

[Published in the Bangladesh Gazette, Extraordinary, dated the 25th July, 1985]

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND JUSTICE

NOTIFICATION

Dhaka, the 25th July, 1985

No. 652-Pub. - The following Ordinance made by the President of the People's Republic of Bangladesh, on the 12th July, 1985, is hereby published for general information :-

THE BANGLADESH STANDARDS AND TESTING INSTITUTION

ORDINANCE, 1985

Ordinance No. XXXVII OF 1985

AN

ORDINANCE

to provide for the establishment of an Institution for standardization, testing, metrology, quality control, grading and marking of goods

WHEREAS it is expedient to provide for the establishment of an Institution for standardization, testing, metrology, quality control, grading and marking of goods and for matters ancillary thereto;

NOW, THEREFORE, in pursuance of the Proclamation of 24th March, 1982, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

1. Short title. – This Ordinance may be called the Bangladesh Standards and Testing Institution Ordinance, 1985.

2. Definitions. - (1) In this Ordinance, unless there is anything repugnant in the subject or context,-

- (a) “article” means any substance, artificial or natural, or partly artificial or partly natural, whether raw or partly or wholly processed or manufactured;
- (b) “Bangladesh Standard” means the national standard of Bangladesh established and published by the Institution, in relation to any article or process, indicative of the quality and specification of such article or process, and includes-
 - (i) any provisional standard, or
 - (ii) any foreign standard adopted by the Institution ;
- (c) “calibration” means quantitative determination of the errors of a measuring device and, where necessary, adjusting of these errors to a minimum;
- (d) “Chairman” means the Chairman of the Council;
- (e) “Council” means the Council of the Institution constituted under section 7;
- (f) “covering” includes any stopper, cask bottle, vessel, box, crate, cover, capsule, case, frame, wrapper or other container;
- (g) “Director General” means Director General of the Institution;
- (h) “Inspector” means an Inspector appointed under Section 25 ;
- (i) “grading” means classification of a material in conformity with a set standard;
- (j) “Institution” means the Bangladesh Standards and Testing Institution established under section 3;
- (k) “licence” means a licence granted under section 20 to use the Standard Mark in relation to any article or process which conforms to the Bangladesh Standard;
- (l) “mark” includes a device, brand, heading, label, ticket, pictorial representation, name, signature, word, letter or numeral or any combination thereof;
- (m) “prescribed” means prescribed by regulations made under section 37;
- (n) “process” includes any practice, treatment and mode of manufacture of any article;
- (o) “registering authority” means any authority competent under any law for the time being in force to register any company, firm, or other body of persons, or any trade mark or design, or to grant a patent;
- (p) “simplification” means reduction of unnecessary sizes and varieties of a material;

- (q) “specification” means a description of an article or process as far as practicable by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, material, mode of manufacture or other characteristics to distinguish it from any other article or process;
- (r) “Standard Mark” means the Bangladesh Standards and Testing Institution Certification Mark specified by the Institution to represent a particular Bangladesh Standard;
- (s) “Standardization” means setting up of standards;
- (t) “test report” means certificate of test in respect of quality or grade of a material;
- (u) “trade mark” means a mark used, or proposed to be used, in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some persons having the right, either as proprietor or as registered user, to use the mark whether with or without any indication of the identity of that person.

(2) An article is said to be marked with a Standard Mark if the article itself is marked with Standard Mark, or any covering containing, or label attached to, such article is so marked.

3. Establishment and incorporation of the Institution. - (1) As soon as may be after the commencement of this Ordinance, the Government shall, by notification in the official Gazette, establish an Institution to be called the Bangladesh Standards and Testing Institution for carrying out the purposes of this Ordinance.

(2) The Institution shall be a body corporate having perpetual succession and a common seal with power, among others, 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, etc. - (1) The Head Office of the Institution shall be at Dhaka.

(2) The Institution may establish offices and branches at such other places as it may think fit.

5. The functions of the Institution. - The functions of the Institution shall be-

- (a) to set up Bangladesh Standards of quality and dimensions and prepare and promote the general adoption of standards on national and international basis relating to materials, commodities, structures, practices and operations and, from time to time, withdraw, revise, alter and amend the same;

- (b) to consider and recommend to the Government Bangladesh Standards for the measurement of length, weight, mass, volume and energy;
- (c) to promote standardisation, quality control, metrology and simplification in industry and commerce;
- (d) to secure compliance with the Bangladesh Standards adopted by the Institution by the producers and users;
- (e) to implement Bangladesh Standards through the administration of a national certification mark scheme or inspection of goods or both;
- (f) to provide or arrange facilities for examination, testing and inspection of commodities, processes and practices for any investigation, research, or promotion of export that may be necessary and to issue test reports;
- (g) to certify the quality of commodities, materials, produces, products and other things including food materials, whether for local consumption, export or import;
- (h) to co-ordinate the efforts of producers and users for the improvement of materials, products, code of practice, appliances, processes and methods, so as to eliminate the national waste of material and time involved in the production of an unnecessary variety of patterns and sizes of articles for one and the same purpose;
- (i) to establish and publish, in such manner as may be prescribed, the Bangladesh Standard Specifications in relation to any article or process or code of practice;
- (j) to recognise, adopt or endorse as a Bangladesh Standard, in such manner as may be prescribed, any standard established by any other Institution in Bangladesh or in any foreign country, or by international organizations in relation to any article or process;
- (k) to specify a Standard Mark to be called the Bangladesh Standards and Testing Institution Certification Mark which shall be of such design and contain such particulars as may be prescribed to represent a particular Bangladesh Standard;
- (l) to grant, renew, reject, suspend or cancel, in such manner as may be prescribed, a licence for the use of Standard Mark;
- (m) to make such inspection and take such samples of any material or substance as may be necessary to see whether any article or process in relation to which the Standard Mark has been used or proposed to be used conforms to the Bangladesh Standard or whether the Standard Mark has been improperly used in relation to any article or process with or without licence;
- (n) to utilise, with the permission of the owners, the services of laboratories other than those maintained by the Institution and approve such laboratories for the purpose of the Institution;
- (o) to make arrangements, or provide for the facilities, for the testing and calibration of precision instruments, gauges, and scientific apparatus and for the issue of certificates in regard thereto so as to make them comply with the required standards;

- (p) to undertake execution of any trust or any agency business which it may consider conducive to the attainment of its objectives;
- (q) to co-operate with any person, association or organization outside Bangladesh having objectives similar to those for which the Institution is established; and
- (r) to do all such acts and things ancillary or incidental to any of the aforesaid functions.

6. General direction of the affairs and functions of the Institution. - (1) The general direction and administration of the affairs and functions of the Institution shall vest in a Council which may exercise all powers and perform all functions which may be exercised or performed by the Institution.

(2) The Council shall, in discharging its duties, be guided by such instructions as may be given to it by the Government from time to time.

7. Composition of the Council. - (1) The Council shall consist of the following members, namely:-

- (a) the Minister in charge of Ministry of Industries, ex-officio, who shall also be the Chairman of the Council;
- (b) the Secretary, Ministry of Industries, ex-officio, who shall also be the Vice-Chairman of the Council;
- (c) the Director General, ex-officio, who shall also act as the Secretary of Council ;
- (d) one member each to represent the Ministries and Divisions specified in **Part-I** of the Schedule to the nominated by the respective Ministries and Divisions;
- (e) one member to represent the Planning Commission to be nominated by that Commission ;
- (f) one member each to represent the organizations specified in **Part- II** of the Schedule to be nominated by the President or Chairman of that organization ; and
- (g) one member each to represent the bodies specified in **Part-III** of the Schedule to be nominated by the chief executive of that body.

(2) A member other than an ex-officio member shall hold office for a term of three years from the date of his nomination:

Provided that where a person is nominated to be a member by reason of his holding an office or appointment he shall cease to be such member when he ceases to hold that office or appointment.

(3) A person nominated to be a member may, at any time, resign his office by writing under his hand addressed to the Chairman:

Provided that no resignation shall take effect until it has been accepted by the Chairman.

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

8. Meetings of the Council.- (1) The meetings of the Council shall be held at such times and places as may be prescribed:

Provided that until so prescribed such meetings shall be held at such times and places as may be determined by the Chairman.

(2) To constitute a quorum at a meeting of the Council, not less than eight members shall be present.

(3) All questions at a meeting of the Council shall be decided by a majority of the members present and voting, and, in case of equality of votes, the person presiding shall have a second or casting vote.

(4) All meetings of the Council shall be presided over by the Chairman or, in his absence, by the Vice-Chairman or, in the absence of both, by a member elected for that purpose by the members present.

9. Appointment of Committees.- (1) The Council may appoint such Committee or Committees as it thinks fit to assist it in the discharge of its functions.

(2) Each Committee shall be headed by a Chairman and shall consist of such members as may be determined by the Council.

(3) The Chairman and members of a Committee shall hold office for such period as may be determined by the Council.

10. Association with the Council, etc of persons not being members.- (1) The Council or any Committee appointed under section 9 may associate with itself any person whose assistance or advice it may desire for carrying out any of its functions.

(2) Any person associated with the Council or any Committee appointed under section 9 shall have a right to take part in the discussion at a meeting of the Council or of the Committee, as the case may be, but shall not have a right to vote.

11. Director General.- (1) There shall be a Director General of the Institution who shall be appointed by the Government on such terms and conditions as it may determine.

(2) The Director General shall be the principal executive officer of the Institution and shall be responsible for the proper administration of the Institution.

12. Appointment of Officers, etc. - The Institution may appoint such officers and other employees as it considers necessary for the efficient performance of its functions on such terms and conditions as may be determined by the Council.

13. Funds of the Institution. - (1) There shall be a fund of the Institution to which shall be credited-

- (a) grants and loans from the Government;
- (b) income from investment, royalties and properties; and
- (c) all other receipts of the Institution.

(2) The fund of the Institution shall be utilised by it to meet charges in connection with its functions under this Ordinance and all payments of the Institution shall be made out of the fund.

(3) All moneys of the Institution shall be kept in such bank or banks specified in the Schedule to the Bangladesh Banks (Nationalisation) Order, 1972 (P.O. No. 26 of 1972), as may be decided by the Council.

14. **Accounts.** - The Institution shall keep its accounts in such manner as the Government may determine in consultation with the Comptroller and Auditor General of Bangladesh, hereinafter referred to as the Auditor General.

15. **Budget.** - The Institution shall, by such date in each year as may be fixed by the Government, submit to the Government for approval a budget in such form as the Government may specify for each financial year showing the estimated receipts and expenditure during that financial year.

16. **Audit.** - (1) The accounts of the Institution shall be audited by the Auditor General in such manner as he deems fit.

(2) For the purpose of an audit under sub-section (1), the Auditor General or any person authorised by him in this behalf shall have access to all records, books, documents, cash, securities, stores and other property of the Institution and may examine any member, the Director General or any other officer or employee of the Institution.

(3) The Auditor General shall submit his audit report to the Government and shall forward a copy thereof to the Institution.

17. **Reports, etc.** - (1) The Institution shall furnish to the Government such reports and statements as the Government may, from time to time, require.

(2) The Institution shall, as soon as possible after the end of every financial year, furnish to the Government a statement of audited accounts together with an annual report on the condition of its affairs of that year.

18. **Authentication of orders and other instruments of the Institution.** - All orders and decisions of, and all other instruments issued by, the Institution shall be authenticated by the signature of such officer or officers as may be authorised by the Council in this behalf.

19. **Prohibition of improper use of Standard Mark.** - (1) Except under a licence granted under section 20, no person shall use in relation to any article or process or in the title of any patent, or in any trade mark or design, the Standard Mark or any colourable imitation thereof.

(2) Notwithstanding that a licence has been granted under section 20, no person shall use, in relation to any article or process, the Standard Mark or any colourable imitation thereof unless such article or process conforms to the Bangladesh Standard.

20. **Grant of licence.** - (1) Any person who intends to use, in relation to any article or process or in the title of any patent, or in any trade mark or design, the Standard Mark shall apply to the Institution, in such form as may be prescribed, for grant of a licence for such use.

(2) The Institution may grant a licence if, after such enquiry as it deems necessary, it is satisfied that-

(a) the article or process in respect of which the Standard Mark is to be used conforms to the related Bangladesh Standard; and

(b) there is arrangement for routine inspection and testing to ensure that the article or process concerned conforms to the related Bangladesh Standard.

(3) A licence shall be granted in such form and on payment of such fee as may be prescribed, and may be subject to such conditions as may be specified therein by the Institution.

(4) A licence granted under this section shall remain valid for a period of three years:

Provided that the Institution may revoke the licence at any time, if it is satisfied that the licensee has violated any condition specified in the licence:

Provided further that no licence shall be revoked unless the licensee is given a reasonable opportunity of being heard.

21. **Prohibition of use of certain names, etc.** - Except in such cases and under such conditions as may be prescribed, no person shall, without the previous permission of the Institution, use-

(a) any name which so nearly resembles the name of the Institution as to deceive or likely to deceive the public or which contains expressions "Bangladesh Standard" or "Bangladesh Standard Specification" or any abbreviation of such expressions; or

(b) any mark or trade mark in relation to any article or process containing the expressions "Bangladesh Standard" or "Bangladesh Standard Specification" or any abbreviation of such expressions.

22. **Prohibition of registration in certain cases.** - (1) Notwithstanding anything contained in any law for the time being in force, no registering authority shall-

(a) register any company, firm or other body of persons which bears any name, or

(b) register a trade mark or design which bears any name or mark, if the use of such name or mark is in contravention of section 19 or section 21.

(2) If any question arises before a registering authority whether the use of any name or mark is in contravention of section 19 or section 21, the registering authority may refer the question to the Government whose decision thereon shall be final.

23. Power to prohibit or restrict export of certain articles. - (1) The Government may, in consultation with the Institution, by notification in the official Gazette and subject to such conditions and exceptions as may be made by or under the notification, prohibit, restrict or otherwise control the taking out of Bangladesh of articles of any specified description which do not bear the Standard Mark or regulate generally all practices (including trade practices) and procedures connected with the export of such articles.

(2) No articles of the specified description shall be taken out of Bangladesh except in accordance with the conditions of a licence to be issued by an officer authorised in this behalf by the Government.

(3) All articles to which any notification under sub-section (1) applies shall be deemed to be goods the taking of which out of Bangladesh has been prohibited or restricted under section 16 of the Customs Act, 1969 (IV of 1969) and all provisions of the said Act shall have effect accordingly.

24. Power to prohibit the sale and distribution of certain articles. - (1) The Government may, in consultation with the Institution, by notification in the official Gazette, prohibit with effect from such date as may be specified in the notification, the sale and distribution of any article specified therein which does not conform to the Bangladesh Standard established by the Institution in relation to that article:

Provided that the date specified in the notification shall be a date not earlier than two months from the date of publication of the notification.

(2) The Government may, by notification in the official Gazette, require any article which conforms to a particular Bangladesh Standard to be marked with the Standard Mark.

25. Inspectors. - (1) The Institution may appoint as many Inspectors as may be necessary for the purpose of inspecting whether any article or process in relation to which the Standard Mark has been used conforms to the Bangladesh Standard or whether the Standard Mark has been improperly used in relation to any article or process, with or without licence and for the purpose of discharging such other duties as may be assigned to them.

(2) Subject to any regulations made under this Ordinance, an Inspector shall have power-

- (a) to inspect any operation carried on in connection with any article or process in relation to which the Standard Mark has been used;
- (b) to take samples of any article, or of any material or substance used in any article or process, in relation to which the Standard Mark has been used; and
- (c) to exercise such other powers as may be prescribed.

(3) Every Inspector shall be furnished by the Institution with a certificate of appointment as an Inspector, and the certificate shall, on demand, be produced by the Inspector.

26. Power to obtain information, etc. – Every licensee shall supply the Institution with such information, and with such samples of any material or substance used in relation to any article or process, as the Institution may require.

27. Delegation of powers. – The Institution 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 the Director-General or by any member of the Council or by any officer of the Institution.

28. Appeals. – (1) Any person aggrieved by an order passed under clause (1) of section 5 may prefer an appeal to the Government within three months from the date of receipt of the decision or within such further time as may be allowed by the Government on payment of such fee as the Government may, by notification in the official Gazette, determine.

(2) The Government may call for relevant papers from the Institution and may, after such inquiry in the matter as it considers necessary, pass such order as it thinks fit and any such order passed by the Government shall be final.

29. Certain matters to be kept confidential. – Any information obtained by an Inspector or by a member of the Council or any officer or other employee of the Institution from any statement made or information supplied or in any evidence given or from inspection made under the provisions of this Ordinance shall be treated as confidential:

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

30. Penalty for improper use of Standard Mark, etc. – (1) Any person who contravenes the provisions of section 19 or section 21 or section 22 shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand Taka or with both.

(2) A Court convicting a person under sub-section (1) may direct that any property in respect of which the contravention has taken place shall be forfeited to the Government.

31. Penalty for contravention of section 23. – If any person contravenes the provisions of any notification under section 23 or of any licence issued thereunder, he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1969 (IV of 1969), as applied by section 23(3), be punishable with imprisonment for a term which may extend to one year or with fine, or with both

32. Penalty for other offences. – Whoever contravenes any of the provisions of this Ordinance or of any regulation made or notification issued thereunder shall, if no other penalty is elsewhere provided by or under this Ordinance for such contravention, be punishable with fine which may extend to fifty thousand taka.

33. Cognizance of offences by courts. – (1) No Court shall take cognizance of any offence punishable under this Ordinance save on complaint made by or under the authority of the Government or the institution;

(2) No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Ordinance.

34. Indemnity. – No suit, prosecution or other legal proceeding shall lie against the Government or the Institution or any person acting under the authority of the Government or the Institution for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any regulation made thereunder.

35. Ordinance not to affect the operation of certain Acts. – Nothing in this Ordinance shall affect the operation of the Agricultural Produce (Grading and Marketing) Act, 1937 (I of 1937), or the the Drugs Act, 1940 (XXIII of 1940).

36. Abolition of Central Testing Laboratories. – Upon the establishment of the Institution,-

- (a) the laboratories known as the Central Testing Laboratories belonging to the Government, hereinafter referred to as the said Laboratories, shall stand abolished;
- (b) all assets and properties and all rights, liabilities and obligations of the Government in relation to the said Laboratories shall, unless the Government otherwise directs, be transferred to, and vest in, the Institution;
- (c) all persons in the service of the Republic employed in the said Laboratories in any capacity, other than on deputation, shall, notwithstanding anything contained in any other law for the time being in force or any contract or agreement or in the terms and conditions of their service, stand transferred to the Institution and shall serve, the Institution on the same terms and conditions of service as were applicable to them immediately before such transfer, unless such terms and conditions are altered, not being to their disadvantage, by the Institution :

Provided that a person whose service has been so transferred may, within such time as the Government may specify, exercise his option not to continue in the service of the Institution.

37. Power to make regulations. – (1) The Institution may, with the previous approval of the Government, make regulations not inconsistent with the provisions of this Ordinance, to provide for all matters for which provisions are necessary or expedient for the purpose of giving effect to the provisions of this Ordinance.

(2) All regulations made under sub-section (1) shall be published in the official Gazette and shall come into force on such publication.

38. Repeal, etc. – (1) Upon the establishment of the Institution, the Bangladesh Standards Institution Ordinance, 1977 (XXXIX of 1977), hereinafter referred to as the said Ordinance, shall stand repealed.

(2) Upon such repeal,-

- (a) the Bangladesh Standards Institution established under the said Ordinance, hereinafter referred to as the dissolved Institutions shall stand dissolved;
- (b) all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash and bank balances, reserve funds, investments and all other rights and interests in, or arising out of, such property, and all books of accounts, registers, records and all other documents of the dissolved Institution shall stand transferred to, and vest in, the Institution;
- (c) all debts and liabilities incurred, all obligations undertaken, all contracts entered into and all agreements made by or with the dissolved Institution before such repeal shall be deemed to have been incurred, undertaken, entered into or made by or with the Institution;
- (d) all suits and other legal proceedings instituted by or against the dissolved Institution before such repeal shall be deemed to be suits and proceedings by or against the Institution and shall be proceeded or otherwise dealt with accordingly;
- (e) all officers and other employees of the dissolved Institution shall stand transferred to and become officers and employees of the Institution and shall hold office or service under the Institution on the same terms and conditions as were applicable to them immediately before such repeal and shall continue to do so until their terms and conditions are duly altered by the Institution;
- (f) all Provident Funds established, maintained or managed by the dissolved Institution and existing immediately before such repeal shall continue to exist and the subscriptions and contributions thereto shall be credited to the Institution and the Institution shall be liable to make payment to the officers and employees concerned out of these Funds.

THE SCHEDULE*(see Section 7)***PART I**

1. The Ministry of Industries.
2. The Ministry of Agriculture (Agriculture and Forest Division).
3. The Ministry of Agriculture (Fisheries and Livestock Division).
4. The Ministry of Commerce.
5. The Ministry of Defence (Defence Division).
6. The Ministry of Defence (Civil Aviation and Tourism Division).
7. The Ministry of Finance (Finance Division).
8. The Ministry of Education (Education Division).
9. The Ministry of Education (Science and Technology Division).
10. The Ministry of Communications (Railway Division).
11. The Ministry of Communications (Roads and Road Transport Division).
12. The Ministry of Communications (Post and Telecommunication Division).

13. The Ministry of Ports, Shipping and IWT.
14. The Ministry of Food (Food Division).
15. The Ministry of Health and Population Control.
16. The Ministry of Energy and Mineral Resources (Energy Division).
17. The Ministry of Jute and Textiles.
18. The Ministry of energy and Mineral Resources (Petroleum and Mineral Resources Division).
19. The Ministry of Labour and Manpower.
20. The Ministry of Planning (Planning Division).
21. The Ministry of Industries.
22. The Ministry of Supply and Inspection.

PART II

1. The Federation of Bangladesh Chambers of Commerce and Industries, Dhaka.
2. The Dhaka Chamber of Commerce and Industries.
3. The Chittagong Chamber of Commerce and Industries.
4. The Khulna Chamber of Commerce and Industries.
5. The Rajshahi Chamber of Commerce and Industries.

PART III

1. The Bangladesh Industrial Technical Assistance Centre, Dhaka.
2. The Bangladesh Council of Scientific and Industrial Research, Dhaka.
3. The University of Engineering and Technology, Dhaka.
4. The Institution of Engineers, Bangladesh, Dhaka.
5. The Bangladesh Atomic Energy Commission, Dhaka.
6. The Bangladesh Medical Research Council.
7. The Bangladesh Academy of Science, Dhaka.
8. The Export Promotion Bureau.

DHAKA;
The 12th July, 1985.

H M ERSHAD, ndc, psc
LIEUTENANT GENERAL
President.

MD. ABUL BASHAR BHUIYAN
Deputy Secretary (Drafting).