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## Environmental problem and prospect

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# The Bangladesh Environment Conservation (Amendment) Act, 2010

**An Assignment on (Amendment) Act, 2010**

**The Bangladesh Environment Conservation (Amendment) Act, 2010**

Act No. 50 of 2010

An Act to provide for further Amendment of The Bangladesh Environment Conservation Act, 1995 ( Act No. 1 of 1995).

Whereas it is necessary and expedient to provide for further amendment of The Bangladesh Environment Conservation Act, 1995 (Act No. 1 of 1995).

It is hereby enacted as follows:

**1. Short title and commencement.-** (1) This Act may be called the Bangladesh Environment Conservation Act, ( Amendment ) 2010.

(2) It shall come into force as soon as possible.

**2. Amendment of section 2 under Act No. 1 of 1995.-** The Bangladesh environment conservation Act, 1995 ( Act No. 1 of 1995), noted it as act, it's section 2 are as follows-

(a) Bellow clause (a) following clause ( aa) and ( aaa) will be included, such as:-

(aa) "Wetland" means river, canal, beel, haor, baor, pond, stream or wetland recorded in government's land record as land, or government or government authorized organization declared in official gazette by notification of any marshy land, flood plain land, land of which contain water and rain water;

(aaa) "Hazardous waste" means any kinds of waste, due to its physical or chemical properties or contraction with other waste or substances create toxicity, infection, oxidation, exploration, radioactivity, decay or other harmful effect to environment;";

(b) After clause (f) following clause (ff) will be included, such as:-

"(ff) "hill and tilla" means naturally created earth surface which are above the ground from adjacent plain land, or ground and stone or stone or ground and gravel or mound or place formed any other hard substances and , hill and tilla noted as land in government record;";

(c) After clause (g) following clause (gg) will be included, such as:-

"(gg) "Ecologically critical Area" means such area which are rich in unique biodiversity or due to the importance of environmental perspective necessary to protect or conserve from destructive activities under section 5 of this Act;".

**3. Amendment of section 5 under Act No. 1 of 1995.-** section 5 under this act will be replaced by following section 5, such as:-

**"5. Declaration of ecologically critical area.-** (1) If the Government is satisfied that an area is in an environmentally critical situation or is threatened to be in such situation, the Government may, by notification in the official Gazette, declare such area as an ecologically critical area and take necessary steps for improvement of critical situation immediately.

(2) It is noted in all delivered notification under subsection (1) that demarcation of particular area and legal description with map and, all maps and legal description will be shown in certain area and these will be considered as legal description of that area.

(3) After declaration of any area as ecologically critical area, the Government will take management plan for this area.

(4) The Government shall, in the notification published under subsection (1) specify the activities or processes that cannot be initiated or continued in an ecologically critical area;".

**4. Amendment of section 6 under Act No. 1 of 1995.-** after the section 6A of this act, following section 6B,6C,6D and 6E will be included, such as:-

**“6B. Restriction on cutting hill.-** it is prohibited to cutting and/ or razing of hill and tilla by person or institution of government or semi-government or personal or autonomous organization or occupied or personal acquisition:

Provided that such direction, It will be possible to cut or raze hill or tilla with respect to clearance certificate from the Department in case of necessity of national interest.

**6C.Restriction on production, import, storage, loading, transportation etc of hazardous waste.-** to protect the environmental damage, govt with respect to provision of other law can control by means of provision production, processing, contain, storage, loading, supply, transportation, import, export, disposal, dumping etc of hazardous waste.

**6D. Restriction on pollution due to ship breaking.-** It will not create any environmental pollution and health hazardous by producing hazardous waste from any ship cutting or breaking which have to ensure by every ship owner, importer and user of yard in ship cutting or breaking activities.

**6E. Restriction on water reservoir. –** Notwithstanding anything contained in any other law for the time being in force, it is prohibited to filling land or changing the class by other means which is already specified as water reservoir:

Provided that, Restriction on water course shall be loosed by accepting clearance certificate from department due to importance of national interest;”.

**5. Amendment of section 9 under Act No. 1 of 1995. –** Section 9 of this act –

(a) Subsection (1) and subsection (3) will be replaced by following subsection (1) and subsection (3), such as: –

“(1) Where, due to incident, the discharge of any environmental pollutant occurs or activities or an accident is likely to occur in excess of the limit prescribed by the rules, the person responsible and the person of occupied of the place of occurrence or related organization shall take measures to control or mitigate the environmental pollution.

(3) On receipt of information under this section with respect to the accident or other incident, the Director General or a person authorized by him orders the responsible person or organization specified under subsection (1) of section 9 or any other person or organization to take necessary remedial measures to control or mitigate the environmental pollution, and the said person or persons or organization shall be bound to comply as required by the Director General” .;

(b) After subsection (4) following subsection (5) shall be included, such as: –

“(5) Due to the activities of under subsection (1) emitted waste or pollutant exceeded the prescribed limit is proved by the Director General or a person authorized by him in immediate test, then that test report shall be accepted as evidence in court.”.

**6. Amendment of section 12 under Act No. 1 of 1995.** – Section 12 of this act shall be substituted by the following section 12, such as:-

**“12.Environmental clearance certificate.-** (1) No industrial unit or project shall be established or undertaken without obtaining, in the manner prescribed by rules, an Environmental Clearance Certificate from the Director General.

(2) In the case of establishment of industry or accepting project immediately before the act in force, environmental clearance certificate should be taken immediately after Bangladesh environmental conservation (amendment) act, 2010 in force.

(3) In the case of expansion of industry or project, environmental certificate should be taken in specified way under the provision of act.

(4) On the regard to environmental clearance certificate in written provision of act with other subject environmental impact assessment report, compilation of environmental management plan, surveying public opinion, getting information from public about all these matter, making committee and activities of supplying clearance certificate, minimum required conditions for clearance certificate, appeal etc. shall be noted in detailed.

(5) Department shall renew the list of previous years enlisted industry or project for giving environmental clearance certificate and define the minimum quality or responsibility of related person or organization with compilation of environmental impact assessment report or environmental management plan of different industry or project and prepare such list, approve and renew.

7. **Amendment of section 15 under Act No. 1 of 1995.** – Section 15 of the act shall be substituted by following section 15, such as : –

“15. **Penalties.-** (1) For violation of a provision or for non-compliance of a direction, or for the activities specified in the following Table, the penalty mentioned against them may be imposed :

TABLE

Sl. No.	Description of Offence	Penalty that may be imposed
1	Non-compliance of a direction issued under sub-section (2) or (3) of section 4	<p>In case of first offense Imprisonment minimum 1 year, not exceeding 2 year or a fine minimum 50 thousand taka, not exceeding 2 lac taka or both.</p> <p>In case of each subsequent offence an imprisonment 2 year , not exceeding 10 years or a fine 2 lac taka, not exceeding 10 lac taka or both.</p>
2	Violation of sub-section (4) by continuing activities or processes or by initiating activities or processes, prohibited under subsection (1) of section 5 in an area declared as an ecologically critical area	<p>In case of first offense Imprisonment, not exceeding 2 year or a fine not exceeding 2 lac taka or both.</p> <p>In case of each subsequent offence an imprisonment 2 year , not exceeding 10 years or a fine 2 lac taka, not exceeding 10 lac taka or both.</p>
3	Violation of sub-section (1) under section 6	<p>In case of first offence, a fine not exceeding taka 5 (five) thousand; in case of second offence, a fine not exceeding taka 10 (ten) thousand;</p> <p>In case of each subsequent offence, an imprisonment not exceeding 1 year or a fine not exceeding taka 10 (ten) thousand or both.</p>

4	<p>Violation of direction of specified produce under section 6A-</p> <p>(a) Manufacture, import, marketing</p> <p>(b) Sell, exhibit for sell, storage, distribution, transport or use for sell</p>	<p>(a) In case of first offense Imprisonment not exceeding 2 year or a fine not exceeding 2 lac taka or both.</p> <p>In case of each subsequent offence an imprisonment 2 year , not exceeding 10 years or a fine 2 lac taka, not exceeding 10 lac taka or both.</p> <p>(b) Imprisonment 1 year or a fine not exceeding 50 thousand taka or both.</p>
5	Violation of section 6A	<p>In case of first offense Imprisonment not exceeding 2 year or a fine not exceeding 2 lac taka or both.</p> <p>In case of each subsequent offence an imprisonment 2 year , not exceeding 10 years or a fine 2 lac taka, not exceeding 10 lac taka or both.</p>
6	Violation of provision or provisions under section 6C	<p>In case of first offense Imprisonment not exceeding 2 year or a fine not exceeding 2 lac taka or both.</p> <p>In case of each subsequent offence an imprisonment 2 year , not exceeding 10 years or a fine 2 lac taka, not exceeding 10 lac taka or both.</p>

7	Violation of section 6D	<p>In case of first offense Imprisonment not exceeding 2 year or a fine not exceeding 2 lac taka or both.</p> <p>In case of each subsequent offence an imprisonment 2 year , not exceeding 10 years or a fine 2 lac taka, not exceeding 10 lac taka or both.</p>
8	Violation of section 6E	<p>In case of first offense Imprisonment not exceeding 2 year or a fine not exceeding 2 lac taka or both.</p> <p>In case of each subsequent offence an imprisonment 2 year , not exceeding 10 years or a fine 2 lac taka, not exceeding 10 lac taka or both.</p>
9	Non-compliance of a direction issued under sub-section (1) of section 7	<p>In case of first offense Imprisonment minimum 1 year, not exceeding 2 year or a fine minimum 50 thousand taka, not exceeding 2 lac taka or both.</p> <p>In case of each subsequent offence an imprisonment 2 year , not exceeding 10 years or a fine 2 lac taka, not exceeding 10 lac taka or both.</p>
10	Violation of sub-section (1) or (2), or failure to take remedial measures in accordance with the direction of DG under subsection (3) of section 9	<p>In case of first offense Imprisonment minimum 1 year, not exceeding 2 year or a fine minimum 50 thousand taka, not exceeding 2 lac taka or both.</p> <p>In case of each subsequent offence an imprisonment 2 year , not exceeding 10 years or a fine 2 lac taka, not exceeding 10 lac taka or both.</p>

11	Failure to render, without reasonable excuse, assistance or cooperation to the Director General or a person authorized by him as required by sub-section (2) of section 10	Imprisonment 1 year, not exceeding 3 years or a fine 50 thousand taka, not exceeding 3 lac taka or both;
12	Violation of section 12	Imprisonment 2 year, not exceeding 5 years or a fine 1 lac taka, not exceeding 5 lac taka or both.
13	Violation of any other provision of this Act or a direction issued under the rules or obstructing the Director General or a person authorized by him in discharging his duties or intentionally delaying the discharge of such duty.	Imprisonment not exceeding 3 years or a fine not exceeding 5 lac taka or both.

(2) Subject to the other provisions of this section, certain offences and penalties for such offences may be specified in the rules, but the penalty so specified shall not exceed imprisonment for 2 (two) years or a fine of Tk. 2 (two) lac or both.

**8. Amendment of section 15A under Act No. 1 of 1995.** – Section 15A of the act shall be substituted by following section 15A and 15B, such as : –

**“15A. Claim for compensation.-** Where a person or a group of persons or the public suffers loss due to violation of a provision of this Act or the rules made thereunder or a direction issued under section 7, the person, group, public or on behalf of them the Director General may file a suit for compensation.

**15B. Confiscation of materials and equipments involved in offence.-** Where a person is found guilty and sentenced under section 15, all equipments or parts thereof, transport, substance or any other thing used in the commission of the offence may be confiscated or demolished under order of the court.

**9. Amendment of section 16 under Act No. 1 of 1995.** – Under the section 16 of the act-



(A) Subsection (1) shall be substituted by following subsection (1), such as:-

“(1) Where a company or multipurpose society or union violates any provision of this Act or fails to perform its duties in accordance with a notice issued under this Act or the rules or fails to comply with an order or direction, then the owner, partner, proprietor, chairman, managing director, director, general manager, manager, secretary or any other officer or agent of the company, shall be deemed to have violated such provision or have failed to perform the duties in accordance with the notice or failed to comply with the order or direction, unless he proves that the violation or failure was beyond his knowledge or that he exercised due diligence to prevent such violation or failure.”;

(B) After subsection (2) following subsection (3) shall be included, such as:-

“(3) Where a department of government or government’s organization or institution or local government organization or autonomous organization violates any provision of this Act or fails to perform its duties in accordance with a notice issued under this Act or the rules or fails to comply with an order or direction, then the chairman, managing director, director, general manager, manager, secretary or any other officer or agent or which name are they known of department, government’s organization or institution or local government organization or autonomous organization shall be deemed to have violated such provision or have failed to perform the duties in accordance with the notice or failed to comply with the order or direction, unless he proves that the violation or failure was beyond his knowledge or that he exercised due diligence to prevent such violation or failure.”.

**10. Amendment of section 17 under Act No. 1 of 1995.** – Section 17 of act shall be substituted by following section 17, such as: –

“**17. File case for compensation.**- Where a person or a group of persons or the public suffers loss due to violation of a provision of this Act or the rules made thereunder, the person, group, public or on behalf of them the Director General may file a case in environmental court for compensation.”.

**11. Amendment of section 20 under Act No. 1 of 1995.** – Under the section 20 of the act-

(A).The word “provision” noted in subsection (1) shall be replaced by word “provisions”.

(B).The word “in provision” noted in subsection (2) shall be replaced by word “in provisions”.

(C). Clause (h) under subsection (2) shall be substituted by following clause (h), such as:-

“(h) Determination of fees for processing of environmental clearance certificates, getting information and other services;”;

(D) After clause (h) under subsection (2) following clause (i),(j), (k), (l) and (m) shall be included, such as:-

“(i) Provision on making list of hazardous waste, manufacturing, contain, storage, loading, supplying, transportation, import, export, disposal, dumping and control of these;

(j) Determination of restriction on location of industry or project in different area and environmental management plan;

(k) Procedure of management of environmental critical area;

(l) Establishment of environmental research center, activities of research center, procedure of supplying sample in research center, form of publishing research result, procedure of publishing result, determination of fees of getting result and other matter related to conduct research activities;

(m) Determination of procedure of mass hearing.”.