

**THE BANGLADESH BIMAN CORPORATION
ORDINANCE, 1977**

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**'THE BANGLADESH BIMAN CORPORATION
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ORDINANCE NO. XIX OF 1977

[9th June, 1977]

**An Ordinance to provide for the establishment of the
Bangladesh Biman Corporation.**

WHEREAS it is expedient to provide for the establishment of a Corporation for the purpose of ensuring proper operation and development of air transport services and for matters connected therewith;

NOW, THEREFORE, in pursuance of the Proclamations of the 20th August, 1975, and 8th November, 1975, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

1. This Ordinance may be called the Bangladesh Biman Corporation Ordinance, 1977. Short title

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

- (a) "Board" means the Board of Directors of the Corporation;
- (b) "Chairman" means the Chairman of the Board;
- (c) "Corporation" means the Bangladesh Biman Corporation established under section 3;
- (d) "Director" means a Director of the Corporation;
- (e) "Managing Director" means the Managing Director of the Corporation;
- (f) "prescribed" means prescribed by rules or regulations made under this Ordinance.

3. (1) On the commencement of this Ordinance, there shall be established a Corporation to be called the Bangladesh Biman Corporation for carrying out the purposes of this Ordinance. Establishment of
the Corporation

¹ The Ordinance was declared void and non est by the Appellate Division of the Supreme Court of Bangladesh in Civil Petition for Leave to Appeal Numbers 1044 and 1045 of 2009 and subsequently the Ordinance has been made effective as an Act of Parliament by ১৯৭৫ সালের ১৫ আগস্ট হইতে ১৯৭৯ সালের ৯ এপ্রিল তারিখ পর্যন্ত সময়ের মধ্যে জারীকৃত কতিপয় অধ্যাদেশ কার্যকরকরণ (বিশেষ বিধান) আইন, ২০১৩ (২০১৩ সনের ০৬ নং আইন), ধারা ৪।

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

Head office, etc. **4.** (1) The head office of the Corporation shall be at Dacca.

(2) The Corporation may establish offices at such other places, in Bangladesh and abroad, as the Board may think fit.

Authorised
Capital **5.** ¹[(1) The authorised share capital of the Corporation shall be two hundred crore Taka divided into two crore shares of one hundred Taka each:

Provided that the Government may increase the authorised share capital of the Corporation from time to time and shall divide the increased share capital into required number of shares of one hundred Taka each.]

(2) The paid-up share capital of the Corporation shall, in the first instance, be five crore Taka, and may, with the approval of the Government, be increased from time to time, of which not less than fifty-one per cent shares shall be subscribed for by the Government and the remaining shares shall be subscribed, in such manner, at such time and to such extent as the Government may determine, either by the Government or by the public.

(3) Notwithstanding anything contained in sub-section (1), the Corporation may, for carrying out all or any of its functions, raise loans or obtain grants in such manner and from such sources including banks, local or foreign, as may be approved by the Government.

(4) The shares of the Corporation shall be listed on the Stock Exchange in Bangladesh prior to the issue of any shares for public subscription.

¹ Sub-section (1) was substituted by section 2 of the Bangladesh Biman Corporation (Amendment) Act, 1987 (Act No. XXXII of 1987).

6. The shares of the Corporation shall be deemed to be included among the securities enumerated in section 20 of the Trusts Act, 1882 (II of 1882), and to be approved securities and approved investments for the purposes of the Insurance Act, 1938 (IV of 1938).

Shares to be approved securities

7. (1) It shall be the function of the Corporation to provide and develop safe, efficient, adequate, economical and properly coordinated air transport services, internal as well as international, and the Corporation shall so exercise its powers as to secure that the air transport services are developed to the greatest possible advantage in the interest of the country.

Functions of the Corporation

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

- (a) to acquire, charter, hold or dispose of aircraft;
- (b) to operate any air transport service or any flight by aircraft for a commercial or other purpose, and to carry out all forms of aerial work;
- (c) to repair, overhaul, construct, recondition or assemble aircraft and other vehicles;
- (d) to assemble, manufacture, recondition, overhaul or repair machines, parts, accessories and instruments pertaining to aircraft and other vehicles;
- (e) to establish, institute or make other arrangement for the instruction and training of persons engaged or likely to be engaged in any activity connected with or ancillary to air transport service;
- (f) to acquire, hold or dispose of any property, whether movable or immovable;
- (g) to acquire, own, run, manage or participate in the running or management of any other business or commercial undertaking with the approval of the Government;
- (h) to do all other things connected with or ancillary to any of the matters referred to in sub-clauses (a) to (f);
- (i) to perform such other function as may be assigned to it by the Government by notification in the *official Gazette*.

Management

8. (1) Subject to rules and regulations made under this Ordinance, the general direction and superintendence 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 be guided by such general or special instructions as may be given to it by the Government from time to time.

Board of Directors

9. (1) The Board of Directors shall consist of a Chairman, a Managing Director and not less than six and not more than ten other Directors, to be appointed by the Government:

Provided that when there are shareholders other than the Government, such shareholders shall elect, in such manner as may be prescribed, from amongst themselves-

- (a) one Director, when the number of shares subscribed for by them exceeds twenty per cent, but does not exceed thirty-four per cent of the total shares;
- (b) two Directors, when the number of shares subscribed for by them exceeds thirty-four per cent of the total shares.

(2) The Chairman, the Managing Director and the other appointed Directors shall hold office for such period and on such terms and conditions as the Government may determine.

(3) An elected Director shall hold office for a term of two years and shall continue in office thereafter until his successor is elected, and shall be eligible for re-election.

(4) A casual vacancy in the office of an elected Director shall be filled by election and the person elected to fill such vacancy shall hold office for the unexpired period of the term of his predecessor:

Provided that it shall not be necessary to fill a casual vacancy in the office of an elected Director for a period of less than three months.

10. The Managing Director shall be a whole time officer and the chief executive of the Corporation and shall exercise such powers and perform such functions as may be assigned to him by the Board or as may be prescribed.

Managing
Director

11. No person shall be or shall continue to be a Director who-

Disqualifications
of Directors

- (a) is or at any time has been adjudicated insolvent;
- (b) is found to be a lunatic or of unsound mind;
- (c) or at any time has been convicted of an offence which, in the opinion of the Government, is an offence involving moral turpitude;
- (d) is a minor; or
- (e) 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.

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

Meetings of the
Board

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

(2) To constitute a quorum at a meeting of the Board not less than three Directors including the Chairman shall be present.

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

(4) If, for any reason, the Chairman is unable to preside over a meeting, it shall be presided over by a Director nominated by the Chairman for the purpose, and in default of such nomination, by such Director as the Directors present may choose.

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

Appointment of committees, etc.

13. The Board may appoint such committee or committees as it thinks fit to assist it in the efficient discharge of its functions.

Appointment of officers, etc.

14. The Corporation may appoint such officers, consultants, advisers, auditors and employees as it considers necessary for the efficient performance of its functions on such terms and conditions as it may deem fit.

Delegation of powers

15. The Board 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 the Chairman or by such Director or officer of the Corporation as may be so specified.

Investment in securities

16. The Corporation may invest its funds in such shares and securities, or may make such other investments, as may be authorised by the Government.

Borrowing powers

17. (1) The Corporation may, with the prior approval of the Government or in accordance with the terms of any general authority given to it by the Government,-

(a) borrow money in Bangladesh or foreign currency for all or any of the purposes of the Corporation;¹[* * *]

²[(aa) secure the payment of any sum borrowed under clause (a) by hypothecation or mortgage of any aircraft owned by the Corporation;]

(b) raise capital by the issue of bonds, debentures and debenture-stock.

(2) The Government may guarantee, in such manner and on such conditions as it thinks fit, the redemption or repayment of, and the payment of interest on, any bonds, debentures or debenture-stock issued by the Corporation.

¹ The word "and" was omitted by section 2 of the Bangladesh Biman Corporation (Amendment) Act, 1988 (Act No. XLIII of 1988).

² Clause (aa) was inserted by section 2 of the Bangladesh Biman Corporation (Amendment) Act, 1988 (Act No. XLIII of 1988).

18. The Corporation shall, at least three months before the expiry of a financial year, submit to the Government for approval a statement, to be called the Annual Budget Statement; in the prescribed form for the next financial year showing the estimated receipts and expenditure during that financial year.

Budget

19. (1) The Corporation shall maintain proper accounts and shall prepare annual statement of accounts, including the profit and loss account and balance sheet, in accordance with the accounting principles and established practices and such general directions as may be issued, and in such form as may be prescribed, by the Government.

Accounts and
audit

(2) The accounts of the Corporation shall be audited by not less than two auditors, 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 Government.

(3) Every auditor appointed under sub-section (2) shall be given a copy of the annual balance sheet of the Corporation and shall examine it together with the accounts 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 of 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 on the accounts examined by them and on every statement of account, profit and loss account and balance sheet and in their report they shall state-

- (a) whether or not they have obtained all the information and explanations called for by them;
- (b) whether or not, in their opinion, the books of accounts have been kept and the annual statement of account, profit and loss account and balance sheet are drawn up in accordance with the provisions of this Ordinance and the rules made, and the directions issued, thereunder;

- (c) whether or not such statement of account, profit and loss account and balance sheet exhibit a true and fair view of the Corporation's affair; and
- (d) whether or not there is any scope for effecting economy in any matter or for increasing the income of the Corporation.

(5) The Government may, at any time, issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by the Corporation for the protection of the interest of its shareholders and creditors or upon the sufficiency of the information and other means placed at the disposal of the auditors in auditing the accounts of the Corporation.

(6) If the Corporation has sponsored any company under section 24 the statement of accounts, profit and loss accounts, balance sheet and auditor's report of such company shall be appended to the balance sheet of the Corporation together with a statement showing the manner in which the profits and losses of the company have been dealt with in the accounts of the Corporation and the provision made for the losses of the company, if any, in the accounts of the company and also of the Corporation.

Reports, etc.

20. (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, within six months after the end of every financial year, furnish to the Government a statement of accounts audited by the auditors under section 19 and a report of the Board thereon together with an annual report on the conduct of its affairs for that year showing specifically the amount, if any, recommended to be paid as dividend and the amount provided for the reserve funds.

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

21. The Corporation shall, at such time before the beginning of every financial year as the Government may direct, submit to the Government for approval-

Programme of operation, etc.

- (a) its programme of operation and development of air transport services and other activities during that year;
- (b) the financial estimates for the implementation of such programme; and
- (c) its proposal for investment of capital and increase in the strength of its staff during that year and the financial estimates in respect thereof.

22. (1) The annual general meeting of the shareholders shall be held at the head office of the Corporation within nine months from the date on which the annual accounts of the Corporation are closed.

Annual general meeting

(2) Any other general meeting of the shareholders may be convened by the Board at any time.

(3) The shareholders present at the annual general meeting shall be entitled to discuss and adopt or make recommendations to the Board with regard to the annual accounts, the annual report of the Board on the working of the Corporation and the auditors' report on the annual balance sheet and accounts.

23. (1) Out of its profits, the Corporation shall establish a general reserve fund and create from time to time such other special reserve as the Board may determine.

Reserve fund

(2) After making provisions for interest, taxes, bad and doubtful debts, depreciation of assets, maintenance of reserves and any other matter determined by the Board, the Corporation may declare a dividend out of the profits accruing in a year.

24. (1) The Corporation may, with the previous approval of the Government, sponsor limited companies for carrying out any of the purposes of this Ordinance, hold shares in such companies and regulate the manner in which the shares thereof may be subscribed by the public.

Formation of new companies

(2) The Board may, with the previous approval of the Government, and on such terms and conditions as the Government may determine, disinvest any share held by it in any company sponsored by it.

Indemnity of
Directors

25. (1) The Chairman, Managing Director and other Directors shall be indemnified by the Corporation against all losses and expenses incurred by them in the discharge of their duties except such as are caused by their own wilful act or default.

(2) A Director shall not be personally responsible for the acts of any other Director or of any officer or employee of the Corporation for any loss or expense resulting to the Corporation by reason of the insufficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Corporation, or by the wrongful act of any person under a liability to the Corporation, or by anything done by him in good faith in execution of the duties of his office.

Protection of
action taken in
good faith

26. No suit, prosecution or other legal proceedings shall lie against the Government or the Chairman, the Managing Director or any other Director or any officer, adviser, consultant or employee of the Corporation for anything which in good faith is done or intended to be done under this Ordinance.

Public servants

27. The Chairman, the Managing Director and other Directors, officers, advisers or employees of the Corporation shall, while acting or purporting to act in pursuance of the provisions of this Ordinance, or the rules or regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Penal Code (XLV of 1860).

Winding up of
the Corporation

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

¹[28A. (1) Notwithstanding anything contained to the contrary in this Ordinance, Government may, in public interest, convert the Corporation into a public limited company under the Company Act, 1994 (Act. No. XVIII of 1994) [কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন)].

Conversion of the corporation into a public limited company

(2) The Government may, by agreement, transfer the entire undertaking of the Corporation to the Company referred to in sub-section (1), on such terms and conditions as may be specified in the agreement.

(3) As soon as the Corporation has been converted into a public limited company and undertaking of the Corporation has been transferred to the Company, the Government shall notify the fact in the Official Gazette and shall, by the same notification, declare that the corporation has been dissolved.

Explanation.- The word "undertaking of the Corporation" includes its employees, business, projects, schemes, assets, rights, powers, authorities and privileges, its properties, movable and immovable, reserve funds, investments, deposits, borrowings, liabilities and obligations of whatever nature.

(4) The Government may, for the purpose of removing any difficulty in relation to the transfer of the undertaking of the Corporation under sub-section (2) or the dissolution thereof under sub-section (3), make, by a notification published in the Official Gazette, such order as it considers expedient and any such order shall be deemed to be, and given effect to as, part of the provisions of this ordinance.]

29. The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

Power to make rules

30. (1) The Board may, with the previous sanction of the Government, make regulations, not inconsistent with the provisions of this Ordinance and the rules, to provide for all matters for which provision is necessary or expedient for the

Power to make regulations

¹ Section 28A was inserted by section 2 of Bangladesh Biman Corporation (Amendment) Act, 2009 (Act. No. XXI of 2009) (with effect from 11th July, 2007).

purpose of giving effect to the provisions of this Ordinance.

(2) All regulations made under this section shall be published in the *official Gazette* and shall come into force on such publication.

Repeal and savings

31. (1) The Bangladesh Biman Order, 1972 (P.O. No. 126 of 1972), hereinafter referred to as the said Order, is hereby repealed.

(2) Upon the repeal of the said Order-

- (a) all assets, rights, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, vehicles, workshops, aircrafts, cash balance, reserve funds, bank deposits, investments and all other rights and interests in, or arising out of, such property of the Bangladesh Biman established by the said Order, hereinafter referred to as the Biman, shall stand transferred to, and vest in, the Corporation;
- (b) all debts and liabilities incurred, all obligations undertaken, all contracts entered into and all agreements made by or with the Biman before such repeal shall be deemed to have been incurred, undertaken, entered into or made by or with the Corporation;
- (c) all suits and other legal proceedings instituted by or against the Biman before such repeal shall be deemed to have been instituted by or against the Corporation and may be continued or proceeded with accordingly;
- (d) all officers, consultants, advisers, auditors and other employees of the Biman shall stand transferred to the Corporation and shall be deemed to have been appointed or engaged by the Corporation on the same terms and conditions as were applicable to them immediately before such repeal:

Provided that the Government or the Corporation may alter their remuneration or terms and conditions of service whenever it deems fit so to do.

(3) The Government may, for the purpose of removing any difficulty in relation to the transfer or other matter specified in sub-section (2), make such orders as it considers expedient and any such order shall be deemed to be, and given effect to as, part of the provisions of this Ordinance.
