

**The Competition Act, 2012**

**(Act No. 23 of 2012)**

[21 June, 2012]

**An Act to provide for the competition law**

Whereas in the context of gradual economic development of the country it is expedient and necessary to enact law to promote, ensure and sustain congenial atmosphere for the competition in trade, to prevent, control and eradicate collusion, monopoly and oligopoly, combination or abuse of dominant position or activities adverse to the competition;

It is hereby enacted as follows:-

**CHAPTER I  
PRELIMINARY**

**1. Short title and commencement.-** (1) This Act may be called the Competition Act, 2012.

(2) It shall come into force at once.

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

- (a) “Acquisition” means acquire or agree to acquire, directly or indirectly, shares, voting rights or assets or control over assets or management of any enterprise;
- (b) “Practice” means any existing practice relating to the carrying on of any trade by a person or an enterprise;
- (c) “Oligopoly” means a situation where some people or enterprises control over the market of goods or services;
- (d) “Commission” means the Bangladesh Competition Commission established under sub-section (1) of section 5;
- (e) “Cartel” means an association of person or persons who, by direct or indirect agreement, in order to establish monopoly trade, limit, control or attempt to control over the production, distribution, sale or price of goods or services;
- (f) “Chairperson” means the Chairperson of the Commission;
- (g) “Contract” means
  - (i) the contract as is defined in section 2(h) of the Contract Act, 1872 (Act IX of 1872);

- (ii) the understanding or consensus, formal or informal, written or unwritten, explicit or implicit, whatever it may be, and whether it may be enforceable by law or not, for purchase or sale, production, supply, distribution, control or storage, as the case may be, of goods or services; and includes the following things, namely:-
  - (1) Tie-in-arrangement;
  - (2) Exclusive supply agreement;
  - (3) Exclusive distribution agreement;
  - (4) refusal to transaction;
  - (5) resale price maintenance;
- (h) “Combination” means in the case of trade acquisition or taking control or amalgamation or merger;
- (i) “Goods” means goods as is defined in section 2 (7) of the Sale of Goods Act, 1930 (Act No. III of 1930);
- (j) “Regulations” means the regulations made under this Act;
- (k) “Rules” means the rules made under this Act;
- (l) “Person” includes any person and any institution, company, society, partnership firm, firm, statutory body or any other organization or their agent;
- (m) “Enterprise” means any person or economic body or a department of the Government, who or which is, or has been, engaged in any activity relating to the production, storage, supply, distribution, acquisition or control of goods, or the provision of services of any kind, or in investment, or in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, either directly or through one or more of its units or divisions or subsidiary, whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place, but does not include any activity relating to the currency or defence of the Government;
- (n) “Trade” means any production, , business, industry, profession or occupation, control of relating to transaction, supply, distribution, storage or goods and also includes the provision of any service;
- (o) “Monopoly” means such a situation where only one person or enterprise controls over the market of goods or services;
- (p) “Price” means in relation to the sale of any goods or to providing any services valuable exchange, whether direct or indirect or deferred, and includes any exchange which in effect relates to the sale of any goods or to the provision of any services although ostensibly relating to any other thing or matter;

- (q) “Collusion” means any written or unwritten agreement or understanding with ill intention to control the market by destroying environment of the healthy and usual competition in business;
- (r) “Member” means the Member of the Commission;
- (s) “Relevant market” means-
  - (i) a market of goods or services which are exchangeable or changeable by the consumer on the basis of characteristics, price and intended use of the goods or services;
  - (ii) a market comprising the area in which the conditions of competition for supply of goods or provision of services or demand of goods or services are homogenous and are distinguished from the conditions prevailing in the neighboring areas;
- (t) “Service” means service of any description which is made available to potential users; and includes the provision of services in connection with business of any industrial or commercial matter.

(2) Words and expressions used but not defined in this Act and defined in the Companies Act, 1994 (Act No. 18 of 1994) shall have the same meanings respectively assigned to them in that Act.

3. **Application.**- This Act shall apply to all enterprises which involve in purchase-sale, production, supply, distribution or storage, as the case may be, of goods or services for commercial purposes.

4. **Exemption from this Act.** - The goods or services which are not open for private sector and controlled by the Government for the national security purposes shall be exempted from this Act.

## CHAPTER II

### ESTABLISHMENT OF BANGLADESH COMPETITION COMMISSION, ETC

5. **Establishment of Bangladesh Competition Commission.**- (1) After the commencement of this Act, the Government may, as soon as possible, by notification in the Official Gazette, establish a Commission to be called the Bangladesh Competition Commission for the purposes of this Act.

(2) The Commission shall be a statutory body having perpetual succession and subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and shall, in it’s name, sue or be sued.

(3) The Commission shall have a common seal, which shall be specific size and description determined by the Commission; it shall be in the custody of the Chairperson and shall be used in the cases determined by the Commission.

**6. Office of the Commission.-** The head office of the Commission shall be in Dhaka and the Commission may, if necessary, with the prior approval of the Government, establish its sub-offices at any place in Bangladesh.

**7. Composition of Commission.-** (1) The Commission shall consist of a Chairperson and not more than 4 (four) Members.

(2) The Chairperson and Members shall, subject to the provisions of sub-section (3), be appointed by the Government and the terms and conditions of their service shall be determined by the rules.

(3) The person, who has knowledge in economics, matters relating to market, public administration or similar subjects or legal profession or legal affairs activities in public-private offices or such other professional experience of not less than 15 (fifteen) years which in the opinion of the Government may be useful for the Commission, shall be eligible for the appointment as the Chairperson and Members of the Commission:

Provided that more than one person experienced in same subject shall not be appointed as Members.

(4) The Chairperson and Members shall be full-time Members and shall be accountable to the Government for discharge their duties.

(5) The Chairperson shall be the Chief Executive of the Commission.

(6) The Chairperson and Member shall hold office for a term of 3 (three) years from the date on which he enters upon his office and shall be eligible for re-appointment of another term:

Provided that the person who has attained the age of 65 (sixty-five) years shall not be eligible for appointment or hold office as Chairperson or Members.

(7) The Chairperson or any other Member may, at any time before the expiry of period mentioned in sub-section (6), by at least 3 (three) months prior notice in written letter signed and addressed to the Government, resign his office:

Provided that the Chairperson or a Member shall, until the letter of resignation is accepted by the Government, continue to hold office.

(8) If the post of the chairperson is vacant or the Chairperson is unable to perform his duties due to absence, illness or for any other reason, the most senior Member shall discharge the functions of the Chairperson until a new appointed Chairperson joins his office or the Chairperson resumes the charge of his functions.

(9) When the Chairperson or a Member dies or resigns under the provision of sub-section (7) or removed, the Government shall, within 60 (sixty) days of such vacancy of post, appoint an eligible person in vacant post.

**8. Duties, powers and functions of the Commission.-** (1) The duties, powers and functions of the Commission are as follows, namely:-

- (a) to eliminate practices having adverse affect on competition in the market, promote and sustain competition and ensure freedom of trade;
- (b) to inquire into, either on receipt of any complaint or suo-moto, any contract of the enterprises against competition, dominant position and practice;
- (c) without prejudice to section 18, to inquire into any offence and to sue and conduct them;
- (d) to determine the combination and matters relating to combination, to inquire into for combination and conditions of combination and approval or disapproval of combination;
- (e) to make rules, policy, instructions of notifications or administrative directions relating to combination and to give advice and assist the Government for implementation;
- (f) to set up appropriate standards for the promotion of competitive activities and training for the matters relating to competition;
- (g) to take plan of actions for awareness building among the people about the matters relating to competition by the way of dissemination, publication and other means;
- (h) to develop mass awareness by the way of conducting research, seminar, symposium, workshop and other similar means about the anti competition agreement and activities and to publish and disseminate the result of such research and give recommendations to the Government for their effective implementation ;
- (i) to implement, follow or consider any matter relating to competition sent by the Government;
- (j) to review the actions taken under any other law for the consumer rights protection and implementation;
- (k) in order to discharge duties under this section or for proper functioning of it, to sign and execute any agreement or Memorandum of Understanding (MOU) with the foreign organization, with the prior approval of the Government;
- (l) to fix fees, charges or any other expenses for the purposes of this Act; and
- (m) to do any other activities specified by the rules for the purposes of this Act.

(2) The Commission may, either on its own motion or on any allegation, inquire any complaint made under this Act.

(3) The Commission or, as the case may be, the Chairperson or any Member may exercise the same power as a civil court exercises under the Code of Civil Procedure, 1908 (Act V of 1908) in the following matters, namely:-

- (a) summoning and enforcing the attendance of any person before the Commission;
- (b) discovery and production of any document;
- (c) examining and inspection any information;
- (d) requisitioning any necessary document or its copy from any office;
- (e) issuing notice for examination of witness and document;
- (f) taking any action for the purpose of this sub-section.

(4) The Commission may direct any person to produce before the Commission or an officer authorized by it in this behalf, such books, accounts or other documents, which is related to any trade and the examination of which is required for the purposes of this Act, in his custody or under his control, and the person so directed shall be bound to produce such information.

(5) The Commission may call upon such experts from the fields of economics, commerce, accounting or from any other discipline as it deems necessary to assist the Commission in the conduct of any inquiry and such person shall take proper steps to assist the Commission as per direction.

(6) All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 for the purpose of the section 196 of the Penal Code, 1860 (Act XLV of 1860), and the Commission shall be deemed to be a civil court for the purpose of section 35 and 195 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(7) If any person interferes in the exercise of the power of the Chairperson or any person authorized under sub-section (3) or intentionally fails to comply with the order made under the said sub-section shall be an offence under this Act and such person shall be punishable with imprisonment for a term not exceeding 3 (three) years or fine or with both.

**9. Removal of Chairperson and Members.-** The Government may remove the Chairperson or any Member from his office on any or more of the following grounds if he, namely:-

- (a) is adjudged as an insolvent by a competent court;
- (b) has appointed in any post in consideration of wages out of his own service;
- (c) has been declared as lunatic by a competent court;

- (d) has been convicted of an offence involving moral turpitude;
- (e) has become physically or mentally incapable of performing his duties;
- (f) has so abused his position as to render his continuance in office in the opinion of the Government is prejudicial to the public interest.

(2) No action shall be taken against the Chairperson or any Member under sub-section (1) without giving reasonable opportunity of being heard.

**10. Status, salary and allowances of Chairperson and Members.-** (1) The status, salary, allowances and other ancillary facilities of the Chairperson and Members shall be determined by the Government.

**11. Meeting of the Commission.-** (1) Subject to the provisions of this Act, the Commission shall determine the procedure of its meeting.

(2) The Commission shall meet at least once in every 4 (four) months and the date, time and place of the meeting shall be determined by the Chairperson:

Provided that the Chairperson may, for any special purpose, at any time, call its emergency meeting.

(3) The Chairperson shall preside over all meetings and in his absence any Member nominated by the Member present at the meeting shall preside over the meeting.

(4) The quorum of the meeting shall be constituted by the presence of the Chairperson and at least 2 (two) Members.

(5) Every member shall have one vote in making decision of the meeting of the Commission and, in the event of equality of votes, the person presiding shall have a second or casting vote.

(6) No act or proceeding of the Commission shall be invalid or cannot be raised any question merely on the ground of any vacancy in, or any defect in the constitution of, the Commission.

(7) The minutes of the meeting shall be signed by the President of the meeting and a copy of it shall be sent to the Government within 20 (twenty) days of the meeting.

**12. Appointment of Secretary, officers and employees of Commission, etc.-** (1) There shall a Secretary for the Commission, who shall be appointed by the Government and the terms and conditions of the service shall be determined by the Government.

(2) The Commission may appoint necessary number of officers and employees for the efficient performance of its functions under this Act.

(2) The salary, allowance and other terms and conditions of service of the officers and employees of the Commission shall be prescribed by rules:

Provided that the Government may, in request of the Commission, depute any officer or employee of the civil service to the Commission.

**13. Restriction on certain employment of Chairperson and other Members after cession of service.-** The Chairperson and any Members shall not, for a period of 1 (one) year from the date on which he ceases to hold office, be employed, or connected with the management or administration of, any enterprise which was or may be a party to a proceeding before the Commission under this Act.

**14. Exchange of opinion between Commission and statutory authority.-** (1) When any person raises the question that any course of proceeding of the statutory authority or any decision of such authority would be contrary to any of the provisions of this Act, then such statutory authority may, on its own motion, send the question suspending the proceeding to the Commission for taking proper action on it.

(2) On receipt of a reference from any statutory authority under sub-section (1) the Commission shall give its opinion within 60 (sixty) days of receipt of such reference to such authority and such authority shall take necessary action or conduct the proceeding in accordance with the opinion.

(3) Where in the course of a proceeding before the Commission an issue is raised by any person that any decision or proposed decision of the Commission is or would be contrary to any provision of this Act and whose implementation is entrusted to a statutory authority, then the Commission may, on its own motion, send the issue suspending the proceeding for taking proper action on it.

(4) On receipt of a reference from Commission under sub-section (3) the statutory authority shall give its opinion within 60 (sixty) days of receipt of such reference to the Commission and the Commission shall take necessary action or conduct the proceeding in accordance with the opinion.

(5) In order to consider the opinion received under sub-section (2) or (4), the Commission or, as the case may be, the statutory authority shall, if necessary, dispose the matter, in accordance with the law upon the consensus of the Commission and the statutory authority.

### **CHAPTER III**

#### **PROHIBITION OF ANTI COMPETITION AGREEMENT, ABUSE OF DOMINANT POSITION, ETC**

**15. Anti competition agreement.-** (1) No person shall enter into any agreement or collusion, express or implied, in respect of production, supply, distribution, storage or acquisition which causes or is likely to cause an adverse affect on competition or creates monopoly or oligopoly in the market.



(2) Any agreement, the practice or decision of any person or association who are engaged in identical or similar trade of goods or services shall be deemed to have adverse affect on competition in goods or services market if-

- (a) directly or indirectly-
  - (i) determines abnormal purchase or sale prices; or
  - (ii) determine the deceptive price in all process including bid rigging;
- (b) limits or controls production, supply, markets, technical development, investment or provision of services;
- (c) shares the market or source of production or provision of services by the way of allocation of geographical area of market, or type of goods or services, or number of customers in the market or any other similar way;

**Explanation.-** For the purposes of this section “bid rigging” means any agreement which creates favorable condition for the parties to the agreement or, as the case may be, beneficiaries, by reducing competition for bids or adversely affecting the process of bidding.

(3) For the purposes of this section the following cases and agreements shall be deemed to anti competition agreement if they have adverse affect on competition, namely:-

- (a) “tie-in arrangement” i.e. any agreement or understanding requiring a purchaser of goods, as a condition of such purchase, to purchase some other goods or facilities form any other person or enterprise engaged by the seller ;
- (b) “exclusive supply agreement” i.e. any agreement restricting in any manner the purchaser in the course of his trade from acquiring or otherwise dealing in any goods other than those of the seller;
- (c) “exclusive distribution agreement” i.e. any agreement limit, restrict or withhold the output or supply of any goods or allocate any area or market for the disposal or sale of the goods;
- (d) “refusal to deal” i.e. any agreement which restricts, by any method the persons or classes of persons to whom goods are sold or from whom goods are bought;
- (e) “resale price maintenance” i.e. any agreement to sell goods on condition that the prices to be charged on the resale by the purchaser shall be the prices stipulated by the seller unless it is clearly stated that prices lower than those prices may be charged.

(4) Nothing contained in sub-section (1) shall restrict-

- (a) the right of any person, to restrain any infringement of, or for protecting intellectual property rights conferred under the intellectual property law, to impose reasonable conditions; and
- (ii) the right of any person to export goods from Bangladesh to the extent to which the agreement relates exclusively to the production, supply, distribution or control of goods or provision of services for such export.

**16. Abuse of dominant position.**- (1) No enterprise shall abuse its dominant position.

(2) For the purpose of sub-section (1) it shall be deemed an abuse of dominant position, if an enterprise-

- (a) imposes directly or indirectly unfair or discriminatory condition in purchase or sale of goods or service or discriminatory price or predatory price in purchase or sale of goods or service;
- (b) limits or restricts production of goods or provision of services or market thereof or technical or scientific development relating to goods or services to the prejudice of consumers;
- (c) indulges in practice or continue to do practices which denies the market access of others;
- (d) makes conclusion of contracts subject to acceptance by other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts; or
- (e) uses its dominant position in one relevant market to enter into, or protect, other relevant market.

Explanation.- For the purposes this section,-

- (a) “dominant position” means a position of strength enjoyed by an enterprise in the relevant market which enables it to-
  - (i) operate independently of competitive forces prevailing in the relevant market; or
  - (ii) affect its competitors or consumers or the relevant market in its favour;
- (b) “predatory price” means the sale of goods or provision of services at a price which is below the cost of production of the goods or provision of services with a view to reduce or eliminate competition.

**CHAPTER IV**  
**COMPLIANT, INQUIRY, ORDER, ETC**

17. **Pre-inquiry procedure.**- In order to protect the interest of the consumers and competitors in the market if it appears to the Commission that it is necessary to prevent immediately any agreement, misuse of dominant or collusion which cause or likely to cause adverse affect on the relevant market, the Commission may, after giving reasonable opportunity of being heard the concerned parties, settle the issue with necessary directions before conducting inquiry under this Act.

18. **Inquiry, etc.**- (1) If the Commission has reason to believe that any enterprise has entered into any agreement or misused dominant position which is harmful to the relevant market, the Commission may, suo-moto or on receipt of complaint from any one, inquire into the matter.

(2) The commission may make regulations regarding the procedures of inquiry under sub section (1).

19. **Power to issue interim order.**- During an inquiry, if the Commission is satisfied that any person violates the provision of sub-section (1) of section 15 or sub-section (1) of section 16 or section 21 which is an offence under this Act and continues to be committed such offence or likely to be committed the offence, the Commission may, by considering the importance of the matter and giving the parties reasonable opportunity of being heard, by order temporarily restrain such person from carrying on such act including daily works, subject to not causing irreparable loss to any one or more of the parties, until the conclusion of such inquiry or until further orders.

(2) The time of interim order shall not be extended more than the following time-

- (a) till the conclusion of hearing the allegation of violation under sub-section (1);
- (b) not more than 60 (sixty) days from the date of order:

provided that in response to the opinion of the Commission such time may be extended for further 60 (sixty) days.

(3) Any party may file an appeal within 30 (thirty) days from the date of interim order issued by the Commission.

(4) Notwithstanding the appeal or duration of appeal procedure, if there is no contrary instruction by the Commission such interim order shall be binding and effective on the parties.

20. **Proceeding after inquiry.**- If it appears to the Commission after inquiry under section 18 that any person made an anti-competition agreement or misused dominant position, the Commission may take any one or more than one of the following measure, namely:-

- (a) direct any person involved in such agreement or abuse of dominant position-

- (i) to discontinue and not to re-enter such agreement or discontinue such abuse of dominant position;
  - (ii) impose an administrative financial penalty as it may deem fit which shall be not more than 10% of the average of the turnover for the last three preceding financial years;
- (b) in case an agreement referred to in section 15 has been entered into by a cartel, impose upon every person included in that cartel an administrative financial a penalty of up to three times of its profit for each year of the continuance of such agreement or 10% of its turnover for each year of the continuance of such agreement, whichever is higher;
  - (c) if any person fails to pay the financial penalty under clause (a) and (b), impose fine not more than 1 (one) lac for every day;
  - (d) pass such any order as it may deem fit for preservation of competition including division of an enterprise enjoying dominant position.

Explanation.- For the purpose this section “turnover” means all sums receivable or received for the supply of manufactured or produced goods or for the provision of services by a person for a specific time.

**21. Prohibition of Combination.-** (1) The combination which causes an adverse affect on competition in goods or services market shall be prohibited:

Provided that the Commission may approve any combination on an application after inquiry if such combination shall not cause or likely to cause adverse affect on the competition, and the cases of combination which are required for approval of the Commission shall be determined by regulations.

(2) For the purpose of sub-section (1), in the case of a combination referred in that sub-section, if the commission is satisfied after inquiry and investigation determined by regulations that any combination -

- (a) shall not cause or likely to cause an adverse affect on competition the Commission may approve such combination by an order; or
- (b) shall cause or likely to cause an adverse affect on competition the Commission shall not approve such combination.

**22. Application for inquiry for acts committed outside of Bangladesh.-** If an anti competition act committed outside of Bangladesh by a person or enterprise which causes an adverse affect on the relevant market, the Commission may inquire into the matter in accordance with the laws, rules, etc of the both countries.

**23. Appearance before the Commission.-** Any person may, by himself or by a representative, produce his statement or allegation or opposition before the Commission.

## CHAPTER V

### REVIEW, PENALTY, APPEAL, ETC

24. **Contravention of orders of Commission, etc.-** If any person, without reasonable cause, contravenes any order or direction made or any condition or restriction imposed or any approval given by the Commission shall be deemed to be an offence and for such offence he shall be punishable with imprisonment for a term not exceeding 1 (one) year or fine not exceeding 1 (one) lac taka for each day of non-compliance.

25. **Cognizance of offence and trial.-** (1) No Court shall take cognizance of an offence under this Act except on a complaint made by the Commission or any officer authorized by the Commission.

(2) The offence under this Act shall be tried by the Magistrate of First Class or, as the case may be, Metropolitan Magistrate.

26. **Application of Code of Criminal Procedure.-** (1) Subject to this Act, rules and regulations, the Code of Criminal Procedure shall be applicable to the investigation, trial, appeal and all ancillary matters relating to an offence under this Act.

(2) Any case initiated on the basis of the report of an officer authorized by the Commission under this Act shall be deemed to be a case initiated on the basis of the report of a police officer under the Code of Criminal Procedure.

27. **Bar to second trial.-** If a person is convicted or not guilty of administrative or of other offence under this Act, he shall not be punished for the same offence under any other law.

28. **Recovery of demand of the Commission.-** Any demand of the Commission from any person may be recovered in accordance with the provisions of the Public Demands Recovery Act, 1913 (Ben. Act III of 1913).

29. **Review of orders of Commission, appeal, etc.-** (1) Any person is aggrieved by an order of the Commission may, within 30 (thirty) days from the date of the order, subject to in the specified form and to payment of fees determined by the regulations, apply-

- (a) to the Commission for review; or
- (b) to the Government for appeal:

Provided that any person is aggrieved by an order of administrative financial penalty under section 20 the person shall apply -

- (a) to the Commission for review along with the deposit receipt of 10% of the fine imposed; or
- (b) to the Government for appeal along with the deposit receipt of 25% of the fine imposed.

(2) If the Commission, or the Government, as the case may be, is satisfied that the applicant was failed to apply within the time specified in sub-section (1) for reasonable cause, the Commission, or the Government, as the case may be, may extend further 30 (thirty) days on his application.

(3) In the case review the Commission, and in the case of appeal the Government, may not amend, modify or cancel an order given in favour of a person without giving him an opportunity of being heard:

Provided that the Commission or the Government shall dispose the review or, appeal, as the case may be, within 60 (sixty) days from receipt of application.

(4) The order of the Commission in review and the order of the Government in appeal shall be deemed to be final.

**30. Appeal.-** (1) If any party is aggrieved by a judgment or order passed by the Magistrate may file an appeal to the Sessions Judge Court having local jurisdiction within 60 (sixty) days from the date of the decree or order:

Provided that if fine is imposed by a judgment or order of the Magistrate, the person aggrieved by such judgment or order shall apply to the Sessions Judge Court with the receipt of payment of 25% of the fine.

(2) The order passed by the Sessions Judge Court shall be deemed to be final.

## **CHAPTER VI**

### **FINANCIAL MATTER OF THR COMMISSION**

**31. Competition Fund.-** (1) There shall be a fund to be called the Competition Fund for the purpose of the Act.

(2) The administration of the Competition Fund, hereinafter referred as Fund, shall, subject to the provision of this section and rules, vest in the Commission.

(3) The following money shall be deposited to the Fund, namely:-

- (a) annual grants made by the Government;
- (b) fees, charge, etc deposited under this Act;
- (c) interests of the money deposited in the bank;
- (d) any other sources not prohibited under the existing law.

(4) The salary, allowances and other sums payable in accordance with the terms and conditions of the service of the Chairperson, Members, officers and employees shall be paid from the Fund and bears all necessary expenses of the Commission from the Fund.

(5) The money of the Commission shall be spent only for the payment of implementation of its functions and the money for daily activities shall be kept in a scheduled bank specified by the Commission and the drawing of money from the bank shall be determined by the regulations.

Explanation. In this section “scheduled bank” means the scheduled bank as is defined in article 2 (j) of the Bangladesh Bank Order, 1972 (P.O. 127 of 1972).

(6) The residue of the Fund shall be deposited to the Consolidated Fund of the Bangladesh Government.

**32. Independence of the Commission in respect of expense of money.-** The Government shall allocate a specific amount of money for expense to the Commission for every financial year; and it shall not be required to get permission from the Government to spend the money in the approved and specified heads of budget.

**33. Annual statement of budget.-** The Commission shall, by such date in each year as may be specified by the Government, submit to the Government for approval a budget for the next financial year and it shall be mentioned how much money is required from the Government for that financial year and the Government shall approve the budget on the basis of the said statement of the budget.

**34. Audits and accounts.-** (1) The Commission shall maintain its accounts properly and prepare a statement of annual accounts.

(2) The Comptroller and Auditor-General of Bangladesh, hereinafter referred to as the Auditor-General, shall audit the accounts of the Commission every year and shall submit a copy of audit report to the Government and the Commission.

(3) For the purpose of audit under sub-section (2), the Auditor-General or any person authorized by him in this behalf shall have access to all records, documents, cash, deposits in bank, securities, stores and other property of the Commission and may examine any Member or any officer or employee of the Commission.

## CHAPTER VII

### MISCELLANEOUS

**35. Offences by company, etc.-** (1) If an offence under this Act is committed by a company, the owner, Director, Manager, Secretary or any other officer or employee or agent who has direct involvement in such offence shall be deemed to committed the offence, unless he prove that the offence was committed without his knowledge or he exercised all due diligence to prevent the commission of such offence.

**Explanation.-** For the purposes of this section-

- (a) “company” includes statutory authority, commercial institution, partnership firm, society or any association of individual or individuals; and
- (b) “director” includes any partner or member of the governing body, whatever the name of it.

**36. Restriction on disclosure of information.-** (1) For the purposes of this Act, no information relating to any enterprise which has been obtained by or on behalf of the Commission shall, without the prior permission in writing of the enterprise, be disclosed otherwise than in compliance with or for the purposes of this Act or any other law for the time being in force.

(2) If any officer or employee of the Commission violates the provision of sub-section (1), departmental proceeding or legal may be brought against him.

**37. Power of Government to issue directions.-** (1) Without prejudice to the provisions of this Act, the Commission shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions of the Government on questions of policy other than those relating to implementation, technical and administrative matters of the Act:

Provided that the Commission shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub- section.

(2) The decision of the Government whether a question is of policy or not shall be final.

**38. Delegation of power.-** (1) The Member of the Commission shall discharge their duties under the guidance and control of the Chairperson and the Members shall be accountable to the Chairperson for discharging their duties.

(2) The Commission may, subject to conditions as may be specified by it, delegate any of its power to its any officer.

**39. Annual statement.-** (1) The Commission shall, within 90 (ninety) days of the end of every financial year, submit to the President an annual statement on the conduct of its affairs for that year.

(2) The President shall cause the report laid before the Parliament after receiving it under this section.

**40. Public servant.-** The Chairperson, Members and other officers and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Penal Code.

**41. Protection of action taken in good faith.-** If any person is injured or likely to be injured by anything done in good faith under this Act or rules or regulations made thereunder, no civil or criminal case or other legal proceedings shall lie against the Commission, any Member or officer or employee or any publication, report or proceeding of the Commission or the Government.



42. **Provisions of this Act are additional.** The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force:

Provided that the provisions of this Act shall override the provisions of other laws for the time being in force to implement and fulfill the object and purpose of this Act.

43. **Power to make rules.-** The Government may, by notification in the official gazette, make rules to carry out the provisions of this Act.

44. **Power to make regulations.-** (1) The Commission may, with the approval of the Government and by notification in the official gazette, make regulations not inconsistent with this Act and the rules to carry out the purposes of this Act.

45. **Publication of authentic English text.-** (1) The Government shall, after commencement of this Act, by notification in the official gazette, publish an authentic English text of this Act.

(2) In the case of conflict between Bangla and English text the Bangla shall prevail.

46. **Repeal And saving.-** (1) The Monopolies and Restrictive Trade Practices Act, 1970 (Ord. V of 1970) is hereby repealed.

(2) Notwithstanding such repeal-

- (a) any act done or any or all action implemented or taken under it shall be deemed to be done, implemented or taken under this Act: and
- (b) any proceeding pending under it shall be continue as if it had been taken under this Act.