

Environmental Governance in Bangladesh



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What is “Environmental Governance”?

- Environmental governance is about how societies deal with environmental problems
- It is concerned with the interactions among formal and informal institutions and the actors within society
- These interactions influence how environmental problems are identified and addressed



Environment Policy 1992

- Bangladesh National Environment Policy approved in May 1992
- sets out the basic framework for environmental action, together with a set of broad sectoral action guidelines.



Environment Policy 1992

Key elements of the Environment Policy are :

- Maintenance of the ecological balance
- Overall progress and development of the country through protection and improvement of the environment
- Protection of the country against natural disasters
- Identification and regulation of all types of activities which pollute and degrade the environment
- Ensuring proper Environment Impact Assessment prior to undertaking of industrial and other development projects
- Ensuring sustainable use of all natural resources



Environmental Legislation

- The Environment Conservation Act (ECA), 1995
- The Environment Conservation Rules (ECR), 1997
- Brick Burning (Control) Act, 1989
- The Environment Court Act, 2000



Environment Conservation Act 1995





Environment Conservation Act (ECA), 1995

- **ECA is an Act to provide**
 - environmental conservation,
 - improvement of environmental standards, and
 - control and mitigation of environmental pollution
- **It has come into force on 16-02-1995**



Amendments of the Act

This Act was amended two times

- 10 April 2000; and
- 04 January 2002

Reasons for amendments:

- To follow the present needs
- To specify and address different sections

e.g. assistance from law enforcement agencies, restrictions regarding vehicles emission, manufacture and sale of injurious articles; remedial measures, elaborate and increase the penalties, compensation etc.



Major features of ECA 1995





Overriding effect of the Act

Section 2A:

- Notwithstanding anything contained to the contrary in any other law for the time being in force, the provisions of this Act, rules and directions issued under this Act shall have effect.



Establishment of Department of Environment

Section 3(1):

- For carrying out the purposes of this Act, the Government has establish a Department called the Department of Environment and headed by a Director General.



Power and functions of the Director General

Section 4:

- Take necessary measures for the conservation of environment
- Coordination of the activities
- Giving advice
- Conducting enquiries and research
- Collection and Publication of Information
- Carrying out programs on the quality of drinking water
- Assistance from law enforcing agencies & other authorities (Section 4A)
- May determine the compensation for direct or indirect injury to the ecosystem (Section 7).
- May file a suit for compensation on behalf of the person, group or the public suffers due to violation of this act or rules there under (Section 15A)



Declaration of Ecologically Critical Area (ECA)

Section 5:

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

Restrictions regarding vehicles emitting smoke

Section 6:

1. A vehicle emitting smoke or gas injurious to health or environment shall not be operated
2. DG or any person authorized by him may test any vehicle at any place and instantly test or detain it for necessary period and also seize it or related documents for the violation.
3. Test report shall be admissible as evidence in the court
4. For the violation of this section of the Act, the driver, the owner or both shall be liable.





Restrictions on manufacture, sale etc. of articles injurious to environment

Section 6A:

- Ban on all kinds of polythene shopping bag, or any other article made of polyethylene or polypropylene.
- Impose absolute ban on the manufacture, import, marketing, sale, demonstration, stock, distribution, commercial carriage or use.



Exceptions:

- If specified in the notification as exported or used for export
- If mentioned that it is not applicable to any particular kind of polythene shopping bag



Remedial measures for the degradation of ecosystem

Section 7:

- DG may determine the compensation for direct or indirect injury to the ecosystem.
- Also direct him to take corrective measures, or both the measures; and
- The person shall be bound to comply with the direction.
- If the person fails to comply, DG may file a sue.
- If a person 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 under order of the court. (**Section 15A**)



Inform the DG about environmental degradation or pollution

Section 8:

- Affected or likely to be affected person may apply to the Director General for remedy of the damage or apprehended damage.
- DG may hold a public hearing for disposing of an application.



Environmental Clearance Certificate

Section 12:

- No industrial unit or project shall be established or undertaken without obtaining an Environmental Clearance Certificate from the Director General, in the manner prescribed by rules



Formulation of Environmental Guidelines

Section 13:

- The Government may, by notification in the official Gazette from time to time, formulate and publish environmental guidelines relating to the control and mitigation of environmental pollution, conservation and improvement of the environment.



Appeal

Section 14:

- Within 30 days from the date of issuance of the notice, order or direction, aggrieved person may appeal to the Appellate Authority.
- The decision of such Authority on the appeal shall be final and shall not be called in question in any court.
- For unavoidable reasons Appellate Authority may extend the period for filing appeal by a period of 30 days.
- An appeal shall be disposed of within 3 months from the date of filing.



Penalties

Section 15 (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



Penalties

SI No.	Description of Offence	Penalty
1	Non-compliance of a direction issued under sub-section (2) or (3) of section 4 (Power & Functions of DG)	Imprisonment not exceeding 10 years or fine not exceeding 10 lac taka or both.
2	Violation of sub-section (2) 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 (Declaration of ECA)	Imprisonment not exceeding 10 years or fine not exceeding 10 lac taka or both.



Penalties

SI No.	Description of Offence	Penalty
3	Violation of sub-section (1) of section 6 (Restrictions regarding vehicles emission)	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; in case of each subsequent offence, an imprisonment not exceeding 1 year or a fine not exceeding taka 10 (ten) thousand or both.
4	If, in violation of a direction issued under sub-section (1) of section 6A, any article specified in the direction is-	

Penalties

SI No.	Description of Offence	Penalty
4	(a) manufactured, imported, marketed; (b) sold, exhibited for sale, stocked, distributed, commercially transported or commercially used (Restrictions on manufacture, sale of articles injurious to environment)	(a) Imprisonment not exceeding 10 years or fine not exceeding 10 lac taka or both. (b) Imprisonment not exceeding 6 months or fine not exceeding 10 thousand taka or both.
5	Non-compliance of a direction issued under sub-section (1) of section 7 (Remedial measures)	Imprisonment not exceeding 10 years or fine not exceeding 10 lac taka or both.
6	Violation of sub-section (1) or (2), or failure to take remedial measures in accordance with subsection (3) of section 9 (Discharge of excessive environmental pollutant)	Imprisonment not exceeding 10 years or fine not exceeding 10 lac taka or both



Penalties

SI No.	Description of Offence	Penalty
6		Provided that where a lower penalty is fixed by rules for violation of section 9(1), that penalty shall be applicable.
7	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 (Power of Entry)	Imprisonment not exceeding 3 years or fine not exceeding 3 lac taka or both.
8	Violation of section 12 (Environmental Clearance Certificate)	Imprisonment not exceeding 3 years or fine not exceeding 3 lac taka or both.



Penalties

SI No.	Description of Offence	Penalty
9	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 fine not exceeding 3 lac taka or both.

Section 15 (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. 10 (ten) thousand or both.



Cognizance of offence and claim for compensation

Section 17:

- No court shall take cognizance of an offence or receive any sue for compensation under this Act except on the written report of an Inspector of the Department or any other person authorized by the Director General.



Power to make rules

Section 20:

- The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act
 1. to determine standards of air, water, sound, soil and other components
 2. to regulate the establishment of industries & other dev. activities
 3. to determine safe procedures for the use, storage and transportation of hazardous substances
 4. to determine safety and remedial measures for prevention of accidents
 5. to determine the standards for effluent and discharge
 6. procedures for assessment of environmental impact of various projects, their review and approval
 7. procedures for protection of environment and ecosystem
 8. to determine the fees for obtaining environmental clearance certificates