

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

বৃহস্পতিবার, জুন ৭, ২০১২

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়
লেজিসলেটিভ ও সংসদ বিষয়ক বিভাগ
প্রজ্ঞাপন

তারিখ, ৩০ মে, ২০১২ ইং

নং ০৮ (আঃম)(লেঃস)(মুঃপ্রঃ)-আইন-অনুবাদ-২০১২—সরকারি কার্যবিধিমালা, ১৯৯৬ এর প্রথম তফসিল (বিভিন্ন মন্ত্রণালয় এবং বিভাগের মধ্যে কার্যবন্টন) এর আইটেম ৩০ এ ক্রমিক ৭ ও ১০ এবং মন্ত্রিপরিষদ বিভাগের বিগত ৩-৭-২০০০ইং তারিখের সভায় গৃহীত সিদ্ধান্ত বাস্তবায়নের নিমিত্ত মানিলিভারিং আইন, ২০১২ (২০১২ সনের ০৫ নং আইন) এর ইংরেজী অনুবাদ সর্বসাধারণের জ্ঞাতার্থে প্রকাশ করিল।

মোঃ দেলোয়ার হোসেন
সহকারী সচিব (চঃ দাঃ)।

(৮৬২৬৭)
মূল্য : টাকা ২৪.০০

Money Laundering Prevention Act, 2012**Bangladesh Parliament**

Dhaka, 20 February, 2012/08 Falgun, 1418

The following Act of Parliament received the assent of the President on 20 February, 2012 (08 Falgun, 1418) and is hereby published for general information :—

Act No. 5 of 2012**An Act to repeal the existing Act and Ordinance regarding the prevention of money laundering and to reenact a law relating thereto**

Whereas it is expedient and necessary to reenact a law regarding the prevention of money laundering and other offences connected therewith including punishment thereof and the matters ancillary thereto by repealing the existing Act and Ordinance relating thereto;

Therefore, it is hereby enacted as follows :—

1. Short title and commencement.—(1) This Act may be called the Money Laundering Prevention Act, 2012.

(2) It shall be deemed to have come into force on 3 Magh, 1418 BE/16 January, 2012 AD.

2. Definitions.—Unless there is anything repugnant in the subject or context, in this Act—

(a) “smuggling of money or property” means—

- (i) transfer or holding money or property outside the country in breach of the existing laws in the country; or
- (ii) refrain from repatriating money or property from abroad in which Bangladesh has an interest and was due to be repatriated; or
- (iii) not bringing into the country the actual dues from a foreign country, or paying to a foreign country in excess of the actual dues;

(b) “money value transferor” means a financial service in which the service provider receives currency, cheques, other financial instruments (electronic or otherwise) in one location, and provides the beneficiary with the equal value in currency or financial instruments or any other means in a different location;

- (c) “proceeds of crime” means any property obtained or derived, directly or indirectly, from a predicate offence or any such property retained or controlled by anybody;
- (d) “freeze” means any action taken by the competent authorities pursuant to this Act by which any property is brought within the control of the relevant authorities or the court on a temporary basis and the property shall be disposed of by taking a final decision by the court regarding confiscation of the property;
- (e) “non-profit organization/institution” means any institution registered under section 28 of the Company Act, 1994 (Act XVIII of 1994);
- (f) “financial instrument” means all papers or electronic documents which have a financial value;
- (g) “financial institution” means a financial institution defined under section 2(b) of the Financial Institutions Act, 1993 (Act No. XXVII of 1993),
- (h) “court” means the court of a special judge;
- (i) “attachment” means any action taken by the court pursuant to this Act by which any property is restrained or held by the relevant authorities or the court on a temporary basis and the property shall be disposed of by taking a final decision by the court;
- (j) “customer” means any person or persons or entity or entities that may be defined by Bangladesh Bank from time to time;
- (k) “trust and company service providers” means any person or business institution that is not defined in any other laws and provides with any of the following services to any third party:—
- (1) to act as an agent of establishing any legal entity,
 - (2) to act as or appoint someone to act as a director, secretary of any legal entity or act as a partner in a partnership business, or perform other responsibilities in an equivalent position.
 - (3) to act as a registered agent for any legal entity,
 - (4) to act as or appoint someone to act as a trustee of an express trust,
 - (5) to act as or appoint someone to act as a director instead of a nominee shareholder or any other person;

- (l) “investigation agency” means the Anti Corruption Commission established under the Anti Corruption Commission Act, 2004 (Act No. V of 2004); and any officer of the Commission authorized in this behalf by it to investigate or notwithstanding anything contained in any other law, it shall also include any officer of any other investigation agency;
- (m) “cash” means any currency recognized by a country as being the authorized currency for that country, including coins, paper currency, travelers’ cheques, postal notes, money orders, cheques, bank drafts, bearer bonds, letters of credit, bills of exchange, credit card, debit card or promissory notes;
- (n) “disposal” means the sale of property which is degradable, perishable or unsuitable for use after a certain time, or the destruction of property which falls within properties suitable for destruction under any other law or it shall also include any legal transfer of property by means of an open auction;
- (o) “confiscation” means the permanent transfer of the title of any property in favour of the State pursuant to a court order made under section 17;
- (p) “Bangladesh Bank” means Bangladesh Bank established under the Bangladesh Bank Order, 1972 (P.O. No. 127 of 1972);
- (q) “insurer” means an insurer defined under section 2(25) of the Insurance Act, 2010 (Act No. XIII of 2010);
- (r) “non government organization” means the institutions authorized or registered under the Societies Registration Act, 1860 (Act No. XXI of 1860), the Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961 (Ordinance No. XLVI of 1961), the Foreign Donations (Voluntary Activities) Regulation Ordinance, 1978 (Ordinance No. XLVI of 1978), the Foreign Contributions Regulation Ordinance, 1982 [(Ordinance No. XXXI of 1982), and the Microcredit Regulatory Authority Act, 2006 (Act No. XXXII of 2006) which—
- (i) receive fund (loan, grant, deposit) from local sources or provides with fund to others; and/or
- (ii) receive any kind of foreign donation or loan or grant;
- (s) “foreign currency” means any foreign exchange defined under section 2(d) of the Foreign Exchange regulation Act, 1947 (Act No. VII of 1947);

- (t) "bank" means a bank company defined under section 5(o) of the Bank Companies Act, 1991 (Act No. XIV of 1991) and it shall also include any other institution designated as a bank under any other law;
- (u) "money changer" means any person or institution approved by Bangladesh Bank under section 3 of the Foreign Exchange Regulation Act, 1947 (Act No. VII of 1947) for dealing in foreign exchange transactions;
- (v) "money laundering" means—
- (i) knowingly moving, converting, or transferring property involved in an offence for the following purposes:—
 - (1) concealing or disguising the illicit nature, source, location, ownership or control of the proceeds of crime; or
 - (2) assisting any person involved in the commission of the predicate offence to evade the legal consequences of such offence;
 - (ii) smuggling money or property earned through legal or illegal means to a foreign country;
 - (iii) knowingly transferring or remitting the proceeds of crime to a foreign country or remitting or bringing them into Bangladesh from a foreign country with the intention of hiding or disguising its illegal source; or
 - (iv) concluding or attempting to conclude financial transactions in such a manner so as to reporting requirement under this Act may be avoided;
 - (v) converting or moving or transferring property with the intention to instigate or assist for committing a predicate offence;
 - (vi) acquiring, possessing or using any property, knowing that such property is the proceeds of a predicate offence;
 - (vii) performing such activities so as to the illegal source of the proceeds of crime may be concealed or disguised;
 - (viii) participating in, associating with conspiring, attempting, abetting, instigate or counsel to commit any offences mentioned above;

- (w) "reporting organization" means—
- (i) bank;
 - (ii) financial institution;
 - (iii) insurer;
 - (iv) money changer;
 - (v) any company or institution which remits or transfers money or money value;
 - (vi) any other institution carrying out its business with the approval of Bangladesh Bank;
 - (vii) (1) stock dealer and stock broker,
(2) portfolio manager and merchant banker,
(3) securities custodian,
(4) asset manager;
 - (viii) (1) non-profit organization,
(2) non-government organization,
(3) cooperative society;
 - (ix) real estate developer;
 - (x) dealer in precious metals or stones;
 - (xi) trust and company service provider;
 - (xii) lawyer, notary, other legal professional and accountant;
 - (xiii) any other institution which Bangladesh Bank may, from time to time, notify with the approval of the Government;
- (x) "real estate developer" means any real estate developer or its officers or employees or agents defined under section 2(15) or Real Estate Development and Management Act, 2010 (Act No. 48 of 2010) who are engaged in constructing and buying and selling of land, house, commercial building and flat etc.;
- (y) "entity" means any kind of legal entity, statutory body, commercial or non commercial organization, partnership firm, cooperative society or any organization comprising one or more than one person;

- (z) “suspicious transaction” means such transaction—
- (i) which deviates from usual transactions;
 - (ii) of which there is ground to suspect that,
 - (1) the property is the proceeds of an offence,
 - (2) it is financing to any terrorist activity, a terrorist group or an individual terrorist;
 - (iii) which is, for the purposes of this Act, any other transaction or attempt of transaction delineated in the instructions issued by Bangladesh Bank from time to time;
- (aa) “cooperative society” means an institution established under section 2(20) of the Cooperative Societies Act, 2001 (Act No. XLVII of 2001) which is involved in receiving deposits and providing loans;
- (bb) “property” means—
- (i) any type of tangible, intangible, moveable, immoveable property; or
 - (ii) cash, any deed or legal instrument of any form including electronic or digital form giving evidence of title or evidence of interest related to title in the property which is located within or outside the country;
- (cc) “predicate offence” means the offences mentioned below, by committing which within or outside the country, the money or property derived from is laundered or attempt to be laundered, namely :—
- (1) corruption and bribery;
 - (2) counterfeiting currency;
 - (3) counterfeiting deeds and documents;
 - (4) extortion;
 - (5) fraud;
 - (6) forgery;
 - (7) illegal trade of firearms;
 - (8) illegal trade in narcotic drugs, psychotropic substances and substances causing intoxication;

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- (9) illegal trade in stolen and other goods;
 - (10) kidnapping, illegal restrain and hostage taking;
 - (11) murder, grievous physical injury;
 - (12) trafficking of women and children;
 - (13) black marketing;
 - (14) smuggling of domestic and foreign currency;
 - (15) theft or robbery or dacoity or piracy or hijacking of aircraft;
 - (16) human trafficking;
 - (17) dowry;
 - (18) smuggling and offences related to customs and excise duties;
 - (19) tax related offences;
 - (20) infringement of intellectual property rights;
 - (21) terrorism or financing in terrorist activities;
 - (22) adulteration or the manufacture of goods through infringement of title;
 - (23) offences relating to the environment;
 - (24) sexual exploitation;
 - (25) insider trading and market manipulation using price sensitive information relating to the capital market in share transactions before it is published for general information to take advantage of the market and attempting to manipulate the market for personal or institutional gain;
 - (26) organized crime, and participation in organized criminal groups;
 - (27) racketeering; and
 - (28) any other offence declared as predicate offence by Bangladesh Bank, with the approval of the Government, by notification in the official Gazette, for the purpose of this Act.
- (dd) “special judge” means a special judge appointed under section 3 of the Criminal Law Amendment Act, 1958 (Act No. XL of 1958);

- (ee) (1) “stock dealer and stock broker” means an institution defined under rule 2(i) and (j) of the Securities and Exchange Commission (Stock Dealer, Stock Broker and Authorized Representative) Rules, 2000;
- (2) “portfolio manager and merchant banker” means an institution defined under rule 2(f) and 2(j) of the Securities and Exchange Commission (Merchant Banker and Portfolio Manager) Rules, 1996;
- (3) “securities custodian” means an institution defined under rule 2(j) of the Securities and Exchange Commission (Security Custodial Service) Rules, 2003;
- (4) “asset managers” means an institution defined under rule 2(s) of the Securities and Exchange Commission (Mutual Fund) Rules, 2001;
- (ff) “High Court Division” means the High Court Division of the Bangladesh Supreme Court.

3. **Act to override other laws.**—Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall, subject to the provisions of section 9, have effect.

4. **Offence of money laundering and punishment.**—(1) For the purposes of this Act, money laundering shall be deemed to be an offence.

(2) Any person who commits or abets or conspires to commit the offence of money laundering shall be punished with imprisonment for a term of at least 4 (four) years but not exceeding 12 (twelve) years and, in addition to that, a fine equivalent to the twice of the value of the property involved in the offence or taka 10 (ten) lacks, whichever is greater.

(3) In addition to any fine or punishment, the court may pass an order to forfeit the property of the convicted person in favour of the State which directly or indirectly involved in or related with money laundering or any predicate offence.

(4) Any entity which commits an offence under this section shall be punished with a fine of not less than twice of the value of the property or taka 20 (twenty) lacks, whichever is greater and in addition to this the registration of the said entity shall be liable to be cancelled.

(5) It shall not be a prerequisite to charge or punish for money laundering to be convicted or sentenced for any predicate offence.

5. Punishment for violation of an order for freezing or attachment.—Any person who violates a freezing or attachment order issued under this Act shall be punished with imprisonment for a term not exceeding 3 (three) years or with a fine equivalent to the value of the property subject to freeze or attachment, or with both.

6. Punishment for divulging information.—(1) No person shall, with an ill motive divulge any information relating to the investigation or any other related information to any person, organization or news media.

(2) Any person, institution or agent empowered under this Act shall refrain from using or divulging any information collected, received, retrieved or known by the person, institution or agent during the course of employment or appointment, or after the expiry of any contract of service or appointment for any purpose other than the purposes of this Act.

(3) Any person who contravenes the provisions of sub-sections (1) and (2) shall be punished with imprisonment for a term not exceeding 2 (two) years or a fine not exceeding taka 50 (fifty) thousand or with both.

7. Punishment for obstruction or non-cooperation in investigation, failure to submit report or obstruction in the supply of information.—(1) Any person who, under this Act—

- (a) obstructs or declines to cooperate with any investigation officer for carrying out the investigation; or
- (b) declines to supply information or submit a report being requested without any reasonable ground;

shall be deemed to have committed an offence under this Act.

(2) Any person who is convicted under sub-section (1) shall be punished with imprisonment for a term not exceeding 1 (one) year or with a fine not exceeding taka 25 (twenty five) thousand or with both.

8. Punishment for providing false information.—(1) No person shall knowingly provide false information in any manner regarding the source of fund or self identity or the identity of an account holder or the beneficiary or nominee of an account.

(2) Any person who violates the provision of sub-section (1) shall be punished with imprisonment for a term not exceeding 3 (three) years or a fine not exceeding taka 50 (fifty) thousand or with both.

9. Investigation and trial of an offence.—(1) Notwithstanding anything contained in any other law, the offences under this Act shall be considered as the scheduled offences under the Anti Corruption Commission Act, 2004 (Act No. V of 2004) and shall be investigated by the Anti Corruption Commission or any officer of the Commission empowered by it in this behalf or any officer of any other investigating agency authorized by the Anti Corruption Commission.

(2) The offences under this Act shall be tried by a special judge appointed under section 3 of the Criminal Law Amendment Act, 1958 (Act No. XL of 1958).

(3) For the purpose of the investigation and identification of property of an accused person, the Anti Corruption Commission may, besides this Act, also exercise the powers vested in it under the Anti Corruption Commission Act, 2004 (Act No. V of 2004) and an officer of any other investigating agency authorized by the Anti Corruption Commission may, besides this Act, also exercise the powers vested in it under any other law.

10. Extraordinary jurisdiction of the special judge.—(1) The special judge may impose such punishments as are specified for the offences under this Act, and where appropriate, may pass any other necessary order including orders for further investigation, freezing, attachment and confiscation of property.

(2) If the special judge passes an order for further investigation of any case filed under this Act, he shall, in the said order, specify a time-limit which shall not exceed 6 (six) months directing the investigation officer to submit his investigation report.

11. Cognizancy, non-compoundability and non-bailability of offences.—Offences under this Act shall be cognizable, non-compoundable and non-bailable.

12. Inevitability of the approval of the Anti Corruption Commission.—(1) Notwithstanding anything contained in the Code of Criminal Procedure or any other law for the time being in force, no court shall take cognizance of any offence under this Act, except with the approval of the Anti Corruption Commission.

(2) After concluding the investigation under this Act, the investigation officer shall take prior approval of the Anti Corruption Commission before submitting his report and shall submit a copy of the approval before the court along with the report.

13. Provisions relating to bail.—Any person accused under this Act shall be released on bail, if—

- (a) the complainant is given an opportunity of being heard on the application for bail; and
- (b) the court is not satisfied that there are reasonable grounds to believe that the accused shall be found guilty of the charges brought against him; or
- (c) the accused is a woman, child or physically disabled person and the court is satisfied that justice may not be hindered by reason of releasing him on bail.

14. Orders to freeze or attach property.—(1) The court may, on the basis of a written application by the Anti Corruption Commission or any person or organization authorized by it, issue an order to freeze or attach the property, within or outside the country, involved in money laundering or any other offence.

(2) At the time of making a written application before the court under subsection (1) for an order to freeze or attach any property, the Anti Corruption Commission or any person or organization authorized by it shall mention the following information in the application, namely :—

- (a) full description of the property for which an order for freezing or attachment is sought;
- (b) grounds and primary evidence in support of the property for being attachable due to its involvement in money laundering or any other offence;
- (c) the apprehension that the property may be transferred or taken beyond possession before the disposal of the complaint, if an order is not passed by the court according to the application.

(3) If an order for freezing or attachment is passed under sub-section (1), the court shall, by notification in the official Gazette, publish the matter with details of the property for general information and at least in 2 (two) widely circulated national dailies [1 (one) Bengali and 1 (one) English] in the form of a notice.

(4) In an order passed under this section to freeze or attach any property, the name of the accused, the names of his parents, the name of spouse, nationality, designation (if any), occupation, tax identification number (TIN), present and permanent addresses and any other identification of the accused shall, in so far as possible, be mentioned, but the enforcement of the provisions of this Act shall not be impeded by any trifling errors and omissions of these information.

(5) Subject to the provisions of sub-section (6), if the court passes an order for freezing or attachment of any property of a person under this section, the property may, unless the court directs otherwise, not be in any way transferred elsewhere and no transactions may be carried out with respect to the property not may any encumbrances be attached to the property while the order is in force.

(6) While an order for freezing with respect to any person's bank account is in force, all money receivable by that person may be deposited into the frozen bank account, unless otherwise mentioned in the order.

15. Return of frozen or attached property.—(1) If any court makes an order to freeze or attach any property under section 14 and any person or entity other than the accused person or entity has an interest in that property, the person or the entity may make an application before the court for the return of the property within 30 (thirty) days of the publication of the notice on the order to freeze or attach the property.

(2) If any person or entity makes an application before the court under sub-section (1), the following information shall be mentioned in the application:—

- (a) the property is not involved directly or indirectly in money laundering or any predicate offence;
- (b) the applicant is not involved directly or indirectly in the alleged money laundering or any other predicate offence;

- (c) the applicant is not acting as a nominee of, or on behalf of, the accused person;
- (d) the accused person or entity has no proprietary right, interest or ownership with regard to the frozen or attached property; and
- (e) the applicant has a proprietary right, interest and ownership in the frozen or attached property.

(3) Notwithstanding anything contained in sub-section (5) of section 14, if the court receives any application for return of any property under this section, it shall give the applicant, the investigation agency and the accused person or entity an opportunity of being heard and at the end of the hearing, after reviewing the necessary documents, if the court is satisfied with the application of the applicant brought under sub-section (1) and finds that the Government has not persented a reasonable suspicion that the property is involved directly or indirectly in money laundering or a predicate offence, it shall set aside the order to freeze or attach the property, and pass an order for transfer of the property in favour of the applicant within the time specified in the order.

16. Appeal against the order to freeze or attach property.—(1) Any person or entity aggrieved by an order for freezing or attachment of any property, passed by a court under this Act, may perfer an appeal against such order before the High Court Division within 30 (thirty) days.

(2) If an appeal is preferred under sub-section (1) the appellate court shall give the parties reasonable time for being heard, and at the end of hearing, may pass such order as it deems fit.

(3) If any person or entity aggrieved by an order to freeze or attach any property passed by any court under section 14 prefers an appeal against such order, the said order shall have effect pending the appeal to be disposal of, unless the appellate court directs otherwise.

17. Confiscation of property.—(1) If any person or entity is convicted of the offence of money laundering under this Act, the court may pass an order for confiscation of any property, within or outside the country, involved directly or indirectly in money laundering or predicate offence in favour of the State.

(2) Notwithstanding anything contained in sub-section (1) during an inquiry and investigation or prosecution under this Act relating to an offence of money laundering, the respective court may, where necessary, pass an order for the confiscation of any property situated within or outside the country in favour of the State.

(3) If any person convicted of the offence of money laundering under this Act absconds or dies after submitting the charge sheet, the court may pass order for confiscation of that person's property which was involved in the money laundering or predicate offence in favour of the State.

Explanation.—A person shall be deemed to have absconded for the purposes of this section where the person, despite adequate measures being taken, fails to surrender before the court within 6 (six) months of issuance of the warrant of arrest, or it is not possible to arrest the person within the period.

(4) If any person or entity purchases any property applied for confiscation in good faith and for proper value before an order for confiscation of the property is passed by the court under the provisions of this section or before a case is filed or a complaint is lodged, and the person or the entity is able to satisfy the court that he or it was not aware of the matter that the said property was involved in money laundering, and purchased the property in good faith, then the court may, instead of ordering for confiscation of the property, order the convicted person or entity to deposit the proceeds of the sale of the property to the treasury of the State within the time specified by it.

(5) If the court finds that the property involved directly or indirectly in money laundering or any predicate offence cannot be located or confiscated or has been dissipated for being used otherwise, the court may—

- (a) pass an order for confiscation of such property of an equivalent value of the accused as is not related with the offence;
- (b) impose a fine on the accused equivalent to the value of the unrecovered property.

(6) If any property is confiscated under this section, the notice of the order of confiscation shall be sent by registered post to the last known address of the person or entity having control of the confiscated property and such notice, along with the schedule and full details of the property, shall be published in the official Gazette and at least 2 (two) widely circulated national dailies [1(one) Bengali and 1(one) English].

(7) If any court pass an order for confiscation of any property under this section, the ownership of the property shall be vested in the State and the person or entity who is the owner or custodian of the property shall hand over the possession of the property to the State as early as possible.

(8) If the proceeds of crime have been mingled with property acquired from legitimate sources, such property shall be liable to confiscation up to the assessed value of the mingled proceeds by the court or where the value of the proceeds of crime cannot be determined, the court may pass a confiscation order on the full value of the mingled money or property in favour of the State.

18. Return of confiscated property.—(1) If a court pass an order of confiscation of any property under section 17 and any person or entity other than the convicted person has any title, interest or right in the property, the person or the entity may make an application before the court for the return of the property within 30 (thirty) days of the publication of the notice of confiscation of the property in newspaper.

(2) If any application is received under sub-section (1), the court shall give a reasonable time to the person who filed the case, the convicted person or entity and the applicant to be heard and after hearing, the court may pass necessary order considering the following matters, namely :—

- (a) whether the applicant or the confiscated property or any part thereof had any involvement in the commission of the offence;
- (b) whether the applicant has a valid right to acquire the confiscated property;
- (c) the duration of the commission of the offence and the duration of alleged ownership of the confiscated property by the applicant; and
- (d) any other information deemed to be relevant by the court.

19. Appeal against any order for confiscation.—(1) If any court pass an order for confiscation of any property under this Act, the party aggrieved by such an order may prefer an appeal against the order before the High Court Division within 30 (thirty) days.

(2) If an appeal is preferred under sub-section (1), the appellate court shall give both the parties reasonable opportunity of being heard and may, on conclusion of such hearing, pass such orders as it deems fit.

20. Procedure for disposal of confiscated property.—(1) If any property is confiscated under this Act, the Government may, subject to the permission of the court, sell or, in any other way, dispose of such property other than the property which is required to be destroyed under any other law, by means of an open auction or by any other commercially profitable and lawful means.

(2) The proceeds of the sale or disposal of the property in any other legal manner under sub-section (1) shall be deposited into the treasury of the State.

21. Appointment of a manager or caretaker for taking care of the frozen, attached or confiscated property.—If any property is frozen, attached or confiscated under this Act, the court may, upon an application of the investigation agency or any person authorized by it in this behalf, appoint any law enforcement agency as a manager or caretaker of the property to take control, manage, look after or, in any other manner, deal with the total property or any part thereof under such terms and conditions as the court may deem fit.

22. Appeal.—Notwithstanding anything contained in any other law for the time being in force, any party aggrieved by an order, judgment, decree or sentence passed by a court under this Act may prefer an appeal before the High Court Division within 30 (thirty) days from the date of such order, judgment, decree or sentence.

23. Powers and responsibilities of Bangladesh Bank in restraining and preventing the offence of money laundering.—(1) For the purposes of this Act, Bangladesh Bank shall have the following powers and responsibilities, namely:—

- (a) to analyze or review information related to cash transactions and suspicious transactions received from any reporting organization and to collect additional information relating thereto for the purpose of analyzing or reviewing from the reporting organizations and maintain data on the same and, as the case may be, provide with the said information to the relevant law enforcement agencies for taking necessary actions;
- (b) ask for any information or obtain a report from reporting organizations with regard to any transaction in which there are reasonable grounds to believe that the transaction involves in money laundering or a predicate offence;

- (c) issue an order to any reporting organization to suspend or freeze transactions of any account for a period not exceeding 30 (thirty) days if there are reasonable grounds to suspect that any money or property has been deposited onto the account by committing any offence:

Provided that such order may be extended for additional period of a maximum of 6 (six) months by 30 (thirty) days, if it appears necessary to find out correct information relating to transactions of the account;

- (d) issue, from time to time, any directions necessary for the prevention of money laundering to the reporting organizations;
- (e) monitor whether the reporting organizations have properly submitted information and reports requested by Bangladesh Bank and whether they have duly complied with the directions issued by it, and where necessary, carry out on-site inspections of the reporting organizations to ascertain the same;
- (f) arrange meetings and seminars including training for the officers and staff of any organization or institution, including the reporting organizations, considered necessary for the purpose of ensuring proper implementation of this Act by Bangladesh Bank;
- (g) carry out any other functions necessary for the purposes of this Act.

(2) If any investigation agency makes a request to provide it with any information in any investigation relating to money laundering or suspicious transaction, then Bangladesh Bank shall provide with such information where there is no obligation for it under any existing law or for any other reason.

(3) If any reporting organization fails to provide with the requested information timely under this section, Bangladesh Bank may impose a fine on such organization which may extend to a maximum of taka 5 (five) lacs at the rate of taka 10 (ten) thousand per day and if any organization is fined more than 3 (three) times in 1 (one) financial year, Bangladesh Bank may suspend the registration or licence of the organization or any of its branches, service centers, booths or agents for the purpose of closing its operation within Bangladesh or, as the case may be, shall inform the registration or licensing authority about the fact so as to the relevant authority may take appropriate measures against the organization.

(4) If any reporting organization provides with false information or statement requested under this section, Bangladesh Bank may impose a fine on such organization not less than taka 20 (twenty) thousand but not exceeding taka 5 (five) lacs and if any organization is fined more than 3 (three) times in 1 (one) financial year, Bangladesh Bank may suspend the registration or license of the organization or any of its branches, service centers, booths or agents for the purpose of closing its operation within Bangladesh or, as the case may be, shall inform the registration or licensing authority about the fact so as to the relevant authority may take appropriate measures against the said organization.

(5) If any reporting organization fails to comply with any instruction given by Bangladesh Bank under this Act, Bangladesh Bank may impose a fine on such organization which may extend to a maximum of taka 5 (five) lacs at the rate of taka 10 (ten) thousand per day for each of such non compliance and if any organization is fined more than 3 (three) times in 1 (one) financial year, Bangladesh Bank may suspend the registration or license of the organization or any of its branches, service centers, booths or agents for the purpose of closing its operation within Bangladesh or, as the case may be, shall inform the registration or licensing authority about the fact so as to the relevant authority may take appropriate measures against the said organization.

(6) If any reporting organization fails to comply with any order for freezing or suspension of transaction issued by Bangladesh Bank under clause (c) of subsection (1), Bangladesh Bank may impose a fine on such organization not less than the balance held on that account but not more than twice of the balance held at the time of issuing the order.

(7) If any person or entity or reporting organization fails to pay any fine imposed by Bangladesh Bank under sections 23 and 25 of this Act, Bangladesh Bank may recover the fine from accounts maintained in the name of the relevant person, entity or reporting organization in any bank or financial institution or Bangladesh Bank, and in this regard if any amount of the fine remains unrealized, Bangladesh Bank may, if necessary, make an application before the court for recovery and the court may pass such order as it deems fit.

(8) If any reporting organization is imposed fine under sub-section (3), (4), (5) and (6), Bangladesh Bank may also impose a fine not less than taka 10 (ten) thousand but not exceeding taka 5 (five) lacs on the responsible owner, directors, officers and staff or persons employed on contractual basis of that reporting organization and, where necessary, may direct the relevant organization to take necessary administrative actions.

24. Establishment of the Bangladesh Financial Intelligence Unit (BFIU).—(1) In order to exercise the power and perform the duties vested in Bangladesh Bank under section 23 of this Act, there shall be a separate unit to be called the Bangladesh Financial Intelligence Unit (BFIU) within Bangladesh Bank.

(2) For the purposes of this Act, the governmental, semi-governmental, autonomous organizations or any other relevant institutions or organizations shall, upon any request or spontaneously, provide the Bangladesh Financial Intelligence Unit with the information preserved or gathered by them.

(3) The Bangladesh Financial Intelligence Unit may, if necessary, spontaneously provide other law enforcement agencies with the information relating to money laundering and terrorist financing.

(4) The Bangladesh Financial Intelligence Unit shall provide with information relating to money laundering or terrorist financing or any suspicious transactions to the Financial Intelligence Unit of another country on the basis of any contract or agreement entered into with that country under the provisions of this Act and may ask for any such information from any other country.

(5) The Bangladesh Financial Intelligence Unit may also provide with such information to the Financial Intelligence Units of other countries spontaneously where there is no such contract or agreement under sub-section (4).

25. Responsibilities of the reporting organizations in prevention of money laundering.—(1) The reporting organizations shall have the following responsibilities in the prevention of money laundering, namely :—

- (a) to maintain complete and correct information with regard to the identity of its customers during the operation of their accounts;
- (b) if any account of a customer is closed, to preserve previous records of transactions of such account for at least 5(five) years from the date of such closure;

- (c) to provide with the information maintained under clauses (a) and (b) to Bangladesh Bank from time to time, on its demand;
- (d) if any doubtful transaction or attempt of such transaction as defined under clause (n) of section 2 is observed, to report the matter as 'suspicious transaction report' to the Bangladesh Bank immediately on its own accord.

(2) If any reporting organization violates the provisions of sub-section (1), Bangladesh Bank may—

- (a) impose a fine of at least taka 50 (fifty) thousand but not exceeding taka 25 (twenty-five) lacs on the reporting organization; and
 - (b) in addition to the fine mentioned in clause (a), cancel the license or the authorization for carrying out commercial activities of the said organization or any of its branches, service centers, booths or agents, or as the case may be, shall inform the registration or licensing authority about the fact so as to be relevant authority may take appropriate measures against the organization.
- (3) Bangladesh Bank shall collect the sum of fine imposed under sub-section (2) in such manner as it may determine and the sum collected shall be deposited into treasury of the State.

26. Contract with foreign countries.—(1) For the purposes of this Act, the Government may enter into a contract with any foreign State under bilateral or multilateral agreements, conventions or any other means recognized by international law.

(2) If the Government enters into any contract with any foreign State under this section, the Government may, for the purpose of prevention of money laundering :—

- (a) ask for necessary information from the foreign State or organization; and
- (b) provide with information asked for by the foreign State or organization if it is not a threat to national security.

(3) For the purposes of this Act, the Bangladesh Financial Intelligence Unit (BFIU) may sign any memorandum of understanding with any foreign financial intelligence unit or other organization and under the memorandum of understanding BFIU may—

- (a) ask for necessary information from the foreign financial Intelligence unit or organization; and
- (b) provide information sought by the foreign financial Intelligence unit or organization if it is not a threat to national security.

(4) Any court may, upon the application of Attorney General's Office, pass such orders as it deems fit where, for the purpose of this Act, it is necessary to confiscate or return any property situated in Bangladesh in order to comply with an order made by a court of a foreign State under a contract; similarly the Attorney General's Office may make a request to a foreign State for the purpose of complying with an order passed by a court in Bangladesh for confiscation or return of property under a contract or memorandum of understanding.

(5) Notwithstanding anything contained in any other law, any documents received from the appropriate authorities of any foreign State under the scope of mutual legal assistance, shall, for the purposes of this Act, be admissible as evidence before the relevant court.

27. Offences committed by an entity.—If any offence under this Act is committed by an entity, every proprietor, director, manager, secretary or any other officer, staff or representative of the said entity who is directly involved in the offence shall be deemed to be guilty of the offence, unless he is able to prove that the offence has been committed without his knowledge or he tried his best to prevent it.

Explanation.—In this section "director" includes any member of the partnership entity or any of the Board of Directors of the entity, by whatever name called.

28. Protection of actions taken in good faith.—No suit or prosecution or administrative measures or any other legal proceedings shall lie against the Government or any officer or staff of the Government or Bangladesh Bank or any officer or staff of Bangladesh Bank or the Anti-Corruption Commission or any officer or staff of the Commission or any reporting organization or its Board of Directors or any of its officers or staff for anything which is done in good faith under this Act or rules made thereunder for which any person is or likely to be affected.

29. **Power to make rules.**—For the purposes of this Act, the Government may, by notification in the official Gazette, make rules.

30. **Publication of an English Text of the Act.**—(1) After the commencement of this Act, the Government shall, as soon as possible, by notification in the official Gazette, publish an Authentic English Text of this Act.

(2) In case of any conflict between the Bangla Text and the English Text, the Bangla Text shall prevail.

31. **Repeal and savings.**—(1) The Money Laundering Prevention Act, 2009 (Act No. VIII of 2009) and the Money Laundering Prevention Ordinance, 2012 (Ordinance No. II of 2012), hereinafter referred to as the Act and Ordinance, are hereby repealed.

(2) Notwithstanding such repeal, any action taken or any case filed or any proceeding taken under the Act and Ordinance which are pending shall be disposed of in such a manner as if it had been filed and taken under this Act.

(3) Notwithstanding such repeal, if any offence committed or remains under investigation or trial under the Foreign Exchange Regulation Act, 1947 (Act No. VII of 1947) and the Act and Ordinance, such offences shall be disposed of in such a manner as if it had been filed and taken under this Act.

Md. Mahfuzur Rahman
Acting Secretary.