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*Env. Court Act, 2000*

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## **The Environment Court Act, 2000**

### **Act No. 12 of 2000**

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*Un-official English Version*

**The Environment Court Act, 2000**  
**Act No. 11 of 2000**

*[Bangla text of the Act was published in the Bangladesh Gazette, extra-ordinary issue of 10-4-2000 and amended by Act No. 10 of 2002]*

**An Act to provide for the establishment of environment courts and matters incidental thereto.**

Where as it is expedient and necessary to provide for the establishment of Environment Courts for the trial of offences relating to environmental pollution and matters incidental thereto;

It is hereby enacted as follows:-

1. **Short title.**- This Act may be called the Environment Court Act, 2000.

**Definitions.**- In this Act, unless there is anything contrary to the subject or

Context-

**“Civil Procedure Code”** means the Code of Civil Procedure, 1908 (Act V of 1908); [Ref. Clause (a)]

**“Criminal Procedure Code”** means the Code of Criminal Procedure, 1898 (Act V of 1898); [Ref. Clause (e)]

**“Director General”** means the Director General of the Department of Environment; [Ref. Clause (f)]

**“Environment Appeal Court”** means an Environment Appeal Court constituted under this Act; [Ref. Clause (d)]

**“Environment Court”** means an Environment Court constituted under this Act; [Ref. Clause (c)]

**“environmental law”** means this Act, the Bangladesh Environment Conservation Act, 1995 (Act No. 1 of 1995), any other law specified by the Government in the official Gazette for the purposes of this Act, and the rules made under these laws; [Ref. Clause (bb)]

<sup>1</sup> The definitions are rearranged in English alphabetical order with reference to relevant clause of the original Bangla text of section 2.

<sup>2</sup> Clause (bb) was inserted by sec. 3 of Act 10/2002.

**“Inspector”** means an Inspector of the Department of Environment or any other person <sup>2</sup>authorized by the Director General by a general or special order or a person authorized under any other environmental law to inspect or investigate; [Ref. Clause (b)]

**“Special Magistrate”** means a Special Magistrate appointed under section 5B. [Ref. Clause (g)]

3. **Overriding effect of the Act.-** Notwithstanding anything contained to the contrary in any other law for the time being in force, the provisions of this Act shall have effect.

4. **Establishment of Environment Courts.-** (1) For carrying out the purposes of this Act, the Government shall, by notification in the official Gazette, establish one or more Environment Court in each Division.

<sup>5</sup>(2) An Environment Court shall be constituted with one judge and, in consultation with the Supreme Court, the Government shall-

- (a) appoint an officer of the judicial service of the rank of Joint District Judge, and such Judge shall dispose of cases only under environmental laws; and
- (b) if it considers necessary, appoint a judge of the rank of Joint District Judge for a Division or a specified part thereof to act as the judge of an Environment Court in addition to his ordinary functions, and the said judge shall, in addition to his ordinary functions, dispose of the cases that fall within the jurisdiction of an Environment Court.]

(3) Each Environment Court shall have its seat at the Divisional Headquarter; however, the Government, if it considers necessary, may, by general or specific order published in the official Gazette, specify places outside the Divisional Headquarter where the court can hold its sittings.

(4) If more than one Environment Court are established in any Division, the Government shall, by notification in the official Gazette, specify the territorial jurisdiction of each such Court.

<sup>1</sup> Clause (b) was substituted by sec. 3 of Act 10/2002.

<sup>2</sup> S.I to ASP/Asstt. Commissioner of Police and their equivalent authorized as Inspector by DoE circular No. Paribesh/1006 of 04/05/2002 in relation to ban on Polythene Shopping bag.

<sup>3</sup> Clause (g) was inserted by sec. 3 of Act 10/2002.

<sup>4</sup> One Env. Court each at Dhaka and Chittagong established by MoL Notification No. SRO 45-Law/2002, of 06/03/2002.

<sup>5</sup> Sub-section (2) was substituted by sec. 4 of Act 10/2002.

5. **Jurisdiction of Environment Court.-** (1) Notwithstanding anything

contained to the contrary in any other law, a case shall, in accordance with the provisions of this Act, be directly instituted in an Environment Court for trial of an offence or for compensation under an environmental law, and only that court can take cognizance and hold proceedings for trial and disposal of those cases.

<sup>1</sup>[(2) An Environment Court shall be competent to impose penalty for offences under section 5A of this Act and under any other environmental law, to confiscate an equipment or part thereof, a transport used in the commission of such offence or an article or other thing involved with the offence, and to pass order or decree for compensation in appropriate cases; and in addition, the said court may in the same judgment make all or any of the following orders keeping in view of the circumstances of the offence or relevant facts:-

- (a) issuing a direction to the offender or other relevant person not to repeat or continue or, as the case may be, not to do the act or to make the omission which constitutes the offence;
- (b) issuing a direction to the offender or other relevant person to take such preventive or remedial measures in relation to the injury or probable injury to environment as the court considers appropriate keeping in view of the circumstances of the offence or the relevant facts;
- (c) in case of a direction under clause (b), specifying a time-limit and a further direction to submit within the specified time a report to the Director General or other appropriate authority on the implementation of the direction :

Provided that where a direction under clause (b) or (c) is issued, the person directed may apply to the court within 15 days of the judgment for review of such direction and the court shall, after giving the Director General a reasonable opportunity of being heard, dispose of the application within 30 days after it is made.]

<sup>2</sup>[(3) No Environment Court shall take cognizance of an offence or receive any suit for compensation except on the written report of an Inspector or any other person authorized by the Director General:

Provided that if the Environment Court is satisfied that a person presented a written request to the said Inspector or authorized person to accept a complaint about an offence or a claim for compensation and no action was taken within 60 (sixty) days after such request, and that such complain or claim deserves to be taken into cognizance for the purpose of trial, then the court may, after giving the Inspector or the authorized person or the Director General a reasonable opportunity of being heard, directly receive the complaint or claim for compensation without

<sup>1</sup> Sub-section (2) was substituted by sec. 5 of Act 10/2002.

<sup>2</sup> Sub-section (3) was substituted by sec. 5 of Act 10/2002.

such written report, or may, if it considers appropriate, direct the said Inspector or the authorized person to investigate the offence or claim.]

1 [(4) Omitted.]

1 [(5) Omitted.]

2[5A. **Penalty for violating court's order.**- If a person -

- (a) violates a direction issued under clause (a) of section 5(2) by repeating or continuing the offence for the commission of which he has been sentenced, he shall be liable to be sentenced with the penalty prescribed for that offence, provided such penalty shall not be less than the one imposed on him at the time of issuance of the direction;
- (b) violates a direction issued under clause (b) or (c) of section 5(2), the violation shall be an independent offence for which he shall be liable to be sentenced to an imprisonment not exceeding 3 (three) years or to a fine not exceeding 3 (three) lac taka or to both.

**Explanation.**- The other provisions of this Act shall apply to the investigation and trial of an offence under this section.

25B. **Trial of certain offences by Special Magistrates.**- Where an environmental law provides for a penalty of an imprisonment not exceeding 2 (two) years or a fine not exceeding 10 (ten) thousand taka or both or confiscation of anything, for the commission of an offence, a Magistrate of the first class or a Metropolitan Magistrate who is appointed to deal only with such cases arising in a specified area or who is assigned to deal with such cases in addition to his ordinary duties, as the Government may specify, shall be competent to try the offences; such Magistrates shall be known as Special Magistrates:

Provided that if such offence is combined with another offence under an environmental law and if both the offences require trial in the same proceedings, then the offences shall be triable in the Environment Court.

25C. **Trial procedure in Special Magistrate's Court.**- (1) No Special Magistrate shall take cognizance of an offence except on a written report of an Inspector :

Provided that, if authorized by the Director General in relation to the institution of a particular kind of case triable by such Magistrate, an Inspector may present a report on such offence directly to the Magistrate without following the

procedure prescribed in section 7.

<sup>1</sup> Sub-sections (4) and (5) were omitted by sec. 5 of Act 10/2002.

<sup>2</sup> Sections 5A, 5B & 5C were inserted by sec. 6 of Act 10/2002.

<sup>3</sup> M/O Establishment Notification No.- Sa/Ma/JA-4/45/2002-309 of 29<sup>th</sup> May, 2002 issued for appointment of Special Magistrates in districts and Metropolitan areas.

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(2) A Special Magistrate appointed under this Act shall follow the procedure for summary trial as prescribed in the Criminal Procedure Code.

(3) A case triable by the court of a Special Magistrate shall be conducted by an Assistant Public Prosecutor or a police officer specified by the Government or an Inspector of the Department of Environment on behalf of the State.]

<sup>1</sup>[6. **Power of entry, search, etc.-** (1) For the purposes of conducting an inspection of any matter or investigation of an offence under an environmental law, or when directed by the Director General or the Environment Court for assessing compensation under this Act, an Inspector may, at any reasonable time, enter any place, search into, or seize any thing or collect sample from, or inspect, that place.

(2) For the purposes of sub-section (1), an Inspector may, whenever he considers necessary, apply to the Environment Court or to any Magistrate for issuance of a search warrant.

(3) An Inspector shall, as far as practicable, follow the Criminal Procedure Code and the relevant provisions of the environmental law in conducting a search, seizure or inspection under this section.]

<sup>2</sup>[7. **Procedure for investigation.-** (1) An offence under an environmental law shall ordinarily be investigated by an Inspector, but the Director General may, by a general or special order, authorize any other officer subordinate to him to investigate any particular kind of offences or a specified offence.

(2) The said Inspector or other officer, hereinafter referred to as the investigating officer, shall on the basis of a written complaint or other information, initiate proceedings under this section after obtaining approval of the officer authorized in this behalf by the Director General.

(3) The investigating officer shall, before initiating a formal investigation of an offence, inquire into and collect information about the offence,

prepare a preliminary report thereon and present it to a higher officer authorized by the Director General in this behalf, and the officer secondly mentioned shall, upon consideration of the relevant facts and circumstances, give his decision within 7 (seven) days as to whether a formal investigation may be initiated or whether no action at all is necessary, and accordingly next actions shall be taken.

(4) If a decision is taken to initiate a formal investigation under sub-section (3), the investigating officer shall present the said preliminary report to the concerned police station, and it shall be recorded in the police station as a first

<sup>1</sup> Section 6 was substituted by sec. 7 of Act 10/2002.

<sup>2</sup> Section 7 was substituted by sec. 7 of Act 10/2002.

<sup>3</sup> Vide DoE circular No. Paribesh/1642 of 23/02/2002 in this regard. Moreover ASP/Asstt Commissioner of Police and above authorized under sub-sections (3) and (7) by DoE circular No. Paribesh-1006 of 04/05/2002.

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information report or ejahar of the offence and thereafter the said investigating officer or, as the case may be, another officer authorized by the Director General shall conduct the investigation.

(5) The investigating officer while investigating an offence shall, in relation to that offence, be competent to exercise the same powers as an officer in charge of a police station and he shall, subject to this Act and the rules, follow the Criminal Procedure Code.

(6) Any statement recorded, any article seized, any sample or other information collected at the inquiry stage held before formal investigation may be considered and used for the purpose of investigation.

(7) The investigating officer shall, after completion of the investigation, obtain the approval of an officer authorized by the Director General in this behalf and submit one copy of the investigation report and the original or attested copies of the supporting documents directly to the environment court or as the case may be to a Special Magistrate if the case is triable by such Magistrate, and shall also keep one copy at his office and present another copy to the police station; and such report shall be deemed to be a police report under section 173 of Criminal Procedure Code.

(8) Notwithstanding the provisions of sub-section (3), where the investigating officer has reasons to believe that any document, article or equipment

involved with an offence is likely to be removed or destroyed, he may, even before a decision for formal investigation, seize the document, article or equipment, and if the investigator has reasons to believe that the offender is likely to abscond, he may also arrest the offender.]

<sup>2</sup>[7A. **Assistance from law enforcing agencies and other authorities.**- For the purposes of sections 6 and 7, the investigating officer may request any law enforcing agency or other authority for assistance and the requested agency or authority shall accordingly render assistance.]

8. **Procedure and power of Environment Court.**- (1) Unless otherwise provided in this Act, provisions of the Criminal Procedure Code shall be applicable in the case of lodging a complaint about an offence under this Act, trial thereof and the Environment Court shall be deemed to be a criminal court and it shall follow the procedure laid down in the Criminal Procedure Code for trial and disposal of a case triable by the Sessions Court.

<sup>3</sup>[(2) Omitted.]

<sup>1</sup> Vide DoE circular No. Paribesh/1642 of 23/02/2002 in this regard. Moreover ASP/Asstt Commissioner of Police and above authorized under sub-sections (3) and (7) by DoE circular No. Paribesh-1006 of 04/05/2002.

<sup>2</sup> Section 7A was inserted by sec. 7 of Act 10/2002.

<sup>3</sup> Sub-section (2) was omitted by sec. 8 of Act 10/2002.

(3) The Environment Court shall be competent to order the investigating officer or other person investigating to hold further investigation of the offence in relation to which a case is pending before it and also to specify the time-limit for submission of the report of such further investigation.

(4) The Environment Court shall be competent to exercise any power conferred on it by this Act or any other environmental law.

<sup>1</sup>[(5) A case triable by an Environment Court shall be conducted by a Public Prosecutor or an Additional or Assistant Public Prosecutor on behalf of the State:

Provided that an Inspector or an officer authorized by the Director General may assist the said prosecutor in conducting the case and if necessary may make his

submission before the court.]

(6) Subject to provisions of this Act, the Civil Procedure Code shall be applicable to the trial and disposal of a case relating to compensation; and the Environment Court, for the purpose of trial and disposal of a suit for compensation, be deemed to be a civil court and shall be competent to exercise all the powers of a civil court.

(7) Hearing of a case at the trial stage shall not be adjourned more than three times and the Environment Court shall conclude the trial within one hundred eighty days:

Provided that where the trial is not completed within the above time-limit, the Environment Court shall, within 15 days after expiry of that period, inform the Environment Appeal Court of the delay and the reasons for such delay, and shall complete the trial of the case within ninety days after the expiry of the above mentioned one hundred eighty days.

9. **Conversion of fines to compensation.**- (1) Notwithstanding anything contained to the contrary in any other law for the time being in force, the Environment Court may, if it considers necessary, convert fines imposed by it as compensation to be paid to persons affected as a result of the commission of an offence under an environmental law; and the fine or compensation shall be realizable from the person who has been sentenced with the fine.

(2) If a claim for compensation is related to an offence under an environmental law in such a manner that the trial of the offence and the claim should be held in the same proceedings, then the Environment Court shall try the offence first and, if the compensation to be awarded is not commensurate with the fine imposed as a penalty of the offence, then the application for compensation can be considered separately.

10. **Authority of Environment Court to inspect.**- (1) If, at any stage of the trial of a case, any question arises relating to any property, object or place of occurrence of an offence the Environment Court can inspect the property, object or

<sup>1</sup> Sub-section (5) was substituted by sec. 8 of Act 10/2002.

the place of occurrence, after serving notice on the parties or their lawyers as to the place and time of inspection.

(2) During inspection or immediately thereafter, the Judge shall record

the results of the inspection in the form of a memorandum and such memorandum shall be an evidence in the trial of the case and such evidence shall not be called in question by any party.

11. **Appeal.**- (1) Notwithstanding anything contained to the contrary in the Civil Procedure Code or the Criminal Procedure Code, no question shall, except in accordance with the provisions of this Act, be raised before any court or other authority on the proceedings, order or decision of, or a decree of compensation passed and penalty imposed by, the Environment Court.

(2) A party aggrieved by a Judgment or a decree of compensation passed or a penalty imposed by the Environment Court can file an appeal to the Environment Appeal Court established under section 12 within thirty days of the date of passing the judgment, decree of compensation or penalty, or order of dismissal of a civil suit or an order specified in sub-section (3).

<sup>1</sup>[(3) An appeal shall lie to the Environment Appeal Court against an order of interim or temporary injunction, an order to maintain status quo, an order granting or refusing bail, an order of framing charge or discharge, and an order of taking cognizance of an offence or refusal thereof passed by an Environment Court; no other interim order shall be appealable nor shall the legality or propriety thereof shall be called in question before the Environment Appeal Court or any other court.

<sup>1</sup>(3A) An appeal shall lie to the Environment Appeal Court against an order of conviction and sentence or acquittal, an order granting or refusing bail, an order of framing charge or discharge, and an order of taking cognizance of an offence or refusal thereof, passed by a Special Magistrate Court; no other interim order passed by such Magistrate shall be appealable nor shall the legality or propriety thereof shall be called in question before the Environment Appeal Court or any other court.]

(4) Notwithstanding the provisions of sub-section (1), a party aggrieved by a judgment or decree passed by an Environment Court in a suit for compensation shall not be entitled to file an the appeal against the said judgment or decree without depositing half of the decreed amount with the court which passed the decree.

12. **Environment Appeal Court.**- (1) For carrying out the purposes of this Act, the Government shall, by notification in the Official Gazette, establish one or more than one Environment Appeal Court.

<sup>1</sup> Sub-section (3) was substituted and sub-section (3A) was inserted *ibid.* by sec. 9 of Act 10/2002.

<sup>2</sup> One Env. Appeal Court for the whole country at Dhaka established by MoL Notification No. SRO 44-Law/2002, of 06-03-2002.

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1[(2) An Environment Appeal Court shall be constituted with one judge and, in consultation with the Supreme Court, the Government shall-

- (a) appoint an officer of the judicial service of the rank of District Judge and such Judge shall dispose of cases only under environmental law; and
- (b) if it considers necessary, for a specified area appoint a District and Sessions Judge of a district to act as the judge of an Environment Appeal Court in addition to his ordinary duties, and such a judge shall, in addition to his ordinary duties, dispose of the cases that fall within jurisdiction of an Environmental Appeal Court.]

(3) The seat of the Environment Appeal Court shall be in Dhaka or any other place specified by the Government.

(4) For the purpose of disposal of appeals relating to offences, the Environment Appeal Court may exercise all the powers of a Sessions Court as an Appeal Court under the Criminal Procedure Code.

(5) For the purpose of disposal of an appeal relating to a suit for compensation, the Environment Appeal Court may exercise all the powers of an appellate court under the Civil Procedure Code.

2[12A. **Transfer of cases.**- An Environment Appeal Court may, on an application or other information-

- (a) transfer a pending case from one Environment Court to another such court subordinate to it or to retransfer a case;
- (b) transfer a pending case form the court of a Special Magistrate to that of another Special Magistrate or to an Environment Court subordinate to it, or retransfer such a case.]

13. **Pending cases.**- A case under an environmental law pending in any court immediately before the commencement of this Act, shall be so continued and disposed of in that court as if this Act has not been enacted.

3[13A. **Jurisdiction of Environment Court over offences etc. committed**

**earlier.**- (1) If a case has not been instituted against an offence committed before the commencement of the Environment Court (Amendment) Act, 2002, the offence can be taken cognizance of by an Environment Court or by a Special Magistrate, as the case may be, on the basis of a written complaint or report of an Inspector or any

<sup>1</sup> Sub-section (2) section 12 was substituted by sec. 10 of Act 10/2002.

<sup>2</sup> Section 12A was inserted by sec. 11 of Act 10/2002.

<sup>3</sup> Section 13A was inserted by sec. 12 of Act 10/2002.

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other person authorized in this behalf by the Director General , and the case can be disposed of according to this Act.

(2) For the purposes of this section, a case instituted on complaint shall not be dismissed under section 247 of the Criminal Procedure Code only on the ground of absence of the complainant.]

14. **Power to make rules.-** For carrying out the purposes of this Act, the Government may, by notification in the Official Gazette, make rules.

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