

# The Law Commission Act, 1996

(ACT No. XIX of 1996)

## An Act to provide for the establishment of the Law Commission

Whereas, in the context of the changes in the socio-economic conditions of the country, introduction of free market economy and huge backlog of cases pending for trial in different courts, and for re-examination of the legal aspects of the fundamental human rights situation, and repeal of the obsolete laws for making provisions in respect of other matters of public importance including upgrading the standards of the legal education, and for making recommendation to the Government for review and timely reform of the existing laws and enactment of new laws, as the case may be, it is expedient and necessary to establish a permanent Law Commission;

It is hereby enacted as follows:

1. **Short title:** This Act may be called “the Law Commission Act, 1996”.
2. **Definition:** In this Act, unless there is anything repugnant to the subject or context;
  - (a) “Commission” means the Law Commission established under section 3 of this Act;
  - (b) “chairman” means the chairman of the Commission.
  - (c) “member” means a member of the Commission.
3. **Establishment of the Commission:** There shall be established a Commission to be known as the Law Commission for carrying out the purpose of this Act.
4. **Office of the Commission:** The office of the Commission shall be at Dhaka.
5. **Composition of the Commission:**
  - (1) The Commission shall consist of a chairman and two members and the Government may increase the number of members, if it thinks necessary.
  - (2) The Chairman and the members of the Commission shall be appointed by the Government and their appointments and conditions of service shall be determined by the Government.
  - (3) Subject to the provisions of subsection (4), the chairman and the members of the Commission shall hold their respective office for a period of three years from the date of their appointment:

Provided that after the expiry of the aforesaid period the government may, if it considers appropriate, reappoint the chairman or a member for a further period to be determined by it.

(4) The chairman or a member may resign his office by writing under his hand addressed to the government; and if the government is satisfied that the chairman or a member has ceased to be capable of holding his office by reason of gross misconduct or physical or mental incapacity, the Government may remove him at any time from his office:

Provided that the chairman or a member shall not be removed from his office without affording such chairman or member a reasonable opportunity of being heard.

(5) If the office of the chairman becomes vacant or if he becomes unable to perform the function of his office on account of absence, illness or any other cause, those functions shall, until the newly appointed chairman has entered upon that office, or until the chairman has resumed his duties, as the case may be, be performed by a member nominated by the government.

(6) No action or proceedings of the Commission shall be invalid or shall be called in question on account of absence or illness of the chairman or any member of the Commission or defect in the constitution of the Commission.

**5A. Honorary Member:** The Government may appoint one or more honorary members for the Commission for a period not exceeding three years and determine the privileges of those members for carrying out the works of the Commission.

**6. Functions of the Commission:** The functions of the Commission will be -

(a) to identify the causes for delay in the disposal of civil and criminal cases at various tiers of Courts and to expedite disposal of the cases and to ensure justice as speedily as possible:

- (1) to recommend amendment of the laws or enactment of new laws in appropriate cases after review and research of the relevant laws;
- (2) to recommend necessary reforms for modernization of the judicial system;
- (3) to recommend training and other measures for improvement of the efficiency of the persons involved with the judicial system, namely, judicial officers and staffs, law officers and advocates;
- (4) to recommend for prevention of abuse of the judicial system especially of the laws concerned;
- (5) to recommend modernization of various aspects of the court management, such as, distribution of works among judges, supply of copies, transmission and preservation of records, service of notices and other relevant matters;
- (6) to recommend measures for introduction of a more efficient and accountable system in place of the present one for conducting the government cases and establishing a separate investigating agency for investigation of the criminal cases;

(b) keeping in view the attraction of the domestic and foreign capital and the need of the free market economy-

- (1) to recommend amendment of the relevant laws including the company law or enactment of new law, as the case may be, to avoid the dominance of monopoly and to create an atmosphere of competition in the field of industry and commerce;
- (2) to recommend, after review of other laws relating especially to copyright, trademarks, patents, arbitration, contract, registration and similar other matters;

(3) to make necessary recommendation, after examination of the matters establishing separate courts for disposal of cases arising out of commercial and bank loans;

(c) to recommend necessary and timely amendment and reform of the existing electoral laws administered by the Bangladesh Election Commission;

(d) to recommend reform, after review, of the existing laws and enactment of new laws, as the case may be, for protection of the rights of the women and the children, and for prevention of oppression of the women;

(e) to recommend reform of the existing laws or enactment of new laws, as the case may be, for proper implementation of legal aid programme and other measures in that regard;

(f) to identify the laws more than one on the same subject or the laws contradictory to each other and to recommend for consolidation of the laws on the same subject, if possible;

(g) to recommend repeal of the existing laws inconsistent with the fundamental rights or amendment thereof, as the case may be;

(h) to identify obsolete and unnecessary laws, and to recommend repeal of the obsolete and unnecessary laws and enactment of law on any other subject, in case of necessity;

(i) to recommend measures for upgrading the legal education; and

(j) to recommend on the legal matters referred by the Government from time to time.

**6A. Work Plan:** (1) The Commission shall submit to the Government a work plan of the works to be done by it for each two years by September 30 of the preceding year.

(2) The Government shall send its opinion or recommendation, if any, on the work plan received under sub section (1) to the Commission by November 30 of said year.

(3) The Commission shall, after consideration of the opinion or recommendation sent by the government under subsection (2), finalize the work plan and inform the government by December 31 of said year.

(4) No provision of this section shall be deemed to be a bar in carrying out the works of the Commission under section 6.

**7. Research etc:** (1) The Commission may, for proper execution of its works, undertake any research or inquiry as it considers necessary, and to collect opinions on the questionnaire prepared by it.

(2) Every person shall cooperate with the Commission as far as possible during such research or inquiry and give opinion on the questionnaire prepared under subsection (1).

(3) For the purpose of collection of opinion on the questionnaires prepared or the inquiries conducted, the Commission shall have all the powers of a Civil Court under the Code of Civil Procedure 1908 in respect of the following matters, namely,

(a) to summon any person for appearance before the Commission and to compel his attendance before the Commission, and to question him on any information or any opinion given by him;

(b) to make necessary order for furnishing information or for production and discovery of document;

(c) to take evidence by affidavit, if necessary, with regard to the information furnished or documents produced; and

(d) to empower any person to take evidence of a person or to examine any document.

(4) Notwithstanding anything contained in this Act or in any other law for the time being in force, the proceedings under this section for conduct of an inquiry and the recommendation made on the basis of the information and opinion collected shall be deemed to be quasi-judicial proceedings.

**7A. Research Officer:** (1) There shall be necessary number of senior research officers in the Commission and the terms and conditions of their service shall be determined by rules.

(2) Senior research officers shall be appointed from amongst the teachers of the universities, persons having M. Phil or PhD in laws or equivalent degrees or persons trained and experienced in legislative drafting, and a senior research officer having experience at least ten years in the research works of the Commission shall be eligible for appointment as a member of the Commission.

(3) If the Commission is satisfied that it is expedient and necessary to undertake research or inquiry on any subject in order to carry out the purpose of this section, then the government may, on the conditions to be determined by it, appoint a person as consultant who is considered by the Commission to be competent for the purpose.

(4) The Commission may, if it thinks necessary for its research work, request the government to place under it a person who is employed in the service of the republic and experienced in the concerned research work under it, for a period not exceeding 30 days and the government shall take necessary action considering such request.

**7B. Assistance etc:** The Commission may request the government for assistance in the execution of the works of the Commission and the Government shall take necessary action considering the said request.

**8. Appointment of officers and staffs:** (1) The Government shall, in order to assist the Commission, appoint required number of officers against the posts sanctioned by it in accordance with the procedure prescribed by rules and the Commission

shall appoint other staffs in accordance with the procedure regulated by regulations for proper functioning of the Commission.

(2) Notwithstanding anything contained in subsection (1), the Commission may make an appointment on ad-hoc basis not exceeding six months against any technical post irrespective of classification.

**9. Submission of the report:** (1) The Commission shall submit to the Government by the first day of March of every year a report on the works done in the preceding year and the Government shall make arrangement for laying the report before the Parliament.

(2) The Commission shall submit a final report to the Government immediately after it makes its recommendation final on any subject and the Government shall lay a report in the Parliament in the first session of every year on the measures taken for implementation of the report.

**9A. Power to make rules:** The Government shall, by notification in the official gazette, make rules for carrying out the purpose of this Act.

**10. Power to make Regulations:** The Commission shall, with prior approval of the Government and by notification in the official gazette, make regulations which shall not be inconsistent with this Act for carrying out the purpose of this Act.

**10A. Authentic English Text:** The government shall, by notification in the official gazette, publish an authentic text of authorized translation of this Act in English, which shall be deemed to be an approved authentic English text.

Provided that in the event of conflict between this Act and the English text this Act shall prevail.

**11. Repeal and Savings:** (1) Resolution no 120 law/vetting 33/93 of the Ministry of Law, Justice and Parliamentary Affairs, dated Chaitra 24, 1400 B. S. April 07, 1994, hereinafter referred to as the resolution is hereby repealed.

(2) On repeal of the resolution-

(a) the chairman and the members of the Law Reforms Commission appointed under the said resolution shall be the chairman and the members of the Commission constituted under this Act;

(b) the service of all officers and employees of the Law Reforms Commission appointed under the above resolution shall stand transferred to the Commission;

(c) anything done or any action taken under the resolution shall be deemed to have been done or taken under this Act.

(d) all assets, cash and bank accounts of the Law Reforms Commission constituted under the above resolution shall stand transferred to the Commission.