of filling casual vacancies among them;
- (b) the terms and conditions of service of the officers and employees of the Corporation;
- (c) the procedure to be followed in the discharge of functions by Directors;
- (d) the date by which, and the form in which, the budget shall be submitted in each year;
- (e) the procedure for appropriation and re-appropriation of money in the fund;
- (f) the procedure to be followed and the conditions to be observed in borrowing money by the Corporation;
- (g) the manner of keeping and maintaining of accounts by the Corporation;
- (h) the form and manner in which returns, reports or statements shall be submitted;
- (i) the procedure of entering into contracts by or on behalf of the Corporation.

25. (1) The Corporation may, with the previous approval in writing of the Government, make regulations providing for such matters as are not provided for by rules made under the preceding Article, for carrying out the purposes of this Order and the rules.

(2) In particular and without prejudice to the generality of the foregoing provisions, such regulations may provide for—

- (a) the time and place of the meetings of the Board;
- (b) the procedure to be followed in regard to the transaction of business of such meetings;
- (c) the maintenance of minutes of the meetings and the transmission of copies thereof to the Government;
- (d) the investment of the Corporation's funds;
- (e) the assignment of duties to the Chairman of the Corporation.

26. No provision of law relating to the winding up of companies shall apply to the Corporation and the Corporation shall not be wound up save by order of the Government and in such manner as it may direct.

SCHEDULE

[See Article 5(2)(e)]

1. Takerghat Limestone Mining Project.
2. Jaipurhat Limestone and Cement Works Project.
3. Bijoypur White Clay Project.
4. Jamalganj Coal Mining Project.
5. Ranipukur Hard Rock Mining Project.
6. Bagalibazar Limestone Mining Project.
7. Mining of glass sand of Sylhet, Comilla, Chittagong, Mymensingh and other places.
8. Mining of the gravel deposits and other building materials in the Rajshahi Division.

DACCA;
The 26th September, 1972.

ABU SAYEED CHOWDHURY
*President of the
People's Republic of Bangladesh.*

JUSTICE F. K. M. A. MUNIM
Secretary.